

Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, March 1, 2016
6:30 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*

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, February 16, 2016 (pp. 5-10)
- B. Final Acceptance of Public Improvements for Bridge Replacement Project Railroad Ave over Dry Slough (pp. 11)
- C. Public Improvement Agreement for Yolo Federal Credit Union Project (pp. 12-35)
- D. Cap and Trade Grant Proposal- Senior Transit Services (pp. 36-37)

PRESENTATIONS

Presentation to 30-Year City of Winters Employee—City Clerk Nanci Mills

Swearing-In of Police Officer Alexander Whipple

DISCUSSION ITEMS

- 1. Waive Second Reading and Adopt Ordinance 2016-04 Amending Chapter 17.04 of the City of Winters Municipal Code Related to Medical Marijuana Cultivation (pp. 38-45)
- 2. Public Hearing and Adoption of Resolution 2016-04, a Resolution of the City Council of the City of Winters Authorizing a Grant in the Amount of \$1,243,497 to the Blue Mountain Terrace Senior Housing Project (pp. 46-49)
- 3. Engineering Services- Request for Qualifications (pp. 50)
- 4. Water Fountain Proposed for Main Street (pp. 51-52)
- 5. Willdan Construction Engineering Services and Amendment No. 1 to Willdan Contract for Walnut Avenue Roundabout (pp. 53-63)
- 6. Waste Management Franchise Extension Proposal (pp. 64-66)

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

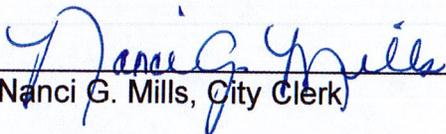
1. Authorization of an Extension of the Purchase and Sale Agreement Between the Successor Agency and Domus Development (pp. 67-107)

CITY MANAGER REPORT

INFORMATION ONLY

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the March 1, 2016 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 February 25, 2016, and made available to the public during normal business hours.


Nanci G. Mills, City Clerk

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

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

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

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

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

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

Winters Library – 708 Railroad Avenue

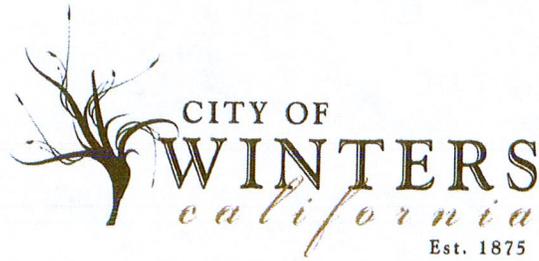
City Hall – Finance Office - 318 First Street

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 February 16, 2016

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, City Clerk Nanci Mills, Economic Development/Housing Manager Dan Maguire, Public Works Superintendent Eric Lucero, Environmental Services Manager Carol Scianna, and Management Analyst Tracy Jensen.

Tina Lowden led the Pledge of Allegiance.

Approval of Agenda: City Manager Donlevy requested Discussion Item #1 be pulled and will be brought back to Council at a later date. Motion by Council Member Fridae, second by Council Member Neu to approve the agenda with said change. Motion carried with the following vote:

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

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS: Mark Tippetts, 1005 Village Circle, requested City sponsorship and a proclamation to be presented at a future City Council meeting declaring May 3rd as a Day of Community Service. Mark said he would do

outreach to local clubs and organizations and encourage them to join in and help clean areas within the community. Any help would be appreciated.

Tina Lowden, 320 Niemann, said Grant Avenue/Hwy. 128 needs some beautification and thanked Council Member Cowan for attending a recent Winters Senior Foundation meeting where Peggy Phelps of Yolo Adult Day Health Center reported what services are available for seniors. Tina is also interested in the progress of the Blue Mountain Terrace Senior Project.

Joe Tramontana, 208 Main Street, spoke on behalf of the Winters Senior Foundation and asked for transportation to the Davis Amtrak train station for the 19 seniors signed up to go on the Reno train trip on March 16th as there no parking at the train station beyond 2 hours. The group must be at the station by 10 am on 3/16 and will return in the afternoon on 3/17.

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, February 2, 2016
- B. Proclamation Honoring Eagle Scout Christopher Kays
- C. Street Closure Request for Monthly 4th Friday Feast and Street Fair
- D. Wastewater Treatment Facility Bar Screen Preliminary Design Project
- E. Resolution 2016-03, a Resolution of the City Council of the City of Winters Calling for and Consolidating a General Municipal Election on June 7, 2016
- F. Street Closure Request for Yolo Federal Credit Union's Groundbreaking Ceremony to be Held on Tuesday, February 23

City Manager Donlevy gave a brief overview. Motion by Council Member Cowan, second by Council Member Fridae to approve the Consent Calendar. Motion carried with the following vote:

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

PRESENTATIONS

Council Member Wade Cowan read aloud and presented a Proclamation to Christopher Kays in honor of attaining the rank of Eagle Scout. Christopher thanked the Council, his parents and the entire community for the honor.

Winters Joint Unified School District Superintendent Todd Cutler gave an update that included the District vision "Inspiring and Cultivating Pathways to Success" and shared the District mission, Board priorities, Local Control Accountability Plan and the LCAP Next Steps. He said there is a community survey on the school's website at www.wintersjUSD.org and asked everyone to submit their input up by 2/22/16, which will then go out to the community for focus groups.

Executive Director Michelle LaPierre Bell of the Gold Country Region of the American Red Cross gave a power point presentation and introduced Disaster Program Manager Patricia Davis and invited Winters to join the Red Cross Leadership Council. Michelle confirmed that if invited into homes to install smoke alarms, CO monitors and to develop household escape plans, addresses are shared but not names. Michelle distributed packets and thanked Council for their time.

DISCUSSION ITEMS

1. Public Hearing and Adoption of Resolution 2016-04, a Resolution of the City Council of the City of Winters Authorizing a Grant in the Amount of \$1,243,497 to the Blue Mountain Terrace Senior Housing Project

This item was pulled from the agenda and will be brought back to a future meeting.

2. Second Reading and Adoption of Ordinance 2016-02, an Ordinance of the City Council of the City of Winters Amending the Existing Smoking Control Ordinances to Address E-Cigarettes

City Attorney Ethan Walsh gave a brief overview. Motion by Council Member Fridae, second by Council Member Neu to adopt Ordinance 2016-02 amending the existing smoking control ordinance to address e-cigarettes. Motion carried with the following vote:

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

3. Introduction and Waive the First Reading of Ordinance 2016-04, an Ordinance of the City Council of the City of Winters Amending

Chapter 17.04 of the City of Winters Municipal Code Related to Medical Marijuana Cultivation

City Attorney Ethan Walsh gave an overview and said Jenna Moser in Planning is working with the City of Woodland for a comprehensive review of the ordinance, which pertains to medical marijuana only. This ordinance will clarify the City's existing restrictions and will preserve the City's options to regulate medical marijuana cultivation moving forward. AB 21 removed the 3/1/16 deadline for adoption of regulations regarding medical marijuana cultivation, but the addition of the clarifying language will be more consistent with the state law regarding regulation of medical marijuana cultivation.

Motion by Council Member Neu, second by Council Member Fridae to waive the first reading and introduce Ordinance 2016-04 amending Chapter 17.04 of the City of Winters Municipal Code related to medical marijuana cultivation. Motion carried with the following vote:

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

4. Chromium 6 Implementation Plan Proposal

Environmental Services Manager Carol Scianna gave an overview and said staff is looking at funding sources, aquifers, and other sources of water and will put an implementation plan in place by the end of the year. City Manager Donlevy said it will be a progressive plan that will come back to Council at each stage. Council Member Anderson asked if the plan included a contract with Solano County Water Agency (SCWA) as Kennedy Jenks included it in their proposal as a possible source of water, which is an option that will be explored. Mayor Aguiar-Curry asked whether Proposition 1, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 could be an option. Council Member Cowan reiterated that he has a problem spending citizen's money on Chromium 6 and views it as a huge waste of money. These costs are being forced onto us by the State of California. City Attorney Walsh said everyone in the state is being forced to deal with Chromium 6. The most prudent plan is to position ourselves to leverage our funds. Council Member Anderson said he was concerned about the additional costs being passed onto seniors and low income residents.

Motion by Council Member Fridae, second by Council Member Neu to approve completion of the compliance implementation plan, enabling the City to work toward the most cost-effective and reliable solution to become compliant with the

recently adopted MCL for Chromium 6 (Cr6), in which the City must be compliant by 2020. Motion carried with the following vote:

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

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

1. Resolution SA-2016-02, a Resolution of the City of Winters as Successor Agency to the Winters Community Development Agency for the Re-Conveyance of Property Erroneously Transferred to the Winters Community Development Agency

Agency Chairman Fridae opened the Successor Agency at 8:14 p.m.

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

Economic Development Manager Dan Maguire gave an overview. Council Member Cowan said he wanted any money from the sale of the property to be directed into the General Fund to be accounted for separately in a downtown parking development account. Dan said this would be subject to approval by the Department of Finance. City Attorney Walsh clarified that the funds were once approved by Council to be used for parking and it will remain that way. Council Member Neu asked if the sale of the property to Urban Community Partners would have to come back before the Agency. City Attorney Walsh said upon DOF approval it will likely come back although it isn't required.

Motion by Agency Member Aguiar-Curry, second by Agency Member Cowan to adopt Resolution SA-2016-02 to re-convey to the City of Winters certain property that was erroneously transferred to the Winters Community Development Agency without compensation in 2004. Motion carried with the following vote:

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

CITY MANAGER REPORT: City Manager Donlevy is the City representative on the board of the Yolo Emergency Communication Agency (YECA) and wants to arrange for the Council to take a tour of the 911 communications center.

Currently working on a budget calendar and wants to help facilitate public outreach and asked each Council Member to put together a group of people for outreach sessions, which will affect how the budget is shaped. We will soon find out when we can take possession of the two busses from Yolo Transportation. The bridge project is getting close – look for an update on a number of outstanding issues to close out the contract. Director of Administrative Services Nanci Mills is the lead on the police chief recruitment. The brochure provided by Bob Murray & Associates looks good. A supplemental questionnaire will be sent to Council for their feedback and will be required from all applicants who apply for this position. Bob & Jane Kays must be proud of their Eagle Scout son, Chris Kays, who is an incredible kid. One of Chris' numerous accomplishments was winning the weightlifting competition at football camp, which is an impressive feat.

Council Member Cowan asked City Manager Donlevy to provide an update for the parking committee regarding the short term items on the list (6 months.)

ADJOURNMENT: Mayor Aguiar-Curry adjourned the meeting at 8:34p.m.

Cecilia Aguiar-Curry, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



TO: Honorable Mayor and Council Members
DATE: March 1, 2016
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Carol Scianna, Environmental Services Manager *CS*
SUBJECT: **Final Acceptance of Public Improvements for Bridge Replacement Project
Railroad Ave over Dry Slough**

RECOMMENDATION: Staff recommends that the City Council accept the public improvements as complete and direct the City Clerk to file a Notice of Completion.

BACKGROUND: The project constructed a replacement bridge at Railroad Ave over Dry Slough which was about a quarter mile north of town. Part of the project included building a detour to maintain through traffic for the duration of the project. This project is Federal Project No. BRLS-5110(029). Total funds authorized by CalTrans are \$2,020,180 with a required City match of \$11.47% or \$231,715.

On May 6, 2015, the City Council awarded a Construction Contract to Viking Construction Company, Inc., in the amount of \$1,109,880.40 and authorized change orders not to exceed \$110,000. The final construction cost is \$1,110,313.91. The additional amount is due to two changes orders and final pay quantities for bid items of work.

The improvements have been constructed in accordance with the approved improvement plans and Caltrans has approved the work. Staff recommends the City Council accept the improvements and direct the City Clerk to file a Notice of Completion.

FISCAL IMPACT: No funding impacts are associated with this request.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: March 1, 2016
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Alan Mitchell, City Engineer
SUBJECT: Public Improvement Agreement for Yolo Federal Credit Union Project

RECOMMENDATION: That City Council approve the Public Improvement Agreement and authorize the Mayor to execute the Public Improvement Agreement for the Yolo Federal Credit Union Project.

BACKGROUND: The attached Public Improvement Agreement has been prepared for Yolo Federal Credit Union Project. Approval will allow the public improvements associated with the project to be constructed.

The Design Review application and Conditions of Approval were approved by Planning Commission on September 22, 2015. As a condition of the development, the Applicant is required to enter into a Public Improvement Agreement in order to construct the required public improvements.

The project includes improvements along East Street at the terminus with Grant Avenue, which include re-paving, a water and sewer service, and landscaping. The frontage improvements along Grant Avenue will be constructed with the Walnut Lane Roundabout.

The primary access to the project site is via East Street from the southwest, and the future roundabout from the north.

Sanitary sewer service is provided by construction of a new sewer service extended from East Street.

Water service is provided by the construction of a new water service extended from East Street.

Storm drainage will be conveyed through a water-quality bio-retention channel into an existing system in East Street.

The Public Improvement Agreement requires bonds to assure construction of the public improvements, and stipulates the work shall be completed within one year of notice to proceed.

FISCAL IMPACT: None associated with this action

Attachment: Public Improvement Agreement

Recording Requested by
and when Recorded, return to:

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

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§6103, 27383

(SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE)

PUBLIC IMPROVEMENT AND MAINTENANCE AGREEMENT

This Public Improvement and Maintenance Agreement (“AGREEMENT”) is made and entered into this ____ day of _____, 2016 (“EFFECTIVE DATE”) by and between the CITY OF WINTERS, a municipal corporation, hereinafter called (“CITY”) and Yolo Federal Credit Union, hereinafter called (“DEVELOPER”). CITY and DEVELOPER are hereinafter sometimes collectively referred to as the “PARTIES” and singularly as “PARTY.”

RECITALS

WHEREAS, DEVELOPER is the owner of certain property located within the CITY, as more particularly described in Exhibit A and is currently developing the property with a financial institution known as the Yolo Federal Credit Union – Grant Avenue (“PROJECT”); and

WHEREAS, the PROJECT has been conditionally approved by the CITY Council subject to, among other requirements, the development of and dedication to the City of certain public improvements; and

WHEREAS, the public improvements for the PROJECT include, but are not limited to the following: streets, highways, sidewalks, sewer, water, curbs, gutters, storm

drainage facilities, and other public utility facilities. The foregoing public improvements are more particularly described in paragraph 3 of this AGREEMENT, and are hereinafter referred to as “the required public improvements;” and

WHEREAS, the improvement plans for the required public improvements have been prepared in accordance with plans and documents submitted to and approved by the CITY, the conditions of approval required by the Planning Commission, and in satisfaction of applicable state and local environmental compliance requirements; and

WHEREAS, the CITY and the DEVELOPER desire to enter into this AGREEMENT to provide for the construction and dedication to the City of the required public improvements, as more particularly set forth below.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. **Payment of Fees:** Subsequent to execution of this AGREEMENT by CITY, or at such times as are legally required, DEVELOPER shall pay to CITY all those planning, plan check approval, and administrative fees required by CITY ordinances, as more specifically set forth in paragraph 32 of this AGREEMENT. Those fees to be paid shall include actual staff time and expenses incurred in the processing and checking improvement plans. All other fees (e.g. development impact fees) shall be paid in accordance with existing ordinances or resolutions and this AGREEMENT.

2. **Inspection Fees:** The DEVELOPER shall pay to the CITY fees for inspecting the construction of the required public improvements in an amount equal to a deposit of Ten-Thousand, Nine-Hundred, Seventy-One Dollars (\$10,971). Said fees in the amount of \$10,971

shall be paid at time of approval of the improvement plans.

The fees referred to in this paragraph are not necessarily the only City inspection fees, charges, or other costs that may be imposed on the PROJECT, and this AGREEMENT shall in no way exonerate or relieve the DEVELOPER from paying such other applicable fees, charges, and/or other costs. Fees associated with over-time inspections and other special inspections related to the required public improvements may be drawn down from the initial deposit, or any subsequent deposit as required by the CITY.

3. Construction of Improvements:

a. Except as otherwise provided below, DEVELOPER agrees to furnish, construct and install at DEVELOPER's sole cost and expense all the required public improvements as shown and approved on the improvement plans prepared by Chaudhary & Associates, dated February 2016 ("IMPROVEMENT PLANS"), a copy of which are on file in the office of the City Engineer, and is incorporated herein by reference, along with any changes or modifications as may be required by the City Engineer, or by the Developer (which are approved by City.) The IMPROVEMENT PLANS may be modified by the DEVELOPER as construction progresses, provided that any modification is approved in writing by the City Engineer. The total estimated cost of the required public improvements is Forty-Four-Thousand, Three-Hundred, Fifty-Four Dollars (\$44,354).

b. DEVELOPER agrees to install street light pursuant to P.G. & E. and City requirements.

c. DEVELOPER agrees that gas, electric, telephone or cable television utilities shall be provided via underground transmission facilities to Developer's property at no cost to CITY.

4. **Conformance with Improvements Plans:**

a. All construction of the required public improvements shall conform with the IMPROVEMENT PLANS approved by CITY.

b. DEVELOPER shall provide the City Engineer with a geotechnical study showing condition of the soil/earth for infrastructure, and building pads.

5. **Fulfillment of Conditions:** DEVELOPER shall fulfill all conditions of approval imposed by City Council on September 22, 2015 and incorporated herein by this reference, in accordance with CITY ordinances, and state law.

6. **Schedule For Construction:** Construction of all required public improvements shall be commenced by the DEVELOPER within one-hundred eighty (180) days of the Effective Date and shall be completed within three hundred-sixty five (365) calendar days thereafter. At least fifteen (15) calendar days prior to the commencement of construction, the DEVELOPER shall notify the City Engineer, in writing of the date DEVELOPER shall commence construction, and shall provide the City Engineer with a construction schedule, in a form specified by the City Engineer, before beginning any work.

7. **Inspection and Access to Work**

a. Except as otherwise provided, all equipment, materials, and work shall be subject to inspection and testing by the City Engineer. The City Engineer may observe the progress and quality of the work and determine, in general, if construction of the required public improvements is proceeding in accordance with the intent of the IMPROVEMENT PLANS. The City Engineer is not required to make comprehensive or continuous inspections to check the quality of the work, and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the work.

Visits and observations made by the City Engineer shall not relieve the DEVELOPER of its obligation to conduct comprehensive inspections of the work and to furnish proper materials, labor, equipment and tools, construct acceptable work, and to provide adequate safety precautions, in conformance with this AGREEMENT.

b. Whenever the DEVELOPER varies the period during which work is carried out on each day, DEVELOPER shall give due notice to the City Engineer so that proper inspection may be provided. Any work done in the absence of proper inspection by the City Engineer shall be subject to rejection. Safe access to all parts of the work shall at all times be maintained for the necessary use of the City Engineer, other agents of the CITY, and agents of the Federal, State, or local governments, as applicable, during reasonable hours for inspection of the work to ascertain compliance with applicable laws and regulations.

c. One or more inspectors may be assigned by the City Engineer to observe the work and compliance with this AGREEMENT. It is understood that such inspectors shall have the power to issue instructions, reject work, and make decisions regarding compliance with this AGREEMENT, subject to review by the City Engineer within the limitations of the authority of the City Engineer, but shall not have the right to reject work previously approved by a different inspector. Such inspection shall not relieve the DEVELOPER of its obligation to conduct comprehensive inspections of the work, to furnish proper materials, labor, equipment and tools, construct acceptable work, and to provide adequate safety precautions in conformance with this AGREEMENT.

d. The City Engineer and its representatives shall at all times have access to the work wherever it is in preparation or progress, and the DEVELOPER shall provide safe and convenient facilities for such access and for inspection. If this AGREEMENT, the CITY's improvement standards, the City Engineer's instructions, or the laws, ordinances, of any applicable public authority require any material, equipment or work to be specifically tested or approved, the DEVELOPER shall give the City Engineer timely notice of its readiness for such inspection, and if the inspection is by an authority other than the CITY, notice shall be given of the time fixed for such inspection. Inspections by the City Engineer will be made promptly and, where practicable, at the source of supply.

e. Work performed without inspection may be required to be removed and replaced under proper inspection. In such instances, the entire cost of removal and replacing such work, including the cost of City furnished materials used in the work, shall be borne by the DEVELOPER, regardless of whether or not the work exposed is found to be defective.

f. The DEVELOPER shall furnish promptly without additional charge all facilities, labor and materials reasonably needed by the City Engineer for performing all inspection and tests. DEVELOPER shall be charged with any additional cost of inspection when material and workmanship are not ready at the time of its inspection.

g. Where any part of the work is being done under an encroachment permit or building permit, or is subject to Federal, State, County or City codes, laws, ordinances, rules or regulations, representatives of the applicable government agency shall have full access to the work and shall be allowed to make any inspection or tests in accordance with such permits, codes, laws,

ordinances, rules, or regulations. If advance notice of the readiness of the work for inspection is required by the governing agency, the DEVELOPER shall furnish such notice to the appropriate agency.

8. Timeliness and Extension:

a. Time is of the essence of this AGREEMENT. The dates for commencement and completion of the required public improvements may be extended as provided in this paragraph. The City Engineer may extend the dates due to delays in the work actually caused by inclement weather, riots, strikes, lockouts, fires, earthquake, floods and conditions resulting therefrom, or for other reasons beyond the control of the DEVELOPER. Extension of the dates for any other cause shall be made only by the City Council. Extension shall be granted only upon a showing of good cause by the DEVELOPER. The City Council shall be the sole and final judge as to whether sufficient good cause has been shown to warrant granting the DEVELOPER an extension.

b. Request for extension of the commencement and/or completion date shall be in writing and delivered to the CITY in the manner hereinafter specified for service of notices in paragraph 27 of this AGREEMENT. An extension of time, if any, shall be granted only in writing, and an oral extension shall not be valid or binding on the CITY.

c. In the event the CITY extends the time of commencement and/or completion of the work to be done under this AGREEMENT, such extension shall in no way release any guarantee or security given by the DEVELOPER pursuant to this AGREEMENT, or relieve or release those providing an improvement security pursuant to this AGREEMENT. Those individuals or entities providing improvement security for the PROJECT as specified in Paragraph 9 below shall be deemed to have expressly agreed to any such extension of time. Any such

extension may be granted without notice to those entities or individuals providing improvement security to the DEVELOPER.

d. The granting of any extension of time may be conditioned by the CITY by requiring new or amended improvement security in amounts reasonably increased to reflect increases in the costs of constructing the required improvements or by other reasonable conditions imposed by the CITY to protect its interests and ensure the timely completion of the required public improvements.

9. **Improvements Security:** Concurrently with the execution of this AGREEMENT, the DEVELOPER or the DEVELOPER's designated General Contractor(s) shall furnish the CITY:

a. Improvement securities in the sum of Forty-Four-Thousand, Three-Hundred, Fifty-Four Dollars (\$44,354) each for Performance and for Payment/Materials, which is equal to 100% of the estimated cost to construct the public improvements within the CITY rights of way; and

b. Improvement securities in the sum of Twenty-Two-Thousand, One-Hundred, Seventy-Seven Dollars (\$22,177) each for Payment/Materials, which is equal to 50% of the estimated cost to construct the public improvements within the CITY rights of way

c. The type and form of the improvements security shall be in conformance with Chapter 5 of the Subdivision Map Act (Government Code section 66499.10) and shall be subject to the approval of the City Manager and City Attorney. No change, alteration, or addition to the terms of this Agreement or the improvement plans accompanying the same shall in any manner affect the obligation of those providing improvement security pursuant to this Agreement, except as otherwise provided by the Subdivision Map Act. Security may be an instrument of

credit or similar security from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment, and said security document shall be subject to approval of the City.

10. Release of Security: The security furnished by the DEVELOPER may be released in whole or in part in the following manner:

a. Security given for faithful performance of any act or agreement will be released upon the performance of the act and final completion and acceptance by the City Council of the required work, which shall not be unreasonably withheld. Partial release of said security upon partial performance of the act or the acceptance of the work as it progresses may be made upon written authorization of the City Engineer following his inspection and approval of the required public improvements or work related thereto, and the approval of the City Council once each month. In any event, however, sufficient security in an amount equal to ten percent (10%) of the estimated cost of the required public improvements to be constructed, shall be retained for the guarantee and warranty of the constructed improvements and related work against any defective work or labor done, or defective materials furnished, and for the purpose of guaranteeing payment to the contractor, his subcontractors and to persons furnishing labor, materials or equipment, and the same shall be retained for one (1) year after completion and acceptance by the CITY of all required public improvements and work related thereto. CITY is further not obligated to release any amount of security deemed reasonably necessary by CITY to assure payment of reasonable expenses and fees, including reasonable attorney's fees.

b. Security securing the payment to contractor, his subcontractors and to persons furnishing labor, materials or equipment may, six (6) months after performance of the act

and the completion and acceptance of the work, be reduced to an amount not less than the total of all claims on which the action has been filed and notice thereof given in writing to the City Council, and if no such actions have been filed the security may be released in full.

11. Risk of Loss Prior To Acceptance: Neither the CITY, nor any of its officers/elected officials or employees, shall be liable or responsible to DEVELOPER or anyone else, for any accident, loss, or damage, happening or occurring to the improvements specified in this AGREEMENT prior to the completion and acceptance of the required public improvements by CITY, unless and only to the extent that any of the above arises by the negligence of the City. The entire risk of loss relative to said improvements shall be with the DEVELOPER during the period of construction thereof and prior to completion and acceptance thereof by CITY.

12. As Built Drawings: DEVELOPER shall provide City with a copy of scanned as-built drawings within sixty (60) days of the completion of the project; Certificate of Occupancy.

13. Utility Arrangements: DEVELOPER shall file with the City Engineer, prior to commencement of any work to be performed pursuant to this AGREEMENT, a written statement or a will service letter signed by DEVELOPER and each Applicable public utility serving the project, providing that DEVELOPER has made all arrangements required and necessary to provide the public utility service to the project. Said agreement will provide for the undergrounding of all Applicable utility lines on the property as approved by the City Engineer. For purposes of this paragraph, the term "public utility" shall include, but is not limited to, a company providing natural gas, water, sewer, electricity, telephone, and/or cable television service. Said provision shall be without expense to the CITY.

14. Insurance: DEVELOPER shall not commence construction or work under this AGREEMENT until all insurance required under this paragraph is obtained and until such

insurance has been approved by the City Attorney as to form and sufficiency, nor shall the DEVELOPER allow any contractor or subcontractor to commence work until all similar insurance required of the contractor or subcontractor shall have been so obtained and approved.

a. WORKERS' COMPENSATION INSURANCE shall be provided, during the life of this AGREEMENT, for all employees employed for construction or work required under this AGREEMENT regardless of whether said employees are employed by Owner or Owner's contractors, subcontractors, or agents. DEVELOPER shall indemnify and hold harmless CITY for any damage resulting from failure of either DEVELOPER or any contractor or subcontractor to take out or maintain such insurance.

b. DEVELOPER shall obtain the following insurance coverages naming DEVELOPER's contractors, subcontractors, and their agents as insured, and the coverage and certificate(s) thereof shall have been approved by the City Attorney:

1) COMPREHENSIVE GENERAL LIABILITY INSURANCE for liability assumed by DEVELOPER pursuant to this AGREEMENT with CITY. The minimum limits of liability for the insurance of this PROJECT for the CITY shall be One Million Dollars (\$1,000,000) per occurrence with a Two Million Dollars (\$2,000,000) aggregate for bodily injury liability and property damage liability.

2) AUTOMOBILE LIABILITY INSURANCE coverage in minimum limits of not less than One Million Dollars (\$1,000,000) shall be required by DEVELOPER and/or DEVELOPER's contractors and sub-contractors hired to perform work on the PROJECT for owned, hired, leased, and non-owned autos.

An additional insured endorsement to the DEVELOPER's liability insurance policies shall name

the CITY, its elective and appointive boards, commissions, officers, agents, and employees, as additional insured, and provide that such insurance is primary insurance with respect to the interest of the CITY and that of any other insurance maintained by the CITY.

15. Certificates of Insurance: Promptly upon execution of this AGREEMENT, and prior to commencement of any work, the DEVELOPER shall provide the CITY with certificates of insurance evidencing that the above-required insurance has been obtained and is in full force and effect. The terms of the above-required insurance policy/policies shall require each carrier to give CITY at least thirty (30) calendar days prior written notice of cancellation or reduction in coverage of each of the above-required insurance policies during the effective period of this AGREEMENT. Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve DEVELOPER for liability in excess of such coverage, nor shall it preclude CITY from taking such other actions as are available to it under any other provisions of this AGREEMENT or otherwise in law.

16. Indemnification and Hold Harmless: DEVELOPER will indemnify, hold harmless and assume the defense of, in any actions of law or in equity, the CITY, its officers/elected officials, employees, agents, and elective and appointive boards from any and all claims, losses, damage, including property damage, personal injury, including death, and liability of every kind, nature, and description, directly or indirectly arising out of or in any way connected with performance under this AGREEMENT and/or construction of the required public improvements by the DEVELOPER, his contractor or any subcontractor, or of any person directly or indirectly employed by, or acting as agent for the DEVELOPER, his contractor or any subcontractor. This indemnification and hold harmless provision shall extend to claims, losses, damage, injury, and liability for injuries occurring after completion of the construction. Acceptance of insurance

certificates required under this AGREEMENT does not relieve DEVELOPER from liability under this indemnification and hold harmless provision.

17. Developer Is Not An Agent of the City: Neither DEVELOPER, nor any of DEVELOPER's contractors, subcontractors, or agents are or shall be considered agents of CITY when performing DEVELOPER's obligations under this AGREEMENT.

18. Repair of Reconstruction of Defective Work: For a period of one (1) year after acceptance by the City Council of the completed construction and work done under this AGREEMENT, DEVELOPER shall remain fully and completely responsible for the repair, replacement, and reconstruction of any defective or otherwise unsatisfactory work or labor done, or defective materials furnished, in the performance of this AGREEMENT by DEVELOPER. Should DEVELOPER fail or refuse to act promptly after receiving written notification by CITY of the necessity to act pursuant to the aforementioned requirement, or should the exigencies of the case require repairs or replacements to be made before DEVELOPER can be notified, CITY may, in its sole discretion, make the necessary repairs or replacements and perform the reconstruction work and DEVELOPER shall pay to CITY the actual cost therefore plus fifteen percent (15%) thereof, which additional fifteen percent (15%) shall be paid to CITY as and for an administrative fee. The PARTIES further understand and agree that the improvement security furnished pursuant to paragraph 9 of this AGREEMENT shall guarantee and secure the faithful performance of the provisions of this paragraph during the one-year warranty period.

19. Acceptance and Dedication to City of Requirement Public Improvements: Title to and ownership of the required public improvements constructed pursuant to this AGREEMENT by DEVELOPER shall vest absolutely to the CITY upon completion and acceptance in writing of such improvements by CITY. The CITY may elect not to accept the required public

improvements, unless they are constructed in conformity with the approved IMPROVEMENT PLANS, approved modifications, if any, City's improvement standards, and to the satisfaction of the City Engineer.

20. Notice of Breach and Default: If DEVELOPER refuses or fails to obtain prosecution of the work, or any severable part thereof with such diligence as will insure its completion within the time specified, or any extensions thereof, or fails to obtain completion of said work within such time, or if the DEVELOPER should be adjudged a bankrupt, or DEVELOPER should make a general assignment for the benefit of DEVELOPER's creditors, or if a receiver should be appointed in the event of DEVELOPER's insolvency, or if DEVELOPER, or any of the DEVELOPER's contractors, subcontractors, agents, or employee, should violate any of the provisions of this AGREEMENT, CITY may serve written notice of breach of this AGREEMENT upon DEVELOPER and any holder of security provided by DEVELOPER pursuant to paragraph 9 of this AGREEMENT.

21. Breach of Agreement: Performance by Improvement Security Provider or City:

a. In the event of any such notice of breach and default, those entities or individuals providing improvement security to the DEVELOPER under Paragraph 9 shall have the duty to take over and complete the required public improvements herein specified. However, if within fifteen (15) days after the servicing upon it of such notice of breach, the security improvement providers do not give CITY written notice of its intention to take over the performance of the contract, and does not commence performance thereof within twenty (20) days after notice to such election, CITY may take over the work and prosecute the same to completion, by contract or by any other method CITY may deem advisable, for the account and at the expense of DEVELOPER and those providing improvement security to the DEVELOPER shall be liable

to CITY for any excess cost or damages occasioned CITY thereby.

b. In the event DEVELOPER has provided security for DEVELOPER's performance under this AGREEMENT in either the form of a deposit or an instrument of credit, CITY, at its option, shall have full and conditional recourse to such security in accomplishing the performance incumbent upon DEVELOPER.

c. In the event the CITY takes action under Subsection 21(a) or 21(b) above, CITY without liability for so doing, may take possession of, and utilize in completing the work, such materials, appliances, plant and other property belonging to DEVELOPER as may be on the site of the work and necessary therefor. The rights of CITY provided in this Section are in addition to and cumulative to any and all other rights. Paragraphs 20 and 21 hereof shall not be construed as being in lieu of any other such rights provided by law.

22. Prevailing Wages:

a. DEVELOPER acknowledges that CITY has made no representation, express or implied, to DEVELOPER or any person associated with DEVELOPER regarding whether or not laborers employed relative to the construction of the improvements to be constructed pursuant to this Agreement must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to Labor Code Section 1720, *et seq.* ("Prevailing Wage Laws"). DEVELOPER agrees with CITY that DEVELOPER shall assume any and all responsibility and be solely responsible for determining whether or not laborers employed relative to the construction undertaken pursuant to this Agreement must be paid the prevailing per diem wage rate pursuant to the Prevailing Wage Laws or other applicable law.

b. DEVELOPER, on behalf of itself, its successors, and assigns, waives and releases CITY from any right of action that may be available to any of them pursuant to Labor Code Section 1781 or any similar law. Relative to the waiver and release set forth in this Section, DEVELOPER acknowledges the protections of Civil Code Section 1542, which reads as follows:

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

By initialing below, DEVELOPER knowingly and voluntarily waives the provisions of Section 1542 or any similar law solely in connection with the waivers and releases contained in this Section. _____(Initials of Authorized Developer Representative)

c. DEVELOPER shall indemnify, hold harmless and defend CITY against any claim for damages, compensation, fines, penalties or other amounts arising out of the failure or alleged failure of any person or entity (including DEVELOPER, its contractor(s) and subcontractors) to pay prevailing wages as required by law or to comply with the other applicable provisions of Labor Code Sections 1720 *et seq.* and implementing regulations of the Department of Industrial Relations in connection with construction and installation of the improvements required pursuant to this AGREEMENT. DEVELOPER's defense of the CITY shall be provided by counsel reasonably acceptable to the CITY. The foregoing indemnity shall survive any termination of this AGREEMENT.

23. **Assessment District:** DEVELOPER expressly consents to the annexation to the City-Wide Maintenance Assessment District.

a. Purpose of said district is to provide and pay for the maintenance, servicing, and incidental expenses of the property's street lights, landscaping (where applicable), creek bank protection (where applicable), and open space areas along Putah Creek (where applicable), etc, as provided in the Streets & Highways Code, Section 22500 et seq., arising from the impacts brought by DEVELOPER and improvements constructed by the DEVELOPER.

b. DEVELOPER agrees that current assessment levels are appropriate, as are the assessment formulas.

24. **Effect of Waiver:** CITY's waiver of a breach of any one (1) term, covenant, or other provision of this AGREEMENT, is not a waiver of a breach of any other term, nor is a subsequent breach of the term or provision thereby waived.

25. **Attorney's Fees:** In the event that DEVELOPER fails to perform any obligation hereunder and should CITY prevail in any legal action to compel performance of this AGREEMENT, DEVELOPER agrees to pay reasonable attorney's fees, all costs of suit and all other expenses of litigation incurred by CITY in connection therewith. "Venue for any litigation shall be Yolo County Superior Court, State of California."

26. **Binding on Heirs, Successors, and Assigns:** The covenants and conditions contained in this AGREEMENT shall be binding on DEVELOPER'S heirs, successors, and assigns until such time as said covenants and conditions completely have been fulfilled.

27. **Notices and Payments:** Notices shall be in writing. Payments shall be made by cash, check, or money order. Notices or payments may be made by personal delivery to or mailed to:

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

DEVELOPER: Yolo Federal Credit Union
266 W. Main Street
Woodland, CA 95695
Attn: Jenee Rawlings
(530) 668-2700

Mailed notices or payments shall be deemed delivered three days after deposit in the U.S. Mail, properly addressed and with certified postage prepaid. A change of person or place to send or receive notices or payments shall be made in accordance with provision set forth hereinabove. Any PARTY or the surety may change such address by notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

28. Definition of CITY: "CITY" shall include the City Manager, the City Engineer, and other authorized representatives designated by the Winters City Council.

29. Covenants and Conditions: Each covenant and each condition shall be deemed both a covenant and a condition.

30. Effective Period of This Agreement: This AGREEMENT shall remain in full force and effect for a period of one (1) year after acceptance by the City Council of the completed construction and the work done under this AGREEMENT or from DEVELOPER's completion of the most recent repair or reconstruction work under paragraph 18 of this AGREEMENT, whichever is later.

31. Recordation: The PARTIES agree that this AGREEMENT shall be recorded at the Office of the Yolo County Recorder.

32. Time For Payment of Fees:

- a.** If DEVELOPER owes CITY money as reimbursement of costs related to processing application to date, said reimbursement shall be paid prior to the EFFECTIVE DATE of this AGREEMENT.
- b.** Fish and Game CEQA Mitigation: The DEVELOPER shall comply with provisions of Fish and Game Code Section 711.4 by, prior to any construction or grading of the PROJECT site, submitting written evidence of having paid applicable Fish and Game mitigation fees.
- c.** Building Permits Fees: Appropriate building permit fees shall be paid prior to issuance of building permits.
- d.** City Development Impact Fees: City of Winters Development Impact Fees in effect at the time of issuance of building permits shall be paid prior to issuance of certificates of occupancy unless otherwise stated in this requirement. Currently those fees are Water, Streets, Police, Fire, Sewer, Local Drainage, Flood Area Storm Drainage Development Impact Fees, General Capital, and Monitoring (General Plan).
- e.** Blank
- f.** Development Impact fees are subject to an annual increase each July based upon the Engineering News Record Construction Cost Index.
- g.** Yolo County Facilities Fees: County fees must be paid prior to issuance of certificates of occupancy.
- h.** Blank
- i.** Business License: Prior to conducting business in the City of Winters, all contractors, subcontractors, or any other agents shall pay for and obtain a Business License.

33. **Disclaimer Of Liability:** In the event any claim, action or proceeding is commenced naming the CITY or its agents, officers/elected officials, and employees as defendant, respondent or cross defendant arising or alleged to arise from the CITY's approval of this PROJECT, the DEVELOPER shall defend, indemnify, and hold harmless the CITY or its agents, officers/elected officials and employees, from liability, damages, penalties, costs or expense in any such claim, action, or proceeding to attach, set aside, void, or annul any approval of the CITY of Winters, the Winters Planning Commission, any advisory agency to the CITY and local district, or the Winters City Council. Project DEVELOPER shall defend such action at DEVELOPER's sole cost and expense which includes court costs and attorney fees. The CITY shall promptly notify the DEVELOPER of any such claim, action, or proceeding and shall cooperate fully in the defense. Nothing in this condition shall be construed to prohibit the CITY from participating in the defense of any claim, action, or proceeding, if the CITY bears its own attorney fees and cost, and defends the action in good faith. DEVELOPER shall not be required to pay or perform any settlement unless the settlement is approved by the DEVELOPER in good faith, and the settlement not direct or indirect cost on the CITY, or its agents, officers/elected officials, and employees, the Winters Planning Commission, any advisory agency to the CITY, local district and the Winters City Council. Notwithstanding anything in this AGREEMENT to the contrary, the foregoing shall not apply to any bona fide purchaser(s) from DEVELOPER following their acquisition of any parcel in the development project if the required improvements (for such purchasers' parcels) have been completed and accepted by the CITY.

34. **Certificates of Occupancy:** Except as otherwise provided in this AGREEMENT, permanent certificates of occupancy for the "PROJECT" shall not be issued until after completion, and acceptance by the City, of the required public improvements pursuant to the

approved public IMPROVEMENT PLANS, or the City Engineer and Fire Chief have provided their written approval.

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

CITY OF WINTERS:

DEVELOPER:

BY: _____
Cecilia Aguiar-Curry , MAYOR

BY: _____

BY: _____

ATTEST:

APPROVED AS TO FORM:

Nanci G. Mills, CITY CLERK

Ethan Walsh, ATTORNEY

EXHIBIT "A"
LEGAL DESCRIPTION

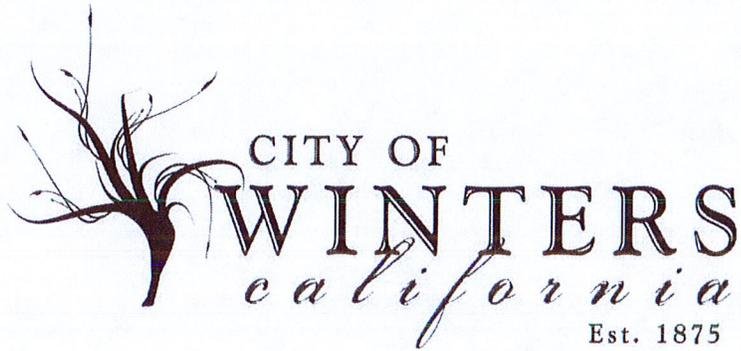
THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF YOLO, CITY OF WINTERS, AND IS DESCRIBED AS FOLLOWS:

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF WINTERS, COUNTY OF YOLO, STATE OF CALIFORNIA, AND BEING A PORTION OF PROJECTED SECTION 22, TOWNSHIP 8 NORTH, RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN, AND BEING A PORTION OF PARCEL 4 AS IT APPEARS ON PARCEL MAP NO. 4164, RECORDED IN BOOK 11 OF PARCEL MAPS, AT PAGE 30, OFFICIAL RECORDS OF YOLO COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

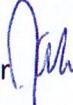
BEGINNING AT A POINT ON THE NORTH LINE OF SAID PARCEL 4, SAID POINT BEING DISTANT SOUTH 65° 50'17" WEST 261.94 FEET FROM THE NORTHEAST CORNER OF SAID PARCEL 4; THENCE, LEAVING SAID NORTH LINE, SOUTH 24° 58'30" EAST 3.56 FEET; THENCE NORTH 64° 57'52" EAST 23.26 FEET; THENCE, ALONG A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS BEARING SOUTH 25° 02'08" EAST 3.00 FEET, A CENTRAL ANGLE OF 32° 36'25", THROUGH AN ARC LENGTH OF 1.71 FEET TO A POINT OF COMPOUND CURVATURE; THENCE, ALONG A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS BEARING SOUTH 07° 34'18" WEST 72.00 FEET, A CENTRAL ANGLE OF 52° 13'29", THROUGH AN ARC LENGTH OF 65.63 FEET; THENCE NORTH 65° 00'02" EAST 37.99 FEET; THENCE SOUTH 25° 00'00" EAST 121.61 FEET; THENCE SOUTH 65° 00'00" WEST 167.78 FEET TO A POINT ON THE WEST LINE OF SAID PARCEL 4; THENCE, ALONG SAID WEST LINE, SAID LINE ALSO BEING THE EAST LINE OF EAST STREET AS IT APPEARS ON SAID PARCEL MAP, THE FOLLOWING TWO (2) COURSES: (1) NORTH 24° 58'41" WEST 140.25 FEET; AND (2) ALONG A TANGENT CURVE TO THE RIGHT HAVING A RADIUS BEARING NORTH 65° 01'19" EAST 40.00 FEET, A CENTRAL ANGLE OF 90° 48'58", THROUGH AN ARC LENGTH OF 63.40 FEET TO A POINT ON THE NORTH LINE OF SAID PARCEL 4; THENCE, ALONG SAID NORTH LINE, SAID LINE ALSO BEING THE SOUTH LINE OF STATE HIGHWAY 128, NORTH 65° 50'17" EAST 31.34 FEET TO THE POINT OF BEGINNING.

FURTHER DESCRIBED AS LOT 4 ON THAT CERTAIN CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT RECORDED JULY 21, 2014, INSTRUMENT NO. 2014-0015918, OFFICIAL RECORDS.

ASSESSOR'S PARCEL NUMBER: A PORTION OF 003-370-030



**CITY COUNCIL
STAFF REPORT**

DATE: March 1, 2016
TO: Mayor and City Council
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: Cap and Trade Grant Proposal- Senior Transit Services

RECOMMENDATION:

That the City Council authorize the submittal of a conceptual proposal for State Cap and Trade Funding to support the development of Senior Transit Services.

BACKGROUND:

The State's Strategic Growth Council has established the 2015-16 Affordable Housing and Sustainable Communities program to distribute Cap and Trade Funds from the State Budget. The program authorizes an extremely broad range of proposals to support the reduction of greenhouse gas emissions.

As part of the Blue Mountain Terrace Affordable Senior Housing Project, Domus Development is seeking to add a senior transportation component which would serve the residents who live there and also seniors and disabled residents throughout the community.

The "concept proposals" are due by March 16, 2016. Staff is seeking authorization to submit (with Domus) a preliminary grant application as part of the process.

DISCUSSION:

Generally, the Cap and Trade Program is an offshoot of AB 32 and the need to reduce greenhouse gas emissions. A key benchmark for reduction is the elimination of vehicle miles travelled. Thus a transportation component would be considered desirable.

Cap and Trade Grant Application

Agenda Report

March 1, 2016

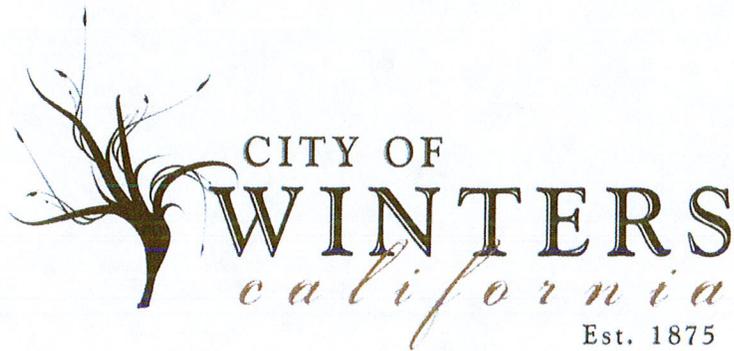
Page 2

Staff and Domus would like to “conceptually” propose some form of a “dial a ride” program for seniors and disabled residents in Winters. This would run as a “demand” system (set time for home pick-up) and not on a fixed route. Grant funds would be utilized for the purchase of capital equipment and a three (3) year operational subsidy.

The details of the program will be worked out through a consultation with senior organizations in town and with the general public.

The conceptual proposal is due on March 16. It is not binding and will allow for changes and/or retraction if the City decides it is not preferred.

FISCAL IMPACT: None by this action.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members

DATE: March 1, 2016

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

FROM: Ethan Walsh, City Attorney

SUBJECT: Ordinance amending Chapter 17.04 of the Winters Municipal Code
Related to Medical Marijuana Cultivation

STAFF RECOMMENDATION:

Staff recommends the City Council waive second reading and adopt the enclosed Ordinance of the City Council of the City of Winters Amending Chapter 17.04 of the City of Winters Municipal Code Related to Medical Marijuana Cultivation.

BACKGROUND:

The City Council introduced this ordinance at the February 16 Council Meeting.

In 1996, the voters of California approved Proposition 215, which was codified as Health & Safety Code section 11362.5 *et seq.* and entitled the Compassionate Use Act of 1996 (the "CUA"). The CUA decriminalized the use of marijuana for medical purposes. In 2003 the California Legislature adopted Senate Bill No. 420, entitled the Medical Marijuana Program ("MMP"), codified as Health and Safety Code section 11362.7 *et seq.*, which further permitted qualified patients and primary caregivers to associate collectively or cooperative to cultivate marijuana for medical purposes without being subjected to criminal prosecution. The California Supreme Court has held that neither the CUA nor the MMP preempt local land use authority regarding medical marijuana, leaving cities with the authority to "allow, restrict, limit, or entirely exclude facilities that distribute medical marijuana." (*City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc.* (2013) 56 Cal.4th 729, 762.)

The City's Zoning Code currently regulates medical marijuana activities in the City through restrictions that are imposed on "medical marijuana dispensaries," which are defined in part as "any place, location, building or establishment where medical cannabis is traded, exchanged, sold, distributed or cultivated which would otherwise require a business license, home occupation permit or any other use permit to conduct similar type activities." (Winters Municipal Code §17.04.140 [emphasis added].) The Zoning Code further provides that medical marijuana dispensaries are prohibited within any zone in the City of Winters until such time that both federal and state law change to allow the operation of medical marijuana dispensaries, at which point dispensaries, as defined in the Zoning Code, would only be allowed in a zone designated for medical offices. This restriction on medical marijuana dispensaries prohibits the cultivation of medical marijuana for commercial purposes, but does not restrict the cultivation of medical marijuana for qualified users and primary caregivers as permitted under the CUA and the MMP.

In the last legislative session the California Legislature enacted three separate bills that are collectively referred to as "The Medical Marijuana Regulation and Safety Act ("MMRSA"). The MMRSA establishes a framework for the state-wide regulation and licensing of a commercial medical marijuana industry, including cultivation, testing laboratories, manufacturers of medical marijuana products, sale and delivery. The MMRSA does affirm that cities and counties retain local land use, regulatory and enforcement activity, and contemplates that cities and counties may adopt local licensing requirements for medical marijuana sale, cultivation and similar activities, or restrict such activities altogether.

However, Health and Safety Code Section 11362.777, adopted as part of the MMRSA, places a limitation on cities' ability to adopt local licensing programs for medical marijuana cultivation. Section 11362 provides that the State Department of Food and Agriculture will establish a state-wide licensing program for the cultivation of medical marijuana, and that no one can cultivate medical marijuana without first obtaining both a license, permit or other entitlement permitting cultivation from the city or county in which the cultivation will occur, and a state license from the Department of Food and Agriculture. However, Section 11362.777 also provides that if a city does not have land use regulations or ordinances regulating or prohibiting the cultivation of marijuana, or chooses not to administer a permit program, then commencing on March 1, 2016, the Department of Food and Agriculture will be the sole licensing authority for medical marijuana cultivation. This means that if a city does not have land use regulations in place regulating the cultivation of marijuana before March 1, 2016, then those cities will lose their ability to establish a licensing program for medical marijuana cultivation in their jurisdiction, and cannot adopt a licensing or regulatory program for medical marijuana cultivation in the future.

The State Legislature recently passed, and the Governor signed, Assembly Bill 21 (Bonta), which removed the March 1, 2016 deadline discussed above.

DISCUSSION:

The enclosed ordinance was considered by the Planning Commission after a noticed public hearing. The Planning Commission recommended the City Council adopt the ordinance with minor, nonsubstantive edits that have been incorporated into the enclosed ordinance.

As noted above, the City's Zoning Code already regulates medical marijuana dispensaries, and includes as part of the definition of medical marijuana dispensaries, locations where "cultivation" will occur for commercial uses that would require a business license or home occupation permit. As a result, the City already does have land use ordinances that regulate the cultivation of marijuana. However, the City's regulations on cultivation are not entirely consistent with the language and terminology adopted in the MMRSA. In order to be clear that the City is currently regulating medical marijuana cultivation, and therefore retains its ability to establish a local licensing or conditional permit program for medical marijuana cultivation as permitted under Section 11362.777, City staff is recommending that the enclosed ordinance be adopted by the City Council.

The proposed ordinance establishes a definition for "Commercial Marijuana Cultivation" that references the language and definitions used in the MMRSA, and clarifies that such cultivation is not currently permitted in the City. This will clarify the existing requirements of the City's Municipal Code, maintain the City's current approach to medical marijuana activities, and preserve the City's ability to establish a more specific or comprehensive licensing program in the future.

While the passage of AB 21 removed the March 1, 2016 deadline for adoption of regulations of medical marijuana cultivation, Staff still believes it is worthwhile to add clarifying language to be more consistent with the state law regarding regulation of medical marijuana cultivation.

The City may, in the future, want to adopt a more comprehensive licensing program for cultivation of medical marijuana, or it may want to amend its restriction on medical marijuana cultivation after the State's licensing program is adopted. The purpose of this ordinance is simply to clarify the City's existing restrictions to avoid confusion and to preserve the City's options to regulate medical marijuana cultivation moving forward.

ATTACHMENTS:

A. Ordinance No. 2016-03

ORDINANCE NO. 2016-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS AMENDING
CHAPTER 17.04 OF TITLE 17 OF THE CITY OF WINTERS MUNICIPAL CODE
RELATED TO MEDICAL MARIJUANA CULTIVATION**

WHEREAS, in 1996, the voters of the State of California approved Proposition 215, which was codified as Health and Safety Code Section 11362.5 et seq. and entitled the Compassionate Use Act of 1996 (“CUA”), decriminalizing the use of marijuana for medical purposes; and

WHEREAS, in 2003, the California Legislature adopted SB 420, the Medical Marijuana Program (“MMP”), codified as Health and Safety Code Section 11362.7 et seq., which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subjected to criminal prosecution; and

WHEREAS, neither the CUA nor the MMP require or impose an affirmative duty or mandate upon local governments to allow, authorize, or sanction the establishment of facilities that cultivate or process medical marijuana within their jurisdictions; and

WHEREAS, on October 9, 2015, Governor Jerry Brown signed the “Medical Marijuana Regulation and Safety Act” (“Act”) into law; and

WHEREAS, the Act became effective January 1, 2016, and contains provisions which allow for local governments to regulate and license marijuana cultivation uses and sites; and

WHEREAS, the Act states that, commencing March 1, 2016, the State shall become the sole licensing authority for commercial marijuana cultivation in those cities and counties that do not have land use regulations or ordinances that regulate or prohibit marijuana cultivation; and

WHEREAS, the City Council previously adopted Ordinance No. 2011-05 in order to regulate medical marijuana dispensaries which, for purposes of the City of Winters Municipal Code, is defined to include any place, location, building or establishment where medical cannabis is cultivated which would otherwise require a business license, home occupation permit or any other use permit to conduct similar type activities; and

WHEREAS, the City’s existing marijuana cultivation regulations prohibit medical marijuana dispensaries, which include cultivation activities for commercial purposes that would require a business license or home occupation permit from opening and operating within any zone in the City of Winters, until such time that the operation of such medical marijuana dispensaries, including commercial cultivation activities, are allowed under both federal and state law; and

WHEREAS, in the event that such marijuana dispensaries are allowed under federal and state law then such dispensaries shall then be allowed only in a zone district designated for

medical offices and only if consistent with the applicable provisions of the Winters Municipal Code and federal and state law; and

WHEREAS, while medical marijuana dispensaries as defined in the Winters Municipal Code are allowed under state law, federal law classifies cannabis as an illegal controlled substance under the Controlled Substances Act (21 U.S.C. §811 *et seq.*) and does not allow cannabis for medical or recreational use, and therefore federal law still does not allow for medical marijuana dispensaries, including commercial cultivation; and

WHEREAS, the Winters Municipal Code does not expressly address commercial cultivation of medical marijuana as an activity separate from medical marijuana dispensaries, as is the case under portions of the Act, nor do they contemplate a local or state licensing scheme as established by the Act; and

WHEREAS, some California cities have reported negative impacts of marijuana cultivation, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, fire hazards, and problems associated with mold, fungus, and pests, which may be exacerbated by wide-scale commercial cultivation; and

WHEREAS, the City Council therefore desires to amend the Municipal Code to clarify the intent of the existing zoning restrictions on the cultivation of marijuana by prohibiting commercial cultivation of marijuana while continuing to allow limited personal cultivation by those qualified patients, primary caregivers exempt under the Act and medical marijuana cooperatives as defined in the Winters Municipal Code; and

WHEREAS, the City Council further desires to retain and maintain its control and regulation of medical marijuana uses within its boundaries by expressly reserving its ability to enact a future local licensing scheme as granted by the Act.

NOW, THEREFORE, the City Council of the City of Winters does hereby ordain as follows:

Section 1. Recitals. The above recitals are hereby found to be true and accurate and are incorporated into this Ordinance by this reference.

Section 2. Findings. The City Council hereby makes the following findings:

A. Pursuant to Winters Municipal Code section 17.28.010, the City Council hereby finds that the text amendments to the zoning code contained in this Ordinance are required for the public necessity, convenience and general welfare. This Ordinance balances the interests of existing medical marijuana patients and caregivers with the health and safety concerns associated with commercial cultivation. As such, this Ordinance preserves and clarifies the City's existing zoning restrictions regarding medical marijuana cultivation. The City Council further finds, based upon Planning Commission recommendation, that this Ordinance conforms to the City's general plan.

Section 3. Amendments to Section 17.04.40. Section 17.04.140 of Chapter 17.04 or Title 17 of the City of Winters Municipal Code is hereby amended as follows:

A. The following paragraph is hereby inserted in Subsection B of Section 17.140 in between the paragraph entitled “Carport” and the paragraph entitled “Community Development Director”:

“Commercial Marijuana Cultivation” means cultivation of medical marijuana licensed by the State of California in accordance with the Medical Marijuana Regulation and Safety Act, California Business and Professions Code Section 19300 et seq., and contemplated by the definition of “commercial cannabis activity” set forth in California Business and Professions Code Section 19300.5(k), as amended. Commercial Marijuana Cultivation is prohibited in the City. Pursuant to Section 11362.777 of the California Health and Safety Code, effective January 1, 2016, this paragraph is intended to regulate the cultivation of medical marijuana by prohibiting Commercial Marijuana Cultivation within the City, and thereby expressly reserving any future local licensing authority granted to the city by that Section. This paragraph shall not restrict cultivation of medical marijuana by a “primary caregiver” or “qualified patient,” as those terms are defined by Health and Safety Code Section 11362.7, or by a “medical marijuana cooperative,” as defined herein subject to the restrictions set forth in this Section 17.04.140.

B. The following paragraph is hereby inserted in Subsection B of Section 17.04.140 in between the paragraph entitled “Counter audit” and the paragraph entitled “Deemed withdrawn”:

“Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, trimming or processing of marijuana or any part thereof.

C. The following paragraph is hereby inserted in Subsection B of Section 17.04.140 in between the paragraph entitled “Massage” and the paragraph entitled “Medical marijuana cooperative”:

“Medical marijuana” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the Health and Safety Code. Cannabis as used in this paragraph shall have the meaning as set forth in Subsection (f) of Section 19300.5 of the Business and Professions Code.

D. The paragraph entitled “Medical marijuana dispensary” set forth in Subsection B of Section 17.04.140 is hereby amended to read as follows:

“Medical marijuana dispensary” means any facility or location, whether fixed or mobile, where medical marijuana is made available to, distributed by, or distributed to one or more of the following: (1) a qualified patient, (2) a person with an identification card, or (3) a primary caregiver. All three of these terms are defined in strict accordance with

California Health and Safety Code Section 11362.5 et seq. A medical marijuana dispensary is further defined as any place, location, building or establishment where medical cannabis is traded, exchanged, sold, or distributed ~~or cultivated~~ which would otherwise require a business license, home occupation permit or any other use permit to conduct similar type activities. Unless otherwise regulated by this code or applicable law, a “medical marijuana dispensary” shall not include the following uses: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code, a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code, a residential care facility for persons with chronic life-threatening illnesses licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code, a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code, a residential hospice, or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code, as long as any such use complies strictly with both applicable federal or state law, including, but not limited to, Health and Safety Code Section 11362.5 et seq. Currently, medical marijuana dispensaries are prohibited from opening and operating within any zone in the City of Winters. At such time as both federal and state law change to allow the operation of medical marijuana dispensaries, such dispensaries shall be then allowed only in a zone district designated for medical offices and only if consistent with the applicable provisions of this code and federal and state law.

Section 4. CEQA. This Ordinance is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly, as it is simply a clarification of existing restrictions as currently set forth in the City of Winters Municipal Code. The City Council further finds, under Title 14 of the California Code of Regulations, Section 15061(b)(3), that this Ordinance is nonetheless exempt from the requirements of CEQA in that the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The City Council, therefore, directs that a Notice of Exemption be filed with the County Clerk of the County of Yolo in accordance with CEQA Guidelines.

Section 5. Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk’s office located at 318 First Street, Winters, CA 95694. The custodian of these records is the City Clerk.

Section 6. Severability. If any section, sentence, clause or phrase of this Ordinance or the application thereof to any entity, person or circumstance is held for any reason to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The City Council of the City of Winters hereby declare that they would have adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 7. Effective Date. This Ordinance shall become effective thirty (30) days following its adoption.

Section 8. Publication. The City Clerk shall certify to the adoption of this Ordinance. Not later than fifteen (15) days following the passage of this Ordinance, the Ordinance, or a summary thereof, along with the names of the City Council members voting for and against the Ordinance, shall be published in a newspaper of general circulation in the City of Winters.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Winters, California, at a regular meeting of the City Council held on the 1st day of March, 2016.

City of Winters

By: Cecilia Aguilar-Curry, Mayor

ATTEST:

Nanci Mills, City Clerk

APPROVED AS TO FORM:

Ethan Walsh, City Attorney



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: March 1, 2016
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
SUBJECT: Public Hearing and Consideration of Resolution 2016-04, a Resolution of the City Council of the City of Winters Authorizing a Grant in the Amount of \$1,243,497 from the 2007 Bond Proceeds to the Blue Mountain Terrace Senior Housing Project

RECOMMENDATION:

Staff recommends that the City Council take the following actions: (1) receive the staff report, (2) conduct the public hearing, and (3) adopt Resolution No. 2016-04 approving a Grant in the Amount of \$1,243,497 from the City of Winters 2007 Bond Issuance to assist in the development of the Blue Mountain Terrace Senior Housing Project.

BACKGROUND:

Staff is working with the project developer (Domus Development) to complete the sale of a portion of the Successor Agency-owned property commonly referred to as the Grant Avenue Commercial property to facilitate the construction of a multi-family senior housing project and a senior center. The total estimated cost of the project is \$16,444,466.

At the April 1, 2014 City Council meeting, the Council selected Domus Development LLC from the three proposals submitted in response to a previously issued Request for Proposals/Qualifications (RFP/RFQ). Council also authorized the City Manager to Execute an Exclusive Negotiation Agreement (ENA) with Domus Development, LLC, a California Limited Liability Corporation for the development of the Blue Mountain Terrace Senior Affordable Housing Project. At that meeting, Staff recommended a commitment of funding to the project as a provision of the ENA, with the City commitment of financial assistance to the development consisting of a grant from the 2007 tax exempt bond proceeds, not to exceed \$1,200,000.

Domus Development and the City have been successful in bringing additional project funding commitments to project, with the project receiving funding commitments from the Infill Infrastructure Grant program (\$1,800,000), CDBG Grant funding for the Senior Center and Senior Services (\$2,000,000), CDBG Program Income (approximately \$500,000, also for the Senior Center), Project Based Housing Vouchers, a HOME Program Loan (\$2,400,000) and funding from the State's MHP Program (\$3,436,000). The last additional funding needed for the project is anticipated to be secured through an application to the State's 4% Tax Credit Program on March 2, 2016.

DISCUSSION:

In addition to the commitment of funding in conjunction with the authorization of the ENA in 2014, the authorizing Resolutions for applications for the IIG Grant, CDBG, and HOME funds included a local funding commitment of the \$1,200,000 grant from proceeds of the City's 2007 housing bond issuance. Staff recommends the City Council adopt Resolution 2016-04, which authorizes the City Manager to enter into a grant agreement to provide the remaining Housing Bond Proceeds from the 2007 Bond Issuance as assistance to the Blue Mountain Terrace project. In addition to providing needed financial support to the Blue Mountain Terrace project, disbursing the remaining Housing Bond proceeds would bring the City into compliance with the 2007 bond covenants.

FISCAL IMPACT:

The City would disburse \$1,243,497 for this project from the City's housing bond proceeds (2007 bond issuance).

ATTACHMENTS:

Resolution 2016-04

RESOLUTION NO. 2016-04

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS
AUTHORIZING A GRANT OF \$1,243,497 IN SUPPORT OF THE BLUE
MOUNTAIN TERRACE AFFORDABLE SENIOR HOUSING PROJECT**

WHEREAS, on March 4, 2014, the City Council of the City of Winters (the "City Council") approved the issuance of a Request for Proposal and Request for Qualifications for the development of Senior Affordable Housing ("RFP/RFQ") for that certain property located at Grant Avenue (a portion of APN #s 003 370 028, 029, and 030; the "Property"), which is owned by the Successor Agency to the Community Development Agency of the City of Winters; and

WHEREAS, on April 1, 2014, the City Council of the City of Winters selected Domus Development LLC from the three proposals submitted in response to the Request for Proposals/Qualifications; and

WHEREAS, on December 8, 2014, the State of California Department of Finance ("DOF") approved the sale of the Property from the Successor Agency to Domus Development LLC; and

WHEREAS, Domus is establishing Blue Mountain Terrace Associates LP as a separate limited partnership that will acquire the Property and develop sixty-three (63) multi-family units, sixty-two (62) of which will be designated as affordable housing, and associated on-site and off-site improvements to be known as the Blue Mountain Terrace Affordable Senior Housing Project (the "Project"); and

WHEREAS, Domus Capital Holdings, Inc. is a wholly owned and controlled affiliate of Domus Development LLC, and is or will be a partner in the limited partnership that will acquire the Property and develop the Project; and

WHEREAS, the City desires to provide assistance to Domus Capital Holdings, Inc. in the form of a grant from the 2007 Community Development Agency low and moderate income housing bond proceeds (the "Housing Bond Proceeds") that were transferred to the City pursuant to that certain Bond Expenditure Agreement entered into by and between the City and the Successor Agency on April 1, 2014, which assistance will be used to assist in the development of the Project, and which grant of funds is conditioned upon Domus Capital Holdings, Inc. ensuring that not less than thirty-one (31) of the units included in the Project will be maintained as affordable housing for not less than fifty-five years in accordance with the requirements of the Community Redevelopment Law;

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

Section 1. The City hereby finds and determines that the foregoing recitations are true and correct and are incorporated herein by this reference.

Section 2. The City hereby approves and authorizes a grant of funds of the Housing Bond Proceeds from the City of Winters 2007 Bond Issuance in the amount of one million two hundred forty three thousand four hundred ninety seven dollars and zero cents (\$1,243,497) to Domus Capital Holdings, Inc. to provide assistance to the Blue Mountain Terrace Project, which grant shall be made pursuant to a Grant Agreement that will include assurances and conditions on disbursement to ensure that the grant funds be used for costs incurred in the development of the Project, and shall be conditioned on the owner of the Project entering into an Agreement that not less than thirty-one (31) of the units included in the project shall be rented to Very Low and Low-income senior households for a term of not less than fifty-five (55) years.

Section 3. The City Council hereby authorizes and directs the City Manager, or his designee, in consultation with the City Attorney, to prepare and enter into such agreements on behalf of the City, including but not limited a Grant Agreement with Domus Capital Holdings, Inc. and Affordable Housing Regulatory Agreement with Blue Mountain Terrace Associates LP for the Project, and to execute such other documents and take such other actions as necessary to carry out and implement the obligations of the City under this Resolution.

The foregoing resolution was duly and regularly adopted by the City Council of the City of Winters, County of Yolo, State of California, on the 16th day of February, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Cecilia Aguiar-Curry, Mayor
City of Winters

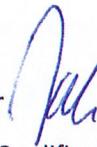
ATTEST:

Nanci G. Mills, City Clerk
City of Winters
State of California

1460568.1



**CITY COUNCIL
STAFF REPORT**

DATE: March 1, 2016
TO: Mayor and City Council
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: Engineering Services- Request for Qualifications

RECOMMENDATION:

That the City Council authorize a Request for Qualifications from qualified firms for the provision of City Engineering Services.

BACKGROUND:

Since 1999, the City has contracted with Ponticello Enterprises for the provision of City Engineering Services. Services have included a broad range of services including serving as the City's Engineer of Record on all civil engineering projects and land use, development review and processing, project management of key capital infrastructure, advice and management on key City operational issues involving water and wastewater enterprises and other services as required, The contract with Ponticello has been renewed twice in the past 17 years.

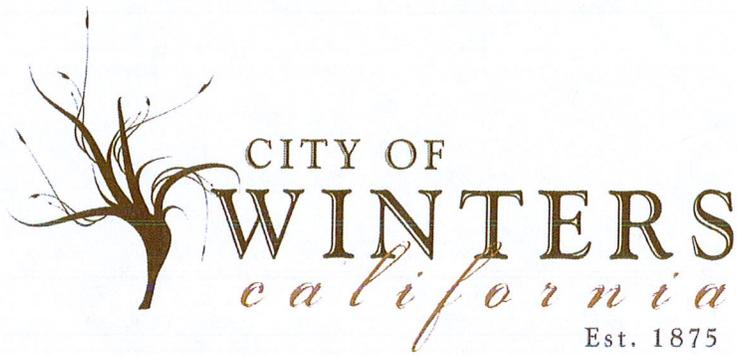
In 2014, Caltrans determined that for qualification for Federal and State infrastructure dollars, cities are mandated to follow a regular process of procurement for engineering services, including general engineering services as provided by Ponticello to the City of Winters.

The current contract with Ponticello Enterprises will end on June 30, 2016.

DISCUSSION:

City Staff is requesting authorization from the City Council to solicit proposals from qualified engineering firms for City Engineering Services. The process is a qualifications based system and will include an evaluation based on the qualifications of the firms versus price. Staff will bring the recommendations to the City Council in May.

FISCAL IMPACT: None by this action.



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Councilmembers
DATE: March 1, 2016
THROUGH: John W. Donlevy, Jr., City Manager. 
FROM: Elliot Landes, Associate
SUBJECT: Water Fountain Proposed for Main Street

RECOMMENDATION:

Staff is asking the Council to consider fountain choices for the 23 Main Street sidewalk site, and make recommendations.

BACKGROUND:

With the renovation of Main Street in 2008, the City envisioned a water fountain at 23 Main. There are electrical and water connections at the location, which is in the widening of the brick area of the sidewalk at the mid-block crossing.

Staff is considering a few choices for fountain designs, and is seeking input from the Council. The fountains below are available in various finishes, and delivery can take up to eight weeks.

Choice #1: Chaumont Fountain by Campania. This is a spout style fountain with a seven foot diameter round pool and stands 62 inches high. Cost: \$4,406, including tax, delivery, and installation. Spouts would be steel.

Choice #2: Beaufort Fountain by Campania. This is a larger "birdbath" style fountain, with a 104" diameter round pool. It is 62" high. This fountain would be \$5,800.

Choice #3: Giannini Anduze Carre Fountain, with Loire eight segment coping. This is a spout style, with 84" octagonal pool. The height is 75". Cost: \$4,515. Spouts would be steel.

All the pools have a resin pan with the sides covered by stone segments, with re-circulating pump and an auto-fill device to connect to the water supply.



Beaufort



Chaumont



Anduze/Loire



STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: March 1, 2016
THROUGH: John W. Donlevy, Jr., City Manager 
FROM: Carol Scianna, Environmental Services Manager
SUBJECT: Willdan Construction Engineering Services and Amendment to Willdan Contract for Walnut Roundabout

RECOMMENDATION: Staff recommends that City Council approve the proposal from Willdan Engineering for Construction Engineering Services for the Walnut Ave Roundabout in the amount not to exceed \$156,580. This task order will also require that the Consulting contract with Willdan executed December 2014 be amended to allow for an increase of \$100,000.

BACKGROUND: Willdan Engineering Consultants was hired December 2014 to manage the City's federal aid projects, namely the Railroad Bridge over Dry Slough Replacement project which is completed and the Walnut Roundabout projects. The original contract amount was a not to exceed \$275,000 budget. Previously, Willdan submitted task order 3 for services needed to acquire the construction authorization from CalTrans, that work is near completion and the Roundabout Project is expected to be approved for construction in the next few weeks. The current proposal for Construction Engineering Services in the amount of \$156,580 will allow the City to continue working with Willdan for the construction phase and completion of the Roundabout project.

The original budget of \$275,000 as part of the RFQ process was an estimate of the cost of services that would be required to complete these two projects. The Railroad bridge project has about \$25,000 that was not expended under task orders submitted for that projects services, we are optimistic that the City will not need to expend all of the \$100,000 requested to complete the Roundabout project.

The City was also awarded CalTrans SHOPP funds which will help the City to offset its share of cost on the Roundabout.

FISCAL IMPACT: NOT TO EXCEED \$100,000 INCREASE

Attachments: Willdan Proposal dated Feb 8, 2016

Amendment to Consulting Services Agreement

February 23, 2016

Mr. Michael Karoly, PE, QSP/D
City of Winters
318 First Street
Winters, CA 95694

Subject: Proposal for Construction Engineering Services – Walnut Avenue Roundabout

Dear Mr. Karoly:

Willdan Engineering is pleased to submit this proposal to provide professional construction engineering services for the subject project. Willdan's proposal includes inspection, resident engineering, Caltrans invoicing, material testing, and labor compliance services. It is our understanding the project includes the installation of a roundabout, asphalt paving, pcc improvements, stamped concrete, traffic striping and other appurtenant work. It is our understanding the project is to begin work around June 2016 and is to be completed within 100 working days.

Willdan's proposal includes the following services:

1. Provide Caltrans Invoicing
2. Provide Labor Compliance
3. Provide Construction Management
4. Provide Public Works Inspection
5. Provide Material Testing

Per your request, we have provided a detailed scope of work and our estimated fee.

SCOPE OF WORK

TASK #1 – Caltrans Paperwork Preparation

Progress and Final Invoicing

1. Prepare *Progress Invoice (LAPM Exhibit 5-A)* at least once every 6 months based on the contractor's contract progress reports and copies of cancelled checks to submit to Caltrans DLAE.
2. Prepare the *Federal Report of Expenditures Letter* and the *Report of Expenditures Checklist (LAPM Exhibit 17-A)* based on the Statement of Working Days.
3. Prepare the *Local Agency Final Inspection Form (LAPM Exhibit 17-C)* to initiate Caltrans' job site review and verification of completion of the project.

4. Prepare the *Materials Certificate (LAPM Exhibit 17-G)* for Resident Engineer's signature to show that the results of the tests on acceptance samples indicate that the materials incorporated in the construction work and construction operations controlled by sampling and testing were in conformity with the approved plans and specifications.
5. Prepare the *Final Invoice (LAPM Exhibit 5-A)*, *Final Detail Estimate and Summary (LAPM Exhibit 15-M)*, and *Change Order Summary (LAPM Exhibit 17-E)* based on the contractor's final contract progress report, release of retention or letter from Escrow, and copies of cancelled checks.
6. Submit to Caltrans DLAE Item Nos. 2 through 5 and attach the following items: *Final Report - Utilization of DBE, First Tier Subcontractors (LAPM Exhibit 17-F)* and *DBE Certification Status Change (LAPM Exhibit 17-O)* to initiate timely project closure and payment.
7. Following receipt of the final payment check from the State Controller's Office, include documents and submittals in a Federal Funding File and make a PDF formatted file on a CD for the City.

TASK #2 - LABOR COMPLIANCE

1. Attend preconstruction conference to present federal labor compliance requirements to contractor and subcontractors; prepare minutes and attendance record thereof.
2. Verify and document job-site posting of wage rate information and labor compliance posters.
3. Receive and review labor compliance documentation from public works observers or inspectors and compare with contractor-submitted documents. Monitor contractor-submitted payroll documentation on a continuous basis, including weekly certified payroll reports, fringe benefit statements, apprenticeship documentation, and payroll deduction authorizations.
4. Follow up with contractor by telephone, email, and/or certified mail regarding required document submittals and payroll discrepancies and deficiencies. Provide detailed description of alleged deficiencies; outline corrective action to be taken; and enforce regulatory deadlines for compliance.
5. Receive, pursue, and document labor complaints; prepare violation reports to oversight agencies as required; recommend special action to be taken if contractor continuously fails to comply with requests and requirements.
6. Coordinate with City staff the withholding of progress and/or retention payments if contractor fails to abide by labor compliance requirements.
7. Maintain content and format of federal labor compliance file in conformance with applicable City of Winters' and Caltrans' requirements.
8. Coordinate project file reviews by appropriate City of Winters, and Caltrans staff.

9. Submit complete federal labor compliance file to City for retention. (Note: federal labor compliance files are to be retained for a period of not less than three (3) years.)

TASK #3 - Construction Management

1. Assist the City with public awareness and information program to keep residents and local stakeholders advised of project status along with the impacts to traffic flow circulation, including answering questions from the public about the project.
2. Prepare the construction file.
3. Ensure that the contractor distributes public construction notices and places construction and information signs.
4. Prepare special concerns to be presented at the preconstruction conference.
5. Conduct meeting and prepare preconstruction meeting minutes and distribute to attendees.
6. Review contractor's safety program in consultation with City staff.
7. Through Willdan's system of project control, monitor activities related to the project such that the project is constructed pursuant to contract documents, LAPM, and in a timely fashion.
8. Log, track, and process submittals, RFIs, RFCs, CCOs, field directives, NOPCs, Non-Conformance Reports (NCRs), construction schedule, and detailed traffic control plan.
9. Closely review schedule and advise contractor to take action on schedule slippage.
10. Document contractor's 20-day notices, mechanic's liens, and stop notices.
11. Monitor and coordinate activities of design engineering support, surveying, testing, and work by utilities or other agencies.
12. Prepare weekly statement of working days and submit to the contractor and the City.
13. Provide monthly progress report.
14. Establish and conduct weekly construction progress meetings to:
 - Resolve all old business issues to the maximum extent possible
 - Address all items of new business as presented by any party
 - Review project schedule and address any deviations
 - Review submittal log in terms of items needed and resubmittals required and review RFI, RFC, CCO, NCR, and NOPC logs
 - List status of construction items recently undertaken or ongoing
 - List planned construction items for the next two weeks, usually known as the two-week look ahead schedule
 - Review SWPPP issues

- Review contractor's safety program
15. Prepare minutes for the weekly construction progress meeting.
 16. Provide claims mitigation monitoring, including proactively applying foresight to discover unforeseen conflicts prior to contractor encounter.
 17. Evaluate and respond to the contractor's requests for clarification of plans and specifications.
 18. Ensure that all questions, conflicts, and issues are immediately brought to the City's attention and addressed with appropriate directives to the contractor.
 19. Conduct special site meetings, when necessary, with the contractor and City staff to review job progress, scheduling, and coordination.
 20. Perform quantity, time, and cost analyses required for negotiation of contract changes.
 21. Negotiate and prepare change orders, including memorandum of explanation and cost estimates to substantiate change order costs and provide to City for review.
 22. Monitor and perform immediate and thorough analysis of validity of all potential claims that arise.
 23. Maintain all data for change orders and record information with regard to the time of dispute, time of notification by the contractor, and action taken by the inspector.
 24. Monitor materials documentation and testing results and enforce corrections.
 25. Review for approval the contractor's progress payment requests, including verifying LAPM compliance status and impact on payment; negotiate differences over the amount with the contractor; and process payments through the City's Project Manager.
 26. Monitor preparation of a punch list at substantial completion and follow up.
 27. Routinely review construction files to ensure conformance to City standards and good construction management practice.
 28. Ensure City received as-built set of drawings at completion.
 29. Assist City with stop notices and release of retention.
 30. Provide memorandum of clearance to issue the notice of completion.
 31. Finalize and deliver all construction files and supplies to the City for their records.

TASK #4 - Construction Inspection

1. Review plans, specifications, and all other contract- and construction-related documents.

2. Conduct a field investigation of the project area to become familiar with the existing facilities and the project environment.
3. Become familiar with traffic control plans, construction schedule, construction sequence, and permit requirements from other agencies.
4. Assist with the reimbursement requests for the Walnut Ave RAB project with Winters and Fed-Aid oversight management.
5. Verify that the contractor conforms to the design survey line and grades.
6. Attend weekly progress meetings with the resident engineer, contractor, and subcontractors.
7. Provide full-time and as-needed construction inspection, including night inspection, of the work to monitor materials and methods for compliance with plans, specifications, and contract documents; address and document non-conforming items as they are discovered.
8. Monitor compliance with Cal OSHA requirements and compliance with all local, state, and federal regulations. Although Willdan will monitor the activities, it is the contractor's sole responsibility to provide workers with a safe working environment.
9. Provide Willdan's labor compliance manager with federally-compliant labor and equipment reports, labor classification interviews, and assist with certified payroll review.
10. Monitor compliance with the Clean Air Act and the Clean Water Act (National Pollutant Discharge Elimination System – NPDES best management practices). Also, monitor the contractor's compliance with approved SWPPP.
11. Meet with the contractor at the beginning of each day and review the proposed work plan, including specific details that may affect progress.
12. Conduct daily measurements of quantities of work with the contractor.
13. Review actual contractor performance throughout the day and discuss discrepancies with the contractor as they occur.
14. Assist in coordination of engineering support, surveying, specialty inspections, and fieldwork by utility companies.
15. Ensure compliance of Underground Service Alert notification/delineation.
16. Evaluate the contractor's operation and production with respect to quality and progress and report to the resident engineer.
17. Photograph continuous property frontages along the street alignment once prior to construction and once immediately following construction. Maintain a photographic record of key elements of each major operation of work each day, with increased detail in situations of potential changes or claims.

18. Closely monitor testing results and require the contractor to provide corrective measures to achieve compliance.
19. Maintain copies of all permits needed to construct the project and enforce special requirements of each.
20. Prepare and maintain detailed daily diary inspector reports on construction progress.
21. Prepare clear and concise letters and memoranda, as needed. Establish a solid paper trail.
22. Maintain field file bound workbooks during construction, including a cumulative record of quantities constructed, daily and weekly reports, working day reports, change order documentation, photographs, and other documentation.
23. Review the construction schedule and enforce requirements for updating schedules and maintaining appropriate progress of the work.
24. Analyze delays and review claims on a timely basis and make recommendations to the construction manager.
25. Assist with the review and evaluation of change order work.
26. Provide complete measurements and calculations documented to administer progress payments.
27. Maintain and submit a clean set of plans marked in red for as-built corrections on record drawings to be filed with the City. (City's design consultant will transfer the contractor's record drawings to original Mylar drawings.)
28. Prepare a punch list at substantial completion and follow up with the contractor regarding progress of corrections.
29. Schedule a final inspection with the City and applicable agencies; prepare, distribute, and inspect corrections to the final punch list for completion; and recommend final acceptance.
30. Prepare documentation for final payment to the contractor.
31. Upon project completion, provide the finished set of project workbooks to the City.

TASK #5 - Geotechnical and Materials Testing

1. Review project plans and specifications.
2. Attend construction meeting, if needed.
3. Provide qualified Caltrans-certified soils technician for as-needed observation and testing during subgrade preparation to perform as-needed field density tests and/or probing of subgrade to document the quality of compaction for compliance with project specifications.

The technician will also collect bulk samples of exposed or proposed replacement soil and aggregate base samples for maximum density testing and other as needed testing.

4. Report laboratory test results, including 28-day break results for concrete cylinders.
5. Prepare and submit daily field testing and observation reports indicating information pertinent to the observations performed and their compliance or non-compliance with project documents and applicable codes. These will be provided to the City.
6. Provide technician coordination, dispatch, material engineering review, test reporting, quality assurance/control, and administrative support services.
7. Prepare a final project certification document, if requested, upon project completion. This document will be prepared under the supervision of and signed by a California registered geotechnical engineer and will include daily reports summarizing construction activities, conclusions, and results of all tests and inspection. All non-conforming materials and steps taken to bring them into conformance will be noted.

FEE – See attached Exhibit “A”

Our proposed not-to-exceed fee for the Scope of Work identified above is **\$156,580.00**.

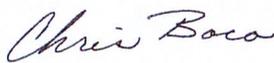
Thank you for this opportunity to be of continuing service to the City of Winters. We recognize the importance of this project to the City and are committed to realizing its timely and successful completion. Should you have any questions regarding this proposal, please contact Mr. Chris Baca at (562) 364-8198.

Respectfully submitted,

Approval and Authorization to Proceed By:

WILLDAN ENGINEERING

CITY OF WINTERS



Chris Baca
Deputy Director of Construction Management

Signature

Date

Enclosure

91005\06-150\P16-018R1_12215

City of Winters
FEE PROPOSAL
 FOR
CONSTRUCTION MANAGEMENT
 Walnut Avenue Roundabout Project

TASK / CLASSIFICATION	RESIDENT ENGINEER	Project Administration (Michael Karoly)	PUBLIC WORKS INSPECTOR	LABOR COMPLIANCE MANAGER	FEDERAL INVOICING	MATERIAL TESTING *	Clerical	TOTAL LABOR	MISC. EXPENSE	TOTAL COST
TOTALS	HOURLY RATE:	\$135	\$185	\$95	\$135	\$185	NET FEE	\$65		
TASK 1 - FEDERAL INVOICING ASSISTANCE		60			66			\$23,310	\$250	\$23,560
TASK 2 - LABOR COMPLIANCE				75				\$10,125	\$0	\$10,125
TASK 3 - CONSTRUCTION MANAGEMENT	233						16	\$32,495	\$250	\$32,745
TASK 4 - PUBLIC WORKS INSPECTION			800					\$76,000	\$150	\$76,150
TASK 5 - MATERIAL TESTING (QA)						\$14,000.00		\$0	\$14,000	\$14,000
TOTALS	233	60	800	75	66	\$14,000.00	16	\$141,930	\$14,650	\$156,580

This not-to-exceed fee is based on a 100 working day contract. Additional services needed beyond the contract specified date of completion will be provided on a time-and-material basis at Willdan's standard hourly rates.

**AMENDMENT No. 1 TO CONSULTING SERVICES AGREEMENT
BETWEEN THE CITY OF WINTERS AND WILLDAN ENGINEERING
FOR PROJECT MANAGEMENT SERVICES
FOR FEDERALLY FUNDED PROJECTS**

THIS AGREEMENT AMENDMENT No. 1 for consulting services was entered into by and between the City of Winters, a municipal corporation in the State of California (hereinafter referred to as "City") and Willdan Engineering., a California Corporation (hereinafter referred to as "Consultant") as of January 6, 2015 (the "Effective Date").

The City requests that Section 2., COMPENSATION, of the agreement be amended to increase the sum not to exceed to \$375,000. This is the only change being made to the original agreement. See original text of Section 2 below:

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed \$275,000.00 based on the amounts described in Exhibit B and Exhibit C, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

Authorized Signature. Each person and party signing this Agreement warrants that they have the authority to execute this Amendment to the Agreement on behalf of the principal and that the party will be bound by such signature.

The parties have executed this Amendment to the Agreement as of March 1, 2106, the effective date of the Amendment.

CITY

CONSULTANT

City of Winters, a municipal corporation
of the State of California

Willdan Engineering

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

By: _____
Daniel Chow, President

Approved as to Form:

Ethan Walsh, City Attorney



TO: Honorable Mayor and Council Members
DATE: March 1, 2016
THROUGH: John W. Donlevy, Jr., City Manager *JWD*
FROM: Carol Scianna, Environmental Services Manager *CS*
SUBJECT: Waste Management Franchise Extension Proposal

RECOMMENDATION: Staff recommends that the City Council review the Franchise Extension Proposal from Waste Management (WM) and direct staff to continue discussions and to bring a formal franchise agreement which details services and rates to Council for approval.

BACKGROUND: The current agreement with WM expires December 31, 2016. WM is requesting the City to renew our agreement for ten years. Some of the proposed changes are:

- Containerized green waste with service every two weeks and an additional monthly curbside service
- Additional CNG trucks to their City routes
- Update price adjustment calculations
- Eliminating alley service

There will be no price increase until July 1, 2017 and CPI adjustment would coincide with the City's fiscal year rather than the calendar year as was previously the case.

WM will be working with the City to implement the upcoming changes in the refuse/recycling industry such as ongoing mandatory commercial recycling and organics recycling.

The City does not anticipate that any other contractors will be willing to submit a proposal to provide service to Winters, as has been the case in previous years.

FISCAL IMPACT: None



WASTE MANAGEMENT
1324 Paddock Place
Woodland, California 95776

February 22, 2016

John W. Donlevy
City of Winters, City Manager
318 1st Street
Winters, CA 95694

SUBJECT: FRANCHISE EXTENSION PROPOSAL

Dear Mr. Donlevy,

Thank you for expressing interest in extending the agreement between the City of Winters and Waste Management (WM) by negotiating new terms and services. Pursuant to our meeting on November 12, 2015, our proposal, submitted for your consideration is consistent with the business points we previously discussed.

Our current agreement expires on December 31, 2016. We request the City to renew our agreement for ten (10) years commencing January 1, 2017. Our request is guided by the success and performance demonstrated to the City over the past ten (10) years and the enhancement to the agreement we are proposing.

Customer Service- WM has maintained an excellent customer service and performance record.

Stable Competitive Rates- Collection rates have remained stable over the past ten (10) years

Compliance – WM has complied with contractual obligations.

Diversion Services- WM recognizes that achieving state mandated goals requires working cooperatively with the City of Winters and its residents. WM has embraced the challenges of implementing Commercial and Multi-Family Recycling services, while assisting the City and our customers in meeting the state mandates outlined in AB 341.

Waste Management does not plan to stay content as we are always trying to improve our services and relationships, because of this, WM proposes to implement the following services and revenue enhancements, upon being awarded a franchise extension.

- Cart Collection of solid waste, recyclable materials, and green waste/organics materials from residents
- Collection of solid waste, recyclable materials, and organic materials from businesses
- Delivery of recycling materials to the WM Sacramento Recycling Transfer facility (SRT)
- Monthly Green Waste curbside pile collection
- Monthly Street Sweeping, to correspond with green waste curbside pile collection
- One (1) annual bulky drop off event
- Eliminate alley service, reducing the cost of road repair to the city

- Add more CNG Trucks to our fleet to operate in the City
- Additional increases allowed for new services
- 10-year contract extension
- Update price adjustment calculations to the Consumer Price Index for All Urban Consumers (CPI-U): U.S. City average, Water and sewer and trash collection.

City of Winters Rate Schedule effective January 1, 2017*					
Description	Frequency of Pickup	Cart Quantity			
		1	2	3	4
32 Gal MSW	Once per week	\$ 17.44	\$ 28.16	\$ 38.89	\$ 49.61
64 Gal MSW	Once per week	\$ 20.93	\$ 37.03	\$ 53.15	\$ 69.24
96 Gal MSW	Once per week	\$ 27.34	\$ 48.70	\$ 70.08	\$ 91.46
96 Gal RECY	Every-other week	\$ 2.80	\$ 6.89		
96 Gal GREEN**	Every-other week	\$ 7.42	\$ 7.42		
*Rates are based off of current base rates. The above rates are subject to change due to the July 1, 2016 price adjustment					
*Additional greenwaste can be set out in piles of 5x5x5 once per month for pickup					

This proposal is expressly conditioned upon the City and Contractor entering into a mutually acceptable definitive agreement about the services, rates, and other matters as agreed by the City and Contractor. This proposal does not constitute a legally binding agreement of the City or the Contractor.

We look forward to meeting with you to review our proposal and clarify any details or answer any question you may have to finalize an extension to our franchise agreement.

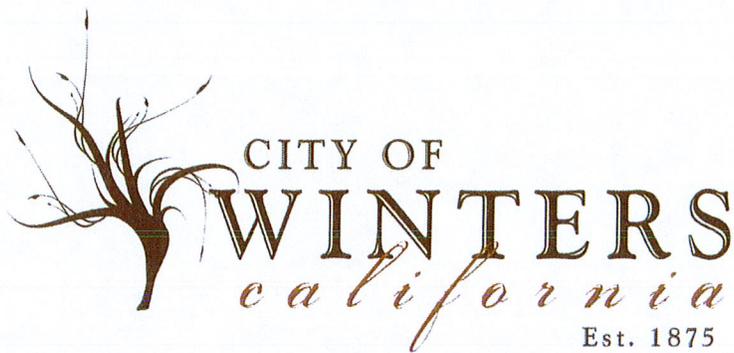
Please feel free to contact me directly at your convenience. My direct office line is 530 406-4332 or my cellular number 530 681-0131.

Sincerely,



Kat Campau
Public Sector Services Manager
Waste Management

CC: Alex Oseguera, Vice President and General Manager, WM
Mike Goudreau, District Manager, WM



**SUCCESSOR AGENCY
STAFF REPORT**

TO: Honorable Chairman and Successor Agency Members
DATE: March 1, 2016
THROUGH: John W. Donlevy, Jr., Successor Agency Executive Director *JWD*
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
SUBJECT: Extension of the Purchase and Sale Agreement between Domus Development and City of Winters Acting as Successor Agency

RECOMMENDATION:

That the Successor Agency Board authorize the Successor Agency to enter into an amendment to the Purchase and Sale Agreement between the Successor Agency and Domus Development for the purchase of the Successor Agency-owned property (a portion of APN's 003 370 028, 029, and 030) to extend the outside closing date for the close of escrow on the Property by three months, to May 31, 2016.

BACKGROUND:

The City of Winters Successor Agency is the owner of certain property identified as Assessor's Parcel Number 003-370-028, 003 370 029, and 003 370 030, located between Grant Avenue and East Baker Street, bordered on the west by East Avenue and Morgan Street on the east (the "Property"). In 2014, the Successor Agency entered into a Purchase and Sale Agreement ("P&S Agreement") with Domus Development for a portion of that property. This contemplated sale was also included in the Successor Agency's Long Range Property Management Plan, which was approved by the Oversight Board and State Department of Finance. The P&S Agreement required that the parties must close escrow on the sale of the property by December 31, 2015; but authorized the City Manager to extend that closing date by up to two months administratively. Domus requested and the City Manager granted that two month extension, which extended the deadline on the close of escrow February 29, 2016.

Domus has been working diligently on the development of a senior affordable housing project on the Property, and has been working to secure the funding necessary to develop the project. However, the process of securing the required funding and determining the best way to structure the project has taken some additional time. Domus and staff agreed that it was in the best interest of both parties to agree to a short extension to the outside

closing date (of not more than three months), to ensure that the close of escrow goes smoothly. This amendment would be consistent with the goals and intent of the Successor Agency's Long Range Property Management Plan. The State Dissolution Law, which governs the dissolution of redevelopment agencies, specifies that actions taken by the Successor Agency in the implementation of the Long Range Property Management Plan do not need to go to the State Department of Finance for review.

FISCAL IMPACT:

None.

ATTACHMENTS:

Domus Purchase and Sale Agreement

**REAL PROPERTY PURCHASE AND SALE AGREEMENT
AND JOINT ESCROW INSTRUCTIONS
(Portion of Grant Avenue Commercial Property – Domus Development)**

by and between the

CITY OF WINTERS, a municipal corporation,

**acting as SUCCESSOR AGENCY TO THE DISSOLVED COMMUNITY
DEVELOPMENT AGENCY**

and

DOMUS DEVELOPMENT, LLC

[Dated as of June 30, 2014, for reference purposes only]

**REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS
(Portion of Grant Avenue Commercial Property – Domus Development)**

This REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (Portion of Grant Avenue Commercial Property) (“Agreement”) is dated as of June 30, 2014, for reference purposes only, and is entered into by and between the CITY OF WINTERS, a municipal corporation acting as SUCCESSOR AGENCY TO THE DISSOLVED WINTERS COMMUNITY DEVELOPMENT AGENCY (“Seller” or “Successor Agency”), and DOMUS DEVELOPMENT, LLC, a California limited liability company (“Buyer”). Seller and Buyer enter into this Agreement with reference to the following recitals of fact (each, a “Recital”):

RECITALS

A. The Successor Agency of the City of Winters (“Successor Agency”) owns that certain real property constituting approximately 4.522 acres of real property located on East Grant Avenue between Morgan Street and East Street (APNs 003-370-028, -029, 030) (the “Property”).

B. Buyer is a reputable and highly successful affordable housing real estate development company, specializing in affordable housing properties. Buyer desires to acquire the southern-most portion of the Property, as more particularly described below (the “Site”), for development of a Multifamily project in support of affordable housing to accommodate a senior housing project.

C. The Successor Agency has prepared, and the State Department of Finance has approved, a Long Range Property Management Plan pursuant to California Health & Safety Code Section 34191.5, which contemplates that the Site will be sold and developed as a senior affordable housing development.

D. Seller and Buyer desire to enter into this Agreement to provide for Buyer’s acquisition of the Site at its “as is” fair market value of the fee simple estate.

AGREEMENT

NOW, THEREFORE, IN CONSIDERATION OF THE PROMISES AND COVENANTS OF SELLER AND BUYER SET FORTH IN THIS AGREEMENT AND OTHER GOOD AND VALUABLE CONSIDERATION, SELLER AND BUYER AGREE, AS FOLLOWS:

TERMS AND CONDITIONS

1. DEFINITIONS

1.1 **Definitions.** The following words, terms and phrases are used in this Agreement with the following meanings, unless the particular context or usage of a word, term or phrase requires another interpretation:

1.1.1 **Agreement.** This Real Property Purchase and Sale Agreement and Joint Escrow Instructions (Portion of Grant Avenue Commercial Property) by and between Seller and Buyer, including all of the attached exhibits.

1.1.2 **Approval.** Any approval, consent, certificate, ruling, authorization or amendment to any of the foregoing, as shall be necessary or appropriate under any Law to complete the purchase and sale of the Site.

1.1.3 **Business Day.** Any weekday on which the Seller is open to conduct regular governmental functions.

1.1.4 **Buyer.** Domus Development LLC, a California limited liability company, and any assignee of or successor to the rights, powers or responsibilities of Domus Development LLC under this Agreement.

1.1.5 **Buyer Title Policy.** A standard CLTA owner's policy of title insurance issued by the Title Company, with coverage in the amount of the Purchase Price, showing title to the Site vested in Buyer, subject to Permitted Exceptions.

1.1.6 **CEQA.** The California Environmental Quality Act, Public Resources Code Section 21000, *et seq.* and implementing regulations contained in Title 14, Chapter 3, Section 15000, *et seq.* of the California Code of Regulations.

1.1.7 **CEQA Documents.** Any exemption determination, any Negative Declaration (mitigated or otherwise) or any Environmental Impact Report (including any addendum or amendment to, or subsequent or supplemental Environmental Impact Report) required or permitted by any Government Agency, pursuant to CEQA, to issue any discretionary Approval required to approve this Agreement.

1.1.8 **City.** The City of Winters, a California municipal corporation.

1.1.9 **City Manager.** The City Manager of Seller or his or her designee or successor in function.

1.1.10 **Claim.** Any claim, loss, cost, damage, expense, liability, lien, action, cause of action (whether in tort, contract, under statute, at law, in equity or otherwise), charge, award, assessment, fine or penalty of any kind (including consultant and expert fees and expenses and investigation costs of whatever kind or nature, and, if an Indemnitor improperly

fails to provide a defense for an Indemnitee, then Legal Costs of the Indemnitee) and any judgment.

1.1.11 Close of Escrow. The first date on which the Escrow Agent has filed the Seller Deed with the County for recording in the official records of the County.

1.1.12 County. The County of Yolo, California.

1.1.13 Default. An Escrow Default, a Monetary Default or a Non-Monetary Default.

1.1.14 Deposit. Ten Thousand Dollars and No Cents (\$10,000.00).

1.1.15 Due Diligence Completion Notice. A written notice from Buyer delivered to both Seller and Escrow Agent, prior to the end of the Due Diligence Period, indicating Buyer's unconditional acceptance of the condition of the Site or indicating Buyer's rejection of the condition of the Site and refusal to accept a conveyance of title to the Site, describing in reasonable detail the actions that Buyer reasonably believes are indicated to allow Buyer to unconditionally accept the condition of the Site.

1.1.16 Due Diligence Investigations. Buyer's due diligence investigations of the Site to determine the suitability of the Site, including investigation of the environmental and geotechnical suitability of the Site, as deemed appropriate in the discretion of Buyer, all at the sole cost and expense of Buyer.

1.1.17 Due Diligence Period. The time period of one hundred fifty (150) continuous days commencing on the day immediately following the Escrow Opening Date; provided such time period may be extended by a period equal to the greater of (a) thirty (30) days or (b) ten (10) Business Days after the recordation of the Lot Line Adjustment at the option of Buyer, upon Buyer's delivery of written notice to Seller regarding such extension prior to expiration of the initial Due Diligence Period.

1.1.18 Environmental Claim. Any and all claims, demands, damages, losses, liabilities, obligations, penalties, fines, actions, causes of action, judgments, suits, proceedings, costs, disbursements or expenses, including Legal Costs and fees and costs of environmental consultants and other experts, and all foreseeable and unforeseeable damages or costs of any kind or of any nature whatsoever, directly or indirectly, relating to or arising from any actual or alleged violation of any Environmental Law or Hazardous Substance Discharge.

1.1.19 Environmental Laws. All Federal, State, local (including City) laws, rules, orders, regulations, statutes, ordinances, codes, decrees or requirements of any government authority, now in effect or enacted after the Effective Date, regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance, the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use or pertaining to occupational health or industrial hygiene or occupational or environmental conditions on, under or about the Site, as now or may at any later time be in effect, including the Comprehensive Environmental Response, Compensation and Liability Act

of 1980 ("CERCLA") [42 USC Section 9601 *et seq.*]; the Resource Conservation and Recovery Act of 1976 ("RCRA") [42 USC Section 6901 *et seq.*]; the Clean Water Act, also known as the Federal Water Pollution Control Act ("FWPCA") [33 USC Section 1251 *et seq.*]; the Toxic Substances Control Act ("TSCA") [15 USC Section 2601 *et seq.*]; the Hazardous Materials Transportation Act ("HMTA") [49 USC Section 1801 *et seq.*]; the Insecticide, Fungicide, Rodenticide Act [7 USC Section 6901 *et seq.*]; the Clean Air Act [42 USC Section 7401 *et seq.*]; the Safe Drinking Water Act [42 USC Section 300f *et seq.*]; the Solid Waste Disposal Act [42 USC Section 6901 *et seq.*]; the Surface Mining Control and Reclamation Act [30 USC Section 101 *et seq.*]; the Emergency Planning and Community Right to Know Act [42 USC Section 11001 *et seq.*]; the Occupational Safety and Health Act [29 USC Section 655 and 657]; the California Underground Storage of Hazardous Substances Act [California Health & Safety Code Section 25288 *et seq.*]; the California Hazardous Substances Account Act [California Health & Safety Code Section 25300 *et seq.*]; the California Safe Drinking Water and Toxic Enforcement Act [California Health & Safety Code Section 24249.5 *et seq.*]; or the Porter-Cologne Water Quality Act [California Water Code Section 13000 *et seq.*]; together with any regulations promulgated under the authorities referenced in this Section 1.1.25.

1.1.20 Escrow. An escrow, as defined in Civil Code Section 1057 and Financial Code Section 17003(a), that is conducted by the Escrow Agent with respect to the sale of the Site from Seller to Buyer pursuant to this Agreement.

1.1.21 Escrow Agent. Placer Title Company, Davis, CA, or such other Person mutually agreed upon in writing by both Seller and Buyer.

1.1.22 Escrow Closing Date. The date that is not later than thirty (30) days following Buyer's receipt of a building permit for construction of the Project on the Site (or evidence that City is ready to issue a building permit for development of the Project on the Site upon final payment of all fees required for issuance of such building permit), or such other date mutually agreed upon in writing between the Parties for the Close of Escrow, but in any event not later than December 31, 2015.

1.1.23 Escrow Closing Statement. A statement prepared by the Escrow Agent indicating, among other things, the Escrow Agent's estimate of all funds to be deposited or received by Seller or Buyer, respectively, and all charges to be paid by Seller or Buyer, respectively, through the Escrow.

1.1.24 Escrow Default. The unexcused failure to submit any document or funds to the Escrow Agent as reasonably necessary to close the Escrow, pursuant to the terms and conditions of this Agreement.

1.1.25 Escrow Opening Date. The first date on which a copy of this Agreement, signed by both Seller and Buyer, is deposited with the Escrow Agent, as provided in Section 4.1.

1.1.26 Event of Default. The occurrence of any one or more of the following:

(a) *Monetary Default.* A Monetary Default that continues for fifteen (15) calendar days after Notice to the Party in Default, specifying in reasonable detail the amount of money not paid and the nature and calculation of each such amount or the bond, surety or insurance not provided;

(b) *Escrow Closing Default.* An Escrow Default that continues for seven (7) calendar days after Notice to the Party in Default, specifying in reasonable detail the document or funds not submitted;

(c) *Non-Monetary Default.* Any Non-Monetary Default that is not cured within fifteen (15) days after Notice to the Party in Default describing the Non-Monetary Default in reasonable detail. In the case of such a Non-Monetary Default that cannot with reasonable diligence be cured within fifteen (15) days after the effective date of such Notice, an Event of Default shall occur, if the Party in Default does not do all of the following: (a) within fifteen (15) days after Notice of such Non-Monetary Default, advise the other Party of the intention of the Party in Default to take all reasonable steps to cure such Non-Monetary Default; (b) duly commence such cure within such fifteen (15) day period; and (c) diligently prosecute such cure to completion within a reasonable time under the circumstances.

1.1.27 FIRPTA Affidavit. A certification that Seller is not a "foreign person" within the meaning of such term under Section 1445 of the United States Internal Revenue Code.

1.1.28 Form 593. A California Franchise Tax Board Form 593-C.

1.1.29 Government Agency. Any and all courts, boards, agencies, commissions, offices, or authorities of any nature whatsoever of any governmental unit (Federal, State, County, district, municipal, City or otherwise) whether now or later in existence.

1.1.30 Hazardous Substance. Any flammable substance, explosive, radioactive material, asbestos, asbestos-containing material, polychlorinated biphenyl, chemical known to cause cancer or reproductive toxicity, pollutant, contaminant, hazardous waste, medical waste, toxic substance or related material, petroleum, petroleum product and any "hazardous" or "toxic" material, substance or waste that is defined by those or similar terms or is regulated as such under any Law, including any material, substance or waste that is: (a) defined as a "hazardous substance" under Section 311 of the Water Pollution Control Act (33 U.S.C. § 1317), as amended; (b) designated as "hazardous substances" pursuant to 33 U.S.C. § 1321; (c) defined as a "hazardous waste" under Section 1004 of the Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, *et seq.*, as amended; (d) defined as a "hazardous substance" or "hazardous waste" under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Reauthorization Act of 1986, 42 U.S.C. § 9601, *et seq.*, or any so-called "superfund" or "superlien" law; (e) defined as a "pollutant" or "contaminant" under 42 U.S.C. § 9601(33); (f) defined as "hazardous waste" under 40 C.F.R. Part 260; (g) defined as a "hazardous chemical" under 29 C.F.R. Part 1910; (h) any matter within the definition of "hazardous substance" set forth in 15 U.S.C. § 1262; (i) any matter, waste or substance regulated under the Toxic Substances Control Act ("TSCA") [15 U.S.C. Sections 2601, *et seq.*]; (j) any matter, waste or substance regulated under the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, *et seq.*; (k) those substances listed in the

United States Department of Transportation (DOT) Table [49 C.F.R. 172.101]; (l) any matter, waste or substances designated by the EPA, or any successor authority, as a hazardous substance [40 C.F.R. Part 302]; (m) defined as "hazardous waste" in Section 25117 of the California Health and Safety Code; (n) defined as a "hazardous substance" in Section 25316 of the California Health and Safety Code; (o) subject to any other Law regulating, relating to or imposing obligations, liability or standards of conduct concerning protection of human health, plant life, animal life, natural resources, property or the enjoyment of life or property free from the presence in the environment of any solid, liquid, gas, odor or any form of energy from whatever source; or (p) that is or becomes regulated or classified as hazardous or toxic under Law or in the regulations adopted pursuant to Law.

1.1.31 Hazardous Substance Discharge. Any deposit, discharge, generation, release or spill of a Hazardous Substance that occurs at, on, under, into or from the Site, or during transportation of any Hazardous Substance to or from the Site, whether or not caused by a Party.

1.1.32 Indemnify. Where this Agreement states that any Indemnitor shall "indemnify" any Indemnitee from, against, or for a particular Claim, that the Indemnitor shall indemnify the Indemnitee and defend and hold the Indemnitee harmless from and against such Claim (alleged or otherwise). "Indemnified" shall have the correlative meaning.

1.1.33 Indemnitee. Any Person entitled to be Indemnified under the terms of this Agreement.

1.1.34 Indemnitor. A Party that agrees to Indemnify any other Person under the terms of this Agreement.

1.1.35 Law. Every law, ordinance, requirement, order, proclamation, directive, rule or regulation of any Government Agency applicable to the Site, in any way, including relating to any development, construction, use, maintenance, taxation, operation, occupancy or environmental conditions affecting the Site or otherwise relating to this Agreement or any Party's rights, obligations or remedies under this Agreement, or any Transfer of any of the foregoing, whether in force on the Effective Date or passed, enacted, modified, amended or imposed at some later time, subject in all cases, however, to any applicable waiver, variance or exemption.

1.1.36 Legal Costs. In reference to any Person, all reasonable costs and expenses such Person incurs in any legal proceeding (or other matter for which such Person is entitled to be reimbursed for its Legal Costs), including reasonable attorneys' fees, court costs and expenses and consultant and expert witness fees and expenses.

1.1.37 Monetary Default. Any failure by either Party to pay or deposit, when and as this Agreement requires, any amount of money, bond, surety or evidence of any insurance coverage required to be provided under this Agreement, whether to or with a Party or a Third Person.

1.1.38 **Non-Monetary Default.** The occurrence of any of the following, except to the extent constituting a Monetary Default or an Escrow Default: (a) any failure of a Party to perform any of such Party's obligations under this Agreement; (b) any failure of a Party to comply with any material restriction or prohibition in this Agreement; or (c) any other event or circumstance that, with passage of time or giving of Notice, or both, would constitute a breach of this Agreement by a Party.

1.1.39 **Notice.** Any consent, demand, designation, election, notice, or request relating to this Agreement, including any Notice of Default. All Notices must be in writing.

1.1.40 **Notice of Default.** Any Notice claiming or giving Notice of a Default.

1.1.41 **Notify.** To give a Notice.

1.1.42 **Parties.** Collectively, Seller and Buyer.

1.1.43 **Party.** Individually, either Seller or Buyer, as applicable.

1.1.44 **Permitted Exception.** All of the following: (a) all items shown in the Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy that are approved by Buyer pursuant to Section 3.3; (b) any lien for non-delinquent property taxes or assessments; (c) any Laws applicable to the Site; (d) this Agreement; (e) any existing improvements on the Site, if any; and (f) any other document or encumbrance expressly required or allowed to be recorded against the Site pursuant to the terms of this Agreement.

1.1.45 **Person.** Any association, corporation, governmental entity or agency, individual, joint venture, joint-stock company, limited liability company, partnership, trust, unincorporated organization or other entity of any kind.

1.1.46 **Preliminary Report.** A preliminary report issued by the Title Company in contemplation of the issuance of the Buyer Title Policy, accompanied by the best available copies of all documents listed in the preliminary report as exceptions to coverage under the proposed Buyer Title Policy.

1.1.47 **Prohibited Encumbrance.** Any security instrument, mechanic's lien, easement, property interest or other encumbrance recorded or asserted against the Site that is not a Permitted Exception.

1.1.48 **Project.** The Project shall include development of an Affordable Senior Housing Multifamily project on the Site, in conformance with all Approvals, which shall include, among other things, construction at the sole cost of the Buyer of all street, curb, gutter, sidewalk and other public improvements along Grant Avenue and any public utility or other easements that may be required by the City, all in conformance with the Grant Avenue Design Guidelines.

1.1.49 **Purchase Price.** An amount equal to Five Dollars (\$5.00) per square foot of land area included within the Site.

1.1.50 **Seller.** The City of Winters, a California municipal corporation, acting as Successor Agency to the Dissolved Community Development Agency and any assignee of or successor to the rights, powers or responsibilities of the Seller.

1.1.51 **Seller Deed.** A grant deed conveying Seller's interest in the Site from Seller to Buyer, at the Close of Escrow, substantially in the form of **Exhibit B** attached to this Agreement.

1.1.52 **Seller Parties.** Collectively, the Seller, the Seller's governing body, and the Seller's elected officials, employees, agents and attorneys.

1.1.53 **Site.** That 1.5 acre portion of the Property, generally shown on the Map of the Site attached hereto as **Exhibit A**, to be conveyed by the Seller to Buyer. The final size and configuration of the Site shall be determined by the Seller and Buyer, following the Lot Line Adjustment provided for in Section 3.1, prior to conveyance of the Site to the Buyer.

1.1.54 **Third Person.** Any Person that is not a Party, an affiliate of a Party or an elected official, officer, director, manager, shareholder, member, principal, partner, employee or agent of a Party.

1.1.55 **Title Company.** Placer Title Company or such other Person mutually agreed upon in writing by both Seller and Buyer.

1.1.56 **Title Notice.** A written notice from Buyer to Seller indicating Buyer's acceptance of the state of the title to the Site, as described in the Preliminary Report for the proposed Buyer Title Policy, or Buyer's disapproval or conditional approval of specific matters shown in Schedule B of such Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy for the Site, describing in suitable detail the actions that Buyer reasonably believes are indicated to obtain Buyer's unconditional approval of the state of the title to the Site.

1.1.57 **Title Notice Response.** The written response of Seller to the Title Notice, in which Seller either elects to: (a) cause the removal from the Preliminary Report of any matters disapproved or conditionally approved in the Title Notice; (b) obtain title or other insurance or endorsement in a form reasonably satisfactory to Buyer insuring against any matters disapproved or conditionally approved in the Title Notice; or (c) not take either action described in clause "(a)" or "(b)" of this Section 1.1.57.

1.1.58 **Title Notice Waiver.** A written notice from Buyer to Seller waiving Buyer's previous disapproval or conditional approval in the Title Notice of specific matters shown in the Preliminary Report as exceptions to coverage under the proposed Buyer Title Policy.

1.1.59 **Unavoidable Delay.** A delay in either Party performing any obligation under this Agreement arising from or on account of any cause whatsoever beyond the Party's reasonable control, including strikes, labor troubles or other union activities, casualty, war, acts of terrorism, riots, litigation, governmental action or inaction, regional natural disasters or

inability to obtain required materials. Unavoidable Delay shall not include delay caused by a Party's financial condition or insolvency.

2. **EFFECTIVE DATE.** This Agreement shall become effective on the first date on which all of the following have occurred: ("Effective Date"): (a) Seller has received three (3) counterpart originals of this Agreement signed by the authorized representative(s) of Buyer; and (b) Seller provides Buyer with written notice that this Agreement has been approved and executed by Seller's governing body.

3. **PURCHASE AND SALE OF SITE**

3.1 **Lot Line Adjustment.** Buyer desires to purchase a portion of the Property consisting of approximately 65,340 square feet of land area, located on the sothern-most boundary of the Property, extending generally from East Street along Baker Street, as generally shown on Exhibit A. Following the Effective Date of this Agreement, the City, at its sole cost, shall use good faith efforts to prepare such documents and take such actions as are necessary to obtain Approvals for a lot line adjustment or lot split ("Lot Line Adjustment") to create a legal parcel suitable to the Buyer, constituting the Site. Upon obtaining final Approvals for and recordation of such Lot Line Adjustment, a formal legal description of the Site acceptable to both Parties shall be attached to the Seller Deed (Exhibit B) and used for purposes of conveyance of the Site to Buyer. Further, the size and actual Purchase Price for the Site shall be established based on the actual square footage of the Site following such Lot Line Adjustment, which size shall be acceptable to Buyer in Buyer's reasonable discretion.

3.2 **Escrow.** Following such Lot Line Adjustment, Seller shall sell and convey fee title to the Site to Buyer and Buyer shall purchase and acquire fee title to the Site from Seller, subject to the Permitted Exceptions and the terms and conditions of this Agreement. For the purposes of exchanging funds and documents to complete the sale of the Site from Seller to Buyer and the purchase of the Site by Buyer from Seller, pursuant to the terms and conditions of this Agreement, Seller and Buyer agree to open the Escrow with the Escrow Agent. The provisions of Section 4 are the joint escrow instructions of the Parties to the Escrow Agent for conducting the Escrow.

3.3 **Consideration.** Buyer shall purchase the Site from Seller for the Purchase Price to be determined based on the final configuration and size of the Site following the Lot Line Adjustment, subject to the terms and conditions of this Agreement. Buyer shall deposit the Purchase Price into the Escrow, as follows:

3.3.1 **Deposit.** Within three (3) days after the Escrow Opening Date, Buyer shall deposit the Deposit into the Escrow. If requested by buyer, the Deposit shall be placed in an interest-bearing FDIC insured account, and all fees associated with such interest-bearing account shall be the responsibility of the Buyer. Any interest earned on the Deposit shall become part of the Deposit. Prior to the expiration of the Due Diligence Period, the Deposit shall be refundable to the Buyer in the event of the failure of a Buyer's condition to Close of Escrow, a termination of this Agreement not due to Buyer's default, or as otherwise expressly provided in this Agreement. Following expiration of the Due Diligence Period, the Deposit shall be non-refundable unless this Agreement is thereafter terminated due to a Seller default or as

otherwise provided for herein. If this Agreement has not been earlier terminated, the Deposit shall be held in Escrow until the Close of Escrow and shall be applied to the Purchase Price.

3.3.2 **At Close of Escrow.** Upon the Escrow Closing Date, Buyer shall deposit into the Escrow the amount of the Purchase Price, less the amount of the Deposit then held by the Escrow Agent.

3.4 **Buyer's Approval of Title to Site.**

3.4.1 **Title Notice.** Within ten (10) days after the Escrow Opening Date, Seller shall request the Preliminary Report from the Title Company and that the Title Company deliver a copy of the Preliminary Report to Buyer. Within sixty (60) days following Buyer's receipt of the Preliminary Report, Buyer shall send the Title Notice to both Seller and Escrow Agent.

3.4.2 **Failure to Deliver Title Notice.** If Buyer fails to send the Title Notice to both Seller and Escrow Agent within the time period provided in Section 3.4.1, Buyer will be deemed to disapprove the status of title to the Site and refuse to accept conveyance of the Site and either Buyer or Seller shall have the right to cancel the Escrow and terminate this Agreement by Notice, in their respective sole and absolute discretion.

3.4.3 **Title Notice Response.** Within five (5) days following Seller's receipt of the Title Notice (if any), Seller shall send the Title Notice Response to both Buyer and Escrow Agent. If the Title Notice does not disapprove or conditionally approve any matter in the Preliminary Report for the proposed Buyer Title Policy or Buyer fails to deliver the Title Notice, Seller shall not be required to send the Title Notice Response. If Seller does not send the Title Notice Response, if necessary, within the time period provided in this Section 3.4.3, Seller shall be deemed to elect not to take any action in reference to the Title Notice. If Seller elects in the Title Notice Response to take any action in reference to the Title Notice, Seller shall complete such action, prior to the Escrow Closing Date or as otherwise specified in the Title Notice Response.

3.4.4 **Title Notice Waiver.** If Seller elects or is deemed to have elected not to address one or more matters set forth in the Title Notice to Buyer's reasonable satisfaction, then within ten (10) days after the earlier of: (a) Buyer's receipt of Seller's Title Notice Response; or (b) the last date for Seller to deliver its Title Notice Response pursuant to Section 3.4.3, Buyer shall either: (i) refuse to accept the title to and conveyance of the Site, or (ii) waive Buyer's disapproval or conditional approval of all such matters set forth in the Title Notice by sending the Title Notice Waiver to both Seller and Escrow Agent. Failure by Buyer to timely send the Title Notice Waiver, where the Title Notice Response or Seller's failure to deliver the Title Notice Response results in Seller's election not to address one or more matters set forth in the Title Notice to Buyer's reasonable satisfaction, will be deemed Buyer's continued refusal to accept the title to and conveyance of the Site, in which case either Buyer or Seller shall have the right to cancel the Escrow and terminate this Agreement by Notice, in their respective sole and absolute discretion.

3.4.5 Disapproval of Encumbrances Securing Seller Obligations. Notwithstanding any other provision of this Agreement, Buyer disapproves any and all encumbrances against the Site securing monetary (other than non-delinquent property taxes and assessments) obligations.

3.4.6 No Termination Liability. Any termination of this Agreement or cancellation of the Escrow pursuant to this Section 3.4 shall be without liability to the other Party or any other Person. Termination shall be accomplished by delivery of a Notice of termination to both the other Party and the Escrow Agent. Following issuance of a Notice of termination of this Agreement pursuant to a right provided under this Agreement, the Parties and the Escrow Agent shall proceed pursuant to Section 4.12. Once a Notice of termination is given pursuant to this Section 3.4, delivery of a Title Notice or Title Notice Waiver shall have no force or effect and this Agreement shall terminate in accordance with the Notice of termination.

3.5 Due Diligence Investigations.

3.5.1 Time and Expense. Buyer shall complete all Due Diligence Investigations within the Due Diligence Period and shall conduct all Due Diligence Investigations at Buyer's sole cost and expense. Within five (5) days of the Effective Date, the Seller shall deliver to Buyer copies of any and all reports, studies or other written information about the Property within the control or possession of Seller.

3.5.2 Right to Enter. Seller hereby grants a license to Buyer and Buyer's consultants, contractors and agents to enter the Property for the sole purpose of conducting the Due Diligence Investigations at Buyer's sole cost and expense, subject to all of the terms and conditions of this Agreement. The license given in this Section 3.5 to enter the Property to conduct Due Diligence Investigations shall terminate regarding Buyer on the earlier of: (i) termination of this Agreement; or (ii) the Close of Escrow. Any Due Diligence Investigations by Buyer shall not unreasonably disrupt any existing use or occupancy of the Site. Buyer's exercise of any license provided pursuant to this Section 3.5 after expiration of the Due Diligence Period shall not extend the Due Diligence Period.

3.5.3 Limitations. Buyer shall not conduct any intrusive or destructive testing of any portion of the Property, other than low volume soil samples, without Seller's prior written consent. Buyer shall pay all of Buyer's vendors, inspectors, surveyors, consultants or agents engaged in any inspection or testing of the Property, such that no mechanics liens or similar liens for work performed are imposed upon the Property by any such Persons. Following the conduct of any Due Diligence Investigations on the Property, Buyer shall restore the Property to substantially the Property's condition prior to the conduct of such Due Diligence Investigations, provided, however that Buyer shall have no obligation to remediate any Hazardous Substance discovered on the Property. Buyer shall indemnify Seller against any and all costs or damages arising from or relating to Buyer's Due Diligence Investigations regarding the Property provided, however, that Buyer shall have no obligation to indemnify, defend and hold Seller harmless from and against any Claims resulting from Seller's acts or omissions or Buyer's mere discovery of adverse physical conditions affecting the Property, including, without limitation, the discovery of any Hazardous Substance on the Property. Buyer shall provide Seller with evidence of liability insurance reasonably acceptable to Seller and naming Seller as an additional insured under such

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policy of insurance by endorsement prior to the commencement of any Due Diligence Investigations on the Property.

3.5.4 Due Diligence Completion Notice. Buyer shall deliver a Due Diligence Completion Notice to both Seller and Escrow Agent prior to the end of the Due Diligence Period. If Buyer does not unconditionally accept the condition of the Site by delivery of its Due Diligence Completion Notice indicating such acceptance, prior to the end of the Due Diligence Period, Buyer shall be deemed to have rejected the condition of the Site and refused to accept conveyance of title to the Site. If the condition of the Site is rejected or deemed rejected by Buyer, then either Seller or Buyer shall have the right to cancel the Escrow and terminate this Agreement, in their respective sole and absolute discretion, without liability to the other Party or any other Person, by delivery of a Notice of termination to the other Party and Escrow Agent, in which case the Parties and Escrow Agent shall proceed pursuant to Section 4.12.

3.6 "AS-IS" Acquisition. The Close of Escrow shall evidence Buyer's unconditional and irrevocable acceptance of the Site in the Site's AS IS, WHERE IS, SUBJECT TO ALL FAULTS CONDITION, AS OF THE CLOSE OF ESCROW, WITHOUT WARRANTY as to character, quality, performance, condition, title, physical condition, soil conditions, the presence or absence of fill, shoring or bluff stability or support, subsurface or lateral support, zoning, land use restrictions, the availability or location of utilities or services, the location of any public infrastructure on or off of the Site (active, inactive or abandoned), the suitability of the Site or the existence or absence of Hazardous Substances affecting the Site and with full knowledge of the physical condition of the Site, the nature of Seller's interest in and use of the Site, all laws applicable to the Site and any and all conditions, covenants, restrictions, encumbrances and all matters of record relating to the Site. The Close of Escrow shall further constitute Buyer's representation and warranty to Seller that: (a) Buyer has had ample opportunity to inspect and evaluate the Site and the feasibility of the uses and activities Buyer is entitled to conduct on the Site; (b) Buyer is relying entirely on Buyer's experience, expertise and Buyer's own inspection of the Site in the Site's current state in proceeding with acquisition of the Site; (c) Buyer accepts the Site in the Site's present condition; (d) to the extent that Buyer's own expertise with respect to any matter regarding the Site is insufficient to enable Buyer to reach an informed conclusion regarding such matter, Buyer has engaged the services of Persons qualified to advise Buyer with respect to such matters; (e) Buyer has received assurances acceptable to Buyer by means independent of Seller or Seller's agents of the truth of all facts material to Buyer's acquisition of the Site pursuant to this Agreement; and (f) the Site is being acquired by Buyer as a result of Buyer's own knowledge, inspection and investigation of the Site and not as a result of any representation made by Seller or Seller's agents relating to the condition of the Site, unless such statement or representation is expressly and specifically set forth in this Agreement. Seller hereby expressly and specifically disclaims any express or implied warranties regarding the Site.

3.7 Reservations. The Seller is a separate public agency from the City of Winters, and the approval of this Agreement by the Seller shall not be binding on the City Council of the City or any other commission, committee, board or body of the City regarding any other Approvals required by such bodies. No action by the Seller with reference to this Agreement or any related documents shall be deemed to constitute issuance or waiver of any required Approvals by the City or such other bodies regarding the Site or Buyer.

4. JOINT ESCROW INSTRUCTIONS

4.1 Opening of Escrow; Escrow Instructions. The purchase and sale of the Site shall take place through the Escrow to be conducted by Escrow Agent. Escrow shall be deemed opened when a fully signed copy of this Agreement has been delivered to Escrow Agent. Escrow Agent shall confirm the Escrow Opening Date in writing to each of the Parties, with a copy of the Escrow Agent Consent signed by the authorized representative(s) of the Escrow Agent.

4.2 Escrow Instructions. This Section 4 constitutes the joint escrow instructions of the Parties to Escrow Agent for conduct of the Escrow for the purchase and sale of the Site, as contemplated by this Agreement. Buyer and Seller shall sign such further escrow instructions consistent with the provisions of this Agreement as may be reasonably requested by Escrow Agent. In the event of any conflict between the provisions of this Agreement and any further escrow instructions requested by Escrow Agent, the provisions of this Agreement shall control.

4.3 Escrow Agent. Seller and Buyer authorize Escrow Agent to:

4.3.1 Charges. Pay and charge Seller and Buyer for their respective shares of the applicable fees, taxes, charges and costs payable by either Seller or Buyer regarding the Escrow and in accordance with the common practice between Sellers and Buyers in Yolo County;

4.3.2 Settlement/Closing Statements. Release each Party's Escrow Closing Statement to the other Party;

4.3.3 Document Recording. File any documents delivered for recording through the Escrow with the office of the Recorder of the County for recordation in the official records of the County, pursuant to the joint instructions of the Parties; and

4.3.4 Counterpart Documents. Utilize documents signed by Seller or Buyer in counterparts, including attaching separate signature pages to one version of the same document.

4.4 Buyer's Conditions Precedent to Close of Escrow. Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by Buyer, Buyer's obligation to purchase the Site from Seller on or before the Escrow Closing Date shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by Buyer) of each of the following conditions precedent on or before the Escrow Closing Date:

4.4.1 Lot Line Adjustment. Seller obtains all Approvals for a Lot Line Adjustment to create a legal parcel constituting the Site, in accordance with Section 3.1;

4.4.1 CEQA Documents. Adoption, approval or certification of the CEQA Documents by each applicable Government Agency;

4.4.2 **Building Permit, Approvals.** Buyer obtains, at its sole cost, all Approvals, including through the City's normal plan check, review and development approval process, as necessary for issuance of a final building permit by the City, subject only to final payment of all fees required for issuance of such building permit, for development of the Project on the Site;

4.4.3 **No Material Change.** There has occurred no material change to the condition of the Property or title to the Property (except the elimination of Disapproved Matters) since the issuance of the Due Diligence Completion Notice.

4.4.4 **Title Policy.** Title Company has agreed to issue the Buyer Title Policy to Buyer upon payment of Title Company's premium for such policy;

4.4.5 **CEQA Documents.** Adoption, approval or certification of the CEQA Documents by each applicable Government Agency;

4.4.6 **Seller Escrow Deposits.** Seller deposits all of the items into Escrow required by Section 4.7;

4.4.7 **Settlement/Closing Statement.** Buyer approves Buyer's Escrow Closing Statement; and

4.4.8 **Seller Pre-Closing Obligations.** Seller performs all of Seller's material obligations required to be performed by Seller pursuant to this Agreement prior to the Close of Escrow.

4.5 **Seller's Conditions Precedent to Close of Escrow.** Provided that the failure of any such condition to be satisfied is not due to a Default under this Agreement by Seller, Seller's obligation to sell the Site to Buyer on the Escrow Closing Date shall be conditioned upon the satisfaction or waiver (waivers must be in writing and signed by Seller) of each of the following conditions precedent on or before the Escrow Closing Date:

4.5.1 **Lot Line Adjustment.** Seller obtains all Approvals for a Lot Line Adjustment to create a legal parcel constituting the Site, in accordance with Section 3.1;

4.5.2 **Title.** Buyer accepts the state of the title of the Site, in accordance with Section 3.4;

4.5.3 **Due Diligence.** Buyer timely delivers its Due Diligence Completion Notice to both Seller and Escrow Agent stating Buyer's unconditional acceptance of the condition of the Site, in accordance with Section 3.5;

4.5.4 **Oversight Board/DOF Approval.** This Agreement and the sale of the Site pursuant hereto is approved by the Oversight Board to the Successor Agency and following notification to the State Department of Finance, the State Department of Finance either approves such sale of the Site or does not object within the timeframes set forth in California Health & Safety Code Section 34181(f).

4.5.5 **CEQA Documents.** Adoption, approval or certification of the CEQA Documents by each applicable Government Agency;

4.5.6 **Building Permit, Approvals.** Buyer obtains, at its sole cost, all Approvals, including through the City's normal plan check, review and development approval process, as necessary for issuance of a final building permit by the City, subject only to final payment of all fees required for issuance of such building permit, for development of the Project on the Site;

4.5.7 **Buyer Financing.** Buyer has demonstrated to the satisfaction of Seller that Buyer has secured financing in an amount sufficient to develop the Project as a senior multifamily affordable housing development.

4.5.8 **Buyer Escrow Deposits.** Buyer deposits all of the items into Escrow required by Section 4.6;

4.5.9 **Settlement/Closing Statement.** Seller approves the Seller's Escrow Closing Statement;

4.5.10 **Consistency Finding.** The Planning Commission of the City has determined that the disposition of the Site to the Buyer pursuant to this Agreement is consistent with the City's General Plan, in accordance with Government Code Section 65402; and

4.5.11 **Buyer Pre-Closing Obligations.** Buyer performs all of Buyer's material obligations required to be performed by Buyer pursuant to this Agreement prior to the Close of Escrow.

4.6 **Buyer's Escrow Deposits.** Buyer shall deposit the following items into Escrow and, concurrently, provide a copy of each document submitted into Escrow to Seller, at least one (1) Business Day prior to the Escrow Closing Date:

4.6.1 **Closing Funds.** All amounts required to be deposited into Escrow by Buyer under the terms of this Agreement to close the Escrow;

4.6.2 **Certificate of Seller Deed Acceptance.** The Certificate of Acceptance attached to the Seller Deed signed by Buyer in recordable form;

4.6.3 **Escrow Closing Statement.** The Buyer's Escrow Closing Statement signed by the authorized representative(s) of Buyer;

4.6.4 **Other Reasonable Items.** Any other documents or funds required to be delivered by Buyer under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow or comply with applicable Law that have not previously been delivered by Buyer.

4.7 **Seller's Escrow Deposits.** Seller shall deposit the following documents into Escrow and, concurrently, provide a copy of each document deposited into Escrow to Buyer, at least one (1) Business Day prior to the Escrow Closing Date:

4.7.1 **Seller Deed.** The Seller Deed signed by the authorized representative(s) of Seller in recordable form;

4.7.2 **Escrow Closing Statement.** The Seller's Escrow Closing Statement signed by the authorized representative(s) of Seller;

4.7.3 **FIRPTA Affidavit.** A FIRPTA affidavit signed by the authorized representative(s) of Seller, in the form provided by the Escrow Agent;

4.7.4 **Form 593.** A Form 593 signed by the authorized representative(s) of Seller; and

4.7.5 **Other Reasonable Items.** Any other documents or funds required to be delivered by Seller under the terms of this Agreement or as otherwise reasonably requested by Escrow Agent or Title Company in order to close the Escrow or comply with applicable Law that have not been previously delivered by Seller.

4.8 **Closing Procedure.** When each of Buyer's Escrow deposits, as set forth in Section 4.6, and each of Seller's Escrow deposits, as set forth in Section 4.7, are deposited into Escrow, Escrow Agent shall request confirmation in writing from both Buyer and Seller that each of their respective conditions precedent to the Close of Escrow, as set forth in Sections 4.4 or 4.5, respectively, are satisfied or waived. Upon Escrow Agent's receipt of written confirmation from both Buyer and Seller that each of their respective conditions precedent to the Close of Escrow are satisfied or waived, Escrow Agent shall close the Escrow by doing all of the following:

4.8.1 **Recording and Distribution of Documents.** Escrow Agent shall cause the Seller Deed to be filed with the Recorder of the County for recording in the official records of the County regarding the Site. At Close of Escrow, Escrow Agent shall deliver conformed copies of the Seller Deed filed for recording in the official records of the County through the Escrow to Seller, Buyer and any other Person designated in the written joint escrow instructions of the Parties to receive an original or conformed copy of such document. Each conformed copy of a document filed for recording by Escrow Agent pursuant to this Agreement shall show all recording information;

4.8.2 **Funds.** Distribute all funds held by Escrow Agent pursuant to the Escrow Closing Statements approved in writing by Seller and Buyer;

4.8.3 **FIRPTA Affidavit.** File the FIRPTA Affidavit with the United States Internal Revenue Service;

4.8.4 **Form 593.** File the Form 593 with the California Franchise Tax Board;

and

4.8.5 **Title Policy.** Obtain from the Title Company and deliver to Buyer, with a copy to the Seller, the Buyer Title Policy issued by the Title Company.

4.9 **Close of Escrow.** The Close of Escrow shall occur on or before the Escrow Closing Date. The Parties may mutually agree to change the Escrow Closing Date by joint written instruction to Escrow Agent. The City Manager, acting on behalf of the Seller, is authorized to agree to one or more extensions of the Escrow Closing Date on behalf of Seller up to a maximum time period extension of two (2) months in the aggregate, in the City Manager's sole and absolute discretion. If for any reason (other than a Default or Event of Default by such Party) the Close of Escrow has not occurred on or before the Escrow Closing Date, then any Party not then in Default under this Agreement may cancel the Escrow and terminate this Agreement, without liability to the other Party or any other Person for such cancellation and termination, by delivering Notice of termination to both the other Party and Escrow Agent upon which time the Escrow Agent shall return the Deposit to Buyer. Following any such Notice of termination of this Agreement and cancellation of the Escrow, the Parties and Escrow Agent shall proceed pursuant to Section 4.12. Without limiting the right of either Party to cancel the Escrow and terminate this Agreement, pursuant to this Section 4.9, if the Escrow does not close on or before the Escrow Closing Date and neither Party has exercised its contractual right to cancel the Escrow and terminate this Agreement under this Section 4.9 before the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement, then the Escrow shall close as soon as reasonably possible following the first date on which Escrow Agent Notifies both Parties that Escrow is in a position to close in accordance with the terms and conditions of this Agreement.

4.10 **Escrow Costs.** Escrow Agent shall notify Buyer and Seller of the costs to be borne by each of them at the Close of Escrow by delivering an Escrow Closing Statement to both Seller and Buyer at least four (4) Business Days prior to the Escrow Closing Date. Seller shall pay one-half (1/2) of the Escrow Agent charges for the conduct of the Escrow, all documentary transfer taxes regarding the conveyance of the Site through the Escrow and the full amount of the premium charged by the Title Company for a standard CLTA owner's title insurance policy towards the cost of the premium for the Buyer Title Policy, exclusive of any endorsements or other supplements to the coverage of the Buyer Title Policy that may be requested by Buyer. Buyer shall pay one-half (1/2) of the Escrow Agent charges for the conduct of the Escrow, the amount of the premium for the Buyer Title Policy exceeding the amount paid by Seller toward the cost of the Buyer Title Policy, the premium costs of any and all endorsements to the Buyer Title Policy requested by Buyer, all recording fees and the full amount of any and all other charges, fees and taxes levied by each and every Government Agency relative to the conveyance of the Site through the Escrow.

4.11 **Escrow Cancellation Charges.** If the Escrow fails to close due to Seller's Default under this Agreement, Seller shall pay all ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively. If the Escrow fails to close due to Buyer's Default under this Agreement, Buyer shall pay all ordinary and reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively. If the Escrow fails to close for any reason other than the Default of either Buyer or Seller, Buyer and Seller shall each pay one-half (1/2) of any ordinary and

reasonable Escrow and title order cancellation charges charged by Escrow Agent or Title Company, respectively.

4.12 Escrow Cancellation. If this Agreement is terminated pursuant to a contractual right granted to a Party in this Agreement to terminate this Agreement (other than due to an Event of Default by the other Party), the Parties shall do all of the following:

4.12.1 Cancellation Instructions. The Parties shall, within three (3) Business Days following Escrow Agent's written request, sign any reasonable Escrow cancellation instructions requested by Escrow Agent;

4.12.2 Return of Funds and Documents. Within ten (10) Business Days following receipt by the Parties of a settlement statement of Escrow and title order cancellation charges from Escrow Agent (if any) or within twenty (20) days following Notice of termination, whichever is earlier: (a) Buyer or Escrow Agent shall return to Seller all documents previously delivered by Seller to Buyer or Escrow Agent, respectively, regarding the Site or the Escrow; (b) Seller or Escrow Agent shall return to Buyer all documents previously delivered by Buyer to Seller or Escrow Agent, respectively, regarding the Site or the Escrow; (c) Escrow Agent shall, unless otherwise expressly provided in this Agreement, return to Buyer all funds deposited in Escrow, less Buyer's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 4.11; and (d) Escrow Agent shall, unless otherwise expressly provided in this Agreement, return to Seller all funds deposited in Escrow, less Seller's share of customary and reasonable Escrow and title order cancellation charges (if any) in accordance with Section 4.11.

4.13 Report to IRS. After the Close of Escrow and prior to the last date on which such report is required to be filed with the Internal Revenue Service under applicable Federal law, if such report is required pursuant to Internal Revenue Code Section 6045(e), Escrow Agent shall report the gross proceeds of the purchase and sale of the Site to the Internal Revenue Service on Form 1099-B, W-9 or such other form(s) as may be specified by the Internal Revenue Service pursuant to Internal Revenue Code Section 6045(e). Concurrently with the filing of such reporting form with the Internal Revenue Service, Escrow Agent shall deliver a copy of the filed form to both Seller and Buyer.

4.14 Condemnation. If any material portion of the Site, or any interest in any portion of the Site, is taken by condemnation prior to Close of Escrow by any condemning authority other than Seller, including, without limitation, the filing of any notice of intended condemnation or proceedings in the nature of eminent domain, commenced by any governmental authority, other than Seller, Seller shall immediately give Buyer notice of such occurrence, and Buyer shall have the option, exercisable within ten (10) business days after receipt of such notice from Seller, to either: (i) terminate this Agreement; or (ii) continue with this Agreement in accordance with its terms, in which event Seller shall assign to Buyer any right of Seller to receive any condemnation award attributable to the Site.

4.15 Seller's Obligations. During the term of this Agreement, Seller shall act with respect to the Property in accordance with its preexisting practices as if the Property were not to be sold, including, without limitation, by maintaining at least the same levels of insurance in

effect as of the Effective Date. Notwithstanding the foregoing, Seller shall not enter into or modify any lease, agreement or contract relating to the Property which is not terminable upon thirty (30) without the prior written consent of Buyer, which consent shall not be unreasonably withheld or delayed.

4.16 Possession. Possession of the Property shall be delivered to Buyer as of Close of Escrow free of any and all tenancies and/or occupancy rights.

5. REMEDIES AND INDEMNITY

5.1 Legal Actions. Either Party may institute legal action, at law or in equity, to enforce or interpret the rights or obligations of the Parties under this Agreement or recover damages.

5.2 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, including, without limitation, Section 5.4 hereof, the rights and remedies of the Parties set forth in this Agreement are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by such Party, at the same or different times, of any other rights or remedies for the same Default or the same rights or remedies for any other Default by the other Party.

5.3 Indemnification.

5.3.1 Seller Indemnity Obligations. Seller shall indemnify Buyer against any Claim to the extent such Claim arises from any wrongful intentional act or negligence of the Seller Parties related to this Agreement, but only to the extent that Seller may be held liable under applicable law for such wrongful intentional act or negligence and exclusive of any violation of law (including the State Constitution) relating to Seller's approval, entry into or performance of this Agreement. Nothing in this Agreement is intended nor shall be interpreted to waive any limitation on Seller's liability, any exemption from liability in favor of Seller, any claim presentment requirement for bringing an action regarding any liability of Seller or any limitations period applicable to liability of Seller, all as set forth in Government Code Section 800 *et seq.*, Section 900 *et seq.*, or in any other law, or require Seller to indemnify any Person beyond such limitations on Seller's liability.

5.3.2 Buyer Indemnity Obligations. Buyer shall indemnify the Seller Parties against any Claim related to this Agreement to the extent such Claim arises from: (a) any act, omission or negligence of the Buyer; (b) any agreements that Buyer (or anyone claiming by or through Buyer) makes with a Third Person regarding the Site; (c) any workers compensation claim or determination relating to any employee of Buyer or its contractors; or (d) any Environmental Claim attributable to any action or omission by Buyer.

5.3.3 Independent of Insurance Obligations. Buyer's indemnification obligations under this Agreement shall not be construed or interpreted as in any way restricting, limiting, or modifying Buyer's insurance or other obligations under this Agreement. Buyer's obligation to indemnify the Seller Parties under this Agreement is independent of Buyer's insurance and other obligations under this Agreement. Buyer's compliance with Buyer's

insurance obligations and other obligations under this Agreement shall not in any way restrict, limit or modify Buyer's indemnification obligations under this Agreement and are independent of Buyer's indemnification and other obligations under this Agreement.

5.3.4 Survival of Indemnification and Defense Obligations. The indemnity and defense obligations of the Parties under this Agreement shall survive the expiration or earlier termination of this Agreement, until any and all actual or prospective Claims regarding any matter subject to an indemnity obligation under this Agreement are fully, finally, absolutely and completely barred by applicable statutes of limitations.

5.3.5 Indemnification Procedures. Wherever this Agreement requires any Indemnitor to Indemnify any Indemnitee:

(a) *Prompt Notice.* The Indemnitee shall promptly Notify the Indemnitor of any Claim.

(b) *Selection of Counsel.* The Indemnitor shall select counsel reasonably acceptable to the Indemnitee. Counsel to Indemnitor's insurance carrier that is providing coverage for a Claim shall be deemed reasonably satisfactory, except in the event of a potential or actual conflict of interest for such counsel regarding such representation or such counsel is reasonably determined by Indemnitee to be incompetent regarding such representation. Even though the Indemnitor shall defend the Claim, Indemnitee may, at Indemnitee's option and Indemnitee's own expense (except where Indemnitor provides a defense to Indemnitee under a reservation of rights, a conflict of interest between Indemnitor and Indemnitee exists that requires them to be represented by separate legal counsel or Indemnitor's legal counsel is reasonably determined by Indemnitee to be incompetent regarding such representation, in any such case, Indemnitor shall pay the Legal Costs of Indemnitee's separate legal counsel), engage separate counsel to advise Indemnitee regarding the Claim and Indemnitee's defense. The Indemnitee's separate counsel may attend all proceedings and meetings. The Indemnitor's counsel shall actively consult with the Indemnitee's separate counsel.

(c) *Cooperation.* The Indemnitee shall reasonably cooperate with the Indemnitor's defense of the Indemnitee.

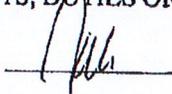
(d) *Settlement.* The Indemnitor may only settle a Claim with the consent of the Indemnitee. Any settlement shall procure a complete release of the Indemnitee from the subject Claims, shall not require the Indemnitee to make any payment to the claimant and shall provide that neither the Indemnitee, nor the Indemnitor on behalf of the Indemnitee, admits any liability.

5.4 LIQUIDATED DAMAGES. IF THERE EXISTS NO SELLER DEFAULT UNDER THIS AGREEMENT AND SELLER HAS TENDERED THE DEED AND ALL OTHER DOCUMENTS OR INSTRUMENTS REQUIRED BY THIS AGREEMENT, AND IS IN ALL OTHER RESPECTS IN FULL COMPLIANCE WITH ITS OBLIGATIONS HEREUNDER, AND IF BUYER SHOULD FAIL OR REFUSE TO CLOSE ESCROW AS REQUIRED BY THE TERMS OF THIS AGREEMENT, OR IF BUYER OTHERWISE

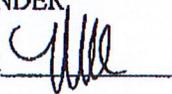
DEFAULTS HEREUNDER SO THAT SELLER HAS THE RIGHT TO REFUSE TO CLOSE ESCROW, THEN SELLER'S SOLE REMEDY SHALL BE TO RETAIN ANY DEPOSITS PREVIOUSLY RELEASED TO IT, AS LIQUIDATED DAMAGES, WHICH AMOUNT IS THE BEST ESTIMATE BY THE PARTIES OF THE DAMAGES SELLER WOULD SUFFER FROM SUCH BREACH, IT BEING AGREED THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, AND IMPRACTICABLE TO FIX THE EXACT AMOUNT OF DAMAGE WHICH WOULD BE INCURRED BY SELLER AS A RESULT OF SUCH DEFAULT BY BUYER. THEREUPON NEITHER PARTY TO THIS AGREEMENT SHALL HAVE ANY FURTHER RIGHTS, DUTIES OR OBLIGATIONS HEREUNDER.

INITIALS:

SELLER



BUYER



6. GENERAL PROVISIONS

6.1 Incorporation of Recitals. The Recitals of fact set forth preceding this Agreement are true and correct and are incorporated into this Agreement in their entirety by this reference.

6.2 Notices, Demands and Communications Between the Parties.

6.2.1 Delivery. Any and all Notices submitted by any Party to another Party pursuant to or as required by this Agreement shall be proper, if in writing and sent by messenger for immediate personal delivery, nationally recognized overnight (one Business Day) delivery service (i.e., United Parcel Service, Federal Express, etc.) or by registered or certified United States mail, postage prepaid, return receipt requested, to the address of the recipient Party, as designated in Section 6.2.2. Notices may be sent in the same manner to such other addresses as either Party may from time to time designate by Notice in accordance with this Section 6.2. Notice shall be deemed received by the addressee, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, on the day that the Notice is sent by messenger for immediate personal delivery, one Business Day after delivery to a nationally recognized overnight delivery service or three (3) calendar days after the Notice is placed in the United States mail in accordance with this Section 6.2. Any attorney representing a Party may give any Notice on behalf of such Party.

6.2.2 Addresses. The Notice addresses for the Parties, as of the Effective Date, are as follows:

To Buyer:

Domus Development, LLC
9 Cushing, Suite 200
Irvine, CA 92618

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

6.3 Relationship of Parties. The Parties each intend and agree that Seller and Buyer are independent contracting entities and do not intend by this Agreement to create any partnership, joint venture or similar business arrangement, relationship or association between them.

6.4 Warranty Against Payment of Consideration for Agreement. Buyer represents and warrants to Seller that: (a) Buyer has not employed or retained any Person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees of Buyer and Third Persons to whom fees are paid for professional services related to the documentation of this Agreement; and (b) no gratuities, in the form of entertainment, gifts or otherwise have been or will be given by Buyer or any of Buyer's agents, employees or representatives to any elected or appointed official or employee of the Seller in an attempt to secure this Agreement or favorable terms or conditions for this Agreement. Breach of the representations or warranties of this Section 6.4 shall entitle Seller to terminate this Agreement and cancel the Escrow (if open) upon seven (7) days Notice to Buyer and, if the Escrow is open, to Escrow Agent. Upon any such termination of this Agreement, Buyer shall immediately refund any payments made to or on behalf of Buyer by Seller pursuant to this Agreement or otherwise related to the Site, any Approval or any CEQA Document, prior to the date of such termination.

6.5 Calculation of Time Periods. Unless otherwise specified, all references to time periods in this Agreement measured in days shall be to consecutive calendar days, all references to time periods in this Agreement measured in months shall be to consecutive calendar months and all references to time periods in this Agreement measured in years shall be to consecutive calendar years. Any reference to Business Days in this Agreement shall mean consecutive Business Days.

6.6 Principles of Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. A word, term or phrase defined in the singular in this Agreement may be used in the plural, and vice versa, all in accordance with ordinary principles of English grammar, which shall govern all language in this Agreement. The words "include" and "including" in this Agreement shall be construed to be followed by the words: "without limitation." Each collective noun in this Agreement shall be interpreted as if followed by the words "(or any part of it)," except where the context clearly requires otherwise. Every reference to any document, including this Agreement, refers to such document, as modified from time to time (excepting any modification that violates this Agreement), and includes all exhibits, schedules, addenda and riders to such document. The

word "or" in this Agreement includes the word "and." Every reference to a law, statute, regulation, order, form or similar governmental requirement refers to each such requirement as amended, modified, renumbered, superseded or succeeded, from time to time.

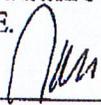
6.7 Governing Law. The procedural and substantive laws of the State of California shall govern the interpretation and enforcement of this Agreement, without application of conflicts or choice of laws principles or statutes. The Parties acknowledge and agree that this Agreement is entered into, is to be fully performed in and relates to real property located in the County of Yolo, State of California. All legal actions arising from this Agreement shall be filed in the Superior Court of the State in and for the County or in the United States District Court with jurisdiction in the County.

6.8 Unavoidable Delay; Extension of Time of Performance.

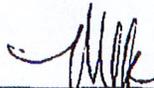
6.8.1 Notice. Subject to any specific provisions of this Agreement stating that they are not subject to Unavoidable Delay or otherwise limiting or restricting the effects of an Unavoidable Delay, performance by either Party under this Agreement shall not be deemed or considered to be in Default, where any such Default is due to the occurrence of an Unavoidable Delay. Any Party claiming an Unavoidable Delay shall Notify the other Party: (a) within three (3) days after such Party knows of any such Unavoidable Delay; and (b) within three (3) days after such Unavoidable Delay ceases to exist. To be effective, any Notice of an Unavoidable Delay must describe the Unavoidable Delay in reasonable detail. The Party claiming an extension of time to perform due to an Unavoidable Delay shall exercise commercially reasonable efforts to cure the condition causing the Unavoidable Delay, within a reasonable time.

6.8.2 Assumption of Economic Risks. EACH PARTY EXPRESSLY AGREES THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, OF EITHER PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMAND OR CHANGES IN THE ECONOMIC ASSUMPTIONS OF EITHER PARTY THAT MAY HAVE PROVIDED A BASIS FOR ENTERING INTO THIS AGREEMENT SHALL NOT OPERATE TO EXCUSE OR DELAY THE PERFORMANCE OF EACH AND EVERY ONE OF EACH PARTY'S OBLIGATIONS AND COVENANTS ARISING UNDER THIS AGREEMENT. ANYTHING IN THIS AGREEMENT TO THE CONTRARY NOTWITHSTANDING, THE PARTIES EXPRESSLY ASSUME THE RISK OF UNFORESEEABLE CHANGES IN ECONOMIC CIRCUMSTANCES OR MARKET DEMAND OR CONDITIONS AND WAIVE, TO THE GREATEST EXTENT ALLOWED BY LAW, ANY DEFENSE, CLAIM, OR CAUSE OF ACTION BASED IN WHOLE OR IN PART ON ECONOMIC NECESSITY, IMPRACTICABILITY, CHANGED ECONOMIC CIRCUMSTANCES, FRUSTRATION OF PURPOSE, OR SIMILAR THEORIES. THE PARTIES AGREE THAT ADVERSE CHANGES IN ECONOMIC CONDITIONS, EITHER OF THE PARTY SPECIFICALLY OR THE ECONOMY GENERALLY, OR CHANGES IN MARKET CONDITIONS OR DEMANDS, SHALL NOT OPERATE TO EXCUSE OR DELAY THE STRICT OBSERVANCE OF EACH AND EVERY ONE OF THE OBLIGATIONS, COVENANTS, CONDITIONS AND REQUIREMENTS OF THIS AGREEMENT. THE PARTIES EXPRESSLY ASSUME THE RISK OF SUCH ADVERSE

ECONOMIC OR MARKET CHANGES, WHETHER OR NOT FORESEEABLE AS OF THE EFFECTIVE DATE.



Initials of Authorized
Seller Representative(s)



Initials of Buyer

6.9 Tax Consequences. Buyer acknowledges and agrees that Buyer shall bear any and all responsibility, liability, costs or expenses connected in any way with any tax consequences experienced by Buyer related to this Agreement.

6.10 Real Estate Commissions.

6.10.1 Seller Warranty. Seller: (a) represents and warrants that Seller did not engage or deal with any broker or finder in connection with this Agreement, and no Person is entitled to any commission or finder's fee regarding this Agreement on account of any agreement or arrangement made by Seller; and (b) shall Indemnify Buyer against any breach of the representation and warranty set forth in clause "(a)" of this Section 6.10.1.

6.10.2 Buyer Warranty. Buyer represents and warrants that (a) Buyer did not engage or deal with any broker or finder in connection with this Agreement, and no other Person is entitled to any commission or finder's fee regarding this Agreement on account of any agreement or arrangement made by Buyer; and (b) shall Indemnify Seller against any breach of the representation and warranty set forth in clause "(a)" of this Section 6.10.2.

6.11 No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any Person other than the Parties and their respective permitted successors and assigns, nor is anything in this Agreement intended to relieve or discharge any obligation of any Third Person to any Party or give any Third Person any right of subrogation or action over or against any Party.

6.12 Buyer Assumption of Risks of Legal Challenges. Buyer assumes the risk of delays or damages that may result to Buyer from each and every Third Person legal action related to Seller's approval of this Agreement or any associated Approvals, even in the event that an error, omission or abuse of discretion by Seller is determined to have occurred, but specifically excluding the gross negligence, willful misconduct or illegal actions of Seller. If a Third Person files a legal action regarding Seller's approval of this Agreement or any associated Approval (exclusive of legal actions alleging violation of Government Code Section 1090 by officials of Seller or any action arising from the gross negligence, willful misconduct or illegal actions of Seller), Buyer shall have the option to either: (1) cancel the Escrow and terminate this Agreement, in which case the Parties and the Escrow Agent shall proceed in accordance with Section 4.12; or (2) Indemnify Seller against such Third Person legal action, including all Legal Costs, monetary awards, sanctions and the expenses of any and all financial or performance obligations resulting from the disposition of the legal action; provided, however, that option "(1)" under this Section 6.12 shall only be available to Buyer prior to the Close of Escrow. Should Buyer fail to Notify Seller of Buyer's election pursuant to this Section 6.12 at least fifteen (15) days before response to the legal action is required by Seller, prior to the Close of

Escrow, Buyer shall be deemed to have elected to cancel the Escrow and terminate this Agreement pursuant to this Section 6.12 and, following the Close of Escrow, Buyer shall be deemed to have elected to Indemnify Seller against such Third Person legal action pursuant to this Section 6.12, all without further Notice to or action by either Party. If Borrower elects to indemnify Seller, Seller shall reasonably cooperate with Buyer in defense of Seller in any legal action subject to this Section 6.12, subject to Buyer completely performing Buyer's indemnity obligations for such legal action. Should Buyer elect or be deemed to elect to Indemnify Seller regarding a legal action subject to this Section 6.12, but fail to or stop providing such indemnification of Seller, then Seller shall have the right to terminate this Agreement or cancel the Escrow (or both) by Notice to Buyer and, if the Escrow is open, to the Escrow Agent. Nothing contained in this Section 6.12 is intended to be nor shall be deemed or construed to be an express or implied admission that Seller may be liable to Buyer or any other Person for damages or other relief regarding any alleged or established failure of Seller to comply with any law. Any legal action that is subject to this Section 6.12 (including any appeal periods and the pendency of any appeals) shall constitute an Unavoidable Delay and the time periods for performance by either Party under this Agreement may be extended pursuant to the provisions of this Agreement regarding Unavoidable Delay.

6.13 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

6.14 Time Declared to be of the Essence. As to the performance of any obligation under this Agreement of which time is a component, the performance of such obligation within the time specified is of the essence.

6.15 Entire Agreement. This Agreement integrates all of the terms and conditions mentioned in this Agreement or incidental to this Agreement, and supersedes all prior or contemporaneous negotiations or previous agreements between the Parties, whether written or oral, with respect to all or any portion of the Site.

6.16 Waivers and Amendments. All waivers of the provisions of this Agreement must be in writing and signed by the authorized representative(s) of the Party making the waiver. All amendments to this Agreement must be in writing and signed by the authorized representative(s) of both Seller and Buyer.

6.17 No Implied Waiver. Failure to insist on any one occasion upon strict compliance with any term, covenant, condition, restriction or agreement contained in this Agreement shall not be deemed a waiver of such term, covenant, condition, restriction or agreement, nor shall any waiver or relinquishment of any rights or powers under this Agreement, at any one time or more times, be deemed a waiver or relinquishment of such right or power at any other time or times.

6.18 City Manager Implementation. Seller shall implement this Agreement through the City Manager, acting on behalf of the Seller. The City Manager or his/her designee is hereby authorized by Seller to enter into agreements and sign documents referenced in this Agreement or reasonably required to implement this Agreement on behalf of Seller, issue approvals, interpretations or waivers and enter into certain amendments to this Agreement on behalf of

Seller, to the extent that any such action(s) does/do not increase the monetary obligations of Seller. All other actions shall require the consideration and approval of the Seller's governing body, unless expressly provided otherwise by action of the Seller's governing body. Nothing in this Section 6.18 shall restrict the submission to the Seller's governing body of any matter within the City Manager's authority under this Section 6.18, in the City Manager's sole and absolute discretion, to obtain the Seller's governing body's express and specific authorization on such matter. The specific intent of this Section 6.18 is to authorize certain actions on behalf of Seller by the City Manager, but not to require that such actions be taken by the City Manager including, without limitation, any extension(s) granted pursuant to Section 4.9, without consideration by the Seller's governing body.

6.19 Survival of Agreement. All of the provisions of this Agreement shall be applicable to any dispute between the Parties arising from this Agreement, whether prior to or following expiration or termination of this Agreement, until any such dispute is finally and completely resolved between the Parties, either by written settlement, entry of a non-appealable judgment or expiration of all applicable statutory limitations periods and all terms and conditions of this Agreement relating to dispute resolution, indemnity or limitations on damages or remedies shall survive any expiration or termination of this Agreement.

6.20 Counterparts. This Agreement shall be signed in three (3) triplicate originals, each of which is deemed to be an original. This Agreement includes twenty-six (26) pages and two (2) exhibits (each exhibit is incorporated into this Agreement by reference) that constitute the entire understanding and Agreement of the Parties regarding the subject matter of this Agreement.

6.21 Facsimile or Electronic Signatures. Signatures delivered by facsimile or electronic mail shall be binding as originals upon the Party so signing and delivering; provided, however, that original signature(s) of each Party shall be required for each document to be recorded.

[Signatures on following page]

**SIGNATURE PAGE
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS
(Portion of Grant Avenue Commercial Property)**

IN WITNESS WHEREOF, the Parties have signed and entered into this Agreement by and through the signatures of their respective authorized representative(s) as follow:

SELLER:

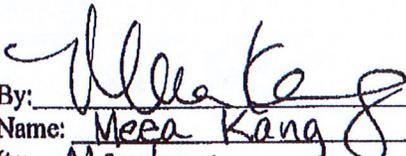
BUYER:

CITY OF WINTERS, a California municipal corporation, acting as SUCCESSOR AGENCY TO THE DISOLVED COMMUNITY DEVELOPMENT AGENCY

DOMUS DEVELOPMENT, LLC, a California limited liability company

By: 

John W. Donlevy, Jr.
Executive Director

By: 

Name: Meea Kang
Its: Member

ACKNOWLEDGMENT

State of California
County of Yolo

On June 30, 2014 before me, Tracy S. Jensen, Notary Public
(Insert name and title of the officer)

personally appeared John W. Donlavy Jr.
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.



Signature Tracy S. Jensen (Seal)

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1109

State of California

County of Orange

} Irvine

On 7-1-2014 before me, Lauren Michel Carter, Notary Public

Date

Here Insert Name and Title of the Officer

personally appeared Meredith Kany

Name(s) of Signer(s)

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.

Signature: Lauren Michel Carter

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Real Property Purchase & Sale Agreement

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: John W. Donley, Jr.

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____

Corporate Officer - Title(s): _____ Corporate Officer - Title(s): _____

Individual Individual

Partner - Limited General Partner - Limited General

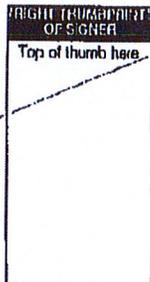
Attorney In Fact Attorney In Fact

Trustee Trustee

Guardian or Conservator Guardian or Conservator

Other: _____ Other: _____

Signer Is Representing: _____ Signer Is Representing: _____



**EXHIBIT A
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS
(Portion of Grant Avenue Commercial Property)**

Map of the Site

EXHIBIT A

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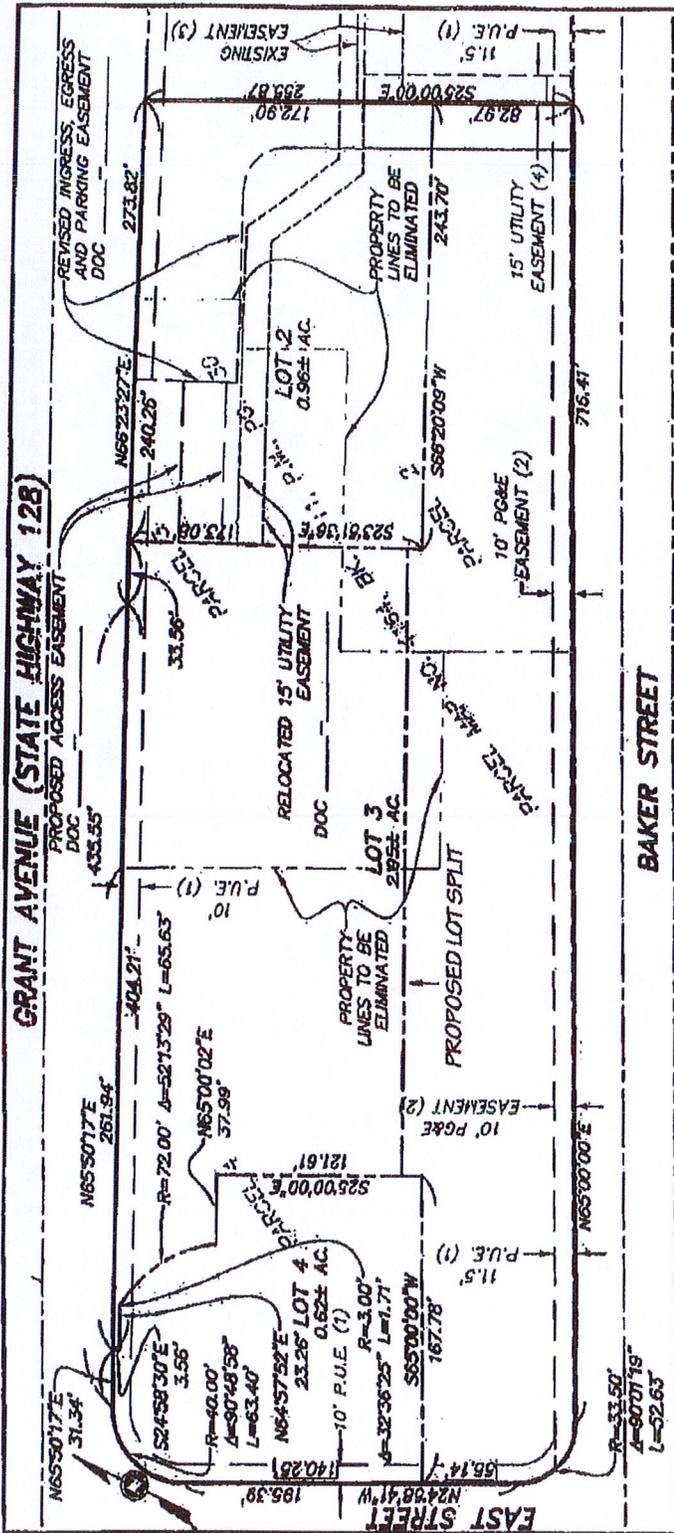


EXHIBIT B
LOT LINE ADJUSTMENT
 FOR
CITY OF WINTERS
 BEING PARCELS 2, 3, & 4 OF PARCEL MAP
 NO. 4184 LOCATED IN A PORTION OF
 RANCHO RIO DE LOS PUTOS, BEING
 LOCATED IN PROJECTED SECTION 22
 TOWNSHIP 8 NORTH, RANGE 1 WEST,
 MOUNT DIABLO MERIDIAN, CITY OF WINTERS,
 YOLO COUNTY, CALIFORNIA

LM LAUGENOUR AND MEIKLE
 CIVIL ENGINEERING - LAND SURVEYING - PLANNING
 1100 MARKET STREET, WOODLAND, CALIFORNIA 95694 (530) 868-4100
 P.O. BOX 628, WOODLAND, CALIFORNIA 95678 - FAX: (530) 868-4102

SHEET 1 OF 1 DECEMBER 18, 2013
 X: \Users\Projects\12187-5\dwg\12187-5.dwg

RECORD DATA:
 (1) BOOK 11, PARCEL MAPS, PAGE 30
 (2) BOOK 1516, OFFICIAL RECORDS, PAGE 202
 (3) EXISTING PRIVATE INGRESS & EGRESS
 EASEMENT PER INST. NO. 94-007223,
 BOOK 216, C.R., PAGE 444
 (4) EXISTING PRIVATE UTILITY EASEMENT PER
 INST. NO. 94-007222, BOOK 216, C.R.,
 PAGE 436.

NOTE:
 EASEMENTS OR OTHER ENCUMBRANCES MAY
 AFFECT SUBJECT PROPERTY WHICH ARE NOT
 SHOWN HEREON.

160
 80
 40
 0
LM
 SCALE: 1"=80'

BRAND P. BONINO
 LICENSED LAND SURVEYOR
 STATE OF CALIFORNIA
 L.S. 7521

Bryan P. Bonino 12/18/13
 DATE

BRYAN P. BONINO
 THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY
 DIRECTION IN ACCORDANCE WITH SECTION 8761 OF THE
 PROFESSIONAL LAND SURVEYORS' ACT.

EXHIBIT A

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

PARCEL ONE:

Parcels 2, 3 and 4 as shown upon that certain Parcel Map No. 4164 for Richard A. and Suzanne M. Cordes, filed February 28, 1994 in Book 11 of Parcel Maps, Page 30, Yolo County Records.

Assessor's Parcel Number: 003-370-028, 029, 030

PARCEL TWO:

A Non-Exclusive Easement on and across a portion of Parcel 1 (The "Parcel 1 Utility Easement") for the installation, maintenance and repair of utilities within the area shown as "Private Utility Easement" on the Map, as described in Easement Agreement Recorded March 3, 1994 in Book 2616 of Official Records, Page 435, Yolo County Records.

PARCEL THREE:

An Easement for ingress and egress, but not parking, for Parcel 1 of Parcel Map No. 4164:

A portion of projected Section 22, T. 8 N., R 1 W., M.D.M., Rancho Rio De Los Putos, in the City of Winters, Yolo County, California, and being also a portion of Parcel 1, as said Parcel appears on Parcel Map No. 4164 for Richard A. and Suzanne M. Cordes, filed February 28, 1994 in Book 11 of Parcel Maps, Page 30, Yolo County Records and being more particularly described as follows:

Beginning at a point on the West boundary line of said Parcel 1 that is distant South 25° 00' 00" East 126.87 feet from the Northwest corner of said Parcel 1; thence, from said point of beginning, leaving said West boundary line, North 65° 00' 00" East 164.79 feet to a point on the East boundary line of said Parcel 1; thence, along said East boundary line South 14° 58' 00" East 45.00 feet; thence, leaving said East boundary line, South 87° 51' 13" West 42.00 feet; thence South 65° 00' 00" West 118.25 feet to a point on the West boundary line of said Parcel 1; thence, along said West boundary line, North 25° 00' 00" West 28.00 feet to the point of beginning, as described in Easement Agreement recorded March 3, 1994 in Book 2616 of Official Records, Page 444, Yolo County Records.

**EXHIBIT B
TO
REAL PROPERTY PURCHASE AND SALE AGREEMENT AND JOINT ESCROW
INSTRUCTIONS
(Portion of Grant Avenue Commercial Property)**

Seller Deed

[Attached behind this cover page]

EXHIBIT B

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

APN: _____

SPACE ABOVE FOR RECORDER'S USE ONLY
EXEMPT FROM RECORDING FEES - GOVT. CODE § 27383

GRANT DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

CITY OF WINTERS, a California municipal corporation ("Transferor"), does hereby grant to **DOMUS DEVELOPMENT, LLC**, a California limited liability company ("Transferee"), all right, title and interest of Transferor in that certain real property in the City of Winters, County of Yolo, State of California, specifically described in Exhibit "1" attached to this Grant Deed ("Site") and made a part of this Grant Deed by this reference.

Transferee covenants and agrees for itself, its successors, its assigns and every successor-in-interest to all or any portion of the Site, that there shall be no discrimination against or segregation of any person, or group of persons, on account of gender, sexual orientation, marital status, race, color, religion, creed, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site nor shall Transferee, 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 purchasers, tenants, lessees, sub-tenants, sub-lessees or vendees of the Site. The covenant shall be a covenant running with the land and binding on successive owners of all or any portion of the Site, in perpetuity

The covenants contained herein shall run with the land and shall inure to the benefit of and be binding upon the Transferor and Transferee and their respective assigns, heirs and voluntary and involuntary successors in interest.

Dated: _____

CITY OF WINTERS, a California municipal corporation

By: _____

John W. Donlevy, Jr.
City Manager

**EXHIBIT "1"
TO
GRANT DEED**

Site Legal Description

That certain property situated in the City of Winters, County of Yolo, State of California described as follows:

CERTIFICATE OF ACCEPTANCE OF GRANT DEED

This is to certify that the interest in real property conveyed by the foregoing Grant Deed from the CITY OF WINTERS, a California municipal corporation, to DOMUS DEVELOPMENT LLC, a California limited liability company, is hereby accepted by the undersigned officer on behalf of Grantee, through his signature below, and Grantee consents to recordation thereof by its duly authorized officer.

DOMUS DEVELOPMENT, LLC,
a California limited liability company

By: _____
Its: _____

ESCROW AGENT CONSENT

PLACER TITLE COMPANY accepts that certain Real Property Purchase and Sale Agreement and Joint Escrow Instructions (Portion of Grant Avenue Commercial Property) dated _____, 2014, by and between the City of Winters, a California municipal corporation, acting as Successor Agency to the Dissolved Community Development Agency, and Domus Development, LLC, a California limited liability company, and agrees to act as "Escrow Agent" pursuant to such agreement and agrees to be bound by all provisions of such agreement applicable to it as the Escrow Agent.

ESCROW AGENT:

PLACER TITLE COMPANY

By: _____

Name: _____

Its: _____

Dated: _____