



Winters City Council Meeting
City Council Chambers
318 First Street
Tuesday, May 16, 2017
6:30 p.m.
AGENDA

Members of the City Council

*Wade Cowan, Mayor
Bill Biasi, Mayor Pro-Tempore
Harold Anderson
Jesse Loren
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, May 2, 2017 (pp. 5-11)
- B. Winters Highlands Public Improvement and Maintenance Agreement and a Subdivision Improvement and Maintenance Agreement (pp. 12-52)
- C. Resolution No. 2017-25, Amended Salary Schedule (pp. 53-60)
- D. Resolution No. 2017-22, Granting Consent to the County of Yolo to Establish the Yolo County Tourism Business Improvement District and Include the City of Winters in the District (pp. 61-68)
- E. Appropriation Limit for Fiscal Year 2017- 2018 (pp. 69-76)

PRESENTATIONS

None

DISCUSSION ITEMS

- 1. City Park Futsal Court (pp. 77-88)
- 2. Public Hearing to Consider Adoption of a Resolution of the City Council of the City of Winters to Approve Entering into a Joint Exercise of Powers Agreement to Establish the Yolo Sub-Basin Groundwater Agency and the City's Membership in This Agency, and Authorizing the Agency to Act as the Groundwater Sustainability Agency for the Yolo Sub-Basin of the Sacramento Groundwater Basin, Including the Area Underlying the City of Winters (pp. 89-135)

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

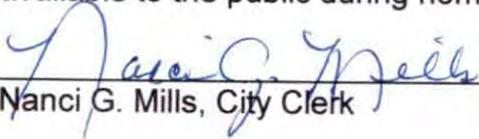
- 1. None
-

CITY MANAGER REPORT

INFORMATION ONLY

ADJOURNMENT

I declare under penalty of perjury that the foregoing agenda for the May 16, 2017 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 May 11, 2017, and made available to the public during normal business hours.



Nanci G. Mills, City Clerk

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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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Winters Library – 708 Railroad Avenue

City Hall – Finance Office - 318 First Street

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

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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
And Economic Development Workshop Held on May 2, 2017

5:00 p.m. - Economic Development Workshop

DISCUSSION ITEMS

1. Open Discussion between the City Council and City Staff on Topics Including and Economic Development Committee, City/Chamber of Commerce Collaboration, Jobs/Housing Balance and Participation in Regional Economic Development Organizations

Present: Council Members Harold Anderson, Bill Biasi, Jesse Loren, Pierre Neu, Mayor Wade Cowan

Absent: None

Staff: City Manager John W. Donlevy Jr., City Clerk Nanci Mills, Director of Financial Management Shelly Gunby, Economic Development/Housing Manager Dan Maguire, Public Works Superintendent Eric Lucero, Management Analyst Dago Fierros, Environmental Services Manager Carol Scianna, Police Chief John Miller, Fire Chief Greg Lewis, Building Official Gene Ashdown, City Attorney Ethan Walsh.

Community: Chris Calvert, Chris Turkovich, Julia from the Express Members

6:30 p.m. - City Council Meeting

Mayor Wade Cowan called the meeting to order at 6:33 p.m.

Present: Council Members Harold Anderson, Bill Biasi, Jesse Loren, Pierre Neu and Mayor Wade Cowan.

Absent: None

Staff: City Manager John W. Donlevy Jr., City Attorney Ethan Walsh, City Clerk Nanci Mills, Director of Financial Management Shelly Gunby, Environmental Services Manager Carol Scianna, Economic

Development/Housing Manager Dan Maguire, Public Works Superintendent Eric Lucero, Building Official Gene Ashdown, Management Analysts Dagoberto Fierros and Tracy Jensen.

Kurt Balasek led the Pledge of Allegiance.

Approval of Agenda: City Manager Donlevy requested that Consent Item I, Consideration of Memorandum of Understanding with Project Playground, be moved to Discussion Item 3; Original Discussion Item 3, Business Improvement District (BID) Funding Request from Chamber of Commerce, be moved to Consent Item I; and Discussion Item 1 Regarding a Joint Exercise of Powers Agreement to Establish the Yolo Sub-Basin Groundwater Agency to be heard prior to the Presentation.

Motion by Council Member Loren, second by Council Member Neu to approve the agenda with said changes. Motion carried with the following vote:

AYES: Council Members Anderson, Biasi, Loren, Neu, Mayor Cowan
NOES: None
ABSENT: None
ABSTAIN: None

COUNCIL/STAFF COMMENTS

PUBLIC COMMENTS: Wally Pearce said the Winters Senior Foundation wanted to do something for the Council and the City Manager suggested fruit pies. Wally thanked Jesse & Pierre for their continued participation and said this month is Elder American Month (since 1963) and asked everyone to celebrate with their families.

CONSENT CALENDAR

- A. Minutes of the Regular Meeting of the Winters City Council Held on Tuesday, April 18, 2017
- B. Resolution 2017-19, a Resolution of the City Council of the City of Winters, Initiating Proceedings for the Annual Levy and Collection of Assessments for the City-Wide Maintenance Assessment District, Fiscal Year 2017/2018
- C. Resolution 2017-20, a Resolution of the City Council of the City of Winters Preliminarily Approving the Engineer's Annual Levy Report, and Declaring its' Intention to Levy and Collect Annual

- Assessments and Provide Notice of Hearings Thereof for the City-Wide Maintenance Assessment District, Fiscal Year 2017/2018
- D. Purchase of Public Works Hybrid Electric Vehicle
- E. Revised Project Budget Sheet and Award a Construction Contract for Downtown Water & Storm Drain Improvements
- F. Resolution 2017-21 Transportation Development Claim Act
- G. Approval of Contract with Harris and Associates for Undergrounding Utilities in Newt's Expressway
- I. Business Improvement District (BID): Funding Request from Chamber of Commerce **(Moved From Discussion Item 3 to Consent Item I)**

City Manager Donlevy gave an overview. Council Member Anderson requested that he be recused for Consent Items E & G due to a possible conflict of interest.

Motion by Council Member Neu, second by Council Member Loren to approve Consent Items A, B, C, D, F and I. Motion carried with the following vote:

AYES: Council Members Anderson, Biasi, Loren, Neu, Mayor Cowan
NOES: None
ABSENT: None
ABSTAIN: None

Motion by Council Member Neu, second by Council Member Loren to approve Consent Items E and G. Motion carried with the following vote:

AYES: Council Members Biasi, Loren, Neu, Mayor Cowan
NOES: None
ABSENT: Council Member Anderson
ABSTAIN: None

PRESENTATIONS

Luz Robles, Public Information Officer of the Sacramento-Yolo Mosquito and Vector Control District gave a power point presentation and said the Sacramento-Yolo district is one of the largest in the state covering approximately 2,000 square miles of urban, residential and agricultural areas. There are two species of mosquitos that transmit West Nile Virus, which can be found in our area and can grow in people's yards. In 2016, 25 mosquito samples and 6 bird samples tested positive for West Nile Virus. More water equals more mosquito breeding sources, so Luz reviewed the District's Seven D's: Drain any standing water; Dawn and Dusk are times to avoid being outside; Dress appropriately; Defend yourself with an effective insect repellent; Door and window screens should be in good working condition; and District personnel are available to address any

mosquito problem you may be experiencing by calling 1-800-429-1022 or going to their website at www.fightthebite.net.

DISCUSSION ITEMS

1. Discussion Regarding a Joint Exercise of Powers Agreement to Establish the Yolo Sub-Basin Groundwater Agency and the City's Membership in This Agency, and Authorizing the Agency to Act as the Groundwater Sustainability Agency for the Yolo Sub-Basin of the Sacramento Groundwater Basin, Including the Area Underlying the City of Winters

City Manager Donlevy gave an overview. Council Member Biasi asked if this was mandated and if we are required to come up with a plan. City Manager Donlevy said yes, a groundwater sustainability plan needs to be in place by June 30, 2017. Tim O'Halloran, General Manager of the Yolo County Flood Control & Water Conservation District was in attendance and encouraged Council to adopt the Joint Exercise of Powers Agreement tonight and was available to answer any questions about the implementation of the Sustainable Groundwater Management Act (SGMA) and the formation of the Yolo Groundwater Sustainability Agency (GSA.) A public hearing will be held at the May 16th City Council meeting. City Manager Donlevy said this item has the potential to be controversial, but Yolo County is blessed with good leadership. Mayor Cowan thanked Tim O'Halloran and Kurt Balasek and all of those who are leading the way. Tim thanked Cecilia Aguiar-Curry, Jesse Loren and Carol Scianna for their active participation with the Water Resources Association (WRA.)

2. Waste Management Contract Renewal

Environmental Services Manager Carol Scianna gave an overview and reviewed the new schedule based on Council Option 2, including rates and services that are included in the proposed 10-year contract extension, with a roll out date of July 1st. Kayla from Waste Management went over the current services vs the proposed services, including bulky waste and alley collection. New brochures will be available in English and Spanish and Waste Management will accommodate those residents with disabilities who are unable to move their carts with the completion of a form and a doctor's note. Carol will contact the alley service residents and advise them that alley service is no longer available. Council Member Biasi asked if residents could get a smaller green waste container for less money or for those who have smaller yards. Carol said only the 96 gallon green waste container will be provided. Different prices for different size trash containers will be available to residents. Street sweeping will be done monthly from Feb. 1 to Oct. 31 and weekly during "leaf season", Nov. 1 to Jan. 31, with 6 additional street sweeping days to be added at the discretion of the

City. Council Member Biasi said that after completing two surveys, the street sweeper drivers continue to drive too fast, spreading out the piles and requested they slow down. City Manager Donlevy said Waste Management has transitioned their whole fleet to CNG, which are governed by air quality standards in an effort to improve sweeping service. Council Member Biasi added that residents may continue to put green waste in the street for a month at a time and City Manager Donlevy said this will become a code enforcement issue once an ordinance is adopted.

Tina Lowden, 320 Niemann, thanked Carol for working on the contract extension and said the rates aren't much more, but a \$22/year increase for some folks is a hardship. She said she got a raise, but Medicare rates increased as well. She asked if there was a subsidy available to assist the seniors.

Jeff Tenpas, 24 E. Main, asked if there will be a franchise fee added to the bills and if so whether the City had done a referendum to approve the tax. City Manager Donlevy said under state law, the City is not required to do this.

City Manager Donlevy said there is a franchise fee, but this doesn't cover a fraction of the landfill fees. Much of the rate difference is the green waste processing, landfill tipping fee (from \$30/ton to \$52/ton as of 1/10/17) and household hazardous waste. Part of the fee that everyone pays goes towards the management of the landfill. Mayor Cowan added that the state is continuing to increase the cost of recycling and this just adds to the cost.

City Manager Donlevy encouraged everyone to move to a smaller trash cart and reduce the amount of waste that is generated.

Motion by Council Member Neu, second by Council Member Loren to authorize the City Manager to complete negotiations for the contract renewal with Waste Management for a term of 10 years and to provide solid waste, recycling, green waste and street sweeping services. Motion carried with the following vote:

AYES: Council Members Anderson, Biasi, Loren, Neu, Mayor Cowan
NOES: None
ABSENT: None
ABSTAIN: None

3. Consideration of Memorandum of Understanding with Project Playground **(Moved From Consent Item 1 to Discussion Item 3)**

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

Two members of Project Playground, Moira Barsotti and Emarie Van Galio, gave an overview of the project and fundraising. City Attorney Walsh said the MOU

had not previously come before Council as a discussion item, so he reviewed the changes outlined in the MOU. City Manager Donlevy said the purpose of an MOU is to provide protection to all parties involved.

Jerry Lowden, 320 Niemann, asked what the budget was for the new playground construction. Moira Barsotti said just the lumber alone is \$250,000. Project Playground continues to raise funds for construction of the new playground, including a Party in the Park on May 4th, the Big Day of Giving. The Winters Friends of the Library will donate all of the funds received on May 4th to Project Playground.

Motion by Council Member Loren, second by Council Member Neu to approve and authorize the City Manager to execute a Memorandum of Understanding with Project Playground regarding the Community Playground Project. Motion carried with the following vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Cowan
NOES: None
ABSENT: Council Member Biasi
ABSTAIN: None

Council Member Biasi returned to the dais at this time.

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

1. None

CITY MANAGER REPORT: Parking Committee meeting tomorrow at 6:30 p.m. at the Public Safety Facility. Thursday, May 4th is the Big DOG (Day of Giving.)

INFORMATION ONLY

1. December 2016 Investment Report
2. December 2016 Treasurer Report
3. January 2017 Investment Report
4. January 2017 Treasurer Report
5. February 2017 Investment Report
6. February 2017 Treasurer Report

ADJOURNMENT: Mayor Cowan adjourned the meeting at 8:26 p.m.

Wade Cowan, MAYOR

ATTEST:

Nanci G. Mills, City Clerk



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: May 16, 2017
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Alan Mitchell, City Engineer
SUBJECT: Winters Highlands Phase 1 Subdivision – Agreements

RECOMMENDATION: Staff recommends the City Council:

1. Adopt Resolution No. 2017-24 approving the following:
 - a. Authorize the Mayor to execute the Public Improvement and Maintenance Agreement with HBT of Winters Highlands LLC ; and
 - b. Authorize the Mayor to execute the Subdivision Improvement and Maintenance Agreement with HBT of Winters Highlands LLC; and
 - c. Authorize the City Clerk to record both Agreements with the County Recorder.

BACKGROUND: The Winters Highlands Phase 1 Subdivision project consists of approximately 74 lots on 20 acres, located at the north end of the current Main Street dead-end. In April 2006, the City approved the Winters Highlands Development Agreement, and an Amended and Restated Development Agreement was recorded on April 20, 2015.

Due to the decline in the economy, the subdivision has not moved forward until recently. Early in 2014 the City started meeting with representatives of Homes by Towne, a homebuilder who was interested in acquiring the Winters Highlands Subdivision. They purchased the property from the previous property owner GBH-Winters Highlands, LLC, and are prepared to move forward.

DISCUSSION:

Homes by Towne and their Engineer have prepared improvement plans for the phase 1 improvements, and propose to start construction in June 2017. With phase 1, the developer is required to also construct off-site improvements, which include a Sewer Pump Station, Storm Drain Pump Station and Pond Modifications, and a Sewer Force Main. The attached Winters Highlands Exhibit shows the proposed improvements. The following Agreements are required in-order for the developer to move forward with these projects.

Public Improvement and Maintenance Agreement

The Development Agreement includes Mitigation Measures and Conditions of Approval, which were approved for the project in accordance with the Subdivision Map Act and the City's Subdivision Ordinance. As part of the Conditions of Approval, the Developer is required to fund and construct certain off-site improvements, including an off-site sewer pump station and sewer force main, and a storm drain pump station, to accommodate sewer and drainage flows from the Winters Highlands, Callahan, and other developments in the area. As stated in Condition of Approval No. 134, the City had the option of requiring Developer to design and construct these improvements at the Developer's expense. The Public Improvement Agreement allows the Developer to commence with construction of the improvements, and provides for adequate security for the completion of the improvements.

Subdivision Improvement and Maintenance Agreement

The Development Agreement includes Mitigation Measures and Conditions of Approval, which were approved for the project in accordance with the Subdivision Map Act and the City's Subdivision Ordinance. As part of the Conditions of Approval, the Developer is required to fund, construct, and dedicate certain public improvements, including roads, curb, gutter, and sidewalk, water, sewer, and storm drains, landscaping, and other public utilities. The Subdivision Improvement Agreement allows the Developer to commence with construction of the improvements, and provides for adequate security for the completion of the improvements.

ALTERNATIVES: None recommended by staff.

FISCAL IMPACT: The Developer will pay fees, pursuant to the Agreement, Conditions of Approval, and Development Agreement. No City funds impacted.

Attachment: Winters Highlands Exhibit
Resolution No. 2017-24
Public Improvement and Maintenance Agreement
Subdivision Improvement and Maintenance Agreement

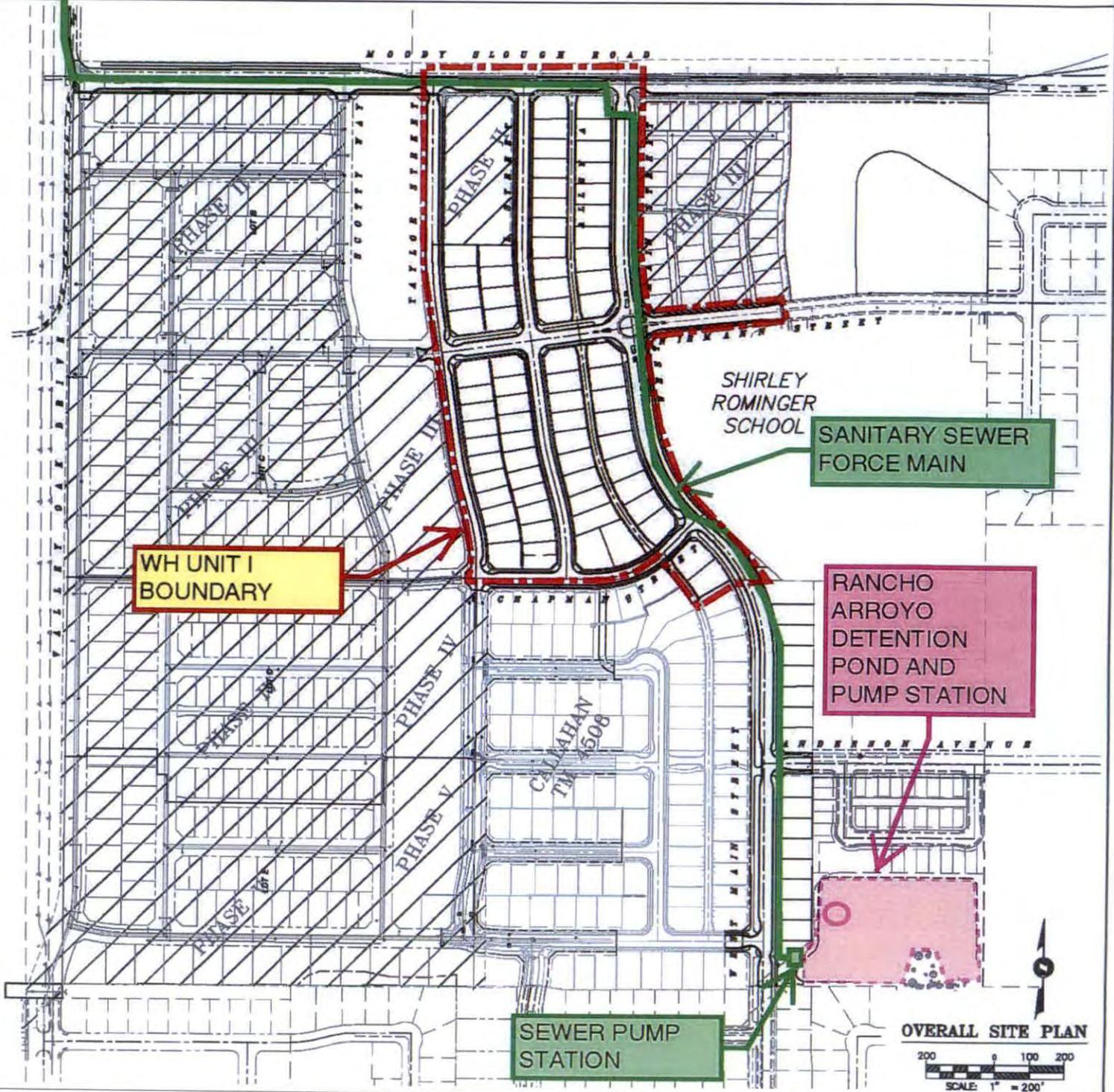
PHASE I IMPROVEMENT PLANS

FOR

WINTERS HIGHLANDS SUBDIVISION NO. 4507

CITY OF WINTERS

YOLO COUNTY, CA



RESOLUTION NO. 2017 - 24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS TO:

- a. **AUTHORIZE THE MAYOR TO EXECUTE THE PUBLIC IMPROVEMENT AND MAINTENANCE AGREEMENT WITH HBT OF WINTERS HIGHLANDS LLC ; AND**
- b. **AUTHORIZE THE MAYOR TO EXECUTE THE SUBDIVISION IMPROVEMENT AND MAINTENANCE AGREEMENT WITH HBT OF WINTERS HIGHLANDS LLC; AND**
- c. **AUTHORIZE THE CITY CLERK TO RECORD ALL AGREEMENTS WITH THE COUNTY RECORDER.**

WHEREAS, the Winters Highlands Subdivision project consists of approximately 400 lots on 70 acres, located at the north west end of the current Main Street dead-end; and

WHEREAS, in April 2006, the City approved the Winters Highlands Development Agreement, and an Amended and Restated Development Agreement was recorded on April 20, 2015; and

WHEREAS, Homes by Towne, aka HBT of Winters Highlands, LLC (Developer) is phasing the Project and is prepared to move forward with Phase 1; and

WHEREAS, the Development Agreement and/or Conditions of Approval require certain infrastructure be constructed with Phase 1 improvements, which include the on-site public improvements (roads, curb, gutter, and sidewalk, water, sewer, and storm drain, etc.), and off-site public improvements (W Main SS Pump Station and SS Force Main, and Rancho Arroyo SD Pump Station); and

WHEREAS, Developer has executed a Public Improvement and Maintenance Agreement to provide for the construction of the required off-site public improvements; and

WHEREAS, Developer has executed a Subdivision Improvement and Maintenance Agreement to provide for the construction of the required on-site public improvements; and

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

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

1. The City Council hereby finds that all of the facts set forth in the Recitals above are true and correct.
2. The City Clerk is hereby directed to:
 - a. Certify to the adoption of this Resolution; and
 - b. Record the Public Improvement and Maintenance Agreement and Subdivision Improvement and Maintenance Agreement with the County Recorder; and

PASSED AND ADOPTED by the City Council of the City of Winters, on this 16th day of May, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Wade Cowan, MAYOR

ATTEST:

Nanci G. Mills, City Clerk

Approved as to form:

Ethan Walsh, City Attorney

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

SEWER AND STORM DRAIN IMPROVEMENTS FOR THE WINTERS HIGHLANDS SUBDIVISION

This Public Improvement and Maintenance Agreement ("AGREEMENT") is made and entered into this ____ day of _____, 2017 ("EFFECTIVE DATE") by and between the CITY OF WINTERS, a municipal corporation, hereinafter called ("CITY") and HBT of Winters Highlands, LLC., a California Limited Liability Company, hereinafter called ("DEVELOPER"). CITY and DEVELOPER are hereinafter sometimes collectively referred to as the "PARTIES" and singularly as "PARTY."

RECITALS

WHEREAS, CITY entered into a Development Agreement, dated and recorded May 30, 2006, as Document No. 2006-0020954-00, a First Amendment to Development Agreement, dated December 21, 2006, and recorded January 19, 2007 as Document No. 2007-0002146-00, a Second Amendment to Development Agreement, dated February 19, 2009, and recorded March 16, 2009 as Document No. 2009-0007219-00, and an Amended and Restated Development Agreement dated as of April 16, 2015, and recorded April 20, 2015, as Document No. 2015-0010120-00 (the "Development Agreement") with DEVELOPER's predecessor in interest, GBH-WINTERS HIGHLANDS, LLC, a California limited liability company ("GBH"), providing for the development of certain property commonly known in the City of Winters as the Winters Highlands Property, Yolo County Assessor's Parcels Nos. Nos. 030-220-040-000, 030-220-050-000, 030-220-017-000, 030-220-019-000, 030-361-

001-000 (the "Property"), with a multi-phased residential project with ancillary open space and on-site and off-site improvements (the "Project"); and

WHEREAS, as noted in the Development Agreement, the Winters Highlands Tentative Subdivision Map ("Tentative Map"), including mitigation measures and Conditions of Approval ("Conditions of Approval"), were approved for the Property in accordance with the Subdivision Map Act and the CITY's Subdivision Ordinance. As part of the Conditions of Approval, DEVELOPER is required to fund and construct certain off-site improvements, including without limitation construction of an off-site sewer pump station identified on West Main Street adjacent to the entrance to the Rancho Arroyo Detention Pond (the "Required Improvements"), as more fully described in Exhibit A, attached hereto and incorporated herein by reference. As stated in Condition of Approval No. 134, CITY has the option of requiring Developer to design and construct the Required Improvements or have CITY design and construct the Required Improvements at DEVELOPER's expense; and

WHEREAS, DEVELOPER wishes to commence construction the improvements described in this AGREEMENT prior to obtaining approval and recordation of the Final Map, as provided for under the Development Agreement. CITY is willing to allow DEVELOPER to commence obtaining approvals for and construction of the improvements described herein, contingent upon DEVELOPER's execution of this AGREEMENT and the provision of adequate security for the completion of the Improvements described herein; and

WHEREAS, it is to the benefit of DEVELOPER and CITY that DEVELOPER post adequate security and the Parties establish other requirements to ensure the construction and installation, within a specific time, of the improvements described in this AGREEMENT; 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 Eighty-Two-Thousand Two-Hundred Eighty-Two Dollars and Fifty Cents. Said fees in the amount of \$82,282.50 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 \$82,282.50 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 V.W. Housen and Associates – W Main SS Pump Station, Wood Rodgers – Rancho Arroyo Detention Basin Pump Station, and Laugenour and Meikle – W Main Street SS Force Main ("IMPROVEMENT PLANS"), a copy of which is 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. 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 Six-Million Thirty-Nine-Thousand Seven-Hundred-Eighty-Seven Dollars (\$6,039,787).

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

c. DEVELOPER agrees that gas, electric, telephone and cable television utilities shall be provided via underground transmission facilities at no cost to CITY. DEVELOPER's cost of such facilities (excluding those costs to be paid by utility companies) shall be included in the amount of improvement securities required in Section 9 of this AGREEMENT.

4. Conformance with Improvements Plans:

a. All construction of the required public improvements shall conform with the IMPROVEMENT PLANS and shall comply with all applicable standards as required by the CITY's improvement standards, and shall be to the reasonable satisfaction of the City Engineer.

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's City Council, and incorporated herein by this reference, in accordance with CITY ordinances, and state law. Reimbursement to CITY of CITY staff time, costs, and expenses, including legal expenses, incurred in the processing, review, approval, inspecting and completion of the improvement and agreements therefore, is a specific condition of approval.

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. 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.

- 1) CITY shall request and receive written confirmation from Yolo County Public Works that all work associated with Yolo County Public Works Project No. PW2016-0004 (Winters Sewer Force Main Project) has been completed to the satisfaction of the County Engineer prior to final acceptance by the City Council or release of security.

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 increased to reflect increases in the costs of constructing the required improvements or by other 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 security in the sum of Six-Million Thirty-Nine-Thousand Seven-Hundred-Eighty-Seven Dollars (\$6,039,787), which is equal to one hundred (100) percent of the total estimated cost of constructing the required public improvements, which estimated cost has been reviewed and approved by the City Engineer, and the cost of any other obligation to be performed by DEVELOPER under this AGREEMENT; and

b. Separate improvement security in the sum of Three-Million Nineteen-Thousand Eight-Hundred-Ninety-Three Dollars (\$3,019,893), which is equal to fifty (50) percent of the estimated cost of constructing the required public improvements, securing payment to the contractor, subcontractor, and to persons furnishing labor, materials, or equipment to them for the construction of the required public improvements.

c. As part of the obligation guaranteed by the security and in addition to the face amount of the security, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by CITY in successfully enforcing the obligation secured.

d. 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

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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 may be released upon the performance of the act and final completion and acceptance by the City Council of the required work. 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 shall, 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. 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.

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12. **As Built Drawings:** DEVELOPER shall keep accurate records on a set of project mylar prints of all additions and deletions to the work, and of all changes in location, elevation, and character of the work, not otherwise shown or noted on the IMPROVEMENT PLANS. Prior to field acceptance of the work, all additions and deletions shall be transferred to mylars and two half size sets of prints. DEVELOPER shall deliver this "as built" information to the City Engineer for the Engineer's approval and retention along with an AutoCAD 2000 or later digital file of IMPROVEMENT PLANS submitted on Compact Disk.

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 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 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 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, consultants, 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 DEVELOPER 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. DEVELOPER shall provide CITY immediate written notice of such cancellation or reduction in coverage upon DEVELOPER's receipt of such notice. 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, consultants, 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.

18a. Maintenance of Public Improvements and Landscaping Prior to Acceptance by City. CITY shall not be responsible or liable for the maintenance or care of the Public Improvements until CITY approves and accepts them. CITY shall exercise no control over the Public Improvements until accepted. Any use by any person of the Public Improvements, or any portion thereof, shall be at the sole and exclusive risk of DEVELOPER at all times prior to CITY'S acceptance of the Public Improvements. DEVELOPER shall maintain all the Public Improvements in a state of good repair until they are completed by DEVELOPER and approved and accepted by CITY.

Maintenance shall include, but shall not be limited to: repair of pavement, curbs, gutters, sidewalks, signals, parkways, water mains, and sewers; maintaining all landscaping in a vigorous and thriving condition reasonably acceptable to CITY; removal of debris from sewers and storm drains; and sweeping, repairing, and maintaining in good and safe condition all streets and street improvements. DEVELOPER shall cause the sweeping of streets to occur weekly at a minimum. DEVELOPER shall perform additional street sweeping work as necessary depending on construction activities or as required by, and at the direction of, the City Engineer. It shall be DEVELOPER'S responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by CITY. If DEVELOPER fails to properly prosecute its maintenance obligation under this Section, CITY may do all work necessary for such maintenance and the cost thereof shall be the responsibility of DEVELOPER and its surety under this Agreement. CITY shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Public Improvements or their condition prior to acceptance.

18b. Repair or 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

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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 that DEVELOPER fails to cure any such breach in its entirety within fifteen (15) days 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
Tele.: (530) 795-4910**

**DEVELOPER: HBT of Winters Highlands, LLC
11060 White Rock Road, Suite 150
Rancho Cordova, CA 95670
Attn: Jeremy Goulart
Tele.: (916) 782-2424**

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 or the Development Agreement. Currently those fees are Water, Streets, Police, Fire, Sewer, Local Drainage, General Capital, and Monitoring (General Plan).
- e.** The Flood Area Storm Drainage Development Impact Fees referred to in paragraph 32(d) for this Property and shall be paid in full prior to issuance of the certificates of occupancy for the development.
- 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.** Public Improvement Plan Check and Inspection Fees: Appropriate plan check fees shall be paid prior to plan check of IMPROVEMENT PLANS. Appropriate inspection fees shall be paid prior to approval of the IMPROVEMENT PLANS.
- 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, provided however that the City may issue permanent certificates of occupancy for structures within the PROJECT if the City Engineer and Fire Chief determine, in their sole and absolute discretion, that DEVELOPER has completed such public improvements that provide the infrastructure and fire safety improvements as are necessary or appropriate to serve the structures for which such certificates of occupancy are requested, and the City Engineer and Fire Chief have each provided their determination in writing.

35. **Assignment or Transfer of Agreement.** DEVELOPER shall not assign, hypothecate or transfer, either directly or by operation of law, this AGREEMENT or any interest herein without prior written consent of City, which shall not be unreasonably withheld. Any attempt to do so shall be null

and void, and any assignee, hypothecatee or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. In the event that CITY consents in writing to such an assignment, any assignee, hypothecatee or transferee shall expressly assume DEVELOPER's obligations hereunder by a written agreement in a form as is reasonably acceptable to CITY, and containing such security as required pursuant to this AGREEMENT.

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

CITY OF WINTERS:

DEVELOPER:

BY: _____
Wade Cowen, MAYOR

BY: _____
Jeffrey M. Pemstein, Vice President

ATTEST:

APPROVED AS TO FORM:

Nanci G. Mills, CITY CLERK

Ethan Walsh, ATTORNEY

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)

SUBDIVISION IMPROVEMENT AND MAINTENANCE AGREEMENT

ON-SITE PUBLIC IMPROVEMENTS FOR THE WINTERS HIGHLANDS SUBDIVISION, PH 1

This Subdivision Improvement and Maintenance Agreement ("AGREEMENT") is made and entered into this ____ day of _____, 2017 ("EFFECTIVE DATE") by and between the CITY OF WINTERS, a municipal corporation, hereinafter called ("CITY") and HBT of Winters Highlands, LLC., a California Limited Liability Company, hereinafter called ("DEVELOPER"). CITY and DEVELOPER are hereinafter sometimes collectively referred to as the "PARTIES" and singularly as "PARTY."

RECITALS

WHEREAS, CITY entered into a Development Agreement, dated and recorded May 30, 2006, as Document No. 2006-0020954-00, a First Amendment to Development Agreement, dated December 21, 2006, and recorded January 19, 2007 as Document No. 2007-0002146-00, a Second Amendment to Development Agreement, dated February 19, 2009, and recorded March 16, 2009 as Document No. 2009-0007219-00, and an Amended and Restated Development Agreement dated as of April 16, 2015, and recorded April 20, 2015, as Document No. 2015-0010120-00 (the "Development Agreement") with DEVELOPER's predecessor in interest, GBH-WINTERS HIGHLANDS, LLC, a California limited liability company ("GBH"), providing for the development of certain property commonly known in the City of Winters as the Winters Highlands Property, Yolo County Assessor's Parcels Nos. 030-220-040-000, 030-220-050-000, 030-220-017-000, 030-220-019-000, 030-361-001-

000 (the "Property"), with a multi-phased residential project with ancillary open space and on-site and off-site improvements (the "Project"); and

WHEREAS, as noted in the Development Agreement, the Winters Highlands Tentative Subdivision Map ("Tentative Map"), including mitigation measures and Conditions of Approval ("Conditions of Approval"), were approved for the Property in accordance with the Subdivision Map Act and the CITY's Subdivision Ordinance. As part of the Conditions of Approval, DEVELOPER is required to fund, construct, and dedicate certain public improvements, including, but not limited to the following: streets, sidewalks, curbs, gutters, sewer, water and storm drainage facilities, and public utility facilities; and

WHEREAS, DEVELOPER wishes to commence construction the improvements described in this AGREEMENT prior to obtaining approval and recordation of the Final Map, as provided for under the Development Agreement. CITY is willing to allow DEVELOPER to commence obtaining approvals for and construction of the improvements described herein, contingent upon DEVELOPER's execution of this AGREEMENT and the provision of adequate security for the completion of the Improvements described herein; and

WHEREAS, it is to the benefit of DEVELOPER and CITY that DEVELOPER post adequate security and the Parties establish other requirements to ensure the construction and installation, within a specific time, of the improvements described in this AGREEMENT; 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 Eighty-Two-Thousand Two-Hundred Eighty-Two Dollars and Fifty Cents. Said fees in the amount of \$82,282.50 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 \$82,282.50 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 Laugenour and Meikle ("IMPROVEMENT PLANS"), a copy of which is 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. 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 Seven-Million Six-Hundred-Seventy-One-Thousand Five-Hundred-Eighty-Three Dollars (\$7,671,583).

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

c. DEVELOPER agrees that gas, electric, telephone and cable television utilities shall be provided via underground transmission facilities at no cost to CITY. DEVELOPER's cost of such facilities (excluding those costs to be paid by utility companies) shall be included in the amount of improvement securities required in Section 9 of this AGREEMENT.

4. Conformance with Improvements Plans:

a. All construction of the required public improvements shall conform with the IMPROVEMENT PLANS and shall comply with all applicable standards as required by the CITY's improvement standards, and shall be to the reasonable satisfaction of the City Engineer.

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's City Council, and incorporated herein by this reference, in accordance with CITY ordinances, and state law. Reimbursement to CITY of CITY staff time, costs, and expenses, including legal expenses, incurred in the processing, review, approval, inspecting and completion of the improvement and agreements therefore, is a specific condition of approval.

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. 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.

- 1) CITY shall request and receive written confirmation from Yolo County Public Works that all work associated with Yolo County Public Works Project No. PW2016-0004 (Winters Sewer Force Main Project) has been completed to the satisfaction of the County Engineer prior to final acceptance by the City Council or release of security.

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 increased to reflect increases in the costs of constructing the required improvements or by other 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 security in the sum of Seven-Million Six-Hundred-Seventy-One-Thousand Five-Hundred-Eighty-Three Dollars (\$7,671,583), which is equal to one hundred (100) percent of the total estimated cost of constructing the required public improvements, which estimated cost has been reviewed and approved by the City Engineer, and the cost of any other obligation to be performed by DEVELOPER under this AGREEMENT; and

b. Separate improvement security in the sum of Three-Million Eight-Hundred-Thirty-Five-Thousand Seven-Hundred-Ninety-One Dollars (\$3,835,791), which is equal to fifty (50) percent of the estimated cost of constructing the required public improvements, securing payment to the contractor, subcontractor, and to persons furnishing labor, materials, or equipment to them for the construction of the required public improvements.

c. As part of the obligation guaranteed by the security and in addition to the face amount of the security, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by CITY in successfully enforcing the obligation secured.

d. 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

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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 may be released upon the performance of the act and final completion and acceptance by the City Council of the required work. 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 shall, 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. 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.

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12. **As Built Drawings:** DEVELOPER shall keep accurate records on a set of project mylar prints of all additions and deletions to the work, and of all changes in location, elevation, and character of the work, not otherwise shown or noted on the IMPROVEMENT PLANS. Prior to field acceptance of the work, all additions and deletions shall be transferred to mylars and two half size sets of prints. DEVELOPER shall deliver this "as built" information to the City Engineer for the Engineer's approval and retention along with an AutoCAD 2000 or later digital file of IMPROVEMENT PLANS submitted on Compact Disk.

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 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 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 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, consultants, 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 DEVELOPER 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. DEVELOPER shall provide CITY immediate written notice of such cancellation or reduction in coverage upon DEVELOPER's receipt of such notice. 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, consultants, 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.

18a. Maintenance of Public Improvements and Landscaping Prior to Acceptance by City. CITY shall not be responsible or liable for the maintenance or care of the Public Improvements until CITY approves and accepts them. CITY shall exercise no control over the Public Improvements until accepted. Any use by any person of the Public Improvements, or any portion thereof, shall be at the sole and exclusive risk of DEVELOPER at all times prior to CITY'S acceptance of the Public Improvements. DEVELOPER shall maintain all the Public Improvements in a state of good repair until they are completed by DEVELOPER and approved and accepted by CITY.

Maintenance shall include, but shall not be limited to: repair of pavement, curbs, gutters, sidewalks, signals, parkways, water mains, and sewers; maintaining all landscaping in a vigorous and thriving condition reasonably acceptable to CITY; removal of debris from sewers and storm drains; and sweeping, repairing, and maintaining in good and safe condition all streets and street improvements. DEVELOPER shall cause the sweeping of streets to occur weekly at a minimum. DEVELOPER shall perform additional street sweeping work as necessary depending on construction activities or as required by, and at the direction of, the City Engineer. It shall be DEVELOPER'S responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by CITY. If DEVELOPER fails to properly prosecute its maintenance obligation under this Section, CITY may do all work necessary for such maintenance and the cost thereof shall be the responsibility of DEVELOPER and its surety under this Agreement. CITY shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Public Improvements or their condition prior to acceptance.

18b. Repair or 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

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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 that DEVELOPER fails to cure any such breach in its entirety within fifteen (15) days 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
Tele.: (530) 795-4910**

**DEVELOPER: HBT of Winters Highlands, LLC
11060 White Rock Road, Suite 150
Rancho Cordova, CA 95670
Attn: Jeremy Goulart
Tele.: (916) 782-2424**

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 or the Development Agreement. Currently those fees are Water, Streets, Police, Fire, Sewer, Local Drainage, General Capital, and Monitoring (General Plan).
- e.** The Flood Area Storm Drainage Development Impact Fees referred to in paragraph 32(d) for this Property and shall be paid in full prior to issuance of the certificates of occupancy for the development.
- 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.** Public Improvement Plan Check and Inspection Fees: Appropriate plan check fees shall be paid prior to plan check of IMPROVEMENT PLANS. Appropriate inspection fees shall be paid prior to approval of the IMPROVEMENT PLANS.
- 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, provided however that the City may issue permanent certificates of occupancy for structures within the PROJECT if the City Engineer and Fire Chief determine, in their sole and absolute discretion, that DEVELOPER has completed such public improvements that provide the infrastructure and fire safety improvements as are necessary or appropriate to serve the structures for which such certificates of occupancy are requested, and the City Engineer and Fire Chief have each provided their determination in writing.

35. **Assignment or Transfer of Agreement.** DEVELOPER shall not assign, hypothecate or transfer, either directly or by operation of law, this AGREEMENT or any interest herein without prior written consent of City, which shall not be unreasonably withheld. Any attempt to do so shall be null

and void, and any assignee, hypothecatee or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. In the event that CITY consents in writing to such an assignment, any assignee, hypothecatee or transferee shall expressly assume DEVELOPER's obligations hereunder by a written agreement in a form as is reasonably acceptable to CITY, and containing such security as required pursuant to this AGREEMENT.

(ALL SIGNATURES MUST BE ACKNOWLEDGED)

CITY OF WINTERS:

DEVELOPER:

BY: _____
Wade Cowen, MAYOR

BY: _____
Jeffrey M. Pemstein, Vice President

ATTEST:

APPROVED AS TO FORM:

Nanci G. Mills, CITY CLERK

Ethan Walsh, ATTORNEY



TO: Honorable Mayor and Council Members
DATE: May 17, 2016
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Nanci G. Mills, Director of Administrative Services/City Clerk
SUBJECT: Resolution No. 2017-25 Amending Salary Schedule

RECOMMENDATION:
Adopt Resolution 2017-25 Amending Salary Schedule

BACKGROUND:
On occasion the City of Winters finds itself with very low staffing levels, being mostly due to employee vacation, sick, or even possible injuries. We have found ourselves being without employees to cover.

In a few instances we have had to call in people to cover in certain areas and then find that we don't have appropriate pay ranges to cover the part-time employee who have covered in this type of situation.

Staff has added most regular positions to the part-time list with position appropriate hourly rates in order to meet this type of situation.

Staff has amended the attached salary schedules to meet the labor law requirements. There are no changes to salaries/rate of pay within any of these salaries.

FISCAL IMPACT:
None

Attachments:
Resolution with Salary Schedules



Resolution 2017-25
Amending Salary Schedules

Passed and adopted this ____ day of _____, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSENT:

CITY OF WINTERS

Wade Cowan, Mayor

ATTEST:

Nanci G. Mills, City Clerk

City of Winters
Effective October 2016

<u>BENEFIT UNIT & POSITION</u>		<u>MONTHLY SALARY STES</u>					<u>ANNUAL SALARY</u>	
		A	B	C	D	E		
MM	Accounting Technician	\$3,565	\$3,743	\$3,930	\$4,127	\$4,333	\$42,780	\$51,996
MI	Administrative Assistant (v)	\$3,713	\$3,898	\$4,093	\$4,298	\$4,513	\$44,556	\$54,156
MM	Administrative Coordinator - Police Dept.	\$6,531	\$6,858	\$7,201	\$7,561	\$7,939	\$78,372	\$95,268
MM	Assistant Planner	\$5,616	\$5,897	\$6,191	\$6,501	\$6,826	\$67,392	\$81,912
M	Buiding Official	\$6,493	\$6,818	\$7,158	\$7,516	\$7,892	\$77,916	\$94,704
F	Captain - Fire	\$6,338	\$6,655	\$6,987	\$7,337	\$7,704	\$76,056	\$92,448
E	City Clerk					\$80	\$960	\$960
E	City Council					\$180	\$2,160	\$2,160
E	Mayor					\$180	\$2,160	\$2,160
CON	City Manager					\$12,092	\$145,104	\$145,104
POA	Community Services Officer	\$3,081	\$3,235	\$3,235	\$3,396	\$3,744	\$36,972	\$44,928
PO	Corporal	\$5,282	\$5,536	\$5,803	\$6,083	\$6,377	\$63,384	\$76,524
DH	Director of Administrative Services	\$8,371	\$8,790	\$8,229	\$9,691	\$10,175	\$100,452	\$122,100
DH	Director of Community Development (v)	\$8,371	\$8,790	\$8,229	\$9,691	\$10,175	\$100,452	\$122,100
DH	Director of Financial Management	\$8,371	\$8,790	\$8,229	\$9,691	\$10,175	\$100,452	\$122,100
M	Environmental Services Manager	\$6,493	\$6,818	\$7,158	\$7,516	\$7,892	\$77,916	\$94,704
C	Executive Asst. to City Manager (v)	\$3,621	\$3,802	\$3,992	\$4,192	\$4,402	\$43,452	\$52,824
F	Engineer - Fire (v)	\$5,614	\$5,894	\$6,189	\$6,498	\$6,823	\$67,368	\$81,876
MM	Facilities Manager	\$6,005	\$6,306	\$6,621	\$6,952	\$7,299	\$72,060	\$87,588
F	Fire Chief	\$8,371	\$8,790	\$8,229	\$9,691	\$10,175	\$100,452	\$122,100
F	Firefighter	\$5,384	\$5,653	\$5,935	\$6,232	\$6,544	\$64,608	\$78,528
MM	Grant Writer (v)	\$4,502	\$4,727	\$4,963	\$5,211	\$5,472	\$54,024	\$65,664
DH	Housing Manager	\$8,371	\$8,790	\$8,229	\$9,691	\$10,175	\$100,452	\$122,100
PO	Lieutenant (v)	\$6,694	\$7,028	\$7,380	\$7,749	\$8,136	\$80,328	\$97,632
MI	Maintenance Worker - I	\$2,565	\$2,693	\$2,828	\$2,969	\$3,117	\$30,780	\$37,404
MI	Maintenance Worker - II	\$3,392	\$3,562	\$3,740	\$3,927	\$4,123	\$40,704	\$49,476
MI	Maintenance Worker - III - Senior	\$4,122	\$4,329	\$4,545	\$4,772	\$5,011	\$49,464	\$60,132
MI	Maintenance Worker - IV - Field Sup	\$5,014	\$5,265	\$5,528	\$5,805	\$6,095	\$60,618	\$73,140

**City of Winters
Effective October 2016**

<u>BENEFIT UNIT & POSITION</u>		<u>MONTHLY SALARY STES</u>					<u>ANNUAL SALARY</u>	
		A	B	C	D	E		
C	Management Analyst - Administration	\$4,502	\$4,727	\$4,963	\$5,211	\$5,472	\$54,024	\$65,664
MM	Management Analyst - Community Dev	\$4,502	\$4,727	\$4,963	\$5,211	\$5,472	\$54,024	\$65,664
MM	Management Analyst - Finance	\$4,502	\$4,727	\$4,963	\$5,211	\$5,472	\$54,024	\$65,664
MI	Permit Technician	\$3,387	\$3,556	\$3,734	\$3,920	\$4,116	\$40,644	\$49,392
DH	Police Chief	\$8,475	\$8,899	\$9,344	\$9,811	\$10,301	\$101,700	\$123,612
PO	Police Officer	\$5,082	\$5,336	\$5,603	\$5,883	\$6,177	\$60,984	\$74,124
PO	Corporal	\$5,282	\$5,536	\$5,803	\$6,083	\$6,377	\$63,384	\$76,524
PO	Lieutenant (v)	\$6,694	\$7,028	\$7,380	\$7,749	\$8,136	\$80,328	\$97,632
S	Sergeant	\$5,943	\$6,240	\$6,552	\$6,879	\$7,223	\$71,316	\$86,676
M	Public Works Superintendent	\$6,493	\$6,818	\$7,158	\$7,516	\$7,892	\$77,916	\$94,704
MI	Records Clerk I	\$2,638	\$2,770	\$2,908	\$3,054	\$3,207	\$31,656	\$38,484
MI	Records Clerk II	\$2,899	\$3,044	\$3,196	\$3,356	\$3,523	\$34,788	\$42,276
MI	Recreation Coordinator (v)	\$2,641	\$2,773	\$2,912	\$3,058	\$3,211	\$31,692	\$38,532
S	Sergeant	\$5,943	\$6,240	\$6,552	\$6,879	\$7,223	\$71,316	\$86,676
E	Treasurer					\$25	\$300	\$300

**City of Winters
Effective January 2017**

TEMPORARY PART-TIME EMPLOYEE HOURLY WAGES

Hourly Rate/Range

PT	Accounting Technician	20.57-25.00
PT	Administrative Assistant	21.42-26.03
PT	Administrative Coordinator - Police Dept.	37.68-45.80
PT	After School Coordinator	33.00-38.00
PT	After School Instructional Aide	12.00-15.00
PT	After School Site Coordinator	20.00-22.00
PT	After School Teacher - Certified	33.00-38.00
PT	Assistant Planner	32.40-39.38
PT	Building Inspector	30.00-40.00
PT	Captain - Fire	26.12-31.75
PT	Cashier	10.50-13.00
PT	Community Center Attendant	10.50 -16.00
PT	Community Service Officer Records	17.77-21.60
PT	Corporal	30.47-36.79
PT	Executive Asst. to City Manager	20.89-25.40
PT	Engineer - Fire	23.12-28.12
PT	Facilities Manager	34.64-42.11
PT	Firefighter	22.19-26.97
PT	Fire Secretary	18.50
PT	Grant Writer	25.97-31.57
PT	Intern	10.50-35.00
PT	Lieutenant	38.62-46.94
PT	Lifeguard I	10.75
PT	Lifeguard II	11.75
PT	Lifeguard III	12.75
PT	Lifeguard IV	13.75
PT	Maintenance Worker I	14.80-17.98

**City of Winters
Effective January 2017**

TEMPORARY PART-TIME EMPLOYEE HOURLY WAGES

Hourly Rate/Range

PT	Maintenance Worker II	19.57-23.79
PT	Maintenance Worker III	23.78-28.91
PT	Maintenance Worker IV	28.93-35.16
PT	Management Analyst	25.97-31.57
PT	Permit Technician	19.54-23.75
PT	Police Corporal	30.47-36.79
PT	Police Officer	29.32-35.64
PT	Pool Manager	18.25
PT	Project Management	10.50-35.00
PT	Recreation Leader I	10.50
PT	Recreation Leader II	11.00
PT	Recreation Leader III	11.50
PT	Recreation Leader IV	12.00
PT	Recreation Coordinator	15.24-18.52
PT	Reccords Clerk I	15.22-18.50
PT	Records Clerk II	16.72-20.32
PT	Sergeant	34.29-41.67
PT	Supervising Lifeguard	15.25

City of Winters

Key to Benefit Codes

C = Confidential

CON = Contract

DH = Department Head

F = Fire

E = Elected

M = Manager

MM = Mid Manager

MI = Miscellaneous

PT = Part Time

S = Sergeants

(v) = Vacant

Employee pays Employee Share of PERS Miscellaneous Contribution of 7%

Employee pays Employees Share of Safety Member Contribution of 9%

Modified May 16, 2017



**CITY COUNCIL
STAFF REPORT**

TO: Honorable Mayor and Council Members
DATE: May 16, 2017
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Dan Maguire, Economic Development and Housing Manager *DM*
SUBJECT: Adopt Resolution No. 2017-22, Granting Consent to the County of Yolo to Establish the Yolo County Tourism Business Improvement District and Include the City of Winters in the District

RECOMMENDATION:

Staff recommends the City Council:

- 1) Receive the staff report, and
- 2) Adopt Resolution No. 2017-22, granting consent to the County of Yolo to establish the Yolo County Tourism Improvement District (“YCTBID”) and include the City of Winters in the YCTBID

BACKGROUND:

State law provides counties with the ability to form special benefit assessment districts for the purpose of business improvement, subject to the support of a majority of the affected businesses.

The County of Yolo is working with Visit Yolo and local lodging businesses to establish the YCTBID. The County of Yolo has requested by resolution (attached) the inclusion of the City of Winters in the YCTBID. The YCTBID Management District Plan (“MDP”) sets forth the assessment rate. The annual assessment rate shall be two percent (2%) of gross room rental revenue. Based on the benefit received, the assessment shall not be collected on: stays of more than thirty (30) consecutive days; stays by any officer of employee who is exempt by reason of express provision of federal law or international treaty; and stays pursuant to contracts executed prior to July 1, 2017. In order to renew the district, a majority of the businesses paying the assessment must petition the City for district renewal (by amount paid).

The recommended action, adoption of the resolution consenting to the inclusion of the City of Winters in the proposed YCTBID, will enable Yolo County and Visit Yolo to move forward with the YCTBID formation process. Upon successful completion, the YCTBID will be governed by the County and the Chamber, and the City will not have a management role. Included among the

attachments to the staff report is a map that defines the proposed boundary of the YCTBID.

DISCUSSION:

The majority of businesses threshold for the formation of the YCTBID was achieved as of the voting cutoff of May 8th, 2017, with affirmative votes cast by 62% of the lodging businesses in the YCTBID area. Hotel Winters, LLC (Hotel Winters, – the downtown hotel) and Winters Hospitality, LLC (dba Fairfield Inn and Suites by Marriot – the highway hotel), and Park Winters are included among the businesses supporting the formation of the YCTBID. The Yolo County Board of Supervisors unanimously adopted Resolution 17-57 (attached) at their meeting of May 9th. If the formation of the YCTBID is approved, the 2% assessment would be in addition to existing Transient Occupancy Tax (TOT) and would be collected by the local jurisdictions. The City of Winters would then submit those monies to Yolo County.

In order to support Yolo County lodging businesses and the tourism economy of Yolo County, including the City of Winters, staff recommends the Winters City Council approve Resolution 2017-22, affirming Winters' support for enabling the County of Yolo to proceed with the establishment of the YCTBID.

ALTERNATIVES:

None recommended by staff.

FISCAL IMPACT:

No City funds impacted.

Attachments:

- City of Winters Resolution No. 2017-22
- Resolution of the County of Yolo Requesting Consent from the Cities of Davis, Winters, and Woodland to Establish the YCTBID (Resolution # 17-57)
- YCTBID Boundary Map
- Hotelier Letter of Support

RESOLUTION NO. 2017-22

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS,
CALIFORNIA, GRANTING CONSENT TO THE COUNTY OF YOLO TO ESTABLISH
THE YOLO COUNTY TOURISM BUSINESS IMPROVEMENT DISTRICT**

WHEREAS, the County of Yolo is beginning the process to establish the Yolo County Tourism Business Improvement District (YCTBID) pursuant to the Property and Business Improvement District Law of 1994, Streets and Highways Code section 36600 et seq., to promote tourism and the lodging businesses in unincorporated Yolo County, and the cities of Davis, Winters, and Woodland; and

WHEREAS, the Board of Supervisors of the County of Yolo has requested consent to establish the YCTBID in the City of Winters with adoption of Yolo County Board of Supervisors Resolution No. 17-__, dated [May 9, 2017];

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

Section 1: The above recitals are true and correct.

Section 2: The City Council grants consent to the County of Yolo for all the purposes in connection with the creation, operation and future renewals of the YCTBID, which District shall include the City of Winters.

Section 3: The City Clerk is hereby directed to transmit a certified copy of this Resolution to the Yolo County Clerk of the Board.

Section 4: This Resolution is effective upon its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Winters, State of California, held on this 16th day of May, 2017 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Wade Cowan
Mayor
City of Winters

ATTEST: _____
Nanci G. Mills
City Clerk
City of Winters

FILED

MAY 10 2017

BY Julie Rachtz
DEPUTY CLERK OF THE BOARD

Resolution No. 17-57

Resolution of the Board of Supervisors of the County of Yolo Requesting Consent of the City Councils of the Cities of Davis, Winters and Woodland to Establish the Yolo County Tourism Business Improvement District

WHEREAS, the Board of Supervisors (the "Board") of the County of Yolo (the "County") desires to begin proceedings to establish the Yolo County Tourism Business Improvement District ("YCTBID"); and

WHEREAS, certain tourism business owners have requested that the Board establish the YCTBID; and

WHEREAS, a portion of the territory to be included in the proposed YCTBID lies within the boundaries of the cities of Davis, Winters and Woodland, as shown on the map attached to and incorporated into this resolution as Exhibit A; and

WHEREAS, the area of the cities of Davis, Winters and Woodland which lies within the boundaries of the proposed YCTBID will, in the opinion of the Board, be benefited by the improvements and activities, and the purpose sought to be accomplished by the work can best be accomplished by a single comprehensive scheme of work.

NOW, THEREFORE, IT IS RESOLVED by the Board of Supervisors of the County of Yolo, State of California, as follows:

1. Each of the foregoing recitals is true and correct.
2. The area of the cities of Davis, Winters and Woodland which lies within the boundaries of the proposed YCTBID will, in the opinion of the Board, be benefited by the improvements and activities, and the purpose sought to be accomplished by the work can best be accomplished by a single comprehensive scheme of work.
3. The Clerk of the Board is directed to transmit a certified copy of this resolution to the city clerks of the cities of Davis, Winters and Woodland.

PASSED AND ADOPTED by the Board of Supervisors of the County of Yolo, State of California, this 9th day of May, 2016, by the following vote:

AYES: **Villegas, Saylor, Rexroad, Provenza, Chamberlain.**

NOES: **None.**

ABSENT: **None.**

ABSTAIN: **None.**

Duane Chamberlain
Duane Chamberlain, Chair,
Board of Supervisors

Attest: Julie Dachtler Clerk
Board of Supervisors

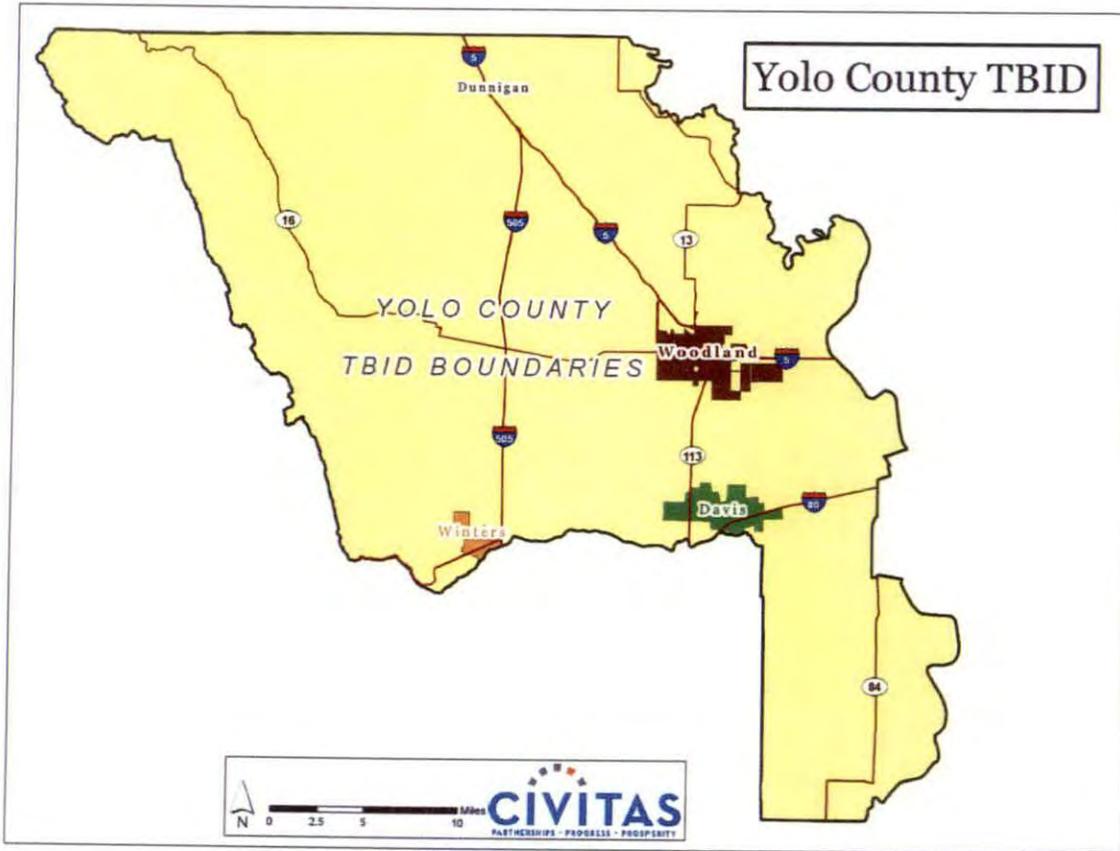


Deputy
(Seal)

Approved as to Form:
Philip J. Pogledich, County Counsel

By: Carrie Scarlata
Carrie Scarlata,
Assistant County Counsel

EXHIBIT A
District Boundaries





December 1, 2016

Dirk Brazil, City Manager, City of Davis
Paul Navazio, City Manager, City of Woodland
John Donlevy, City Manager, City of Winters
Patrick Blacklock, County Administrator, Yolo County

Re: Yolo County Tourism Marketing District

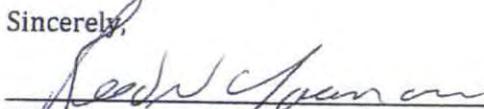
Dear Sirs,

We support the proposed restructuring of Visit Yolo (Yolo County Visitors Bureau) to combine into a single Business Improvement District. This district would include Davis, Winters, Woodland and the unincorporated areas of the county. It may also include selected hotels in West Sacramento. The district would be administered by Yolo County.

We support a 2% assessment on the hotel room sales price, with all collected funds to be distributed to Visit Yolo. The funds would be used by the bureau to promote our hotels as well as events and venues that will attract visitors to stay in our hotels, just as it successfully has for the last 16 years.

The restructuring process requires the Board of Supervisors to request and obtain consent from the City Councils of Davis, Winters, and Woodland to include their jurisdictions in the newly formed BID. We are informing you at this time to demonstrate our support for this change and enlist your help in making it happen.

Sincerely,



Reed Youmans, Hallmark Inn UC Davis



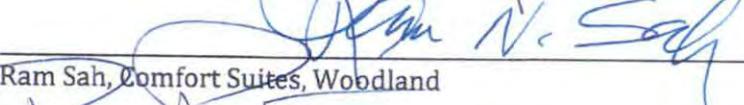
Ashok Patel, Royal Guest Hotels, Davis



Vinod Patel, Holiday Inn Express / Fairfield Suites Woodland



Andy Patel, Hampton Inn & Suites, Woodland



Ram Sah, Comfort Suites, Woodland



ROSHAN PATEL, HOLIDAY INN EXPRESS



CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers
DATE: May 16, 2017
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Shelly A. Gunby, Director of Financial Management *Shelly*
SUBJECT: Appropriation Limit for Fiscal Year 2017-2018

RECOMMENDATION:

City Council approve Resolution 2017-23, A Resolution of the City Council of the City of Winters Establishing an Appropriation Limit Pursuant to Article XIII B of the California Constitution for Fiscal Year 2017-2018.

BACKGROUND:

In 1978, Proposition 13 was enacted, and as a follow up to Proposition 13, the voters of California amended the California Constitution in 1979 to limit the growth of governmental spending by passing Proposition 4. Proposition 4 created Article XIII B of the California Constitution that provides a formula for calculating spending limits of governments. Proposition 4 is commonly referred to as the Appropriation or Gann Limit.

The Appropriation Limit creates a restriction on the amount of government revenue which may be appropriated in any fiscal year. The Appropriation Limit is based on actual appropriations during the base year and increases each year using specified growth factors. The Appropriation Limit applies to only those revenues defined "proceeds of taxes". Proceeds of taxes generally refer to revenues in the General Fund, and some Special Revenue Funds.

Proceeds of taxes include, but are not limited to:

- All taxes levied by or for a Public Agency;
- Any revenue from regulatory licenses, user charges and user fees or charges to the extent that the proceeds exceed the cost of providing the regulation, product or service;
 - The following are NOT considered from regulatory licenses, user charges and user fees or charges for the purposes of the Appropriation Limit

- Rents, Concessions, entrance fees, franchise fees
- Fine, forfeitures and penalties
- Assessments on real property or person for special benefit conferred.
- State Subventions for general purposes; and
 1. State subventions include:
 - VLF in Lieu Fees that are not designated as per use; and
 - Homeowners Property Tax Relief
 2. State moneys provide to local governments with restricted uses excluded from the local governments Appropriation Limit such as:
 - Motor Vehicle Tax (Gas Tax)
- Any interest earned from the investment of the proceeds of taxes
- Certain items are excluded from the Appropriations Limit such as;
 1. State Mandate Reimbursements
 2. Certain types of Debt Service Costs
 3. Qualified Capital Outlay
 4. Costs of complying with court orders and federal mandates.
 5. Appropriation required to refund taxes; and
 6. Local agency loan funds or indebtedness funds, or investment funds in bank accounts.
 7. Redevelopment agency or successor agency property tax increment funds (because such agencies do not have the power to levy a property tax)

The City of Winters adopts the Appropriation Limit prior to the beginning of the fiscal year for which it pertains by resolution, and a discussion of the limit is included in the budget when it is submitted for approval to the City Council prior to the beginning of the fiscal year for which the budget is adopted.

The City of Winters is cautious in its spending and has never had appropriations subject to the limitation higher than 63% of the limitation.

FISCAL IMPACT:

None

ATTACHEMENTS:

Resolution 2017-23

Attachment A-Appropriation Limit Calculation

Attachment B-Department of Finance Annual Price and Population Information

RESOLUTION 2017-23
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
WINTERS ESTABLISHING AN APPROPRIATION LIMIT
PURSUANT TO ARTICLE XIII B OF THE CALIFORNIA
CONSTITUTION FOR FISCAL YEAR 2017-2018

WHEREAS, Article XIII B of the Constitution of the State of California provides for the annual appropriations of governmental units to be the subject of limitations, and

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Winters that an appropriation limit for the Fiscal 2017-2018 pursuant to Article XIII B of the Constitution of the State of California be established in the amount of \$6,775,194 and the same is hereby approved.

PASSED AND ADOPTED by the City Council, City of Winters, the 16th day of May 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Cecilia Aguiar-Curry, Mayor

ATTEST:

Nanci G. Mills, CITY CLERK

Attachment A

**CITY OF WINTERS
APPROPRIATION LIMIT
FOR FISCAL YEAR 2017-2018
YEAR ENDED JUNE 30, 2018**

APPROPRIATION LIMIT, FISCAL YEAR 2015-2016	\$	6,775,194
ADJUSTMENT FACTOR:		
POPULATION GROWTH PERCENT		1.054320
ANNUAL ADJUSTMENT IN DOLLARS		
APPROPRIATION LIMIT FISCAL YEAR 2016-2017	\$	7,143,222

2017-2018
APPROPRIATION LIMIT

Per Capita change = 3.69
Population change = 1.68

Per capital converted to a ratio

$$\frac{3.69+100}{100} = 1.0369$$

Population converted to a ratio

$$\frac{1.68+100}{100} = 1.0168$$

Calculation Factor for FY 2017-2018

$$1.0369 \times 1.0168 = 1.05432$$



DEPARTMENT OF
FINANCE
OFFICE OF THE DIRECTOR

EDMUND G. BROWN JR. • GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

May 2017

Dear Fiscal Officer:

Subject: Price Factor and Population Information

Appropriations Limit

The California Revenue and Taxation Code, section 2227, requires the Department of Finance (Finance) to transmit an estimate of the percentage change in population to local governments. Each local jurisdiction must use their percentage change in population factor for January 1, 2017, in conjunction with a change in the cost of living, or price factor, to calculate their appropriations limit for fiscal year 2017-18. Attachment A provides the change in California's per capita personal income and an example for utilizing the price factor and population percentage change factor to calculate the 2017-18 appropriations limit. Attachment B provides the city and unincorporated county population percentage change. Attachment C provides the population percentage change for counties and their summed incorporated areas. The population percentage change data excludes federal and state institutionalized populations and military populations.

Population Percent Change for Special Districts

Some special districts must establish an annual appropriations limit. The Revenue and Taxation Code, section 2228 provides additional information regarding the appropriations limit. Article XIII B, section 9(C) of the California Constitution exempts certain special districts from the appropriations limit calculation mandate. The Code and the California Constitution can be accessed at the following website: <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

Special districts required by law to calculate their appropriations limit must present the calculation as part of their annual audit. Any questions special districts have on this requirement should be directed to their county, district legal counsel, or the law itself. No state agency reviews the local appropriations limits.

Population Certification

The population certification program applies only to cities and counties. Revenue and Taxation Code section 11005.6 mandates Finance to automatically certify any population estimate that exceeds the current certified population with the State Controller's Office. **Finance will certify the higher estimate to the State Controller by June 1, 2017.**

Please Note: Prior year's city population estimates may be revised.

If you have any questions regarding this data, please contact the Demographic Research Unit at (916) 323-4086.

MICHAEL COHEN
Director
By:

AMY M. COSTA
Chief Deputy Director

Attachment

May 2017

Attachment A

- A. **Price Factor:** Article XIII B specifies that local jurisdictions select their cost of living factor to compute their appropriation limit by a vote of their governing body. The cost of living factor provided here is per capita personal income. If the percentage change in per capita personal income is selected, the percentage change to be used in setting the fiscal year 2017-18 appropriation limit is:

Per Capita Personal Income	
Fiscal Year (FY)	Percentage change over prior year
2017-18	3.69

- B. Following is an example using sample population change and the change in California per capita personal income as growth factors in computing a 2017-18 appropriation limit.

2017-18:

Per Capita Cost of Living Change = 3.69 percent
 Population Change = 0.85 percent

Per Capita Cost of Living converted to a ratio: $\frac{3.69 + 100}{100} = 1.0369$

Population converted to a ratio: $\frac{0.85 + 100}{100} = 1.0085$

Calculation of factor for FY 2017-18: $1.0369 \times 1.0085 = 1.0457$

Fiscal Year 2017-18

Attachment B
Annual Percent Change in Population Minus Exclusions*
January 1, 2016 to January 1, 2017 and Total Population, January 1, 2017

County City	Percent Change 2016-2017	-- Population Minus Exclusions --		Total Population
		1-1-16	1-1-17	1-1-2017
Yolo				
Davis	1.49	67,731	68,740	68,740
West Sacramento	0.69	52,797	53,163	53,163
Winters	1.68	7,135	7,255	7,255
Woodland	1.71	58,615	59,616	59,616
Unincorporated	3.00	29,244	30,122	30,122
County Total	1.57	215,522	218,896	218,896

*Exclusions include residents on federal military installations and group quarters residents in state mental institutions, state and federal correctional institutions and veteran homes.



STAFF REPORT

TO: Honorable Mayor and Council Members
DATE: May 18, 2017
THROUGH: John W. Donlevy, Jr., City Manager
FROM: Eric Lucero, Public Works Superintendent
SUBJECT: City Park Futsal Court Project

RECOMMENDATION:

To update council on the design and location of the Futsal Court Project at City Park.

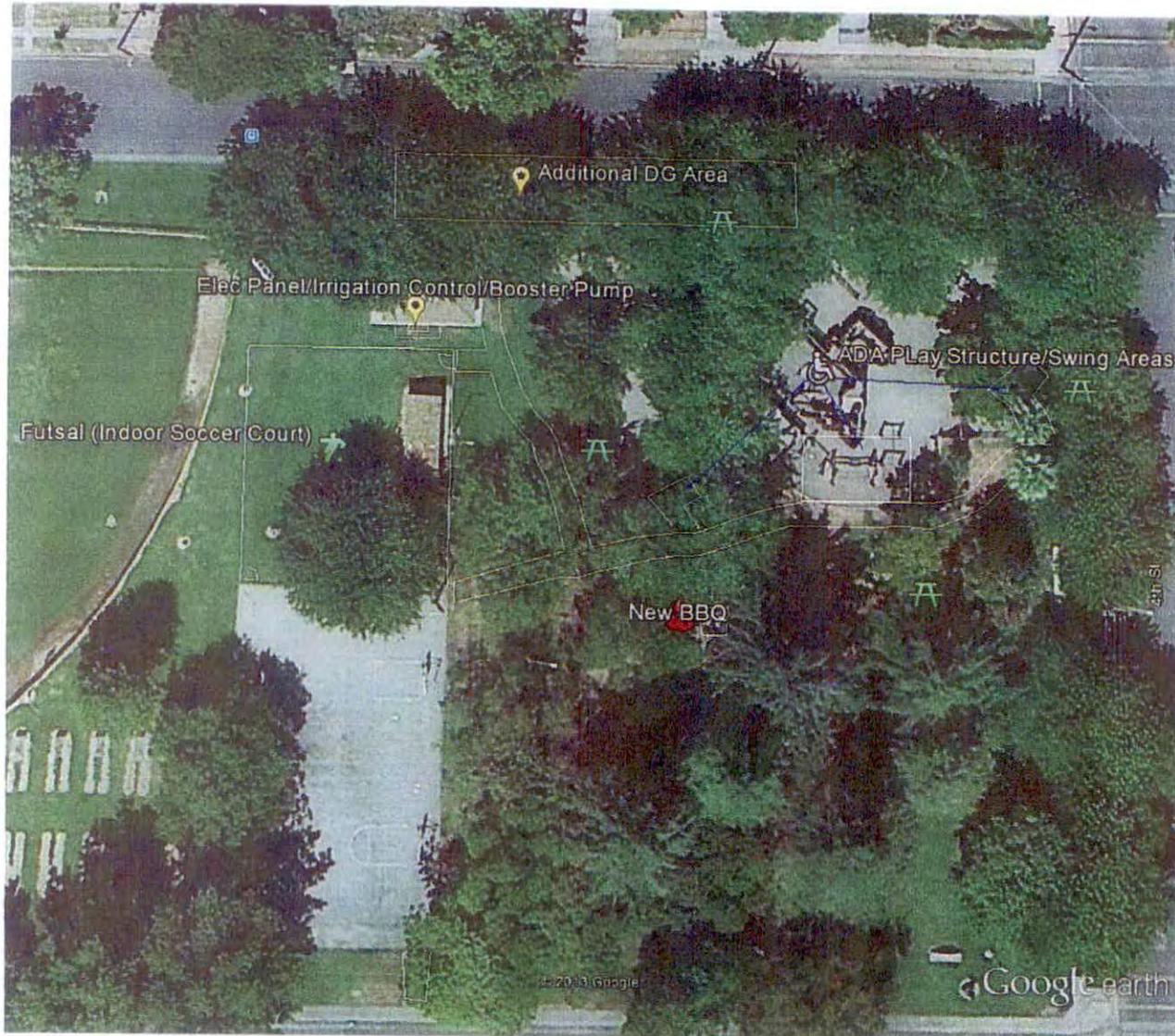
BACKGROUND: City staff has received funds from PG&E to build a Futsal Court at City Park. A futsal court is basically a court used for playing soccer on a tennis court or an outside basketball court with a fence around it. Currently there are about 25-30 people that use the tennis courts on Tuesday and Thursday nights. This not only creates a problem for tennis players but also causes wear and tear on the nets. Building a futsal court at City Park will help bring more of a positive environment along with the basketball courts to the park and will help chase out the negative influence that tends to creep in. This project was approved by council in 2013 as a part of the City Park Rehab Project. Staff pulled the court out of the project at the end of 2015 when we received other funding from PG&E to pay for it. \$100,000 dollars was given to the City by PG&E to build the futsal court after removing the old skate park. The remainder of the funds will go towards purchasing skate park features to help build another skate park structure at Valley Oak Park.

FISCAL IMPACT: Estimated costs to bid out project is \$79,800

FUTSAL COURT

CITY OF WINTERS

Satellite View - Before



Satellite View - After



Old Storage Shed



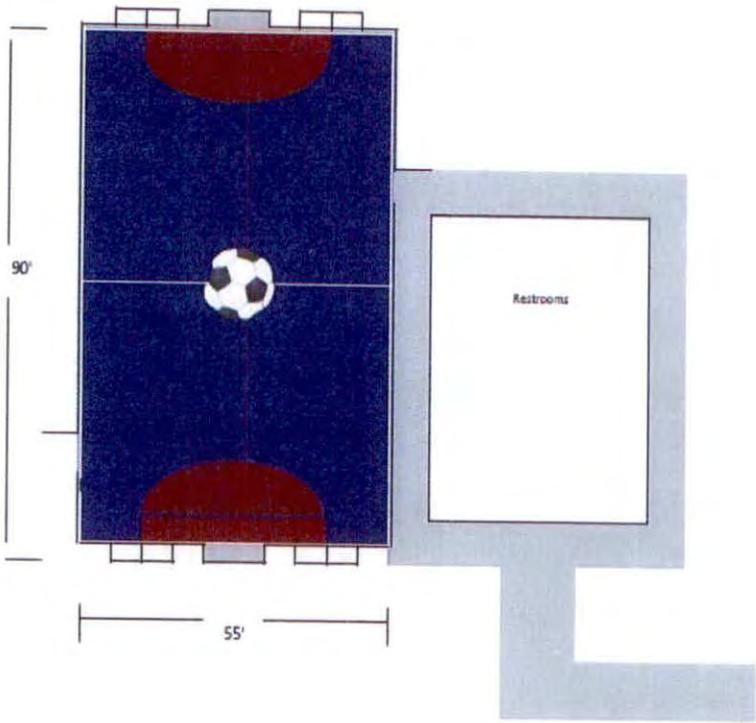
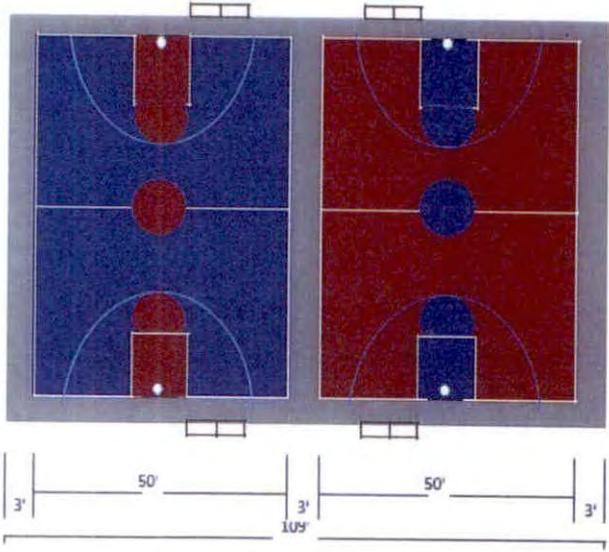
New Court Area



Street View



Futsal Courts



Fence Sample



Goal Sample

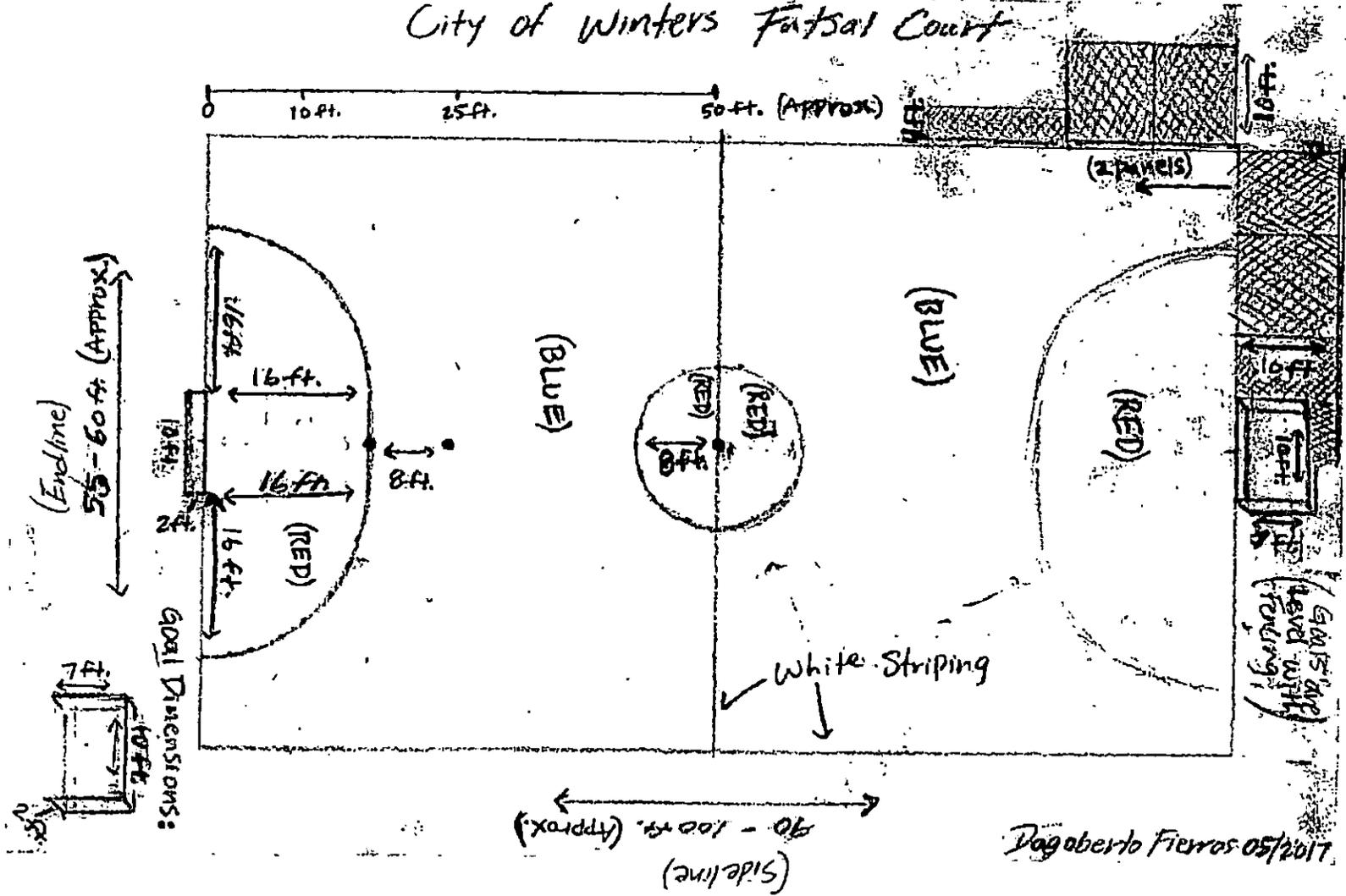


Fence Visual



Layout

City of Winters Futsal Court





**CITY COUNCIL
STAFF REPORT**

DATE: May 16, 2017
TO: Mayor and City Council
FROM: John W. Donlevy, Jr., City Manager 
SUBJECT: **Subject: Presentation on Implementation of the Sustainable Groundwater Management Act and the Formation of the Yolo Subbasin Groundwater Agency**

RECOMMENDATION:

That the City Council:

1. Receive a presentation on the implementation of the Sustainable Groundwater Management Act and formation of the Yolo Subbasin Groundwater Agency.
2. CONDUCT A PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS TO APPROVE ENTERING INTO A JOINT EXERCISE OF POWERS AGREEMENT TO ESTABLISH THE YOLO SUBBASIN GROUNDWATER AGENCY AND THE CITY'S MEMBERSHIP IN THIS AGENCY, AND AUTHORIZING THE AGENCY TO ACT AS THE GROUNDWATER SUSTAINABILITY AGENCY FOR THE YOLO SUBBASIN OF THE SACRAMENTO GROUNDWATER BASIN. INCLUDING THE AREA UNDERLYING THE CITY OF WINTERS.
3. Adopt Resolution No. 2017-X A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS APPROVING A JOINT EXERCISE OF POWERS AGREEMENT ESTABLISHING THE YOLO SUBBASIN GROUNDWATER AGENCY (Attachment A); and
4. Approve and Authorize the execution of A JOINT EXERCISES OF POWERS AGREEMENT ESTABLISHING THE YOLO SUBBASIN GROUNDWATER AGENCY (Attachment B).

Background:

At the March 21, 2017 City Council Meeting, the City Council received a presentation from Tim O'Halloran, the General Manager for the Yolo County Flood Control District regarding the establishment of the Sustainable Groundwater Management Agency for Yolo County.

The legislative intent of the September 16, 2014 Sustainable Groundwater Management Act (SGMA) is

Sustainable Groundwater Management Agency

Agenda Report: May 16, 2017

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for groundwater to be managed sustainably in California's groundwater basins. SGMA calls for local public agencies to become or form a Groundwater Sustainability Agency (GSA), with the responsibility to develop a Groundwater Sustainability Plan (GSP). GSAs must be formed by June 30, 2017, and a GSP must be adopted and submitted to the Department of Water Resources by January 1, 2022.

In 2015, the Water Resources Association of Yolo County (WRA) partnered with the Yolo County Farm Bureau for SGMA implementation in Yolo County. In April 2016, all eligible GSAs within the Yolo Subbasin created a Working Group to begin development of a Joint Powers Authority (JPA) Agreement and to form the Yolo Subbasin Groundwater Agency. Over the past year, the Working Group agreed to the following for developing the Yolo Subbasin Groundwater Agency and ultimately, a Groundwater Sustainability Plan (GSP):

1. Consolidation of the four Bulletin 118 groundwater subbasins into a county-wide Yolo Subbasin;
2. Formation of Management Areas based on defined hydrogeologic characteristics of the Subbasin;
3. Merging of the WRA with the Yolo Subbasin Groundwater Agency;
4. Creation of a governance structure that maintains governance at the lowest level and preserves existing authorities and jurisdictions of local agencies;
5. Establishment of a one vote per entity voting structure, and a fee allocation based roughly on existing WRA-dues and the estimated administrative and planning costs of developing a GSP;
6. Inclusion of Affiliated Parties (non-eligible-GSA entities) through a Memorandum of Understanding (MOU) with the JPA;
7. Review and adjustment of the JPA Agreement in the first two years, if necessary; and
8. Development of water balances for each participating entity to assess overall sustainability.

Since May of 2014 there have been over 160 SGMA public outreach and educational activities that have included multiple private and public venues across the County. Over 60 of these events have been held in Woodland including several presentations to the WRA and within Winters.

Discussion:

Participation in the JPA includes the adoption of a resolution of intent to comply with the Sustainable Groundwater Management Act and that it intends to cooperatively work with the other 26 water agencies through the joint powers agency. The City then enters into an agreement and will be a signatory to the Yolo Groundwater Sustainability Agency (GSA).

Under the agreement the Yolo Water Resources Agency will be absorbed into the YGSA and assume that role. The governance for the Agency will fall under a unified Board of each of the 26 member Agencies.

The key role of the GSA will include the development of a Groundwater Sustainability Plan. The plan will be divided into 5 "management areas" which will be the subbasins of the subbasin. The details of the

Sustainable Groundwater Management Agency

Agenda Report: May 16, 2017

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governance and overall operation of the GSA are included as Attachment C.

To meet the June 30, 2017 deadline, each Member agency must hold a public hearing approving and authorizing the execution of a Joint Exercise of Powers Agreement creating the Yolo Subbasin Groundwater Agency prior to signing the Yolo Subbasin Groundwater Agency JPA Agreement.

Fiscal Impact:

The cost to the City of Winters are yet to be determined based on implementation of the overall plan. The initial "agency" cost is \$20,000 which is a \$10,950 increase from the current dues paid to the WRA.

City of Winters

NOTICE OF PUBLIC HEARING

TO CONSIDER ADOPTION OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS TO APPROVE ENTERING INTO A JOINT EXERCISE OF POWERS AGREEMENT TO ESTABLISH THE YOLO SUBBASIN GROUNDWATER AGENCY AND THE CITY'S MEMBERSHIP IN THIS AGENCY, AND AUTHORIZING THE AGENCY TO ACT AS THE GROUNDWATER SUSTAINABILITY AGENCY FOR THE YOLO SUBBASIN OF THE SACRAMENTO GROUNDWATER BASIN, INCLUDING THE AREA UNDERLYING THE CITY OF WINTERS

The Winters City Council will hold a public hearing at the City Council meeting at 6:30 p.m. on Tuesday, May 16, 2017, in the Council Chambers at City Hall, 318 First Street, Winters, California, for consideration of approving and executing a joint exercise of powers agreement creating the Yolo Subbasin Sustainable Groundwater Agency which agency would act as the groundwater sustainability agency for the Yolo Subbasin of the Sacramento Groundwater Basin, including the portion of the subbasin underlying the City of Winters.

Availability of Documents:

Copies of the Yolo Subbasin Sustainable Groundwater Management Act Joint Powers Agreement are available for review at the following locations:

- Winters City Hall, Planning Department, 318 First Street, Winters, California
- Online at www.cityofwinters.org

Public Comments:

All interested parties are invited to attend the public hearing to make oral comments for submit written comments. Interested parties may also send written comments to the City Clerk in City Hall, 318 First Street, Winters California no later than 3:00 p.m. on the hearing date. Written comments may be submitted by mail to City of Winters Attn: City Clerk, 318 First Street, Winters CA, 95694 or via email to carol.scianna@cityofwinters.org. Oral and written comments may be submitted at the public hearing.

The City does not transcribe its proceedings. Persons who wish to obtain a verbatim record should arrange for attendance by a court reporter or any other acceptable means of recordation. Such arrangements will be at the sole expense of the person requesting the recordation.

Individuals wishing to challenge the action taken on this matter in court are notified that, the challenge may be limited to only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at or prior to the conclusion of the public hearing.

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS APPROVING
A JOINT EXERCISE OF POWERS AGREEMENT ESTABLISHING THE YOLO
SUBBASIN GROUNDWATER AGENCY**

WHEREAS, the California Legislature has adopted, and the Governor has signed into law, the Sustainable Groundwater Management Act of 2014 (“SGMA”), which authorizes local agencies to manage groundwater in a sustainable fashion; and

WHEREAS, the City of Winters (“City”) is a local agency, as defined by SGMA, duly organized and validly existing under the Constitution and laws of the State of California; and

WHEREAS, in order to exercise the authority granted in SGMA, a local agency or combination of local agencies must elect to become or form a groundwater sustainability agency (“GSA”); and

WHEREAS, the City overlies the Yolo Subbasin of the Sacramento Valley Groundwater Basin (designated as subbasin 5-21.67 by the California Department of Water Resources) (“Subbasin”) and is committed to the sustainable management of the Subbasin; and

WHEREAS, the City, upon authorization of its City Council, may, pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code (“JPA Act”), enter into a joint exercise of powers agreement to jointly exercise any power common to the contracting parties; and

WHEREAS, the City has negotiated, with other public agencies and interested parties, the terms of a Joint Exercise of Powers Agreement Establishing the Yolo Subbasin Groundwater Agency (“JPA Agreement”) to be executed by the Members listed in Exhibit A of the JPA Agreement (“Members”); and

WHEREAS, each of the Members is a “public agency” as defined in Government Code § 6500; and

WHEREAS, the JPA Agreement provides that the Yolo Subbasin Groundwater Agency (“Agency”) will be a public entity separate and apart from the parties to the JPA Agreement and that the debts, liabilities, and obligations of the Agency will not be the debts, liabilities, or obligations of the Members; and

WHEREAS, the City Council of the City has determined that approval and execution of the JPA Agreement is in the City’s best interest and in the public interest; and

WHEREAS, adoption of this resolution does not constitute a “project” under California Environmental Quality Act Guidelines Section 15378(b)(5), including organization and administrative activities of government, because there would be no direct or indirect physical changes in the environment as a result of this action.

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

1. The JPA Agreement is hereby approved and the Mayor of the City Council is hereby authorized to execute the JPA Agreement on behalf of the City.
2. The Secretary is hereby authorized and directed to attest the signature of the authorized signatory, and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the JPA Agreement.
3. The City Manager of the City is authorized and directed to take all action appropriate and necessary to implement the terms and conditions of the JPA Agreement.

The foregoing resolution was duly passed and adopted by the City Council of the City of Winters at a meeting thereof held on May 16, 2017 by the following roll call vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Signed by me after its passage this 2nd day of May 2017.

Wade Cowan, Mayor

ATTEST:

Nanci Mills, City Clerk

**JOINT EXERCISE OF POWERS AGREEMENT
ESTABLISHING THE YOLO SUBBASIN GROUNDWATER AGENCY**

THIS AGREEMENT is entered into and effective this _____ day of _____, 2017 (“**Effective Date**”), pursuant to the Joint Exercise of Powers Act, Cal. Government Code §§ 6500 *et seq.* (“**JPA Act**”) by and among the entities listed in Exhibit A attached hereto and incorporated herein (collectively “**Members**”).

RECITALS

A. On August 29, 2014, the California Legislature passed comprehensive groundwater legislation contained in SB 1168, SB 1319 and AB 1739. Collectively, those bills, as subsequently amended, enacted the “Sustainable Groundwater Management Act” (“SGMA”). Governor Brown signed the legislation on September 16, 2014 and it became effective on January 1, 2015.

B. Each of the Members and Affiliated Parties overlies the Yolo Subbasin of the Sacramento Valley Groundwater Basin, California Department of Water Resources Basin No. 5-21.67 as its boundaries may be modified from time to time in accordance with Cal. Water Code Section 10722.2 (“Subbasin”).

C. Each of the Members is authorized by SGMA to become, or participate in, a Groundwater Sustainability Agency under SGMA through a joint exercise of powers agreement.

D. The Members desire, through this Agreement, to form the Yolo Subbasin Groundwater Agency, a separate legal entity, for the purpose of acting as the Groundwater Sustainability Agency for the Subbasin. The boundaries of the Agency are depicted on the map attached hereto as Exhibit B and incorporated herein.

E. The mission of the Agency is to provide a dynamic, cost-effective, flexible and collegial organization to ensure compliance with SGMA within the Subbasin.

F. Subject to the reservation of authority in Article 8.5 of this Agreement, the Agency will serve a coordinating and administrative role regarding SGMA compliance within the Subbasin. Each of the Members and Affiliated Parties (or groups of Members and Affiliated Parties) will have initial responsibility for groundwater management within their respective Management Areas as delineated in the Groundwater Sustainability Plan (“GSP”) adopted by the Agency.

THEREFORE, in consideration of the mutual promises, covenants and conditions herein set forth, the Members agree as follows:

ARTICLE 1: DEFINITIONS

1.1 **Definitions.** As used in this Agreement, unless the context requires otherwise, the meaning of the terms hereinafter set forth shall be as follows:

- a. **"Affiliated Parties"** shall mean those entities that are legally precluded from becoming members of this Agreement but that, after entering into a memorandum of understanding with the Agency, will be granted a voting seat on the Board of Directors pursuant to the terms of this Agreement and the memorandum of understanding. The Affiliated Parties as of the Effective Date are listed in Exhibit C.
- b. **"Agency"** shall mean the Yolo Subbasin Groundwater Agency established by this Agreement.
- c. **"Agreement"** shall mean this Joint Exercise of Powers Agreement Establishing the Yolo Subbasin Groundwater Agency.
- d. **"Board of Directors"** or **"Board"** shall mean the governing body formed to implement this Agreement as established herein.
- e. **"DWR"** shall mean the California Department of Water Resources.
- f. **"Effective Date"** shall be as set forth in the Preamble of this Agreement.
- g. **"Groundwater Sustainability Agency"** or **"GSA"** shall mean an agency enabled by SGMA to regulate portion of the Subbasin cooperatively with all other Groundwater Sustainability Agencies in the Subbasin, in compliance with the terms and provisions of SGMA.
- h. **"Groundwater Sustainability Plan"** or **"GSP"** shall have the definition set forth in SGMA.
- i. **"GSA Boundary"** shall mean those lands depicted on the map shown in Exhibit B.
- j. **"JPA Act"** shall mean the Joint Exercise of Powers Act, Cal. Government Code §§ 6500 et seq.
- k. **"Management Area"** shall mean the areas delineated in the GSP for which Members and Affiliated Parties will have initial authority and responsibility for groundwater management in accordance with SGMA.
- l. **"Member"** shall mean any of the signatories to this Agreement and **"Members"** shall mean all of the signatories to this Agreement, collectively. Each of the Members shall be authorized to become, or participate in, a Groundwater Sustainability Agency under SGMA.

m. “SGMA” shall mean the California Sustainable Groundwater Management Act of 2014 and all regulations adopted under the legislation (SB 1168, SB 1319 and AB 1739) that collectively comprise the Act, as that legislation and those regulations may be amended or supplemented from time to time.

n. “Subbasin” shall mean the Yolo Subbasin of the Sacramento Valley Groundwater Basin, California Department of Water Resources Basin No. 5-21.67 as its boundaries may be modified from time to time in accordance with Cal. Water Code Section 10722.2.

ARTICLE 2: ORGANIZING PRINCIPLES

2.1 The Members and Affiliated Parties intend to work together in mutual cooperation to develop and implement a GSP for the Subbasin in compliance with SGMA.

2.2 To the extent any Member determines, in the future, to become a GSA separate and apart from the Agency, the Agency will allow such Member to become a GSA and the Agency will work cooperatively with such Member to coordinate implementation of SGMA within the Subbasin.

2.3 The Members intend through this Agreement to obtain cost-effective consulting services for the development and implementation of a GSP, in particular for the development of water balances.

ARTICLE 3: FORMATION, PURPOSE AND POWERS

3.1 **Recitals:** The foregoing recitals are incorporated by reference.

3.2 **Certification.** Each Member certifies and declares that it is a legal entity that is authorized to be a party to a joint exercise of powers agreement and to contract with each other for the joint exercise of any common power under Article 1, Chapter 5, Division 7, Title 1, of the Government Code, commencing with section 6500 or other applicable law including but not limited to Cal. Water Code § 10720.3(c).

3.3 **Creation of the Agency.** Pursuant to the JPA Act, the Members hereby form and establish a public entity to be known as the “Yolo Subbasin Groundwater Agency,” which shall be a public entity separate and apart from the Members.

3.4 **Designation.** Pursuant to Government Code § 6509, the Members hereby designate the County of Yolo for purposes of determining restrictions upon the manner of exercising the power of the Agency.

3.5 **Purposes of the Agency.** The purposes of the Agency are to:

a. Provide for the joint exercise of powers common to each of the Members and powers granted pursuant to SGMA (subject to the restrictions contained in this Agreement);

- b. Cooperatively carry out the purposes of SGMA;
- c. Become a GSA for purposes of management of the Subbasin in accordance with SGMA; and
- d. Develop, adopt and implement a legally sufficient GSP for the Subbasin, subject to the limitations set forth in this Agreement.

3.6 Powers of the Agency. To the extent authorized through the Board of Directors, and subject to the limitations set forth in this Agreement, the Agency shall have and may exercise any and all powers commonly held by the Members in pursuit of the Agency's purposes, as described in Article 3.5, including but not limited to the power:

- a. To exercise all powers granted to a GSA under SGMA;
- b. To take any action for the benefit of the Members and Affiliated Parties necessary or proper to carry out the purposes of the Agency as provided in this Agreement and to exercise all other powers necessary and incidental to the exercise of the powers set forth herein;
- c. To levy, impose and collect reasonable taxes, fees, charges, assessments and other levies to implement the GSP and/or SGMA;
- d. To borrow funds and to apply for grants and loans for the funding of activities within the purposes of the Agency;
- e. To adopt rules, regulations, policies, bylaws and procedures related to the purposes of the Agency;
- f. To sue and be sued; and
- g. To issue revenue bonds.

3.7 Powers Reserved to Members. Each of the Members reserves the right, in its sole and absolute discretion, to become a GSA and to exercise the powers conferred to a GSA within the Member's boundaries in accordance with Article 6.7 of this Agreement.

3.8 Relationship of Members and Affiliated Parties to Each Other. Each Member and each Affiliated Party shall be individually responsible for its own covenants, obligations and liabilities under this Agreement. No Member or Affiliated Party shall be deemed to be the agent of, or under the direction or control of, or otherwise have the right or power to bind, any other Member or Affiliated Party without the express written consent of the Member or Affiliated Party.

3.9 Term. This Agreement shall be effective as of the Effective Date and shall remain in effect until terminated in accordance with Article 6.5 of this Agreement.

3.10 Boundaries of the Agency. The geographic boundaries of the Agency and that portion of the Subbasin that will be managed by the Agency pursuant to SGMA are depicted in Exhibit B.

3.11 Role of Members and Affiliated Parties. Each Member and Affiliated Party agrees to undertake such additional proceedings or actions as may be necessary in order to carry out the terms and intent of this Agreement. The support of each Member and each Affiliated Party is required for the success of the Agency. This support will involve the following types of actions:

- a. The Members and Affiliated Parties will provide support to the Board of Directors and any third party facilitating the development of the GSP by making available staff time, information and facilities within available resources.
- b. Policy support shall be provided by the Members and Affiliated Parties to either approve, or respond quickly to, any recommendations made as to funding shares, operational decisions, fare structures, and other policy areas.
- c. Each Member and Affiliated Party shall contribute its share of operational fund allocations, as established and approved by the Board of Directors in the Agency's annual budget.
- d. Contributions of public funds and of personnel, services, equipment or property may be made to the Agency by any Member or Affiliated Party for any of the purposes of this Agreement, provided that no repayment will be made by the Agency for such contributions in the absence of a separate written contract between the Agency and the contributing Member or Affiliated Party.
- e. To the extent that Members and Affiliated Parties make personnel available to the Agency as contemplated under the provisions of Section 3.11, the Members acknowledge and agree that at all times such personnel shall remain under the exclusive control of the Member or Affiliated Party supplying such personnel. The Agency shall not have any right to control the manner or means in which such personnel perform services. Rather, the Member or Affiliated Party supplying personnel shall have the sole and exclusive authority to do the following:
 - (i) Make decisions regarding the hiring, retention, discipline or termination of personnel. The Agency will have no discretion over these functions.
 - (ii) Determine the wages to be paid to personnel, including any pay increases. These amounts shall be determined in accordance with the Member or Affiliated Party's published publicly available pay schedule, if any, and shall be subject to changes thereto approved by its governing body.
 - (iii) Set the benefits of its personnel, including health and welfare benefits, retirement benefits and leave accruals in accordance with the Member or Affiliated Party's policies.

(iv) Evaluate the performance of its personnel through performance evaluations performed by a management level employee that reports directly to a representative of the Member or Affiliated Party or its governing body.

(v) Perform all other functions related to the service, compensation or benefits of any personnel assigned to perform services on behalf of the Agency.

3.12 **Employees.** The Members do not anticipate that the Agency will have any employees. However, the Agency may do any of the following:

a. Engage one or more Members or third parties to manage any or all of the business of the Agency on terms and conditions acceptable to the Board of Directors as specified in a separate written contract. To the extent that a manager is appointed, the manager shall at all times maintain exclusive control over any employees of the manager assigned to perform services under the manager's contract with the Agency, including, but not limited to, matters related to hiring, probationary periods, disciplinary action, termination, benefits, performance evaluations, salary determinations, promotions and demotions, and leave accruals.

b. The Board shall have the power to contract with competent registered civil engineers and other consultants to investigate and to carefully devise a plan or plans to carry out and fulfill the objects and purposes of SGMA, and complete a GSP.

3.13 **Participation of Affiliated Parties.** The Agency shall allow Affiliated Parties to participate in the governance of the Agency and on its Board of Directors in the same manner as Members, provided that each Affiliated Party agrees, through a memorandum of understanding ("MOU") with the Agency, to adhere to all applicable terms of this Agreement, including the payment of the Affiliated Party's assigned share of operational fund allocations, as established by the Board of Directors in the annual budget. The MOU may include provisions tailored to the unique circumstances or characteristics of the Affiliated Parties. The MOU shall also address, without limitation, the nature and extent of any obligations of the Agency to hold harmless, defend and indemnify Affiliated Parties. The designated representative of an Affiliated Party shall join the Board of Directors as soon as that Affiliated Party has entered into an MOU with the Agency. Affiliated Parties shall have the right to withdraw from participation in the governance of the Agency and on the Board of Directors, subject to the provisions of the MOU between the Agency and that Affiliated Party. Entities not listed in Exhibit C may request to be included as Affiliated Parties, and the Board of Directors shall decide whether to allow such entities to become Affiliated Parties in accordance with Article 6.1.

ARTICLE 4: GOVERNANCE

4.1 **Board of Directors.** The business of the Agency will be conducted by a Board of Directors that is hereby established and that shall be initially composed of one representative from each of the Members and one representative from each of the Affiliated Parties. Without amending this Agreement, the composition of the Board of Directors shall be altered from time to time to reflect the withdrawal or involuntary termination of any Member or Affiliated Party

and/or the admission of any new Member or Affiliated Party. Each Member and each Affiliated Party will appoint one member of the Agency Board of Directors. Each Member and each Affiliated Party may designate one alternate to serve in the absence of that Member's or Affiliated Party's appointed Director. All members of the Agency Board of Directors and all alternates will be required to file a Statement of Economic Interests (FPPC Form 700). Each Member and each Affiliated Party shall notify the Agency in writing of its designated representative on the Agency Board of Directors.

4.2 Term of Directors. Each member of the Agency Board of Directors will serve until replaced by the appointing Member or Affiliated Party.

4.3 Officers. The Board of Directors shall elect a chairperson, a vice chairperson, a secretary and a treasurer. The chairperson and vice-chairperson shall be directors of the Board and the secretary and treasurer may, but need not, be directors of the Board. The chairperson shall preside at all meetings of the Board and the vice-chairperson shall act as the chairperson in the absence of the chairperson elected by the Board. The treasurer shall meet the qualifications set out in Government Code section 6505.5 as a depository of funds for the Agency.

4.4 Powers and Limitations. All the powers and authority of the Agency shall be exercised by the Board, subject, however, to the rights reserved by the Members and Affiliated Parties as set forth in this Agreement.

4.5 Quorum. A majority of the members of the Agency Board of Directors will constitute a quorum.

4.6 Voting. Except as to actions identified in Article 4.7, the Agency Board of Directors will conduct all business by majority vote of those directors present. Each member of the Board of Directors will have one (1) vote. Prior to voting, the Members and Affiliated Parties shall endeavor in good faith to reach consensus on the matters to be determined such that any subsequent vote shall be to confirm the consensus of the Members and Affiliated Parties. If any Member or Affiliated Party strongly objects to a consensus-based decision prior to a vote being cast, the Members and Affiliated Parties shall work in good faith to reasonably resolve such strong objection, and, if the same is not resolved collaboratively, then the matter will proceed to a vote for final resolution under this Article 4.6 or Article 4.7, below, as applicable.

4.7 Supermajority Vote Requirement for Certain Actions. The following actions will require a two-thirds (2/3) vote by the directors present:

- a. Approval of the Agency's annual budget;
- b. Decisions related to the levying, imposition or collection of taxes, fees, charges and other levies;
- c. Decisions related to the expenditure of funds by the Agency beyond expenditures approved in the Agency's annual budget;
- d. Adoption of rules, regulations, policies, bylaws and procedures related to the function of the Agency;

e. Decisions related to the establishment or adjustment of the Members' or Affiliated Parties' obligations for payment of the Agency's operating and administrative costs as provided in Article 5.1;

f. Approval of a GSP;

g. Involuntary termination of a Member or Affiliated Party pursuant to Article 6.3;

h. With respect to the addition of Affiliated Parties other than those listed in Exhibit D, approval of (i) a memorandum of understanding between the Agency and any such Affiliated Parties, (ii) the addition of such Affiliated Parties to this Agreement, and (iii) a voting seat for such Affiliated Parties on the Agency Board of Directors;

i. Amendment of this Agreement; provided, however, that the provisions of Article 6.7 (Rights of Member to Become GSA in Event of Withdrawal or Termination) may be amended only by unanimous vote of the Board of Directors;

j. Modification of the funding amounts specified in Exhibit D;

k. The addition of new Members to this Agreement; and

l. Termination of this Agreement.

4.8 **Meetings.** The Board shall provide for regular and special meetings in accordance with Chapter 9, Division 2, Title 5 of Government Code of the State of California (the "Ralph M Brown Act" commencing at section 54950), and any subsequent amendments of those provisions.

4.9 **By-Laws.** The Board may adopt by-laws to supplement this Agreement. In the event of conflict between this Agreement and the by-laws, the provisions of this Agreement shall govern.

4.10 **Administrator.** The Members hereby designate Yolo County Flood Control and Water Conservation District to serve as administrator of, and keeper of records for, the Agency.

ARTICLE 5: FINANCIAL PROVISIONS

5.1 **Contributions and Expenses:** Members and Affiliated Parties shall share in the general operating and administrative costs of operating the Agency in accordance with the funding amounts set forth in Exhibit D attached hereto and incorporated herein. Each Member and Affiliated Party will be assessed quarterly, beginning on July 1 of each year. Members and Affiliated Parties shall pay assessments within thirty (30) days of receiving assessment notice from the Treasurer. Each Member and each Affiliated Party will be solely responsible for raising funds for payment of the Member's or Affiliated Party's share of the Agency's general operating and administrative costs. The obligation of each Member and each Affiliated Party to make payments under the terms and provision of this Agreement is an individual and several obligation

and not a joint obligation with those of the other Members and Affiliated Parties. Contributions of grant funding, state, federal, or county funding may be provided as funding or a portion of funding on behalf of Members and Affiliated Parties.

5.2 Liability for Debts. The Members do not intend through this Agreement to be obligated either jointly or severally for the debts, liabilities or obligations of the Agency, except as may be specifically provided for in Government Code § 895.2 as amended or supplemented; provided, however, that if any Member is held liable for the acts and omissions of the Agency caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement, such Member shall be entitled to contribution from the other Members so that after such contribution each Member bears its proportionate share of the liability in accordance with Article 5.1 and Exhibit D. This Article 5.2 shall not apply to acts or omissions of a Member in implementing the GSP adopted by the Agency within such Member's boundaries or a Management Area managed in whole or in part by such Member.

5.3 Indemnification. The Agency shall hold harmless, defend and indemnify the Members and their officers, employees and agents, and members of the Agency Board of Directors, from and against any and all liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property arising out of the activities of the Agency or its Board, officers, employees or agents under this Agreement. These indemnification obligations shall continue beyond the Term of this Agreement as to any acts or omissions occurring before or under this Agreement or any extension of this Agreement. The obligations of the Agency to hold harmless, defend and indemnify Affiliated Parties, if any, will be addressed in the separate MOUs between the Agency and Affiliated Parties.

5.4 Repayment of Funds. No refund or repayment of the initial commitment of funds specified in Article 5.2 will be made to a Member or Affiliated Party ceasing to be a Member or Affiliated Party, whether pursuant to removal by the Board of Directors or pursuant to a voluntary withdrawal. The refund or repayment of any other contribution shall be made in accordance with the terms and conditions upon which the contribution was made, the terms and conditions of this Agreement or other agreement of the Agency and withdrawing Member or Affiliated Party.

5.5 Budget. The Agency's fiscal year shall run from July 1 through June 30. Each fiscal year, the Board shall adopt a budget for the Agency for the ensuing fiscal year. Within ninety (90) days of the effective date of this Agreement, the Board shall adopt a budget. Thereafter, a budget shall be adopted no later than June 1 of the preceding fiscal year. A draft budget shall be prepared no later than March 1 of the preceding fiscal year.

5.6 Alternate Funding Sources. The Board may obtain State of California or federal grants.

5.7 Depository. The Board shall designate a Treasurer of the Agency, who shall be the depository and have custody of all money of the Agency, from whatever source, subject to the applicable provisions of any indenture or resolution providing for a trustee or other fiscal agent. All funds of the Agency shall be held in separate accounts in the name of the Agency and

not commingled with funds of any Member or Affiliated Party or any other person or entity. The Treasurer shall perform the duties specified in Government Code §§6505 and 6505.5.

5.8 **Accounting.** Full books and accounts shall be maintained for the Agency in accordance with practices established by, or consistent with, those utilized by the Controller of the State of California for like public entities. The books and records of the Agency shall be open to inspection by the Members and Affiliated Parties at all reasonable times, and by bondholders and lenders as and to the extent provided by resolution or indenture.

5.9 **Audit.** A qualified firm, serving in the capacity of auditor, shall audit the records and the accounts of the Agency annually in accordance with the provisions of section 6505 of the Law. Copies of such audit reports shall be filed with the State Controller and each Member and each Affiliated Party within six months of the end of the Fiscal Year under examination.

5.10 **Expenditures.** All expenditures within the designations and limitations of the applicable approved budget shall be made upon the approval of any officer so authorized by the Agency Board of Directors. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the approval and written order of the Board. The Board shall requisition the payment of funds only upon approval of claims or disbursements and requisition for payment in accordance with policies and procedures adopted by the Board.

5.11 **Reconsideration of Voting Structure and Expense Allocation.** No later than the first Board meeting following the two-year anniversary of the Effective Date of this Agreement, the Board of Directors shall consider whether to recommend to the Members that the voting structure described in Article 4.6 and/or the expense allocation provisions described in Article 5.1 and Exhibit D should be modified in any respect. If the Board of Directors recommends modification of Article 4.6, Article 5.1, or Exhibit D, the governing body of each Member and each Affiliated Party shall consider the modifications recommended by the Board of Directors and, within 45 days following the Board recommendation, shall report back to the Board of Directors regarding the Member's or Affiliated Party's position regarding the recommended modifications.

ARTICLE 6: CHANGES TO MEMBERSHIP, WITHDRAWAL AND TERMINATION

6.1 **Changes to Members and Affiliated Parties.** The Agency Board of Directors may, in its sole and absolute discretion, approve the addition of new Members or Affiliated Parties to the Agency by supermajority vote. In the event of Board approval of a new Member the new Member shall execute this Agreement but amendment of this Agreement will not be required. In the event of Board approval of a new Affiliated Party the new Affiliated Party shall execute a memorandum of understanding in accordance with Article 3.13. The Board of Directors shall provide all Members and Affiliated Parties with 30 days' advance written notice prior to any Board action to add a new Member or Affiliated Party.

6.2 **Noncompliance.** In the event any Member or Affiliated Party (1) fails to comply with the terms of this Agreement, or (2) undertakes actions that conflict with or undermine the functioning of the Agency or the preparation or implementation of the GSP, such Member or

Affiliated Party shall be subject to the provisions for involuntary removal of a Member or Affiliated Party set forth in of Article 6.3 of this Agreement. Such actions of a Member or Affiliated Party shall be as determined by the Board of Directors and may include, for example, failure to pay its agreed upon contributions when due, refusal to participate in GSA activities or to provide required monitoring of sustainability indicators; refusal to enforce controls as required by the GSP; refusal to implement any necessary actions as outlined by the approved GSP minimum thresholds that are likely to lead to “undesirable results” under SGMA.

6.3 Involuntary Termination. If the Board of Directors determines that a Member or Affiliated Party is in noncompliance as provided in Article 6.2, the Board of Directors may terminate that Member’s or Affiliated Party’s participation in this Agency, provided that, prior to any such vote, all of the Members and Affiliated Parties shall meet and confer regarding all matters related to the proposed removal. In the event of the involuntary termination of a Member or Affiliated Party, the terminated Member or Affiliated Party shall remain fully responsible for its proportionate share of all financial obligations and liabilities incurred by the Agency prior to the effective date of termination as specified in Article 5.1 and Exhibit D, as existing as of the effective date of termination.

6.4 Withdrawal of Members and Affiliated Parties. Subject to the provisions of Article 6.7, a Member or Affiliated Party may, in its sole discretion, unilaterally withdraw from participation in the Agency, effective upon ninety (90) days’ prior written notice to the Agency, provided that (a) the withdrawing Member or Affiliated Party will remain responsible for its proportionate share of any obligation or liability duly incurred by the Agency, as specified in Article 5.1 and Exhibit D, as existing as of the effective date of withdrawal. A withdrawing Member or Affiliated Party will not be responsible for any obligation or liability that the Member or Affiliated Party has voted against or has voiced its disapproval on at a Board meeting, providing the Member or Affiliated Party gives notice of its withdrawal from the Agency as soon thereafter as is practicable. In the event the withdrawing Member or Affiliated Party has any rights in any property or has incurred obligations to the Agency, the Member or Affiliated Party may not sell, lease or transfer such rights or be relieved of its obligations, except in accordance with a written agreement executed by it and the Agency. The Agency may not sell, lease, transfer or use any rights of a Member or Affiliated Party who has withdrawn without first obtaining the written consent of the withdrawing Member or Affiliated Party.

6.5 Termination of Agreement. This Agreement and the Agency may be terminated by a supermajority vote of the Board of Directors. However, in the event of termination, each of the Members and Affiliated Parties will remain responsible for its proportionate share of any obligation or liability duly incurred by the Agency, in accordance with Article 5.1 and Exhibit D, as existing as of the effective date of termination. Nothing in this Agreement will prevent the Members or Affiliated Parties from withdrawing as provided in this Agreement, or from entering into other joint exercise of power agreements.

6.6 Disposition of Property Upon Termination. Upon termination of this Agreement, the assets of the Agency shall be transferred to the Agency’s successor, provided that a public entity will succeed the Agency, or in the event that there is no successor public entity, to the Members and Affiliated Parties in proportion to the contributions made by each Member or Affiliated Party. If the successor public entity will not assume all of the Agency’s

assets, the Board shall distribute the Agency's assets between the successor entity and the Members and Affiliated Parties in proportion to the any obligation required by Articles 5.1 or 5.6.

6.7 Rights of Members and Affiliated Parties to Become GSA in Event of Withdrawal or Termination. Upon withdrawal or involuntary termination of a Member or Affiliated Party, or termination of this Agreement pursuant to Article 6.5, whether occurring before or after June 30, 2017, the withdrawing or terminated Member or Affiliated Party will retain all rights and powers to become or otherwise participate in a GSA for the lands within its boundaries. In such event, the Agency and its remaining Members and Affiliated Parties shall (i) not object to or interfere with the lands in the withdrawing or terminated Member's or Affiliated Party's boundaries being in a GSA, as designated by the withdrawing or terminated Member or Affiliated Party or otherwise; (ii) facilitate such transition to the extent reasonably necessary; and (iii) where the withdrawing Member or Affiliated Party has authority under SGMA to be or participate in a GSA, withdraw from managing that portion of the Subbasin within the boundaries of the withdrawing or terminated Member or Affiliated Party and so notify the California Department of Water Resources. In order to maintain compliance with SGMA in the event of the withdrawal or involuntary termination of a Member or Affiliated Party, where the withdrawing Member or Affiliated Party has authority under SGMA to be or participate in a GSA, the withdrawal or involuntary termination will not be effective until a GSA has been established in accordance with SGMA for those lands overlying the Subbasin affected by the withdrawal or involuntary termination.

6.8 Use of Data. Upon withdrawal, any Member or Affiliated Party shall be entitled to use any data or other information developed by the Agency during its time as a Member or Affiliated Party. Further, should a Member or Affiliated Party withdraw from the Agency after completion of the GSP, it shall be entitled to utilize the GSP for future implementation of SGMA within its boundaries.

ARTICLE 7: SPECIAL PROJECTS

7.1 Special Project Agreements. Fewer than all of the Members and Affiliated Parties may enter into a special project agreement to achieve any of the purposes or activities authorized by this Agreement, and to share in the expenses and costs of such special project, for example, to share in funding infrastructure improvements within the boundaries of only those Members and Affiliated Parties and their Management Areas. Special project agreements must be in writing and documentation and must be provided to each of the Members and Affiliated Parties.

7.2 Expenses. Members and Affiliated Parties that enter into special project agreements agree that any special project expenses incurred for each such special project are the costs of the special project participants, respectively, and not of any other Members or Affiliated Parties not participating in the special project, and the special project expenses shall be paid by the parties to the respective special project agreements.

7.3 Indemnification of Other Members. Members and Affiliated Parties participating in special project agreements if conducted by the Agency, shall hold other Members and Affiliated Parties who are not parties to the special project agreement free and harmless from and indemnify each of them against any and all costs, losses, damages, claims and liabilities arising from the special project agreement. The indemnification obligation of Members and Affiliated Parties participating in special project agreements shall be the same as specified in Article 5.2 for Members and Affiliated Parties in general, except that they shall be limited to liabilities incurred for the special project.

ARTICLE 8: ACTIONS BY THE AGENCY WITHIN MANAGEMENT AREAS AND INDIVIDUAL JURISDICTIONS

8.1 Role of the Agency. Subject to the reservation of authority set forth in Article 8.5, the Agency will serve a coordinating and administrative role in order to provide for sustainable groundwater management of the Subbasin in a manner that does not limit any Member's or Affiliated Party's rights or authority over its own water supply matters, including, but not limited to, a Member's or Affiliated Part's surface water supplies, groundwater supplies, facilities, operations, water management and financial affairs.

8.2 Members' and Affiliated Parties' Responsibility within Management Areas and Individual Jurisdictions. Subject to the reservation of authority in Article 8.5, each of the Members and Affiliated Parties (or groups of Members and Affiliated Parties) will have initial responsibility to implement SGMA and the GSP adopted by the Agency within their respective Management Areas, as delineated in the GSP.

8.3 Water Budgets. The GSP will provide for the preparation of water budgets by Members or Affiliated Parties or groups of Members and Affiliated Parties for their respective Management Areas. The GSP will specify the elements to be included in water budgets and the timing for completion.

8.4 Sustainability. In the event a water budget prepared in accordance with Article 8.3 shows that groundwater pumping within a Management Area exceeds such area's sustainable yield, as defined in Cal. Water Code § 10721(v) and (w), or an "undesirable result," as defined in Cal. Water Code § 10721(x), exists, the Member or Affiliated Party or group of Members and Affiliated Parties with groundwater management responsibility over such area shall develop and implement a plan to achieve sustainability or eliminate the undesirable result within that area. The GSP will specify the elements to be included in and time requirements for implementation of the plan.

8.5 Reservation of Authority. In the event of a failure by a Member or Affiliated Party or group of Members or Affiliated Parties to develop and implement a plan to achieve sustainability or eliminate an undesirable result within a Management Area as provided in Article 8.4, the Agency reserves and retains all requisite authority to (i) develop and implement a plan to achieve sustainability or eliminate an undesirable result, and (ii) allocate the cost of development and implementation of such plan to Members or Affiliated Parties within such

Management Area. The GSP will specify the procedures for development and implementation of a plan by the Agency under such circumstances.

ARTICLE 9: MISCELLANEOUS PROVISIONS

9.1 Amendments. This Agreement may be amended from time to time by a supermajority vote of the Board of Directors; provided, however, that the provisions of Article 6.7 (Rights of Member to Become GSA in Event of Withdrawal or Termination) may be amended only by unanimous vote of the Board of Directors.

9.2 Binding on Successors. The rights and duties of the Members and Affiliated Parties under this Agreement may not be assigned or delegated without the advance written consent of the Agency (as evidenced by a majority vote of the Board of Directors) and any attempt to assign or delegate such rights or duties in contravention of this Article 9.2 shall be null and void. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations of the Agency then in effect.

9.3 Notice. Any notice or instrument required to be given or delivered under this Agreement may be made by: (a) depositing the same in any United States Post Office, postage prepaid, and shall be deemed to have been received at the expiration of 72 hours after its deposit in the United States Post Office; (b) transmission by facsimile copy to the addressee; (c) transmission by electronic mail; or (d) personal delivery to the addresses or facsimile numbers of the Members and Affiliated Parties set forth in Exhibit E to this Agreement.

9.4 Counterparts. This Agreement may be executed by the Members in separate counterparts, each of which when so executed and delivered shall be an original. All such counterparts shall together constitute but one and the same instrument.

9.5 Choice of Law. This Agreement shall be governed by the laws of the State of California.

9.6 Severability. If one or more clauses, sentences, paragraphs or provisions of this Agreement is held to be unlawful, invalid or unenforceable, it is hereby agreed by the Members that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.

9.7 Headings. The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Members to this Agreement.

9.8 Construction and Interpretation. This Agreement has been arrived at through negotiation and each Member has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved

against the drafting Member shall not apply in the construction or interpretation of this Agreement.

9.9 Entire Agreement. This Agreement constitutes the entire agreement among the Members and supersedes all prior agreements and understandings, written or oral. This Agreement may only be amended by written instrument executed by all Members.

IN WITNESS WHEREOF, the Members have executed this Agreement on the day and year first above-written.

[Signature blocks]

Draft Exhibit A
List of Members

Member Agencies

City of Davis

City of West Sacramento

City of Winters

City of Woodland

Dunnigan Water District

Esparto Community Service District (CSD)

Madison CSD

Reclamation District (RD) 108

RD 730

RD 787

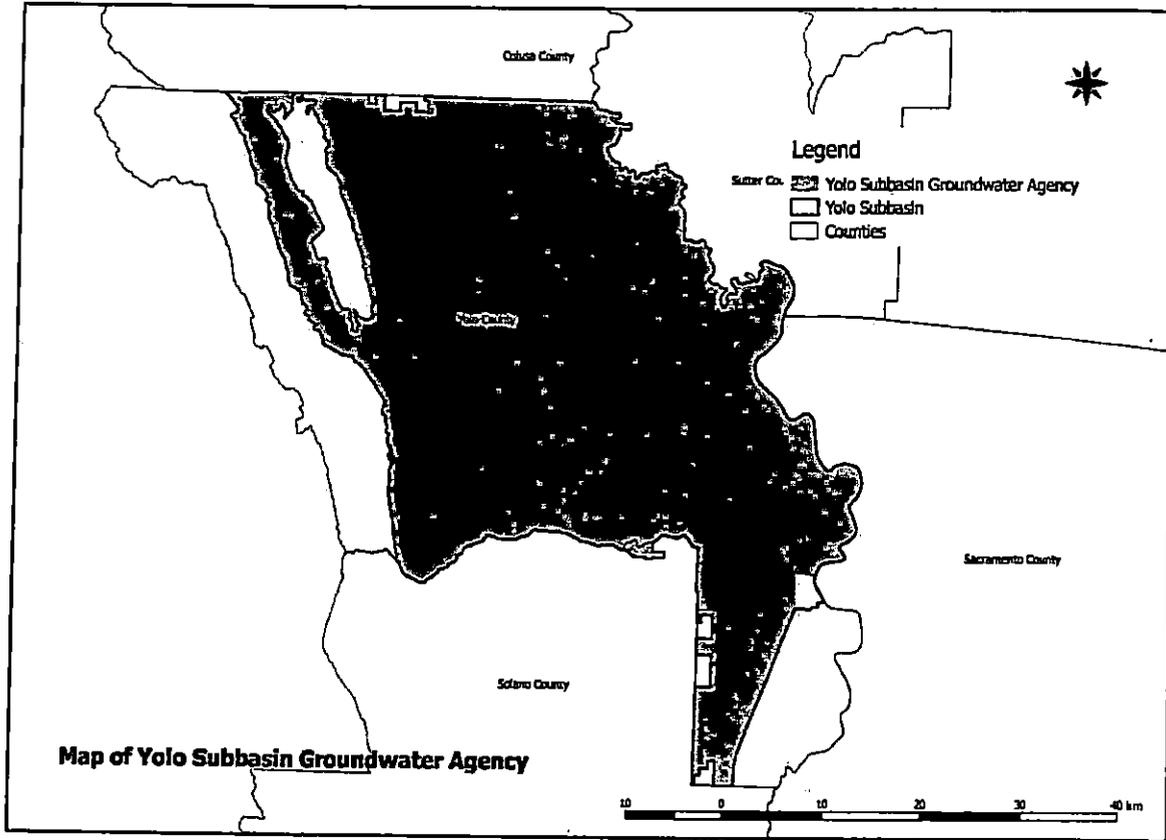
RD 2035

Yocha Dehe Wintun Nation

Yolo County

Yolo County Flood Control and Water Conservation District

Draft Exhibit B
Map of Agency Boundaries



Draft Exhibit C
List of Affiliated Parties

Affiliated Parties

California American Water Company -- Dunnigan

Colusa Drain Mutual Water Company

Environmental Party**

University of California, Davis

Private Pumper as appointed by Yolo County Farm Bureau

**To be determined.

Draft Exhibit D
Funding Amounts

It is proposed that administrative fees in the range of approximately \$400,000 to \$500,000 per year be collected for the first two years of the GSA. After two years, the fee structure will be revisited and adjusted as appropriate.

Key

Blue = JPA Parties and Existing WRA member

Orange = JPA Parties

Entity Contributions			
Municipal Agencies	1	Base	\$
City of Davis			\$40,000
City of Woodland			\$40,000
City of West Sacramento			\$40,000
City of Winters			\$20,000
Yocha Dehe Wintun Nation			\$10,000
Esparto CSD			\$5,000
Madison CSD			\$5,000
			\$160,000
Entity Contributions			
Rural Agencies (\$0.50/acre)	0.5	Acres	\$
Yolo County Flood Control & WCD		200,000	\$100,000
Yolo County (White Areas)*		160,000	\$40,000
Direct Contributions (White Areas)**		40,000	\$20,000
Other Contributions from Rural Agencies***			\$40,000
Dunnigan Water District		10,700	\$5,350
RD 108		23,200	\$11,600
RD 2035		18,000	\$9,000
RD 730		4,498	\$2,249
RD 787		9,400	\$4,700
		465,798	\$232,899

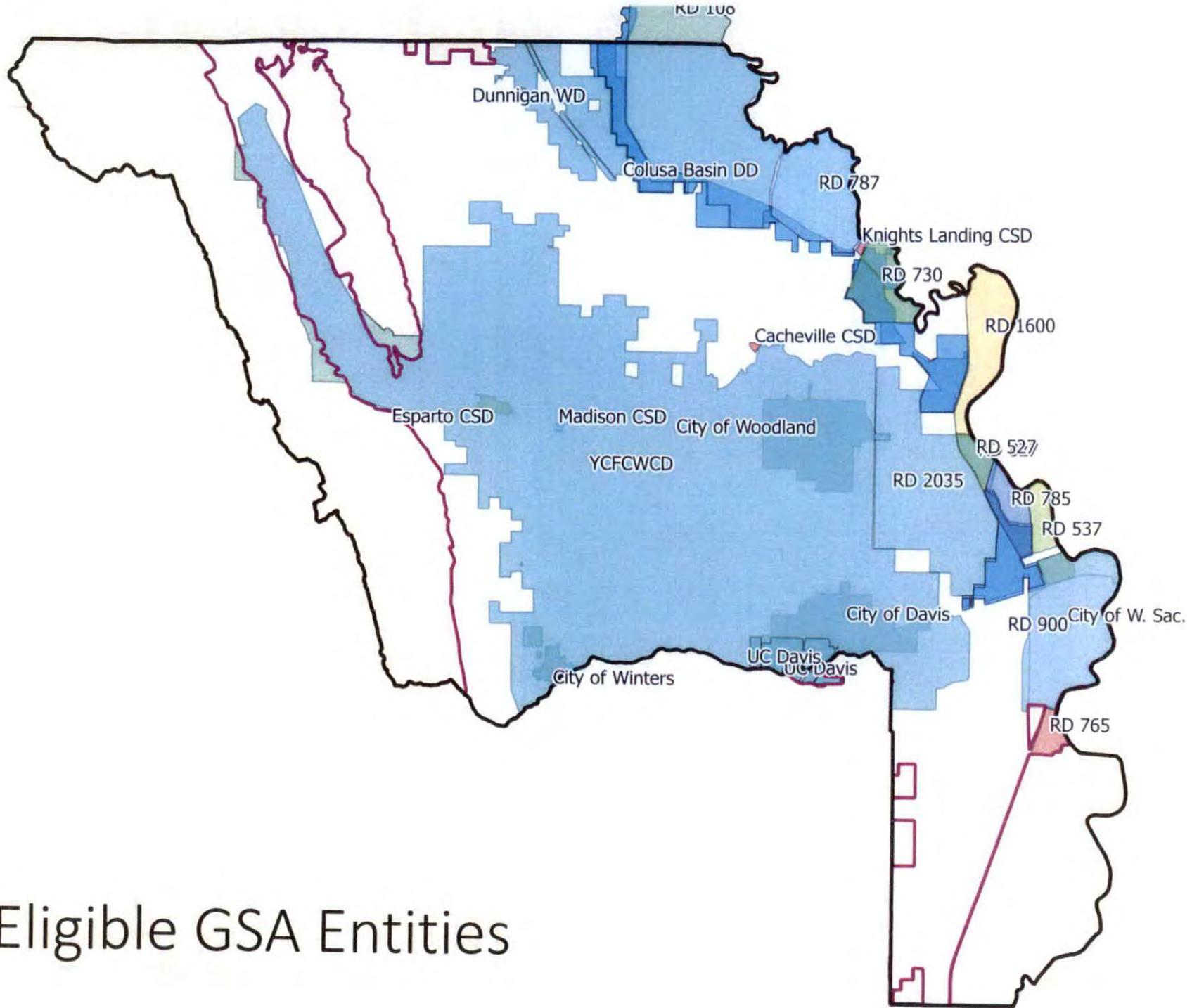
*Yolo County is not \$0.50/acre

**Direct Contributions from private pumpers currently residing in "white areas"

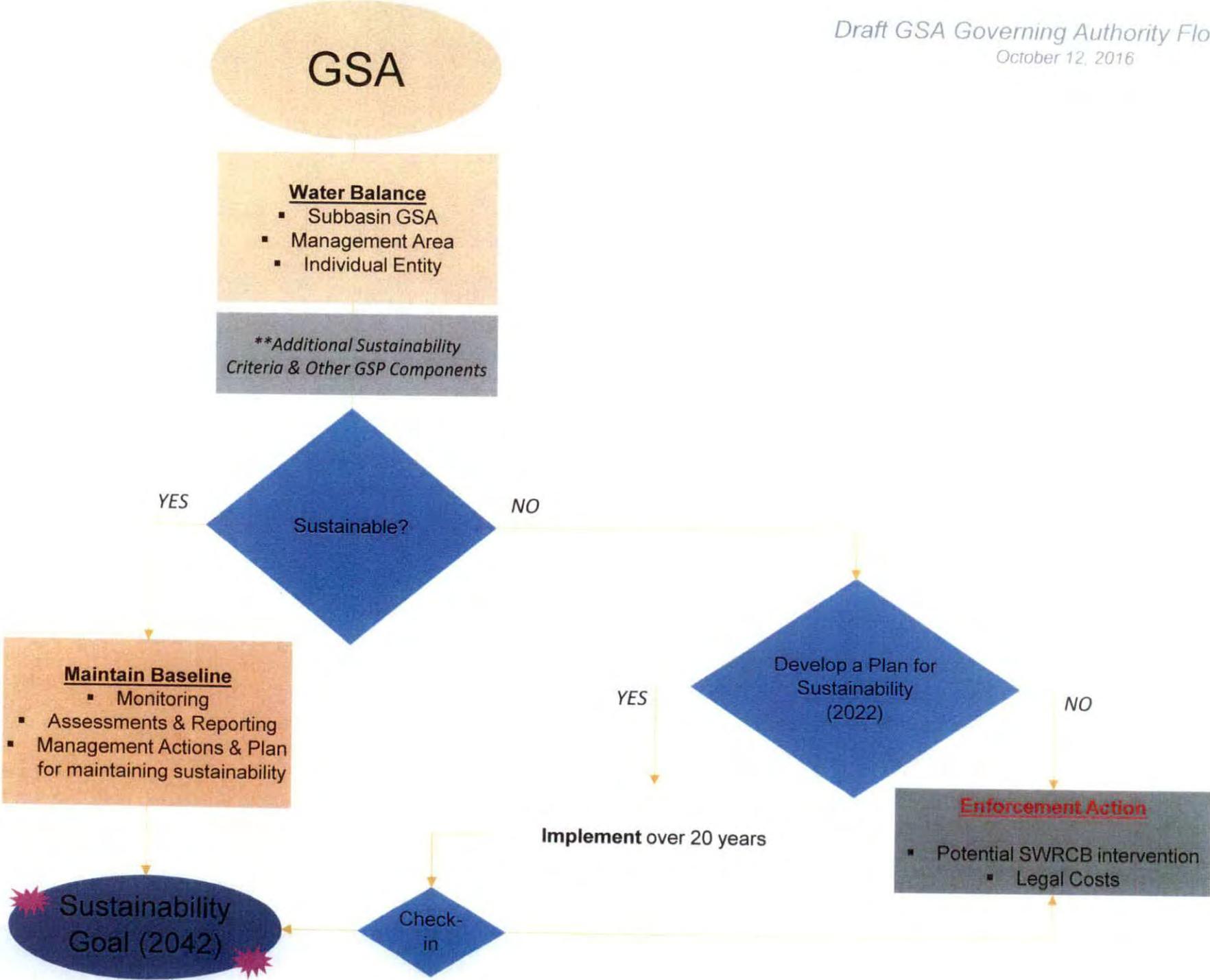
***RD 108, RD 787, RD 2035, and YCFWCWD (\$10,000/each)

Affiliated Parties with Board Voting Seats			
	1	Base	\$
University of California, Davis			\$40,000
Colusa Drain Mutual Water Company			\$10,000
California American Water Company - Dunnigan			\$5,000
Yolo County Farm Bureau			\$10,000
Environmental Party - TBD			
			\$65,000
Sub Total:			\$457,899

Exhibit C



Eligible GSA Entities



CRITICAL ELEMENTS OF THE PROPOSED YOLO SUBBASIN GROUNDWATER AUTHORITY

BACKGROUND

Water interests in the Yolo groundwater subbasin have been working together over the last three years to develop an efficient and effective groundwater governance structure in order to fully comply with and implement the basin-scale Sustainable Groundwater Management Act (SGMA). The overarching principle behind our approach to regulation under SGMA is to **continue and extend the cooperative, collaborative approach practiced for the past three decades** by the Water Resources Association of Yolo County (WRA). The purpose of this white paper is to explain in a concise manner the specific critical elements that are being proposed in the formation of the Yolo Groundwater Authority (YGA).

History of WRA

The WRA was established in 1993 to serve as a collaborative, consensus-based regional forum to plan, coordinate, and facilitate solutions to water management issues in Yolo County. In 2007, the WRA developed the Yolo Integrated Regional Water Management Plan (IRWMP), which serves as the road map for water resource planning in the region and is a component of the Westside-Sacramento IRWMP. The WRA has succeeded in securing millions of dollars of funding for its member agencies in areas of water efficiency, groundwater management, water quality, and environmental and recreational protection and enhancement.

Local implementation of the Sustainable Groundwater Management Act

In 2014, the California Legislature and Governor Brown signed into legislation the Sustainable Groundwater Management Act (SGMA). This Legislation called for local management of groundwater basins to achieve and ensure groundwater sustainability. From the beginning, Yolo county interests have approached this implementation process in a collaborative fashion that takes advantage of the existing relationships among the parties and the robust groundwater monitoring network that has been in place for over 40 years. Recognizing and building on these values, local Yolo subbasin eligible entities have achieved the following;

- Partnered with the Yolo County Farm Bureau to inform and educate the local landowners and Cities about the Legislation (“Year of Groundwater”).
- Submitted a basin boundary modification request to the California Department of Water Resources (DWR) to consolidate the original four Bulletin 118 groundwater subbasins into a single Yolo Subbasin.
- Developed a conceptual governance structure to maintain governance and decision making at the lowest (grassroots) level allowed by the Legislation while protecting and preserving the autonomy and authorities of local agencies
- Collaborated in developing a single GSA for managing groundwater in the Yolo subbasin in order to meet the June 30, 2017 deadline.

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- Proposed a fee and voting structure for the GSA that attempts to equitably distribute the roles and responsibilities of implementing agencies and interested parties.
- Planned on utilizing the GSA to write the Groundwater Sustainability Plan (GSP) for the Yolo subbasin in order to meet the January 1, 2022 deadline

The proposed approach provides economies of scale to all participants, honors our regional community, recognizes the value of county partnerships, and creates shared accountability for the shared water resources on which we all depend. The approach provides regulatory coverage, preserves local control, and serves as a leadership model in the state.

RECOMMENDATIONS OF THE YOLO GSA WORKING GROUP

I. JPA Formation

- The Yolo GSA Working Group recommends forming a new Joint Powers Authority to serve as the Yolo Subbasin Groundwater Authority. The proposed boundary of the Yolo Subbasin Groundwater Authority is shown in Attachment A.

II. YGA Governance Structure and Voting

- Use an equal partners approach, particularly during the formation of this management structure, to help this subbasin-wide management agency be successful and result in the multiple signatories feeling mutually respected by each other.
- **Grant one voting board seat per signatory (both JPA + MOU)**

III. YGA Fee Structure

- Adopt the fee schedule as shown in Attachment B to provide a budget for administration and program development costs for the first two years of the YGA.

PROPOSED ENTITY STRUCTURE AND VOTING

Entity Structure

- While each eligible entity is entitled to form a GSA on its own, the intent behind a Yolo-wide GSA is to **build on the Water Resources Association's successful history of collaboratively and cooperatively managing water resources.**
- Each eligible entity desiring to participate will sign to form a Joint Exercise of Powers Agreement (JPA), creating the YGA, a subbasin-wide management structure.
- Non-eligible entities are addressed separately, depending upon type of entity.

Non-eligible Entities

- Affiliated Parties are not eligible entities under the strict definition in Water Code §10724, but do have water supply, water management or land use authority, and are invited to sign MOUs with the JPA and have a voting board seat.

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- Current listed Affiliated Parties are: UC Davis, California American Water, and the Colusa Drain Mutual Water Company
- Yocha Dehe Wintun Nation may elect to join the JPA or to sign an MOU with the JPA and have a voting board seat.
- The “white areas” (see map in Attachment A) will be represented by an eligible entity (a water district, reclamation district, or the county).
- The Yolo Bypass and Putah Creek areas managed by CDFW will be treated as “white areas,” at least at the outset of the GSA formation and GSP preparation process.
- Private pumpers will be represented through a voting seat appointed by the Farm Bureau.
- Environmental concerns will be represented through a voting seat.
 - The environmental seat is expected to represent environmental justice, land-based, and ecosystem issues.
 - The structure for addressing fees/dues payment by the environmental seat still needs to be decided upon.
 - The process for determining the environmental seat is being developed; three possible mechanisms are under consideration:
 - i. Ask the Yolo County HCP/NCCP to appoint the seat
 - ii. Ask the Yolo County Resource Conservation District to appoint the seat
 - iii. Offer the seat as an open call to applicants, in a manner similar to city or county commissions like the Planning Commission.
- The JPA may need to have a clause to determine who could be an additional Affiliated Party, or have a voting seat on the board, unless this is covered already in Article 6 of the JPA.
 - Identify the initial parties in the JPA.
 - A possible governance process could include an application “test” for parties applying for membership in the JPA and representation on the board.
 - New members would need to be approved by a supermajority of the seated board.

Re-opener Clause

- The JPA is being crafted to have a “re-opener” clause after two years, or the completion of the initial phases of a Groundwater Sustainability Plan (GSP), whichever comes first.
- The reopener will allow voting and fee structures, along with any other relevant JPA articles of formation, purpose or powers, to be revised or tuned according to the initial findings of the GSP work, and/or changes to SGMA regulatory implementation.

Voting Issues

The main issues requiring a vote are expected to be largely administrative. The focus will be on budget, contracts, staffing, and general GSA liaison with other governmental agencies. In addition, the Board will provide intra-management area support and coordination as well as maintain the overall GSA data repository. For the most part, these votes will be based on a majority basis, but all efforts for consensus-based decisions will be made.

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The overall scope and sustainability criteria for the GSA which include items such as rules, regulations, ordinances, etc. will come before the Board as the need arises during the formative first two years. These votes of the Board would require a two-thirds supermajority in order to pass. As in the majority vote above, all efforts for consensus-based decisions will be made. Other issues that would/could require a supermajority would/could be:

- Approval of the Authority's annual budget;
- Decisions related to the levying of taxes, assessments or property-related fees and charges;
- Decisions related to the expenditure of funds by the Authority beyond expenditures approved in the Authority's annual budget;
- Adoption of rules, regulations, policies, bylaws and procedures related to the function of the Authority;
- Decisions related to the establishment of the Members' percentage obligations for payment of the Authority's operating and administrative costs; and
- Approval of a GSP.

The voting issue shall be subject to a re-opener after the establishment of the GSA and not later than 2 years from that date. At that time, a more formal voting structural framework will be established and approved by the whole GSA membership. Attachment C includes a list of all eligible entities, affiliated parties, and interested parties that have participated in the YGA JPA process.

FEES FOR IMPLEMENTATION

For three decades, members of the WRA have paid dues to cover expenses associated with collaboratively planning and managing water resources in Yolo County. The YGA proposes continuing to collect dues, or fees, to collectively:

- Share the costs and achieve economies of scale through collaborating on expensive water balance modeling and GSP preparation
 - See spreadsheet of required GSP components (Attachment D)
- Plan for and assure the future resilience of our water resources, including:
 - Stewardship for groundwater availability during periods when surface water resources are limited
 - Ability to collectively undertake development of new resources
- Pool resources to be poised to take advantage of cost-sharing grants for preparing and implementing the GSP

While there is a large degree of uncertainty as to how much revenue will be needed in the first two years of the YGA existence, a budget of \$400,000 to \$500,000 per year for two years has been proposed as a starting point. Approximately \$100,000 per year will be needed for general

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administrative services (administrative support, office supplies, etc.), \$100,000 per year will be needed for general project management (including maintaining and enhancing the existing groundwater monitoring program), and \$200,000 per year for GSP development. Attachment B includes a table of proposed fees for entities wishing to formally participate in the YGA JPA.

Fee Structure Rationale

- The proposed fee structure assumes a roughly 50/50 split between the Rural and Urban interests. Rural interests will be assessed approximately \$0.50 per acre for land within their service areas, while the Urban interests will be assessed a total of \$200,000 in a ratio roughly equivalent to their current WRA dues. The organizations without a defined "GSA-boundary" such as the Yolo County Farm Bureau, the environmental interests, and California American Water Company have their proposed fees listed.
- These initial costs are likely to be lower by obtaining grants. Two grants (USDA and Storm Water Planning) have already been secured in order to complete the water balance requirements portion of the GSP, and the CA Department of Water Resources has indicated that the YGA is in a strong position to receive future grants.
- Regardless of the final fee schedule that will be adopted, there is unanimous support for reopening the fee schedule within two years to review and adjust the fee schedule as appropriate. That review and adjustment will include devising a method for collecting fees going forward that ties fees collection to some underlying use or performance basis rationale.
- The re-opener clause will state that the review will happen within two years after Agreement date (not starting in two years).
- Other fee mechanisms were considered, such as using acreage, population, extraction, groundwater conditions, assessed valuation, a consensus process, or a combination of the proceeding. Population and acreage statistics of Yolo County are included in Attachment E.

Potential Costs for Developing an Independent GSA

It is generally recognized and accepted that a collaborative approach for forming a GSA is more cost-effective than "going alone" in forming a GSA. Some example costs are listed here. An additional cost estimate can be derived from the State Water Resources Control Board (State Water Board) draft fee schedule for administering probationary basins. The State Water Board's draft fee schedule information can be found in Attachment F.

- Other GSA cost examples:
 - Solano JPA High Estimates
 - GSA Management = \$565,000
 - GSP Development = \$1.65M
 - GSP Ongoing/Annual/5-Year updates = \$550,000
 - Solano Irrigation District (as single GSA) Estimates
 - GSA Management = \$50,000
 - GSP Development = \$500,000

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- GSP Ongoing / Annual / 5-Year updates = \$160,000
- Fox Canyon Groundwater Management Agency
 - GSP Development within one year = \$1M
- Martis Valley Groundwater Basin
 - GSP Development = \$1M
- Colusa County
 - SGMA Implementation for first year = \$800-\$900,000 (studies to characterize current conditions and relate to sustainability indicators)

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LIST OF ACRONYMS

GSA - Groundwater Sustainability Agency
GSP - Groundwater Sustainability Plan
JPA - Joint Exercise of Powers Agreement
MOU - Memorandum of Understanding
SGMA - Sustainable Groundwater Management Act
WRA - Water Resources Association of Yolo County
YGA - Yolo Groundwater Authority

ATTACHMENTS

ATTACHMENT A: MAP OF PROPOSED YOLO SUBBASIN GROUNDWATER AUTHORITY (YOLO SUBBASIN)

Attachment A includes a map of the proposed Yolo Subbasin Groundwater Authority boundary along with the Yolo Subbasin extents, and a hyperlink to DWR's basin boundary website.

ATTACHMENT B: SPREADSHEET OF PROPOSED FEES

Attachment B includes a draft table of proposed fees for entities wishing to participate in the YGA JPA.

ATTACHMENT C: LIST OF ELIGIBLE ENTITIES, AFFILIATED PARTIES, AND INTERESTED PARTIES

Attachment C includes a draft list of all eligible entities, affiliated parties, and interested parties that have participated in the YGA JPA process. Eligible entities are defined by SGMA as those local governments that are eligible to independently apply for GSA status. Not all eligible entities will choose to be a member of the YGA JPA. Affiliated parties include mutual water companies, private utilities, and certain interested parties that wish to enter into an MOU with the JPA that would allow them to have a voting seat on the Board of Directors. Interested parties include those beneficial uses and users of groundwater listed in Water Code Section 10723.2.

ATTACHMENT D: MATRIX OF GROUNDWATER SUSTAINABILITY PLAN COMPONENTS

Attachment D includes a draft summary table of DWR's GSP Emergency Regulations. Within the table, draft information has been provided to estimate the level of effort, responsible parties, and estimated associated cost.

ATTACHMENT E: YOLO COUNTY DEMOGRAPHICS AND ACREAGE

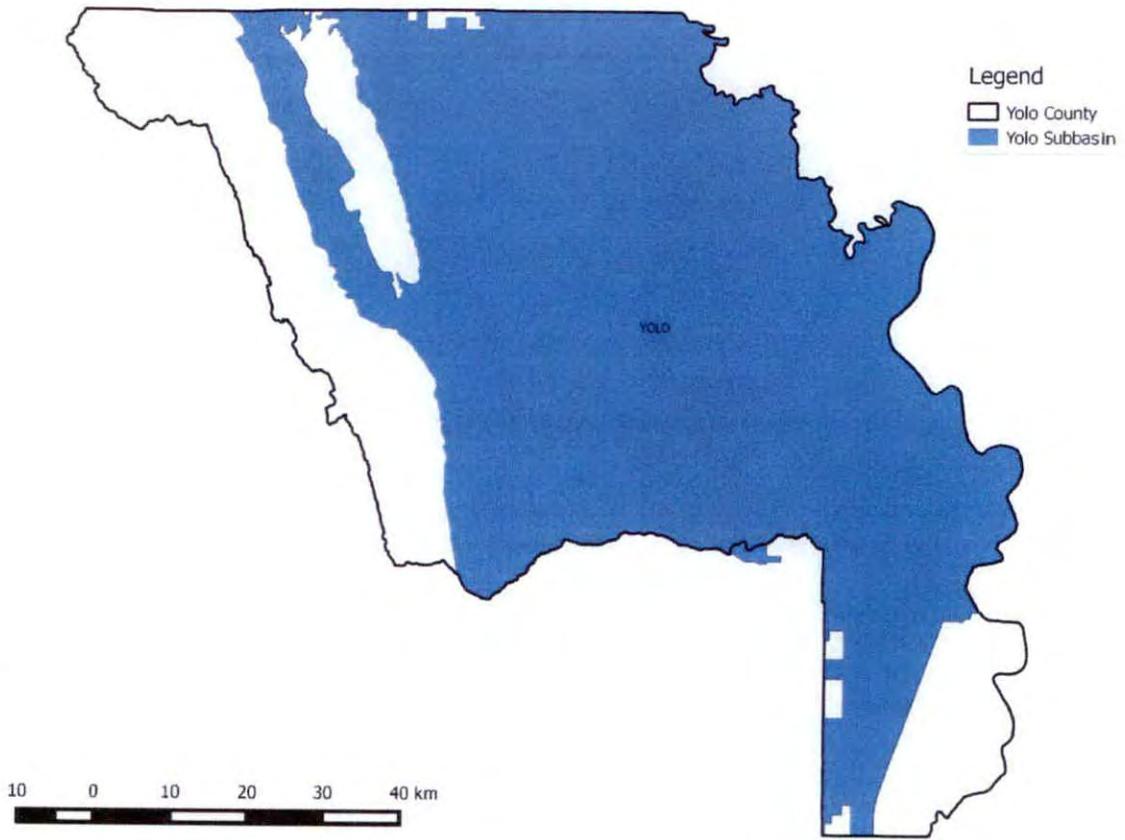
Attachment E includes draft information on Yolo County demographics and acreage; the remainder will be developed in the near future.

ATTACHMENT F: STATE WATER BOARD DRAFT FEE SCHEDULE

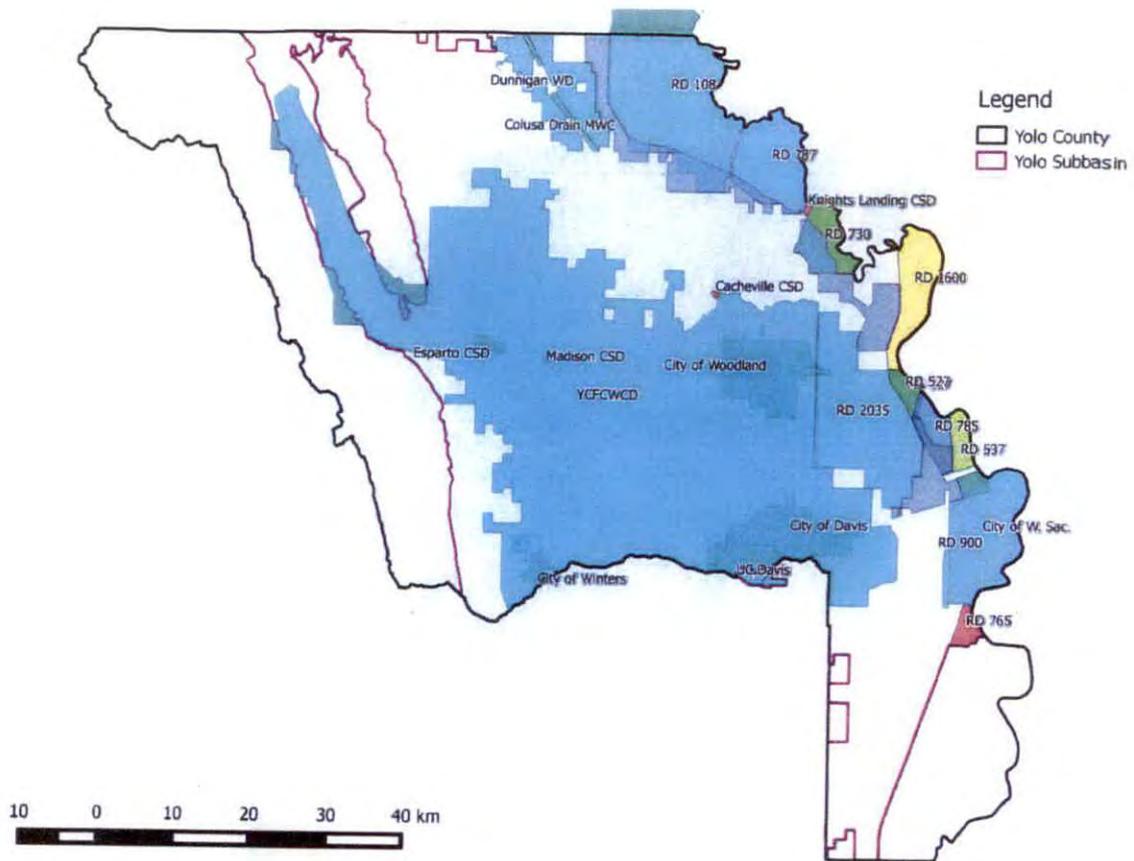
DRAFT

Attachment F includes information on the State Water Board's draft fee schedule for administering basins that are probationary from lack of GSA coverage.

ATTACHMENT A. MAP OF PROPOSED YOLO SUBBASIN GROUNDWATER AUTHORITY



Map of Yolo Subbasin



Draft Map of Yolo Subbasin, Entities, and White Areas

DWR's Map of Basin Boundary Modifications can be found on their Groundwater Basin Boundary Assessment Tool: <https://gis.water.ca.gov/app/bbat/>.

Eligible Entities Potentially Not Interested

Cacheville Community Service District (CSD)

Colusa Basin Drainage District

Knights Landing CSD

Knights Landing Drainage District***

North Delta Water Agency

RD 537

RD 730

RD 765

RD 785

RD 827

RD 900

RD 827

RD 1600

Yolo County Housing Authority***

Woodland Davis Clean Water Agency***

***Eligible entity, but likely not to participate because of redundancy

INTERESTED PARTIES**Beneficial Uses and Users of Groundwater (SGMA Section 10723.2)**

Holders of overlying groundwater rights

Municipal well operators

Public water systems

Local land use planning agencies

Environmental users of groundwater

Surface water users, if there is a hydrologic connection between surface and groundwater bodies.

The federal government, including the military and managers of federal lands.

California Native American tribes

Disadvantaged communities, including those served by private domestic wells or small community water systems.

Entities listed in Section 10927 of SGMA that are monitoring and reporting groundwater elevations in all or a part of a groundwater basin managed by the groundwater sustainability agency.

sustainable groundwater management as the "management and use of groundwater in a manner that can be maintained during a horizon without causing undesirable results".

Effects are defined in SGMA and summarized as any of the following effects caused by groundwater conditions occurring throughout the basin:

• lowering of groundwater levels indicating a significant and unreasonable depletion of supply

• significant and unreasonable reduction of groundwater storage

• significant and unreasonable seawater intrusion

• significant and unreasonable degraded water quality

• significant and unreasonable land subsidence

• water depletions that have significant and unreasonable adverse impacts on beneficial uses of the surface water

Indicator: refers to any of the effects caused by groundwater conditions occurring through the basin that, when significant and unreasonable, result in undesirable results, as described in Water Code Section 10721(x).

<p>of the basin (density of wells/mi²)</p> <p>tion of existing water resource and mgt. programs and land use elements</p>		(1)	Primarily consultants
<p>nication section</p> <p>s decision-making process</p> <p>ngagement opportunities</p> <p>public process</p>		(1)	Primarily staff
<p>c and structural setting of the basin</p> <p>basin boundaries</p> <p>le bottom of the basin</p> <p>il aquifers and aquitards</p> <p>uphic information</p> <p>geology</p> <p>racteristics</p> <p>tion of existing recharge areas</p> <p>nt surface water bodies</p> <p>and point of delivery for imported water supplies</p> <p>ation data (flow directions, lat/vert gradients, and regional pumping patterns)</p> <p>if annual and cumulative change in stored GW volume</p> <p>er intrusion</p> <p>water quality issues</p> <p>total, and annual rate of land subsidence</p> <p>erconnected SW systems, estimated quantity, and timing of system depletions</p> <p>V dependent ecosystems</p>		(2)	Staff and consultants
<p>ting and assessment of total annual GW volume and surface water in/out of basin</p> <p>e of sustainable yield</p> <p>y current, historical, and projected water budget</p> <p>for creation of and map delineating each MA</p> <p>m Thresholds (MT) and Measurable Objectives (MO) established for each MA</p> <p>Monitoring and Analysis appropriate for each MA</p> <p>tion of how MA can operate under diff MT and MO without causing Undesirable Results outside the MA</p> <p>ability Goal, Undesirable Results, MT, and MO for each applicable sustainability indicator over the 20-year Plan</p> <p>entation</p> <p>ed by basin conditions, basin setting, and maps</p>		(1)/(2)	Staff and consultants
<p>ing and assessment of total annual GW volume and surface water in/out of basin</p> <p>e of sustainable yield</p> <p>y current, historical, and projected water budget</p> <p>for creation of and map delineating each MA</p> <p>m Thresholds (MT) and Measurable Objectives (MO) established for each MA</p> <p>Monitoring and Analysis appropriate for each MA</p> <p>tion of how MA can operate under diff MT and MO without causing Undesirable Results outside the MA</p> <p>ability Goal, Undesirable Results, MT, and MO for each applicable sustainability indicator over the 20-year Plan</p> <p>entation</p> <p>ed by basin conditions, basin setting, and maps</p>		(3)	Primarily consultants
<p>network for collecting sufficient data to demonstrate short-term, seasonal, and long-term trends in groundwater and surface conditions</p> <p>changes in groundwater conditions relative to MO and MT</p> <p>strate progress toward achieving MO and evaluate sustainability indicator and undesirable results</p> <p>impacts to the beneficial uses and users</p> <p>c rationale for the monitoring site selection process</p> <p>tion of assessment and improvement of monitoring network (in GSP and 5-year assessment reports) – data gaps, local and circumstances that limit or prevent monitoring</p> <p>ach MO and implemented to achieve sustainability goal</p> <p>status, benefits, and cost of each project and management action</p>		(2)	Management level staff
<p>network for collecting sufficient data to demonstrate short-term, seasonal, and long-term trends in groundwater and surface conditions</p> <p>changes in groundwater conditions relative to MO and MT</p> <p>strate progress toward achieving MO and evaluate sustainability indicator and undesirable results</p> <p>impacts to the beneficial uses and users</p> <p>c rationale for the monitoring site selection process</p> <p>tion of assessment and improvement of monitoring network (in GSP and 5-year assessment reports) – data gaps, local and circumstances that limit or prevent monitoring</p> <p>ach MO and implemented to achieve sustainability goal</p> <p>status, benefits, and cost of each project and management action</p>		(2)/(3)	Staff and consultants
<p>network for collecting sufficient data to demonstrate short-term, seasonal, and long-term trends in groundwater and surface conditions</p> <p>changes in groundwater conditions relative to MO and MT</p> <p>strate progress toward achieving MO and evaluate sustainability indicator and undesirable results</p> <p>impacts to the beneficial uses and users</p> <p>c rationale for the monitoring site selection process</p> <p>tion of assessment and improvement of monitoring network (in GSP and 5-year assessment reports) – data gaps, local and circumstances that limit or prevent monitoring</p> <p>ach MO and implemented to achieve sustainability goal</p> <p>status, benefits, and cost of each project and management action</p>		(1)/(2)	Staff and consultants
<p>network for collecting sufficient data to demonstrate short-term, seasonal, and long-term trends in groundwater and surface conditions</p> <p>changes in groundwater conditions relative to MO and MT</p> <p>strate progress toward achieving MO and evaluate sustainability indicator and undesirable results</p> <p>impacts to the beneficial uses and users</p> <p>c rationale for the monitoring site selection process</p> <p>tion of assessment and improvement of monitoring network (in GSP and 5-year assessment reports) – data gaps, local and circumstances that limit or prevent monitoring</p> <p>ach MO and implemented to achieve sustainability goal</p> <p>status, benefits, and cost of each project and management action</p>		(1)/(2)	Staff, farmers, and local knowledge

ATTACHMENT E. YOLO COUNTY DEMOGRAPHICS AND ACREAGE – DRAFT INFORMATION; WILL CONTINUE TO BE DEVELOPED

Yolo County Demographics and Acreage

- 650,000 acres (1,021 sq. mi / 653,549 acres)
 - Could have table here of eligible entities and affiliated parties by acreage
- 225,000 people

Population Distribution

Table 1. Total Population by City

Jurisdiction	Population
City of Davis	66,656
City of West Sacramento	50,836
City of Winters	6,979
City of Woodland	57,223
Unincorporated County	24,687
Total Population	206,381

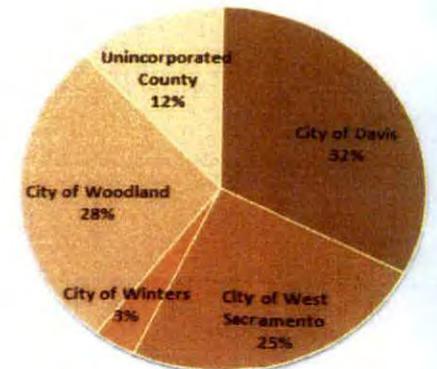


Figure 2. Percent of Population by City

(Acreage will continue to be developed)

LIST OF ELIGIBLE ENTITIES AND AFFILIATED PARTIES

Eligible Entities	Acreage
City of Davis	7,669
City of West Sacramento	14,618
City of Winters	1,504
City of Woodland	10,017
Dunnigan Water District	10,875
Esparto CSD	530
Madison CSD	62
Reclamation District (RD) 108	23,663
RD 787	9,764
RD 2035	21,099
Yolo County	656,989
Yolo County Flood Control & Water Conservation District	193,563
Affiliated Parties	Acreage
California American Water Company – Dunnigan	
Colusa Drain Mutual Water Company	
Environmental Party	
University of California, Davis	
Yocha Dehe Wintun Nation	

Yolo County Farm Bureau

Eligible Entities Potentially Not Interested	Acreage
Cacheville Community Service District (CSD)	
Colusa Basin Drainage District	
Knights Landing CSD	
Knights Landing Drainage District***	
North Delta Water Agency	
RD 537	
RD 730	
RD 765	
RD 785	
RD 827	
RD 900	
RD 827	
RD 1600	
Yolo County Housing Authority***	
Woodland Davis Clean Water Agency***	

***Eligible entity, but likely not to participate because of redundancy

ATTACHMENT F: STATE WATER BOARD DRAFT FEE SCHEDULE

Proposed Sustainable Groundwater Management Act (SGMA) Fee Schedule

INTRODUCTION

The State Water Resources Control Board (State Water Board) is conducting a series of stakeholder meetings throughout summer and fall 2016 to assist in the development of a groundwater extraction reporting fee schedule, as required by the Sustainable Groundwater Management Act (SGMA). The objectives of the stakeholder meetings are as follows:

- Engage stakeholders in the SGMA fee schedule development process.
- Explain issues considered in drafting the proposed fee schedule.
- Gain a better understanding of stakeholder interests and concerns.

Following the stakeholder meetings, State Water Board staff will develop and release a draft fee schedule emergency regulation for public comment and hold at least one public meeting to receive public comment on the draft emergency regulation. The State Water Board will consider adoption of the proposed fee schedule emergency regulation in spring 2017. The fee schedule must be effective by July 1, 2017.

BACKGROUND

SGMA requires the formation of local groundwater sustainability agencies (GSAs) in California's high- and medium-priority groundwater basins. Sustainability agencies are required to develop groundwater sustainability plans that will bring basins into sustainability within 20 years of plan implementation. If locals are unable or unwilling to sustainably manage their basin, the State Water Board is authorized to intervene. State intervention can only be triggered by one of the following events:

Date	Trigger
July 1, 2017	Failure to form a GSA.
January 31, 2020	Failure to adopt and/or adequately implement a groundwater sustainability plan for a basin in a critical condition of overdraft.
January 31, 2022	Failure to adopt and/or adequately implement a groundwater sustainability plan in all other high- or medium-priority basins.
January 31, 2025	There are significant depletions of interconnected surface waters and the sustainability plan is not being implemented adequately.

STATE WATER BOARD FEE AUTHORITY

Portions of basins that are not within the management area of a GSA by July 1, 2017, are considered unmanaged areas. Groundwater extractors in unmanaged areas are required to file an annual groundwater extraction report with the State Water Board. (Wat. Code §5202, subd. (a)(2).) If locals fail to form a GSA, fail to develop an adequate sustainability plan, or fail to implement the plan adequately (based on the deadlines outlined above), the State Water Board may designate the basin as probationary and step in to directly manage groundwater extractions in the basin. (Wat. Code §§ 10735.2 & 10735.8.) All extractors in a probationary basin are required to submit an annual groundwater extraction report, although the State Water Board has discretion to exempt certain probationary extractors from reporting if appropriate. (Wat. Code §5202(a)(1).) Each annual extraction report must be accompanied by a fee to cover associated programmatic costs. (Wat. Code §§ 1529.5 & 5202, subd. (f).)

The State Water Board is required to adopt, by emergency regulation, a fee schedule to cover SGMA-related costs. (Wat. Code §1530.) The emergency regulation format allows the State Water Board to update

the fee schedule annually to reflect changing conditions and programmatic costs. It also important to note that the fees described below will not be applicable if local implementation of SGMA is successful.

PROPOSED FEE SCHEDULE

There are three “levels” of State Water Board intervention, each level is associated with greater staff workloads and associated costs.

1. Unmanaged Area Intervention. Unmanaged areas are portions of basins that are outside of a GSA service area. Groundwater extractors in unmanaged areas are required to submit an annual report to the State Water Board detailing monthly groundwater extraction volumes, place of use, and purpose of use, and may be required to submit other information necessary to evaluate the basin.
2. Probationary Basin Intervention. A probationary basin is a basin that the State Water Board has designated to be probationary in accordance with the procedures described in Chapter 11 of SGMA. (Wat. Code §10735, et. seq.) The State Water Board will evaluate conditions in the basin and may designate the basin once one of the probationary triggers described by Water Code section 10735.2 has occurred. Probationary status will result in an increased amount of staff activities as solutions to deficiencies in basin management are developed or additional information necessary for basin management is acquired.
3. Interim Plan Intervention. The State Water Board may need to manage groundwater conditions in a probationary basin if the deficiencies that resulted in probation are not corrected. In such a scenario, the State Water Board will develop and implement an interim plan to manage groundwater extractions. (Wat. Code §10735.8.) The development and implementation of interim plans will require significant staff time, in addition to technical studies or data collection performed under contract.

The draft fee schedule ties the fees to the type of Board activity occurring in the basin, as follows:

Fee Category	Applicable Parties – Reporting Extractors	Fee Amount
Base Filing Fee ^(a)	Any extractor submitting an extraction report	\$100 per well
Fees based on intervention status ^(a)		
1. Unmanaged Area Rate	Extractors in an unmanaged area.	\$10 per acre-foot per year, if metered
		\$25 per acre-foot per year, if unmetered
2. Probationary Basin Rate	Extractors in a probationary basin.	\$40 per acre-foot per year
3. Interim Plan Rate	Extractors in a probationary basin after the time period identified by § 10735.4 or § 10735.6 (180 days or one year, accordingly).	\$55 per acre-foot per year
Fees independent of intervention status ^(b)		
Late Fee	Extractors that do not file reports by the due date.	25% of total fee amount, accrued monthly
Special Studies Fee	May apply to extractors when basin-specific special studies are required and the probationary or interim plan rates are insufficient. The additional cost of developing special technical studies such as groundwater investigations or modeling will be apportioned to extractors based on volume of water extracted.	

(a) Can apply to de minimis extractors in probationary basins at the Board’s discretion.

(b) These fees are paid in addition to the “Fees based on intervention status.”

CHALLENGES TO DEVELOPING THE SGMA FEE SCHEDULE

There are two primary challenges in developing the SGMA fee schedule that create difficulties in anticipating programmatic costs: 1) uncertainty regarding the number and scope of unmanaged areas and probationary basins, and 2) the level of reporting compliance.

- 1) Staff workload, and resulting fees, are contingent on the number and scope of unmanaged areas and probationary basins. However, at this time there is significant uncertainty regarding the number and scope of unmanaged areas and probationary basins. In addition, the State Water Board's authority to designate probationary basins is phased in over a 10-year period and is ongoing from that point forward. Because the Board cannot pre-determine the number of unmanaged areas and probationary basins, it must rely on estimating the level of program activities.
- 2) State Water Board staff anticipate 30 to 50 percent reporting and fee submittal compliance in the first year of collecting fees; 50 to 60 percent in the second year; and 70 to 80 percent through year five. This anticipated compliance rate is applicable to the total number of extractors that must report, not the number of basins or areas generally in compliance with SGMA deadlines. SGMA authorizes the State Water Board to recover costs over a period of years, which will allow staff to create a workload history to better estimate future fees.

As a note, although there is uncertainty regarding the magnitude of program actions, the nature of the emergency regulations allows the State Water Board to update its fee schedule as the challenges described above are better understood over time.

DISCUSSION ON PROPOSED FEE CATEGORIES

The following questions are aimed at focusing input on elements of the draft fee schedule.

Establishing the Fee Structure

1. What are other options the State Water Board should consider? Examples include a cap on the maximum fee amount, a larger base fee, or tiered rates.
2. Is it appropriate to scale the fees based on volumes of water used? Examples of other options include scaling by irrigated acreage, service area size, or crop type.

Incorporating Incentives

1. Will the late fee incentivize report submittal compliance?
2. Are there are other incentives the State Water Board should consider?
3. Will the metering discount for unmanaged areas incentivize more accurate data reporting?

Fee Stability

1. Is it appropriate to apply the Special Studies Fee to individual basins?
2. Do you have suggestions on how the State Water Board can recover programmatic costs resulting from activities in specific basins during probationary or interim plan periods?

SUPPORTING INFORMATION AND CLARIFICATIONS

Fee Example Scenarios

- The following table provides examples of how the proposed probationary fee rates for eight hypothetical farms would approximately relate to a fee based on irrigated acreage:

Crop	Irrigated Acreage	Acre Feet of Water Applied Annually Per Acre (DWR ^(b))	Probationary Rate	Cost per Acre	Total Cost
Alfalfa	150	5.05	\$40	\$202	\$30,300
Almonds	150	3.54	\$40	\$142	\$21,240
Corn	150	2.83	\$40	\$113	\$16,980
Cotton	150	3.09	\$40	\$124	\$18,540
Grapes	150	1.86	\$40	\$74	\$11,160
Misc. Fruit Trees	150	3.3	\$40	\$132	\$19,800
Pistachios	150	3.54	\$40	\$142	\$21,240
Rice	150	4.56	\$40	\$182	\$27,360

(b) State-wide averages, Department of Water Resources, Agricultural Land and Water Use Estimates, 2010

- The following table provides examples of how the proposed probationary fee rates would apply to a municipal water supplier and industrial user:

Purpose of Use	Example Volume	Probationary Rate	Total Cost
Municipal Water Supply	3,600 acre-feet	\$40	\$144,000
Semiconductor Factory (Industrial)	5,200 acre-feet	\$40	\$208,000

De Minimis Extractors

Water Code Section 10721, subdivision (e), defines a de minimis extractor as “a person who extracts, for domestic purposes, two-acre feet or less per year.” A person who extracts two acre-feet or less per year for a non-domestic purpose will not be considered a de minimis extractor. Domestic purposes do not include growing commercial crops or supporting commercial livestock. De minimis users are exempt from reporting in unmanaged areas. However Water Code Section 10735.2, subdivision (c)(2), authorizes the State Water Board to require de minimis extractors to report in a probationary basin if necessary. De minimis extractors that are required to report in a probationary basin will only pay the base filing fee and, if applicable, the late fee, but will not pay a per acre-foot rate.

Interim Plans and Groundwater Sustainability Plans

State intervention is intended to be a temporary measure to address conditions of long-term overdraft or significant depletions of interconnected surface waters. An interim plan is not intended for permanent management of a basin. Local efforts to address the deficiencies that caused state intervention will need to be funded by local agencies while groundwater extractors are also paying intervention fees to the State Water Board, likely resulting in the potential scenario of extractors paying both local and state fees.

State Water Board Flexibility during Intervention

SGMA provides the State Water Board flexibility in how intervention proceeds in three important ways:

- Areas in compliance with the sustainability goal will be excluded from probation. (Wat. Code §10735.2, subd. (e).);
- Extractors may be exempted from probationary reporting and related fees if appropriate. (Wat. Code §10735.2, subd. (c).); and
- Successful elements of a GSP will be incorporated into an interim plan. (Wat. Code §10735.8, subd. (e).)