Winters Regular Council Meeting

Tuesday, December 7, 2021 @ 6:30 PM
AGENDA

Members of the City Council

Wade Cowan, Mayor
Bill Biasi, Mayor Pro-Tempore
Harold Anderson
Jesse Loren
Pierre Neu

Covid Disclaimer
The Winters City Council meeting will be conducted pursuant to AB 361.
1.The meeting will be held via teleconference
2. If you are joining the meeting via Zoom and wish to make a comment on an item, press the "raise a hand" button. If you are joining the meeting by phone, press *9 to indicate a desire to make a comment. The chair will call you by name or phone number when it is your turn to comment. Speakers will be limited to 3:00 minutes.
3. If you choose not to observe the City Council meeting but wish to make a comment on a specific agenda item, please submit your comment via email by 5:00 p.m. on the Monday prior to the City Council meeting. Please submit your comment to the City Clerk at cityclerk@cityofwinters.org. All public comments submitted to the City Clerk will be summarized and read into record but will not be read verbatim due to time limitations.
4. If you are watching/listening to the live stream of the City Council meeting and wish to comment on a specific item as it is being heard, you may also submit your comment, limited to 250 words or less, to the City Clerk at cityclerk@cityofwinters.org. All public comments submitted to the City Clerk will be summarized and read into record but will not be read verbatim due to time limitations.Council Chambers are located at 318 First Street, Winters, meeting location may vary. Please see agenda.

Zoom Instructions

Zoom Link:

https://us02web.zoom.us/j/86205973361?pwd=d1YyYmVxeldXcEpjbDUxeFR5MFhoQT09

Meeting ID: 862 0597 3361

Passcode: 036514

1. ROLL CALL

2. PLEDGE OF ALLIEGENCE

3. APPROVAL OF THE AGENDA

4. COUNCIL/STAFF COMMENTS

5. 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 matters 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.

6. CONSENT CALENDAR

All matters listed under the consent calendar are considered routine and noncontroversial, 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 via Teleconference (Zoom) on November 16, 2021.
Minutes_20211116

B. Resolution No. 2021-79 Approving an Amendment to a Construction Contract with Ample Electric, Inc. for the Car Charging Stations to Increase the Contract Amount by $9,600 and Resolution No. 2021-81 Approving the Amendment to the Professional Services Agreement with Dee Rosenberg Architects to Increase the Contract Amount by $7,500 for plans and specifications for the Finance Office build-out project
Staff_Report_Contract_Amendments_Dee_Rosenberg_and_Ample_Electric
Att1_Resolution2021_79
Att2_Resolution2021_81
Att3_Proposal_COW_Finance_Specification
Att4_PGE_Proposal
Att5_First_Amendment_PSA_DeeRosenberg
Att6_First_Amendment_Construction_Contract_with_Ample

C. Ordinance 2021-04 Amending Chapter 8.04 of, and Adding Chapter 8.72 to, Title 8 of the Winters Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction
Staff_Report_Second_Reading_SB_1383_Ordinance
Att1_Ordinance2021_04
Att2_Redline_Changes

D. Resolution No. 2021-82 Renewing Authorization and Making Findings and Determinations Under AB 361 for Continued Virtual Meetings.
Staff_Report_Renewal_AB361
Att_1_Resolution21_82RenewAB361
Att2_Yolo_County_Memo

E. Resolution No. 2021-83 Accepting the Fiscal Year 2020-21 Street Rehabilitation Project
Staff_Report_Final_Acceptance_of_SB1_2020-21_Street_Rehab_Project
Att1_Resolution2021_83
Att2_Change_Orders

F. City Board and Commission Term Expiration List for 2021 as Required by Government Code Section 54972 (Maddy Act)
Maddy_Act_Staff_Report
Local_Appointments_Lists_of_Boards_Maddy_Act

7. PRESENTATIONS

8. DISCUSSION ITEMS

A. Ordinance No. 2021-06 Amending Section 2.04.150 of Chapter 2.04 of Title 2 of the Winters Municipal Code Increasing the Compensation of City Councilmembers
Winters__Staff_Report_Council_Salary
Att1_Ordinance__2021_ 06
Att_2_City_Council_Liason_Assignments

B. Consider Ordinance 2021-05 Changing the City of Winters General Municipal Election from the Statewide Direct Primary Date to the Statewide General Election Date (November)
Staff_Report_Election_Date_Change
Ordinance2021_05

9. CITY MANAGER REPORT

10. INFORMATION ONLY

A. Comment Letter re Notice of Preparation of a Draft Program Environmental Impact Report for the Adoption of a Regulation for the Hexavalent Chromium Maximum Contaminant Level
M6Letter.pdf

11. ADJOURNMENT

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

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Questions about this agenda - Please call the City Clerk's Office (530) 794-6702. Agendas and staff reports are available on the city web page at http://www.cityofwinters.org/city-council-meetings_/

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

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

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

How to obtain City Council Agendas and Agenda Packets:

View on the internet: http://www.cityofwinters.org/city-council-meetings_/

City Council agenda packets and any attachments to the agenda that are not available online may be viewed at the City Clerk's Office at City Hall - 318 First Street.

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

A recording of any streamed City Council meeting can be viewed later at http://www.cityofwinters.org/city-council-meeting-recordings/.

Minutes of the Regular Meeting of the Winters City Council Held via Teleconference (Zoom) on November 16 2021

Mayor Cowan called the meeting to order at 6:33PM

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

Absent: None

Staff: City Manager Kathleen Trepa, Director of Financial Management Shelly Gunby

Council Member Neu led the Pledge of Allegiance.

APPROVAL OF AGENDA:

Motion by Council Member Neu, second by Mayor Pro Tem Biasi to approve the agenda as is. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan

NOES: None

ABSENT: None

ABSTAIN: None

COUNCIL/STAFF COMMENTS:

Verbal updates were provided by Council Members.

PUBLIC COMMENTS:

Ben Grundy provided comment in support of the transition to clean transportation and specifically electrical vehicles.

CONSENT CALENDAR:

A. Minutes of the Regular Meeting of the Winters City Council Held via Teleconference (Zoom) on November 2, 2021
B. Resolution No. 2021-78 Renewing Authorization and Making Findings and Determinations Under AB 361 for Continued Virtual Meetings.
C. Update on Unfunded Employee Liabilities

City Manager Trepa provided an overview of the consent calendar items. Motion by Council Member Loren, second by Council Member Neu to approve the Consent Calendar. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan

NOES: None

ABSENT: None

ABSTAIN: None

PRESENTATION:

None

DISCUSSION ITEMS:

A. Senior Center Naming Rights

City Manager Trepa introduced the item.

Sandra Vickrey provided comment on behalf of the Winters Senior Center Furniture and Fixtures Committee, including a recommendation to name the center the Winters Senior Center.

Mayor Pro Tem Biasi asked how the committee decided on donations listed for each item.

Sadra Vickrey commented that it was based on square footage or general cost of items listed.

Karen May commented that item cost was based on research done by the group.

Council Member Neu commended the group on their hard work and the time and research put into the list presented to council.

Council Member Loren commented support for the item

Tina Lowden commented that based on prior experiences that the kitchen cost may need to be reevaluated. She cautioned the group to be very organized to properly manage plaques and naming recognition. She lastly added that the bricks could be a tripping hazard for walkers.

Council Member Neu made a motion to approve the item, second by Mayor Pro Tem Biasi. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan

NOES: None

ABSENT: None

ABSTAIN: None

B. Resolution No. 2021-77 Establishing the Climate Action Commission and Mayoral appointments to a Council ad hoc committee to interview applicants to the Commission

City Manager Trepa introduced the item.

Council Member Loren supported the item and volunteered to be on the ad hoc committee. She also questioned whether the membership language should be modified to reflect the need for a member in the committee that represents groups of diversity or communities that may be significantly impacted.

Council Member Neu volunteered to be a part of the ad hoc committee.

Mayor Pro Tem Biasi commented on the desire to keep the members at 5 until deemed necessary to expand.

Kate Laddish expressed her appreciation for the item and encouraged support for social justice concerns.

Kenneth Britten expressed his deep thanks for Council and staff's work on the item. He additionally supported the need for diversity and representation in the commission membership. He supported a direct connection or liaison to the Design Review Committee.

City Manager Trepa provided clarification regarding diverse representation on the commission read the original recommendation from the Climate Action Development Board regarding this topic into the record: "We believe that the Winters Climate Action Commission should contain a wide and representative range of expertise and lived experience, since Winters is a divers city. The effects of climate change fall disproportionately on less-privileged groups, so we believe all voices need to be represented. Ideally, the commission should represent technical expertise (i.e. scientist and engineers), students, seniors, farmers and farmworkers, and the local business community." She noted that Council could expand membership as previously noted if so desired.

Mayor Cowan, Mayor Pro Tem Biasi, and Council Member Loren voiced support for the definition read by City Manager Trepa, which will be reflected in the amended resolution.

Council Member Loren noted that the Senior Planner will be able to act as the liasion for the Design Review Committee since he will staff the Commission.

Council Member Loren moved to approve the item to include membership definition read by City Manager Trepa, second by Council Member Neu. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan

NOES: None

ABSENT: None

ABSTAIN: None

C. Main Street Closure Schedule for the Winter Months

City Manager Trepa introduced the item.

Mayor Pro Tem Biasi received clarification that lifting the closure effective December 13 will remain in the effect until a future Council action to initiate another closure schedule. He state his support for the reopening of Main Street and future plans for the potential opening or closing of the downtown area when the weather is nice.

Mayor Cowan supported the staff recommendation.

Corinne Martinez expressed her concern for public safety when the street is open as people have become accustomed to the closure. She recommended that the City should include signage and monitor the area.

Chris Turkovich echoed Corinne Martinez comments, and added that the Downtown Business Association is planning future activities , which could be calendared annually. .

Mayor Pro Tem Biasi moved to approve the item, second by Council Member Loren. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan

NOES: None

ABSENT: None

ABSTAIN: None

D. Legislative Update Regarding SB 9 and SB 10

Senior Planner Kirk Skierski provided overview of the SB 9 and SB 10 via PowerPoint.

Councilmembers asked clarifying questions and some expressed their dissatisfaction for the mandated limitations on local land use controls while recognizing the need for additional housing.

City Manager Trepa indicated that staff would develop a way to monitor the permits issued for Accessory Dwelling Units and SB 9 lot splits or two units on one lot, as each has different requirements. A monitoring report can be brought back to Council in six months.

Kate Laddish appreciated staff's presentation. She noted current development plans locked in single-family residences, and asked the council to direct staff to provide an update tools the City has to diversify housing stock.

Sandra Vickrey commented the homes on Cottage Way are being advertised as low income but are priced over $500,000. She indicated the apartment issue is due to building costs and the need for subsidies.

Richard Casavecchia asked about areas of special concerns (flood hazards and farmland) and whether there was a way to incrementally track impacts to public utilities by scaling up infrastructure capacity in increments of 2 and 4.

Tina Lowden commented about a rise in "garage conversions" during the pandemic and asked if there were regulations for this. In addition, she has noticed RVs parked in driveways/street and plugged into houses. She questioned if garage conversions are permitted or regulated through the city.

Council concurred that there was not a need to proceed with SB 10 at this time and directed staff to return with a monitoring report on SB 9 permits.

Councilmembers Loren, Neu and Mayor Cowan supported having staff return with a report on the tools available to the City to determine housing type and inventory.

E. Presentation of SB 1383 Requirements and First Reading of Ordinance 2021-04 Amending Chapter 8.04 of, and Adding Chapter 8.72 to, Title 8 of the Winters Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction

City Manager Trepa introduced the item and recognized Assistant City Attorney Joanna Gin as the primary researcher for the item.

Assistant City Attorney Joanna Gin provided an overview of SB 1383. City Manager Trepa identified that more work is to be done particularly in the areas of organic waste procurement and edible food recovery to present more complete information regarding implementation options and costs.

City Manager Trepa noted that walnut shells being used as ground cover in public areas would not count toward SB 1383 organic material procurement mandates.

Council Member Loren moved to waive first reading of Ordinance 2021-04, second by Council Member Neu. Motion carried with the following roll call vote:

AYES: Council Members Anderson, Loren, Neu, Mayor Pro Tem Biasi, Mayor Cowan

NOES: None

ABSENT: None

ABSTAIN: None

CITY MANAGER REPORT:

City Manager Trepa provided no additional report.

INFORMATION ONLY:

ADJOURNMENT:

9:34PM

_____

Wade Cowan, MAYOR

ATTEST:

_____

Shelly Gunby, City Clerk

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE:December 7, 2021

THROUGH: Kathleen Salguero Trepa, City Manager

FROM: Eric Lucero Public Works Superintendent

SUBJECT: Resolution No. 2021-79 Approving an Amendment to A Construction Contract with Ample Electric, Inc. For The Car Charging Station Project by Increasing the Amount By $9,600 And Resolution No. 2021-81 Approving an Amendment to a Professional Services Agreement with Dee Rosenberg Architects to Increase the Contract Amount By $7,500 for Plans and Specifications for The Finance Office Build-Out Project

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RECOMMENDATION:
Adopt Resolution 2021-79 amending the contract with Ample Electric for the Car Charging Stations project, increasing the amount by $9,600 and authorizing the City Manager to execute the amendment; and

Adopt Resolution 2021-81 amending the Professional Services Agreement with Architect Dee Rosenberg for the finalizing construction plans for New Finance Office Build-out by $7,500 and authorizing the City Manager to execute the amendment.

BACKGROUND:
On June 1, 2021, the City Council approved the Fiscal Year 2021-2022 operating budget for the City of Winters. However, two projects (EV charging stations and the build-out of the new Finance Office area), which had been budgeted in the prior fiscal year were not completed, and funding was inadvertently not included in the FY 21-22 budget. Therefore, on September 7, 2021, Council considered and approved Resolution 2021-52 amending the FY 21-22 operating budget to complete these two projects, as noted below.

DISCUSSION:

Car Charging Stations

At its April 20, 2021, meeting, the City Council approved Resolution 2021-15 approving a construction contract with Ample Electric, Inc. to design and install car Charging Stations. The original contract included the installation of car charging stations at the Community Center and the First Street parking lot, which was approved by the City Council with the adoption of Resolution 2021-18 for $148,450. However, the scope of work did not include the application to PG&E of all required documents, including technical drawings, to obtain PG&E's approval for the new transformer at the corner Newt's Expressway that is necessary to power the EV charging stations at the First Street parking lot. The additional cost for this portion of the project (design and PG&E application) is $9,600. Council approved a budget amendment; however, staff now needs approval to amend the contract with Ample Electric by the same amount.

As an update to the project, PG&E is moving forward with the undergrounding project and staff expects the work to begin February / March 2022 timeframe.

New Finance Office Build-Out

The original contract, which Council approved with the adoption of Resolution 2021-07, was for $18,000. However, the scope did not include the preparation of construction plans and specifications. At the time, staff anticipated that the project would be completed by City forces. However, given the scope and magnitude of the project, it will be necessary to retain a contractor to construct the improvements. This change requires additional plans and specifications for bidding purposes. The additional cost for the architect to complete the plans and specifications is $7,500. The City Council amended the budget for this additional cost and a contract amendment in the same amount is now necessary.

This project has been on hold given the escalating costs of construction. However, staff would like to complete the plans and specifications so that they are ready for bidding when the improvements are deemed necessary, and costs appear to have stabilized.

FISCAL IMPACT:
None by this action.

ATTACHEMNTS:

1. Resolution 2021-79
2. Resolution 2021-81
3. Dee Rosenberg Proposal for additional architectural services
4. Ample Electric Proposal for PG&E design and application services
5. First Amendment to PSA with Dee Rosenberg
6. First Amendment to Construction Contract with Ample Electric

RESOLUTION NO. 2021-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS APPROVING AN AMENDMENT TO A CONSTRUCTION CONTRACT WITH AMPLE ELECTRIC, INC. FOR THE CAR CHARGING STATIONS TO INCREASE THE CONTRACT AMOUNT BY $9,600 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

WHEREAS, at its April 20, 2021 meeting, the City Council approved Resolution 2021-15 and a construction contract in the amount of $148,450 with Ample Electric, Inc. to design and install the car charging stations at the Community Center and First Street parking lot; and

WHEREAS, the original scope of work did not include the application to PG&E for the new transformer to be located at the First Street parking lot, including the technical drawings required by PG&E; and

Ample Electric, Inc. has quoted an additional cost of $9,600 to complete these drawings and submit the necessary documents to PG&E for utility approval;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters hereby approves the First Amendment to the Construction Contract with Ample Electric, Inc. ("First Amendment") and authorizes the City Manager to execute the First Amendment.

PASSED AND ADOPTED this 7th day of December 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF WINTERS

_____
Wade Cowan, Mayor

ATTEST:

_____
Shelly Gunby, City Clerk

RESOLUTION NO. 2021-81

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS APPROVING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH DEE ROSENBERG ARCHITECTS TO INCREASE THE CONTRACT AMOUNT BY $7,500 FOR THE NEW FINANCE OFFICE BUILD OUT PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT

WHEREAS, the City Council adopted Resolution No. 2021-07 on March 2, 2021, approving a professional services agreement with Dee Rosenberg Architects in the amount of $18,000 to design the interior improvements to build-out the new Finance Office in the old Police Station building attached to City Hall; and

WHEREAS, this cost did not include preparing plans and specifications for a formal bidding process, which will be required given the estimated cost of construction; and

WHEREAS, Dee Rosenberg Architects has provided a quote of $7,500 to complete plans and long form specifications for this project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Winters hereby approves the First Amendment to the Professional Services Agreement between City of Winters and Dee Rosenberg Architects ("First Amendment") and authorizes the City Manager to execute the First Amendment.

PASSED AND ADOPTED this 7th day of December 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

CITY OF WINTERS

_____
Wade Cowan, Mayor

ATTEST:

_____
Shelly Gunby, City Clerk



6-3-2021

Proposal for Architectural Services to Prepare a Long Form Specification

To:

Eric Lucero
City of Woodland Public Works
318 1st Street
Winters, CA 95694

From:

Dee Rosenberg
112 East Keystone Avenue
Woodland, CA 95695

Eric,
This proposal is for new long form specifications to replace the sheet specifications that we originally discussed (and were approved by Eric Lucero), and we delivered for the project. Since the City of Winters has decided to obtain competitive bids, and is required to accept the lowest reasonable bid, long form MasterSpec type specifications will be required. Revisions to the drawings are also required since the project is now under a different delivery method than originally agreed upon. The fee for revisions to the drawings and long form specifications were not originally included in the proposal, hence, this additional proposal for the work.

Project Description:

The project consists of revising the drawing set for a competitive bid from the original set that was produced for the City of Winters to provide the work in house. In addition, the proposal is for providing architectural specifications and coordinating with Mechanical, Electrical, Plumbing, Structural and the City of Winters to provide a book form specification for this project previously delivered to you. In addition, I have revised the architectural drawings and had Pemberton make some revisions to the structural drawings in order to coordinate with this new specification. All of the revised documents will be delivered to the City of Winters with a new submittal date, in the month of June.

Since most Fire Sprinkler subcontractors perform their work design/build, we can use an allowance in lieu of a specification section(s). I suggest an allowance of $12,000 for now with a requirement that the selected contractor obtain 3 design build bids to be reviewed by the City of Winters. City of Winters will get final approval on the Fire Sprinkler design build provider. The $12,000 is a place holder and a guess. The actual bid may be different.

Proposed Specification Fee:

Phase	Hours		Fee
Architectural Specification:	20 @	$150/hr	$ 3,000
Architectural Drawing revisions:	8 @	$150/hr	$ 1,200
Structural:	8 @	$150/hr	$ 1,200
Mechanical/Electrical/Plumbing:	12 @	$150/hr	$ 1,800
Coordination:	2 @	$150/hr	$ 300
Total Specification Fee:			**$ 7,500**

If any phase exceeds the estimate given above in terms of hours spent, the additional hours will be billed at a rate of $150/hr after obtaining the written consent of the Owner.

This proposal does not include the cost of any other consultants that may be required for the production of these specifications.

Any permit fees, printing fees, delivery fees or testing required for the project will also be the responsibility of the Owner.

Schedule. I propose that we begin work immediately on the specification once this proposal is approved. I estimate the work to take 2 weeks. Deliverables will be a PDF file format specification and include: A cover sheet, table of contents, Front end provided by the City of Winters, Architectural, M/E/P and Fire Sprinkler.

We are not including any Fire or intrusion alarm work in the specification because none of this work was included in the drawing set. Please let me know if this has changed.

Thanks so much.

Sincerely,

Dee Rosenberg
California Architectural License #C-29923

ample electric inc.

PO Box 456
Winters, CA 95694

Phone # 530-795-9913
Fax # 530-795-9951
E-mail jdiaz@ampleelectricinc.com

Lic.# 807298

Physical Location 1000 Railroad Ave
Winters CA 95694

Date	Estimate #
5/25/2021	13931

City of Winters
Attn: Public Works
318 First Street
Winters, CA 95694

Proposal

Project
20338- EV Ch...

Description	Total
This proposal is for the additional work requested by Eric Lucero with the City of Winters to apply for and coordinate with PG&E for the new electrical service for the new electric vehicle charging stations. Below is a list of items included and excluded in our scope of work. Coordination of proposed electrical construction with PG&E and West Valley Construction. Ample will apply and submit all required documentation to PG&E to obtain a project notification number. We will submit the project number to West Valley Construction for them to include the added electrical load into the new joint trench drawings. West Valley Construction has advised us that they have made provisions for the requested electrical load but need the proper documentation in place in order to proceed. This Proposal is for coordination only there is no construction work associated with this proposal. This proposal does not include any fees that may be required by PG&E or West Valley Construction. This project will be billed at an hourly rate and is not to exceed 80 hours. Hourly rate to be $120.	9,600.00

Total $9,600.00

Sign below to accept this proposal and the contract terms

Signature _____ **Date** 9-8-21

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT BETWEEN CITY OF WINTERS AND DEE ROSENBERG ARCHITECTS

This First Amendment to Professional Services Agreement between City of Winters and Dee Rosenberg Architects ("First Amendment") is made and entered into as of December 7, 2021 by and between the City of Winters, a California municipal corporation with its principal place of business at 318 First Street, Winters, CA 95694 ("City"), and Dee Rosenberg Architects, a Sole Proprietorship with its principal place of business at 112 East Keystone Avenue, Woodland, CA 95695 (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. On March 2, 2021, City and Consultant entered into a Professional Services Agreement between City of Winters and Dee Rosenberg Architects ("Agreement").

B. City and Consultant desire to amend the Agreement to amend the scope of services and the not-to-exceed amount.

C. The Parties desire by this First Amendment to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated into this First Amendment by reference.

Section 2. Amendment. Section 1 of the Agreement is hereby amended in its entirety to read as follows:

"1. Services.

Consultant shall provide the City with Architectural, Structural, Mechanical, Electrical and Plumbing drawings, including Title 24 and Photometric studies, and prepare Long Form Specifications, to renovate the City's new Finance Department Office at City Hall, at 318 First Street, Winters, CA 95694."

Section 3. Amendment. Section 2 of the Agreement is hereby amended in its entirety to read as follows:

"2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "A."

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of Twenty-Five Thousand Five Hundred Dollars ($25,500). Architect will provide PDF documents in electronic form. Any printing is the responsibility of the City of Winters. Periodic payments shall be made within 30 days of receipt of an invoice which

includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis."

Section 4. Continuing Effect of Agreement. Except as amended by this First Amendment, all other provisions of the Agreement remain in full force and effect and shall govern the actions of the parties under this First Amendment. From and after the date of this First Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement as amended by this First Amendment.

Section 5. Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this First Amendment.

Section 6. Severability. If any portion of this First Amendment is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the date first written above.

CITY OF WINTERS

By: _____
Kathleen Salguero Trepa
City Manager

DEE ROSENBERG ARCHITECTS

By: _____
Dorothy Dee Rosenberg
Principal

ATTEST:

By: _____
Shelly Gunby, City Clerk

APPROVED AS TO FORM:

By: _____
Ethan Walsh, City Attorney

CITY OF WINTERS

FIRST AMENDMENT TO CONSTRUCTION CONTRACT

CAR CHARGING STATIONS

1. PARTIES AND DATE.

This First Amendment to Construction Contract ("Contract") is made and entered into this 6th day of April 2021 by and between the City of Winters, a California municipal corporation with its principal place of business at 318 First Street, Winters, CA 95694 ("City") and Ample Electric, Inc., a California corporation with its with its principal place of business at 1000 Railroad Avenue, Winters CA, 95694 ("Contractor"). City and Contractor are sometimes individually referred to as "Party" and collectively as "Parties" in this Contract.

RECITALS

A. On April 6, 2021, City and Consultant entered into a Construction Contract ("Contract").

B. City and Consultant desire to amend the Contract to amend the scope of services and the not-to-exceed amount.

C. The Parties desire by this First Amendment to establish the terms for City to retain Consultant to provide the services described herein.

CONTRACT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1. Incorporation of Recitals. The above recitals are true and correct and are incorporated into this First Amendment by reference.

Section 2. Amendment. Section 1 of the Contract is hereby amended in its entirety to read as follows:

"2.3 Project. City desires to engage Contractor to render such services to design and install four car charging stations, and prepare and submit an application to PG&E on behalf of City application for the new transformer necessary to power the EV charging stations at the First Street parking lot, including the technical drawings required by PG&E ("Project")."

Section 3. Amendment. Section 3.7.1 of the Contract is hereby amended in its entirety to read as follows:

"3.7.1 Amount of Compensation. As consideration for performance of the Work required herein, City agrees to pay Contractor the Total Contract Price of One Hundred Fifty-Eight Thousand Fifty Dollars ($158,050.00) ("Total Contract Price") provided that such amount shall be subject to adjustment pursuant to the applicable terms of this Contract or written change orders approved and signed in advance by the City."

."

Section 4. Amendment. Exhibit "A" of the Contract is hereby amended in its entirety, as attached hereto, and incorporated herein.

Section 5. Continuing Effect of Contract. Except as amended by this First Amendment, all other provisions of the Contract remain in full force and effect and shall govern the actions of the parties under this First Amendment. From and after the date of this First Amendment, whenever the term "Contract" appears in the Contract, it shall mean the Contract as amended by this First Amendment.

Section 6. Adequate Consideration. The Parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this First Amendment.

Section 7. Severability. If any portion of this First Amendment is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the date first written above.

CITY OF WINTERS

By: _____
Kathleen Salguero Trepa
City Manager

AMPLE ELECTRIC, INC.

By: _____
Jose Diaz
Chief Executive Officer

ATTEST:

By: _____
Shelly Gunby, City Clerk

APPROVED AS TO FORM:

By: _____
Ethan Walsh, City Attorney

EXHIBIT "A"

SERVICES / SCHEDULE

Contractor will perform the following services:

Location 1- Winters Community Center Parking Lot

- Provide single line diagram with plot plan for permitting.
- Remove (2) existing EV charging stations and (1) distribution pedestal stations.
- Rework the existing concrete foundations as required for the new EV charging stations.
- Install (2) Blink Level 2 AC EV IQ 200 car charging stations capable of charging (4) parking stalls in accordance with Exhibit B-1.
- Install a used 200amp distribution pedestal provided by the City to feed the new EV charge stations.
- Connect the new EV charging station circuits to the existing power source, check all new connections to ensure all new work is in proper working order.

Location 2- First and Abbey St Parking Lot

- Provide single line diagram with plot plan for permitting.
- Remove the existing metered pedestal and concrete base.
- Rework the existing underground conduits as required for the new metered pedestal.
- Provide and install (1) new 400Amp 120/240v single phase metered pedestal.
- Install (1) Blink Level 2 AC EV IQ 200 pedestal charging station capable of charging two car stalls in accordance with Exhibit B-1 and (1) Blink Level 3 AC EV DCFC 50kW Fast Charger pedestal charging station capable of charging one car stall in accordance with Exhibit B-2.
- Connect the existing parking lot lighting circuits and the new EV charging station circuits to the new pedestal.

EV charging equipment comes with factory startup service and a one-year prepaid enterprise cloud plan.

Contractor shall prepare and submit an application to PG&E on behalf of City application for the new transformer necessary to power the EV charging stations at the First Street parking lot, including the technical drawings required by PG&E. Contractor shall complete the technical drawings and submit the necessary documents to PG&E for utility approval and coordinate with PG&E and any other entities as needed.

Exclusions:

PG&E fees, permits, permit fees, inspection fees to be obtained, or any required fire watch, painting or patch and repair.

CITY COUNCIL
STAFF REPORT

TO:	Honorable Mayor and Councilmembers
DATE:	December 7, 2021
THROUGH:	Kathleen Salguero Trepa, City Manager
FROM:	Joanna Gin, Assistant City Attorney
	Kristine DeGuerre, Environmental Services Manager
SUBJECT:	Ordinance 2021-04 Amending Chapter 8.04 of, and Adding Chapter 8.72 to, Title 8 of the Winters Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction

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RECOMMENDATION:

Staff recommends the City Council adopt Ordinance 2021-04 Amending Chapter 8.04 of, and Adding Chapter 8.72 to, Title 8 of the Winters Municipal Code Relating to Solid Waste and Organic Waste Disposal Reduction.

BACKGROUND:

Senate Bill (SB) 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery ("CalRecycle") to adopt regulations to reduce organic waste statewide by 50% from its 2014 baseline level by 2020 and 75% by 2025. SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away. The purpose of SB 1383 is to reduce methane and greenhouse gas emissions resulting from landfilled organic waste, and the impact on climate change. The regulations promulgated by CalRecycle to implement SB 1383 (the "SB 1383 Regulations") were finalized in late 2020 and take effect on January 1, 2022. The SB 1383 Regulations require the City to adopt and enforce an ordinance to implement the SB 1383 Regulations (this "SB 1383 Ordinance") by January 1, 2022.

DISCUSSION:

The SB 1383 Ordinance will require all residents and businesses to subscribe to organic waste collection services and source separate organic waste from solid waste and recyclables. The Ordinance requires education and outreach to individuals and

businesses who generate waste on how they can properly sort materials for collection, the implementation of an edible food recovery program, inspections to ensure compliance with the SB 1383 Regulations, and enforcement for non-compliance with the SB 1383 Regulations.

Mandatory Subscription to Organic Services

All residents and businesses will be required to subscribe to organic waste collection services beginning January 1, 2022. Commercial businesses and multi-family properties with 5 or more units were already required to subscribe to organic waste services, SB 1383 builds upon Assembly Bill (AB) 1826 (Chapter 727, Statutes of 2014), which required any business generating two (2) or more cubic yards of solid organic waste per week, and multi-family properties with five or more units, to recycle their organic waste. (Under AB 1826, multi-family properties are only required to recycle yard waste.)

Waste Management currently provides solid waste collection services within the City under an exclusive franchise. The SB 1383 Regulations require Waste Management to provide, and all residents and businesses to subscribe to, organic waste collection services. Waste generators must source separate materials in the appropriate color-coded collection container to avoid contaminating the containers and the different waste streams. Waste Management currently provides organic waste collection services to both residents and businesses in the City, so there would be minimal impact to Waste Management's operations to implement this collection requirement.

Waste Management provides solid waste collection services to residential customers, through a three-container service: Trash (Gray Lid), Recycling (Blue Lid), Green and Food Waste (Brown Lid). The current rate for a resident who subscribes to a 96-gallon organic waste cart loose yard waste piles collection is $10.45 per month. Waste Management also provides trash, recycling and organics collection services to businesses, and the rates vary depending on the size of the container and the frequency of collection.

Waiver from Certain SB 1383 Requirements Related to Collection

Under the SB 1383 Regulations, a local jurisdiction may qualify for a low population waiver for a waiver from certain organic waste collection requirements if the local jurisdiction disposed of less than 5,000 tons of solid waste in 2014 as reported in the Disposal Reporting System and has a population less than 7,500. The City disposed of 4,358 tons of solid waste in 2014 and the U.S. Census data released in August 2021 lists the Winters population at 7,115. Low population waivers are valid for a period up to five years.

The City submitted a low population waiver to CalRecycle for an exemption from some of requirements under the SB 1383 Regulations, specifically Article 3 (relating to organic collection services) of Chapter 12 of Title 14 of the California Code of Regulations. Since Waste Management already provides organic waste collection services to residential and commercial businesses, this Ordinance requires residents and businesses to assist the City in meeting state organic waste diversion goals by subscribing to organic waste collection service. The benefit of the City applying for a low population waiver is that it would waive certain requirements related to collection that the City would otherwise have to satisfy beginning January 1, 2022. These requirements include: recordkeeping

requirements, certain monitoring requirements to ensure container contamination minimization, and container color and label requirements that identify what materials may be placed in each container. CalRecycle will officially approve waivers beginning January 1, 2022.

City-Issued Waivers From Organics Waste Collection and Recycling

The City must review requests from businesses and/or multi-family buildings for waivers from organic waste collection and recycling requirements, and grant waivers when criteria are met. The City can issue a:

- de minimus waiver to a business if the business does generates a low volume of combined solid waste, recyclables, and organic waste and little organic waste or recyclables;
- physical space waiver if there are physical limitations for collection containers at a place of business or a multi-family property with 5 or more units; and,
- any additional waivers allowed under the law.

Education and Outreach Requirements

- Businesses and multi-family buildings must acquire and supply an adequate number of labeled, color-specific containers for employees, contractors, tenants, and customers, and educate employees and tenants about proper sorting.
- The education and outreach period is from January 1, 2022, through December 31, 2023, and educational materials must be provided to generators who do not comply with the requirements.

Edible Food Recovery Program

- The City must develop and implement an edible food recovery program that recovers edible food from commercial edible food generators for human consumption.
- Commercial edible food generators must enter into written agreements with food recovery organizations and services, and the entities must keep specified records.
- Under the SB 1383 Regulations, if the county identifies that new or expanded capacity is required to recover edible food currently disposed of by commercial edible food generators in the county and the local jurisdictions within the county, then each jurisdiction that lacks capacity must submit an implementation schedule to CalRecycle regarding how it will ensure new or expanded capacity. The implementation schedule must include timelines of planning efforts to access new capacity, including, but not limited to, obtaining funding for edible food recovery infrastructure, and identification of facilities, operations and activities within the county that could be used for additional capacity.
- The City and Yolo County are coordinating their efforts to develop an edible food recovery program and address capacity planning for edible food recovery to comply with the requirements of the SB 1383 Regulations. The County retained Total Compliance Management to prepare an Edible Food Recovery Capacity Study and Sustainable Funding Assessment for the County, the City, and the City of Woodland.
- The County Integrated Waste Management Division has worked with staff from the

Cities of Davis, West Sacramento, Winters, and Woodland regarding the SB 1383 Edible Food Recovery requirements. At the October 12, 2021 Yolo County Board of Supervisors meeting, County staff, in its recommendation to the Board, identified 9 food recovery organizations that the County and the cities within the County could partner with. The estimated cost to fund the expanded capacity for the 9 organizations is $375,000 for all participating jurisdictions. The recommendation also included funding for the Yolo Food Bank for capacity assistance in the estimated amount of $387,000. However, Yolo Food Bank declined participation in the regional collaboration, citing a concern that participation would result in a funding deficit to its organization. Staff continues to communicate with the County regarding the SB 1383 Edible Food Recovery requirements.

Inspection and Enforcement

- The City must inspect and enforce the requirements in the Ordinance. The penalties for violations are consistent with the City's penalties for other ordinance violations.
- The City must provide educational materials, issue notice of violations, and issue administrative citations for violations of the Ordinance as specified.
- The focus will be on education and outreach in 2022 and 2023. Penalties for non-compliance will be imposed after January 1, 2024.
- While the City may designate a public or private entity to fulfill some of its SB 1383 regulatory responsibilities by agreement, the City itself remains responsible for its SB 1383 compliance and enforcing other entities' compliance with the SB 1383 regulations through the Ordinance. Under the SB 1383 Regulations, the City is also not allowed to delegate the authority to impose civil penalties for any violation of the Ordinance, or to issue waivers, to a private entity.

Other SB 1383 Requirements

- The SB 1383 Regulations require the City to adopt enforceable requirements to comply with specified provisions of the California Green Building Standards Code (CALGreen) and the State Model Water Efficient Landscape Ordinance, unless they already have such an enforceable mechanism in place. On October 19, 2021, the City Council adopted Ordinance 2021-03 adopting by reference the 2019 California Building Standards Code, the 2019 CALGreen, the 2019 Fire Code, and other uniform codes. Staff will bring forward a separate ordinance to adopt the Model Water Efficient Landscape Ordinance at a future Council meeting. For these reasons, the specified provisions of the CALGreen and State Model Water Efficient Landscape Ordinance referenced in the SB 1383 Regulations are not included in this Ordinance.
- The City must procure recycled content paper in accordance with existing state laws, and procure recovered organic waste products (i.e., compost, mulch, electricity generated from biomass conversion, and renewable natural gas) at levels prescribed by the state annually. Staff is currently reviewing options on how to satisfy these requirements. Staff will bring forward a separate procurement

policy at a future Council meeting.

SB 619

Under the SB 1383 Regulations, local jurisdictions that do not adopt enforceable mechanism by January 1, 2022 to implement the SB 1383 Regulations locally are subject to penalties issued by CalRecycle. On October 5, 2021, the Governor signed SB 619 to provide some relief from penalties for jurisdictions that may not be fully compliant with SB 1383 requirements by the January 1, 2022, deadline.

FISCAL IMPACT:

Unknown costs related to implementation and enforcement of the Ordinance, which will depend on whether the City or Waste Management will perform some of the City's responsibilities under the SB 1383 Regulations. Residential customers who subscribe to organic waste collection services for the first time will directly pay Waste Management for services. Unknown costs related to providing capacity for the edible food recovery program under a regional cost sharing plan.

ATTACHMENT:

1. Ordinance 2021-04
2. Redline of Changes to Chapter 8.04 and Additions to Chapter 8.72 of the Winters Municipal Code

ORDINANCE NO. 2021-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS, CALIFORNIA AMENDING CHAPTER 8.04 OF, AND ADDING CHAPTER 8.72 TO, TITLE 8 OF THE WINTERS MUNICIPAL CODE RELATING TO ORGANIC WASTE DISPOSAL REDUCTION

WHEREAS, SB 1383 (Chapter 395, Statutes of 2016) directed the California Department of Resources Recycling and Recovery ("CalRecycle) to adopt regulations to reduce organic waste by 50 percent from its 2014 baseline level by 2020 and 75 percent by 2025; and

WHEREAS, SB 1383 also requires the regulations to recover, for human consumption, at least 20 percent of edible food that is currently thrown away; and

WHEREAS, CalRecycle promulgated regulations as directed in SB 1383 in Chapter 12 (Short-Lived Climate Pollutants) of Division 7 of Title 14 of the California Code of Regulations ("SB 1383 Regulations"); and

WHEREAS, the SB 1383 Regulations take effect January 1, 2022, and requires the City of Winters to adopt an ordinance to enforce the SB 1383 Regulations by said date, and;

WHEREAS, the City Council desires to amend its Solid Waste Ordinance and add an Organic Waste Disposal Reduction Ordinance to comply with the SB 1383 Regulations.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WINTERS DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 8.04 of Title 8 of the Winters Municipal Code is repealed in its entirety and replaced in its entirety as set forth in Exhibit A, incorporated by this reference.

SECTION 2. Chapter 8.72 is hereby added to Title 8 of the Winters Municipal Code as set forth in Exhibit B, incorporated by this reference.

SECTION 3. This Ordinance shall take effect thirty days after adoption. Within fifteen (15) days after its passage, the Ordinance, or a summary of the Ordinance, shall be published at least once in a newspaper of general circulation published and circulated within the City.

INTRODUCED on the 16th day of November, 2021, and **PASSED AND ADOPTED** by the City Council of the City of Winters on this 7th day of December, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Wade Cowan, Mayor

ATTEST:

Shelly Gunby, City Clerk

EXHIBIT A

Chapter 8.04

SOLID WASTE

Sections:

8.04.010 Definitions.
8.04.020 Department authorized.
8.04.030 Accumulation prohibited.
8.04.040 Collection—Contract to be exclusive.
8.04.050 Mandatory Collection.
8.04.060 Collection—Frequency.
8.04.070 Collection—Interference prohibited.
8.04.080 Solid Waste—Burning and Burying.
8.04.090 Solid Waste—Containers.
8.04.100 Placing of Solid Waste, Recyclables, and Organic Waste in streets.
8.04.110 Curbside placement of Green Waste.
8.04.120 Self-Hauling.
8.04.130 Transportation.
8.04.140 Vehicle maintenance.
8.04.150 Emergency removal.
8.04.160 Littering in public places prohibited.
8.04.170 Enforcement Officer.
8.04.180 Collection—Contract contents.
8.04.190 Franchise—Authorization by City Council.
8.04.200 Contents of franchise agreement.
8.04.210 Collector franchise fee.
8.04.220 Resolution of conflicts.
8.04.230 Permits and licenses.
8.04.240 Transfer of franchise.
8.04.250 Revocation of permit or franchise.
8.04.260 Interim suspension.
8.04.270 Notice of hearing—Revocation.
8.04.280 Appeals.
8.04.290 City Council action.
8.04.300 Enforcement.

8.04.010 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"City" means and includes the City of Winters, California.

"City Clerk" means the city clerk of the City of Winters, California.

"City Council" means the City Council of the City of Winters, California.

"City Council" means the city manager of the City of Winters, California.

"Collector" means and includes the City, or any agent, or employee thereof, with whom the City has duly contracted under the terms hereinafter set out in this chapter, to collect, transport through the streets, alleys or public ways of the City and dispose of Solid Waste produced within the limits of the City.

"Enforcement Officer" means the director of public works, police chief or his or her designee, or the City Manager or his or her designee.

"Green Waste" means any and all forms of biodegradable plant material which can be placed in a Green Container, such as wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds as well as green waste.

"Household hazardous waste" is that waste material purchased by the general public for household use and shall include a waste or combination of wastes which, because of its quantity, concentration, toxicity, or physical, chemical or infectious characteristics, may do either of the following: (i) cause or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; (ii) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. It shall also include:

1. All waste defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act (42 USC 3251 et seq.) as amended including the Resources Conservation Recovery Act of 1976 (42 USC 6901 et seq.) and all future amendments thereto, or regulations promulgated thereunder; and

2. All waste defined or characterized as hazardous waste by the principal agencies of the state of California having jurisdiction over hazardous waste generated by facilities within such state.

3. "Hazardous waste" includes extremely hazardous waste and acutely hazardous waste, and any other waste as may hereafter from time to time be designated as hazardous by the Environmental Protection Agency ("EPA") or other agency of the United States government.

"Industrial waste" means wastes produced in large quantities from factories, industrial plants, and mining plants.

"Inert solids" means and includes, but not by way of limitation, brick, cement, asphalt, dirt, and rocks.

"Organic Waste" or "Organic Materials" means Solid Wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, Food Waste, Green Waste, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.

"Recyclables" or "Recyclable Materials" means and includes the following materials generated on or emanating from residential or commercial/industrial premises and no longer useful or wanted thereon: glass bottles and jars: any food or beverage container (excluding ceramics and chemical containers); aluminum: cans, foil, pie tins and similar items (excluding dirt or organic material); steel or bimetal cans not to exceed one-gallon size; polyethylene terephthalate (PET): plastic soda bottles or other bottles with designated "PET" symbol; high density polyethylene (HDPE) plastic milk and water bottles with the designated "HDPE" symbol (excluding detergent or bleach bottles) and all other plastic products; newspaper; cardboard: separated and not having waxed surfaces; computer printout (excluding carbon); white ledger: white bond paper, clean office paper that is not contaminated by other waste material, white envelopes (excluding coated paper); and such materials as may be determined by agreement between City and Collector. "Recyclables" includes magazines, newspapers, and, cardboard, clean cans, food containers, glass, and plastic beverage containers, and other material collected or accepted as part of the City's Recycling program.

"Recycling" means the process of collecting and turning used products into new products by reprocessing or remanufacturing them.

"Rubbish" means Solid Waste that is not recyclable including but not limited to combustible and noncombustible material, paper, packing materials, crockery, pasteboard, discarded clothing, rugs, straw, rubber, metal, plastic, and debris.

"Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge that is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid Waste" does not include hazardous, radioactive waste or medical waste.

8.04.020 Department authorized.

The power is granted the City Council to create at any time by resolution a Solid Waste department of the City, and to collect remove and dispose of all Solid Waste as a sanitary measure and as a benefit to the public health.

8.04.030 Accumulation prohibited.

It is unlawful for any person to deposit, keep, accumulate or permit, cause or suffer any Solid Waste to be deposited, kept or accumulated upon any lot or parcel of land, or on any public or private place, street, lane, alley or drive, unless the same is kept, deposited or allowed to accumulate as provided in this chapter.

8.04.040 Collection—Contract to be exclusive.

At such time as there is in force a contract entered into by the City with any Collector for the collection of Solid Waste in the City, it is unlawful for any person, other than the persons in the

employ of the Collector having such contract, to collect or transport any Solid Waste within the City.

8.04.050 Mandatory Collection.

A. Every owner of a premises whether at a residential, commercial, industrial location or otherwise shall subscribe for and pay the Collector for Solid Waste service at such rates as may be approved by the City Council from time to time.

B. Nothing in this section is intended to prevent any arrangement, or the continuance of an existing arrangement, under which payments for Solid Waste collection service are made by a tenant or tenants, or any agent, on behalf of the owner. However, any such arrangement will not affect the owner's obligation as provided herein.

C. It is unlawful for any person to deposit Solid Waste, Recyclables, or Organic Waste for collection by City or Collector at any premises other than the premises on which the Solid Waste, Recyclables, or Organic Waste was generated, except with the permission of the owner or occupant.

8.04.060 Collection—Frequency.

There shall be at least one collection per week, except that Solid Waste from hotels, restaurants, vegetable, meat, poultry or fish markets and fresh fish or fresh drink stands, and such other establishments designated by the Enforcement Officer shall be collected more frequently.

8.04.070 Collection—Interference prohibited.

It is unlawful for any person in any manner to interfere with the collection and disposal of Solid Waste by any person authorized by license or contract to collect and dispose of same.

8.04.080 Solid Waste—Burning and Burying.

It is unlawful for any person to burn or cause to be burned, or to bury, any type of Solid Waste, in the City.

8.04.090 Solid Waste—Containers.

It is unlawful for any person to keep, accumulate or permit to be accumulated any Solid Waste upon any lot or parcel of land, or on any public or private lane, place, street, alley or drive, unless the same is in City-approved Containers capable of being handled by City's or Collector's disposal equipment, or Containers provided by the Collector, which shall be kept closed at all times, except when necessarily opened to permit Solid Waste, Recyclables, or Organic Waste to be taken therefrom or deposited therein. The Containers shall also be provided with handles and each Container shall be placed so as to be readily accessible for removal and emptying the material contained therein by the Collectors.

8.04.100 Placing of Solid Waste, Recyclables, and Organic Waste in streets.

No person shall place or deposit any Solid Waste, Recyclable Materials, or Organic Waste in or upon any public place, street, alley, sidewalk or footpath in the City except in proper Containers for the purpose of Collection by the Collectors and between the hours of 5 p.m. on the day before and 8 p.m. on the scheduled collection day when the City or the Collector collectors from the particular premises.

8.04.110 Curbside placement of Green Waste.

A. For Green Waste placed out for collection, the material must be placed either:

1. In Green Containers subject to the time restrictions specified in Section 8.04.100; or,
2. In a pile no longer than 5 feet in the street and no earlier than four days before the scheduled collection day. Such Green Waste shall be placed and maintained in a pile or piles immediately adjacent to, and in front of, the property from which it originated and shall be placed and maintained as not to restrict reasonable gutter drainage or obstruct traffic. In addition, no concrete, metal objects, sod, bricks, socks, gravel, wood, palm fronts, cactus, dirt, or other similar non-plant material as determined by the Enforcement Officer or Collector shall be placed in or upon such pile or piles.

8.04.120 Self-Hauling.

Nothing contained in this chapter shall be construed to prevent or prohibit any resident in the City or any business in the City from taking, hauling, transporting or disposing of any Solid Waste created by the resident or his or her household, on premises personally occupied by him or her, or on premises occupied by a business in the conduct of its own business, provided the same is kept and hauled under the rules and regulations prescribed in this chapter. It is unlawful to dispose of, or recycle at, any facility that is not approved of by the City.

8.04.130 Transportation.

No Solid Waste shall be removed and carried on or along the streets and alleys of the City except that the same is carried, conveyed or hauled in conveyances so constructed as to be absolutely dustproof, and so arranged as not to permit dust or other matter to sift through or fall upon the streets and alleys. The contents of such conveyances must be further protected with appropriate covers so as to prevent the same from being blown upon the streets, alleys and adjacent lands.

8.04.140 Vehicle maintenance.

Every truck used in the collection of Solid Waste shall be kept well painted, clean inside and out.

8.04.150 Emergency removal.

Nothing in this chapter shall be deemed to prohibit the removal and hauling by an unlicensed person of materials considered by the Enforcement Officer to constitute a health menace of such a nature as necessary to be ordered to be promptly removed.

8.04.160 Littering in public places prohibited.

It is unlawful for any person in the City to litter or throw or deposit any Solid Waste or to cause the same to be thrown or deposited upon any street, public or private land, alley, gutter, drain facilities, park, creek or any public place, or throw or deposit the same in or upon any vacant lot or back yard or to store or keep the same, except in the manner prescribed in this chapter.

8.04.170 Enforcement Officer.

The Enforcement Officer shall supervise all matters in connection with Solid Waste disposal that concern the public health.

8.04.180 Collection—Contract contents.

A. For the collection and disposal of Solid Waste, Recyclables, and Organic Waste, a contract may be entered into by the City in accordance with and subject to the terms and conditions of this chapter.

B. Such contract shall provide that the Collector shall collect and dispose of the Solid Waste, Recyclables, and Organic Waste and shall not charge any amounts in excess of the rates specified by agreement between City and Collector . The Collector shall be required to furnish a cash surety bond to the City in the sum of one year's gross receipts conditioned upon the faithful performance of the contract and the provisions of this chapter. Such Collector may except as in this chapter otherwise provided, collect all Solid Waste, Recyclables, and Organic Waste in the City, and transport the same through the streets and public ways of the City. Such contract shall also require that the Collector procure for the period covered by the proposed contract, full compensation insurance in accordance with the workers' compensation insurance and safety provisions of the California Labor Code. Such contract shall also require that the Collector carry public liability insurance to the extent deemed necessary by the City Council, and property damage insurance to the extent deemed necessary by the City Council upon each of the trucks or other vehicles used by him or her in carrying out the work called for in the contract. The City Council, by resolution, shall have the power to provide for the inclusion in such contract of such terms as it deems necessary to protect the interests of the City.

C. Before such contract is entered into, sealed bids may be called for by the City Council, on notice by publication in a newspaper of general circulation in the City, not less than one time. Each proposal or bid shall be accompanied by a certified check payable to the City in the sum deemed necessary by the City Council, which sum shall be forfeited to the City if the bidder to whom the contract is awarded fails or refuses to enter into the contract within fifteen (15) days after the date of mailing to the successful bidder the "Notice of Award Contract." The City Council shall reserve the right to reject any and all bids, and the City Council shall not be required to award such contract to the highest bidder, if, in the opinion of the City Council, a lower bid presents a more satisfactory plan of handling such Solid Waste.

8.04.190 Franchise —Authorization by City Council.

A. The City Council may authorize, by franchise, a Solid Waste enterprise to provide Solid Waste handling for residential, commercial/industrial users to customers. In the sole discretion of the City Council, the Solid Waste handling services may be authorized on an exclusive or nonexclusive basis, and with or without competitive bidding, and may relate to any class or type of Solid Waste within all or any part of the territory of the City.

B. No person shall collect or dispose of Solid Waste, Recyclables, or Organic Waste in the City unless that person has been awarded a Solid Waste franchise and has entered into a franchise agreement with the City, except as otherwise specifically provided in this chapter. Any such franchise shall be in addition to any business license or permit otherwise required by this code. No permit issued by any other governmental agency authorizing collection of Solid Waste Recyclables, or Organic Waste shall be valid in the City. Collectors operating in the City on the effective date of this chapter under a permit or nonexclusive franchise agreement may continue to operate only until the rights thereunder are terminated or revoked, or until such rights expire pursuant to the provisions of Public Resources Code Section 49520.

8.04.200 Contents of franchise agreement.

The terms and provisions of any franchise agreement for Solid Waste handling services may relate to or include, without limitation, the following subject matters:

A. The nature, scope and duration of the franchise;

B. The collection schedule, including the frequency, days and hours of collection;

C. The applicable franchise fee, including the amount method of computation, and time for payment;

D. The applicable rates, fees and charges for regular, special and emergency collection services, including the methods of setting and adjusting same, and the responsibility for billing and collecting same;

E. Collection vehicles, including the permissible size and color, and any required identification, safety equipment, maintenance, inspection and operational requirements;

F. The receipt, processing and reporting of customer inquiries and complaints;

G. The collection of Solid Waste from publicly owned property and facilities;

H. Performance standards for the Collector's personnel and equipment;

I. Solid Waste and recycling Containers, including size, repair or replacement, handling, placement, obligations of the Collector to provide, and permissible charges therefor;

J. Standards and procedures for periodic performance reviews by the City;

K. Noise attenuation policies and procedures;

L. The maintenance by the Collector of an office for the conduct of business;

M. Policies and procedures relating to the non-collection of Solid Waste, and the composting and/or processing of Organic Waste, the collection of Recyclables, and resource recovery;

N. Requirements relating to comprehensive liability insurance and workers' compensation insurance;

O. Requirements relating to the dissemination of information to the public concerning regular and special Solid Waste collection and Recycling services;

P. Actions or omissions constituting breaches or defaults, and the imposition of applicable penalties, liquidated damages, and other remedies, including suspension, revocation or termination;

Q. Requirements relating to performance bonds and to indemnification;

R. Requirements relating to affirmative action programs;

S. Requirements relating to recordkeeping, accounting procedures, reporting, periodic audits and inspection of records;

T. Requirements relating to the assignment, transfer and renewal of the franchise;

U. Requirements relating to compliance with and implementation of the state and federal laws, rules or regulations pertaining to Solid Waste handling services, and to the implementation by the City of state-mandated programs, including, without limitation, the City's source reduction and recycling element, the City's household hazardous waste element, and state waste diversion requirements;

V. Such additional requirements, conditions, policies and procedures as may be mutually agreed upon by the parties to the franchise agreement and which will, in the judgment and discretion of the City Council, best serve the public interest and protect the public health, safety and welfare.

8.04.210 Collector franchise fee.
Each Collector shall pay a franchise fee in an amount established in the franchise agreement authorizing the collection of Solid Waste, Recyclables, or Organic Waste.

8.04.220 Resolution of conflicts.
In the event of any conflict between the provisions of a franchise agreement which is authorized and approved by the City Council and the provisions of this chapter, the provisions of the franchise agreement shall control.

8.04.230 Permits and licenses.
Every Collector shall obtain and maintain at all times during the Collector's operations a business license issued by the City, and all applicable permits and licenses required by any public agency having jurisdiction.

8.04.240 Transfer of franchise.
No permit which is authorized by, subject to, or issued under the provisions of this chapter shall be transferred, delegated, sublet, subcontracted to or assigned to another person without the prior approval of the City Council.

8.04.250 Revocation of permit or franchise.
After conducting a hearing as provided for in this chapter, the City Manager may revoke or suspend any collection permit or franchise for violation of a provision of this chapter or any other applicable law, ordinance or regulations of any public agency.

8.04.260 Interim suspension.
The City Manager, without a hearing, may suspend a franchise or a permit for not more than sixty (60) days, if the City Manager finds that continued operation by the franchisee or permittee will constitute a threat to the public health, safety and general welfare.

8.04.270 Notice of hearing—Revocation.
The City Manager shall mail notice of a hearing to revoke a collection permit or franchise to the Collector not less than fifteen (15) days prior to such hearing. In the event of the revocation of a

franchise or a permit, the City Manager shall notify the Collector in writing of the reasons therefor. Notification may be made in person or by mail.

8.04.280 Appeals.

Within fifteen (15) calendar days after notice by the City Manager of revocation of a collection permit or franchise has been sent to the Collector, the Collector may file with the City Cerk an appeal of such decision to the City Council.

8.04.290 City Council action.

The City Council may either affirm the action of the City Manager, send the matter back to the City Manager for further consideration, or set the matter for hearing by the City Council. If they City Council sets the matter for hearing, it shall base its action upon the standards delineated in Section 8.04.250. Notice of such hearing shall be sent to the Collector not less than fifteen (15) days prior to the hearing.

8.04.300 Enforcement.

The enforcement officer is specifically required to enforce the provisions of Sections 8.04.030, 8.04.050(C), 8.04.070 through 8.04.160 and have the right of entering any or all premises for the purpose of determining whether the provisions of such chapters are being conformed with.

It is unlawful for any person to deny or obstruct such entry.

EXHIBIT B
CHAPTER 8.72 ORGANIC WASTE DISPOSAL REDUCTION

8.72.010 Definitions.
8.72.020 Requirements for Single-Family Generators.
8.72.030 Requirements for Commercial Businesses.
8.72.040 Waivers for Generators.
8.72.050 Requirements for Commercial Edible Food Generators.
8.72.060 Requirements for Food Recovery Organizations and Services.
8.72.070 Requirements for Haulers and Facility Operators.
8.72.080 Self-Hauler Requirements.
8.72.090 Inspections and Investigations.
8.72.100 Enforcement.

8.72.010 Definitions.
The following terms are defined for the purposes of this chapter:

"Blue Container" has the same meaning as in 14 CCR § 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Waste.

"CCR" means the State of California Code of Regulations.

"CalRecycle" means the California Department of Resources Recycling and Recovery.

"City" means the City of Winters, California.

"Collect" or "Collection" means the act of collecting Solid Waste, Recyclables, or Organic Waste at or near the place of generation or accumulation.

"Commercial" or "Commercial Business" means a business, industrial, commercial establishment, or construction site, and any multiple-family, residential dwelling with five (5) units or more.

"Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR § 17855(a)(4); or, as otherwise defined by 14 CCR § 18982(a)(8).

"Compliance Review" means a review of records by the City to determine compliance with this chapter.

"Container" means a cart, bin, roll-off, compactor or similar receptacle used to temporarily store Solid Waste, Recyclables, or Organic Waste for collection service.

"Container Contamination" or "Contaminated Container" means a Container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR § 18982(a)(55).

“Designated Source Separated Organic Waste Facility” shall have the same definition as 14 CCR § 18982(14.5).

"Designee” means an entity that the City contracts with or otherwise arranges to carry out any of the City’s responsibilities as authorized in 14 CCR § 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR § 18982(a)(18). “Edible Food” is not Solid Waste if it is recovered and not discarded.

“Enforcement Action" means an action of the City to address non-compliance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

“Enforcement Officer" means the City Manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing this chapter.

“Food Recovery” means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR § 18982(a)(24).

“Food Recovery Organization” means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR § 18982(a)(25), including, but not limited to:

1. A food bank as defined in Health and Safety Code Section 113783;
2. A nonprofit charitable organization as defined in Health and Safety Code Section 113841; and,
3. A nonprofit charitable temporary food facility as defined in Health and Safety Code Section 113842.

“Food Recovery Service” means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR § 18982(a)(26).

Food Waste” means discarded raw, cooked, or processed edible substances, ices, beverages, ingredients used or intended for use or for sale, in whole or in part, for human consumption, and chewing gum. “Food waste” includes compostable plastics and is a subset of Organic Waste.

“Generator” means a person or entity that is responsible for the initial creation of waste.

“Gray Container” has the same meaning as in 14 CCR § 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

“Gray Container Waste” means Solid Waste that is collected in a Gray Container that is part of a three-Container Organic Waste collection service that prohibits the placement of Recyclables or Organic Waste in the Gray Container as specified in 14 CCR §§ 18984.1(a)-(b), or as otherwise defined in 14 CCR § 17402(a)(6.5).

"Green Container" has the same meaning as in 14 CCR § 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

"Green Waste" shall have the same meaning as in Section 8.04.010.

"Grocery Store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR § 18982(a)(30).

"Hauler Route" means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR § 18982(a)(31.5).

"High Diversion Organic Waste Processing Facility" means a facility that is in compliance with the reporting requirements of 14 CCR § 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR § 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR § 17402(a)(11.5), or, as otherwise defined in 14 CCR § 18982(a)(33).

"Inspection" means a site visit where a City reviews records, Containers, and a person or entity's collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR § 18982(a)(35).

"Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.

"Large Venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. A venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. A site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.

"Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR § 18982(a)(40).

"Mixed Waste Organic Collection Stream" or "Mixed Waste" means Organic Waste collected in a Container that is required by 14 CCR §§ 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR § 17402(a)(11.5).

“Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

“Notice of Violation” or “NOV” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR § 18982(a)(45) or further explained in 14 CCR § 18995.4.

“Organic Waste” or “Organic Materials” shall have the same meaning as in Section 8.04.010.

“Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR § 18982(a)(48).

“Prohibited Container Contaminants” means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City’s Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City’s Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the City’s Green Container and/or Blue Container; and, (iv) non-Solid Waste items placed in any Container.

“Recovery” means any activity or process described in 14 CCR § 18983.1(b), or as otherwise defined in 14 CCR § 18982(a)(49).

“Recyclables” or “Recyclable Materials” shall have the same meaning as in Section 8.04.010.

“Recycling” shall have the same meaning as in Section 8.04.010.

“Remote Monitoring” means the use of the internet of things and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in Containers (level of fill) and/or presence of Prohibited Container Contaminants.

"Residential” means any residential dwelling.

“Route Review” means a visual Inspection of Containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR § 18982(a)(65).

“SB 1383” means Senate Bill 1383 (Chapter 395, Statutes of 2016), which established methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants, as amended, supplemented, superseded, and replaced from time to time.

“SB 1383 Regulations” means the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

"Self-Hauler" means a person, who hauls Solid Waste, Recyclable Materials, or Organic Waste he or she has generated to another person. "Self-Hauler" also includes a person who back-hauls waste, or as otherwise defined in 14 CCR § 18982(a)(66). "Back-haul" means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR § 18982(a)(66)(A).

"Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.

"Solid Waste" shall have the same meaning as in Section 8.04.010.

"Source Separating" or "Source Separation" means the process of removing Recyclable Materials and Organic Waste from Solid Waste at the place of generation, prior to collection, and placing them into separate Containers that are separately designated for Recyclable Materials and Organic Waste.

"Source Separated Blue Container Waste" means Source Separated Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR § 18982(a)(43), or as otherwise defined by 14 CCR § 17402(a)(18.7).

"Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding Source Separated Blue Container Waste, carpets, non-compostable Paper, and textiles.

"Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars ($2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR § 18982(a)(71).

"Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Provider.
4. Food Distributor.
5. Wholesale Food Vendor.

"Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site Food Facility and 200 or more rooms.
3. Health facility with an on-site Food Facility and 100 or more beds.
4. Large Venue.
5. Large Event.

6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A Local Education Agency facility with an on-site Food Facility.

"Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR § 189852(a)(76).

8.72.020 Requirements for Single-Family Generators.

A. Single-Family Organic Waste Generators shall comply with the following requirements:

1. Shall subscribe to the City's Organic Waste collection services for all Organic Waste generated as described below in Section 8.72.020(A)(2). The City shall have the right to review the number and size of a Generator's Containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family Generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste through backyard residential composting, and/or using a community composting site.

2. Shall participate in the City's three-Container collection service(s) by placing designated materials in designated Containers, and shall not place Prohibited Container Contaminants in Collection Containers. Generators shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Solid Waste in the Gray Container, per City and collector guidelines. Generators shall not place materials designated for the Gray container into the Green Container or Blue Container, materials designated for the Green Container into the Blue or Gray Container, nor materials designated for the Blue Container into the Green or Gray Container.

8.72.030 Requirements for Commercial Businesses.

A. Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

1. Subscribe to the City's three-Container collection services and comply with requirements of those services as described below in Section 8.72.030(A)(2). The City shall have the right to review the number and size of a Generator's Containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.

2. Participate in the City's three-Container collection service(s) by placing Source Separated Green Container Organic Waste, including Food Waste, in the Green

Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container, nor place materials designated for the Green Container or Blue Container into the Gray Container.

3. Supply and allow access to an adequate number, size and location of collection Containers with sufficient labels or colors (conforming with Section 8.72.030(A)(4)(a)-(b) for employees, contractors, tenants, and customers, consistent with the City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Sections 8.04.120 and 8.72.080.

4. Excluding Multi-Family Residential Dwellings, provide Containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal Containers are provided for customers, for materials generated by that business. Such Containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of Container, then the business does not have to provide that particular Container in all areas where disposal Containers are provided for customers. Pursuant to 14 CCR § 18984.9(b), the Containers provided by the business shall have either:

    a. A body or lid that conforms with the Container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.

    b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that Container, or Containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the Container. Pursuant 14 CCR § 18984.8, the Container labeling requirements are required on new Containers commencing January 1, 2022.

5. Multi-Family Residential Dwellings are not required to comply with Container placement requirements or labeling requirement in Section 8.72.030(A)(4) pursuant to 14 CCR § 18984.9(b).

6. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a Container not designated for those materials in accordance with Section 8.72.030, or if Recycling Organic Waste onsite or self-hauling under Sections 8.04.120 or 8.72.080 per the Commercial Businesses' instructions to support its compliance with its onsite recycling or self-haul program.

7. Excluding Multi-Family Residential Dwellings, periodically inspect Containers for contamination and inform employees if Containers are contaminated and of the requirements to keep contaminants out of those Containers pursuant to 14 CCR § 18984.9(b)(3).

8. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

9. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of Containers and the rules governing their use at each property.

10. Provide or arrange access for the City or its agent to their properties during all Inspections conducted in accordance with Section 8.72.090 to confirm compliance with the requirements of this chapter.

11. Accommodate and cooperate with City's Remote Monitoring program, if implemented, for Inspection of the contents of Containers for Prohibited Container Contaminants, to evaluate Generator's compliance with Sections 8.72.020 and 8.72.030. The Remote Monitoring program may involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray Containers.

12. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Sections 8.04.120 and 8.72.080.

13. Nothing in this section prohibits a Generator from preventing or reducing waste generation, managing Organic Waste on site, or using a community composting site).

14. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to 8.72.050.

8.72.040 Waivers for Generators.

A. De Minimis Waivers. The City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste

requirements if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8.72.040(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 8.72.040(A)(2) below.

2. Provide documentation that either:

    a. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable Container of the business' total waste; or

    b. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable Container of the business' total waste.

3. Notify City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.

4. Provide written verification of eligibility for de minimis waiver every 5 years, if the City has approved de minimis waiver.

B. Physical Space Waivers. The City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection Containers required for compliance with the Organic Waste collection requirements.

A Commercial Business or property owner may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

2. Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.

3. Provide written verification to the City that it is still eligible for physical space waiver every five years, if the City has approved application for a physical space waiver.

C. Additional Waivers. The City may provide any additional waivers of the requirements of this chapter to the extent permitted by applicable law. The Public Works Director or his or her designee shall be responsible for determining the grounds for the waiver, its scope, and appropriate administration.

D. Review and Approval of Waivers by City. Review and approval of waivers will be the responsibility of the Public Works Director or his or her designee.

8.72.050 Requirements for Commercial Edible Food Generators.

A. Tier One Commercial Edible Food Generators must comply with the requirements of this section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024.

B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing January 1, 2024.

C. Commercial Edible Food Generators shall comply with the following requirements:

1. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

2. Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR § 18991.4.

3. Keep records that include the following information, or as otherwise specified in 14 CCR § 18991.4:

    a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR § 18991.3(b).

    b. A copy of all contracts or written agreements established under 14 CCR § 18991.3(b).

    c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

        i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

        ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

        iii. The established frequency that food will be collected or self-hauled.

iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

d. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557, Chapter 285, Statutes of 2017.

8.72.060 Requirements for Food Recovery Organizations and Services.

A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR § 18991.5(a)(1):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.

2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.

4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR §18991.5(a)(2):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.

2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.

3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR § 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract

or written agreement with pursuant to 14 CCR § 18991.3(b) no later than March 1, July 1, and September 1 annually.

D. In order to support Edible Food Recovery capacity planning assessments or other studies, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

8.72.070 Requirements for Haulers and Facility Operators.

A. Requirements for Haulers

1. Haulers shall meet the following requirements and standards as a condition of approval of a permit or other authorization with the City to collect Organic Waste.

    a. Through written notice to the City annually on or before June 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, and Source Separated Green Container Organic Waste.

    b. Transport Source Separated Recyclable Materials or Source Separated Green Container Organic Waste, and Mixed Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

    c. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting construction and demolition debris.

2. Haulers authorized to collect Organic Waste shall comply with education, equipment, signage, Container labeling, Container color, contamination monitoring, reporting, and other requirements contained within its permit or other agreement entered into with the City.

B. Requirements for Facility Operators and Community Composting Operations

1. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.

2. Community Composting operators, upon the City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

8.72.080 Self-Hauler Requirements.

A. Self-Haulers shall source separate all Recyclable Materials and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR §§ 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility.

B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the waste.

2. The amount of material in cubic yards or tons transported by the Generator to each entity.

3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste..

D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 8.72.080(C) to the City if requested.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record information in Section 8.72.080(C) or report information in Section 8.72.080(D).

8.72.090 Inspections and Investigations.

A. City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any Collection Container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection. For the

purposes of inspecting Commercial Business Containers for compliance with Section 8.72.030, the City may conduct Container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with Remote Monitoring pursuant to Sections 8.72.030.

B. The regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in Containers, Edible Food Recovery activities, records, or any other requirement described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation is a violation of this chapter and may result in penalties described in Section 8.72.100.

C. Any records obtained by the City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.72.100 Enforcement.

A. The City may take Enforcement Actions, including the issuance of an administrative citation and assessment of a fine, against persons and entities for violating this chapter. The procedures in Chapter 19.10 shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

B. The City may take immediate Enforcement Actions against Commercial Businesses that are in violation of the commercial organic waste and recycling requirements of AB 341 and AB 1826, which were in place prior to the issuance of the SB 1383 Regulations.

C. Education of SB 1383 Requirements.

1. Through December 31, 2023, the City or its Designee may conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance with the SB 1383 Regulations and this chapter, and if City or its Designee determines that Organic Waste Generator, Self-Hauler, Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials and/or, for the purposes of Edible Food Recovery, training to the entity describing its obligations under this chapter and a notice that compliance is

required, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

2. The City Manager or his or her designee shall work with the Collector and other entities to conduct outreach and educate Generators regarding compliance with the SB 1383 Regulations and this chapter.

3. The City Manager or his or her designee shall work with the Collector to annually identify residences and Commercial Businesses subject to the SB 1383 Regulations.

D. Beginning January 1, 2024, if the City or its Designee determines that an Organic Waste Generator, Self-Hauler, Hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with the SB 1383 Regulations under this chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this section, as needed.

E. Prior to taking any Enforcement Action against a person, business, or entity for violating the SB 1383 Regulations, the City shall first notify the person, business, or entity and provide an opportunity to correct the violation through the issuance of a Notice of Violation by a City Enforcement Officer. Notices shall be sent to the "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the residential dwelling or Commercial property or to the party responsible for paying for the Collection services, depending upon available information. The notice shall state the person, business, or entity has 60 days to correct the violation. The person, business, or entity shall be responsible for ensuring and demonstrating compliance with the requirements of the SB 1383 Regulations, within the 60-day time frame provided in the notification of violation. Failure to demonstrate compliance shall be cause for Enforcement Action and penalties.

F. The City or its Designee may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

2. Delays in obtaining discretionary permits or other government agency approvals; or,

3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR § 18996.2 due to those deficiencies.

G. For incidences of Prohibited Container Contaminants found in containers, City Enforcement Officer will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a Container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants.

Notwithstanding the foregoing subsections, the City may issue administrative citations immediately for container contamination and failure to subscribe to collection service as required.

H. Penalty Amounts for Types of Violations.

The penalty levels are as follows:

1. For a first violation, the amount of the base penalty shall be $100 per violation.

2. For a second violation, the amount of the base penalty shall be $200 per violation.

3. For a third or subsequent violation, the amount of the base penalty shall be $500 per violation.

4. The penalties shall be consistent with Government Code section 36900.

I. Appeals Process.

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Chapter 19.10.

J. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations.

Chapter 8.04

~~GARBAGE SERVICE~~SOLID WASTE

Sections:

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8.04.010 ~~8.04.010~~ Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"City" means and includes the ~~city~~City of Winters, California.

"City Clerk" means the city clerk of the City of Winters, California.

"City Council" means the City Council of the City of Winters, California.

"City Council" means the city manager of the City of Winters, California.

"~~Contractor~~Collector" means and includes the ~~city~~City, or any agent, or employee thereof, with whom the ~~city~~City has duly contracted under the terms hereinafter set out in this chapter, to collect, transport through the streets, alleys or public ways of the ~~city~~City and dispose of ~~garbage and rubbish~~Solid Waste produced within the limits of the ~~city~~City.

~~"Garbage" means and includes kitchen and table refuse, offal, swill and also every accumulation of animal and vegetable refuse, and other matter that attends the preparation, consumption, decay or dealing in or storage of meats, fish, fowl, birds, fruits or vegetables. Food slops or liquids, when placed in a plastic liner within the garbage container, shall be considered as garbage waste. Garbage waste shall also include cans, bottles, containers, wrappings and packaging materials soiled with foods and waste material. It also includes crockery, bottles, tin vessels, ashes and all refuse, save and excepting as defined as rubbish.~~

"~~Health officer~~Enforcement Officer" means the director of public works ~~or~~, police chief or his or her designee, or the City Manager or his or her designee.

"Green Waste" means any and all forms of biodegradable plant material which can be placed in a Green Container, such as wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds as well as green waste.

"Household hazardous waste" is that waste material purchased by the general public for household use and shall include a waste or combination of wastes which, because of its quantity, concentration, toxicity, or physical, chemical or infectious characteristics, may do either of the following: (i) cause or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; (ii) pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed. It shall also include:

1. ~~1.~~ All waste defined or characterized as hazardous waste by the Federal Solid Waste Disposal Act (42 USC 3251 et seq.) as amended including the Resources Conservation Recovery Act of 1976 (42 USC 6901 et seq.) and all future amendments thereto, or regulations promulgated thereunder; and

2. ~~2.~~ All waste defined or characterized as hazardous waste by the principal agencies of the state of California ~~(including without limitation, the Department of Health Services and the California Integrated Waste Management Board)~~ having jurisdiction over hazardous waste generated by facilities within such state.

3. ~~3.~~ "Hazardous waste" includes extremely hazardous waste and acutely hazardous waste, and any other waste as may hereafter from time to time be designated as hazardous by the Environmental Protection Agency ("EPA") or other agency of the United States government.

"Industrial waste" means wastes produced in large quantities from factories, industrial plants, and mining plants.

"Inert solids" means and includes, but not by way of limitation, brick, cement, asphalt, dirt, and rocks.

"Organic Waste" or "Organic Materials" means Solid Wastes containing material originated from living organisms and their metabolic waste products, including, but not limited to, Food Waste, Green Waste, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges.

"Recyclables" or "Recyclable Materials" means and includes the following materials generated on or emanating from residential or commercial/industrial premises and no longer useful or wanted thereon: glass bottles and jars: any food or beverage container (excluding ceramics and chemical containers); aluminum: cans, foil, pie tins and similar items (excluding dirt or organic material); steel or bimetal cans not to exceed one-gallon size; polyethylene terephthalate (PET): plastic soda bottles or other bottles with designated "PET" symbol; high density polyethylene (HDPE) plastic milk and water bottles with the designated "HDPE" symbol (excluding detergent or bleach bottles) and all other plastic products; newspaper; cardboard: separated and not having waxed surfaces; computer printout (excluding carbon); white ledger: white bond paper, clean office paper that is not contaminated by ~~garbage or~~ other waste material, white envelopes (excluding coated paper); and such materials as may be determined by agreement between ~~city and contractor. Magazines~~City and Collector. "Recyclables" includes magazines, newspapers, and, cardboard, clean cans, food containers, ~~food container glass,~~ glass, and plastic beverage containers, and other material collected or accepted as part of the ~~city recycling~~City's Recycling program.

"Recycling" means the process of collecting and turning used products into new products by reprocessing or remanufacturing them.

~~"Refuse" means and includes, but not by way of limitation, all waste. It means all matter and materials which are rejected by owners or producers thereof as offensive or useless and which by their presence or accumulation may injuriously affect the health, comfort or safety of the community by increasing disease or hazard by fire, including garbage, rubbish, yard waste (or green waste), white goods, and recyclables as defined in this section. Also synonymous with "solid waste"~~

~~Restricted Areas. As designated by the city, these are areas where, in the city's opinion, a combination of high density, lack of space for containers, and street width under thirty feet makes the curbside placing, maintaining or collection of garbage, waste and recyclable hazardous to the health and welfare of the residents.~~

"Rubbish" means ~~solid waste~~Solid Waste that is not ~~garbage, waste or recyclables~~recyclable including but not limited to combustible and noncombustible material, paper, packing materials, crockery, pasteboard, discarded clothing, rugs, straw, rubber, metal, plastic, and debris.

"Solid Waste" means all putrescible and non-putrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, construction and demolition wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge that is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes. "Solid Waste" does not include hazardous, radioactive waste or medical waste.

~~"Solid waste" means and includes all forms of residential, commercial and industrial refuse generated within the city limits, including garbage as defined above. Also, synonymous with "refuse."~~

~~"Special waste" means wastes not fitting into the above categories, including but not limited to dead animals, abandoned automobiles and major parts thereof, large furniture objects, tree trunks, stumps, sod, garden rubble, dirt, major limbs exceeding eight inches in diameter, and street sweepings.~~

~~"Yard refuse or green waste" includes trimmings and prunings from trees and shrubs, leaves, grass clippings, weeds, vines, dead plants, dropped fruit from on-site trees, arising from the development, maintenance and care of residential gardens and yards. When the word "waste" or "waste matter" is used, it refers to any or all of the above.~~

8.04.020 ~~8.04.020~~ Department authorized.

The power is granted the ~~city council~~City Council to create at any time by resolution a ~~refuse~~Solid Waste department of the ~~city~~City, and to collect remove and dispose of all ~~refuse~~Solid Waste as a sanitary measure and as a benefit to the public health.

8.04.030 ~~8.04.030~~ Accumulation prohibited.

It is unlawful for any person to deposit, keep, accumulate or permit, cause or suffer any ~~refuse~~Solid Waste to be deposited, kept or accumulated upon any lot or parcel of land, or on any public or private place, street, lane, alley or drive, unless the same is kept, deposited or allowed to accumulate as provided in this chapter.

8.04.040 ~~8.04.040~~ Collection—Contract to be exclusive.

At such time as there is in force a contract entered into by the ~~city~~City with any ~~contractor~~Collector for the collection of ~~refuse~~Solid Waste in the ~~city~~City, it is unlawful for any person, other than the persons in the employ of the ~~contractor~~Collector having such contract, to collect or transport any ~~garbage~~Solid Waste within the ~~city~~City.

8.04.050 ~~8.04.050~~ Mandatory Collection~~—Owner obligation~~.

A. ~~A.~~ Every owner of a premises ~~occupied by~~whether at a residential, commercial, industrial~~, nonprofit or religious person or group~~ location or otherwise shall subscribe for and pay the ~~contractor for refuse~~Collector for Solid Waste service at such rates as may be approved by the ~~city council~~City Council from time to time.

B. ~~B.~~ Nothing in this section is intended to prevent any arrangement, or the continuance of an existing arrangement, under which payments for ~~refuse~~Solid Waste collection service are made by a tenant or tenants, or any agent, on behalf of the owner. However, any such arrangement will not affect the owner's obligation as provided herein.

C. ~~C.~~ It is unlawful for any person to deposit ~~refuse~~Solid Waste, Recyclables, or Organic Waste for collection by ~~city or contractor~~City or Collector at any premises other than the premises on which the ~~refuse~~Solid Waste, Recyclables, or Organic Waste was generated, except with the permission of the owner or occupant.

~~**8.04.060 Collection—Contract contents.**~~

~~A. For the collection and disposal of refuse, a contract for a period not to exceed ten (10) years may be entered into by the city in accordance with and subject to the terms and conditions of this chapter.~~

~~B. Such contract shall provide that the contractor shall collect and dispose of the refuse and shall not charge any amounts in excess of the rates specified by agreement between city and contractor. The contractor shall be required to furnish a cash surety bond to the city in the sum of one year's gross receipts conditioned upon the faithful performance of the contract and the provisions of this chapter. Such contractor shall have the sole exclusive right, except as in this chapter otherwise provided, to collect all refuse in the city, and transport the same through the streets and public ways of the city. Such contract shall also require that the contractor procure for the period covered by the proposed contract, full compensation insurance in accordance with the workmen's compensation insurance and safety provisions of the Labor Code of the state. Such contract shall also require that the contractor carry public liability insurance to the extent deemed necessary by the city council, and property damage insurance to the extent deemed necessary by the city council upon each of the trucks or other vehicles used by him or her in carrying out the work called for in the contract. The city council, by resolution, shall have the power to provide for the inclusion in such contract of such terms as it deems necessary to protect the interests of the city.~~

~~C. Before such contract is entered into, sealed bids may be called for by the city council, on notice by publication in a newspaper of general circulation in the city, not less than one time. Each proposal or bid shall be accompanied by a certified check payable to the city in the sum deemed necessary by the city council, which sum shall be forfeited to the city if the bidder to whom the contract is awarded fails or refuses to enter into the contract within fifteen (15) days after the date of mailing to the successful bidder the "Notice of Award Contract." The city council shall reserve the right to reject any and all bids, and the city council shall not be required to award such contract to the highest bidder, if, in the opinion of the city council, a lower bid presents a more satisfactory plan of handling such garbage, refuse and rubbish.~~

8.04.060 ~~8.04.070~~ Collection—Frequency.

There shall be at least one collection per week, except that ~~garbage~~Solid Waste from hotels, restaurants, vegetable, meat, poultry or fish markets and fresh fish or fresh drink stands, and such other establishments designated by the ~~city health officer~~Enforcement Officer shall be collected more frequently.

8.04.080 Collection—Fees.

Any person or business from whom refuse is collected under the provisions of this chapter shall pay to the refuse collector, or other persons designated by the city council to receive the same, such fee as specified by agreement between the city and contractor.

8.04.070 8.04.090 Collection—Interference prohibited.

It is unlawful for any person in any manner to interfere with the collection and disposal of refuseSolid Waste by any person authorized by license or contract to collect and dispose of same.

8.04.080 8.04.100 RefuseSolid Waste—Burning and Burying.

It is unlawful for any person to burn or cause to be burned in the city, or to bury, any type of refuseSolid Waste, in the City.

8.04.090 Solid Waste—Containers.

8.04.110 Refuse—Burying.

It is unlawful for any person to bury any type of refuse at any place within the city.

8.04.120 Refuse—Receptacles.

It is unlawful for any person to keep, accumulate or permit to be accumulated any refuseSolid Waste upon any lot or parcel of land, or on any public or private lane, place, street, alley or drive, unless the same is in city-approved receptaclesCity-approved Containers capable of being handled by city's or contractor'sCity's or Collector's disposal equipment, or receptacles to beContainers provided by contractorthe Collector, which shall be kept closed at all times, except when necessarily opened to permit garbageSolid Waste, Recyclables, or Organic Waste to be taken therefrom or deposited therein. The receptaclesContainers shall also be provided with handles and each receptacle shall have a capacity of not less than fifteen (15) gallons and shallContainer shall be placed so as to be readily accessible for removal and emptying the material contained therein by the duly authorized collectorsCollectors.

8.04.130 Rubbish—Resident disposal authorized.

8.04.100 Placing of Solid Waste, Recyclables, and Organic Waste in streets.

No person shall place or deposit any Solid Waste, Recyclable Materials, or Organic Waste in or upon any public place, street, alley, sidewalk or footpath in the City except in proper Containers for the purpose of Collection by the Collectors and between the hours of 5 p.m. on the day before and 8 p.m. on the scheduled collection day when the City or the Collector collectors from the particular premises.

8.04.110 Curbside placement of Green Waste.

A. For Green Waste placed out for collection, the material must be placed either:

1. In Green Containers subject to the time restrictions specified in Section 8.04.100; or,
2. In a pile no longer than 5 feet in the street and no earlier than four days before the scheduled collection day. Such Green Waste shall be placed and maintained in a pile or piles immediately adjacent to, and in front of, the property from which it originated and shall be placed and maintained as not to restrict reasonable gutter drainage or obstruct traffic. In addition, no concrete, metal objects, sod, bricks, socks, gravel, wood, palm fronts, cactus, dirt, or other similar non-plant material

as determined by the Enforcement Officer or Collector shall be placed in or upon such pile or piles.

8.04.120 Self-Hauling.

Nothing contained in this chapter shall be construed to prevent or prohibit any resident in the ~~city~~City or any business in the ~~city~~City from taking, hauling, transporting or disposing of any ~~rubbish~~Solid Waste created by the resident or his or her household, on premises personally occupied by him or her ~~personally occupied~~, or ~~by the business~~on premises occupied by a business in the conduct of its own business ~~on premises occupied by it~~, provided the same is kept and hauled under the rules and regulations prescribed in this chapter. It is unlawful to dispose of, or recycle at, any facility that is not approved of by the ~~city~~City.

8.04.130 ~~8.04.140~~ Transportation.

No ~~refuse~~Solid Waste shall be removed and carried on or along the streets and alleys of the ~~city~~City except that the same is carried, conveyed or hauled in conveyances so constructed as to be absolutely dustproof, and so arranged as not to permit dust or other matter to sift through or fall upon the streets and alleys. The contents of such conveyances must be further protected with appropriate covers so as to prevent the same from being blown upon the streets, alleys and adjacent lands.

8.04.140 ~~8.04.150~~ Vehicle maintenance.

Every truck used in the collection of ~~refuse~~Solid Waste shall be kept well painted, clean inside and out.

8.04.150 ~~8.04.160~~ Emergency removal.

Nothing in this chapter shall be deemed to prohibit the removal and hauling by an unlicensed person of materials considered by the ~~health officer or police department~~Enforcement Officer to constitute a health menace of such a nature as necessary to be ordered ~~by either of the officers~~ to be promptly removed.

8.04.160 ~~8.04.170~~ ~~Deposit~~Littering in public ~~place~~places prohibited.

It is unlawful for any person in the ~~city~~City to litter or throw or deposit any ~~refuse~~Solid Waste or to cause the same to be thrown or deposited upon any street, public or private land, alley, gutter, drain facilities, park, creek or any public place, or throw or deposit the same in or upon any vacant lot or back yard or to store or keep the same, except in the manner prescribed in ~~Section 8.04.120~~this chapter.

8.04.170 ~~8.04.180~~ ~~Health officer~~Enforcement Officer.

The ~~health officer~~Enforcement Officer shall supervise all matters in connection with ~~refuse~~Solid Waste disposal that concern the public health.

8.04.180 Collection—Contract contents.

A. For the collection and disposal of Solid Waste, Recyclables, and Organic Waste, a contract may be entered into by the City in accordance with and subject to the terms and conditions of this chapter.

B. Such contract shall provide that the Collector shall collect and dispose of the Solid Waste, Recyclables, and Organic Waste and shall not charge any amounts in excess of the rates

specified by agreement between City and Collector . The Collector shall be required to furnish a cash surety bond to the City in the sum of one year's gross receipts conditioned upon the faithful performance of the contract and the provisions of this chapter. Such Collector may except as in this chapter otherwise provided, collect all Solid Waste, Recyclables, and Organic Waste in the City, and transport the same through the streets and public ways of the City. Such contract shall also require that the Collector procure for the period covered by the proposed contract, full compensation insurance in accordance with the workers' compensation insurance and safety provisions of the California Labor Code. Such contract shall also require that the Collector carry public liability insurance to the extent deemed necessary by the City Council, and property damage insurance to the extent deemed necessary by the City Council upon each of the trucks or other vehicles used by him or her in carrying out the work called for in the contract. The City Council, by resolution, shall have the power to provide for the inclusion in such contract of such terms as it deems necessary to protect the interests of the City.

C. Before such contract is entered into, sealed bids may be called for by the City Council, on notice by publication in a newspaper of general circulation in the City, not less than one time. Each proposal or bid shall be accompanied by a certified check payable to the City in the sum deemed necessary by the City Council, which sum shall be forfeited to the City if the bidder to whom the contract is awarded fails or refuses to enter into the contract within fifteen (15) days after the date of mailing to the successful bidder the "Notice of Award Contract." The City Council shall reserve the right to reject any and all bids, and the City Council shall not be required to award such contract to the highest bidder, if, in the opinion of the City Council, a lower bid presents a more satisfactory plan of handling such Solid Waste.

8.04.190 ~~8.04.190~~ Franchise ~~requirement~~—Authorization by ~~city council~~City Council.

A. ~~A.~~ The ~~city council~~City Council may authorize, by franchise, a ~~solid waste~~Solid Waste enterprise to provide ~~solid waste~~Solid Waste handling for residential, commercial/industrial users to customers. In the sole discretion of the ~~city council, the solid waste~~City Council, the Solid Waste handling services may be authorized on an exclusive or nonexclusive basis, and with or without competitive bidding, and may relate to any class or type of ~~solid waste~~Solid Waste within all or any part of the territory of the ~~city~~City.

B. ~~B.~~ No person shall collect or dispose of ~~solid waste or recyclables in the city~~Solid Waste, Recyclables, or Organic Waste in the City unless that person has been awarded a ~~solid waste collector~~Solid Waste franchise and has entered into a franchise agreement with the ~~city~~City, except as otherwise specifically provided in this chapter. Any such franchise shall be in addition to any business license or permit otherwise required by this code. No permit issued by any other governmental agency authorizing collection of ~~solid waste or recyclable~~Solid Waste Recyclables, or Organic Waste shall be valid in the ~~city~~City. Collectors operating in the ~~city~~City on the effective date of this chapter under a permit or nonexclusive franchise agreement may continue to operate only until the rights thereunder are terminated or revoked, or until such rights expire pursuant to the provisions of ~~Section 49520 of the~~ Public Resources Code Section 49520.

8.04.200 ~~8.04.200~~ Contents of franchise agreement.

The terms and provisions of any franchise agreement for ~~solid waste~~Solid Waste handling services may relate to or include, without limitation, the following subject matters:

A. ~~A.~~ The nature, scope and duration of the franchise;

B. ~~B.~~ The collection schedule, including the frequency, days and hours of collection;

C. ~~C.~~ The applicable franchise fee, including the amount method of computation, and time for payment;

D. ~~D.~~ The applicable rates, fees and charges for regular, special and emergency collection services, including the methods of setting and adjusting same, and the responsibility for billing and collecting same;

E. ~~E.~~ Collection vehicles, including the permissible size and color, and any required identification, safety equipment, maintenance, inspection and operational requirements;

F. ~~F.~~ The receipt, processing and reporting of customer inquiries and complaints;

G. ~~G.~~ The collection of ~~solid waste~~Solid Waste from publicly owned property and facilities;

H. ~~H.~~ Performance standards for the ~~collector's~~Collector's personnel and equipment;

I. ~~I.~~ Solid ~~waste~~Waste and recycling ~~containers~~Containers, including size, repair or replacement, handling, placement, obligations of the ~~collector~~Collector to provide, and permissible charges therefor;

J. ~~J.~~ Standards and procedures for periodic performance reviews by the ~~city~~City;

K. ~~K.~~ Noise attenuation policies and procedures;

L. ~~L.~~ The maintenance by the ~~collector~~Collector of an office for the conduct of business;

M. ~~M.~~ Policies and procedures relating to the ~~noncollection of solid waste~~non-collection of Solid Waste, and the composting ~~of green waste~~and/or processing of Organic Waste, the collection of ~~recyclable~~Recyclables, and resource recovery;

N. ~~N.~~ Requirements relating to comprehensive liability insurance and workers' compensation insurance;

O. ~~O.~~ Requirements relating to the dissemination of information to the public concerning regular and special ~~solid waste~~Solid Waste collection and ~~recycling~~Recycling services;

P. ~~P.~~ Actions or omissions constituting breaches or defaults, and the imposition of applicable penalties, liquidated damages, and other remedies, including suspension, revocation or termination;

Q. ~~Q.~~ Requirements relating to performance bonds and to indemnification;

R. ~~R.~~ Requirements relating to affirmative action programs;

S. ~~S.~~ Requirements relating to recordkeeping, accounting procedures, reporting, periodic audits and inspection of records;

T. ~~T.~~ Requirements relating to the assignment, transfer and renewal of the franchise;

U. ~~U.~~ Requirements relating to compliance with and implementation of the state and federal laws, rules or regulations pertaining to ~~solid waste~~Solid Waste handling services, and to the implementation by the ~~city~~City of state-mandated programs, including, without limitation, the ~~city's~~City's source reduction and recycling element ~~and~~, the ~~city's~~City's household hazardous waste element, and state waste diversion requirements;

V. ~~V.~~ Such additional requirements, conditions, policies and procedures as may be mutually agreed upon by the parties to the franchise agreement and which will, in the judgment and discretion of the ~~city council~~City Council, best serve the public interest and protect the public health, safety and welfare.

8.04.210 ~~8.04.210~~ Collector franchise fee.

Each ~~collector~~Collector shall pay a franchise fee in an amount ~~determined by resolution of the city council or~~ established in the franchise agreement authorizing the collection of ~~solid waste or recyclable~~Solid Waste, Recyclables, or Organic Waste.

8.04.220 ~~8.04.220~~ Resolution of conflicts.

In the event of any conflict between the provisions of a franchise agreement which is authorized and approved by the ~~city council~~City Council and the provisions of this chapter, the provisions of the franchise agreement shall control.

8.04.230 ~~8.04.230~~ Permits and licenses.

Every ~~collector~~Collector shall obtain and maintain at all times during the ~~collector's~~Collector's operations a business license issued by the ~~city~~City, and all applicable permits and licenses required by any public agency having jurisdiction.

8.04.240 ~~8.04.240~~ Transfer of franchise.

No permit which is authorized by, subject to, or issued under the provisions of this chapter shall be transferred, delegated, sublet, subcontracted to or assigned to another person without the prior approval of the ~~city council. This restriction includes the transfer of ownership or the majority of the ownership or control of the permittee or the franchisee, and the transfer of a majority of the permittee's or franchisee's stock to another person.~~City Council.

8.04.250 ~~8.04.250~~ Revocation of permit or franchise.

After conducting a hearing as provided for in this chapter, the ~~city manager~~City Manager may revoke or suspend any collection permit or franchise for violation of a provision of this chapter or any other applicable law, ordinance or regulations of any public agency.

8.04.260 ~~8.04.260~~ Interim suspension.

The ~~city manager~~City Manager, without a hearing, may suspend a franchise or a permit for not more than sixty (60) days, if the ~~city manager~~City Manager finds that continued operation by the franchisee or permittee will constitute a threat to the public health, safety and general welfare.

8.04.270 ~~**8.04.270**~~ **Notice of hearing—Revocation.**

The ~~city manager~~City Manager shall mail notice of a hearing to revoke a collection permit or franchise to the ~~collector~~Collector not less than fifteen (15) days prior to such hearing. In the event of the revocation of a franchise or a permit, the ~~city manager~~City Manager shall notify the ~~collector~~Collector in writing of the reasons therefor. Notification may be made in person or by mail.

8.04.280 ~~**8.04.280**~~ **Appeals.**

Within fifteen (15) calendar days after notice by the ~~city manager~~City Manager of revocation of a collection permit or franchise has been sent to the ~~collector~~Collector, the ~~collector~~Collector may file with the ~~city clerk~~City Cerk an appeal of such decision to the ~~city council~~City Council.

8.04.290 ~~**8.04.290**~~ **City Council action.**

The ~~city council~~City Council may either affirm the action of the ~~city manager~~City Manager, send the matter back to the ~~city manager~~City Manager for further consideration, or set the matter for hearing by the ~~city council~~City Council. If they ~~city council~~City Council sets the matter for hearing, it shall base its action upon the standards delineated in Section ~~8.04.250~~8.04.250. Notice of such hearing shall be sent to the ~~collector~~Collector not less than fifteen (15) days prior to the hearing.

8.04.300 ~~**8.04.300**~~ **Enforcement.**

The ~~police department~~enforcement officer is specifically required to enforce the provisions of Sections ~~8.04.030, 8.04.050~~ 8.04.030, 8.04.050(C), ~~8.04.080~~ 8.04.070 through ~~8.04.140 and 8.04.170~~ 8.04.160 and have the right of entering any or all premises for the purpose of determining whether the provisions of such chapters are being conformed with.

It is unlawful for any person to deny or obstruct such entry.

CHAPTER 8.72 ORGANIC WASTE DISPOSAL REDUCTION

8.72.010 Definitions.
8.72.020 Requirements for Single-Family Generators.
8.72.030 Requirements for Commercial Businesses.
8.72.040 Waivers for Generators.
8.72.050 Requirements for Commercial Edible Food Generators.
8.72.060 Requirements for Food Recovery Organizations and Services.
8.72.070 Requirements for Haulers and Facility Operators.
8.72.080 Self-Hauler Requirements.
8.72.090 Inspections and Investigations.
8.72.100 Enforcement.

8.72.010 Definitions.

The following terms are defined for the purposes of this chapter:

"Blue Container" has the same meaning as in 14 CCR § 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials or Source Separated Blue Container Waste.

"CCR" means the State of California Code of Regulations.

"CalRecycle" means the California Department of Resources Recycling and Recovery.

"City" means the City of Winters, California.

"Collect" or "Collection" means the act of collecting Solid Waste, Recyclables, or Organic Waste at or near the place of generation or accumulation.

"Commercial" or "Commercial Business" means a business, industrial, commercial establishment, or construction site, and any multiple-family, residential dwelling with five (5) units or more.

"Community Composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 CCR § 17855(a)(4); or, as otherwise defined by 14 CCR § 18982(a)(8).

"Compliance Review" means a review of records by the City to determine compliance with this chapter.

"Container" means a cart, bin, roll-off, compactor or similar receptacle used to temporarily store Solid Waste, Recyclables, or Organic Waste for collection service.

"Container Contamination" or "Contaminated Container" means a Container, regardless of color, that contains Prohibited Container Contaminants, or as otherwise defined in 14 CCR § 18982(a)(55).

"Designated Source Separated Organic Waste Facility" shall have the same definition as 14 CCR § 18982(14.5).

"Designee" means an entity that the City contracts with or otherwise arranges to carry out any of the City's responsibilities as authorized in 14 CCR § 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.

Edible Food" means food intended for human consumption, or as otherwise defined in 14 CCR § 18982(a)(18). "Edible Food" is not Solid Waste if it is recovered and not discarded.

"Enforcement Action" means an action of the City to address non-compliance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.

"Enforcement Officer" means the City Manager, county administrative official, chief operating officer, executive director, or other executive in charge or their authorized Designee(s) who is/are partially or whole responsible for enforcing this chapter.

"Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR § 18982(a)(24).

"Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR § 18982(a)(25), including, but not limited to:

1. A food bank as defined in Health and Safety Code Section 113783;
2. A nonprofit charitable organization as defined in Health and Safety Code Section 113841; and,
3. A nonprofit charitable temporary food facility as defined in Health and Safety Code Section 113842.

"Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR § 18982(a)(26).

Food Waste" means discarded raw, cooked, or processed edible substances, ices, beverages, ingredients used or intended for use or for sale, in whole or in part, for human consumption, and chewing gum. "Food waste" includes compostable plastics and is a subset of Organic Waste.

"Generator" means a person or entity that is responsible for the initial creation of waste.

"Gray Container" has the same meaning as in 14 CCR § 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

"Gray Container Waste" means Solid Waste that is collected in a Gray Container that is part of a three-Container Organic Waste collection service that prohibits the placement of Recyclables or Organic Waste in the Gray Container as specified in 14 CCR §§ 18984.1(a)-(b), or as otherwise defined in 14 CCR § 17402(a)(6.5).

"Green Container" has the same meaning as in 14 CCR § 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

"Green Waste" shall have the same meaning as in Section 8.04.010.

"Grocery Store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR § 18982(a)(30).

"Hauler Route" means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 CCR § 18982(a)(31.5).

"High Diversion Organic Waste Processing Facility" means a facility that is in compliance with the reporting requirements of 14 CCR § 18815.5(d) and meets or exceeds an annual average Mixed Waste organic content Recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025, as calculated pursuant to 14 CCR § 18815.5(e) for Organic Waste received from the "Mixed waste organic collection stream" as defined in 14 CCR § 17402(a)(11.5), or, as otherwise defined in 14 CCR § 18982(a)(33).

"Inspection" means a site visit where a City reviews records, Containers, and a person or entity's collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 CCR § 18982(a)(35).

"Large Event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.

"Large Venue" means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. A venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. A site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue.

"Local Education Agency" means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to Solid Waste, or as otherwise defined in 14 CCR § 18982(a)(40).

"Mixed Waste Organic Collection Stream" or "Mixed Waste" means Organic Waste collected in a Container that is required by 14 CCR §§ 18984.1, 18984.2 or 18984.3 to be taken to a High Diversion Organic Waste Processing Facility or as otherwise defined in 14 CCR § 17402(a)(11.5).

"Multi-Family Residential Dwelling" or "Multi-Family" means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

"Notice of Violation" or "NOV" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR § 18982(a)(45) or further explained in 14 CCR § 18995.4.

"Organic Waste" or "Organic Materials" shall have the same meaning as in Section 8.04.010.

"Organic Waste Generator" means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR § 18982(a)(48).

"Prohibited Container Contaminants" means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the City's Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the City's Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in the City's Green Container and/or Blue Container; and, (iv) non-Solid Waste items placed in any Container.

"Recovery" means any activity or process described in 14 CCR § 18983.1(b), or as otherwise defined in 14 CCR § 18982(a)(49).

"Recyclables" or "Recyclable Materials" shall have the same meaning as in Section 8.04.010.

"Recycling" shall have the same meaning as in Section 8.04.010.

"Remote Monitoring" means the use of the internet of things and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in Containers (level of fill) and/or presence of Prohibited Container Contaminants.

"Residential" means any residential dwelling.

"Route Review" means a visual Inspection of Containers along a Hauler Route for the purpose of determining Container Contamination, and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR § 18982(a)(65).

"SB 1383" means Senate Bill 1383 (Chapter 395, Statutes of 2016), which established methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants, as amended, supplemented, superseded, and replaced from time to time.

"SB 1383 Regulations" means the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

"Self-Hauler" means a person, who hauls Solid Waste, Recyclable Materials, or Organic Waste he or she has generated to another person. "Self-Hauler" also includes a person who back-hauls waste, or as otherwise defined in 14 CCR § 18982(a)(66). "Back-haul" means generating and transporting Organic Waste to a destination owned and operated by the Generator using the Generator's own employees and equipment, or as otherwise defined in 14 CCR § 18982(a)(66)(A).

"Single-Family" means of, from, or pertaining to any residential premises with fewer than five (5) units.

"Solid Waste" shall have the same meaning as in Section 8.04.010.

"Source Separating" or "Source Separation" means the process of removing Recyclable Materials and Organic Waste from Solid Waste at the place of generation, prior to collection, and placing them into separate Containers that are separately designated for Recyclable Materials and Organic Waste.

"Source Separated Blue Container Waste" means Source Separated Wastes that can be placed in a Blue Container that is limited to the collection of those Organic Wastes and Non-Organic Recyclables as defined in 14 CCR § 18982(a)(43), or as otherwise defined by 14 CCR § 17402(a)(18.7).

"Source Separated Green Container Organic Waste" means Source Separated Organic Waste that can be placed in a Green Container that is specifically intended for the separate Collection of Organic Waste by the Generator, excluding Source Separated Blue Container Waste, carpets, non-compostable Paper, and textiles.

"Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars ($2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 CCR § 18982(a)(71).

"Tier One Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

1. Supermarket.
2. Grocery Store with a total facility size equal to or greater than 10,000 square feet.
3. Food Service Provider.
4. Food Distributor.
5. Wholesale Food Vendor.

"Tier Two Commercial Edible Food Generator" means a Commercial Edible Food Generator that is one of the following:

1. Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
2. Hotel with an on-site Food Facility and 200 or more rooms.
3. Health facility with an on-site Food Facility and 100 or more beds.
4. Large Venue.
5. Large Event.

6. A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
7. A Local Education Agency facility with an on-site Food Facility.

"Wholesale Food Vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 CCR § 189852(a)(76).

8.72.020 Requirements for Single-Family Generators.

A. Single-Family Organic Waste Generators shall comply with the following requirements:

1. Shall subscribe to the City's Organic Waste collection services for all Organic Waste generated as described below in Section 8.72.020(A)(2). The City shall have the right to review the number and size of a Generator's Containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family Generators shall adjust its service level for its collection services as requested by the City. Generators may additionally manage their Organic Waste by preventing or reducing their Organic Waste, managing Organic Waste through backyard residential composting, and/or using a community composting site.

2. Shall participate in the City's three-Container collection service(s) by placing designated materials in designated Containers, and shall not place Prohibited Container Contaminants in Collection Containers. Generators shall place Source Separated Green Container Organic Waste, including Food Waste, in the Green Container; Source Separated Recyclable Materials in the Blue Container; and Solid Waste in the Gray Container, per City and collector guidelines. Generators shall not place materials designated for the Gray container into the Green Container or Blue Container, materials designated for the Green Container into the Blue or Gray Container, nor materials designated for the Blue Container into the Green or Gray Container.

8.72.030 Requirements for Commercial Businesses.

A. Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

1. Subscribe to the City's three-Container collection services and comply with requirements of those services as described below in Section 8.72.030(A)(2). The City shall have the right to review the number and size of a Generator's Containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the City.

2. Participate in the City's three-Container collection service(s) by placing Source Separated Green Container Organic Waste, including Food Waste, in the Green

Container; Source Separated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generator shall not place materials designated for the Gray Container into the Green Container or Blue Container, nor place materials designated for the Green Container or Blue Container into the Gray Container.

3. Supply and allow access to an adequate number, size and location of collection Containers with sufficient labels or colors (conforming with Section 8.72.030(A)(4)(a)-(b) for employees, contractors, tenants, and customers, consistent with the City's Blue Container, Green Container, and Gray Container collection service or, if self-hauling, per the Commercial Businesses' instructions to support its compliance with its self-haul program, in accordance with Sections 8.04.120 and 8.72.080.

4. Excluding Multi-Family Residential Dwellings, provide Containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal Containers are provided for customers, for materials generated by that business. Such Containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of Container, then the business does not have to provide that particular Container in all areas where disposal Containers are provided for customers. Pursuant to 14 CCR § 18984.9(b), the Containers provided by the business shall have either:

   a. A body or lid that conforms with the Container colors provided through the collection service provided by City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional Containers, including Containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those Containers, or prior to January 1, 2036, whichever comes first.

   b. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that Container, or Containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the Container. Pursuant 14 CCR § 18984.8, the Container labeling requirements are required on new Containers commencing January 1, 2022.

5. Multi-Family Residential Dwellings are not required to comply with Container placement requirements or labeling requirement in Section 8.72.030(A)(4) pursuant to 14 CCR § 18984.9(b).

6. To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a Container not designated for those materials in accordance with Section 8.72.030, or if Recycling Organic Waste onsite or self-hauling under Sections 8.04.120 or 8.72.080 per the Commercial Businesses' instructions to support its compliance with its onsite recycling or self-haul program.

7. Excluding Multi-Family Residential Dwellings, periodically inspect Containers for contamination and inform employees if Containers are contaminated and of the requirements to keep contaminants out of those Containers pursuant to 14 CCR § 18984.9(b)(3).

8. Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

9. Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of Containers and the rules governing their use at each property.

10. Provide or arrange access for the City or its agent to their properties during all Inspections conducted in accordance with Section 8.72.090 to confirm compliance with the requirements of this chapter.

11. Accommodate and cooperate with City's Remote Monitoring program, if implemented, for Inspection of the contents of Containers for Prohibited Container Contaminants, to evaluate Generator's compliance with Sections 8.72.020 and 8.72.030. The Remote Monitoring program may involve installation of Remote Monitoring equipment on or in the Blue Containers, Green Containers, and Gray Containers.

12. If a Commercial Business wants to self-haul, meet the Self-Hauler requirements in Sections 8.04.120 and 8.72.080.

13. Nothing in this section prohibits a Generator from preventing or reducing waste generation, managing Organic Waste on site, or using a community composting site).

14. Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements, pursuant to 8.72.050.

8.72.040 Waivers for Generators.

A. De Minimis Waivers. The City may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste

requirements if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described in Section 8.72.040(A)(2) below. Commercial Businesses requesting a de minimis waiver shall:

1. Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section 8.72.040(A)(2) below.

2. Provide documentation that either:

   a. The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable Container of the business' total waste; or

   b. The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable Container of the business' total waste.

3. Notify City if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.

4. Provide written verification of eligibility for de minimis waiver every 5 years, if the City has approved de minimis waiver.

B. Physical Space Waivers. The City may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the City has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection Containers required for compliance with the Organic Waste collection requirements.

A Commercial Business or property owner may request a physical space waiver through the following process:

1. Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

2. Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.

3. Provide written verification to the City that it is still eligible for physical space waiver every five years, if the City has approved application for a physical space waiver.

C. Additional Waivers. The City may provide any additional waivers of the requirements of this chapter to the extent permitted by applicable law. The Public Works Director or his or her designee shall be responsible for determining the grounds for the waiver, its scope, and appropriate administration.

D. Review and Approval of Waivers by City. Review and approval of waivers will be the responsibility of the Public Works Director or his or her designee.

8.72.050 Requirements for Commercial Edible Food Generators.

A. Tier One Commercial Edible Food Generators must comply with the requirements of this section commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024.

B. Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this section, commencing January 1, 2024.

C. Commercial Edible Food Generators shall comply with the following requirements:

1. Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

2. Allow the City's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR § 18991.4.

3. Keep records that include the following information, or as otherwise specified in 14 CCR § 18991.4:

a. A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR § 18991.3(b).

b. A copy of all contracts or written agreements established under 14 CCR § 18991.3(b).

c. A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

i. The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

ii. The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

iii. The established frequency that food will be collected or self-hauled.

iv. The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

d. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557, Chapter 285, Statutes of 2017.

8.72.060 Requirements for Food Recovery Organizations and Services.

A. Food Recovery Services collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR § 18991.5(a)(1):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the service collects Edible Food.

2. The quantity in pounds of Edible Food collected from each Commercial Edible Food Generator per month.

3. The quantity in pounds of Edible Food transported to each Food Recovery Organization per month.

4. The name, address, and contact information for each Food Recovery Organization that the Food Recovery Service transports Edible Food to for Food Recovery.

B. Food Recovery Organizations collecting or receiving Edible Food directly from Commercial Edible Food Generators, via a contract or written agreement established under 14 CCR § 18991.3(b), shall maintain the following records, or as otherwise specified by 14 CCR §18991.5(a)(2):

1. The name, address, and contact information for each Commercial Edible Food Generator from which the organization receives Edible Food.

2. The quantity in pounds of Edible Food received from each Commercial Edible Food Generator per month.

3. The name, address, and contact information for each Food Recovery Service that the organization receives Edible Food from for Food Recovery.

C. Food Recovery Organizations and Food Recovery Services that have their primary address physically located in the City and contract with or have written agreements with one or more Commercial Edible Food Generators pursuant to 14 CCR § 18991.3(b) shall report to the City it is located in the total pounds of Edible Food recovered in the previous calendar year from the Tier One and Tier Two Commercial Edible Food Generators they have established a contract

or written agreement with pursuant to 14 CCR § 18991.3(b) no later than March 1, July 1, and September 1 annually.

D. In order to support Edible Food Recovery capacity planning assessments or other studies, Food Recovery Services and Food Recovery Organizations operating in the City shall provide information and consultation to the City, upon request, regarding existing, or proposed new or expanded, Food Recovery capacity that could be accessed by the City and its Commercial Edible Food Generators. A Food Recovery Service or Food Recovery Organization contacted by the City shall respond to such request for information within 60 days, unless a shorter timeframe is otherwise specified by the City.

8.72.070 Requirements for Haulers and Facility Operators.

A. Requirements for Haulers

1. Haulers shall meet the following requirements and standards as a condition of approval of a permit or other authorization with the City to collect Organic Waste.

   a. Through written notice to the City annually on or before June 1, identify the facilities to which they will transport Organic Waste including facilities for Source Separated Recyclable Materials, and Source Separated Green Container Organic Waste.

   b. Transport Source Separated Recyclable Materials or Source Separated Green Container Organic Waste, and Mixed Waste to a facility, operation, activity, or property that recovers Organic Waste as defined in 14 CCR, Division 7, Chapter 12, Article 2.

   c. Obtain approval from the City to haul Organic Waste, unless it is transporting Source Separated Organic Waste to a Community Composting site or lawfully transporting construction and demolition debris.

2. Haulers authorized to collect Organic Waste shall comply with education, equipment, signage, Container labeling, Container color, contamination monitoring, reporting, and other requirements contained within its permit or other agreement entered into with the City.

B. Requirements for Facility Operators and Community Composting Operations

1. Owners of facilities, operations, and activities that recover Organic Waste, including, but not limited to, Compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within 60 days.

2. Community Composting operators, upon the City's request, shall provide information to the City to support Organic Waste capacity planning, including, but not limited to, an estimate of the amount of Organic Waste anticipated to be handled at the Community Composting operation. Entities contacted by the City shall respond within 60 days.

8.72.080 Self-Hauler Requirements.

A. Self-Haulers shall source separate all Recyclable Materials and Organic Waste generated on-site from Solid Waste in a manner consistent with 14 CCR §§ 18984.1 and 18984.2, or shall haul Organic Waste to a High Diversion Organic Waste Processing Facility.

B. Self-Haulers shall haul their Source Separated Recyclable Materials to a facility that recovers those materials; and haul their Source Separated Green Container Organic Waste to a Solid Waste facility, operation, activity, or property that processes or recovers Source Separated Organic Waste. Alternatively, Self-Haulers may haul Organic Waste to a High Diversion Organic Waste Processing Facility.

C. Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Organic Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the City. The records shall include the following information:

1. Delivery receipts and weight tickets from the entity accepting the waste.

2. The amount of material in cubic yards or tons transported by the Generator to each entity.

3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste..

D. Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 8.72.080(C) to the City if requested.

E. A residential Organic Waste Generator that self-hauls Organic Waste is not required to record information in Section 8.72.080(C) or report information in Section 8.72.080(D).

8.72.090 Inspections and Investigations.

A. City representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any Collection Container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from Generators, or Source Separated materials to confirm compliance with this chapter by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, Self-Haulers, Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow the City to enter the interior of a private residential property for Inspection. For the

purposes of inspecting Commercial Business Containers for compliance with Section 8.72.030, the City may conduct Container Inspections for Prohibited Container Contaminants using Remote Monitoring, and Commercial Businesses shall accommodate and cooperate with Remote Monitoring pursuant to Sections 8.72.030.

B. The regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the City's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in Containers, Edible Food Recovery activities, records, or any other requirement described herein. Failure to provide or arrange for: (i) access to an entity's premises; or (ii) access to records for any Inspection or investigation is a violation of this chapter and may result in penalties described in Section 8.72.100.

C. Any records obtained by the City during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

D. City representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.

E. City shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

8.72.100 Enforcement.

A. The City may take Enforcement Actions, including the issuance of an administrative citation and assessment of a fine, against persons and entities for violating this chapter. The procedures in Chapter 19.10 shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this chapter and any rule or regulation adopted pursuant to this chapter, except as otherwise indicated in this chapter.

B. The City may take immediate Enforcement Actions against Commercial Businesses that are in violation of the commercial organic waste and recycling requirements of AB 341 and AB 1826, which were in place prior to the issuance of the SB 1383 Regulations.

C. Education of SB 1383 Requirements.

1. Through December 31, 2023, the City or its Designee may conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance with the SB 1383 Regulations and this chapter, and if City or its Designee determines that Organic Waste Generator, Self-Hauler, Hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials and/or, for the purposes of Edible Food Recovery, training to the entity describing its obligations under this chapter and a notice that compliance is

required, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

2. The City Manager or his or her designee shall work with the Collector and other entities to conduct outreach and educate Generators regarding compliance with the SB 1383 Regulations and this chapter.

3. The City Manager or his or her designee shall work with the Collector to annually identify residences and Commercial Businesses subject to the SB 1383 Regulations.

D. Beginning January 1, 2024, if the City or its Designee determines that an Organic Waste Generator, Self-Hauler, Hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with the SB 1383 Regulations under this chapter, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to this section, as needed.

E. Prior to taking any Enforcement Action against a person, business, or entity for violating the SB 1383 Regulations, the City shall first notify the person, business, or entity and provide an opportunity to correct the violation through the issuance of a Notice of Violation by a City Enforcement Officer. Notices shall be sent to the "owner" at the official address of the owner maintained by the tax collector for the City or if no such address is available, to the owner at the address of the residential dwelling or Commercial property or to the party responsible for paying for the Collection services, depending upon available information. The notice shall state the person, business, or entity has 60 days to correct the violation. The person, business, or entity shall be responsible for ensuring and demonstrating compliance with the requirements of the SB 1383 Regulations, within the 60-day time frame provided in the notification of violation. Failure to demonstrate compliance shall be cause for Enforcement Action and penalties.

F. The City or its Designee may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with this section if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

2. Delays in obtaining discretionary permits or other government agency approvals; or,

3. Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the City is under a corrective action plan with CalRecycle pursuant to 14 CCR § 18996.2 due to those deficiencies.

G. For incidences of Prohibited Container Contaminants found in containers, City Enforcement Officer will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a Container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants.

Notwithstanding the foregoing subsections, the City may issue administrative citations immediately for container contamination and failure to subscribe to collection service as required.

H. Penalty Amounts for Types of Violations.

The penalty levels are as follows:

1. For a first violation, the amount of the base penalty shall be $100 per violation.

2. For a second violation, the amount of the base penalty shall be $200 per violation.

3. For a third or subsequent violation, the amount of the base penalty shall be $500 per violation.

4. The penalties shall be consistent with Government Code section 36900.

I. Appeals Process.

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation pursuant to Chapter 19.10.

J. Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations.

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE: December 7, 2021

FROM: Kathleen Salguero Trepa, City Manager

SUBJECT: Resolution No. 2021-82 Renewing Authorization and Making Findings and Determinations Under AB 361 for Continued Virtual Meetings.

RECOMMENDATION:

Adopt Resolution No. 2021-82 Renewing Authorization and Making Findings and Determinations Under AB 361 for Continued Virtual Meetings.

BACKGROUND:

AB 361 allows the City Council and all commissions, committees and other legislative bodies of the City of Winters to meet virtually or telephonically without meeting certain Brown Act posting requirements, identifying each teleconference location, requiring each teleconference location to be publicly accessible, or requiring a quorum of the legislative body to be physically present within the City. Virtual public meetings still require standard meeting agendas and notices and the ability for the public to provide public comment.

At its October 5, 2021 meeting, the City Council adopted Resolution No. 2021-65 making findings and determinations under AB 361 for continued virtual meetings. To continue virtual meetings, the Council must make findings every 30 days that 1) it has reconsidered the circumstances of the ongoing COVID-19 pandemic state of emergency and 2) either the state of emergency continues to directly impact the ability of the public to meet safely in person, or state or local officials continue to impose or recommend measures to promote social distancing.

DISCUSSION:

AB 361 into law, which allows virtual public meetings to continue through January 1, 2024, provided that:

1. The Council holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing; or
2. The Council holds a meeting during a proclaimed state of emergency and determines or has determined by majority vote that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

At its October 5, 2021 City Council meeting, Council adopted Resolution No. 2021-65 making the initial findings and determinations under AB 361 for continued virtual meetings under AB 361. The City Council has reconsidered the circumstances of the state emergency and finds that state of local officials continue to impose or recommend measures to promote social distancing. The approval of Resolution No. 2021-82 and its renewal would apply to the City Council and all commissions, committees, and other legislative bodies of the City of Winters.

This item will be placed on the agenda as a recurring consent item for every future City Council meeting as long as a state emergency exists and the City Council desires to hold a teleconference meeting (including hybrid meetings). This is because AB 361 requires the Council to renew its every 30 days after teleconferencing for the first time under AB 361. The City Council regularly meets on the first and third Tuesdays of the month. The number of days between one first Tuesday of the month to the next, or one third Tuesday of the month to the next, could be more than 30 days for some intervals. Placing the item on the agenda as a recurring consent item ensures that there will not be a lapse in satisfying the renewal requirements under AB 361.

AB 361 does not require in-person meetings if the City Council decides to continue with remote or Zoom meetings during the state emergency. AB 361 also does not require the City Council to hold remote or Zoom meetings during the state emergency. However, any in-person attendance would still need to comply with health orders related to masking or social distancing, as applicable.

Council provided staff direction at the October 5, 2021, meeting to implement a hybrid system that allows for both in-person and remote access to public meetings for either councilmembers, staff or the public. Two people are required to manage a hybrid system: one to manage the Zoom platform and the other to manage the Granicus system. Staff is

currently in the process of making modifications to finish implementing the hybrid system. Once implemented, a hybrid meeting would also be an option for the City Council.

A copy of AB 361 is available at https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB361.

FISCAL IMPACT:
There is no fiscal impact.

ATTACHMENTS:
1. Resolution 2021-82
2. Yolo County Health Officer's Memo Regarding Remote Public Meetings

RESOLUTION NO. 2021-82

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS RENEWING AUTHORIZATION AND MAKING FINDINGS AND DETERMINATIONS UNDER AB 361 FOR CONTINUED VIRTUAL MEETINGS

WHEREAS, the Ralph M. Brown Act (Gov. Code § 54950 *et seq.*) generally requires local agencies meeting via teleconference, including through other virtual or electronic means, to provide public access at each location in which members of the legislative body are teleconferencing; and

WHEREAS, the Legislature recently enacted Assembly Bill 361, Chapter 165, Statutes of 2021 ("AB 361"), which amended Government Code section 54953 to allow local agencies to meet fully virtually during a proclaimed state of emergency if state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, the Governor issued a proclamation declaring a state of emergency on March 4, 2020, due to the COVID-19 pandemic, pursuant to section 8625 of the California Emergency Services Act, and this proclaimed state of emergency currently remains in effect; and

WHEREAS, the City Council of the City of Winters has reconsidered the circumstances of the state of emergency; and

WHEREAS, state or local officials continue to recommend measures to promote social distancing; and

WHEREAS, according to the Yolo County Health Officer, the grounds for the social distancing recommendation include the unique characteristics of public governmental meetings, including the increased mixing associated with bringing together people from across the community, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to fully participate in public governmental meetings, and the challenges of ensuring compliance with safety requirements and recommendations at such meetings; and

WHEREAS, the continuation of virtual meetings will allow for full participation by members of the public until social distancing recommendations are lifted; and

WHEREAS, the City Council of the City of Winters desires to continue to hold virtual meetings pursuant to AB 361 and Government Code section 54953(e).

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

1. The above recitals and true and correct and shall be the findings of the City Council of the City of Winters.

2. The City Council of the City of Winters and all commissions, committees and other legislative bodies of the City of Winters shall continue to meet virtually in accordance with Government Code section 54953(e) and without compliance with section 54953(b)(3) based upon the findings and determinations hereby made by the City Council.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Winters held on December 7, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Wade Cowan, Mayor

ATTEST:

_____
Shelly Gunby, City Clerk

COUNTY OF YOLO

Health and Human Services Agency

Karen Larsen, LMFT
Director

Aimee Sisson, MD, MPH
Health Officer

MAILING ADDRESS
137 N. Cottonwood Street • Woodland, CA 95695
www.yolocounty.org

Date: September 22, 2021

To: All Yolo County Boards and Commissions

From: Dr. Aimee Sisson, Health Officer

Subject: Remote Public Meetings

In light of the ongoing public health emergency related to COVID-19 and the high level of community transmission of the virus that causes COVID-19, the Yolo County Public Health Officer recommends that public bodies continue to meet remotely to the extent possible. Board and Commissions can utilize the provisions of newly-enacted AB 361 to maintain remote meetings under the Ralph M. Brown Act and similar laws.

Among other reasons, the grounds for the remote meeting recommendation include:

- The continued threat of COVID-19 to the community. As of September 22, 2021, the current case rate is 24.1 cases per 100,000 residents per day. This case rate is considered “high” under the Centers for Disease Control and Prevention’s (CDC) framework for assessing community COVID-19 transmission; and

- The unique characteristics of public governmental meetings, including the increased mixing associated with bringing together people from across the community, the need to enable those who are immunocompromised or unvaccinated to be able to safely continue to fully participate in public governmental meetings, and the challenges of ensuring compliance with safety requirements and recommendations at such meetings.

Meetings that cannot feasibly be held virtually should be held outdoors when possible, or indoors only in small groups with face coverings, maximal physical distance between participants, use of a portable HEPA filter (unless comparable filtration is provided through facility HVAC systems), and shortened meeting times.

This recommendation is based upon current conditions and available protective measures. The Public Health Officer will continue to evaluate this recommendation on an ongoing basis and will communicate when there is no longer such a recommendation with respect to meetings for public bodies.

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Council Members

DATE: December 7, 2021

THROUGH: Kathleen Trepa, City Manager

FROM: Eric Lucero Public Works Superintendent

SUBJECT: Resolution No. 2021-83 Accepting Fiscal Year 2020-21 Street Rehabilitation Project

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RECOMMENDATION:
Adopt resolution 2021-83 accepting the fiscal year 2020-21 street rehabilitation project as complete and direct the city clerk to file a notice of completion.

BACKGROUND:
The City entered into a contract with Vintage Paving Company to perform slurry and overlay work on specific streets throughout the city. The original contract price was not to exceed $428,444.28 and the City Manager was granted authority to execute change orders not to exceed $42,850.

The scope of work included:

- Crack Seal
- Slurry Seal
- Grind and Pave
- Striping

The project began on September 7, 2021 and was completed on October 28, 2021. During the project, staff became aware of a miscalculation of square footage to the overlay of Morgan Street. Staff authorized Change Order 1 for the additional paving in order to complete Morgan Street and Change Order 2 for extra striping for parking stalls.

DISCUSSION:
The project was completed in accordance with the approved contract.

- Original Contract $428,444.28
- Change Order 1 $21,721.25
- Change Order 2 $2,607.37

FISCAL IMPACT:
The total contract price was $452,772.90, within the budget allocated for the project.

ATTACHMENTS:

1. Resolution 2021-83
2. Change Orders 1 and 2

RESOLUTION NO. 2021-83

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WINTERS ACCEPTING THE 2020-21 STREET REHABILITATION PROJECT AS COMPLETE AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, on April 21, 2020, council approved Resolution 2020-16 approving the list of streets and maintenance method for the Fiscal Year 2020-21 Street Rehabilitation Project; and

WHEREAS, on July 20, 2021, council approved Resolution 2021-42 approving a contract with Vintage Paving Company to complete the project in the amount not to exceed $428.444.28 and authorized the City Manager to execute change orders upto $42,844; and

WHEREAS, on September 7, 2021, Vintage Paving Company started the project; and

WHEREAS, on October 18, 2021, the City Manager authorized Change Order 1 in the amount of $21,721.25 for additional paving to complete Morgan Street and Change Order 2 in the amount of $2,607.37 for extra parking stall striping; and

WHEREAS, on October 28, 2021, Vintage Paving completed the project to the satisfaction of City staff. and

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

1) the project is accepted as completed in accordance with the contract and the plans and specifications therein; and
2) the total cost of the project is $452,772.90 to be paid in full to the contractor; and
3) a Notice of Completion shall be filed.

PASSED AND ADOPTED by the City Council of the City of Winters, on this 7th day of December, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____

Wade Cowan, Mayor

ATTEST:

_____

Shelly Gunby, City Clerk

CONTRACT CHANGE ORDER NO. 1 REV. NO. _____ SUPPL. NO. _____

City of Winters SHEET 1 OF 2 SHEET(S)

PROJECT **2020-21 Street Rehabilitation Project - Project 21-21** CONTRACT NO. 00 52 13

TO **Vintage Paving Co**, Contractor

You are hereby directed to make the herein described changes from the plans and specifications or do the following described work not included in the plans and specifications on this contract.

NOTE: This change order is not effective until approved by the City Manager.

Description of work to be done, estimate of quantities, and prices to be paid. Segregate between additional work at contract price, agreed price and force account. Unless otherwise stated, rates for rental of equipment cover only such time as equipment is actually used and no allowance will be made for idle time.
Change requested by: Public Works Superintendent

DESCRIPTION OF WORK:

1. Final Quantitiy Adjustment.
   a. Public Works Superintendent verified final quantities in the field of added squarefootage of Grind & Paving.
   b. Contractor provided backup information for increase to the following contract line item, which was reviewed and accepted by Public Works Superintendent.

A. Bid Schedule No. 4. Previous $308,277 Revised $329,998.5

2. Extra Work Items as follows:
   a. Grind & Pave additional 9,654 sqft of Morgan St .

BASIS OF COMPENSATION:

Contractor made the Public Works Superintendent aware of the shortage of square footage in the scope of work.
Public Works Superintendent verified the shortage.
Final Quantities verified in the field by the Public Works Superintendent.

Increased square footage 9,654

Extra Work Item is based on original negotiated contract price submitted by the Contractor.

Increase $2.25 per sqft

Total This CCO 1: Increase $21,721.25

TIME: This CCO was verbally agreed apond in the field due to the nessicity to order the extra asphalt needed to complete the project the following day.

The Date of Completion: **10/14/21**

CONTRACT CHANGE ORDER NO. 1 REV. NO. _____ SUPPL. NO. _____

City of Winters SHEET 2 OF 2 SHEET(S)

Submitted and Recommended by: Eric Lucero City of Winters Public Works Superintendent Date October 18, 2021

Approved: K. S. Trepa Date 11/16/21
Kathleen Trepa, City Manager

We, the undersigned contractor, have given careful consideration to the change proposed and hereby agree, if this proposal is approved, that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will accept as full payment therefore the prices shown above.

Date 11/15/21 Contractor Vintage Paving Co

By R.R. Title Vice President

If the Contractor does not sign acceptance of this order, his attention is directed to the requirements of the specifications as to proceeding with the ordered work and filing a written protest within the time therein specified.

CONTRACT CHANGE ORDER NO. 2 REV. NO. _____ SUPPL. NO. _____

City of Winters SHEET 1 OF 2 SHEET(S)

PROJECT **2020-21 Street Rehabilitation Project - Project 21-21** CONTRACT NO. 00 52 13

TO **Vintage Paving Co**, Contractor

You are hereby directed to make the herein described changes from the plans and specifications or do the following described work not included in the plans and specifications on this contract.

NOTE: This change order is not effective until approved by the City Manager.

Description of work to be done, estimate of quantities, and prices to be paid. Segregate between additional work at contract price, agreed price and force account. Unless otherwise stated, rates for rental of equipment cover only such time as equipment is actually used and no allowance will be made for idle time.
Change requested by: Public Works Superintendent

DESCRIPTION OF WORK:

1. Add additional striping.
   a. Public Works Superintendent asked for pricing on additional striping for parking stalls not in the original contract.
   b. Contractor provided backup information for increase to the contract bid schedule.

A. Bid Schedule Add Additional Striping Previous $12,410 Revised $15,017.37

2. Extra Work Items as follows:
   a. Stripe 16 diaginal parking stalls and 47 parrallel stalls on Abbey and Railroad Streets .

BASIS OF COMPENSATION:

Public Works Superintendent asked contractor for proposal on additional work.
Contractor subimitted proposal.
Final Quantities verified in the field by the Public Works Superintendent.

Increased contract cost $2,607.37

Extra Work Item is based on original negotiated contract price submitted by the Contractor.

Total This CCO 2: Increase $2,607.37

Original Contract Amount: $428,444.28
Final Adjusted Contract Amount (CCO's 1-2): $452,772.90

The Date of Completion: **10/26/21**

CONTRACT CHANGE ORDER NO. 2 REV. NO. _____ SUPPL. NO. _____

City of Winters SHEET 2 OF 2 SHEET(S)

Submitted and Recommended by: Eric Lucero City of Winters Public Works Superintendent Date October 18, 2021

Approved: K.S. Trepa Date 11/16/21
Kathleen Trepa, City Manager

We, the undersigned contractor, have given careful consideration to the change proposed and hereby agree, if this proposal is approved, that we will provide all equipment, furnish all materials, except as may otherwise be noted above, and perform all services necessary for the work above specified, and will accept as full payment therefore the prices shown above.

Date 11/15/21 Contractor Vintage Paving Co

By R.R. Title Vice President

If the Contractor does not sign acceptance of this order, his attention is directed to the requirements of the specifications as to proceeding with the ordered work and filing a written protest within the time therein specified.

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE: December 7, 2021

FROM: Kathleen Salguero Trepa, City Manager

SUBJECT: City Board and Commission Term Expiration List for 2021 as Required by Government Code Section 54972 (Maddy Act)

RECOMMENDATION:

Receive and file.

BACKGROUND:

Maddy Act

The Winters City Council has formed a variety of boards, commissions and committees to assist the city in the information-gathering and deliberation process. Boards and commissions are vital to the operation of the city and ensure public involvement in the governmental process.

Government Code section 54972 (Maddy Act) mandates that on or before December 31 of each year, each legislative body (i.e. City Council) shall prepare an appointments list of all regular and ongoing boards, commissions, and committees that are appointed by the legislative body of the local agency. This list shall be known as the Local Appointments List. The list shall contain the following information:

(a) A list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires and the necessary qualifications for the position.

(b) A list of all boards, commissions and committees whose members serve at the pleasure of the legislative body, and the necessary qualifications for each position.

The Local Appointments List attached to this report will also be posted on the City's website.

The list includes the Planning Commission, the Natural Resources Commission (previously the Winters Putah Creek Committee), the Climate Action Commission (recently formed, and currently going through its first recruitment), and the Hispanic Advisory Committee (HAC).

The Hispanic Advisory Committee has been in existence for over fifteen years. It currently operates in a quasi-standing committee fashion. The group meets regularly and is actively involved in supporting the Hispanic community, promoting an inclusive community, and celebrating Winters' Hispanic history and culture as endorsed by previous Council actions. However, to formalize their work as a standing committee, staff will bring a resolution formally establishing HAC and appointing members to a future Council meeting.

Inactive Boards

It should be noted that in preparation for this report staff found boards and commissions in the City Code that are no longer functioning. They include:

- Historic Preservation Commission,
- Municipal Enterprise Service and Rate Review Board,
- Parks and Community Services Commission, and the
- Economic Development Commission (EDAC).

The Winters Community Development Agency is also listed in the Municipal Code and was disbanded following the dissolution of redevelopment agencies by the State of California.

The other bodies have been inactive for a variety of reasons and for a number of years. For example, street tree management was previously under the Parks and Community Services Commission, and when the group was disbanded, street tree responsibility was transferred to the Planning Commission. The Natural Resources Commission is now considering updating the street tree list and policies as a project. EDAC was last active in 2018-19 to assist with developing the Economic Development Strategy that Council recently adopted this fall 2021. Staff will be returning to Council after the first of the year to discuss officially disbanding all or most of these advisory bodies so that the City Code is current and accurate.

For the purpose of complying with the Maddy Act, the attached Local Appointments List contains only the Council's currently functioning boards and does not include the disbanded boards listed above.

FISCAL IMPACT:

There is no fiscal impact.

ATTACHMENTS:

1. Winters 2021 Local Appointments List

2021 Local Appointments Lists of Boards, Commission and Committees

In compliance with requirements of Government Code Section 54972, below is a listing of all commission appointments and expiration dates.

PLANNING COMMISSION			
Function: Per city code Chapter 2.16, the Planning Commission performs such functions and duties and have such powers and duties as prescribed by Title 7 of the California Government Code, and additionally, the functions and duties with respect to zoning and other matters as City Council may determine. Additionally, the Commission reviews landscape plans of new development including street trees, public parkways and medians.			
Requirements: Must be a resident of Winters. Required to complete ethics training and file an FPPC Conflict of Interest Form 700.			
Additional Info: 7 members appointed by City Council and 1 ex-officio Councilmember; 4-year terms.			
	Commissioner	Date of Appointment	Term Expires
1	Judith Arce	July 2021	July 2025
2	Ramon Altamirano	July 2019	July 2023
3	Gregory Contreras	July 2019	July 2023
4	Lisa Baker	July 2021	July 2025
5	Nancy Northrup	July 2021	July 2025
6	Chris Rose	April 2020	July 2023
7	Jessica Smith	July 2021	July 2025
8	ex-officio Councilmember Bill Biasi (Pierre New alt)	n/a	n/a

NATURAL RESOURCE COMMISSION			
Function: Created by Resolution 2021-55; the Winters Putah Creek Committee became the Natural Resources Commission in July 2021. The Commission is an advisory body to the Council related to the promotion, preservation, conservation, and enhancement of natural resources			
Requirements: Technical expertise in a natural resource area; majority of members must reside in Winters or have a Winters address; Required to complete ethics training and file an FPPC Conflict of Interest Form 700.			
Additional Info: 5 members appointed by the Council and the 6th non-voting member represents the Lower Putah Creek Coordinating Council (LPCCC); 4-year terms as appointed by a councilmember upon his or her election			
	Commissioner	Date of Appointment	Term Expires
1	Kurt Balasek	August 2008	August 2024
2	Carol Scianna	January 2021	August 2022
3	Kate Laddish	January 2018	August 2024
4	Eric Larson	August 2018	August 2022
5	Eric Jepson	January 2020	August 2022
6	(ex-officio LPCCC) Dennis Kilkenny	August 2019	August 2025

WINTERS SENIOR COMMISSION ON AGING			
Function: Created by Resolution 2019-19 to act as an advisory body to the Council related to senior programs, defining unmet senior needs, exploring improved standards of services and advising on the design, programs, operation and maintenance of the proposed senior center when completed. Disseminate information to seniors regarding activities and services.			
Requirements: Must be a resident of Winters. Required to complete ethics training and file an FPPC Conflict of Interest Form 700.			
Additional Info: 7 members and 2 alternates; 4-year term			
Commissioner		Date of Appointment	Term Expires
1	Marianne Boyer	June 2021	June 2025
2	Valerie Whitworth	August 2021	June 2025
3	Wally Pearce	November 2019	June 2023
4	Glen Ripley	June 2021	June 2025
5	Valentia Lowden	November 2019	June 2023
6	Cheryl Sandoval	November 2019	June 2023
7	Dawn Van Dyke	December 2020	June 2023
8	(alt.)		
9	(alt.)		

HISPANIC ADVISORY COMMISSION			
Function: Initiated in 2006 by the City Council to support the Hispanic community, promote an inclusive community, and advise on matters related to the above. The group meets regularly and will be formally established Winter 2021/22, at which point the list will be updated.			
Requirements: Must be a resident of Winters. Required to complete ethics training and file an FPPC Conflict of Interest Form 700.			
Additional Info: 7 members and 1 ex-officio Councilmember; 4-year terms			
Commissioner		Date of Appointment	Term Expires
1			
2			
3			
4			
5			
6			
7			
8	(ex-officio Councilmember: Jesse Loren)		

CLIMATE ACTION COMMISSION			
Function: Created by Resolution 2021-77 to act as an advisory body to the City Council related to the implementation of the Climate Action Plan, and relevant regulatory and scientific research; and serve as a body of technical expertise in the area of climate change to City staff and the community; and develop and implement public information programs related to increasing awareness of and promoting the need to reduce climate impacts, such as developing a speakers' bureau on topics and assisting with disseminating public information; and assist with supporting staff as a "force multiplier" for staff assigned projects and program areas related to mitigating the effects of climate change by conducting research, preparing reports, and developing recommendations; and, prepare an annual work plan for Council consideration, listing previous year accomplishments and goals for the coming year. The recruitment is underway; the list will be updated upon Council appointments.			
Requirements: The majority of the commissioners must reside within the City of Winters or have a Winters address. Represent wide range of technical expertise as well as diverse experience.			
Additional Info: 5 members; 4-year terms. With two member starting with 2-year terms			
	Commissioner	Date of Appointment	Term Expires
1			
2			
3			
4			
5			

Winters/2021LocalAppointmentsListofBoards-MaddyAct

CITY COUNCIL
STAFF REPORT

TO:	Honorable Mayor and Councilmembers
DATE:	December 7, 2021
THROUGH:	Kathleen Salguero Trepa, City Manager
FROM:	Joanna Gin, Assistant City Attorney
SUBJECT:	First Reading of Ordinance 2021-06 Amending Section 2.04.150 of Chapter 2.04 of Title 2 of the Winters Municipal Code Increasing the Compensation of City Councilmembers

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RECOMMENDATION:

Consider whether to increase the compensation of City Councilmembers. If Council would like to increase the compensation of Councilmembers, specify an amount not to exceed $300 per month in Ordinance 2021-06, introduce and waive first reading of Ordinance 2021-06 Amending Section 2.04.150 of Chapter 2.04 of Title 2 of the Winters Municipal Code Increasing the Compensation of City Councilmembers.

BACKGROUND:

At its November 2, 2021, meeting, the City Council directed staff to place the city council salary on a future Council agenda.

DISCUSSION:

Government Code section 36516 provides that members of a city council of a city with a population of 35,000 residents or less may receive a salary up to $300 per month. The U.S. Census data released in August 2021 lists the Winters population at 7,115. Since the City's population is less than 35,000 residents, Council could increase the salary of Councilmembers up to $300 per month. Council could, in the future, exceed the $300 cap by an amount up to 5% for each calendar year from the last salary adjustment in effect by adopting an ordinance under Government Code section 36156(a)(4). Separately, city residents can vote to approve a salary above the statutory maximum under Government Code section 36516(b).

The current Council salary is set at $150 per month. The salaries for City Council have not been increased or adjusted for over 15 years. As an indication of the level of time Councilmembers commit to their duties, attachment 2 includes a list of Councilmember

liaison assignments and / or appointments to various regional bodies.

An internet search of city council compensation in other cities yielded the following information as a point of reference.

City	Population	Monthly Stipend
Winters	7,391	$150
Dixon	21,138	$510 councilmember / $600 Mayor 5% increase annually
Davis	69,799	$1,366
West Sacramento	53,967	$300
St. Helena	6,070	Mayor $300
Marysville	12,500	$300
Placerville	10,888	$353

California Government Code section 36516.5 states that when a city council has staggered terms, which the Winters City Council does, the compensation of all Councilmembers shall be adjusted whenever one councilmember begins a new term of office. Therefore, the salary increase will be effective at the next general municipal election in 2022.

FISCAL IMPACT:

None at this point. The increase would take effect following the next general municipal election for the Council. At that time, the stipend for all five members of the City Council would be adjusted to the amount established by ordinance.

ATTACHMENT:

1. Ordinance 2021-06
2. Council Appointments List

ORDINANCE NO. 2021 –06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS AMENDING SECTION 2.04.150 OF CHAPTER 2.04 OF TITLE 2 OF THE WINTERS MUNICIPAL CODE INCREASING THE COMPENSATION OF CITY COUNCILMEMBERS

WHEREAS, California Government Code section 36516 provides a method by which salaries for members of a city council of a city are established and increased; and

WHEREAS, California Government Code section 36516(a) provides that members of a city council of a city with 35,000 residents or less may receive a salary of Three Hundred Dollars ($300.00) or less per month; and

WHEREAS, the City of Winters has less than 35,000 residents; and

WHEREAS, the salary for the City Council, pursuant to Winters Municipal Code section 2.04.150 is currently set at One Hundred Fifty Dollars ($150.00) per month; and

WHEREAS, the salaries for the City Council have not been increased or adjusted in 15 years; and

WHEREAS, in order to encourage qualified persons to become members of the City Council and to ensure that members of the City Council are compensated comparably to council members of other cities, it is in the best interests of the City to increase the salary of the City Council.

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

SECTION 1: **Amendment.** Section 2.04.150 of the Winters Municipal Code is hereby amended to read as follows::

"2.04.150 Compensation of council members.

Each member of the council shall receive a monthly salary of _____ Dollars ($____)."

SECTION 2: This Ordinance shall take effect thirty (30) days after its adoption. However, pursuant to Government Code section 36516.5, the increase set forth in Section 1 shall not become effective until the commencement of a new term for any member of the City Council. Prior to the commencement of a new term for any current member of the City Council, the salary for that current Councilmember shall remain at One Hundred Fifty Dollars ($150.00) per month.

SECTION 3: This Ordinance shall, within fifteen (15) days after its passage, be published at least once in a newspaper of general circulation published and circulated within the City.

SECTION 4: If any section, subsection, subdivision, sentence, clause, phrase or portion of this ordinance, or the application thereof to any person or place, is for any reason held to be unconstitutional or invalid by the decision of a court of competent jurisdiction, such decision shall

not affect the validity of the remaining portions of this Ordinance or its application to other persons or places.

INTRODUCED on the ____ day of _____, 2021, and **PASSED AND ADOPTED** by the City Council of the City of Winters on this ____ day of _____, 2021, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

CITY OF WINTERS

_____
Wade Cowan, Mayor

ATTEST:

_____
Shelly Gunby, City Clerk

CITY OF WINTERS

City Council Liason

Aug-20

Mayor Wade Cowan	Mayor Pro Tem Bill Biasi
Primary Role	Primary Role
Animal Services	Winters Chamber of Commerce
City/County 2x2	City/WJUSD 2x2
Design Review Committee	Design Review Committee
Economic Development EDAC	Economic Development(ad hoc/cc?)
Homeless Plan Executive Commission	Planning Liason
LAFCO	Winters Affordable Housing
Planning Selection Committee	Winters Fire Board
Senior Commission on Aging	Natural Resource Committee (WPCC)
Valley Clean Energy	HBT Ad Hoc
Yolo Leaders	FireSafe Council
HBT Ad Hoc	Remote Access Committee
FireSafe Council	
City Selection Committee	
Alternate Role	Alternate Role
HPAC- Yolo County Homeless & Poverty Action Coalition	Lower Putah Creek
League of California Cities	Planning Selection Committee
SACOG	
Water Resources Association	
Yolo County Housing	

Council Member Pierre Neu	Council Member Jesse Loren
Primary Role	Primary Role
City/County 2x2	City/WJUSD 2x2
Climate Action Comission Review Ad Hoc	Climate Action Comission Review Ad Hoc
HPAC- Yolo County Homeless & Poverty Action Coalition	Hispanic Advisory
New Hope	League of CA Cities
SACOG	Planning Selection Committee
Winters Fire Board	Sac Yolo Mosquito Vector Control Dist.
Yolo County Housing	Solano Community College
Yolo Habitat Conservancy	Leadership Advisory Committee
	Water Resources Association
	Yolo County Transportation
	Yolo Sustainable Groundwater Agency
	Valley Clean Energy
	Yolo Community Foundation Leadership Advisory Committee
Alternate Role	Alternate Role
Winters Chamber of Commerce	Yolo Habitat Conservancy
Homeless Plan Executive Commission	Yolo Leaders
Planning Liason	
Senior Commission on Aging	
Valley Clean Energy	
Winters Affordable Housing	
Yolo Solano Air District	

Council Member Harold Anderson
Primary Role
Lower Putah Creek
Yolo Solano Air District
Alternate Role
LAFCO
Natural Resource Committee
Yolo County Transportation

CITY COUNCIL
STAFF REPORT

TO: Honorable Mayor and Councilmembers

DATE: December 7, 2021

FROM: Kathleen Salguero Trepa, City Manager

SUBJECT: Consider Ordinance 2021-05 Changing the City of Winters General Municipal Election from the Statewide Direct Primary Date to the Statewide General Election Date (November)

RECOMMENDATION:

1. Discuss whether the City Council would like to consolidate the local election with the Statewide General Election; and if so
2. Determine year of effective change; and
3. Adopt 2021-05 Ordinance amending the City of Winters Municipal Code Section 1.08.010 of Chapter 1.08 of Title 1 changing the date of the City's General Municipal Election from the Statewide Direct Primary Date to the Statewide General Election Date, effective the year determined by the City Council.

BACKGROUND:

During the Council meeting of November 2,2021, the City Council requested that staff place on a future agenda a discussion related to the City Council election date.

Prior to the passage of SB 970 many cities, including Winters, held their local elections in March to coincide with the statewide primaries. SB 970 (Chapter 111, Statutes of 2020) revised the statewide primary date to be the first Tuesday after the first Monday in June in even-numbered years in which there is no presidential primary and the first Tuesday after the first Monday in March in even-numbered years in which there is a presidential primary (i.e., a year divisible by 4).

Currently, the City of Winters holds its general municipal election on the statewide primary election date which is either March or June as described above. This means that three Councilmembers will be elected in June in even-numbered years in which there is no presidential primary, and two Councilmembers will be elected in March in even-number years in which there is a presidential primary. The City of Winters is the only city in Yolo County that

still holds its general municipal election on the date of the statewide primary election. The other cities, as many have done, have consolidated local elections with the general election in November. The set month reduces confusion, results in increased voter turnout (because voters are more likely to turn out in presidential election years) and reduces costs as more agencies share in the election costs in November than during the primary.

As an example, at the June 5, 2018, election, there were a total of 2,257 votes cast for City Council members, with three open seats and three candidates. At the March 3, 2020, election, there were a total of 2,843 votes cast for City Council members, with two open seats and three candidates, for an at-large election. The difference between the highest number of votes cast for a single candidate in 2020 compared to 2018 was 347 votes, with increased voter turnout in 2020. At the November 3, 2020, election for Measure A, there were a total of 3,311 votes cast on the measure. As of August 30, 2021, there were 4,358 registered voters in Winters.

Effect of Changing to a November Election Date

Elections Code sections 1301 and 10403.5 allow agencies to change the date of their general municipal election to coincide with the date of a statewide general election provide no term is increased or decreased by not more than 12 months. Changing the elections to coincide with the statewide general election would not result in a change of term greater than 12 months and would ensure that all Councilmembers are elected in November of each even-numbered year, thus reducing voter confusion, increasing voter turnout, and resulting in cost savings to the city through consolidation of its election in November. This would also ensure that every Councilmember's term will generally start and end at the same time of the year (i.e., December to December).

Because the next election for three Council seats is currently scheduled for June 2022, which requires the City Council to pass a resolution calling for an election in January, staff has prepared a draft ordinance for Council consideration now so Council has time to change the date of the 2022 general municipal election if it would like. . Council could determine that the change in date is effective for November 2022 OR November 2024.

Impact on Current Officeholders

If enacted for November 2022, the terms of all current incumbent City Councilmembers would change as follows:

A. Those members whose terms of office would have expired in June 2022 shall instead continue in office until after the November 2022 election.

B. Those members whose terms of office would have expired in March 2024 shall continue in their offices until after the November 2024 election.

If enacted for November 2024, the terms would be adjusted as follows:

A. Three seats expire in June 2022. The terms of the members elected in June 2022 would expire in November 2026.
B. The two terms that expire in March of 2024 would be extended to November of 2024 to coincide with the November 2024 general election.

To summarize, the impact of changing the election date to a *current* Councilmember's term is as follows:

Current Term Expires	If Change Occurs in Nov. 2022, Current Term Expires	If Change Occurs in Nov. 2024, Current Term Expires
June 2022	Nov. 2022	June 2022
March 2024	Nov. 2024	Nov. 2024

Next Steps if Enacted

1. The Ordinance is immediately effective.
2. The City Clerk would forward the Ordinance to the County Board of Supervisors for approval.
3. The City Clerk would mail a notice to all registered voters explaining the change in the election date and that the terms of office of the elected officeholders will be changed, within 30 days after the ordinance becomes operative.

FISCAL IMPACT:

Yolo County Elections has estimated savings of approximately $2,680 from consolidating the local election with the general elections and holding the local election in November 2022 instead of June 2022. Based on 4,358 registered voters in Winters, at the current postcard postage rate of $0.40, there would be one-time postage costs of $1,743.20 (not inclusive of printing) to notify registered voters of the change. If the City transitions to November general elections, this would likely result in cost savings being realized at subsequent general municipal elections.

Below are estimates for the inclusion of the City of Winters's City Council contests in the 2022 elections in either the June primary or the November general elections. The methodology used was based on the November 2020 election and increasing the poll worker costs.

Election	Actual Costs	Comments
City of Winters, City Council – March 2020:	$ 9,402.72	Traditional Polling Place model, 96 assigned voting locations with 6 poll workers per location open only on Election Day; 20 contests on the ballot.
City of Winters, Measure – November 2020:	$ 7,114.40	Vote Center like model, 12 countywide voting locations with 12 poll workers per location open for 4 days; 57 contests on the ballot.

The following estimates are for monolingual ballots.

Election	Estimated Costs	Comments
City of Winters, City Council – June 2022	$ 15,158.57	Official Vote Center model, 13 countywide voting locations, with 10 poll workers at 3 locations open for 11 days and 10 poll workers at 10 locations open for 4 days; assuming the same districts

		as March 2020 (without measures) on the ballot.
City of Winters, City Council – November 2022	$ 12,477.95	Official Vote Center model, 13 countywide voting locations, with 10 poll workers at 3 locations open for 11 days and 10 poll workers at 10 locations open for 4 days; assuming the same districts in Nov 2020 (without measures) on the ballot.

The presented numbers are estimates only as there are several factors that affect overall costs, for example providing election material in Spanish or other languages and how many contests or candidates are on the ballot.

ATTACHMENTS:

1. Ordinance 2021-05 Changing The City Of Winters General Elections From The Statewide Direct Primary To The Statewide General Election (November)

ORDINANCE NO. 2021–05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINTERS AMENDING SECTION 1.08.010 OF CHAPTER 1.08 OF TITLE 1 OF THE WINTERS MUNICIPAL CODE CHANGING THE DATE OF THE CITY'S GENERAL MUNICIPAL ELECTION FROM THE STATEWIDE DIRECT PRIMARY ELECTION DATE TO THE STATEWIDE GENERAL ELECTION DATE BEGINNING IN NOVEMBER _____

WHEREAS, under Section 1.08.010 of the Winters Municipal Code, the City holds its general municipal election on the statewide direct primary election date; and

WHEREAS, prior to the enactment of SB 970 (Umberg, Chapter 111, Statutes of 2020), the statewide direct primary date was the first Tuesday after the first Monday in March in each even-numbered year; and

WHEREAS, SB 970 revised the statewide direct primary date to be the first Tuesday after the first Monday in June in even-numbered years in which there is no presidential primary and the first Tuesday after the first Monday in March in even-numbered years in which there is a presidential primary; and

WHEREAS, because the City's general municipal election date is based on the statewide direct primary election date, as a result of SB 970, three Councilmembers will be elected in June in even-numbered years in which there is no presidential primary, and two Councilmembers will now be elected in March in even-numbered years in which there is a presidential primary; and

WHEREAS, the City of Winters is the only city in Yolo County that still holds its general municipal election on the date of the statewide direct primary election; and

WHEREAS, Elections Code Sections 1301 and 10403.5 authorize the City to change the date of its general municipal election to coincide with the date of a statewide general election to increase or decrease any terms of office by not more than 12 months; and

WHEREAS, changing the date of the City's general municipal election to the statewide general election date would ensure that all Councilmembers are elected in November of each even-numbered year, reduce voter confusion over the general municipal election date, increase voter turnout, and result in cost savings to the City through consolidation of its election in November.

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

SECTION 1: Pursuant to Elections Code section 10403.5(b), and in order to accomplish the change in the election date, the terms of all current incumbent City Councilmembers shall be increased by no more than 12 months as follows:

A. Those City Councilmembers whose terms of office would have, prior to the adoption of this Ordinance, expired in June _____ shall instead continue in their offices until certifications of the results and administration of the oaths of office after the November _____ City election; and

B. Those City Councilmembers whose terms of office would have, prior to the adoption of this Ordinance, expired in March 2024 shall instead continue in their offices until certifications of the results and administration of the oaths of office after the November 2024 City election.

SECTION 2: The City Council wishes to consolidate its elections with the statewide general election conducted by the County of Yolo on the first Tuesday after the first Monday in November of even-numbered years beginning in November _____. Therefore, the City's _____ election is cancelled, and the City shall hold its next general municipal election, and every election thereafter, on the first Tuesday after the first Monday in November of even-numbered years, commencing with the _____ election.

SECTION 3: **Amendment.** Section 1.08.010 of the Winters Municipal Code is hereby amended to read as follows:

"1.08.010 General municipal election.

Pursuant to Section 1301(b) of the Elections Code, the general municipal election shall be held on the same day as the statewide general election."

SECTION 4: Pursuant to Elections Code Sections 1301 and 10403.5, the City hereby requests the County of Yolo approve this Ordinance and allow for consolidation of the City's general municipal election with the statewide general election conducted by the County in each even-numbered year, beginning in November ____.

SECTION 5: Pursuant to Elections Code Sections 1301 and 10403.5, this ordinance shall not become operative until approved by the Yolo County Board of Supervisors.

SECTION 6: Pursuant to Elections Code Section 10403.5(e), within 30 days after the Ordinance becomes operative, the City Elections Official shall cause a notice to be mailed to all registered voters, within the City, informing the voters of the change in the election date and that the terms of office of the elected City officeholders will be changed.

SECTION 7: The City Clerk shall forward a copy of the ordinance to the Yolo County Registrar of Voters and the Yolo County Board of Supervisors requesting approval by Board Resolution.

SECTION 8: Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall certify the adoption of this Ordinance and shall cause the same to be published in a newspaper in the manner required by law.

SECTION 9: Pursuant to Government Code section 36937, this Ordinance shall take effect immediately upon adoption.

INTRODUCED on the 7th day of December 2021, and **PASSED AND ADOPTED** by the City Council of the City of Winters on this ___th day of _____, 2021, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

CITY OF WINTERS

_____
Wade Cowan, Mayor

ATTEST:

_____
Shelly Gunby, City Clerk

CITY OF WINTERS
california
Est. 1875

December 6, 2021

VIA E-MAIL AND U.S. MAIL

Kim Niemeyer
State Water Board
Office of Chief Counsel
P.O. Box 100
Sacramento, CA 95812-0100
ddw-hexavalentchromium@waterboards.ca.gov

Re: Comment Letter re Notice of Preparation of a Draft Program Environmental Impact Report for the Adoption of a Regulation for the Hexavalent Chromium Maximum Contaminant Level

Dear Ms. Niemeyer,

The City of Winters ("City") submits these written comments in response to the State Water Resources Control Board's ("State Water Board") Notice of Preparation ("NOP") of a Draft Program Environmental Impact Report ("EIR") for the adoption of a regulation for the maximum contaminant level ("MCL") for hexavalent chromium ("chromium-6"). According to the NOP, the project at issue in the Draft Program EIR entails (i) seventeen (17) possible MCLs for chromium-6 (1 to 15, 20, and 25 parts per billion ("ppb")); and (ii) "reasonably foreseeable methods of compliance" with the MCLs (collectively, the "Project").

The City is a responsible agency for the Project, as it is a small community water system that will be required to comply with the new MCL. (State CEQA Guidelines, § 15381.) The MCL would significantly impact the City, its ratepayers, and the environment. Given the potential impacts of the MCL, the City appreciates the State Water Board's commitment to prepare an EIR for the Project. To protect the environment and stakeholders, the EIR must include a robust analysis of the Project's potential environmental impacts. The City hopes that its written comments will help the State Water Board fully analyze, mitigate, and avoid the potential environmental impacts of the Project in compliance with the California Environmental Quality Act (Pub. Resources Code, § 21000, et seq.: "CEQA").

1. The Project Could Dramatically Impact The City Of Winters, Its Ratepayers, And The Environment.

The State Water Board's proposed MCL for chromium-6 would significantly impact the City, which derives 100 percent of its water from ground water with naturally occurring chromium-6. The City relies on five groundwater wells to provide water to its residents, and these wells have chromium-6 levels ranging from 7.2 ppb to 17 ppb. Accordingly, 100 percent

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COUNCIL MEMBERS
Harold Anderson
Jesse Loren
Pierre Neu

MAYOR
Wade Cowan

MAYOR PRO TEM
Bill Biasi

CITY CLERK
Shelly Gunby

TREASURER
Shelly Gunby

CITY MANAGER
Kathleen S. Treps

of the City's water supply could run afoul of the most stringent MCLs set forth in the NOP. While the City understands the desire for an MCL for chromium-6 that protects public health, there is no evidence that the City's chromium-6 levels are harmful to public health. Indeed, the chromium levels in the City's water supply is substantially lower than the federal MCL for total chromium.

To the extent the State Water Board seeks a more stringent MCL, the City urges the State Water Board to ensure that any such MCL is both technologically and economically feasible, as required by law. Based on the Project Description set forth in the NOP, however, the Project could result in an MCL that is neither technologically nor economically feasible for the City, with crushing impacts on the City, its ratepayers, and the environment.

The City does not have the means to implement a technologically and economically infeasible MCL. Located in rural Yolo County, the City has roughly 2,000 residential customers to bear the costs of any improvements necessary to comply with a new MCL. The City has already analyzed the potential economic impacts of complying with a MCL of 10 ppb, and these economic impacts would lead to significant and unavoidable environmental impacts.

In response to the previous MCL of 10 ppb for chromium-6—which was in effect between 2014 and 2017, when a court invalidated the MCL—the City approved a plan to bring the City into compliance with the MCL. The cost to implement the City's approved compliance plan would have ranged from a low of $27.9 million to a high of $47 million. This would have been for capital costs alone. The additional annual operation and maintenance costs for compliance with the 10 ppb MCL would have exceeded $700,000—an almost 45 percent increase over current operational costs for the City's water system.

The City's ratepayers cannot afford these improvements. Roughly 12 percent of the City's residential customers live in low or very-low income housing; senior citizens, many of whom are on a fixed income, comprise nearly 17 percent of the City's population. To finance the costs necessary to comply with an MCL of 10 ppb, the typical residential customer would see their monthly water bill increase from the current rate of approximately $45.51 to between $138.74 and $195.97 per month, an increase of 305 percent to 431 percent. The City's ratepayers cannot afford such drastic increases amidst the challenges of surging inflation and the Covid-19 pandemic.

Remarkably, the proposed Project here may result in an MCL ten times more onerous than the invalidated MCL of 10 ppb. The Project proposes an MCL as low as 1 ppb—a standard that would devastate the City and its ratepayers by endangering the City's ability to maintain a sustainable public water supply system.

The City is concerned that an unduly stringent MCL might require the City to construct economically infeasible facilities at enormous cost. Both the construction of new facilities and the deployment of treatment options would significantly impact the environment. Beyond such impacts, an overly stringent MCL could result in the shutting down of groundwater wells, leaving the City without the means to provide water to its residents. The proposed MCL's potentially enormous adverse economic impacts on the City and its ratepayers are not just economic—they will translate into significant and unavoidable environmental impacts. These impacts must be avoided, and the best means to avoid them is to adopt an economically and technologically feasible

MCL. The City urges the State Water Board to consider these important concerns when drafting the EIR and selecting an MCL. CEQA requires analysis of these impacts.

2. The NOP Is Procedurally Defective And Must Be Recirculated.

The purpose of an NOP is to solicit guidance from responsible and trustee agencies as to the scope and content of the EIR for a project. (State CEQA Guidelines, § 15375.) Requirements governing the preparation and circulation of an NOP are set forth in the State CEQA Guidelines to ensure this purpose is met. (See State CEQA Guidelines, § 15082.) Unfortunately, these requirements have not been met with the State Water Board's NOP regarding the Project.

A. The NOP has not been sent to all responsible and trustee agencies

The State Water Board, as lead agency for the Project, is required to send the NOP to each responsible agency for the Project by "either certified mail or any other method of transmittal that provides it with a record that the notice was received." (State CEQA Guidelines, § 15082(a).) The State Water Board, however, has not met this basic and fundamental requirement. Because the "project scope includes not only setting the MCL for hexavalent chromium, but also the reasonably foreseeable methods of compliance," every water district or other entity that is required to implement and carry out methods of compliance with the MCL is a responsible agency for the Project. (State CEQA Guidelines, § 15381 [defining responsible agency].)

The City is a responsible agency for the Project because it operates its own public water system, and the City will be required to deploy facilities or treatment methodologies to bring its facilities into compliance with the new MCL. (State CEQA Guidelines, § 15381.) Yet, the State Water Board did not send a copy of its NOP to the City via certified mail—a violation of CEQA. The NOP must be recirculated and sent to all responsible agencies via a method of transmittal that provides the State Water Board with a record that the notice was received.

B. The NOP has not been filed with all relevant County Clerks

The State Water Board is also required to file the NOP "with the county clerk of each county in which the project will be located." (State CEQA Guidelines, § 15082(a).) Again, the State Water Board has failed to comply with this requirement. The NOP was not filed in Yolo County, nor was it filed in the State's largest metropolitan areas, such as Los Angeles County or Riverside County. The NOP acknowledges that the Project includes "a statewide regulation that would apply to all public drinking water systems in the State of California," and that "water systems with hexavalent chromium exceeding the proposed MCL are located throughout the state." (NOP, p. 1.) Presumably for this reason, OPR lists the Project as occurring in every county in the State: https://ceqanet.opr.ca.gov/2021110099 The NOP should therefore be filed with the county clerk of every county in the State. (State CEQA Guidelines, § 15082(a).) This will ensure that the NOP serves its purpose of soliciting guidance from every responsible and trustee agency for the Project, as well as interested members of the public state-wide.

C. The NOP does not include a stable, finite project description

A stable, finite project description is necessary and paramount to comply with CEQA. (*County of Inyo v. City of Los Angeles* (1977) 71 Cal.App.3d 185, 192-193.) Indeed, the adequacy of the project description is inextricably linked to the sufficiency of the analysis of the project's impacts on the EIR. (*Laurel Heights Improvement Ass'n v. Regents of Univ. of California* (1988) 47 Cal.3d 376.) For this reason, an NOP must provide responsible agencies and the public "with sufficient information describing the project … to enable the responsible agencies to make a meaningful response." (State CEQA Guidelines, § 15082(a)(1).)

A "project description that gives conflicting signals to decision makers and the public about the nature and scope of the project is fundamentally inadequate and misleading" and violates CEQA. (*Washoe Meadows Community v. Dept. of Parks and Rec.* (2017) 17 Cal.App.5th 277, 281.) Accordingly, courts have repeatedly held that a lead agency violates CEQA where it does not identify a single finite proposed project, but instead identifies an assortment of alternative projects. (*Washoe Meadows*, *supra*, 17 Cal.App.5th at p. 281 [CEQA violated where lead agency did not identify a proposed project, but described five different alternative projects without specifying a preferred alternative]; *Stopthemilleniumhollywood.com v. City of Los Angeles* (2019) 39 Cal.App.5th 1, 20.) Where the lead agency does not commit to a stable, finite project description, but rather analyzes a variety of alternatives or concepts, it is immaterial that the lead agency thoroughly analyzes each of the alternatives. Even if the environmental impacts of each alternative is analyzed, the failure to present a stable, finite project description is prejudicial error under CEQA. (*Stopthemilleniumhollywood.com*, *supra*, 39 Cal.App.5th at p. 20.)

Here, the State Water Board, like the lead agency in *Washoe Meadows*, has not committed to a stable, finite project description. Rather, the State Water Board calls out **seventeen** very different alternative projects—i.e., seventeen possible MCLs for chromium-6 (1 to 15, 20, and 25 ppb)—without specifying a preferred alternative. Each of these projects would have different environmental impacts requiring different mitigation measures.

For example, the City's comments regarding a proposed MCL of 1 ppb would be drastically different from its comments on a proposed MCL of 25 ppb. These are completely different projects with different environmental impacts, and they cannot be lumped together in the same NOP. Likewise, the NOP vaguely asserts that the Project includes "foreseeable methods of compliance," but fails to specify what precisely this entails. These vague and noncommittal characterizations of the Project deprive responsible agencies and the public of the opportunity to comment on an accurate, stable, and finite project description. This is a violation of CEQA. (*Washoe Meadows*, *supra*, 17 Cal.App.5th at p. 281; *Stopthemilleniumhollywood.com*, *supra*, 39 Cal.App.5th at p. 20.) To remedy this violation, the State Water Board must issue a new, recirculated NOP that identifies a single, proposed MCL for chromium-6.

D. The NOP does not describe any of the project's potential environmental impacts

The NOP must include a discussion of the "probable environmental effects of the project." (State CEQA Guidelines, §15082(a)(1).) The NOP does not do this. Nor could it, given that a prerequisite to identifying a project's potential effects is first identifying the project, and the NOP does not identify a single proposed project. Moreover, the project description must include all

components of the project—including the preconstruction, construction, and operational phases of the Project—so that the impacts of each phase may be properly analyzed. To comply with CEQA, the NOP must be revised to identify the project being analyzed and the probable environmental effects of that project, and the revised NOP must then be recirculated to all responsible agencies.

E. The NOP does not identify whether the project will touch or concern any sites listed on the "Cortese List"

The NOP indicates that the Project will apply statewide, but does not specify whether the Project will touch or concern any hazardous waste sites listed on the "Cortese list" under Government Code section 65962.5. The NOP is thus defective under CEQA, and should be recirculated to specify this information. (Pub. Resources Code, § 21092.6(a).)

3. Comments Regarding The Scope Of The EIR.

A responsible agency should generally respond to a NOP with comments identifying the significant environmental issues and reasonable alternatives and mitigation measures that the responsible agency will need to have explored in the Draft EIR. (State CEQA Guidelines, § 15082(b).) The City, as a responsible agency, is limited in its ability to identify the Project's significant environmental impacts and proposed measures to mitigate those impacts because, as discussed above, the NOP does not provide a stable, finite, and accurate project description on which the City can offer comment. Nor does the NOP identify the probable environmental effects of the project so that the City could identify reasonable mitigation measures and alternatives addressing such effects. For these reasons, and the reasons discussed above, the City repeats its request that the NOP be revised and recirculated to comply with CEQA.

While the City hopes to see a recirculated NOP, in the interim, the City provides the following comments regarding the scope of the EIR and some of the direct and indirect impacts of the Project that the EIR must identify, analyze, and mitigate to the extent feasible.

A. The EIR must analyze how the economic impacts of compliance with the MCL could result in physical impacts on the environment.

The EIR must serve as an informational document that will inform public agency decision makers and the public generally of the significant environmental effects of the Project, identify possible ways to minimize the Project's significant effects, and describe reasonable alternatives to the Project. (State CEQA Guidelines, § 15121(a).) To achieve this purpose, the EIR must analyze how the economic impacts of compliance with the MCL could result in physical impacts on the environment. (State CEQA Guidelines, § 15382 ["economic change related to a physical change may be considered in determining whether the physical change is significant"].)

The cost of compliance with the MCL for chromium-6 would shape the behavior of both water agencies and ratepayers, and the environmental impacts of this reasonably foreseeable behavior must be analyzed in the EIR. To do so, the EIR must analyze and discuss the costs of complying with MCL, and how activity in response to such costs could potentially impact the environment. The City provides a non-exhaustive list of examples of how behavior responding to the cost of the MCL could result in a potentially significant impact on the environment.

(1) Shift from groundwater usage to surface water usage. The high cost of compliance with an overly stringent MCL could cause water agencies to shift from groundwater usage to surface water usage, and the EIR must analyze the potential environmental impacts of this reasonably foreseeable shift. Indeed, Yolo County water agencies have already made this shift. The shift to surface water usage would have numerous deleterious impacts on the environment, including decreased in-stream flows and adverse impacts to fish and wildlife.

(2) Increased dependency on surface waters would increase the need for water storage. The MCL could spur a wave of reasonably foreseeable water storage and conveyance projects, as water agencies increasingly use surface waters to avoid the costs of compliance with the MCL. The EIR must analyze the environmental impacts of these projects, including their impacts on air quality, water quality, and biological resources. Moreover, the need for water storage would require flooding large areas of land to store water, and the environmental impacts of transforming the environment in this manner must be analyzed.

(3) The EIR must analyze the reasonably foreseeable environmental impacts of the Project resulting from increased rates to ratepayers. The cost of compliance with an overly stringent MCL would shape not only the behavior of water agencies, but also of ratepayers who could face dramatic increases in monthly costs as a result of their water agencies' efforts to comply with the MCL. For example, economically vulnerable ratepayers unable to afford these increased costs may be forced to migrate from a service area with high MCL compliance costs to a service area that either has lower such costs or an area that is better able to distribute such costs among a greater number of ratepayers. This migration is a reasonably foreseeable response to higher water rates, and the environmental effects of such migration must be analyzed in the EIR. These impacts could include (1) rural blight, as ratepayers in smaller service areas (like the City) with high MCL compliance costs migrate to more metropolitan service areas, where the costs of such compliance can be distributed among a larger population; (2) VMT associated with such migration; (3) air quality and greenhouse gas impacts related to such migration; and (4) substantial unplanned population growth in areas with lower MCL compliance costs and the displacement of substantial numbers of people in areas with high MCL compliance costs.

B. The EIR must analyze the environmental impacts of reasonably foreseeable methods of compliance with the MCL.

The Project as described in the NOP has two components—setting the MCL for chromium-6, and "reasonably foreseeable methods of compliance" to meet the new MCL. The EIR must analyze the potential environmental impacts of both components of the Project. The City has several concerns regarding the future analysis of the "reasonably foreseeable methods of compliance."

(1) The EIR cannot analyze reasonably foreseeable methods of compliance without soliciting comment from the agencies tasked with such compliance. It is unclear how the State Water Board intends to determine what constitutes the reasonably foreseeable methods of compliance with the MCL. Given that individual agencies would be tasked to comply with the MCL, the best means to ascertain the reasonably foreseeable methods of compliance with the MCL is to solicit comments from each agency in the State that operates a public water system, as each such agency is a responsible agency for this Project. This has not been done. The State Water Board should recirculate the NOP to all agencies in the State that operate a public water system to solicit comments regarding how these agencies might comply with the MCL. Failure to do so would arbitrarily limit the EIR's analysis of "reasonably foreseeable methods of compliance." Moreover, and as discussed above, to solicit meaningful information from these agencies, it is

imperative that the NOP be revised to provide a stable, finite project description—i.e., a single preferred MCL, so that agencies can speak to how they would comply with such an MCL.

(2) The EIR must analyze the potential environmental impacts resulting from the construction and operation of treatment plants. The City identifies the construction of treatment plants as one reasonably foreseeable method of compliance with the MCL, and as such, the environmental impacts of the construction and operation of treatment plants across the State must be analyzed in the EIR. Notably, potentially significant environmental impacts resulting from the construction of these plants include, but are not limited to, the following: (i) increased emissions of toxic air contaminants (e.g., diesel exhaust particulate), criteria pollutants (e.g., NOx), and greenhouse gases during construction; (ii) increased discharge of pollutants in stormwater runoff during and after construction; and (iii) increased cumulative environmental burden in disadvantaged communities served by regulated water systems. Moreover, treatment plants require space, and the construction of new plants in areas with significant land constraints could result in potentially significant impacts relating to, among other things, agricultural land, biological resources (including various Habitat Conservation Plans), and tribal cultural resources.

(3) The EIR must analyze the potential environmental impact resulting from the proposed Best Available Technologies. The NOP identifies several proposed best available technologies ("BATs"): ion exchange, reduction-coagulation/filtration, and reverse osmosis. The environmental impacts of using these BATs must be analyzed. Notably, the use of the proposed BATs would have potentially significant impacts relating to hazardous waste, as the BATs generate treatment residuals that must be managed as hazardous waste in California. The processing and disposal of these treatment residuals would further result in potentially significant impacts that must be analyzed in the EIR. For example, the shipment of treatment residuals to offsite disposal facilities would result in increased TAC, criteria pollutants, and VMT. The BATs would also result in increased disposal of hazardous waste, increasing pressure on limited in-state Class 1 landfill capacity. Moreover, the proposed BATs may result in potentially significant impacts relating to energy and GHG emissions. This is because the proposed BATs are energy intensive and typically require power from the electric grid rather than local renewable resources. Furthermore, transporting hazardous wastes great distances to other states for disposal also impacts energy and GHG emissions. In short, the Project may have potentially significant impacts resulting from the proposed BATs. The EIR must disclose, analyze, and to the extent feasible, mitigate the environmental effects associated with the BATs and their treatment residuals.

C. The EIR must analyze the cumulative impacts of the Project.

The EIR is required to discuss the cumulative impacts of the Project. (State CEQA Guidelines, § 15130.) In particular, the Project would require public agencies to engage in activity to either modify existing water sources to comply with the MCL or to shift to an alternative water source (e.g., surface waters) that would allow the agencies to avoid treatment costs associated with MCL compliance. There are hundreds of water agencies in the State of California. (https://www.acwa.com/about/directory/ [directory of California water agencies].) This does not include the many public water systems in the State, including the City. Each impacted agency likely would engage in activity that would impact the environment in response to the MCL, and the cumulative impact of this activity would almost certainly be significant. The cumulative impacts of this activity must be analyzed in the EIR. (State CEQA Guidelines, § 15130.)

D. The State Water Board must consider a reasonable range of alternatives, including a less intense alternative to the Project.

"An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives." (State CEQA Guidelines, § 15126.6.(a).) Here, because the Project has two components (setting the MCL for chromium-6, and methods of compliance to meet the new MCL), any alternatives developed must take into account both components of the Project. Thus, for example, the EIR must analyze alternatives that involve less impactful treatment options than the BATs set forth in the NOP.

4. <u>The Project Should Not Result In An MCL That Makes Reliance On Groundwater Economically Infeasible</u>.

The City has concerns that the Project could threaten the economic feasibility of groundwater reliance in California, which would be devastating for the State and its people. While the NOP does not offer a definite project description, it suggests that the MCL for chromium-6 could be as low as 1 ppb. An unreasonably stringent MCL would run afoul of public policy and cause great harm to many Californians. For example:

A. Increased dependency on surface waters undermines drought resiliency. As noted above, the high treatment costs associated with an MCL could result in increased use of surface water and other, non-groundwater sources of water. Wells with water exceeding the MCL may be shut down where treatment of the water is not economically feasible. This shut down of impacted wells would be contrary to existing state policies emphasizing reliance on local water sources. In a time of drought, the MCL could exacerbate water insecurity in California. This must be avoided.

B. The Project could frustrate achievement of the Human Right to Water goals.

On September 25, 2012, Governor Brown signed AB 685, making California the first state in the nation to legislatively recognize the human right to water. The Project, however, could result in a shutdown of impacted groundwater wells. This, compounded with uncertain access to state grant funding, would compromise water supply reliability and access to drinking water. Increased water rates compromise water affordability and lead to public health issues caused by decreased disposable income, which is strongly correlated with negative health impacts. These impacts would be most pronounced in socioeconomically disadvantaged communities. The City urges the State Water Board to consider these and other environmental justice concerns when contemplating the proper MCL for chromium-6.

5. <u>The Project's Environmental Impacts Could Be Avoided By Developing A New Public Health Goal For Chromium-6</u>.

In July 2011, the Office of Environmental Health Hazard Assessment ("OEHHA") established a public health goal ("PHG") for chromium-6 of 0.02 ppb, representing a de minimis lifetime cancer risk from exposure to chromium-6 in drinking water, based on studies in laboratory

animals. Since then, scientific information on the impacts of chromium-6 on human health has advanced substantially. The most recent scientific information on the health effects of human ingestion of chromium-6 in drinking water indicates that MCLs at or above the upper end of the MCLs set forth in the NOP are fully health protective. In October 2016, OEHHA announced this new information warrants a review of the chromium-6 PHG, which to date has not been performed.

The City urges a reassessment of the current PHG and the development of a new risk assessment to determine the de minimis lifetime cancer risk from exposure to chromium-6 based on the most recent scientific information available. The revised PHG, based on the most recent science available, would then better guide the State Water Board in determining the proper MCL for chromium-6. And, from a CEQA perspective, this would streamline any EIR regarding MCL for chromium-6 by eliminating from consideration the most stringent proposed MCLs, which are the MCLs likely to have the most significant environmental impacts. Both the people of California and the environment will benefit from a reassessment of the PHG for chromium-6.

6. Request for Notices.

The City requests to be added to the notification and distribution lists for all notices relating to the Project, including all (i) CEQA-related notices, and (ii) public meeting/hearing notices issued pursuant to state and local law, including CEQA, the Ralph M. Brown Act, and the Bagley-Keene Act. The satisfaction of this written request is required by CEQA (Public Resources Code, § 21092.2), the Ralph M. Brown Act (Government Code, § 54954.1), and the Bagley-Keene Act (Government Code, § 11125).

7. Conclusion.

The City looks forward to working with the State Water Board to ensure that this Project receives the careful review that it deserves. Thank you for your consideration of the City's input.

Sincerely,

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