



# City of Nevada City

---

## Staff Memorandum for City Council Meeting of October 26, 2011

**TO:** Honorable City Council  
**FROM:** Dave Brennan, City Manager  
**SUBJECT:** Consideration of a One Year Extension of the Lease at 412 Commercial to The Apple Center.

**Recommendation:** Approve the request to extend the lease for 12 months

**Background:** At a City Council meeting in March of 2011, the Council extended the lease at 412 Commercial St. to The Apple Center. The lease was originally held by the Private Industry Council of Butte County who had recently lost federal funding and was no longer able to make lease payments and defaulted on the agreement.

The lease amount paid by PIC was originally \$1,000/month and subsequently reduced by the City under the 20% lease reduction policy which was extended through February 28, 2012. Apple Center requested that the lease amount be set at \$500/month in recognition of the public benefit provided by APPLE to the community (see attached rental proposal received from APPLE in February 2011). The City Council subsequently approved an 8 month extension while the APPLE Center awaited a new location that was to open up in the Alpha Building. Unfortunately, the Alpha Building project has been delayed primarily due to problems related to securing financing to renovate the building.

The current lease ends October 31, 2011.

**Discussion:** Through discussions with The APPLE Center Executive Director, Mali Dyck, I have requested that in consideration of extending the lease for up to one year at the current terms and conditions, that APPLE prepare and implement a water conservation program for city water customers. The program is expected to capitalize on existing water conservation programs that have successfully been implemented in other cities. The city will be a full partner in the implementation of the program and reach out to other potential partners such as NID, private landscapers and nurseries, water conservation appliance vendors and others that can provide low cost measures to reduce water consumption by city water customers.

The proposed lease will be a month to month lease that allows APPLE to terminate it upon 30 days notice. The City shall have the same authority in the agreement. What the extended contract achieves for both parties is a set lease amount of \$500/month.

**Financial Impact:** The City benefits from having leasehold income of \$500/month while obtaining valuable services to design and implement an active water conservation program.



October 19, 2011

Dear Nevada City Council Members,

As you may remember, the extended lease agreement between the City and APPLE for the 798sf. space at 412 Commercial Street is due to end October 31, 2011.

APPLE requests your consideration to continue APPLE's current lease agreement on a month – to – month basis for up to one year. The current lease rate is \$500 per month.

At City Manager, David Brennan's request, APPLE is prepared to develop a water conservation program for city residents.

We are looking forward to partnering with Nevada City on this effort, and to continuing to serve as a destination in downtown Nevada City for locals and visitors alike.

Thank you for considering this proposal.

Sincerely,

Mali Dyck, Executive Director

The Alliance for a Post-Petroleum Local Economy  
DBA: APPLE Center for Sustainable Living  
412 Commercial Street, Nevada City CA 95959  
[www.applecenter.org](http://www.applecenter.org)  
[Mali@applecenter.org](mailto:Mali@applecenter.org)  
530/478.1700

**AGREEMENT BETWEEN THE CITY OF NEVADA CITY AND  
THE ALLIANCE FOR A POST-PETROLEUM LOCAL ECONOMY  
FOR ASSUMPTION OF LEASE AND RENTAL REDUCTION  
FOR EXTENDED TERM FOR CITY-OWNED COMMERCIAL PREMISES  
LOCATED AT 412 COMMERCIAL STREET, NEVADA CITY, CA**

**THIS AGREEMENT** provides for assumption by the Alliance for a Post-Petroleum Local Economy ("APPLE"), a non-profit organization, of that Lease Agreement dated June 1, 2009, between the City of Nevada City ("City") as landlord and Private Industry Council of Butte County ("PIC") as tenant, together with a term extension and rental reduction, effective retroactively to March 1, 2011.

**WHEREAS**, the City and PIC entered into a Lease dated June 1, 2009, for commercial property located at 412 Commercial Street, Nevada City, CA for a 2-year period ending July 31, 2011, subject to tenant options to extend; and

**WHEREAS**, PIC sublet that property to APPLE which made substantial valuable improvements to the premises in anticipation of being able to continue to operations into the option periods before commencing operations at the site providing programmatic, property, and community benefits; and

**WHEREAS**, PIC has lost federal funding, failed to make its March rental payment, and gave written notice (received on March 8, 2011) that it was defaulting on its obligations under its Lease with City; and

**WHEREAS**, APPLE believes it can secure funding and desires to continue to operate on the site for at least 8 more months if it can get a rental reduction to \$500 per month; and

**WHEREAS**, the City has determined that a substantial public purpose would be served by allowing APPLE to stay on as a tenant for the extended term at the requested rental reduction because the APPLE improvements created value for the City property and their continued operation there mitigates the damages from the PIC breach and provides ongoing programmatic, property and community benefits:

**NOW, THEREFORE**, the parties to this Agreement agree as follows:

1. That APPLE hereby assumes the obligations as tenant under that Lease Agreement dated June 1, 2009, between the City as landlord and PIC as tenant, subject to the changes herein provided.
2. The term of the Lease Agreement as assumed shall be from March 1, 2011, to October 31, 2011, an extension of 3 months. In the event the parties desire to extend

a rental agreement beyond that date, they shall enter into a new lease on mutually acceptable terms.

3. The monthly rent for the 8-month term of this Agreement shall be the reduced rate of \$500.00 per month, payable in advance on the first day of each month.

4. That in all other respects the prior Lease Agreement assumed shall remain in full force and effect except as amended herein.

Dated: March \_\_\_\_, 2011

**ALLIANCE FOR A POST-PETROLEUM  
LOCAL ECONOMY (APPLE)**

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

Dated: March \_\_\_\_, 2011

**CITY OF NEVADA CITY**

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

Robert Bergman, Mayor

Approved as to form:

  
\_\_\_\_\_

Hal DeGraw, City Attorney

## **Rental proposal between Nevada City and APPLE**

Hosting the APPLE Center in Nevada City is a public benefit

### **Programmatic benefits:**

- Chicken keeping education
- Water conservation education
- Residential energy efficiency education (NC Housing Element)

### **Property benefits:**

- Tenant improvement valued at \$80,000 in 2009.
- Not another empty storefront in Nevada City

### **Community benefits:**

- Greeting visitors, directing them through town
- Providing quarters for those needing to park
- Opening bathrooms when Public Works doesn't get to it
- Providing "eyes" on the parking lot and notifying police of issues.

### **NC Sustainability Team benefits:**

- APPLE is serving as a fiscal agent for the Board Walk
- APPLE provides use of our projector for Sust Team meetings 1-4 times monthly (\$25 value each time)

APPLE proposes \$500/mo for facility at 412 Commercial Street for a 8 month lease, with a month-month option thereafter. Our intention is to move to the Alpha Bldg when it opens in Nov or Dec.