RESOLUTION NO. 15-2022
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLFAX, CALIFORNIA CALLING AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, REQUESTING CONSOLIDATION OF THAT ELECTION WITH THE STATEWIDE GENERAL ELECTION, AND REQUESTING SERVICES FROM THE PLACER COUNTY CLERK WITH RESPECT TO THAT ELECTION; NOTICE OF CITY OFFICER ELECTIONS AND NOTICE OF THE SUBMISSION OF MEASURE TO THE VOTERS.

WHEREAS, a statewide general election will be held on Tuesday, November 8, 2022; and,

WHEREAS, a general municipal election for the City of Colfax is scheduled for November 8, 2022; and

WHEREAS, the interests of efficiency call for the consolidation of the City's election with the statewide general election to be held on the same day; and

WHEREAS, the Colfax City Council requests services from the Placer County Clerk for the conduct of that election; and

WHEREAS, Article XIIIC, Section 2 of the California Constitution, and California Government Code Section 53723 authorize the Colfax City Council to impose, extend, or increase a general tax upon a majority vote of the voters voting in an election on the issue; and

WHEREAS, Section 37100.5 of the California Government Code authorizes the City to levy any tax, for revenue purposes, which may be levied by any charter city, subject to the voters' approval pursuant to Article XIIIA of the California Constitution, except a tax on the privilege of occupying a campsite in a unit of the state park system; and

WHEREAS, Section 7280 of the California Revenue and Taxation Code authorizes the City to levy a tax on the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging unless the occupancy is for a period of more than 30 days; and

WHEREAS, Colfax Municipal Code Chapter 3.20 establishes and imposes a transient occupancy tax in the amount of eight percent (8%) for the privilege of occupancy in any hotel, as defined, by transients, as defined, within the City; and

WHEREAS, the City Council desires to fund general municipal expenses such as police, fire, road and pothole repair, and parks and recreation by increasing the City's transient occupancy tax rate from eight percent (8%) to ten percent (10%) of the rent charged by the operator of any hotel; and

WHEREAS, currently the transient occupancy tax is collected from hotel operators, as defined, pursuant to Colfax Municipal Code Section 3.20.040; and

WHEREAS, should the Transient Occupancy Tax ballot measure provided for in this Resolution not receive a majority vote of the electorate voting on the measure, Colfax Municipal Code Chapter 3.20 shall remain unchanged without further action by the Colfax City Council; and

WHEREAS, California Elections Code Section 9222 authorizes the City Council to submit to the voters, without a petition, an ordinance for the repeal, amendment, or enactment of any ordinance; and

WHEREAS, the City Council desires to submit an ordinance expanding the scope of and providing for an increase of the City's Transient Occupancy Tax to the voters of the City at the General Municipal Election to be held on Tuesday, November 8, 2022, and to be consolidated with any other election to be held on that date; and

WHEREAS, the proposed increase in the City's Transient Occupancy Tax is more completely described in the amended Transient Occupancy Tax Ordinance attached hereto as Exhibit "A" and incorporated herein by reference (the "Transient Occupancy Tax Ordinance").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLFAX AS FOLLOWS:

Section 1. The City Council hereby finds and determines that the foregoing recitals are true and correct.

Section 2. The Colfax City Council hereby calls and orders a General Municipal Election to be held on Tuesday November 8, 2022 (the "Election") for the purpose of electing municipal officers to fill the vacancies that will arise with the expiration of the terms of the following City Council members:

Trinity Burruss	Councilmember	Regular Full Term
Joseph John Fatula, Jr.	Councilmember	Regular Full Term
Sean Lomen	Councilmember	Regular Full Term

Officeholders for the City of Colfax are elected "At Large" as there are no divisions in the City. All voters within the City vote for all candidates.

Section 3. Pursuant to Section 10400 et seq. of the Elections Code, the Board of Supervisors of Placer County is requested to consolidate the Election with other elections held on the same day in the same territory or in the territory that is in part the same. This Resolution shall constitute the request for consolidation required by California Elections Code Section 10403 and acknowledgement that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418.

Section 4. The ballots to be used at the general Election shall be in the form and content as required by law. The City Council hereby declares its intent to consolidate and orders, pursuant

to Elections Code Section 9222, that the proposed expansion of and increase in the Transient Occupancy Tax be submitted to the voters at that Election.

Section 5. Notice of the time and place of holding the Election is hereby given, and the City Clerk is authorized, instructed and directed to give further or additional notice of the Election, in time, form and manner required by law. In all particulars, whether or not recited in this Resolution, the general election shall be held and conducted as provided by law. The City Clerk is hereby authorized, instructed and directed to procure and furnish, or cause to be procured and furnished, any and all official ballot notices, printed matter and all other supplies, materials, and equipment that may be necessary to prepare and lawfully conduct the Election.

Section 6. The Colfax City Council hereby determines the following Election particulars with respect to the election of officers: The length of each candidate statement shall not exceed **200 words**. The cost of each Candidate Statement shall be paid by the **Candidate**. In case of a tie vote, the Election shall be determined by **Lot**. If by the close of candidate filing, the number of qualified candidates does not exceed the number of seats to be filled in a particular office, the City Council shall, in accordance with Elections Code Section 10229(a), appoint to the office the person(s) who has been nominated and/or appoint to the office any eligible elector if no one has been nominated. The foregoing sentence shall not apply if (a) the number of nominees for another City office exceeds the number of seats to be filled, or (b) a City measure has qualified and is to be submitted to the voters at the Election. If either (a) or (b) occurs, all City offices will be put before the voters of the City, regardless of the number of nominees, in accordance with Elections Code Section 10229(b).

Section 7. The Colfax City Council hereby proposes to adopt the Transient Occupancy Tax Ordinance attached hereto as Exhibit A to amend Colfax Municipal Code Chapter 3.20 to expand the applicability of the Transient Occupancy Tax and increase the Transient Occupancy Tax rate.

Section 8. The Colfax City Council hereby submits the Transient Occupancy Tax Ordinance and proposed tax increase to the electorate for approval.

Section 9. The Transient Occupancy Tax is a general tax imposed on transients, as defined, for the privilege of occupying defined hotels located within the City of Colfax. If approved by a majority of the electorate voting on the measure, the Transient Occupancy Tax Ordinance attached to this Resolution as Exhibit A will raise the rate of tax and amend the definition of "operator" so the tax must be collected and remitted by all persons receiving revenue from the rental of a hotel room, including on-line hotel brokers and rental agencies. If the Transient Occupancy Tax Ordinance is passed, the definition of operator will be amended and the tax rate will increase from eight percent to ten percent. If the Transient Occupancy Tax Ordinance is not passed, the definition will remain unchanged and the tax will not be collected from on-line hotel brokers and vacation rental agencies.

Section 10. The Transient Occupancy Tax is a general tax within the meaning of Government Code Section 53721 and Article XIIIC, Section 1(a) of the California Constitution. The revenue generated by this general tax is available for general governmental purposes.

Section 11. The full text of the Transient Occupancy Tax Ordinance attached to this Resolution as Exhibit A is hereby ordered to be printed in the sample ballot pamphlet provided to the registered voters of Placer County.

Section 12. The question to be submitted to the voters of the City of Colfax shall appear on the ballot as follows:

TRANSIENT OCCUPANCY TAX INCREASE To support essential City services, including police, fire, road and pothole repair, and parks and recreation, shall the measure increasing the Transient Occupancy Tax (paid only by hotel/motel/short-term rental guests) rate from 8% to 10% and expanding the obligation to collect Transient Occupancy Tax to all persons receiving compensation from such rentals, generating an estimated $29,000 annually until ended by the voters, be adopted?	**YES**	
	NO	

Section 13. Pursuant to Section 2(b) of Article XIII A of the California Constitution, this measure requires approval by a majority of those casting ballots on the measure.

Section 14. The City Clerk shall transmit a copy of the ballot measure to the Colfax City Attorney in accordance with California Elections Code Section 9280. The Colfax City Attorney is directed to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280. The analysis may not exceed 500 words in length and shall be filed with the City Clerk no later than 4:00 p.m. on August 12, 2022.

Section 15. Arguments in favor of and in opposition to the ballot measure and rebuttal argument shall be permitted. The City hereby adopts the provisions of California Elections Code Sections 9282 through 9287 regarding the acceptance of arguments related to ballot measures. Any arguments for and against the measure shall be filed in accordance with this Resolution and applicable provisions of law. Arguments for and against shall be submitted no later than 4:00 p.m. on August 12, 2022. Rebuttal arguments shall be submitted no later than 4:00 p.m. on August 22, 2022.

Section 16. The City Council finds that the Transient Occupancy Tax Ordinance is not a project under the California Environmental Quality Act so no environmental assessment is required.

Section 17. The Board of Supervisors is authorized to canvass the returns of the Election pursuant to Section 10411 of the Elections Code.

Section 18. Pursuant to Section 10002 of the Elections Code, the Board of Supervisors is requested to permit the County Clerk to render all services specified by Section 10418 of the Elections Code relating to the Election, for which services the City agrees to reimburse the County, in accordance with current County pro-rations and allocation procedures.

Section 19. The City Clerk shall file a certified copy of this Resolution with the County Clerk.

Section 20. This Resolution shall be effective immediately upon adoption.

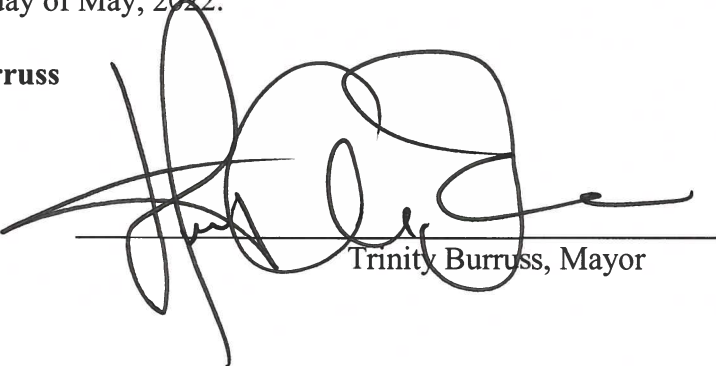**Section 21.** There have been no City boundary changes since the City's most recent election.

APPROVED and ADOPTED this 25th day of May, 2022.

AYES: Lomen, Ackerman, Fatula, Burruss
NOES:
ABSTAIN:
ABSENT: Mendoza

_____
Trinity Burruss, Mayor

ATTEST:

_____
Marguerite Bailey City Clerk

CITY OF COLFAX

ORDINANCE NO. 548
AN ORDINANCE OF THE CITY OF COLFAX AS APROVED BY THE CITY'S QUALIFIED
ELECTORS AT THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2022,
AMENDING COLFAX MUNICIPAL CODE TITLE 3, CHAPTER 3.20 TO CHARGE THE
TRANSIENT OCCUPANCY TAX ON ALL PERSONS RECEIVING REVENUE FROM HOTEL
OCCUPANCY (SUCH AS ON-LINE HOTEL BROKERS AND VACATION RENTAL AGENCIES)
AND INCREASNG THE RATE TO 10%

The People of the City of Colfax do ordain as follows:

Section 1.

Colfax Municipal Code Title 3, Chapter 3.20 is hereby amended in the form and substance contained in the Ordinance text attached hereto and incorporated herein by this reference.

Section 2.   Superseding Provisions.

The provisions of this Ordinance and any resolution adopted pursuant hereto shall supersede and repeal any previous Ordinance or resolution to the extent the same is in conflict herewith.

Section 3.   Severability.

If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by the final judgment of any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision; and such holding shall not affect the validity of the remaining portions hereof.

Section 4.   California Environmental Quality Act Findings.

The City of Colfax finds that, if the provisions of the California Environmental Quality Act, Public Resources Code §21000 et seq (hereinafter "CEQA") apply, the title of this ordinance would constitute a brief description of the "Project" as required by Section 15062(a)(1) of the Guidelines for Implementation of the California Environmental Quality Act published by the State of California Office of Planning and Research (the "CEQA Guidelines").

FINDING OF NO PROJECT

The City of Colfax finds that adoption of this ordinance does not constitute a "Project" as that term is defined by or used in CEQA, the CEQA Guidelines or any court or attorney general opinion construing the same. In particular, but not by way of limitation, pursuant to CEQA Guidelines Section 15378(b)(4), adoption of this ordinance as a government funding mechanism is not a project subject to the requirements of CEQA. Accordingly, the City of Colfax finds that the provisions of CEQA and the CEQA Guidelines are not applicable to said action.

EXHIBIT A
ORDINANCE

<div align="center">FINDING OF EXEMPTION</div>

In the event that it is found that the said action constitutes a "Project" as defined by or used in CEQA or the CEQA Guidelines, which finding would be contrary to the City's opinion of its action, the City of Colfax hereby finds that said action is exempt from compliance with CEQA and the CEQA Guidelines, for the following reasons: The action falls within the exemptions provided by Senate Bill 94, and within the "common sense" CEQA exemption provided in 14 CCR 15061(b)(3) in that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the action may have a significant effect on the environment, the action is not subject to CEQA. CEQA Guidelines, Section 15061(b)(3). It can be seen with certainty that adoption of this ordinance and its provisions cannot possibly have a significant effect on the environment.

Section 5.   Election.

Voter approval of this ordinance shall have the effect of making the change to the definition of "Operator" and increasing the transient occupancy tax rate from eight percent to ten percent (paid only by hotel/motel/short-term rental guests). If the measure is defeated, the Colfax Municipal Code will remain unchanged.

Section 6:   Remainder Of Chapter 3.20 To Remain In Full Force And Effect.

Except as amended by this Ordinance, the remainder of Colfax Municipal Code Title 3, Chapter 3.20 shall remain in full force and effect.

Section 7.   Adoption and Effective Date.

If a majority of qualified electors vote in favor of the ballot measure regarding this ordinance, this ordinance shall be adopted and effective upon the date the vote approving it is declared by the Colfax City Council.

Section 8.   Execution.

The People of the City of Colfax hereby authorize the Mayor and City Clerk of the City to execute this ordinance to reflect its adoption at the November 8, 2022, election.

I hereby certify that the foregoing ordinance was duly adopted by a majority of the voters of the City casting votes on the question at the November 8, 2022, election.

_____

Trinity Burruss, Mayor

APPROVED AS TO FORM: ATTEST:

_____   _____

Alfred Cabral   Marguerite Bailey
City Attorney   City Clerk

<div align="center">EXHIBIT A
ORDINANCE</div>

CITY OF COLFAX

ORDINANCE NO. 548

AN ORDINANCE OF THE CITY OF COLFAX AS APROVED BY THE CITY'S QUALIFIED ELECTORS AT THE GENERAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2022, AMENDING COLFAX MUNICIPAL CODE TITLE 3, CHAPTER 3.20 TO CHARGE THE TRANSIENT OCCUPANCY TAX ON ALL PERSONS RECEIVING REVENUE FROM HOTEL OCCUPANCY (SUCH AS ON-LINE HOTEL BROKERS AND VACATION RENTAL AGENCIES) AND INCREASNG THE TAX RATE TO 10%

Colfax Municipal Code Title 3, Chapter 3.20 is hereby amended as follows.

1.   Amendment Of Section 3.20.010 By Expanding The Definition Of "Operator".

The definition of "Operator" contained in Colfax Municipal Code Section 3.20.010 is hereby set forth for voter approval to read as follows:

"Operator" means

A.   The person or entity possessing or having an ownership interest in a hotel, or who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity; or

B.   The person or entity engaged in the business of operating a hotel; or

C.   The person or entity who receives any consideration for the rental of a hotel room for sleeping accommodations, including, without limitation, any broker, managing agent, booking agent, room seller, room reseller, service provider, or other agent or contractee, including but not limited to on-line room sellers, on-line room resellers and on-line travel agents of any type or character:

   1.   With which a hotel has contracted to arrange for the rental of a hotel room for sleeping accommodations; or

   2.   That has acquired any hotel room for subsequent rental from the hotel for sleeping accommodations.

Where the operator performs his, her or its functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purpose of this chapter and shall have the same duties and liabilities as his or her principal. Compliance with the provisions of this chapter by either the principal, or the managing agent, or the person or entity who receives consideration as provided above, shall be considered to be compliance by all."

EXHIBIT A
ORDINANCE

2:   Amendment Of Section 3.20.020 A By Increasing The Tax Rate.

Colfax Municipal Code Section 3.20.020 A is hereby set forth for voter approval to read as follows:

"Section 3.20.020 A. For the privilege of occupancy in any hotel or lodging establishment, each transient is subject to and shall pay a tax in the amount of ten percent (10%) of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city, which is extinguished only by payment to the operator or to the city."

EXHIBIT A
ORDINANCE