



CITY COUNCIL MEETING

COUNCIL CHAMBERS, 33 SOUTH MAIN STREET, COLFAX, CA

MAYOR STEVE HARVEY • MAYOR PRO TEM TONY HESCH
COUNCILMEMBERS KIM DOUGLASS • MARNIE MENDOZA • WILL STOCKWIN



REGULAR MEETING AGENDA

October 11, 2017

Regular Session 7:00 PM

1. CALL TO ORDER

- 2A. Call Open Session to Order
- 2B. Pledge of Allegiance
- 2C. Roll Call
- 2D. Approval of Agenda Order

This is the time for changes to the agenda to be considered including removal, postponement, or change to the agenda sequence.

RECOMMENDED ACTION: By motion, accept the agenda as presented or amended.

2. CONSENT CALENDAR

Matters on the Consent Agenda are routine in nature and will be approved by one blanket motion with a Council vote. No discussion of these items ensues unless specific items are pulled for discussion and separate action. If you wish to have an item pulled from the Consent Agenda for discussion, please notify the Mayor.

RECOMMENDED ACTION: Approve Consent Calendar

- 2A. Minutes – Regular Meeting September 27, 2017

Recommendation: Approve the Minutes of the Regular Meeting of September 27, 2017.

- 2B. Fire Equipment Grant Acceptance

Recommendation: Adopt Resolution 43-2017 approving the Department of Forestry and Fire Protection Agreement required by CalFire as a condition to receiving grant funds in the amount of \$18,719.50 for the grant application approved by Resolution 13-2017 on April 12, 2017.

3. PUBLIC COMMENT

Members of the audience are permitted to address the Council on matters of concern to the public within the subject matter jurisdiction of the City Council that are not listed on this agenda. Please make your comments as brief as possible; not to exceed three (3) minutes in length. The Council cannot act on items not included on this agenda; however, if action is required it will be referred to staff.

4. COUNCIL, STAFF AND OTHER REPORTS

The purpose of these reports is to provide information to the Council and public on projects, programs, and issues discussed at committee meetings and other items of Colfax related information. No decisions will be made on these issues. If a member of the Council prefers formal action be taken on any committee reports or other information, the issue will be placed on a future Council meeting agenda.

- 4A. Committee Reports and Colfax Informational Items - All Councilmembers
- 4B. City Operations Update – City staff
- 4C. Additional Reports – Agency partners



5. PUBLIC HEARING

NOTICE TO THE PUBLIC: City Council will take the following actions when considering a matter scheduled for hearing:

1. Open the public hearing	2. Presentation by staff
3. Statement from applicant (if applicable)	4. Council comments and questions
5. Accept public testimony	6. Council comments and questions
7. Close public hearing. (No public comment is taken after the hearing is closed)	8. City Council action

Public hearings that are continued will be announced. The continued public hearing will be listed on a subsequent Council Meeting Agenda and posting of that agenda will serve as notice.

5A. #DR-HD 2017-01 – Historic District Design Review: Lumenaris - 50-54 N. Main Street

Staff Presentation: Amy Feagans, Planning Director

Recommendation: Receive a presentation; conduct a Public Hearing and adopt Resolution 44-2017 approving the Historic District Design Review Permit for renovation of the front façade, a wall sign and a side elevation mural for the building located at 50 - 54 N. Main Street in the Commercial Retail-Historic District (CR-HD) Zone.

6. COUNCIL BUSINESS

6A. Introduction and First Reading of an Ordinance of the City of Colfax Regulating Cannabis Cultivation, Commercial Cannabis Activities, Cannabis Manufacturing, Cannabis Dispensaries and Cannabis Delivery

Staff Presentation: Mick Cabral, City Attorney

Recommendation: Introduce Ordinance 534, An Ordinance of the City Council of the City of Colfax regulating cannabis, by title only, conduct discussion, provide direction to staff, and schedule a public hearing and waiver of the second reading and adoption for the October 25, 2017 Regular Meeting.

6B. Medical Marijuana Dispensary Status – Jim Dion

Staff Presentation: Wes Heathcock, Interim City Manager

Recommendation: Discuss and provide direction to staff.

7. GOOD OF THE ORDER - INFORMAL COUNCIL STATEMENTS REGARDING THE BUSINESS OF THE CITY

Informal observation reports and inquiries regarding the business of the City may be presented by Council members under this agenda item or requests for placement of items of interest on a future agenda. No action will be taken.

8. ADJOURNMENT

I, Lorraine Cassidy, City Clerk for the City of Colfax declare that this agenda was posted at Colfax City Hall and the Colfax Post Office. The agenda is also available on the City website at www.Colfax-ca.gov.


Lorraine Cassidy, City Clerk

Administrative Remedies must be exhausted prior to action being initiated in a court of law. If you challenge City Council action in court, you may be limited to raising only those issues you or someone else raised at a public hearing described in this notice/agenda, or in written correspondence delivered to the City Clerk of the City of Colfax at, or prior to, said public hearing.





City of Colfax
 City Council Minutes
 Regular Meeting of Wednesday, September 27, 2017
 City Hall Council Chambers
 33 S. Main Street, Colfax CA

1 CLOSED SESSION

1A. **Call to Order**

Mayor Harvey called the meeting to order at 6:30PM.

1B. **Roll Call**

Council members present: Douglass, Harvey, Hesch, Stockwin

1C. **Public Comment**

There was no public comment on the closed session item.

Councilmember Mendoza joined the meeting at 6:31PM.

1D. **Closed Session Agenda**

Public Employee Performance evaluation pursuant to California Government Code 54957
 Title: City Manager

Closed session was adjourned at 7:03PM.

2 OPEN SESSION

2A. **Call to Order**

Mayor Harvey called the open session to order at 7:08PM.

2B. **Report from Closed Session**

There was nothing to report from closed session.

2C. **Pledge of Allegiance**

Chris Nave, Gold Run Area California Highway Patrol (CHP) Public Information Officer, led the Pledge of Allegiance.

2D. **Roll Call**

Council members present: Douglass, Harvey, Hesch, Mendoza, Stockwin

2E. **Approval of Agenda Order**

On a motion by Councilmember Stockwin, seconded by Mayor Pro Tem Hesch, the City Council approved the agenda.

AYES: Douglass, Harvey, Hesch, Mendoza, Stockwin

3 CONSENT CALENDAR

3A. **Minutes – Regular Meeting August 23, 2017.**

Recommendation: Approve the Minutes of the Regular Meeting of August 23, 2017.

3B. **Cash Summary : August 2017**

Recommendation: Receive and file.

3C. **Proclamation in support of Placer County “Out of the Darkness Suicide Prevention Walk”.**

Recommendation: Adopt Resolution 38-2017 supporting and promoting the Placer County “Out of the Darkness Suicide Prevention Walk” to be held on October 7, 2017.

3D. Purchase of Hydrovac Vacuum Trailer

Recommendation: Adopt Resolution 39-2017 approving the purchase of a hydrovac vacuum trailer from RDO Equipment Company in an amount not to exceed \$44,625.

On a motion by Councilmember Stockwin, seconded by Mayor Pro Tem Hesch, Council unanimously approved the Consent Calendar.

AYES: Douglas, Harvey, Hesch, Mendoza, Stockwin

4 PUBLIC COMMENT

Foxy McCleary, 127 Saunders Lane

- The VFW is asking Council to mark their calendars to participate in the Veteran's Day program on November 11, 2017.
- She reminded everyone to attend the 2nd Sunday Breakfasts held at the Veteran's Hall on Grass Valley Street.

Jim Dion, area resident

- Mr. Dion asked Council to allow him to open his dispensary. He said he closed his doors simply to remodel the building and didn't actually close the business. He asserted that the City had changed the ordinance in 2012 regarding medical marijuana dispensaries while his business was closed. He stated the City is still receiving tax revenues which filter to the City when he pays his quarterly taxes.

5 COUNCIL, STAFF, AND OTHER REPORTS**5A. Committee Reports and Colfax Informational Items – All Councilmembers**

Mayor Harvey

- Mayor Harvey stated the Skatepark Concert fundraiser was a great event. He hopes the next one will have better attendance with more advertising.

Councilmember Mendoza

- Councilmember Mendoza mentioned several events at the Elementary School and encouraged everyone to support the school through purchases made at Marval's.
- She has started a healthy eating class at Canyon View apartments for the seniors.
- Councilmember Mendoza stated the Skatepark concert was a great event and she was impressed by the number of local businesses and individuals who donated to the silent auction.
- She attended the 3-day California League of Cities Conference and benefited from the sessions, especially one covering Public Safety and one on Proposition 64 Moneys. The City needs to get a local ordinance in place to regulate the marijuana industry by 2018.

Councilmember Stockwin

- Councilmember Stockwin also attended the League Conference. He commented on several of the sessions he attended including Dealing with the Homeless, Code Enforcement, Driverless Cars and the Marijuana Moneys session.
- He gave a report on the Placer County Mosquito and Vector Control Board meeting.
- Councilmember Stockwin gave Council a draft of an FAQ sheet regarding sewer rates which he has created in conjunction with Interim City Manager Heathcock and Finance Director Van Groningen. He requested Council get comments back to him by Monday so the information could be available to the public by next week.

Councilmember Douglass

- Councilmember Douglass has represented the Council at several local events: Bingo at Sierra Vista Community Center on the 1st Sunday of the month, the Chamber Mixer on September 5, and Craft Fair planning committee meetings.
- He stated the Sierra Vista Community Center is hosting a Craft Fair Harvest Festival on October 7, 2017.
- He represents the City as Vice President of Pioneer Community Energy which will be competing with PG&E in the near future and has potential to lower residents' energy costs by 15%.
- He reminded everyone to attend the Coffee with Supervisor Montgomery on the 2nd Wednesday of each month at 9:00AM at Café Luna.
- The Sierra Vista Community Center will be deciding soon if they should expend funds to rehabilitate the facility or if they should save their funds for the future. Public input is welcome.

Mayor Pro Tem Hesch

- Mayor Pro Tem Hesch reported he was on the interview panel today to select a new Executive Director for the Placer County Transportation Planning Agency.
- He also reported the funding for the roundabout through PCTPA is now officially approved. With the Caltrans funding and promised contribution from the Maidu property developer, the \$2.5 million roundabout will be built without expending any of Colfax' General Funds!
- Mayor Pro Tem Hesch stated the caboose committee is completing plans for an interactive museum which will be a great attraction to draw families to Colfax.
- He mentioned the Recology Fall Clean-up day will be October 28th from 8AM-3PM and will allow residents to dispose of brush and other large items. It is a great opportunity for everyone to do some fuel reduction on their properties.

Mayor Harvey

- Mayor Harvey reminded everyone to be careful driving this weekend as the Annual Street Vibrations event in Reno brings many motorcyclists through the area.

5B. City Operations – City Staff*Interim City Manager Heathcock*

- Mr. Heathcock stated Recology will place Fall Clean-up day flyers on cans this week.
- He explained a Sewer Rate Study Request for Proposals (RFP) was issued on August 22nd. The intention of the study is to confirm the validity of the Capital Improvement Plan, confirm the rates for operation of the Wastewater Treatment Plant and collection system, reaffirm the methodology developed for billing, and look at creative ways to address servicing the debt. The RFP will close on October 2nd. Mayor Pro Tem Hesch volunteered to join staff to evaluate the proposals.
- He invited everyone to attend the Ribbon Cutting for the new Shade Structure at Lion's Park on October 3rd at 1:30PM. He thanked the Lion's Club for their \$5,000 contribution towards the purchase of the structure.
- Interim City Manager Heathcock requested assistance from 2 Council members to distribute flyers to businesses asking business owners' opinion of the proposal to move the location of winter I-80 road closures to the Canyon View exit.

- He spoke on behalf of Battalion Chief Landon Haack who is fighting a fire in Southern California. Chief Haack has reported the leak in the volunteer station is fixed and the vegetation management plan for the Wastewater Treatment Plant and Landfill is progressing through state channels.
- Interim City Manager Heathcock gave kudos to the WWTP Plant Operators. Through their consistent good efforts, the State Water Board has agreed to decrease testing requirements with the upcoming permit renewal.
- He also attended the League Conference.

5C. **Additional Reports – Agency Partners**

Officer Chris Nave, California Highway Patrol (CHP) Gold Run Area Public Information Officer

- Officer Nave reiterated the need for caution while the motorcyclists are travelling to the Street Vibrations. CHP will have extra patrols out over the weekend.
- He mentioned the CHP is hosting a Golf Tournament to raise funds for two fallen officers on Friday. The event is sold out.

Council thanked the entire Public Safety team for their help and for the reports at Council meetings.

Interim City Manager Heathcock thanked Officer Nave for his role in putting together a crew of Little League parents to help assemble the bleachers for the ballfield.

Ty Conners, Colfax Sub-station Commander for Placer County Sheriff's Office

- Sergeant Conners announced the arrival of the new Incident Command Center which will be used during major events to provide state-of-the-art support to Law Enforcement. He will make arrangements to bring it to Colfax during a community event.
- He thanked the Council members who attended the Skatepark Fund Raiser and Michael Rohm, Colfax Record reporter, for helping to announce the event.
- He stated the concert netted about \$1,400; Eric Stauss donated \$2,000; the sale of his painting brought in \$1000; and several local companies including Teichert, Camblin Steel and Triton Construction have pledged to donate materials and labor to the Skatepark. Overall the fund grew by about \$45,000 in the last few weeks!
- He introduced the two new deputies who will be serving Colfax for the next two years: JD Cleek and Manny Temores.

6 **PUBLIC HEARING**

6A. **CDBG Public Hearing**

Staff Presentation: Lorie Adams, CDBG Consultant, Dane Schilling City Engineer, Laurie Van Groningen, Finance Director

Recommendation: Receive a presentation; conduct a Public Hearing and adopt Resolution 40-2017 authorizing of use of the Community Development Block Grant Program income funds for a public infrastructure project contingent upon the approval by the State Department of Housing and Community Development Program Income Waiver.

Mayor Harvey opened the Public Hearing at 8:08PM.

Finance Director Laurie Van Groningen introduced CDBG Consultant Lorie Adams and City Engineer Dane Schilling.

Engineer Schilling stated staff recommends Council and the public consider three projects which could allow the City to use the Community Development Block Grant (CDBG) funds currently held by the City. In order of recommendation: 1. Full-depth reconstruction of Culver Street

from West Oak to Newman Way; 2. Full-depth reconstruction of Pleasant Street from Depot Street to Easy Street; 3. Full-depth reconstruction of West Oak Street from Culver up the hill to the end of the Street.

CDBG Consultant Adams gave a brief outline of the CDBG program and the process necessary for the City to utilize the funds currently allocated to Colfax. The City originally received the funds to be utilized for small business loans. As the businesses repaid the loans, the funds were returned to the CDBG account. Since receiving the grant, the City has been removed from the low/moderate income status. To use the funds now, the City must select a project within a neighborhood which the City feels could qualify for low/moderate income status, conduct an income survey to determine the status of the neighborhood and submit the results to the State for approval. With Council's approval of the project priority list, this process can begin.

Council discussed the projects and asked for clarification on the process.

Interim City Manager Heathcock stated he is grateful to Mr. Jim Bowers for his help in getting information regarding tonight's public hearing to the public.

Mayor Harvey opened public comment for the hearing.

Ms. McCleary asked if any of the projects would impact Saunders Lane and was informed only at the base of the road if the first project is not accepted and the second project is built.

Mayor Harvey closed the Public Hearing at 8:24PM.

On a motion by Mayor Pro Tem Hesch and a second by Councilmember Douglass, Council adopted Resolution 40-2017 authorizing of use of the Community Development Block Grant Program income funds for a public infrastructure project contingent upon the approval by the State Department of Housing and Community Development Program Income Waiver.

Ayes: Douglass, Harvey, Hesch, Mendoza, Stockwin

7 COUNCIL BUSINESS

7A. Volunteer Fire Department Emergency Response Vehicle (Squad 36) Replacement

Staff Presentation: Laurie Van Groningen, Finance Director

Recommendation: Adopt Resolution 41-2017 authorizing the expenditure of \$92,600 from Fund 292 and an inter-fund loan from Fund 100 of \$30,000 pending receipt of the 2017 Strike Team revenues at receipt of rescue squad.

Finance Director Van Groningen reminded Council the purchase of the Rescue Squad was authorized in 2016 to use capital funds accumulated by the Volunteer Fire Department when they are called-out to serve on Strike Teams with CalFire. As these funds were not projected to be adequate for the entire purchase, Council authorized staff to finance a portion of the vehicle. The Rescue Squad is almost ready for delivery. Finance Director Van Groningen's analysis of the funding at this time indicates it would be more cost effective to use the capital funds in conjunction with an inter-fund loan from the City General Fund for the remaining balance to avoid paying the interest on financing. The City is expecting a payment for Strike Team services in an amount that will cover the inter-fund loan. Additionally, there is some indication the USDA may give the City a grant to cover the inter-fund loan and reimburse the General Fund.

There was no public comment.

On a motion by Councilmember Stockwin and a second by Councilmember Mendoza, Council adopted Resolution 41-2017 authorizing the expenditure of \$92,600 from Fund 292 and approving an inter-fund loan from Fund 100 of \$30,000 pending receipt of the 2017 Strike Team revenues at receipt of rescue squad vehicle.

Ayes: Douglass, Harvey, Hesch, Mendoza, Stockwin

7B. Project List for Road Repair – SB-1 Funding

Staff Presentation: Dane Schilling, City Engineer

Recommendation: Adopt Resolution 42-2017 authorizing the City Manager to amend the Fiscal Year 2017-2018 Budget to incorporate SB-1 funding into the Rising Sun Road Pavement Resurfacing Project and thus ensure eligibility for State of California Road Maintenance and Rehabilitation Account (RMRA) revenues

Engineer Schilling explained Senate Bill 1 created a new funding source for roads which requires the formality of naming a project in the budget that will use the funds. The City will receive \$11,600 through SB-1 and staff recommends the Rising Sun Pavement Resurfacing Project which was approved in the amended FY 2017-2018 Budget.

Council discussed the project and gave feedback to staff.

There was no public comment.

On a motion by Councilmember Stockwin, seconded by Mayor Pro Tem Hesch, Council adopted Resolution 42-2017 authorizing the City Manager to amend the Fiscal Year 2017-2018 Budget to incorporate SB-1 funding into the Rising Sun Road Pavement Resurfacing Project and thus ensure eligibility for State of California Road Maintenance and Rehabilitation Account (RMRA) revenues.

AYES: Douglass, Harvey, Hesch, Mendoza, Stockwin

8 THE BUSINESS OF THE CITY

Councilmember Mendoza asked the public to put forward ideas of a good location for a Boys and Girls Club.

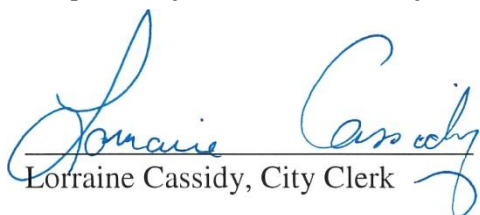
Councilmember Stockwin asked Council to consider allowing Jim Dion to open a medical marijuana dispensary at the next meeting. Councilmember Douglass and Councilmember Mendoza agreed they would like to see an item on the next agenda. City Attorney Cabral will email a legal opinion to Council regarding this issue before the next meeting.

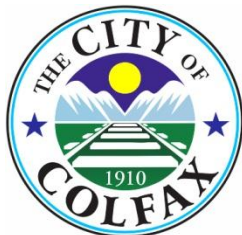
Councilmember Douglass would like the City to join Local Government Commission for \$125. It is a similar organization to SACOG.

9 ADJOURNMENT

As there was no further business on the agenda, Mayor Harvey adjourned the meeting at 8:44PM.

Respectfully submitted to City Council this 11th day of October, 2017


Lorraine Cassidy, City Clerk



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 11, 2017 COUNCIL MEETING

FROM: Wes Heathcock, Interim City Manager
PREPARED BY: Staff
SUBJECT: Fire Equipment Grant Acceptance

N/A FUNDED UN-FUNDED **AMOUNT:** up to \$18,719.50 **FUND:** 292

RECOMMENDED ACTION: Adopt Resolution 43-2017 approving the Department of Forestry and Fire Protection Agreement required by CalFire as a condition to receiving grant funds in the amount of \$18,719.50 for the grant application approved by Resolution 13-2017 on April 12, 2017..

DISCUSSION AND SUMMARY:

The Volunteer Fire Assistance (VFA) Grant Program provides funding to organize, train, and equip fire departments in rural areas and rural communities to prevent and suppress fires. CAL FIRE is responsible for administering these grant funds and has been authorized to make awards on a matching basis to public entities such as cities, counties, special districts and volunteer fire departments. On April 12, 2017, Council adopted Resolution 13-2017 authorizing an application for the matching funds.

The City received notification on August 3, 2017 from the Department of Forestry and Fire Protection that the Colfax City Fire Department has been selected for funding in the amount of \$18,719.50. In order to receive the funding, Council must approve a resolution which is in the State format to accept the funds and memorialize the obligation to match funds. Council approval and acceptance of the Grant Agreement package is due back to CAL FIRE before December 2017.

The City will purchase the items for the fire department beginning February 2018 and submit all invoices by June 30, 2018. Reimbursement for grant funds (50% of expenditures) will be received up to eight weeks after invoices are submitted. City staff has met with USDA to discuss possible grant funding under their Community Facility funding program to cover the City matching funds. We will begin the pre-application process – there is a six month window for funding from date of final purchase.

ATTACHMENTS:

1. Resolution 43-2017
2. Award Letter
3. Contract

City of Colfax

City Council

Resolution № 43-2017 BEFORE THE CITY COUNCIL OF THE CITY OF COLFAX COUNTY OF PLACER, STATE OF CALIFORNIA

IN THE MATTER OF Resolution Number: 43-2017 Approving the Department of Forestry and Fire Protection Agreement #7FG17029 for service from the date of last signatory on page 6 of the Agreement to June 30, 2018 under the Volunteer Fire Assistance Program of the Cooperative Forestry Assistance Act of 1978.

BE IT RESOLVED by the City Council of the City of Colfax that said City does hereby approve the Agreement with the California Department of Forestry and Fire Protection dated as of the last signatory date on page 6 of the Agreement, and any amendments thereto. This Agreement provides for an award, during the term of this Agreement, under the Volunteer Fire Assistance Program of the Cooperative Fire Assistance Act of 1978 during the State Fiscal Year 2017-18 up to and no more than the amount of \$18,719.50.

BE IT FURTHER RESOLVED that the Interim City Manager of the City of Colfax be and hereby is authorized to sign and execute said Agreement and any amendments on behalf of the City of Colfax.

THE FOREGOING RESOLUTION WAS DULY PASSED AND ADOPTED by the City Council of the City of Colfax, at a regular meeting thereof, held on the 11th day of October 2017, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Stephen L Harvey, Mayor

-----**CERTIFICATION OF RESOLUTION**-----

ATTEST:

I Lorraine Cassidy, City Clerk of the City of Colfax, County of Placer, California, do hereby certify that this is a true and correct copy of the original Resolution Number 43-2017.

WITNESS MY HAND OR THE SEAL OF THE City of Colfax, on this 12th day of October, 2017.

Lorraine Cassidy

City Clerk, City of Colfax

**DEPARTMENT OF FORESTRY AND FIRE PROTECTION**

P.O. Box 944246
SACRAMENTO, CA 94244-2460
Website: www.fire.ca.gov
(916) 653-7772



August 3, 2017

Colfax City Fire Department
PO Box 702 Colfax
Colfax CA, 95713
ATTN: Landon Haack

Dear Fire Chief Landon Haack,

Congratulations! Colfax City Fire Department's 2017 Volunteer Fire Assistance (VFA) application has been selected for funding in the amount of \$18,719.50. Please be aware that due to the number of applications CAL FIRE received this year, we may have reduced your funding so that we could use the federal funds to the fullest.

Enclosed is your VFA Agreement 7FG17029 package to be completed and **returned to me no later than December 1, 2017** or the award will be forfeited. The package includes Instructions/Checklist, your department's VFA Agreement to be completed, your approved VFA award application, a copy of the CAL FIRE Board of Resolution template (if needed), the STD. 204 form with sample, and the AD 1048 form with sample. It is important that you read and follow the instructions carefully.

DO NOT purchase any items and or do any work until you receive a fully executed agreement signed by CAL FIRE with a letter advising you that you may purchase the items and /or begin work. Any items purchased and/or work done prior to the *last* CAL FIRE signature date will not be reimbursable.

If your governing body chooses not to accept the award, or your department cannot use any portion of the award, please notify me as soon as possible. This will enable us to reallocate the funds to another fire department.

Utilize the 2017 VFA Procedural Guide for important dates and instructions.

If you have any questions you may call me at (916) 653-3649 or email at Megan.Esfandiary@fire.ca.gov.

Sincerely,

Megan Esfandiary
Grant Analyst
Grants Management Unit

**VOLUNTEER FIRE ASSISTANCE PROGRAM
AGREEMENT
PAGE 1 OF 6**

DEPARTMENT OF FORESTRY AND FIRE PROTECTION

STATE OF CALIFORNIA
Natural Resources Agency

Agreement for the Volunteer Fire Assistance Program of the
Cooperative Forestry Assistance Act of 1978

THIS AGREEMENT, made and entered into **ON THE LAST SIGNATORY DATE ON PAGE 6**, by and between the STATE of California, acting through the Director of the Department of Forestry and Fire Protection hereinafter called "STATE", and _____ the City of Colfax

_____ hereinafter called "LOCAL AGENCY", covenants as follows:

RECITALS:

1. STATE has been approved as an agent of the United States Department of Agriculture, (USDA), Forest Service for the purpose of administering the Cooperative Forestry Assistance Act (CFAA) of 1978 (PL 95-313, United States Code, Title 16, Chapter 41, Section 2010 et seq., Volunteer Fire Assistance Program), hereinafter referred to as "VFA", and
2. The VFA has made funds available to STATE for redistribution, under certain terms and conditions, to LOCAL AGENCY to assist LOCAL AGENCY to upgrade its fire protection capability, and
3. LOCAL AGENCY desires to participate in said VFA.

NOW THEREFORE, it is mutually agreed between the parties as follows:

4. **APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. LOCAL AGENCY may not commence performance until such approval has been obtained.**
5. **TIMELINESS: Time is of the essence in this Agreement.**
6. **FORFEITURE OF AWARD: LOCAL AGENCY must return this Agreement and required resolution properly signed and executed to STATE at the address specified in paragraph 11, with a postmark no later than December 1, 2017 or LOCAL AGENCY will forfeit the funds.**
7. **GRANT AND BUDGET CONTIGENCY CLAUSE: It is mutually understood between the parties that this Agreement may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds, to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.**

**VOLUNTEER FIRE ASSISTANCE PROGRAM
AGREEMENT
PAGE 2 OF 6**

This **Agreement** is valid and enforceable only if sufficient funds are made available to the STATE by the United States Government for the State Fiscal Year 2017 for the purpose of this program. In addition, this **Agreement** is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this **Agreement** in any manner.

The parties mutually agree that if the Congress does not appropriate sufficient funds for the program, this **Agreement** shall be amended to reflect any reduction in funds.

The STATE has the option to invalidate the **Agreement** under the 30-day cancellation clause or to amend the **Agreement** to reflect any reduction in funds.

8. **REIMBURSEMENT:** STATE will reimburse LOCAL AGENCY, from funds made available to STATE by the Federal Government, an amount not to exceed **\$18,719.50** on a 50/50 matching funds basis, for the performance of specific projects and/or purchase of specific items identified in Exhibit(s) A, Application for Funding, attached hereto. **Reimbursement will be only for those projects accomplished and/or items purchased between THE LAST SIGNATORY DATE ON PAGE 6 and JUNE 30, 2018.** This sum is the sole and maximum payment that STATE will make pursuant to this Agreement. **LOCAL AGENCY must bill STATE at the address specified in paragraph 11, with a postmark no later than September 1, 2018 in order to receive the funds.** The bill submitted by LOCAL AGENCY must clearly delineate the projects performed and/or items purchased. A vendor's invoice or proof of payment to vendor(s) must be included for items purchased.

9. **LIMITATIONS:** Expenditure of the funds distributed by STATE herein is subject to the same limitations as placed by the VFA, upon expenditure of United States Government Funds. Pursuant to Title 7 of the Code of Federal Regulations, Section 3016.32 subject to the obligations and conditions set forth in that section; title to any equipment and supplies acquired under this **Agreement** vests with the LOCAL AGENCY. For any equipment items over \$5,000, the federal government may retain a vested interest in accordance with paragraph 16 below.

10. **MATCHING FUNDS:** Any and all funds paid to LOCAL AGENCY under the terms of this **Agreement**, hereinafter referred to as "VFA Funds", shall be matched by LOCAL AGENCY on a dollar-for-dollar basis, for each project listed on attachment(s) hereto identified as "Exhibit(s) A". No amount of unpaid "contributed" or "volunteer" labor or services shall be used or consigned in calculating the matching amount "actually spent" by LOCAL AGENCY. LOCAL AGENCY shall not use VFA Funds as matching funds for other federal grants, including Department of Interior (USDI) Rural Fire Assistance grants, nor use funds from other federal grants, including USDI Rural Fire Assistance grants, as matching funds for VFA Funds. **ADDRESSES:** The mailing addresses of the parties hereto, for all notices, billings, payments, repayments, or any other activity under the terms of the Agreement, are:

**VOLUNTEER FIRE ASSISTANCE PROGRAM
AGREEMENT
PAGE 3 OF 6**

LOCAL AGENCY: The City of Colfax
P.O. Box 702
Colfax, CA 95713
Attention: Interim City Manager Wes Heathcock
Telephone Number(s): 530-346-2313
FAX Number: 530-346-6214
E-mail : wes.heathcock@colfax-ca.gov

**STATE: Department of Forestry and Fire Protection
 Grants Management Unit, Attn: Megan Esfandiary
 P. O. Box 944246
 Sacramento, California 94244-2460
 PHONE: (916) 653-3649
 FAX (916) 653-8957**

12. PURPOSE: Any project to be funded hereunder must be intended to specifically assist LOCAL AGENCY to organize, train, and/or equip local firefighting forces in the aforementioned rural area and community to prevent or suppress fires which threaten life, resources, and/or improvements within the area of operation of LOCAL AGENCY.
13. COMBINING: In the event funds are paid for two or more separate, but closely related projects, the 50/50 cost-sharing formula will be applied to the total cost of such combined projects.
14. OVERRUNS: In the event that the total cost of a funded project exceeds the estimate of costs upon which this Agreement is made, LOCAL AGENCY may request additional funds to cover the **Agreement** share of the amount exceeded. However, there is no assurance that any such funds are, or may be, available for reimbursement. Any increase in funding will require an amendment.
15. UNDERRUNS: In the event that the total cost of a funded project is less than the estimate of costs upon which this **Agreement** is made, LOCAL AGENCY may request that additional eligible projects/items be approved by STATE for **Agreement** funding. However, there is no assurance that any such approval will be funded. Approval of additional projects/items, not listed on the Exhibit A application, made by STATE, will be in writing and will require an amendment.
16. FEDERAL INTEREST IN EQUIPMENT: The Federal Government has a vested interest in any item purchased with VFA funding in excess of \$5,000 regardless of the length of this **Agreement**, until such time as the fair market value is less than \$5,000. The VFA percentage used to purchase the equipment will be applied to the sale price and recovered for the Government during the sale. This percentage will remain the same even following depreciation. The Federal Government may not have to be reimbursed if the disposal sale amounts to a fair market value of less than \$5,000. LOCAL AGENCY will notify STATE of the disposal of such items.

**VOLUNTEER FIRE ASSISTANCE PROGRAM
AGREEMENT
PAGE 4 OF 6**

17. EQUIPMENT INVENTORY: Any single item purchased in excess of \$5,000 will be assigned a VFA Property Number by the STATE. LOCAL AGENCY shall forward a copy of the purchase documents listing the item, brand, model, serial number, any LOCAL AGENCY property number assigned, and a LOCAL AGENCY contact and return address to STATE at the address specified in paragraph 11. The STATE will advise the LOCAL AGENCY contact of the VFA Property Number assigned.
18. AUDIT: LOCAL AGENCY agrees that the STATE, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this **Agreement**. LOCAL AGENCY agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. LOCAL AGENCY agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, LOCAL AGENCY agrees to include a similar right of the State of California to audit records and interview staff in any subcontract related to performance of this **Agreement**. (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).
19. DISPUTES: In the event of any dispute over qualifying matching expenditures of LOCAL AGENCY, the dispute will be decided by STATE and its decision shall be final and binding.
20. INDEMNIFICATION: LOCAL AGENCY agrees to indemnify, defend, and save harmless, the STATE, its officers, agents, and employees, from any and all claims and losses, accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this **Agreement**, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by LOCAL AGENCY in the performance of this **Agreement**.
21. DRUG-FREE WORKPLACE REQUIREMENTS: LOCAL AGENCY will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;

**VOLUNTEER FIRE ASSISTANCE PROGRAM
AGREEMENT
PAGE 5 OF 6**

- 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed **Agreement** will:
- 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the **Agreement**.

Failure to comply with these requirements may result in suspension of payments under the **Agreement** or termination of the **Agreement** or both and LOCAL AGENCY may be ineligible for funding of any future State **Agreement** if the department determines that any of the following has occurred: (1) the LOCAL AGENCY has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

- 22. **TERM: The term of the Agreement SHALL COMMENCE ON THE LAST SIGNATORY DATE ON PAGE 6 and continue through June 30, 2018.**
- 23. **TERMINATION:** This **Agreement** may be terminated by either party giving 30 days written notice to the other party or provisions herein amended upon mutual consent of the parties hereto.
- 24. **AMENDMENTS:** No amendment or variation of the terms of this **Agreement** shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or **Agreement** not incorporated in the **Agreement** is binding on any of the parties.
- 25. **INDEPENDENT CONTRACTOR:** LOCAL AGENCY, and the agents and employees of LOCAL AGENCY, in the performance of this **Agreement**, shall act in an independent capacity and not as officers or employees or agents of the STATE or the Federal Government.

**VOLUNTEER FIRE ASSISTANCE PROGRAM
AGREEMENT
PAGE 6 OF 6**

IN WITNESS WHEREOF, the parties have executed this **Agreement** as of the last signatory date below.

STATE OF CALIFORNIA
DEPARTMENT OF FORESTRY
AND FIRE PROTECTION

LOCAL AGENCY

By: _____
Signature

By: _____
*Signature

Dan Sendek
Printed Name

Printed Name

Staff Chief
Title
Cooperative Fire Programs

**Interim City Manager

Last Signatory Date

***Date

*Ensure that the officer signing here for LOCAL AGENCY IS THE SAME Officer authorized in the Resolution to execute this **Agreement**.

Ensure that the title entered here IS THE SAME title used in the Resolution for the Officer who is executing this **Agreement.

***Ensure that the date LOCAL AGENCY signs IS THE SAME DATE as the Resolution date OR LATER.

FOR STATE USE ONLY

AMOUNT ENCUMBERED BY THIS DOCUMENT \$18,719.50	PROGRAM/CATEGORY (CODE AND TITLE) Support			FUND TITLE Federal
	(OPTIONAL USE) Vendor #			
PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT \$0	ITEM 3540-001-0001	CHAPTER 14	STATUTE 2017	FISCAL YEAR 17/18
TOTAL AMOUNT ENCUMBERED TO DATE \$18,719.50	OBJECT OF EXPENDITURE (CODE AND TITLE) 17-9214-418.99-92692			
<i>I hereby certify upon my own personal knowledge that budgeted funds are available for the period and purpose of the expenditure stated above.</i>			T.B.A. NO.	B.R. NO.
SIGNATURE OF CDF ACCOUNTING OFFICER X			DATE	

**Department of General Services
Use Only**

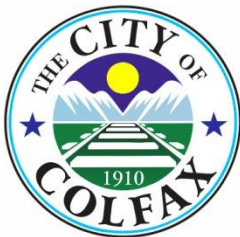
DGS APPROVAL NOT
REQUIRED PER SAM 1215

CONTRACTOR

STATE AGENCY

DEPT. OF GEN. SER.

CONTROLLER



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 11, 2017 COUNCIL MEETING

FROM: Wes Heathcock, Interim City Manager
PREPARED BY: Amy Feagans, Planning Director
DATE: October 3, 2017
SUBJECT: DR-HD 2017-01 Historic District Design Review: Lumenaris - 50-54 N. Main Street

<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>	FUNDED	<input type="checkbox"/>	UN-FUNDED	AMOUNT:	FROM FUND:
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RECOMMENDED ACTION: Receive a presentation; conduct a Public Hearing and adopt Resolution __ - 2017 approving the Historic District Design Review Permit for renovation of the front façade, a wall sign and a side elevation mural for the building located at 50 - 54 N. Main Street in the Commercial Retail-Historic District (CR-HD) Zone.

BACKGROUND AND SUMMARY:

The building located at 50-54 N. Main Street has seen a number of uses and renovations throughout its history. Prior to this proposal, the building was used as a real estate office, a hair salon, and an antique shop as well as many other uses. At some point the front façade of the building was renovated to have “modern” style glass doors and large plate glass windows.

The new owners are proposing a renovation of this front façade (with the exception the metal awning over the sidewalk that will remain in place) to restore the appearance of the building back to its late 1800s style. This includes removing the existing plate glass windows and 1960’s style glass and aluminum doors and redesigning the wall to include two entryway doors and two bay windows.

It should be noted that a building permit was inadvertently issued prior to the project receiving the necessary planning approval. Once this was discovered, a stop work order was issued, and the property owners immediately came into City Hall to apply for the appropriate permits and go through this design review process.

PROJECT DESCRIPTION:

As required by Code, the applicants have applied for an Historic District Design Review Permit to remove and rebuild the front elevation of the building at 50 - 54 N. Main Street. The request also includes approval to develop a mural on the north elevation of the building (facing the vacant parcel and Depot Street) and a front elevation wall sign (see Attachment).

Front Elevation

The entire front elevation of the building has been removed and is currently boarded up until the proper approval is granted and work can continue. The proposal is to rebuild the front wall with two large bay windows and two recessed entry doors. Large plate glass show windows will be installed with ten transom windows above which will allow natural light into the retail space. Finally, the front exterior will be clad with a brick veneer. This brick veneer will have the appearance of old used brick similar to other business storefronts along Main Street.

Signage

The owners are proposing two wall sign/murals. The first sign, facing N. Main Street above the sidewalk awning, will be painted on the parapet similar to other sign/murals along Main Street. This sign/mural will be approximately 33' x 7' and is designed with letter styling and paint colors appropriate to the period style of the building. The second wall sign/mural is proposed for the north elevation and is approximately 36' x 12' in size with the same style design and lettering as the front elevation. Although these are very large "signs" staff is viewing the two as murals and not so much as signs. They support the style and design as proposed but staff recommends that the north elevation graphic be reduced in size by approximately 20 percent (to approximately 26' x 5.5') and be located at least 4 feet from the front corner toward the center so as to not conflict with the front wall sign/mural visually.

Environmental Review

Staff has determined that as proposed, this project is exempt from CEQA review per section 15301(a) minor alteration of existing structure. No additional environmental review is required.

FINANCIAL AND/OR POLICY IMPLICATIONS

There are no financial implications to the General Fund as a result of this request. The property owner assumes all costs related to the permitting and construction of this project.

The property is located in the CR-HD (retail commercial with the historic district overlay) zone. As outlined in Chapter 17.32 of the Colfax Municipal Code, a design review permit is required for any exterior remodeling. Because the property is located in the historic district, specific findings as outlined in section 17.40.070-B2 are required as part of the approval process. These findings are incorporated into the attached resolution for approval.

ATTACHMENTS:

1. Resolution with Exhibit A – Conditions of Approval
2. Existing storefront
3. Colored Rendering
4. Wall Sign Exhibit (front and side)
5. Window style Details

City of Colfax

City Council

Resolution № 44-2017

APPROVING THE HISTORIC DISTRICT DESIGN REVIEW PERMIT FOR RENOVATION OF THE FRONT FAÇADE, A WALL SIGN AND A SIDE ELEVATION MURAL FOR THE BUILDING LOCATED AT 50 - 54 N. MAIN STREET IN COMMERCIAL RETAIL-HISTORIC DISTRICT (CR-HD) ZONE

WHEREAS, the property owners, Joe and Mary Fatula, have submitted an application for a Design Review Permit for the renovation development of an historic storefront located at 50 - 54 N. Main Street in the commercial retail historic district (CR-HD) zone; and

WHEREAS, notice of hearing has been given at the time and in the manner required by State Law and City Code; and

WHEREAS, the project is consistent with the General Plan Commercial designation and the Retail Commercial zoning of the site; and

WHEREAS, the project is consistent with the recommendations proposed in the Historic District Design Master Plan; and

WHEREAS, the City Council has reviewed and considered the staff report, any and all written comments received during the public review process and any and all oral and written comments submitted at the public hearing and finds:

- A. The project will maintain the small town character that makes Colfax a desirable place to live.**
- B. The project will maintain and enhance the City's character and visual appearance in order to create a quality future community.**
- C. The project will maintain and enhance the historic resources, qualities and character of the City of Colfax.**

WHEREAS, the project has been determined to be exempt from the California Environmental Quality Act (CEQA) per section 15301(a), Minor alteration of existing structure; and

WHEREAS, conditions of approval have been prepared for the project as outlined in Exhibit "A" attached to this resolution.

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Colfax approves Design Review Permit No. DR-HD2017-001 for the renovation of Lumenaris at 50 – 54 N. Main Street with the attached conditions.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the City Council of the City of Colfax on the 11th day of October, 2017 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Stephen L. Harvey, Mayor

ATTEST:

Lorraine Cassidy, City Clerk

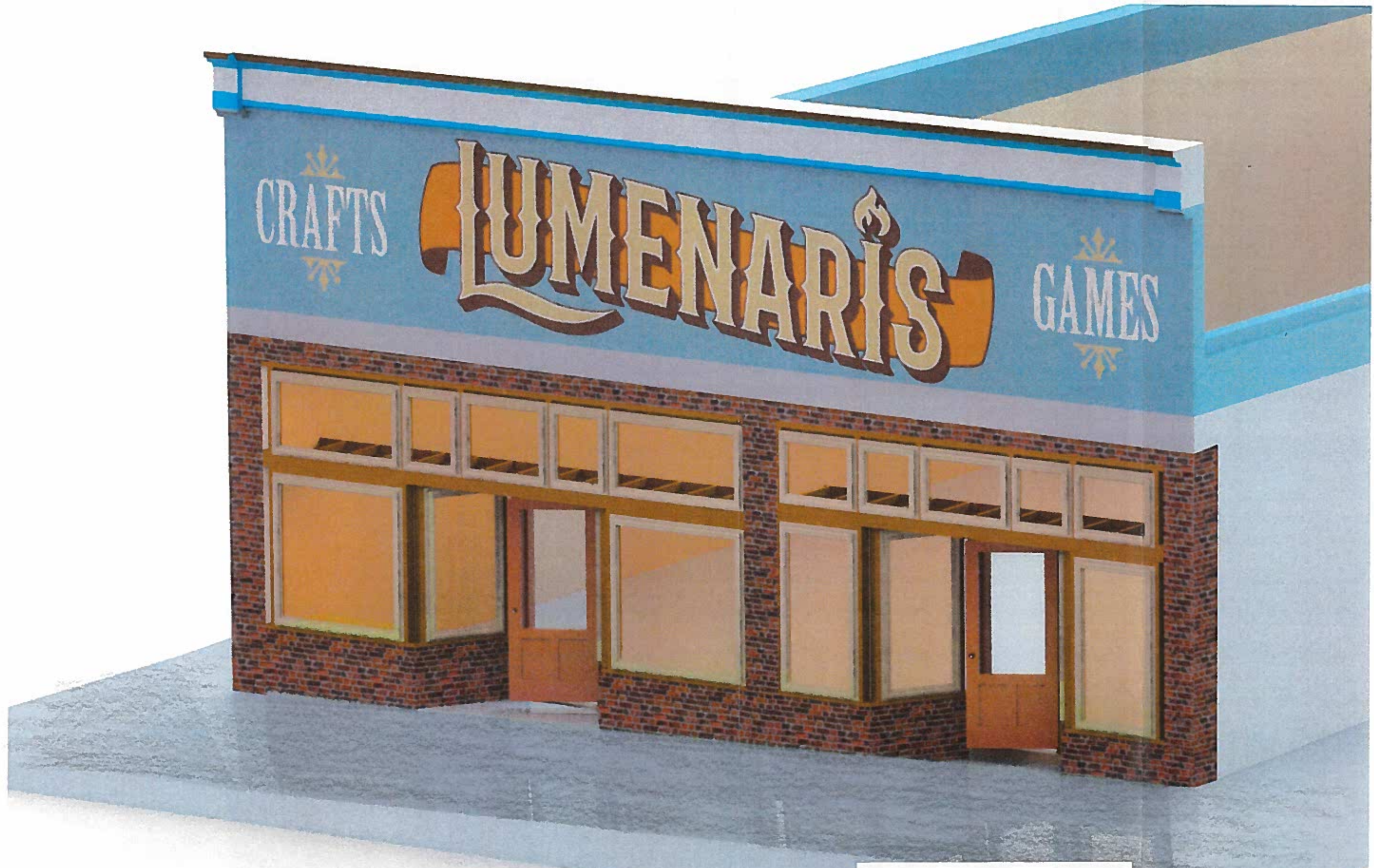
Exhibit A
Resolution 44-2017

DR-HD2017-01 – Lumenaris Conditions of Approval

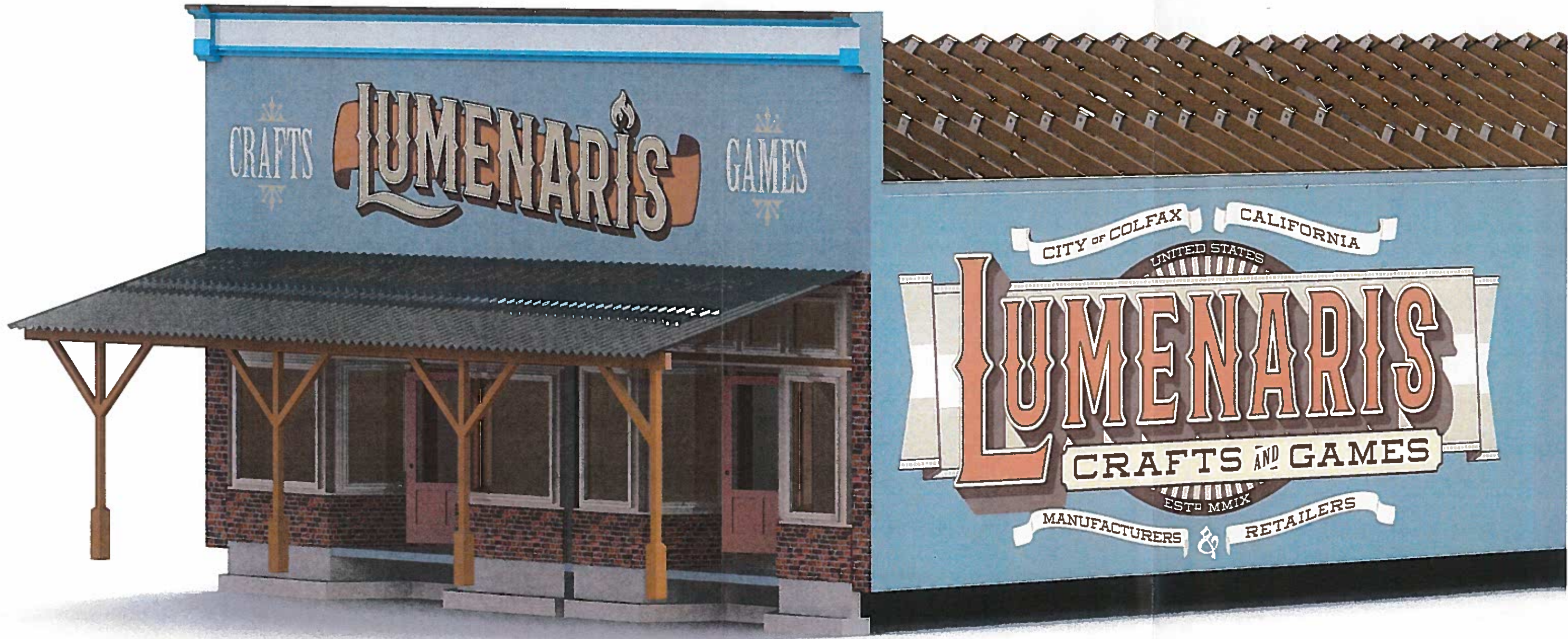
1. Project shall be completed as illustrated and approved on the exhibits and attachments to the staff report dated October 11, 2017.
2. Final exterior paint shall be selected from the City's approved Historic Paint Color palate and approved by the Planning Department prior to application.
3. Any changes to the approved plan shall be submitted and approved by the Planning Department prior to initiation of proposed changes.
4. Exterior lighting shall be approved by the Planning Department prior to installation. This includes any lighting of the wall signs/murals.
5. The side elevation sign/mural shall not exceed 143 square feet in size (approximately 26' x 5.5') and be located a minimum of four feet away from the front corner of the building.
6. This project is approved for two years (to October 11, 2019) from date of approval. A one-time one year extension may be granted by the Planning Director if requested prior to expiration.



EXISTING STOREFRONT



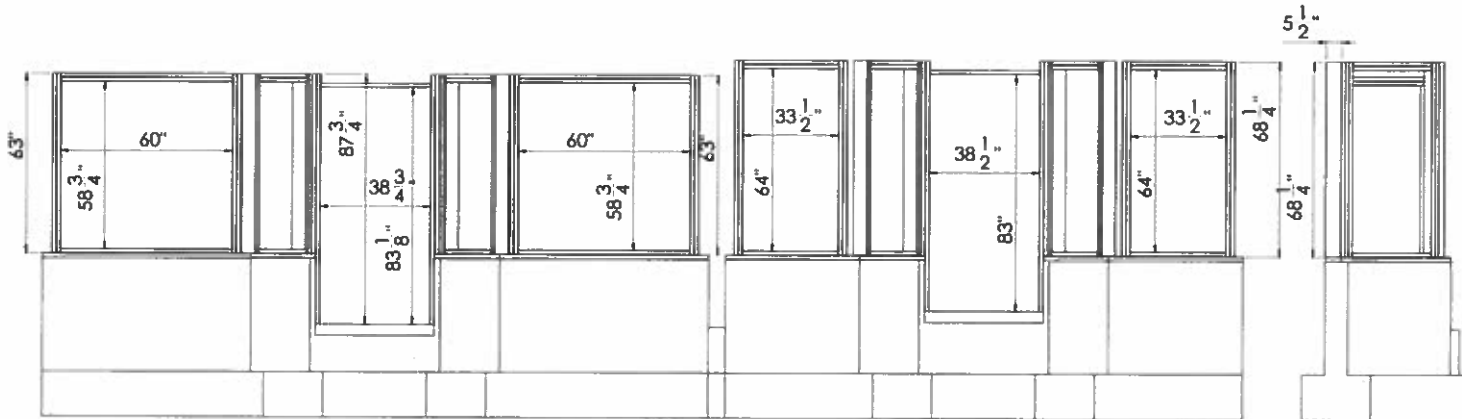
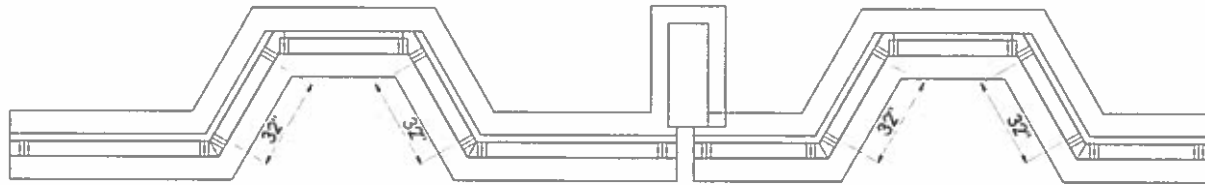
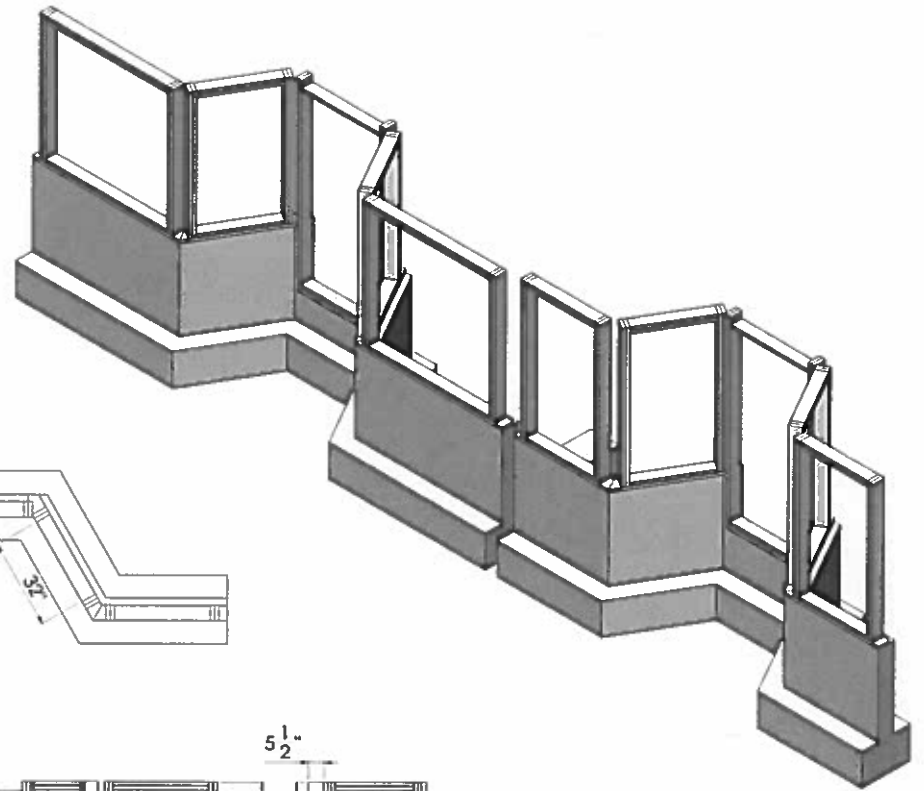
PROPOSED FRONT ELEVATION (w/o awning)



PROPOSED FRONT AND SIDE ELEVATIONS (w/o sidewalk)

Notes:

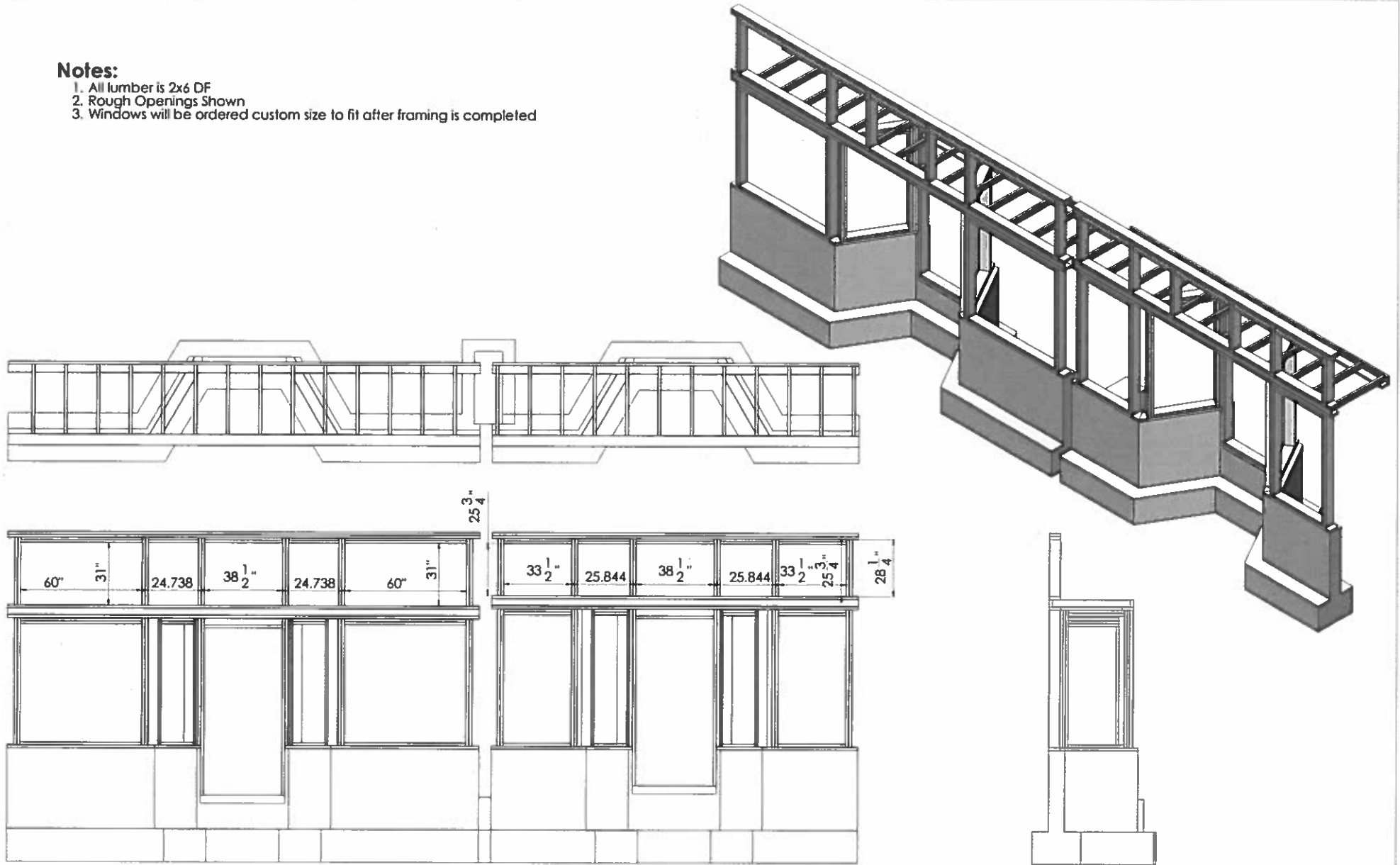
1. Rough Openings shown
2. All Framing is 2x6 DF
3. Lower 2x6 is anchored to knee wall with anchor bolts in masonry



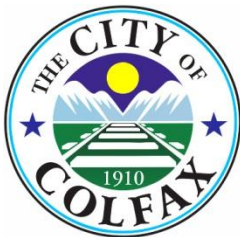
LOWER WINDOW AND DOOR DETAIL

Notes:

- 1. All lumber is 2x6 DF
- 2. Rough Openings Shown
- 3. Windows will be ordered custom size to fit after framing is completed



TRANSOM WINDOW DETAIL



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 11, 2017 COUNCIL MEETING

FROM: Alfred A. "Mick" Cabral, City Attorney
PREPARED BY: City Attorney
DATE: October 11, 2017
SUBJECT: Introduction and First Reading of an Ordinance of the City of Colfax Regulating Cannabis Cultivation, Commercial Cannabis Activities, Cannabis Manufacturing, Cannabis Dispensaries and Cannabis Delivery

<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>	FUNDED	<input type="checkbox"/>	UN-FUNDED	AMOUNT: N/A	FROM FUND: N/A
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RECOMMENDED ACTION: Introduce Ordinance 534, An Ordinance of the City Council of the City of Colfax regulating cannabis, by title only, conduct discussion, provide direction to staff, and schedule a public hearing and waiver of the second reading and adoption for the October 25, 2017 Regular Meeting.

BACKGROUND AND SUMMARY:

The law pertaining to marijuana in California has been evolving for decades. In 1996, California voters approved Proposition 215 which was codified as California Health and Safety Code Section 11362.5, and entitled "The Compassionate Use Act of 1996" ("the Compassionate Use Act" or "CUA"). The intent of the Compassionate Use Act was to enable persons who need marijuana for medical purposes to obtain and use it under limited, specific circumstances, without being subject to criminal prosecution under certain state statutes.

On January 1, 2004, Senate Bill 420, codified as California Health and Safety Code Sections 11362.7 et seq. and entitled "The Medical Marijuana Program," ("MMP") became effective to clarify the scope of the Compassionate Use Act.

In 2015, three separate bills (AB 266, AB 243 and SB 643) were signed into law. Known as the Medical Cannabis Regulation and Safety Act (MCRSA), those bills essentially created a structure to license, tax and regulate medical cannabis and a mechanism to fund the regulatory agencies that will oversee it.

On November 8, 2016, California voters approved Proposition 64, which was commonly known as the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA). The AUMA created a comprehensive regulatory scheme under which adult use of marijuana will be controlled, regulated and taxed. AUMA included provisions regulating marijuana cultivation, distribution, sale and use. AUMA essentially allowed recreational use of marijuana.

On June 27, 2017, the Governor signed the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA, also referred to as SB 94) in an effort to consolidate the laws applicable to medicinal and adult-use of marijuana. MAUCRSA essentially repealed MCRSA and AUMA and incorporated their provisions into a consolidated statutory scheme.

MAUCRSA reserves to cities the right to regulate marijuana cultivation, commercial cannabis activities, cannabis manufacturing, cannabis dispensaries and cannabis delivery. The authority includes the ability to adopt ordinances that regulate marijuana cultivation and regulate or prohibit commercial cannabis activities, cannabis manufacturing, cannabis dispensaries and, to a lesser extent, cannabis delivery. Any city that adopts an ordinance regulating or prohibiting cannabis activities must provide a copy to the Bureau of Cannabis Control. An applicant for a license to operate a cannabis business must establish compliance with a local ordinance as a condition to receiving a state-issued license.

Colfax does not have an ordinance or other regulatory scheme that addresses or regulates marijuana cultivation, commercial cannabis activities, cannabis manufacturing or cannabis delivery. Colfax Municipal Code Chapter 17.162 only precludes medical marijuana dispensaries from being located anywhere in the City. Staff recommends that the Council adopt a comprehensive ordinance that regulates all of the primary aspects of a cannabis business that may be located in Colfax.

Placer County has already adopted a regulatory scheme. The ordinance presented for consideration is modeled after the Placer County ordinance. The ordinance, if adopted by the City Council, will repeal Colfax Municipal Code Chapter 17.162 and replace it with an ordinance that prohibits all commercial cannabis activities, cannabis manufacturing, and cannabis dispensaries in Colfax. Cannabis delivery in Colfax will be prohibited except primary caregivers will be allowed to deliver medical cannabis to qualified patients or persons with an identification card for whom he or she is the primary caregiver.

Although the Council has the right to completely prohibit all outdoor cannabis cultivation, the proposed ordinance, if passed, will conditionally allow limited indoor or outdoor cannabis cultivation as follows: (1) indoor and outdoor cultivation of cannabis of up to six plants on no more than 50 square feet per parcel will be allowed in certain locations by authorized growers, qualified patients and primary caregivers; (2) outdoor cannabis cultivation must be more than 600 feet from any school, church, park, library, fairgrounds, child care center or youth-oriented facility; (3) cannabis growing indoors or outdoors on the same parcel, but not both, will be conditionally allowed; (4) cultivation will be permitted only on land with private residences, not vacant land; (5) outdoor cultivation will be required to be setback by a minimum of 100 feet from all parcel property lines and be no closer to neighboring residences than they are to the residence on the parcel on which cultivation occurs; (6) outdoor grows will be required to be screened with fencing to restrict access and prevent viewing from the public or adjacent property owners; (7) all grows must comply with all applicable building, plumbing, mechanical, electrical and fire codes; (8) any grows that adversely affect the health and safety of occupants, neighbors or members of the public with dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, mold and the like will be prohibited; (9) the use of volatile solvents and dangerous poisons, toxins and carcinogens will be prohibited; and (10) any violation will be a public nuisance subject to extensive enforcement mechanisms.

The State is preparing regulations to implement MAUCRSA but there is little likelihood that any of those regulations will address issues unique or important to Colfax. It is important for Colfax to preserve its regulatory authority and decide for itself which, if any, cannabis-related enterprises it will allow and, if so, the conditions under which it will do so. Failure to adopt a regulatory scheme may subject Colfax to state-adopted regulations that will not address the City's unique circumstances.

It is also important for the City to have a regulatory scheme in place before January 1, 2018, which is when MAUCRSA becomes applicable. The proposed ordinance is presented in sufficient time to meet that deadline.

The proposed ordinance begins with conditionally allowing indoor and outdoor cultivation. This is a small step. Staff anticipates that the Council may want to consider allowing cannabis-related businesses, such as dispensaries, to lawfully operate in the City. Adopting the proposed ordinance will permit the Council sufficient time to properly consider the scope of cannabis activities it will allow, and draft appropriate regulations, while preserving the status quo while it does so.

Staff is available to answer any questions or provide additional information.

Attachment:

1. Proposed Ordinance

CITY OF COLFAX

ORDINANCE NO. 534

**AN ORDINANCE OF THE CITY OF COLFAX REPEALING MUNICIPAL CODE
CHAPTER 17.162 AND REPLACING IT WITH CANNABIS REGULATIONS**

The City Council of the City of Colfax does ordain as follows:

Section 1:

Colfax Municipal Code Chapter 17.162 is hereby repealed and replaced with the Ordinance attached hereto as Exhibit A which is incorporated herein by this reference.

Section 2. Superceding 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. Accordingly, the City of Colfax finds that the provisions of CEQA and the CEQA Guidelines are not applicable to said action.

FINDING OF EXEMPTION

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. Effective Date

This Ordinance, and all of its provisions, shall take effect thirty (30) days after its adoption and shall, within 15 days after its adoption, be published or posted in accordance with Section 36933 of the Government Code of the State of California with the names of those City Council members voting for and against it.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Colfax held on the 11th day of October, 2017, and passed at a regular meeting of the City Council held on the 25th day of October, 2017, at a duly held regular meeting of the City of Colfax, by the following vote:

AYES:

NOES:

ABSENT:

Stephen L. Harvey, Mayor

APPROVED AS TO FORM:

ATTEST:

Alfred Cabral
City Attorney

Lorraine Cassidy
City Clerk

COLFAX MUNICIPAL CODE

CHAPTER 17.162

CANNABIS REGULATIONS

Colfax Municipal Code Chapter 17.162 is hereby repealed and replaced with the following provisions.

17.162.010 Application

The provisions of this chapter shall apply generally to all property throughout the City of Colfax wherein any of the conditions herein specified are found to exist. However, nothing in this chapter is intended, nor shall it be construed, to burden any defense to criminal prosecution under the Compassionate Use Act of 1996, codified as California Health and Safety Code Section 11362.5 (the "CUA"), the Medical Marijuana Program codified as California Health and Safety Code Sections 11362.7 et seq., (the "MMP"), the Medical Cannabis Regulation and Safety Act ("MCRSA") or the Adult Use Of Marijuana Act passed and adopted by the voters in November, 2016 (the "AUMA") as the MCRSA and AUMA were enacted or as they have been repealed or amended by the Medicinal and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA").

17.162.020 Administration.

The City Manager or designee, the Placer County Sheriff, the Placer County Chief Building Official, and any employee designated by any of those persons, are authorized to administer and enforce this chapter to ensure compliance.

17.162.030 Definitions

As used herein, the following definitions shall govern the construction of this chapter:

"Abatement costs" mean any costs or expenses reasonably related to the abatement of conditions which violate this chapter, and shall include, but not be limited to, enforcement, investigation, attorneys' fees, collection and administrative costs, and the costs associated with removal or correction of the violation.

"Accessory structure" means a structure that is accessory to any principal structure and customarily a part thereof, which is clearly incidental and secondary to the principal structure and is significantly smaller in area than the principal structure and does not change the character of the principal structure or principal use of the premises.

"Administrative costs" mean the cost of City staff time and Placer County sheriff time reasonably related to enforcement, for items including, but not limited to, site inspections, travel time, investigations, telephone contacts and time spent preparing summaries, reports, notices, correspondence, warrants and hearing packets, and the time expended by the code enforcement officer or designee to calculate the above costs and prepare itemized invoices, may also be recovered.

“Authorized grower” means any person, including a person with an identification card, primary caregiver, or qualified patient, who is authorized by state law to grow cannabis for personal medical or non-medical use in compliance with local and state laws that authorize such cannabis cultivation.

“Cannabis,” “marijuana” “medical cannabis,” “medical marijuana,” and/or “marijuana products” shall be used interchangeably and means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this division, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the Health and Safety Code.

“Cannabis plant” means any mature or immature cannabis plant (and/or cannabis plant clone), or any cannabis seedling, unless otherwise specifically provided herein.

“Child care center” means any licensed child care center, or any daycare center, or childcare home, or any preschool.

“Church” means a structure or leased portion of a structure, which is used primarily for religious worship and related religious activities.

“Commercial cannabis activity” includes cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transporting, delivery or sale of cannabis or cannabis products.

“Cultivation” means any activity involving the planting, growing, trimming, harvesting, drying, curing, grading, processing or storage of one or more cannabis plants or any part thereof in any location, indoor or outdoor, including a fully enclosed and secure structure or accessory structure.

“Dispensary” means any facility, location, establishment or similar entity that distributes, delivers, or supplies cannabis for any purpose and shall include but not be limited to a dispensing collective or cooperative.

“Code enforcement officer” means any person employed by the City of Colfax and authorized to administer this chapter or his or her authorized deputies or designees, each of whom is independently authorized to enforce this chapter.

“Fence (solid)” means a barrier constructed of wood or other materials which form an opaque screen.

“Fence (other than solid)” means a barrier constructed of posts made of wood, metal or any other rigid material connected with wire, fabric, boards or other materials which is intended to demarcate a boundary, separate land uses, secure animals, enclose property, exclude people and animals from a designated area, and the like, and which does not form a visually opaque screen.

“Fully enclosed and secure structure” means a space within a building that has been approved by the City of Colfax and complies with the California Building Code, as adopted by the City of Colfax, or if exempt from the permit requirements of the California Building Code, that has a complete roof enclosure supported by connecting walls extending from the ground to the roof; a foundation, slab or equivalent base to which the floor is secured by bolts or similar attachments, is secured against unauthorized entry; and is accessible through one or more lockable doors. Walls and roofs must be constructed of solid materials that cannot be easily penetrated or breached, such as two-inch by four-inch nominal or thicker studs overlaid with three-eighths inch or thicker plywood or the equivalent. Plastic sheeting, regardless of gauge, or similar products, do not satisfy this requirement. If indoor grow lights or air filtration systems are used, they must comply with the California Building, Electrical, and Fire Codes as adopted or applied by the City of Colfax. Any detached, fully-enclosed and secure structure used for the cultivation of marijuana must have a ventilation and filtration system installed that shall prevent marijuana plant odors from exiting the interior of the structure except through the ventilation and filtration system. Such structure shall be located in the rear yard area of a legal parcel or premises, maintain the setbacks set forth in the Colfax Municipal Code and the area surrounding the structure or back yard must be enclosed by a solid fence at least six feet in height. When this chapter allows that cultivation of marijuana occur indoors, the harvest of such marijuana shall also be accomplished indoors.

“Harvest” includes but is not limited to the drying, processing, or storage of marijuana which may only occur within a fully enclosed and secure structure or accessory structure.

“Immature cannabis plant” means a cannabis plant, whether male or female, that has not yet flowered and which does not yet have buds that are readily observed by unaided visual examination.

“Indoors” means within a fully enclosed and secure structure or accessory structure.

“Legal parcel” means any parcel of real property that may be separately sold in compliance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code).

“Manufacture” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product.

“Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.

“Manufacturing” means the producing, preparing, propagating, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or re-labels its container.

“Mature cannabis plant” means a cannabis plant, whether male or female, that has flowered and which has buds that are readily observed by unaided visual examination.

“Medical marijuana collective” means qualified patients, persons with valid identification cards, and the designated primary caregivers of qualified patients who associate by agreement, or form a cooperative within the City in order to collectively or cooperatively cultivate marijuana for medical purposes, as provided in Health and Safety Code Section 11362.775. The term collective shall include “cooperative” unless the context clearly indicates otherwise.

“Outdoor” or “outdoors” means any location within the City of Colfax that is not within a fully enclosed and secure structure or accessory structure as defined herein.

“Parcel” means a “legal parcel” as defined herein and a property assigned a separate parcel number by the Placer County assessor.

“Person” means any individual, partnership, co-partnership, firm, association, joint stock company, corporation, limited liability company, cooperative or combination of the above in whatever form or character.

“Premises” means a single, legal parcel of property that includes an occupied legal residence, such as a house, an apartment, a condominium, a mobile home or other similar dwelling, which is a dwelling in compliance with the Colfax Municipal Code and has also met the requirements of this chapter. Where contiguous legal parcels are under common control or ownership, such contiguous legal parcels shall be counted as a single “premises” for purposes of this chapter.

“Primary caregiver” shall have the meaning set forth in Health and Safety Code Section 11362.7(d), as may be amended.

“Private residence” means a house, a duplex, an apartment unit, a condominium, a townhouse, a mobile home or other similar dwelling or premises.

“Qualified patient” shall have the meaning set forth in Health and Safety Code Section 11362.7(f), as may be amended.

“Recommendation” means a written current recommendation signed by a licensed California physician pursuant to Health and Safety Code Sections 11362.5 and 11362.7.

“Residential treatment facility” means a facility provided for treatment of drug and alcohol dependency, including any “sober living facility” run by treatment providers for the benefit of transitional living.

“School” means an institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college or university.

“Youth-oriented facility” means elementary school, middle school, junior high school, high school, public park, and any establishment that advertises in a manner that identifies the establishment as catering to or providing services primarily intended for minors, or the individuals who regularly patronize, congregate or assemble at the establishment are predominantly minors. This shall not include a day care or preschool facility.

17.162.040 Outdoor Cannabis Cultivation

A. When authorized by state law, an authorized grower shall be allowed to cultivate cannabis outdoors for personal use only, subject to the regulations in this chapter and elsewhere in the Colfax Municipal Code and the following restrictions:

1. The regulations of this chapter and the Colfax Municipal Code shall apply to all outdoor cultivation of cannabis; and
2. A maximum of six plants on no more than fifty (50) square feet in total is allowed for outdoor cultivation of cannabis per parcel with a private residence. Cannabis plants may be cultivated on no more than fifty (50) square feet in total per parcel with a private residence, regardless of the number of authorized growers, qualified patients or primary caregivers residing in a private residence on the parcel. The total combined outdoor cultivation of cannabis per parcel with a private residence shall not exceed fifty (50) square feet at any time. For the purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises; and
3. All outdoor cultivation of cannabis may only occur on a parcel with the private residence of the authorized grower, and the authorized grower may only cultivate cannabis on one parcel and may not cultivate outdoors if there is any indoor cannabis cultivation occurring on the parcel; and
4. All outdoor cultivation shall be setback by a minimum of one hundred (100) feet from all parcel property lines; and
5. All outdoor cultivation shall not be closer to an existing private residence on an adjoining property than to the private residence of the authorized grower on the parcel whereon the outdoor cultivation site is located; and
6. All outdoor cultivation shall be screened with a solid fence from all public rights-of-way, private access easements, and exterior property lines of the parcel where the outdoor cultivation takes place to prevent being easily visible to individuals on adjoining parcels or to

individuals either passing through or by the subject parcel, and to prevent members of the public from gaining access; and

7. The use of volatile solvents is prohibited. For purposes of this ordinance, “volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gasses such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

8. The parcel where the outdoor cannabis is cultivated shall not be located within six hundred (600) feet of any school, church, park, library, child care center, or youth-oriented facility. Such distance shall be measured in a straight line from the fence or other enclosure to the nearest boundary line of the premises upon which the school, church, park, child care center, or youth-oriented facility is located. For the purposes of this chapter, a youth-oriented facility is any facility used for and predominantly occupied by individuals under eighteen (18) years of age, including (but not limited to) a boys or girls club, an indoor or outdoor soccer field, a little league baseball field, an amusement park, and a community swimming facility; and

9. The area for the outdoor cultivation of cannabis shall not adversely affect the health or safety of the occupants of the parcel or any other property by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, mold, or other impacts, and shall not be maintained so as to constitute a hazard due to use or storage of materials, processes, products or wastes; and

10. All outdoor cultivation shall be in accordance with applicable regulations set forth in the Colfax Municipal Code and any codes incorporated therein; and

11. All outdoor cultivation which exists prior to the enactment of this ordinance must be in compliance with applicable regulations set forth in the Colfax Municipal Code and any codes incorporated therein, and the regulations in this chapter.

B. It is hereby declared to be unlawful, a public nuisance and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within the City of Colfax to cause or allow such parcel to be used for the outdoor cultivation of cannabis, unless the person is authorized by state law to grow cannabis, and such authorized grower is complying with the Colfax Municipal Code and any codes incorporated therein, and the regulations in this chapter.

C. A public nuisance may also be deemed to exist, if such activity produces: (1) odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; (2) repeated responses to the parcel or residence from enforcement officers; (3) a repeated disruption to the free passage of persons or vehicles in the immediate neighborhood, (4) excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public; and (5) any other impacts on the neighborhood which are disruptive of normal activity in the area.

17.162.050 Indoor Cannabis Cultivation

A. When authorized by state law, an authorized grower shall be allowed to cultivate cannabis indoors for personal use, subject to the following restrictions:

1. The regulations of this chapter and the Colfax Municipal Code shall apply to all indoor cultivation of cannabis; and

2. The indoor cultivation of cannabis is on a parcel upon which the private residence of the authorized grower is located. Each authorized grower may use only one private residence for the cultivation of cannabis. If the parcel and private residence are not owned by the authorized grower, the authorized grower must have a legal right to occupy and use the parcel and private residence to cultivate cannabis. The authorized grower shall obtain a written statement from the owner or owners of the parcel and private residence as proof to demonstrate that the owner or owners have acknowledged, consented to and granted permission to the authorized grower for the cultivation of cannabis in an amount in accordance with this chapter. Nothing provided in this chapter requires the owner or owners of the parcel and private residence to consent to and allow the cultivation of cannabis by an authorized grower. Nothing provided in this chapter authorizes the cultivation of cannabis in violation of the rules of a home owner's association, deed restrictions, or other property conditions and covenants. If there is more than one owner of the parcel and private residence, all owners must have acknowledged, consented to and granted permission to the authorized grower for the cultivation of cannabis in an amount in accordance with this chapter. The written statement shall be dated and signed by the owner or owners of the parcel and private residence. The written statement shall be valid for twelve (12) months from the signing of the written statement. If ownership of the parcel or private residence changes during the twelve (12) month period after the previous owner or owners had granted permission for the cultivation of cannabis, the authorized grower must obtain, within thirty (30) days of the change of ownership, a new permission statement from the new owner or owners of the parcel and private residence. Upon request by a code enforcement officer, the authorized grower shall provide the written statement from the owner or owners of the parcel and private residence as proof that the owner or owners have acknowledged, consented to and granted permission to the authorized grower for the cultivation of cannabis; and

3. All indoor cultivation of cannabis may only occur inside a private residence that is a fully enclosed and secure structure located on the parcel or inside an accessory structure to a private residence that is a fully enclosed and secure structure on the parcel. There shall be no indoor cannabis cultivation if there is any outdoor cannabis cultivation occurring on the parcel at the same time; and

4. A maximum of six plants on no more than fifty (50) square feet is allowed for cultivation of cannabis in total per parcel inside a private residence that is a fully enclosed and secure structure or inside an accessory structure to a private residence that is a fully enclosed and secure structure on a parcel. Cannabis plants may be cultivated on no more than fifty (50) square feet in total per parcel inside a private residence that is a fully enclosed and secure structure or inside an accessory structure to a private residence that is a fully enclosed and structure on a parcel, regardless of the number of authorized growers, qualified patients or primary caregivers

residing in a private residence on the parcel. The total combined indoor cultivation of cannabis per parcel with a private residence shall not exceed fifty (50) square feet at any time. For the purposes of this section, the area used to cultivate cannabis shall be measured by the aggregate area of vegetative growth of live cannabis plants on the premises; and

5. The area used for cultivation complies with applicable California Building, Plumbing, Mechanical, Electrical and Fire Codes, and the parcel has: (1) a permitted permanent water well or connection to a public water source drawing water, (2) does not engage in unlawful or unpermitted surface drawing of water for such cultivation, (3) does not permit illegal discharges of water from the parcel, (4) the parcel where the cultivation of cannabis takes place shall either be connected to a public sewer system or have a City or Placer County inspected and permitted sewage disposal system; and

6. The use of volatile solvents is prohibited. For purposes of this ordinance, “volatile solvent” means volatile organic compounds, including but not limited to: (1) explosive gasses such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O₂ or H₂; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.; and

7. The cultivation of cannabis is concealed/secured so that it is not visible from the exterior of the private residence or accessory structure, the parcel, the public right-of-way, and/or neighboring properties, and is not accessible by underaged occupants or the general public; and

8. The area for the cultivation of cannabis shall not adversely affect the health or safety of the occupants of the private residence or the parcel or any other property by creating dust, glare, heat, noise, noxious gasses, odor, smoke, traffic, vibration, mold, or other impacts, and shall not be maintained to constitute a hazard due to use or storage of materials, processes, products or wastes; and

9. All indoor cultivation is in accordance with applicable regulations set forth in the Colfax Municipal Code and any codes incorporated therein, and the regulations in this chapter; and

10. All indoor cultivation which exists prior to the enactment of this ordinance must be in compliance with applicable regulations set forth in the Colfax Municipal Code and any codes incorporated therein, and the regulations in this chapter.

B. It is hereby declared to be unlawful, a public nuisance and a violation of this chapter for any person owning, leasing, occupying, or having charge or possession of any parcel within the City of Colfax to cause or allow such parcel to be used for the indoor cultivation of cannabis, unless the person is authorized by state law to grow cannabis, and such authorized grower is complying with all requirements of this chapter.

C. A public nuisance may also be deemed to exist, if such activity produces: (1) odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; (2) repeated responses to the parcel or residence from enforcement

officers; (3) a repeated disruption to the free passage of persons or vehicles in the immediate neighborhood, (4) excessive noise which is disturbing to people of normal sensitivity on adjacent or nearby property or areas open to the public; or (5) any other impacts on the neighborhood which are disruptive of normal activity in the area.

17.162.060 Commercial Cannabis Activity Prohibited.

It is unlawful for any person to engage in conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any parcel, premises or location within the City of Colfax, commercial cannabis activity, except for the transportation of medical cannabis, medical cannabis products, marijuana and marijuana products on public roads by a state licensee transporting medical cannabis, medical cannabis products, marijuana or marijuana products in compliance with state law.

17.162.070 Manufacturing Cannabis Activity Prohibited

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises or location within the City of Colfax, manufacturing cannabis activity.

17.162.080 Cannabis Dispensaries Prohibited

It is unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises or location within the City of Colfax, the operation of a cannabis dispensary, and/or processing facility, and/or testing laboratory.

17.162.090 Delivery of Cannabis Prohibited

Delivery of cannabis or products made from cannabis to or from any person, business, or location in the City of Colfax is prohibited. Notwithstanding the foregoing, a primary caregiver may personally deliver medical cannabis, products made from medical cannabis to a qualified patient or person with an identification card, for whom he or she is the primary caregiver.

17.162.100 Enforcement

A. Public Nuisance. Violation of this chapter is hereby declared to be a public nuisance and subject to the enforcement process as set forth herein.

B. Abatement Authority.

1. The City of Colfax may, in its discretion, abate the violation of this chapter by prosecution of a civil action, including an action for injunctive relief without first going through the administrative procedures set forth herein. The remedy of injunctive relief may take the form of a court order, enforceable through civil contempt proceedings, prohibiting the maintenance of the violation of this chapter or requiring compliance with other terms.

2. The City may also abate the violation of this chapter through any lawful abatement process established by California law.

C. Abatement Procedures.

1. Whenever a code enforcement officer determines that a public nuisance (as defined in this chapter) exists, he or she shall post a seventy-two (72) hour notice to abate on the property where the public nuisance exists, and mail a copy of the same to those persons shown on the latest county tax roll or equivalent registry to be the owners of the property. The seventy-two (72) hour notice to abate shall inform the owner and/or tenants of the basis for the violation, and that an administrative penalty of five hundred dollars (\$500.00) per cannabis plant in excess of six plants or five hundred dollars (\$500.00) per every twenty-five (25) square feet of cannabis outside the allowed fifty (50) square feet; explain that if the violation is not corrected, the matter will be set for a nuisance abatement hearing, at which time the administrative penalty will increase to one thousand dollars (\$1,000.00) per cannabis plant in excess of six plants or one thousand dollars (\$1,000.00) per every twenty-five (25) square feet of cannabis outside the allowed fifty (50) square feet and explain that to prevent the accrual of additional penalties and costs, the owner or tenant must contact the code enforcement officer and arrange a time for a code enforcement officer to inspect the property, and confirm that the violation(s) have been corrected.

2. If the nuisance continues to exist after the expiration of the seventy-two (72) hour period, a code enforcement officer may set the matter for hearing by issuing a notice of nuisance abatement hearing. If the matter is set for hearing, the code enforcement officer shall post the property upon which the public nuisance exists and shall mail, with a proof of service, notices to those persons known to be in possession of the property, if any, and to persons shown on the latest county tax roll or equivalent registry to be the owners of the property at least five days prior to the hearing. The administrative penalty shall increase to one thousand dollars (\$1,000.00) per cannabis plant in excess of six plants or one thousand dollars (\$1,000.00) per every twenty-five (25) square feet of cannabis outside the allowed fifty (50) square feet from the date the notice of nuisance abatement hearing is posted on the property.

3. All hearings conducted under this chapter shall be held before a hearing officer designated by the City.

4. At the time and place set for the hearing, the hearing officer shall hear testimony and receive written and/or documentary evidence relating to the alleged violation. Additional procedural rules may be adopted by resolution of the Colfax City Council. The City shall record the hearing, and provide a copy of the recording to the hearing officer following the conclusion of the hearing. The City shall preserve the record of the hearing, and all photographs and demonstrative and documentary evidence at the time of the hearing, for a period of three years.

5. Within three days after the hearing is closed, the hearing officer shall render his or her written decision relating to the existence or nonexistence of the alleged public nuisance. If a violation is found to have existed at the time the notice of nuisance abatement hearing was posted, the decision shall include a statement that the City is entitled to recover its administrative

costs and administrative penalties. If the hearing officer determines that the violation continues to exist, the decision shall also order that the owner of the property, or persons known to be in possession of the property, abate the violation within a reasonable time, not to exceed five days from the date the decision is placed in the mail. A copy of the decision shall be mailed by certified mail, return receipt requested, to the person or persons shown on the last City tax roll or equivalent registry to be the owners of the property which is the subject of the hearing and the occupant of such parcel, if any. All other persons noticed pursuant to this section shall be mailed a copy of the decision by first class mail, postage prepaid. The decision of the hearing officer shall be final and conclusive on the date the decision is deposited in the mail.

6. a. Notwithstanding any other provisions of this code, if a final decision of the hearing officer finds that a violation exists and the public nuisance is not voluntarily abated within five days of said decision being placed in the mail by the hearing officer, the City may abate the public nuisance by cutting and/or removing all cannabis plants from the property, pursuant to a warrant issued by a court of competent jurisdiction. The owner or owners of the property shall be responsible for paying all of the City's abatement costs and administrative costs, and administrative penalties. The code enforcement officer, or designee, shall keep an accounting of the abatement and administrative costs for each case. Upon completion of the abatement of the nuisance, whether by the City or the owner or tenant, the code enforcement officer, or designee, shall post the property and send a bill to the owner, and any persons known to be in possession of the property, requesting payment of the City's abatement and administrative costs, as well as all administrative penalties. The bill shall also state that failure to pay the costs and penalties within fifteen (15) days from service of the bill may result in the recording of a lien and the placement of a special assessment against the property.

b. If the City's costs and penalties are not paid within fifteen (15) days from service of the bill, the code enforcement officer, or designee, shall render an itemized report to the City Clerk for submittal to the City Council for hearing and consideration regarding the proposed lien and special assessment. The report shall include the names and addresses of the owner of record and any persons known to be in possession of the property, and an itemized account of the City's abatement costs, administrative costs, and administrative penalties. At least fifteen (15) days prior to said hearing, the City Clerk shall give notice, with proof of service, of said hearing to all persons named in the code enforcement officer, or designee's, report and shall post the property with a copy of the notice. The notice shall describe the property by assessor's parcel number and street number or other description sufficient to enable identification of the property and contain a statement of the amount of the proposed lien and special assessment. The notice shall also contain a statement that the Council will hear and consider objections and protests to the proposed lien and special assessment at the designated time and place.

7. At the time and place fixed in the notice, the City Council shall hear and consider the proposed lien and special assessment together with objections and protests thereto. At the conclusion of the hearing, the City Council may make such modifications and revisions to the proposed lien and special assessment costs it deems just and may order that the proposed lien and special assessment be recorded and specially assessed against the property by the Placer County auditor-controller's office. The lien shall have the same force, priority and effect as a judgment lien and the special assessment shall have the same priority as other City taxes.

8. The notice of lien shall, at a minimum, identify the record owner or possessor of the property, set forth the date upon which the decision of the hearing officer was issued, describe the real property subject to the lien, set forth the amount of the costs and penalties incurred to date and, if applicable, the date upon which the abatement was completed. If the abatement has not yet been completed, the notice shall so state and shall also indicate that the lien is a partial lien and that additional abatement costs will be incurred in the future.

9. A copy of any notice required by this chapter or decisions of either the hearing officer, City Council or designee as required by this chapter may be recorded in the office of the County Recorder of Placer County.

a. Release of Notice. Where a notice has been served as required by this chapter and a hearing body has determined that sufficient grounds do not exist for nuisance abatement, or where the owner of an affected premises has corrected the condition that was the basis for initiation of enforcement action, the official shall record a satisfaction release and removal of notice of nuisance or notice of nuisance abatement.

b. Payment of Costs Prior to Release. In the event that enforcement costs have been incurred in the investigation/processing of a violation for which a notice is required, the release of such notice shall not be recorded until all such costs have been reimbursed to the City.

c. Attorney Fees. In any action to foreclose on a lien issued pursuant to this chapter, the City shall be entitled to an award of attorney's fees and costs.

D. Abatement Costs—Administrative Costs. In any action, administrative proceeding, or special proceeding to abate a nuisance, attorneys' fees may be recovered by the prevailing party. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

E. Summary Abatement. Notwithstanding any other provision of this chapter, when any unlawful cannabis cultivation constitutes an immediate threat to the public health or safety, and where the procedures set forth in subsection C of this section would not result in abatement of that nuisance within a short enough time period to avoid that threat, the City Manager or designee, the Placer County Sheriff, the Placer County Chief Building Official, and any employee designated by any of those persons to summarily abate the nuisance. The code enforcement officer shall make reasonable efforts to notify the persons identified in subsection C.2 of this section but the formal notice and hearing procedures set forth in this chapter shall not apply. The City may nevertheless recover its costs for abating that nuisance in the manner set forth in this chapter.

17.162.110 Non-Exclusive Remedy

This chapter is cumulative to all other remedies now or hereafter available to abate or otherwise regulate or prevent public nuisances under this chapter or by applicable law.

17.162.120 Administrative Penalties

It is unlawful and a public nuisance to violate any of the provisions of this chapter and the City shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter. The violation of any provision of this chapter shall be and is hereby declared to be contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief. In addition to the penalties set forth herein, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by City ordinance. Unless otherwise expressly provided, the remedies, procedures and penalties provided by this section are cumulative to each other and to any others available under state law or other City ordinances.

A. For violation of Section 17.162.040 (Outdoor cannabis cultivation), a civil penalty of five hundred dollars (\$500.00) per cannabis plant in excess of six plants or five hundred dollars (\$500.00) per every twenty-five (25) square feet of cannabis cultivation outside the allowed fifty (50) square feet; however, if a notice of nuisance abatement hearing is issued, the penalty shall increase to one thousand dollars (\$1,000.00) per cannabis plant in excess of six plants and one thousand dollars (\$1,000.00) per every twenty-five (25) square feet of cannabis cultivation outside the allowed fifty (50) square feet.

B. For violation of Section 17.162.050 (Indoor cannabis cultivation), a civil penalty of five hundred dollars (\$500.00) per cannabis plant in excess of six plants or five hundred dollars (\$500.00) per every twenty-five (25) square feet of cannabis cultivation outside the allowed fifty (50) square feet; however, if a notice of nuisance abatement hearing is issued, the penalty shall increase to one thousand dollars (\$1,000.00) per cannabis plant in excess of six plants or one thousand dollars (\$1,000.00) per every twenty-five (25) square feet of cannabis cultivation outside the allowed fifty (50) square feet.

C. For violation of Section 17.162.060 (Prohibition of commercial cannabis activity), a civil penalty of one thousand dollars (\$1,000.00) per plant for each violation of commercial cannabis cultivation and a civil penalty of five thousand dollars (\$5,000.00) per day for all other violations.

D. For violation of Section 17.162.070 (Prohibition of manufacturing cannabis activity), a civil penalty of five thousand dollars (\$5,000.00) per day for each separate violation.

E. For violation of Section 17.162.080 (Prohibition of cannabis dispensaries), a civil penalty of five thousand dollars (\$5,000.00) per day for each separate violation.

F. For violation of Section 17.162.090 (Prohibition of delivery of cannabis activity), a civil penalty of five hundred dollars (\$500.00) for each separate violation.

G. At the nuisance abatement hearing, the hearing officer shall determine the total amount of administrative penalties that have accrued at the time of the hearing, and that amount shall be reflected in the decision and awarded to the City. Administrative penalties shall not be awarded if the property owner establishes all of the following: (1) that, at the time he or she acquired the property, a violation of this chapter already existed on the property; (2) the property owner did

not have actual or constructive notice of the existence of that violation; and (3) prior to the nuisance abatement hearing, the property owner initiates and pursues, with due diligence, good faith efforts, to meet the requirements of this code. In his or her decision, the hearing officer may compromise the amount of any administrative penalties. When determining whether to compromise any penalty amount, the hearing officer shall take into consideration the nature, circumstances, and gravity of the violation(s), any prior history of violations, the degree of culpability, the financial burden to the person(s) upon whom the penalty has been imposed, the degree to which the proposed compromise will facilitate collection of the penalties without the need for further legal action, and any other matters justice may require. If at the time of the hearing the nuisance has yet to be abated, the decision shall state that the administrative penalties shall continue to accrue as specified in subsections A through F of this section until the nuisance is abated. The decision of the hearing officer shall be final and conclusive on the date the decision is deposited in the mail.

H. Any decision regarding the amount of administrative penalties imposed by a hearing officer pursuant to this chapter may be appealed by any aggrieved person to the Colfax City Council as follows:

1. Appeal Subject. Any appeal under this section shall be limited to the amount of administrative penalties imposed by the hearing officer.
2. Timing and Form of Appeal. An appeal must be filed within ten (10) days from the date the decision was deposited in the mail. Appeals filed more than ten (10) days after the decision was deposited in the mail shall not be accepted for filing. A notice of appeal shall be in writing, shall include a detailed statement of the factual and/or legal grounds upon which the appeal is being taken and shall include a copy of the decision of the hearing officer. The appeal shall be accompanied by the filing fee set by the most current City fee schedule.
3. Filing and Processing. An appeal shall be filed with the City Clerk, who shall process the appeal pursuant to this section, including scheduling the matter before the City Council. The Colfax City Council may designate a subcommittee of two or three members to hear and rule upon any appeal provided for in this section.
4. Effect of Filing. In the event of an appeal under this section, only the decision as to the amount of the administrative penalties shall be set aside and have no effect until final action by the appeal body pursuant to this section. The appeal shall have no effect on any other factual or legal determination of the hearing officer.
5. Report and Scheduling of Hearing. When an appeal has been filed under this section, the City Manager, or designee, shall prepare a report on the matter and shall schedule the matter for consideration by the City Council (or subcommittee so designated) after completion of the report.
6. This Section intentionally omitted.

7. Action and Findings. After an appeal has been scheduled by the City Clerk, the City Council (or subcommittee so designated) shall conduct a public hearing. At the hearing, the City Council (or subcommittee so designated) shall initiate a discussion limited only to the amount of the administrative penalties imposed by the hearing officer and, in addition, the specific grounds for appeal.

a. The City Council (or subcommittee so designated) may affirm, affirm in part, reverse or reverse in part the decision or determination of the hearing officer as to the amount of the administrative penalties imposed based upon findings of fact about the particular case. The findings shall identify the reasons for the action on the appeal, and verify the compliance or noncompliance of the subject of the appeal with the provisions of this chapter.

b. A decision by the City Council (or sub-committee so designated) under this section shall be final.

8. Time Limits on Appeals. Upon receipt of an appeal in proper form, the City Council shall schedule the matter for consideration by the City Council. The City Council, or a subcommittee thereof, shall commence a public hearing on the appeal within ninety (90) days of its proper filing, or within such other time period as may be mutually agreed upon by the appellant, in writing, and the appeal body, in writing. If the public hearing is not commenced within ninety days, or an alternative time period is not agreed upon by the appellant and the appeal body, the decision rendered by the hearing officer shall be deemed affirmed. Once commenced, a public hearing on an appeal may be continued from time to time for good cause.

9. Withdrawal of Appeal—Hearing Decisions. After an appeal of a decision has been filed, an appeal shall not be withdrawn except with the consent of the appropriate hearing body.

I. All money and assets collected in payment for penalties for violations of this chapter and all money and assets collected for recovery of costs of enforcement of this chapter shall be used to offset the cost of enforcement of this chapter.

17.162.130 Criminal Penalty Provisions

A. Violation of any provision of this chapter is a misdemeanor unless (1) the city attorney authorizes issuance of an infraction citation or files, or authorizes the filing of, a complaint charging the offense as an infraction or (2) a court with jurisdiction over the matter, upon recommendation of the city attorney, determines that the offense should be prosecuted as an infraction.

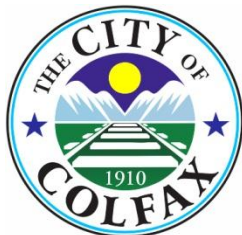
B. Any person who violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes any violation thereof, and shall be penalized accordingly.

17.162.140 No Duty To Enforce

Nothing in this chapter shall be construed as imposing on any code enforcement officer or the City of Colfax any duty to issue a notice to abate, nor to abate any violations of this chapter and neither the code enforcement officer, nor the City, shall be held liable for failure to issue an order to abate any violation of this chapter.

17.162.150 Severability

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, phrase, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances.



STAFF REPORT TO THE COLFAX CITY COUNCIL

FOR THE OCTOBER 11, 2017 COUNCIL MEETING

FROM: Wes Heathcock, Interim City Manager
PREPARED BY: Wes Heathcock, Interim City Manager
DATE: October 4, 2017
SUBJECT: Medical Marijuana Dispensary Status – Jim Dion

<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>	FUNDED	<input type="checkbox"/>	UN-FUNDED	AMOUNT:	FROM FUNDS:
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RECOMMENDED ACTION: Discuss and provide direction to staff

DISCUSSION

Council provided staff with direction at the September 25, 2017 meeting to include a discussion of a Jim Dion dispensary status during the October 11, 2017 City Council meeting. Staff has reviewed the background and history of the grandfathered-in medical marijuana dispensary operating under the Golden State Patient Care Collective corporation during the 2012 business closure. The corporation known as Golden State Patient Care Collective was dissolved according to the Board of Equalization in July 2012, and submitted a Certificate of Dissolution to the Board of Equalization in November of 2012. The confidential City of Colfax sales tax revenue report reflects the dissolution of the corporation as the reportable revenue subsequently stopped.

The corporation closure establishes that the business closed and that the licensee no longer existed as of July 2012. Colfax Municipal Code Section 17.162.020 governs the dispensary that existed as of November 2009 (Golden State Patient Care Collective) no longer exists and can no longer operate in California. Additionally, Colfax Municipal Code Section 17.162.020 E disqualifies the dispensary from operating under a nullified business license.

Another item of interest relates to the discussion of Golden State Patient Care Collective closing their business in 2012 for remodel. Mr. Dion stated the business closed to remodel the 233 Highway 174 location with intentions to reopen. Staff reviewed the City's building permit records and cannot locate a tenant improvement building permit that supports the 2012 timing of the closure. The most recent building permit the City has on file for 233 Highway 174 was issued in 2009 to Gilbert Dalpino.