



**REGULAR CITY COUNCIL MEETING  
MEETING AGENDA  
WEDNESDAY, DECEMBER 13, 2017**

**Closed Session – 5:15 PM  
Regular Meeting - 6:30 PM**

**City Hall – Beryl P. Robinson, Jr. Conference Room  
317 Broad Street, Nevada City, CA 95959**

**MISSION STATEMENT**

*The City of Nevada City is dedicated to preserving and enhancing its small town character and historical architecture while providing quality public services for our current and future residents, businesses and visitors.*

**Duane Strawser, Mayor**

**Reinette Senum, Council Member  
Evans Phelps, Council Member**

**David Parker, Vice Mayor  
Valerie Moberg, Council Member**

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The City Council welcomes you to its meetings which are scheduled at 6:30 PM on the 2<sup>nd</sup> and 4<sup>th</sup> Wednesdays of each month. Your interest is encouraged and appreciated. This meeting is recorded on DVD and is televised on local public television Channel 17. Other special accommodations may be requested to the City Clerk 72 hours in advance of the meeting. Please turn off all cell phones or similar devices. Action may be taken on any agenda item. Agenda notices are available at City Hall. Materials related to an item on this Agenda submitted to the Council after distribution of the agenda packet are available for public inspection in the City Hall at 317 Broad Street, Nevada City, CA during normal business hours.

**ANY MEMBER OF THE PUBLIC DESIRING TO ADDRESS THE COUNCIL ON ANY ITEM ON THIS AGENDA:** After receiving recognition from the Mayor, give your name and address, and then your comments or questions. Please direct your remarks to the Councilmembers. In order that all interested parties have an opportunity to speak, please limit your comments to the specific item under discussion. All citizens will be afforded an opportunity to speak, consistent with their Constitutional rights. Time limits shall be at the Mayor's discretion. **IF YOU CHALLENGE** the Council's decision on any matter in court, you will be limited to raising only those issues you or someone else raised at the meeting or Public Hearing described on this agenda, or in written correspondence delivered to the City Council at, or prior to, the meeting or Public Hearing.

**CLOSED SESSION – 5:15 PM**

1. Pursuant to Government Code Section 54957(b)(1) a closed session is requested with Interim City Manager Catrina Olson, the Finance & Administrative Analyst, Deputy City Clerk, Loree' McCay and City Attorney Hal DeGraw on a personnel matter related to the City Manager position.
2. Pursuant to Government Code Section 54956.9 the Interim City Manager, Catrina Olson is requesting a closed session conference to discuss and confer on a Settlement Authority Request regarding the pending Worker's Compensation claim of Corey Shaver against the City, Claim No. NCWA-556808.

3. Pursuant to Government Code Section 54956.9 the City Attorney Hal DeGraw and Consulting Attorney P. Scott Browne are requesting a closed session conference to confer on litigation involving the City in the case of Friends of Spring Street vs. Nevada City, et al., Nevada County Superior Court Case No. CIV 1304393, Appellate Case No. C081195.
4. Pursuant to Government Code Section 54956.9(d)(2) the City Attorney Hal DeGraw is requesting a closed session regarding significant exposure to litigation in one potential case.
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### **REGULAR MEETING – 6:30 PM - Call to Order**

**Roll Call:** Moberg, Phelps, Senum, Vice Mayor Parker, & Mayor Strawser

### **PLEDGE OF ALLEGIANCE**

### **PROCLAMATIONS:**

### **PRESENTATIONS:**

### **BUSINESS FROM THE FLOOR**

#### **1. PUBLIC COMMENT**

Under Government Code Section 54954.3, members of the public are entitled to address the City Council concerning any item within the Nevada City Council's subject matter jurisdiction. Comments on items NOT ON THE AGENDA are welcome at this time. Normally, public comments are limited to no more than three minutes each. **Except for certain specific exceptions, the City Council is prohibited from discussing or taking action on any item not appearing on the posted agenda.**

#### **2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:**

### 3. CONSENT ITEMS:

All matters listed under the Consent Calendar are to be considered routine by the City Council and will be enacted by one motion in the form listed. There will be no separate discussion of these items unless, before the City Council votes on the motion to adopt, members of the Council, City staff or the public request specific items to be removed from the Consent Calendar for separate discussion and action.

- A. Subject:** Accounts Payable Activity Report – November 2017  
**Recommendation:** Receive and file.
- B. Subject:** Fire Activity Report For October/November 2017  
**Recommendation:** Receive and file.
- C. Subject:** Standard Agreement Between The City Of Nevada City And Caltrans  
**Recommendation:** Review and authorize the Interim City Manager to sign an agreement not to exceed \$25,000 through 12/15/2019 between the City of Nevada City and Caltrans for brine solution.
- D. Subject:** Purchase Of A Residual Sulfite Analyzer For The Wastewater Treatment Plant (WWTP)  
**Recommendation:** Authorize the purchase of a Residual Sulfite Analyzer for the Wastewater Treatment Plant (WWTP).
- E. Subject:** Notice Of Completion For Nevada City Swimming Pool Structural Repair  
**Recommendation:** Pass Resolution 2017-XX approving a Notice of Completion for the construction of the Nevada City Swimming Pool Structural Repair in the City of Nevada City and authorize the Mayor to sign.
- F. Subject:** Notice Of Completion For Little Deer Creek Stream Restoration Phase 1  
**Recommendation:** Pass Resolution 2017-XX approving a Notice of Completion for the construction of Little Deer Creek Stream Restoration Phase 1 Improvements in the City of Nevada City and authorize Mayor to sign.
- G. Subject:** Incorporate A List Of Projects Funded By SB 1: The Road Repair And Accountability Act  
**Recommendation:** Pass Resolution 2017-XX as follows:

  1. Approve the list of projects proposed to be funded with Road Maintenance and Rehabilitation Account (RMRA) funds as described in Exhibit A.
  2. Appoint the City Manager, or designee, to execute all applications, negotiations and agreements which may be necessary for completion of the aforementioned project and expenditure of RMRA funds, except those designated to the City Engineer below.

3. Appoint the City Engineer, or designee, to execute and submit all reports, payment requests, and changes to the project description, which may be necessary for completion of the aforementioned project and expenditure of RMRA funds.

**H. Subject:** Award Of Contract For Site Clearing At Nevada City Burn Dump In Nevada City

**Recommendation:** Pass Resolution 2017-XX Awarding a contract to Judd Buick Construction in the amount of \$38,400.00 plus \$3,000.00 contingencies for Site Clearing at the Nevada City Burn Dump in Nevada City and authorize the Mayor to sign.

**I. Subject:** Award Of Contract For Sewer Repairs At 324 Jordan Street In Nevada City

**Recommendation:** Pass Resolution 2017-XX Awarding a contract to Escehaman Construction in the amount of \$8,000.00 plus \$1,000.00 contingencies for Sewer Repairs at 324 Jordan Street in Nevada City and authorize the Mayor to sign.

**J. Subject:** Agreement Between The City Of Nevada City And Boulder Street Properties LLC To Convey Property

**Recommendation:** Approve the Agreement between the City of Nevada City and Boulder Street Properties LLC to Convey Property and authorize the Mayor to sign.

**K. Subject:** Agreement Between The City Of Nevada City And Susan Sugarman To Convey Property

**Recommendation:** Approve the Agreement between the City of Nevada City and Susan Sugarman to Convey Property and authorize the Mayor to sign.

**L. Subject:** A Resolution Amending Passed Resolution 2017-72 Of The City Council Of The City Of Nevada City Approving An Application For Authorization To Access State And Federal Level Summary Criminal History Information For Employment, Volunteers, And Contractors, Licensing Or Certification Purposes

**Recommendation:** Pass Resolution 2017-XX authorizing City of Nevada City are hereby to access state summary criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes and may not disseminate the information to a private entity.

**M. Subject:** Calling For A General Municipal Election On June 5, 2018

**Recommendation:** Pass Resolution 2017-XX Calling For A General Municipal Election

#### **4. APPROVAL OF ACTION MINUTES:**

**A. City Council Meeting – November 15<sup>th</sup> 2017**

## 5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS:

- A. Subject:** Pay Scale For Temporary Parks & Recreation Employees  
**Recommendation:** Adopt Resolution 2017-XX approving the Proposed Parks & Recreation pay scale for 2018.
- B. Subject:** Parks & Recreation Swimming Pool Program Fees For The 2018 Season  
**Recommendation:**
1. Approve the recommended fees for the 2018 Summer Swimming Pool Season & Adopt Resolution 2017-XX
  2. Authorize City staff to give away one free week of camp at the Summer Camp & Activities Fair and one free family pass to the Nevada City School District for a school fundraiser.

## 6. PUBLIC HEARINGS:

**Subject:** Resolution For The City Council Of The City Of Nevada City To Adopt Fees For Hanging Banners Over Zion St.  
**Recommendation:** Approve the attached policy for placement and approval process of banners being hung by the City Public Works Department and Adopt Resolution 2017-XX for the City Council of the City of Nevada City to adopt fees for hanging banners over Zion St.

## 7. OLD BUSINESS:

- A. Subject:** An Ordinance Amending Section 17.12.175 Of Title 17 Of The Nevada City Municipal Code Entitled “Homeless Housing Facilities” To Correct The City’s Definitions For “Emergency Shelter,” “Transitional Housing,” And “Supportive Housing” And Ensure Their Consistency With State Law; Amending Chapter 17.48 Entitled “Light Industrial Zone” To Reference Emergency Shelter Operational Management Standards; And To Add Chapter 17.130 Entitled “Operational Management Standards” To Establish A Chapter For Objective Management Standards For Specific Ministerial Uses Including Emergency Shelter Uses (Second Reading)  
**Recommendation:** Introduce for a second reading an ordinance to amend definitions for homeless housing facilities and to establish management standards for ministerial Emergency Shelter uses, waive reading of the ordinance; read title only, and adopt the ordinance.
- B. Subject:** A Resolution Of The City Council Of The City Of Nevada City, California Calling A Municipal Election For June 5, 2018; Submitting A Cannabis Business Tax Ordinance To The voters At That Election; Requesting The Assistance Of The County Of Nevada In Connection With That Election; And Requesting Consolidation Of That Election With Any Other Election Held On That Date  
**Recommendation:** Approve Resolution 2017-XX submitting a cannabis business tax ordinance to the voters at the June 5, 2018 election, request for assistance of the

County of Nevada in connection with that election and request for the consolidation of that election with any other election held on that date.

- C. Subject:** Resolution Of The City Council Of The City Of Nevada City Approving The Application Of “Elevation 2477” To Operate A Medical Cannabis Dispensary At 569 Searls Avenue, Nevada City  
**Recommendation:** Pass Resolution 2017-XX confirming the selection of “Elevation 2477” as the applicant to be issued a permit for operation of a dispensary at 569 Searls Avenue.

## 8. NEW BUSINESS:

- A. Subject:** Bear Yuba Land Trust (BYLT) Trail Maintenance Contract  
**Recommendation:** Approve and authorize the Interim City Manager to sign the 2018 Trail Maintenance Contract.
- B. Subject:** Special Event Application - Street Closure Request For The Nevada City Bicycle Classic & Broad Street Sprints/Nevada City Brewfest For June 23rd And 24th, 2018  
**Recommendation:** Review and authorize street closure request for the Nevada City Bicycle Classic and Broad Street Sprints/Nevada City Brewfest for June 23rd and 24th, 2018.
- C. Subject:** City Of Nevada City To Authorize The Mayor To Sign A Letter Of Support Regarding Scotts Flat Dam Public Access  
**Recommendation:** Authorize the Mayor to sign a letter of support on behalf of Nevada City for Nevada Irrigation District to maintain open public access to Scotts Flat Dam/spillway.
- D. Subject:** Review Ordinance 2017-06 An Ordinance Amending Chapter 9.22 Of Title 9 of the Nevada City Municipal Code Entitled “Prohibiting Medical Marijuana Dispensaries,” And Renaming It “Medical Cannabis Dispensaries And Other Cannabis Businesses and Activity”; Adding Chapter 17.142 Entitled “Medical Cannabis Uses And Activity: To the Nevada City Municipal Code; And Amending Chapter 17.36 Entitled “Local Business Zone,; Chapter 17.40 Entitled “General Business Zone,” And Chapter 17.48 Entitled “Light Industrial Zone” Section 9.22.040 Medical Cannabis Businesses And Provide Direction To Staff As To The Possibility Of Amending Item A.1 (Medical Cannabis Dispensaries) To Allow Nevada City Council To Issue Greater Than One (1) Medical Cannabis Dispensary Permit  
**Recommendation:** Review and discuss Ordinance 2017-06 Section 9.22.040 (Medical Cannabis Businesses) and provide direction to staff as to the possibility of amending item A.1 (Medical Cannabis Dispensaries) to allow Nevada City Council to issue greater than one (1) Medical Cannabis Dispensary Permit.

**9. CORRESPONDENCE:**

**10. ANNOUNCEMENTS:**

**11. CITY MANAGER'S REPORT:**

**12. ADJOURNMENT**

**Certification of Posting of Agenda**

I, Loree' McCay, Deputy City Clerk for the City of Nevada City, declare that the foregoing agenda for the December 13, 2017 Regular Meeting of the Nevada City City Council was posted December 8<sup>th</sup>, 2017 at the entrance of City Hall. The agenda is also posted on the City's website [www.nevadacityca.gov](http://www.nevadacityca.gov).

Signed December 8<sup>th</sup>, 2017 at Nevada City, California

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Loree' McCay, Deputy City Clerk

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**CITY OF NEVADA CITY  
City Council  
Long Range Calendar**

December 25, 2017	Christmas Day
January 1, 2017	New Year's Day
January 10, 2017	Regular Council Meeting
January 24, 2017	Regular Council Meeting

NOTE: This list is for planning purposes; items may shift depending on timing and capacity of a meeting.

***NOTICE:*** *As presiding officer, the Mayor has the authority to preserve order at all City Council meetings, to remove or cause the removal of any person from any such meeting for disorderly conduct, or for making personal, impertinent, or slanderous remarks, using profanity, or becoming boisterous, threatening or personally abusive while addressing said Council and to enforce the rules of the Council.*

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-17	49E02 (49ER WATER SERVICES)	1038	10/27/17	/ /		4850.00	BIO ASSAYS
11-17	A&A03 (A & A AIR CONDITIONING & HE	211316	10/02/17	/ /		314.00	BLDG REPAIR
11-17	ACE03 (ACE WELDING, INC.)	8206	09/01/17	/ /		7500.00	CHURCH STREET RAILING
11-17	ADV11 (ADVANTAGE GEAR, INC.)	121657	10/16/17	/ /		59.95	UNIFORM ALLOWANCE S. GOODSPEED
11-17	ALH02 (ALHAMBRA & SIERRA SPRINGS)	101917	10/19/17	/ /		72.59	DPW WATER 10/03/17
11-17	ALL02 (ALLEN GILL CONSTRUCTION, IN	100417	10/04/17	/ /		97813.90	LDC CONSTRUCTION PMNT # 1
		101317	10/13/17	/ /		7182.00	LDC CONSTRUCTION PMNT # 2
		Vendor's Total ----->				104995.90	
11-17	ALL25 (ALL STAR AUTOMOTIVE)	15937	10/02/17	/ /		2534.86	#29 REPAIR 2001 GMC SIERRA 1500
		15998	10/10/17	/ /		1215.60	2001 DODGE DURANGO WORK
		16096	10/25/17	/ /		542.70	2001 GMC SIERRA 1500 REPAIR # 29
		Vendor's Total ----->				4293.16	
11-17	AMA00 (SYNCB/AMAZON)	052052703	09/20/17	/ /		150.04	BOOT ALLOWANCE S.CARSON
		130852905	09/29/17	/ /		140.85	BOOT ALLOWANCE J. STARNES
		137640201C	07/10/17	/ /		68.05	-UNIFORM RETURN M. BARBAO FY 16/17
		176794635	08/10/17	/ /		36.00	PARKING METERS
		BLIBQSBUV	10/09/17	/ /		105.00	PARKING METERS
		BPGYCQVBD	10/24/17	/ /		31.79	FIRE DEPT CABLE
		BYUTCHAJT	10/04/17	/ /		111.52	CSO WINTER SHIRTS
		CVAHUDFOK	10/04/17	/ /		163.04	CSO PANTS
		CWZXJVJOI	10/04/17	/ /		499.99	STREET CLEANING
		VSFLLJLWHS	10/07/17	/ /		54.34	CSO PANTS
		Vendor's Total ----->				1224.52	
11-17	AME19 (AMERICAN FIDELITY)	B681996	11/01/17	/ /		926.56	STD/LTD BENEFITS NOV 2017
11-17	AME24 (AMERICAN UNITED LIFE INSURA NOV 2017		11/21/17	/ /		401.08	LIFE INS 11/01-11/30/17
11-17	AQU01 (AQUA SIERRA CONTROLS INC)	28288	09/22/17	10/22/17	A	382.00	CONSULTING REPAIR
		28362	10/25/17	11/24/17	A	950.00	WIRING TROUBLESHOOT
		Vendor's Total ----->				1332.00	
11-17	ARA01 (ARAMARK)	635552871	09/14/17	/ /		71.69	CITY HALL/DPW MATS
		635608114	10/12/17	/ /		71.69	CITY HALL/DPW MATS
		Vendor's Total ----->				143.38	
11-17	AT&15 (AT&T CALNET 3)	10485231	11/10/17	/ /		960.86	BAN #9391023504 10/10-11/09/17
11-17	AT&16 (AT&T )	OCT 2017	10/28/17	/ /		85.97	WWTP INTERNET SVCS 10/29-11/28/17
11-17	ATO01 (A TO Z SUPPLY)	329691	09/08/17	10/08/17	A	72.62	HIRSCHMANS POND CLEAN-UP
		329702	09/08/17	10/08/17	A	114.81	LL BASEBALL FIELD
		329890	09/12/17	10/12/17	A	77.36	FIELD REPAIRS
		330598	09/26/17	10/26/17	A	17.07	FIELD REPAIRS
		330599	09/26/17	10/26/17	A	85.36	FIELD REPAIRS
		330656	09/27/17	10/27/17	A	170.71	FIELD REPAIRS
		330701	09/28/17	10/28/17	A	104.44	FIELD REPAIRS
		330951	10/03/17	11/02/17	A	20.58	FIELD REPAIRS
		331042	10/05/17	11/04/17	A	102.43	FIELD REPAIRS
		331357	10/11/17	11/10/17	A	47.60	PLUMBING SUPPLIES
		331679	10/18/17	11/17/17	A	63.18	PLUMBING PARTS
		331706	10/18/17	11/17/17	A	905.69	LIME
		331735	10/19/17	11/18/17	A	20.11	PLUMBING PARTS
		332145	10/30/17	11/29/17	A	136.46	PLUMBING PARTS
		Vendor's Total ----->				1938.42	
11-17	AUB01 (AUBURN FORD)	442876	10/26/17	/ /		255.92	UNIT # 2-24 2015 FORD EXPLORER REPAIRS

City of Nevada City  
 Month End Payable Activity Report  
 Report for 11-17

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-17	AXO00 (AXON ENTERPRISE, INC.)	SI1472933	03/03/17	/ /		8150.64	BODY CAM IMPROVEMENTS & VIDEOS
		SI1504777	10/06/17	/ /		182.61	BODY CAM MOUNTS
			Vendor's Total ----->			8333.25	
11-17	B&C01 (B & C TRUE VALUE HOME CTR)	285327	08/16/17	09/15/17	A	14.57	FIELD REPAIRS
		287130	08/28/17	09/27/17	A	18.45	PARK DRAIN FIELD
		287186	08/28/17	09/27/17	A	1.25	PARK IRRIGATION/FIELD DRAIN
		287728	08/31/17	09/30/17	A	60.88	PLUMBING SUPPLIES
		288217	09/05/17	10/05/17	A	19.42	SPECIAL EVENTS
		288350	09/05/17	10/05/17	A	22.09	PLUMBING SUPPLIES
		288541	09/06/17	10/06/17	A	116.59	SPECIAL EVENT CANS
		288800	09/08/17	10/08/17	A	176.66	VOLUNTEER DAY
		289913	09/15/17	10/15/17	A	123.26	BATHROOM REPAIRS
		290319C	09/18/17	10/18/17	A	43.14	BATHROOM REPAIR RETURN
		290474	09/19/17	10/19/17	A	52.61	PP IRRIGATION
		290539	09/19/17	10/19/17	A	9.99	METER REPAIRS
		290849	09/21/17	10/21/17	A	21.70	PP IRRIGATION
		290898	09/21/17	10/21/17	A	8.52	PP IRRIGATION
		291673	09/27/17	10/27/17	A	60.22	STOCK
		291826	09/28/17	10/28/17	A	20.87	PP IRRIGATION
		292124	09/30/17	10/30/17	A	60.23	FD OP MAT
		292692	10/04/17	11/03/17	A	68.03	PLASTIC UTILITY SINK
		292767	10/04/17	11/03/17	A	25.89	PARK BATHROOMS
		292870	10/05/17	11/04/17	A	25.73	FD OP MAT
		292900	10/05/17	11/04/17	A	8.68	PVC & BLUE GLUE
		293010	10/06/17	11/05/17	A	27.65	PAVING
		293068	10/06/17	11/05/17	A	93.27	RAKE EVENT SUPPLIES
		293105	10/06/17	11/05/17	A	75.95	RAKE EVEN SUPPLIES
		293229	10/07/17	11/06/17	A	11.22	HYDROSEEDING CAUTION TAPE
		293865	10/11/17	11/10/17	A	5.99	PLUMBING PARTS
		294486	10/16/17	11/15/17	A	26.01	BRIDGE PAINT
		294493	10/16/17	11/15/17	A	347.79	NC DIG
		294621	10/17/17	11/16/17	A	15.54	SEAMANS LDGE
		294781	10/18/17	11/17/17	A	132.17	SKILL SAW
		295066	10/19/17	11/18/17	A	143.73	COMMERCIAL ST BATHROOMS
		295223	10/20/17	11/19/17	A	116.63	FD OP MAT
		295263	10/21/17	11/20/17	A	51.82	CORD AND BATTERIES
		295273	10/21/17	11/20/17	A	11.93	LUBRICANT
		K91335	09/25/17	10/25/17	A	19.02	H2O REPAIR
			Vendor's Total ----->			1951.22	
11-17	BAN01 (JOHN PEKAREK, BANNER COMMUN	6643	10/06/17	11/05/17	A	65.34	FD MIC CABLE
		6660	10/12/17	11/11/17	A	2107.08	COLLECTIONS MAINT
		6694	10/24/17	11/23/17	A	31.43	FD EQUIP REPAIR
		33774	10/01/17	10/31/17	A	50.00	WWTP RADIO REPEATERS SEPT 2017
			Vendor's Total ----->			2253.85	
11-17	BAR00 (MONICA BARBAO)	111117	11/11/17	/ /		14.87	PD REMODEL-REWIRE FOR COPY MACHINE
		112217	11/22/17	/ /		521.76	CLEARs TRAINING/PISMO BEACH
			Vendor's Total ----->			536.63	
11-17	BEA02 (BEAM SECURITY SYSTEMS)	175786	10/01/17	/ /		45.00	ALARM MONITOR 10/01-12/31/17
11-17	BLU05 (BLUE SHIELD OF CALIFORNIA)	DEC 2017	11/13/17	/ /		43006.44	HEALTH INS DEC 2017 INV # 173170131423
11-17	BUR12 (KATHERINE BURDICK)	14-B	10/20/17	/ /		20565.00	1ST QTR FY 17/18
11-17	BUS02 (BUSINESS CARD/B OF A VISA)	1007-1106	11/06/17	/ /		2239.11	MISC DEPT PURCHASES 10/7-11/6/17
11-17	CAN03 (SYLVIA J. CANO)	103117	10/31/17	/ /		1200.00	JANITOR CITY/VATS HALL OCT 2017
11-17	CAR09 (KEVIN CARTZDAFNER)	110617	11/06/17	/ /		442.86	TRAINING TOOLS REIMB 50%
		111817	11/18/17	/ /		54.60	MEDICAL EQUIP REIMB
			Vendor's Total ----->			497.46	
11-17	CEN05 (CENTRAL VALLEY ENGINEERING)	13370	09/01/17	/ /		9761.30	MEASURE S PAVING AND SIDEWALK WORK
11-17	CIT01 (CITY OF GRASS VALLEY)	231	10/31/17	11/30/17	A	8923.26	ANIMAL CONTROL SVCS 1ST QTR FY 17/18
		NCPD-0201	10/06/17	11/05/17	A	500.00	RANGE USAGE 1ST QTR FY 17/18
			Vendor's Total ----->			9423.26	

City of Nevada City  
 Month End Payable Activity Report  
 Report for 11-17

Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-17	COA01 (COASTLAND)	42463	09/30/17	/ /		297.50	PROJ # 1043122 WWTP/WTP INFRASTRUCTURE ASSES
		42698	10/31/17	/ /		2660.00	WTP/WWTP ASSESSMENT SVCS THROUGH 10/31/17
		Vendor's Total ----->				2957.50	
11-17	COM08 (COMCAST CABLE)	1102-1201	10/27/17	/ /		76.08	DPW MONTHLY INTERNET SVC 11/2-12/1/17
11-17	COM09 (COMMERCIAL PUMP SERVICE, IN	9504	10/06/17	/ /		460.00	SERVICE CALL
11-17	CON11 (CME SERVICES)	64630	09/11/17	/ /		7525.00	DRUMMOND ST WATER IMPROVEMENTS
		64639	10/18/17	/ /		15081.00	COMMERCIAL ST FEMA STORM REPAIR STORM DRAIN
		Vendor's Total ----->				22606.00	
11-17	COR01 (CORBIN WILLITS SYSTEMS)	B710151	10/15/17	11/14/17	A	423.54	MONTHLY OPS SYS NOV 2017
11-17	COS05 (ERIK COSSENTINE)	1021-1103	11/06/17	/ /		146.87	FIRE INTERN SVCS 10/21-11/03/17
11-17	COU05 (COUNTY OF NEVADA)	FY17/18	10/30/17	11/29/17	A	1060.41	SOLID WASTE REMOVAL @ 132 MAIN ST FY 17/18
		FY 17/18	10/30/17	11/29/17	A	1060.41	SOLID WASTE REMOVAL @ 427 NIMROD FY 17/18
		FY*17/18	10/30/17	11/29/17	A	42.42	SOLID WASTE REMOVAL @ 412 COMMERCIAL ST FY
		FY-17/18	10/30/17	11/29/17	A	88.37	SOLID WASTE REMOVAL @ 775 ZION ST FY 17/18
		FY.17/18	10/30/17	11/29/17	A	14.14	SOLID WASTE REMOVAL, @ 211 N PINE ST FY 17/18
		Vendor's Total ----->				2265.75	
11-17	COU06 (COUNTY OF NEVADA)	NOV 2017	11/21/17	12/21/17	A	8701.54	DISPATCH SVCS NOV 2017
11-17	COU23 (NEVADA COUNTY COLLECTIONS)	OCT 2017	11/21/17	12/21/17	A	1892.00	PARKING TIX/POC COLLECTIONS FOR NOV 2017
11-17	CRA01 (CRANMER ENGINEERING, INC.)	168820	09/30/17	10/30/17	A	1708.00	LAB TESTING
		168899	09/30/17	10/30/17	A	426.50	COLLECTION SAMPLES
		168900	09/30/17	10/30/17	A	1325.50	LAB TESTING
		169375	10/31/17	11/30/17	A	1870.00	LAB TESTING
		169456	10/31/17	11/30/17	A	726.50	LAB TESTING
		Vendor's Total ----->				6056.50	
11-17	CUR03 (CURTIS TOOLS FOR HEROES)	134725	10/18/17	/ /		469.13	BOOT ALLOWANCE S.GOODSPEED
11-17	CWS00 (CWS ELECTRICAL)	17-056	10/01/17	/ /		275.00	WWTP REPAIRS
11-17	DAV05 (DAVE'S AUTO REPAIR)	36357	10/09/17	/ /		1039.79	#34 REPAIRS 2006 GMC SIERRA 1500
11-17	DEP06 (DEPT OF FORESTRY & FIRE)	147134	10/27/17	/ /		4014.44	BROADCAST DISPATCH 1ST QTR FY 17/18
11-17	DOK01 (DOKKEN ENGINEERING)	32107	10/06/17	/ /		520.73	NEVADA ST BRIDGE DESIGN SEPT 2017
11-17	ECO01 (ECONOMY PEST CONTROL INC)	102417075	10/24/17	11/23/17	A	289.00	PEST CONTROL
11-17	ELL03 (CHAD ELLIS)	111617	11/16/17	/ /		166.08	MISC PURCHASES
11-17	ETH00 (ETHAN WADE GRAPHICS)	44778	10/13/17	/ /		504.08	PINK PATCH PROJECT
		44888	10/27/17	/ /		90.09	CSO PATCHES
		Vendor's Total ----->				594.17	
11-17	EVE01 (EVERGUARD SYSTEMS)	A56979	10/22/17	/ /		90.00	CHAMBER FIRE ALARM SVC 11/1/17-1/31/18
11-17	FER02 (FERRELLGAS)	102000562	09/29/17	10/29/17	A	180.00	PROPANE TANK RENTAL
11-17	FRE00 (DARIN FREDERICKS)	110917	11/09/17	/ /		1250.00	SIDEWALK COST SHARE 50% PAYMENT
11-17	GEO02 (GEORGE HILLS)	NC 030	10/24/17	/ /		460.00	CLAIM #0018672 CHARPENTIER

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Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-17	GLA01 (HALEY GLASCO)	102317	10/23/17	/ /		70.00	SEAMANS LDGE 10/15/17
11-17	GLO06 (GLOBAL MACHINERY CABLE PLAC	06025501	10/18/17	/ /		705.36	SWEeper
11-17	GOL02 (GOLD & GREEN EQUIPMENT)	16034812	09/28/17	10/28/17	A	45.00	STORM DRAIN INSPECTION
11-17	GOL37 (GOLD STANDARD PLUMBING & DR	7497	10/09/17	/ /		151.79	115 CEMENT HILL
11-17	GOO02 (SAM GOODSPEED)	110617	11/06/17	12/06/17	A	672.15	TESTING EQUIPMENT REIMB/UNIFORM ALLOWANCE
11-17	GRA01 (GRAY ELECTRIC COMPANY)	048045	10/27/17	11/26/17	A	26.00	CITY HALL ALARM SVCS NOV 2017
		048046	10/27/17	11/26/17	A	28.00	SEAMANS LDGE ALARM SVCS NOV 2017
		Vendor's Total ----->				54.00	
11-17	GRA10 (GRAINGER)	957508477	10/04/17	11/03/17	A	846.14	AIR DRYER
11-17	GRA14 (CITY OF GRASS VALLEY FIRE DFD2118008		10/31/17	11/30/17	A	7127.05	SALARY NON PERM
11-17	GRA24 (GRASS VALLEY AIR)	56760	10/02/17	/ /		122.50	425 NIMROD
		56860	10/16/17	/ /		92.61	425 NIMROD
		56880	10/20/17	/ /		473.95	425 NIMROD
		56881	10/20/17	/ /		69.00	425 NIMROD
		Vendor's Total ----->				758.06	
11-17	HAN01 (HANSEN BROS. ENTERPRISES)	300896	10/04/17	11/03/17	A	67.95	PARK DRAIN
		1700222-2	10/31/17	11/30/17	A	9230.00	TRENCH PAVING
		Vendor's Total ----->				9297.95	
11-17	HBE01 (HBE RENTALS)	380080	09/01/17	10/01/17	A	1545.60	HIRSCHMANS POND CLEAN-UP
		380666	09/10/17	10/10/17	A	1492.40	HIRSCHMANS POND CLEAN-UP
		382586	10/02/17	11/01/17	A	41.67	THERMO ST PAINT
		382742	10/04/17	11/03/17	A	44.84	HIRSCHMANS POND CLEAN-UP
		Vendor's Total ----->				3124.51	
11-17	HIG07 (WILLIAM HIGHSMITH)	112717	11/27/17	/ /		150.00	BOOT ALLOWANCE REIMB
11-17	HIL10 (HILL BROTHERS CHEMICAL CO.)	07027245	09/28/17	/ /		1508.09	MAG SOLUTION
		07027505	10/04/17	/ /		1508.09	MAG SOLUTION
		07027900	10/11/17	/ /		1508.09	MAG SOLUTION
		07028286	10/19/17	/ /		1508.09	MAG SOLUTION
		07028558	10/27/17	/ /		1508.09	MAG
		Vendor's Total ----->				7540.45	
11-17	HIR00 (HIRERIGHT, LLC)	H0117653	10/31/17	/ /		13.22	BACKGROUND CHECKS W.GOIN & C.LEWIS
11-17	JHP00 (JH PETROLEUM)	780606	09/30/17	/ /		82.01	PD FUEL K-9 UNIT # 20 SEPT 2017
		781635	10/31/17	/ /		24.60	PD FUEL K-9 UNIT # 20 OCT 2017
		Vendor's Total ----->				106.61	
11-17	JOH00 (JOHNSON, ROBERTS, & ASSOCIA	133604	10/05/17	/ /		39.00	BACKGROUND PDR PACKETS
11-17	JOH02 (JENNIFER JOHNS)	111317	11/13/17	/ /		100.00	SEAMANS LDGE 11/12/17 MELVILLE O. JOHNS, JR
11-17	JON00 (JONES & MAYER)	OCT 2017	10/31/17	/ /		6842.50	LEGAL SVCS OCT 2017
		SEPT 2017	09/30/17	/ /		7890.00	ATTORNEY SVCS SEPT 2017
		Vendor's Total ----->				14732.50	
11-17	KAE00 (KAESER COMPRESSORS)	911991307	08/04/17	/ /		1344.31	BLOWER PARTS & SVC
		912006311	08/15/17	/ /		928.54	BLOWER PARTS & SERVICE
		912008175	08/16/17	/ /		12040.45	BLOWER MOTOR REPLACEMENT
		912069816	09/21/17	/ /		3469.02	BLOWER REPAIR
		Vendor's Total ----->				17782.32	

City of Nevada City  
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Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-17	KIN01 (ANNE KINGSLEY)	103017	10/30/17	/ /		100.00	SEAMANS LDGE/PICNIC AREA 10/28/17
11-17	KNI01 (KNIGHTS PAINT STORE)	18506/1	10/13/17	11/12/17	A	87.09	ST PAINT
		18559/1	10/16/17	11/15/17	A	13.89	ST PAINT
		18565/1	10/16/17	11/15/17	A	426.55	ST PAINT
		Vendor's Total ----->				527.53	
11-17	LEX01 (RELX INC. DBA LEXIS NEXIS)	309104257	07/31/17	/ /		90.00	ONLINE ATTORNEY SVCS JULY 2017
		309108618	08/31/17	/ /		90.00	ONLINE ATTORNEY SVCS AUG 2017
		309112692	09/30/17	/ /		90.00	ONLINE ATTORNEY SVCS SEPT 2017
		309116913	10/31/17	/ /		90.00	ONLINE ATTORNEY SVCS OCT 2017
		Vendor's Total ----->				360.00	
11-17	LIE00 (LIEBERT CASSIDY WHITMORE)	1446867	08/31/17	/ /		2578.30	LEGAL SVCS TRANSCRIPT H.SCHMITZ THROUGH 08/3
		1448084	09/30/17	/ /		48.00	PERSONNEL RULES AUDIT THROUGH 09/30/17
		Vendor's Total ----->				2626.30	
11-17	LIF01 (LIFE ASSIST)	821471	10/11/17	11/10/17	A	172.38	FD OP MAT
		824449	10/30/17	11/29/17	A	168.00	FD OP MAT
		Vendor's Total ----->				340.38	
11-17	MAD01 (VALERIE MADSON)	101717	10/17/17	/ /		100.00	SEAMANS LDGE 10/14/17
11-17	MCA00 (BRYAN MCALISTER)	110717	11/07/17	/ /		147.66	CALTRANS MEETING MILEAGE REIMB 9/19 10/3 10/
11-17	MUR01 (DAN MURPHEY)	103017	10/30/17	/ /		100.00	PICNIC AREA 09/30/17
11-17	NAP01 (NAPA VALLEY COLLEGE)	101317	10/13/17	/ /		170.00	FTO UPDATE FOR GOIN
11-17	NCT00 (NEVADA CO. DIGITAL MEDIA CE	15	03/30/17	/ /		720.00	VIDEO SVCS - CC MARCH 2017
		18	04/01/17	/ /		750.00	PEG OPERATIONAL FEES 2ND QTR 2017
		22	02/28/17	/ /		720.00	VIDEO SVCS - CC FEBRUARY 2017
		34	05/01/17	/ /		720.00	VIDEO SVCS - CC APRIL 2017
		38	05/30/17	/ /		720.00	VIDEO SVCS - CC MAY 2017
		54	06/30/17	/ /		1160.00	VIDEO SVCS - CC JUNE 2017
		58	07/01/17	/ /		750.00	PEG OPERATIONAL FEES 3RD QTR 2017
		68	08/01/17	/ /		740.00	VIDEO SVCS - CC JULY 2017
		Vendor's Total ----->				6280.00	
11-17	NEV82 (NEVADA COUNTY TAX COLLECTOR	38557a	11/01/17	/ /		2571.00	APN#36-020-26 SUGARLOAF PROP TAX
		112817a	11/28/17	/ /		65.00	TAX CLEARANCE CERT SUGARLOAF LOT LINE ADJ
		112817b	11/28/17	/ /		65.00	TAX CLEARANCE CERT NEVADA COUNTY BRIDGE
		Vendor's Total ----->				2701.00	
11-17	NOR30 (NORTH STATE CONSULTING)	17-11	11/01/17	/ /		5088.00	ENGINEER CONSULTING OCT 2017
11-17	NOR33 (WILLIAM J. FALCONI, DBA NOR	17-11	11/01/17	/ /		640.00	ENGINEER CONSULTING OCT 2017
11-17	PAR13 (PARENTS' RESOURCE GUIDE)	1901	09/29/17	/ /		267.75	FACILITY RENTAL AD
11-17	PER01 (PERS FISCAL SERVICES DIVISI	15105002	11/01/17	12/01/17	A	8882.11	UAL SAFETY 1ST TIER PMNT NOV 2017
		15105009	11/01/17	12/01/17	A	5.49	UAL SAFETY 2ND TIER PMNT NOV 2017
		15105015	11/01/17	12/01/17	A	8164.69	UAL MISC 1ST TIER PMNT NOV 2017
		15105024	11/01/17	12/01/17	A	13.56	UAL MISC 2ND TIER PMNT NOV 2017
		15105033	11/01/17	12/01/17	A	.17	UAL PEPRSA FIRE SAFETY TIER PMNT NOV 2017
		15105040	11/01/17	12/01/17	A	7.45	UAL PEPRSA SAFETY POLICE TIER PMNT NOV 2017
		15105055	11/01/17	12/01/17	A	4.01	UAL PEPRSA MISC TIER PMNT NOV 2017
		Vendor's Total ----->				17077.48	
11-17	PRE04 (PREMIER FLOORCOVERINGS)	110817	11/08/17	/ /		5702.38	CARPET FOR NCPD
11-17	SIE64 (SIERRA NEVADA MEMORIAL)	110117	11/01/17	/ /		3457.00	PINK PATCH PROJECT FUNDRAISER OCT 2017

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Period	Vendor # (Name)	Invoice Number	Invoice Date	Due Date	Disc. Terms	Gross Amount	Description
11-17	SIE67 (SIERRA STREAMS INST.)	101017	10/10/17	/ /		12052.11	LDC RESTORATION SSI PROJECT SEPT 2017
11-17	STA14 (STATE OF CALIFORNIA)	111517	11/15/17	12/15/17	A	12851.00	WHEYWARD LOAN REPAYMENT TO HDC PMNT # 2 OF 4
		121017	12/10/17	01/09/18	A	12851.00	WHEYWARD LOAN REPAYMENT TO HDC PMNT # 3 OF 4
		Vendor's Total ----->				25702.00	
11-17	STA21 (STATE BOARD EQUALIZATION)	28534743	11/14/17	12/14/17	A	152.36	WR STF 094-010902 7/1/17-6/30/18
11-17	TRI04 (DUSTIN TRIBBY)	VACA	11/20/17	/ /		1440.95	FINAL PAYCHECK-VACATION PAYOUT
		1104-1117	11/20/17	/ /		1599.91	FINAL PAYCHECK 11/04-11/17/17
		Vendor's Total ----->				3040.86	
11-17	UNI01 (THE UNION)	5144379	09/28/17	10/28/17	A	111.98	MEASURE "C" CITIZENS OVERSIGHT COMMITTEE
11-17	WOO10 (MIKE WOODMAN)	102317	10/23/17	/ /		100.00	VETS BLDG 10/21/17 GOLD COUNTRY DISC GOLD AS
11-17	\I001 ( INTENTIONAL BLISS LP )	000B71201	11/01/17	/ /		31.23	MQ CUSTOMER REFUND FOR INT0002
Total of Purchases ->						434293.08	

# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959

December 13, 2017

[www.nevadacityca.gov](http://www.nevadacityca.gov)

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**TITLE:** Fire Activity Report – October/November 2017

**RECOMMENDATION:** Receive and file.

**CONTACT:** Sam Goodspeed, Fire Chief

**BACKGROUND / DISCUSSION:** The attached Fire Activity Report reviews the monthly responses including incident type, location and participation for Nevada City Fire Station 54.

**ENVIRONMENTAL CONSIDERATIONS:** Not applicable.

**FISCAL IMPACT:** Not applicable.

**ATTACHMENTS:**

- ✓ Station 54 Incident Responses
- ✓ Nevada City Incident Responses
- ✓ Station 54 Incident Type Summary
- ✓ Year to Date Incident Participation

## Station 54 Incident Responses

Alarm Date Between {10/01/2017} And {10/31/2017}

Alm Date	Alm Time	Location	Incident Type
10/01/2017	10:22:00	14734 Harmony Ridge Estat	744 Detector activation, no fire
10/02/2017	07:22:00	821 Zion ST /B5/Nevada Ci	300 Rescue, EMS incident, other
10/02/2017	08:29:00	844 Old Tunnel RD /Grass	300 Rescue, EMS incident, other
10/02/2017	17:07:00	12503 Loma Rica DR /19/Gr	611 Dispatched & cancelled en ro
10/02/2017	21:22:00	515 Nimrod ST /C/Nevada C	300 Rescue, EMS incident, other
10/03/2017	01:49:00	124 Clydesdale CT /Suite	118 Trash or rubbish fire, conta
10/03/2017	05:20:00	625 Eskaton CIR /340/Gras	300 Rescue, EMS incident, other
10/03/2017	08:21:00	Cascade Shores /Nevada Ci	700 False alarm or false call, O
10/03/2017	10:28:00	120 BRIDGE ST /Nevada Cit	735 Alarm system sounded due to
10/03/2017	10:46:00	12451 Loma Rica DR /Grass	600 Good intent call, Other
10/03/2017	18:03:00	11676 Tree Top CIR /Nevad	561 Unauthorized burning
10/03/2017	21:12:00	12953 Gaston DR /Nevada C	100 Fire, Other
10/04/2017	14:25:00	State highway 20 2 miles	322 Motor vehicle accident with
10/04/2017	19:33:33	293 LOWER GRASS VALLEY RD	411 Gasoline or other flammable
10/04/2017	20:10:37	321 Dorsey DR /15/Grass V	554 Assist invalid
10/05/2017	04:57:21	12094 Charles DR /Grass V	733 Smoke detector activation du
10/05/2017	08:30:00	194 GOLD FLAT RD /Nevada	321 EMS call, excluding vehicle
10/06/2017	06:23:00	11143 Caledonia Way /Neva	100 Fire, Other
10/06/2017	14:32:00	18851 State Hwy 20 HWY /N	743 Smoke detector activation, n
10/06/2017	15:45:00	316 Clay ST /Nevada City,	321 EMS call, excluding vehicle
10/06/2017	22:22:00	9 Kidder CT /16/Nevada Ci	321 EMS call, excluding vehicle
10/06/2017	22:31:02	234 Commercial St. /Nevad	320 Emergency medical service, o
10/08/2017	17:30:00	State Highway 20 HWY & Wa	611 Dispatched & cancelled en ro
10/08/2017	21:43:00	11112 Red Dog RD /Nevada	141 Forest, woods or wildland fi
10/08/2017	22:19:00	16578 Cooper RD /Nevada C	444 Power line down
10/09/2017	00:10:00	McCourtney RD & Auburn RD	141 Forest, woods or wildland fi
10/09/2017	12:02:00	Highway 49 & Lowden Lane	622 No Incident found on arrival
10/09/2017	20:43:00	Highway 49 .25 miles nort	322 Motor vehicle accident with
10/10/2017	01:06:00	Little Deer Creek drainag	551 Assist police or other gover
10/10/2017	08:32:00	15366 North Bloomfield Ro	600 Good intent call, Other
10/11/2017	10:57:00	Brunswick Rd. just east o	463 Vehicle accident, general cl
10/11/2017	13:25:00	1345 Whispering Pines LN	320 Emergency medical service, o
10/11/2017	14:17:37	375 Brunswick Rd. /Grass	743 Smoke detector activation, n
10/11/2017	20:40:00	102 ARGALL WAY /on the si	440 Electrical wiring/equipment
10/11/2017	22:22:32	In the loma Rica ranch ar	142 Brush or brush-and-grass mix
10/12/2017	16:29:00	10453 Banner Lava Cap RD	412 Gas leak (natural gas or LPG
10/12/2017	22:24:00	135 ARGALL WAY /A/Nevada	553 Public service
10/13/2017	16:58:00	210 Sutton WAY /126/Grass	113 Cooking fire, confined to co
10/13/2017	22:19:00	625 Eskaton CIR /375/Gras	300 Rescue, EMS incident, other
10/13/2017	23:58:00	White Cloud Forest Servic	463 Vehicle accident, general cl
10/14/2017	08:10:00	15490 North Bloomfield RD	324 Motor Vehicle Accident with
10/14/2017	21:12:00	200 Dorsey DR /39/Grass V	300 Rescue, EMS incident, other
10/15/2017	08:45:00	17103 Greenhorn RD /Grass	111 Building fire
10/15/2017	15:28:00	10057 West DR /Grass Vall	300 Rescue, EMS incident, other
10/15/2017	16:22:00	2090 Nevada City HWY /Gra	300 Rescue, EMS incident, other
10/15/2017	20:06:00	115 Union Jack ST /32/Gra	300 Rescue, EMS incident, other
10/16/2017	07:02:00	210 Sutton WAY /124/Grass	113 Cooking fire, confined to co
10/16/2017	10:18:00	Hwy 20/49 Intersection /N	322 Motor vehicle accident with
10/16/2017	22:59:52	760 ZION ST /Nevada City,	320 Emergency medical service, o

## Station 54 Incident Responses

Alarm Date Between {10/01/2017} And {10/31/2017}

Alm Date	Alm Time	Location	Incident Type
10/17/2017	00:13:00	13036 Ridge RD /Grass Val	112 Fires in structure other tha
10/17/2017	14:46:00	234 Neville WAY /Nevada C	324 Motor Vehicle Accident with
10/17/2017	17:00:00	760 ZION ST /22/Nevada Ci	322 Motor vehicle accident with
10/18/2017	10:21:00	230 American Hill RD /Nev	320 Emergency medical service, o
10/18/2017	11:47:00	760 ZION ST /Nevada City,	320 Emergency medical service, o
10/18/2017	13:08:00	14237 N. Bloomfield Road	551 Assist police or other gover
10/19/2017	15:29:00	754 Nevada ST /Nevada Cit	561 Unauthorized burning
10/20/2017	11:00:00	10910 Ridge RD /Nevada Ci	321 EMS call, excluding vehicle
10/20/2017	15:42:00	1262 Sutton WAY /Grass Va	611 Dispatched & cancelled en ro
10/21/2017	10:17:00	12967 Hoppy Hollow RD /Gr	150 Outside rubbish fire, Other
10/21/2017	15:16:00	State Hwy 20 HWY & Conser	320 Emergency medical service, o
10/21/2017	16:31:00	State Hwy 20 HWY & Scotts	320 Emergency medical service, o
10/22/2017	17:52:00	1370 Mulberry DR /Grass V	733 Smoke detector activation du
10/23/2017	19:34:00	310 Long ST /Nevada City,	321 EMS call, excluding vehicle
10/24/2017	15:35:00	1345 Whispering Pines LAN	320 Emergency medical service, o
10/24/2017	19:14:00	400 RAILROAD AVE /23/Neva	320 Emergency medical service, o
10/25/2017	16:44:00	408 Brunswick RD /Grass V	320 Emergency medical service, o
10/26/2017	14:20:00	268 Scotia Pines CIR /Gra	100 Fire, Other
10/27/2017	10:16:00	112 NEVADA CITY HWY /Neva	611 Dispatched & cancelled en ro
10/27/2017	13:12:00	804 Sneath Clay RD /Nevad	320 Emergency medical service, o
10/27/2017	16:41:00	Sutton WAY & Brunswick RD	322 Motor vehicle accident with
10/27/2017	16:50:00	19270 Greenhorn RD /Grass	611 Dispatched & cancelled en ro
10/28/2017	09:15:00	In the area of New Mohawk	600 Good intent call, Other
10/28/2017	10:15:00	825 Old Tunnel RD /101/Gr	321 EMS call, excluding vehicle
10/29/2017	01:48:00	275 Dorsey DR /58/Grass V	424 Carbon monoxide incident
10/29/2017	18:45:00	336 Bridge WAY /Nevada Ci	554 Assist invalid
10/30/2017	11:58:00	565 Brunswick RD /7/Grass	320 Emergency medical service, o
10/30/2017	13:29:00	400 RAILROAD AVE /5/Nevad	321 EMS call, excluding vehicle
10/30/2017	17:38:00	792 Nevada Street EXT /Ne	131 Passenger vehicle fire
10/31/2017	15:31:00	280 Sierra College DR /Gr	554 Assist invalid

**Total Incident Count      79**

# Nevada County Consolidated Fire District

## Nevada City Incident List

**Alarm Date Between {10/01/2017} And {10/31/2017}**

Alm Date	Alm Time	Location	Incident Type
10/02/2017	07:22:00	821 Zion ST /B5/Nevada City,	300 Rescue, EMS incident, other
10/02/2017	08:29:00	844 Old Tunnel RD /Grass	300 Rescue, EMS incident, other
10/02/2017	21:22:00	515 Nimrod ST /C/Nevada City,	300 Rescue, EMS incident, other
10/03/2017	00:42:00	220 CHURCH ST /Nevada City,	320 Emergency medical service, other
10/03/2017	10:28:00	120 BRIDGE ST /Nevada City,	735 Alarm system sounded due to
10/04/2017	09:07:00	950 MAIDU AVE /Nevada City,	320 Emergency medical service, other
10/04/2017	19:33:33	293 LOWER GRASS VALLEY RD	411 Gasoline or other flammable
10/05/2017	08:30:00	194 GOLD FLAT RD /Nevada	321 EMS call, excluding vehicle
10/06/2017	14:29:00	Union ALY & Commercial ST	320 Emergency medical service, other
10/06/2017	15:45:00	316 Clay ST /Nevada City, CA	321 EMS call, excluding vehicle
10/06/2017	22:22:00	9 Kidder CT /16/Nevada City,	321 EMS call, excluding vehicle
10/06/2017	22:31:02	234 Commercial St. /Nevada	320 Emergency medical service, other
10/11/2017	18:57:00	925 MAIDU AVE /Nevada City,	320 Emergency medical service, other
10/11/2017	20:40:00	102 ARGALL WAY /on the	440 Electrical wiring/equipment
10/12/2017	19:43:00	518 STATE HIGHWAY 49 HWY	320 Emergency medical service, other
10/12/2017	22:24:00	135 ARGALL WAY /A/Nevada	553 Public service
10/12/2017	22:44:00	925 MAIDU AVE /Nevada City,	320 Emergency medical service, other
10/15/2017	15:18:00	211 BROAD ST /40/Nevada City,	311 Medical assist, assist EMS crew
10/15/2017	16:41:00	Max Solard ST & Nimrod ST	320 Emergency medical service, other
10/16/2017	10:18:00	Hwy 20/49 Intersection	322 Motor vehicle accident with
10/16/2017	22:59:52	760 ZION ST /Nevada City, CA	320 Emergency medical service, other
10/17/2017	14:46:00	234 Neville WAY /Nevada City,	324 Motor Vehicle Accident with no
10/17/2017	17:00:00	760 ZION ST /22/Nevada City,	322 Motor vehicle accident with
10/18/2017	10:21:00	230 American Hill RD /Nevada	320 Emergency medical service, other
10/18/2017	11:47:00	760 ZION ST /Nevada City, CA	320 Emergency medical service, other
10/19/2017	15:29:00	754 Nevada ST /Nevada City,	561 Unauthorized burning
10/20/2017	11:00:00	10910 Ridge RD /Nevada City,	321 EMS call, excluding vehicle
10/21/2017	10:38:00	636 E Broad ST /Nevada City,	320 Emergency medical service, other
10/21/2017	13:28:00	512 Main ST /Nevada City, CA	320 Emergency medical service, other
10/22/2017	16:12:00	Main ST & Church ST /Nevada	320 Emergency medical service, other
10/23/2017	14:25:00	194 GOLD FLAT RD /Nevada	320 Emergency medical service, other
10/23/2017	19:34:00	310 Long ST /Nevada City, CA	321 EMS call, excluding vehicle
10/24/2017	18:27:00	915 Maidu AVE /Nevada City,	320 Emergency medical service, other
10/24/2017	19:14:00	400 RAILROAD AVE /23/Nevada	320 Emergency medical service, other
10/27/2017	10:16:00	112 NEVADA CITY HWY /Nevada	611 Dispatched & cancelled en route
10/27/2017	13:12:00	804 Sneath Clay RD /Nevada	320 Emergency medical service, other
10/28/2017	02:10:00	400 Broad ST /Nevada City, CA	320 Emergency medical service, other
10/28/2017	09:15:00	In the area of New Mohawk rd	600 Good intent call, Other
10/28/2017	10:07:00	Hwy 20 /Broad Street/Nevada	324 Motor Vehicle Accident with no
10/28/2017	21:33:00	728 Nevada ST /Nevada City,	320 Emergency medical service, other
10/29/2017	18:45:00	336 Bridge WAY /Nevada City,	554 Assist invalid
10/30/2017	13:29:00	400 RAILROAD AVE /5/Nevada	321 EMS call, excluding vehicle
10/30/2017	17:38:00	792 Nevada Street EXT /Nevada	131 Passenger vehicle fire
10/31/2017	08:50:00	201 COMMERCIAL ST /Nevada	320 Emergency medical service, other

Total Incident Count 44

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**Station 54 Incident Type Summary**

**Alarm Date Between {10/01/2017} And {10/31/2017}**

<b>District</b>	<b>False</b>	<b>Fire</b>	<b>Good</b>	<b>Hazard</b>	<b>Overpressu</b>	<b>Rescue</b>	<b>Service</b>	<b>Special</b>
01	0	1	0	0	0	1	0	0
02	2	4	1	2	0	10	2	0
54	1	2	3	1	0	6	1	0
84	1	2	0	1	0	4	0	0
87	0	1	0	0	0	1	0	0
91	0	1	0	0	0	0	0	0
NCCFD	2	1	2	0	0	1	2	0
NEV	1	1	2	2	0	12	3	0
TNF	0	0	1	1	0	0	0	0
	<u>7</u>	<u>13</u>	<u>9</u>	<u>7</u>	<u>0</u>	<u>35</u>	<u>8</u>	<u>0</u>

**Nevada County Consolidated Fire District**

**NEV Year-to-date Incident Participation**

**Activity Date Between {07/01/2017} And  
{10/31/2017}**

<b>Staff Id/Name</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>	<b>Percent</b>
NEV-I016 Bunyan-Naulty, Coleton	0	0	0	0	0	0	10	2	1	0	0	0	13	3.25
NEV-03 Cartzdafner, Kevin L	0	0	0	0	0	0	35	37	39	41	0	0	152	38.09
NEV-65 Chau, Michael	0	0	0	0	0	0	32	38	31	29	0	0	130	32.58
NEV-I017 Cossentine, Erik	0	0	0	0	0	0	19	36	29	18	0	0	102	25.56
NEV-09 Goodspeed, Samuel J	0	0	0	0	0	0	15	19	23	7	0	0	64	16.04
NEV-10 Herbert, Thomas O	0	0	0	0	0	0	0	0	1	0	0	0	1	0.25
NEV-68 Naulu, David	0	0	0	0	0	0	2	0	0	0	0	0	2	0.50
NEV-40 Nunnink, Collin	0	0	0	0	0	0	61	31	32	30	0	0	154	38.59
NEV-15 Paulus, Daniel H	0	0	0	0	0	0	50	44	30	31	0	0	155	38.84
NEV-I012 Rohrer, Nicholas	0	0	0	0	0	0	0	15	25	23	0	0	63	15.78

<b>Total Runs by Month</b>											
<b>Jan</b>	0	<b>Feb</b>	0	<b>Mar</b>	0	<b>Apr</b>	0	<b>May</b>	0	<b>Jun</b>	0
<b>Jul</b>	119	<b>Aug</b>	98	<b>Sep</b>	92	<b>Oct</b>	90	<b>Nov</b>	0	<b>Dec</b>	0

**Grand Total Runs: 399**

## Station 54 Incident Responses

Alarm Date Between {11/01/2017} And {11/30/2017}

Alm Date	Alm Time	Location	Incident Type
11/01/2017	08:55:00	950 MAIDU AVE /Nevada Cit	143 Grass fire
11/01/2017	09:48:00	16829 Greenhorn RD /B/Gra	300 Rescue, EMS incident, other
11/01/2017	13:08:00	400 Railroad AVE /8/Nevad	521 Water evacuation
11/01/2017	14:01:00	10259 Harmony Ridge RD /N	320 Emergency medical service, o
11/01/2017	14:33:00	200 Dorsey DR /31/Grass V	300 Rescue, EMS incident, other
11/02/2017	16:20:00	State Highway 49 HWY & Br	131 Passenger vehicle fire
11/03/2017	03:43:00	1327 E Main ST /B/Grass V	554 Assist invalid
11/03/2017	10:26:00	1327 E Main ST /B/Grass V	320 Emergency medical service, o
11/03/2017	14:49:00	841 Old Tunnel RD /3/Gras	320 Emergency medical service, o
11/03/2017	16:23:00	Greenhorn RD & Yama WAY /	463 Vehicle accident, general cl
11/04/2017	10:21:00	251 Willow Valley RD /Nev	321 EMS call, excluding vehicle
11/04/2017	12:40:00	Brunswick South Bound On-	463 Vehicle accident, general cl
11/05/2017	16:46:00	Walrath ST & Searls AVE /	600 Good intent call, Other
11/05/2017	19:56:00	16687 Eden Ranch RD /Neva	320 Emergency medical service, o
11/06/2017	10:17:00	821 Zion ST /Nevada City,	320 Emergency medical service, o
11/06/2017	15:17:00	11761 Ridge RD /Grass Val	320 Emergency medical service, o
11/06/2017	15:29:00	10800 Squirrel Creek RD /	622 No Incident found on arrival
11/07/2017	00:28:00	400 Railroad AVE /4/Nevad	554 Assist invalid
11/07/2017	00:43:00	28649 825 Old Tunnel RD /	320 Emergency medical service, o
11/07/2017	02:12:00	415 Sierra College DR /Gr	320 Emergency medical service, o
11/07/2017	17:20:00	Brunswick RD & State High	463 Vehicle accident, general cl
11/08/2017	14:51:00	360 Crown Point CIR /210/	554 Assist invalid
11/08/2017	20:34:00	14734 Harmony Estates RD	743 Smoke detector activation, n
11/08/2017	20:54:00	15394 Julia Ranch RD /Gra	111 Building fire
11/08/2017	23:35:00	400 PROVIDENCE MINE RD /N	745 Alarm system activation, no
11/09/2017	00:29:00	150 Crown Point CT /Grass	131 Passenger vehicle fire
11/09/2017	09:10:00	625 Eskaton CIR /208/Gras	320 Emergency medical service, o
11/09/2017	13:19:00	10923 Bubbling Wells RD /	320 Emergency medical service, o
11/09/2017	16:03:00	State Highway 49, 1 mile	463 Vehicle accident, general cl
11/09/2017	18:55:00	Off of the North Bound on	463 Vehicle accident, general cl
11/09/2017	20:55:00	State Highway 49 HWY & Sh	463 Vehicle accident, general cl
11/10/2017	11:02:00	621 E Broad ST /Nevada Ci	320 Emergency medical service, o
11/10/2017	12:10:48	850 Sutton Way /Grass Val	324 Motor Vehicle Accident with
11/10/2017	20:34:00	825 Old Tunnel RD /301/Gr	554 Assist invalid
11/10/2017	22:56:00	625 Eskaton CIR /347/Gras	320 Emergency medical service, o
11/11/2017	11:11:00	11021 Pittsburg Mine RD /	561 Unauthorized burning
11/11/2017	15:34:00	313 RAILROAD AVE /Nevada	321 EMS call, excluding vehicle
11/13/2017	00:45:00	825 Old Tunnel RD /102/Gr	554 Assist invalid
11/13/2017	09:04:00	11963 Scotts Valley RD /G	320 Emergency medical service, o
11/13/2017	09:58:00	317 BROAD ST /Nevada City	743 Smoke detector activation, n
11/13/2017	12:27:00	155 Glasson WAY /Grass Va	740 Unintentional transmission o
11/13/2017	14:51:00	821 Zion ST /Nevada City,	463 Vehicle accident, general cl
11/13/2017	15:12:00	821 Zion ST /A1/Nevada Ci	300 Rescue, EMS incident, other
11/14/2017	06:45:00	12968 Lost Lake RD /Grass	300 Rescue, EMS incident, other
11/14/2017	10:53:00	405 Commercial ST /Nevada	552 Police matter
11/15/2017	03:59:00	13445 Toby TRL /Grass Val	300 Rescue, EMS incident, other
11/15/2017	17:47:00	Sutton WAY & Brunswick RD	611 Dispatched & cancelled en ro
11/16/2017	09:19:00	300 Jordan ST /Nevada Cit	321 EMS call, excluding vehicle
11/16/2017	15:15:00	13393 Grass Valley AVE /9	661 EMS call, party transported

## Station 54 Incident Responses

Alarm Date Between {11/01/2017} And {11/30/2017}

Alm Date	Alm Time	Location	Incident Type
11/16/2017	17:45:00	625 Eskaton CIR /in the l	321 EMS call, excluding vehicle
11/16/2017	19:05:00	10821 Squirrel Creek RD /	700 False alarm or false call, O
11/16/2017	19:12:00	11427 Marjon DR /Nevada C	321 EMS call, excluding vehicle
11/16/2017	22:26:00	2075 Nevada City HWY /Gra	600 Good intent call, Other
11/17/2017	17:05:00	825 Old Tunnel RD /102/Gr	554 Assist invalid
11/17/2017	21:59:00	841 Old Tunnel RD /7/Gras	740 Unintentional transmission o
11/18/2017	07:23:00	775 Old Tunnel RD /Grass	735 Alarm system sounded due to
11/18/2017	16:45:00	11992 Crystal Wells RD /N	424 Carbon monoxide incident
11/19/2017	07:08:00	105 Neal ST /Grass Valley	445 Arcing, shorted electrical e
11/20/2017	06:46:00	1262 Sutton WAY /Grass Va	300 Rescue, EMS incident, other
11/20/2017	07:03:00	728 Nevada ST /4/Grass Va	300 Rescue, EMS incident, other
11/20/2017	10:37:00	316 Olympia Park CIR /Gra	300 Rescue, EMS incident, other
11/21/2017	11:21:00	775 Old Tunnel RD /310/Gr	320 Emergency medical service, o
11/21/2017	15:25:00	805 LINDLEY AVE /Nevada C	671 HazMat release investigation
11/21/2017	19:41:00	121 Dorsey DR /Grass Vall	710 Malicious, mischievous false
11/22/2017	07:15:00	844 Old Tunnel RD /In the	320 Emergency medical service, o
11/22/2017	14:55:00	11916 Big Blue RD /Nevada	111 Building fire
11/23/2017	01:02:00	400 RAILROAD AVE /4/Nevad	554 Assist invalid
11/23/2017	02:14:00	10018 Dow RD /Nevada City	321 EMS call, excluding vehicle
11/23/2017	03:44:00	336 Bridge WAY /Nevada Ci	321 EMS call, excluding vehicle
11/23/2017	13:19:00	400 RAILROAD AVE /4/Nevad	321 EMS call, excluding vehicle
11/23/2017	20:11:00	400 RAILROAD AVE /4/Nevad	320 Emergency medical service, o
11/23/2017	22:14:00	775 Old Tunnel RD /310/Gr	320 Emergency medical service, o
11/23/2017	22:52:00	293 LOWER GRASS VALLEY RD	652 Steam, vapor, fog or dust th
11/24/2017	11:41:00	Old Tunnel Rod Near Banne	352 Extrication of victim(s) fro
11/24/2017	12:52:00	10681 Gold Flat RD /Nevad	320 Emergency medical service, o
11/24/2017	15:33:00	126 Orchard ST /Nevada Ci	320 Emergency medical service, o
11/26/2017	08:53:00	432 S School ST /Grass Va	600 Good intent call, Other
11/26/2017	10:54:00	841 Old Tunnel RD /60 Uni	550 Public service assistance, O
11/26/2017	14:48:00	426 Cross ST /Nevada City	320 Emergency medical service, o
11/26/2017	15:37:00	211 Reward ST /Nevada Cit	444 Power line down
11/27/2017	14:05:00	775 Old Tunnel RD /310/Gr	554 Assist invalid
11/28/2017	21:16:00	444 Brock RD /Nevada City	554 Assist invalid
11/30/2017	14:06:00	11309 Willow Valley RD /B	321 EMS call, excluding vehicle

**Total Incident Count      83**

**Nevada County Consolidated Fire District**

**Nevada City Incident List**

**Alarm Date Between {11/01/2017} And {11/30/2017}**

<b>Alm Date</b>	<b>Alm Time</b>	<b>Location</b>	<b>Incident Type</b>
11/01/2017	00:34:00	Union ALY & Broad ST /Nevada	320 Emergency medical service, other
11/01/2017	08:55:00	950 MAIDU AVE /Nevada City,	143 Grass fire
11/01/2017	12:04:00	317 BROAD ST /Nevada City, CA	611 Dispatched & cancelled en route
11/01/2017	13:08:00	400 Railroad AVE /8/Nevada	521 Water evacuation
11/02/2017	21:38:00	401 BROAD ST /Nevada City, CA	412 Gas leak (natural gas or LPG)
11/03/2017	19:13:00	Broad ST & pine ST /Nevada	320 Emergency medical service, other
11/04/2017	10:21:00	251 Willow Valley RD /Nevada	321 EMS call, excluding vehicle
11/05/2017	16:46:00	Walrath ST & Searls AVE	600 Good intent call, Other
11/05/2017	19:48:00	330 Alexander Street /Nevada	554 Assist invalid
11/06/2017	09:58:00	728 Nevada Street EXT	311 Medical assist, assist EMS crew
11/06/2017	10:17:00	821 Zion ST /Nevada City, CA	320 Emergency medical service, other
11/06/2017	13:38:00	950 Maidu Street /Nevada	320 Emergency medical service, other
11/07/2017	00:28:00	400 Railroad AVE /4/Nevada	554 Assist invalid
11/07/2017	12:06:00	728 Nevada ST /Nevada City,	320 Emergency medical service, other
11/08/2017	13:27:00	433 BROAD ST /Nevada City, CA	320 Emergency medical service, other
11/08/2017	23:35:00	400 PROVIDENCE MINE RD	745 Alarm system activation, no fire
11/09/2017	11:20:00	728 Nevada ST /Nevada City,	320 Emergency medical service, other
11/10/2017	11:02:00	621 E Broad ST /Nevada City,	320 Emergency medical service, other
11/11/2017	14:47:00	728 Nevada ST /Nevada City,	320 Emergency medical service, other
11/11/2017	15:34:00	313 RAILROAD AVE /Nevada	321 EMS call, excluding vehicle
11/11/2017	22:34:00	401 Broad ST /Nevada City, CA	320 Emergency medical service, other
11/12/2017	16:40:00	Pioneer Park/Nevada City, CA	653 Smoke from barbecue, tar kettle
11/12/2017	23:24:00	B ST & Nevada ST /Nevada	320 Emergency medical service, other
11/13/2017	09:58:00	317 BROAD ST /Nevada City, CA	743 Smoke detector activation, no
11/13/2017	14:51:00	821 Zion ST /Nevada City, CA	463 Vehicle accident, general
11/13/2017	15:12:00	821 Zion ST /Al/Nevada City,	300 Rescue, EMS incident, other
11/14/2017	10:53:00	405 Commercial ST /Nevada	552 Police matter
11/15/2017	09:23:00	728 Nevada ST /4/Nevada City,	320 Emergency medical service, other
11/15/2017	16:12:00	728 Nevada ST /4/Nevada City,	622 No Incident found on arrival at
11/16/2017	09:19:00	300 Jordan ST /Nevada City,	321 EMS call, excluding vehicle
11/18/2017	19:38:00	325 SPRING ST /Nevada City,	320 Emergency medical service, other
11/19/2017	00:06:00	424 N Pine ST /Nevada City,	320 Emergency medical service, other
11/19/2017	06:04:00	848 Nevada ST /Nevada City,	320 Emergency medical service, other
11/20/2017	07:03:00	728 Nevada ST /4/Grass	300 Rescue, EMS incident, other
11/20/2017	08:08:00	503 Mill ST /Nevada City, CA	554 Assist invalid
11/20/2017	13:17:00	503 Mill ST /Nevada City, CA	320 Emergency medical service, other
11/21/2017	15:10:00	211 PARK AVE /Nevada City, CA	320 Emergency medical service, other
11/21/2017	15:25:00	805 LINDLEY AVE /Nevada City,	671 HazMat release investigation
11/22/2017	10:49:00	737 Zion Street /Nevada City,	300 Rescue, EMS incident, other
11/22/2017	12:35:00	728 Nevada Street EXT	320 Emergency medical service, other
11/22/2017	14:59:00	Parking lot at the Chinese	320 Emergency medical service, other
11/23/2017	01:02:00	400 RAILROAD AVE /4/Nevada	554 Assist invalid
11/23/2017	01:58:00	925 Maidu Ave /Nevada City,	320 Emergency medical service, other
11/23/2017	03:44:00	336 Bridge WAY /Nevada City,	321 EMS call, excluding vehicle
11/23/2017	03:45:00	400 Railroad Ave /4/Nevada	554 Assist invalid

# Nevada County Consolidated Fire District

## Nevada City Incident List

Alarm Date Between {11/01/2017} And {11/30/2017}

Alm Date	Alm Time	Location	Incident Type
11/23/2017	13:19:00	400 RAILROAD AVE /4/Nevada	321 EMS call, excluding vehicle
11/23/2017	16:02:00	251 Willow Valley Road	554 Assist invalid
11/23/2017	16:43:00	821 ZION ST /Nevada City, CA	320 Emergency medical service, other
11/23/2017	20:11:00	400 RAILROAD AVE /4/Nevada	320 Emergency medical service, other
11/23/2017	22:52:00	293 LOWER GRASS VALLEY RD	652 Steam, vapor, fog or dust
11/24/2017	15:33:00	126 Orchard ST /Nevada City,	320 Emergency medical service, other
11/24/2017	19:26:00	475 SPRING ST /2B/Nevada	320 Emergency medical service, other
11/25/2017	01:31:00	104 York ST /Nevada City, CA	320 Emergency medical service, other
11/26/2017	04:54:00	357 Old Downieville HWY	733 Smoke detector activation due to
11/26/2017	14:48:00	426 Cross ST /Nevada City, CA	320 Emergency medical service, other
11/26/2017	14:59:00	950 MAIDU AVE /Nevada City,	735 Alarm system sounded due to
11/26/2017	15:37:00	211 Reward ST /Nevada City,	444 Power line down
11/26/2017	16:09:00	950 MAIDU AVE /Nevada City,	735 Alarm system sounded due to
11/27/2017	10:22:00	728 Nevada ST /4/Nevada City,	320 Emergency medical service, other
11/27/2017	10:34:00	925 MAIDU AVE /Nevada City,	611 Dispatched & cancelled en route
11/27/2017	12:38:00	475 SPRING ST /2B/Nevada	320 Emergency medical service, other
11/28/2017	11:00:00	529 Searls Ave /Nevada City,	320 Emergency medical service, other
11/28/2017	21:16:00	444 Brock RD /Nevada City, CA	554 Assist invalid
11/30/2017	04:11:00	128 Grove ST /Nevada City, CA	320 Emergency medical service, other

Total Incident Count 64

Station 54 Incident Type Summary

Alarm Date Between {11/01/2017} And {11/30/2017}

District	False	Fire	Good	Hazard	Overpressu	Rescue	Service	Special
01	0	0	1	1	0	0	0	0
02	2	2	2	3	0	9	4	0
54	2	1	1	1	0	14	5	0
84	1	0	0	3	0	6	0	0
86	0	1	0	0	0	0	0	0
87	1	0	1	0	0	0	0	0
NEV	2	1	3	2	0	10	4	0
	<u>8</u>	<u>5</u>	<u>8</u>	<u>10</u>	<u>0</u>	<u>39</u>	<u>13</u>	<u>0</u>

**Nevada County Consolidated Fire District**

**NEV Year-to-date Incident Participation**

**Activity Date Between {07/01/2017} And  
{11/30/2017}**

<b>Staff Id/Name</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Total</b>	<b>Percent</b>
NEV-I016 Bunyan-Naulty, Coleton	0	0	0	0	0	0	10	2	1	0	0	0	13	2.69
NEV-03 Cartzdafner, Kevin L	0	0	0	0	0	0	35	37	39	41	42	0	194	40.24
NEV-65 Chau, Michael	0	0	0	0	0	0	32	38	31	29	17	0	147	30.49
NEV-I017 Cossentine, Erik	0	0	0	0	0	0	19	36	29	18	23	0	125	25.93
NEV-09 Goodspeed, Samuel J	0	0	0	0	0	0	15	19	23	7	0	0	64	13.27
NEV-10 Herbert, Thomas O	0	0	0	0	0	0	0	0	1	0	0	0	1	0.20
NEV-68 Naulu, David	0	0	0	0	0	0	2	0	0	0	0	0	2	0.41
NEV-40 Nunnink, Collin	0	0	0	0	0	0	61	31	32	30	31	0	185	38.38
NEV-15 Paulus, Daniel H	0	0	0	0	0	0	50	44	30	31	31	0	186	38.58
NEV-I012 Rohrer, Nicholas	0	0	0	0	0	0	0	15	25	23	27	0	90	18.67

<b>Total Runs by Month</b>											
<b>Jan</b>	0	<b>Feb</b>	0	<b>Mar</b>	0	<b>Apr</b>	0	<b>May</b>	0	<b>Jun</b>	0
<b>Jul</b>	119	<b>Aug</b>	98	<b>Sep</b>	92	<b>Oct</b>	90	<b>Nov</b>	83	<b>Dec</b>	0

**Grand Total Runs: 482**

## REPORT TO CITY COUNCIL

December 13, 2017

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

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### **TITLE: Standard Agreement Between The City Of Nevada City And Caltrans**

**RECOMMENDATION:** Review and authorize the Interim City Manager to sign an agreement not to exceed \$25,000 through 12/15/2019 between the City of Nevada City and Caltrans for brine solution.

**CONTACT:** Catrina Olson, Interim City Manager  
Chris Schack, Director of Public Works

### **BACKGROUND / DISCUSSION:**

The City's agreement with State of California Department of Transportation, Caltrans, for providing the City brine solution is due to expire on 12/15/2017. This current agreement provides for the continued supply of brine to the Department of Public Works (DPW) to be used in the City's de-icing machine. This process efficiently addresses hazardous winter street conditions. During continuous icy conditions reapplication is required every 3-4 days. Brine cost is approximately \$.20 per gallon, which is unchanged from the current agreement. The number of gallons received will be tracked at the Nevada City Caltrans.

The Department of Public works is seeking to continue the services of Caltrans to provide the brine. The City will work with Caltrans to provide the water necessary to prepare the solution.

### **FISCAL IMPACT:**

The cost of brine has been included in the 2017-2018 budget as a standard operating cost.

### **ATTACHMENTS:**

- ✓ Standard Agreement between City of Nevada City and Caltrans

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION  
**STANDARD AGREEMENT**  
**FOR MISCELLANEOUS REIMBURSED WORK**  
 FA-2640 (NEW 1/2007)

(Required)  
 Agreement  
 Number

EA 0317000012

This agreement is entered into this 15th day of November, 2017 by and between the undersigned parties:

Set forth service / materials, to be furnished, and/or work to be performed and by whom.

**This agreement is for:**

**WHAT:** Caltrans to make and supply brine solution for Nevada City Department of Public Works. Nevada City will provide the same number of gallons of water necessary to make the brine solution received by the City. Brine cost will be \$0.20 per gallon. Number of gallons of received water and allocated brine will be tracked at the Nevada City Caltrans

**WHERE:** Brine solution will be made at the Nevada City Caltrans Maintenance Yard located at 10057 Gold Flat Road, Nevada City, CA 95959. Water will be delivered to the same location by the City.

**ESTIMATED TO COST** (attach detailed estimate)

**Date:** Estimated Beginning 12/16/2017 Estimated Completion 12/15/2019

**Payment to be made upon billing:**

Advanced deposit (Estimate amount) \$ \_\_\_\_\_

Maximum to be billed (Include 10-20% contingency) \$ 25,000.00

It is agreed that costs for the above services are subject to an assessment for direct and indirect costs (functional and administrative overhead) when applicable.

Work will be done in a timely manner, but at the convenience of Caltrans, and will not take precedence over Caltrans work.

The State reserves the right to cancel this agreement by written notice at any time when it is deemed in the best interest of the State to do so and to refund any unexpected funds collected.

(Caltrans Contract Manager fill in the following upon completion of the work for final accounting of project and forward copy of agreement, along with any purchase orders, to Division of Accounting, Attn: A/R Reimbursements, MS 33).

Work Completed \_\_\_\_\_

Certified as to Funds:

Work Order # \_\_\_\_\_

Contract Manager \_\_\_\_\_

Budget Manager \_\_\_\_\_

Name of Agency/Contributor (If private party, should be name of party on check) Nevada City Public Works Department	Name of Agency Department of Transportation
Authorized Signature  Phone #:	Authorized Signature
Title	District Director
Billing Address City of Nevada City 317 Broad Street Nevada City, CA 95959	Project Manager: Shelley Pangman Phone #: 530-635-0887 Mailing Address Department of Transportation Attn: Shelley Pangman 10057 Gold Flat Road Nevada City, CA 95959

# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

---

**TITLE:** Purchase Of A Residual Sulfite Analyzer For The Wastewater Treatment Plant (WWTP)

**RECOMMENDATION:** Authorize the purchase of a Residual Sulfite Analyzer for the Wastewater Treatment Plant (WWTP).

**CONTACT:** Chris Schack, Director of Public Works

**BACKGROUND / DISCUSSION:**

It has been identified by the staff at the Wastewater Treatment Plant (WWTP) the existing sulfite analyzer has outlived its useful life and needs to be replaced. The sulfite analyzer measures the sulfur dioxide in the WWTP effluent discharged from the plant to ensure chlorine neutralization. It is critical that this piece of equipment be properly functioning and in good repair.

Attached is an estimate provided by Ken Grady Company. The invoice is for the cost for the replacement equipment and shipping. This company is a preferred provider the City has used before for this same equipment. It was difficult to obtain any further cost estimates so only one is being provided.

**FISCAL IMPACT:**

The replacement cost for the sulfite analyzer, shipping and tax is \$7,209.25.

**ATTACHMENTS:**

- ✓ Ken Grady Company, Inc. Invoice

KEN GRADY COMPANY, INC.

# INVOICE

85 GALLI DRIVE, SUITE D  
 NOVATO, CA 94949-5716  
 (415)883-5924 FAX (415)883-5927  
 FED. TAX #68-0161325

DATE	INVOICE NO.
3/26/2009	13386

<b>BILL TO</b>
CITY OF NEVADA CITY 317 BROAD ST. NEVADA CITY, CA 95959

<b>SHIP TO</b>
CITY OF NEVADA CITY 650 JORDAN ST. NEVADA CITY, CA 95959

<b>P.O. NO.</b>	<b>TERMS</b>	<b>REP</b>	<b>SHIP DATE</b>	<b>SHIP VIA</b>	<b>FOB</b>
1564	NET 30	KAG	3/26/2009	UPS GRD	FACTORY

ITEM	DESCRIPTION	QTY	UNIT PRICE	AMOUNT
1	ATI RESIDUAL SULFITE ANALYZER A15/66-2-1	1	6,600.00	6,600.00T
3	SHIPPING		89.50	89.50
	Sales Tax eff 4/1/07		7.875%	519.75
<p>Dustin,</p> <p>Typical LIFE EXPECTANCY</p> <p>OF THE ANALYZER IS 7-10 YRS.</p> <p>KEN</p>				

			<b>Total</b>	\$7,209.25
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## REPORT TO CITY COUNCIL

DECEMBER 13, 2017

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

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**TITLE:** Notice Of Completion For Nevada City Swimming Pool Structural Repair

**RECOMMENDATION:** Pass Resolution 2017-XX approving a Notice of Completion for the construction of the Nevada City Swimming Pool Structural Repair in the City of Nevada City and authorize the Mayor to sign.

**CONTACT:** Bryan McAlister, City Engineer

**BACKGROUND / DISCUSSION:** On December 1, 2017, a work of improvement described as Nevada City Swimming Pool Structural Repair in the City of Nevada City was completed. Staff is recommending the City Council pass a resolution approving a Notice of Completion for the project.

**FISCAL IMPACT:** The project was funded by the FY 2017-18 General Fund and a \$125,000 Federal Land and Water Conservation Fund Grant administered by the California Department of Parks and Recreation.

**ATTACHMENT:**

- ✓ Resolution 2017-XX Notice of Completion and Authorize Mayor to Sign
- ✓ Notice of Completion & Exhibit A

**RESOLUTION NO. 2017-XX**

**RESOLUTION FOR THE CITY OF NEVADA CITY  
AUTHORIZING THE MAYOR TO SIGN A NOTICE OF COMPLETION FOR  
NEVADA CITY SWIMMING POOL STRUCTURAL REPAIR**

**IT IS HEREBY RESOLVED** by the City Council of the City of Nevada City that the Mayor is authorized to sign a "Notice of Completion", a copy of which is attached hereto and labeled "Exhibit A" which completes the construction of the Nevada City Swimming Pool Structural Repair in the City of Nevada City, CA.

**IT IS FURTHER RESOLVED** that the City Clerk is authorized to file said "Notice of Completion" with the Nevada County Recorder's Office.

**PASSED AND ADOPTED** at the regular scheduled meeting of the City Council held on the 13<sup>th</sup> day of December 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

**Duane Strawser, Mayor**

**ATTEST:**

---

**Niel Locke, City Clerk**

EXHIBIT A

RECORDING REQUESTED BY and  
WHEN RECORDING MAIL TO:

**DEPUTY CITY CLERK  
CITY OF NEVADA CITY  
317 Broad Street  
Nevada City, CA 95959**

SPACE ABOVE THIS LINE FOR DEPUTY CITY CLERK'S USE ONLY

**NOTICE OF COMPLETION**

**NOTICE IS HEREBY GIVEN THAT:**

1. That the undersigned is OWNER or agent of the OWNER of the interest of estate stated below in the property hereinafter described.
2. The FULL NAME of the OWNER is: City of Nevada City
3. The FULL ADDRESS of the OWNER is: 317 Broad St, Nevada City, CA 95959
4. The nature of the INTEREST or Estate of the undersigned is: **FEE**
5. A work of improvement on the property hereinafter described was COMPLETED: December 1, 2017
6. The work of improvement completed is described as follows: Swimming Pool Structural Repair Improvements in the City of Nevada City.
7. The NAME OF THE ORIGINAL CONTRACTOR, if any, for such work of improvement is: Tricon Construction, Inc.
8. The location of said project work is: Pioneer Park at 423 Nimrod Street in Nevada City.
9. The property of which said work of improvement was completed is in the City of Nevada City, County of Nevada, State of California and is described as follows: Swimming Pool Structural Repair in the City of Nevada City.

City of Nevada City

Owner

by: \_\_\_\_\_

Duane Strawser, Mayor

"I certify under penalty of perjury that the foregoing is true and correct."

\_\_\_\_\_  
(Date and Place)

\_\_\_\_\_  
(Signature)

## REPORT TO CITY COUNCIL

DECEMBER 13, 2017

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

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**TITLE:** Notice Of Completion For Little Deer Creek Stream Restoration Phase 1

**RECOMMENDATION:** Pass Resolution 2017-XX approving a Notice of Completion for the construction of Little Deer Creek Stream Restoration Phase 1 Improvements in the City of Nevada City and authorize Mayor to sign.

**CONTACT:** Bryan McAlister, City Engineer

**BACKGROUND / DISCUSSION:** On November 28, 2017, a work of improvement described as Little Deer Creek Restoration Project Phase 1 in the City of Nevada City was completed. Staff is recommending the City Council pass a resolution approving a Notice of Completion for the project.

**FISCAL IMPACT:** The project was funded by the Urban Streams Restoration Program Grant offered by the California Department of Water Resources.

**ATTACHMENT:**

- ✓ Resolution 2017-XX Notice of Completion and Authorize Mayor to Sign
- ✓ Notice of Completion

**RESOLUTION NO. 2017-XX**

**RESOLUTION FOR THE CITY OF NEVADA CITY  
AUTHORIZING THE MAYOR TO SIGN A NOTICE OF COMPLETION FOR THE  
LITTLE DEER CREEK RESTORATION PROJECT PHASE 1**

**IT IS HEREBY RESOLVED** by the City Council of the City of Nevada City that the Mayor is authorized to sign a "Notice of Completion", a copy of which is attached hereto and labeled "Exhibit A" which completes the construction of the Little Deer Creek Restoration Project Phase 1 in the City of Nevada City, CA.

**IT IS FURTHER RESOLVED** that the City Clerk is authorized to file said "Notice of Completion" with the Nevada County Recorder's Office.

**PASSED AND ADOPTED** at the regular scheduled meeting of the City Council held on the 13<sup>th</sup> day of December 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
**Duane Strawser, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Niel Locke, City Clerk**

EXHIBIT A

RECORDING REQUESTED BY and  
WHEN RECORDING MAIL TO:

**DEPUTY CITY CLERK  
CITY OF NEVADA CITY  
317 Broad Street  
Nevada City, CA 95959**

SPACE ABOVE THIS LINE FOR DEPUTY CITY CLERK'S USE ONLY

**NOTICE OF COMPLETION**

**NOTICE IS HEREBY GIVEN THAT:**

1. That the undersigned is OWNER or agent of the OWNER of the interest of estate stated below in the property hereinafter described.
2. The FULL NAME of the OWNER is: City of Nevada City
3. The FULL ADDRESS of the OWNER is: 317 Broad St, Nevada City, CA 95959
4. The nature of the INTEREST or Estate of the undersigned is: **FEE**
5. A work of improvement on the property hereinafter described was COMPLETED: November 28, 2017
6. The work of improvement completed is described as follows: Little Deer Creek Stream Restoration Phase 1 Improvements in the City of Nevada City.
7. The NAME OF THE ORIGINAL CONTRACTOR, if any, for such work of improvement is: Allen Gill Construction, Inc.
8. The location of said project work is: Pioneer Park at 421 Nimrod Street in Nevada City.
9. The property of which said work of improvement was completed is in the City of Nevada City, County of Nevada, State of California and is described as follows: Little Deer Creek Stream Restoration Phase 1 in the City of Nevada City.

City of Nevada City

Owner

by: \_\_\_\_\_  
Duane Strawser, Mayor

"I certify under penalty of perjury that the foregoing is true and correct."

\_\_\_\_\_  
(Date and Place)

\_\_\_\_\_  
(Signature)

# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

DECEMBER 13, 2017

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**TITLE: Incorporate A List Of Projects Funded By SB 1: The Road Repair And Accountability Act**

**RECOMMENDATION:** Pass Resolution 2017-XX as follows:

1. Approve the list of projects proposed to be funded with Road Maintenance and Rehabilitation Account (RMRA) funds as described in Exhibit A.
2. Appoint the City Manager, or designee, to execute all applications, negotiations and agreements which may be necessary for completion of the aforementioned project and expenditure of RMRA funds, except those designated to the City Engineer below.
3. Appoint the City Engineer, or designee, to execute and submit all reports, payment requests, and changes to the project description, which may be necessary for completion of the aforementioned project and expenditure of RMRA funds.

**CONTACT:** Bryan McAlister, City Engineer

**BACKGROUND / DISCUSSION:** Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide. The City will receive an estimated \$18,419 in RMRA funding in FY 2017-18 and \$55,255 in FY 2018-19 from SB 1. Staff has prepared a list of high-priority and cost-effective projects that meet the criteria set forth by SB1 for public consideration and approval by City Council.

**FISCAL IMPACT:** RMRA funds will be used in accordance with the guidelines set forth by California Transportation Commission. Measure S funds will be used for matching contribution and to provide an original source of funds prior to reimbursement of expenditures by the RMRA apportionment.

**ATTACHMENT:**

- ✓ Resolution 2017-XX to Incorporate a List of Projects Funded by SB 1
- ✓ Project List – Local Streets and Roads Program SB1

## RESOLUTION NO. 2017-XX

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY TO INCORPORATE A LIST OF PROJECTS FUNDED BY SB 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT

**WHEREAS**, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

**WHEREAS**, the City of Nevada City will receive an estimated \$18,419 in Road Maintenance and Rehabilitation Account (RMRA) funding in Fiscal Year 2017-18 and \$55,255 in RMRA funding in Fiscal Year 2018-19 from SB 1; and

**WHEREAS**, SB 1 includes accountability and transparency provisions that will ensure the residents of the City of Nevada City are aware of the projects proposed for funding in the community and which projects have been completed each fiscal year; and.

**WHEREAS**, the City of Nevada City must include a list of all projects proposed to receive funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

**WHEREAS**, maintaining and preserving the local street and road system in good condition will reduce drive times and traffic congestion, improve bicycle safety, and make the pedestrian experience safer and more appealing, which reduces vehicle emissions helping the State achieve its air quality and greenhouse gas emissions reductions goals.

\*\*\*\*\*

**NOW, THEREFORE, BE IT RESOLVED, DETERMINED AND ORDERED**  
by the City Council of the City of Nevada City as follows:

1. Approve the list of projects proposed to be funded with RMRA funds as described in Exhibit A.
2. Appoint the City Manager, or designee, to execute all applications, negotiations and agreements which may be necessary for completion of the aforementioned project and expenditure of RMRA funds, except those designated to the City Engineer below.
3. Appoint the City Engineer, or designee, to execute and submit all reports, payment requests, and changes to the project description, which may be necessary for completion of the aforementioned project and expenditure of RMRA funds.

**PASSED AND ADOPTED** at the regular meeting of the City Council of the City of Nevada City on the 13<sup>th</sup> day of December, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

**Duane Strawser, Mayor**

**ATTEST:**

---

**Niel Locke, City Clerk**



# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

---

**TITLE: Award Of Contract For Site Clearing At Nevada City Burn Dump In Nevada City**

**RECOMMENDATION:** Pass Resolution 2017-XX Awarding a contract to Judd Buick Construction in the amount of \$38,400.00 plus \$3,000.00 contingencies for Site Clearing at the Nevada City Burn Dump in Nevada City and authorize the Mayor to sign.

**CONTACT:** Bryan K. McAlister, City Engineer

**BACKGROUND/DISCUSSION:** The City of Nevada City provides long term maintenance of the former burn dump in accordance with California Environmental Protection Agency and Nevada County Department of Environmental Health requirements.

The project consists of site clearing to remove and dispose of trees, shrubs, or other deep rooting vegetation from the Old City Dump within the entire fenced area and within 8' of fence. Upon completion of clearing and grading disturbance work activities, the contractor will provide soil stabilization and site drainage repairs.

City staff advertised with a public notice to contractors and received five competitive bids on December 5, 2017. Bids received are as follows:

- Judd Buick Construction, Redding CA \$ 38,400.00
- Escehaman Construction, Brownsville CA \$ 74,268.81
- All-American Construction Inc., Yuba City CA \$ 76,500.00
- Deschane Enterprises Inc., Grass Valley CA \$ 50,000.00
- BRCO Constructors Inc., Rocklin CA \$100,000.00

Judd Buick Construction was selected as the lowest responsive and responsible bidder.

**FISCAL CONSIDERATIONS:** The project will be funded as authorized in the fiscal year 2017/2018 general fund.

**ATTACHMENT:**

- ✓ Resolution 2017-XX
- ✓ Contract for Site Clearing at Nevada City Burn Dump in Nevada City

**RESOLUTION NO. 2017-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY  
TO AWARD A CONTRACT TO JUDD BUICK CONSTRUCTION FOR SITE  
CLEARING AT NEVADA CITY BURN DUMP AND  
AUTHORIZE MAYOR TO SIGN**

**WHEREAS**, The City of Nevada City provides long term maintenance of the former burn dump in accordance with California Environmental Protection Agency and Nevada County Department of Environmental Health requirements; and

**WHEREAS**, consist with Municipal Code requirements, City staff advertised and received bids for Site Clearing at Nevada City Burn Dump.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Nevada City to award the contract to Judd Buick Construction in the amount of \$38,400.00 plus \$3,000 contingencies for Site Clearing at Nevada City Burn Dump in Nevada City and authorize the Mayor to sign.

**PASSED AND ADOPTED** at the regular meeting of the City Council of the City of Nevada City on the 13<sup>th</sup> day of December, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

**Duane Strawser, Mayor**

**ATTEST:**

---

**Niel Locke, City Clerk**

# **Site Clearing at Nevada City Burn Dump**



City of Nevada City, 95959  
Nevada County, California

---

**Bryan K. McAlister**  
**PE C58570**  
**PLS 9199**

**NOTICE TO CONTRACTOR'S**

**SITE CLEARING AT NEVADA CITY BURN DUMP**

Sealed proposals for SITE CLEARING AT NEVADA CITY BURN DUMP will be received by the City at City Hall, 317 Broad Street, Nevada City, California, 95959, until **3:00 PM on November 29, 2017**, at which time, or as soon thereafter as practicable, all such proposals will be publicly opened and read at City Hall, 317 Broad Street, Nevada City, California.

Bids shall be enclosed and sealed in an envelope addressed to the City of Nevada City at the above stated address and shall be marked " SITE CLEARING AT NEVADA CITY BURN DUMP "

The work includes the furnishing of all labor, materials, and equipment required for the job in accordance with the plans, specifications and other contract documents as set forth by the City Engineer. Such bid documents will be on file with the City staff and are available for inspection during office hours. **Bid proposals may be obtained at the office of said City Hall at 317 Broad Street, Nevada City, California on or after November 13th, 2017.**

\*\*\*\*\*

The City reserves the right to reject all bids; or to accept any portion of bid schedule; to reject any bid which is incomplete or irregular; to determine which proposal is, in its judgment, the lowest responsible bid of a responsible bidder and to waive any informality or minor irregularity of any bid.

DATED: November 13, 2017

CITY OF NEVADA CITY

---

Bryan McAlister, PE, PLS

City Engineer

PROPOSAL/CONTRACT

SITE CLEARING AT NEVADA CITY BURN DUMP, Nevada City, CA

TO: City of Nevada City, City Hall, Nevada City, California.

The undersigned, as a bidder, submits the following proposal for the SITE CLEARING AT NEVADA CITY BURN DUMP in the City of Nevada City, California, and offers to perform all work and furnish all labor, materials, tools, equipment as required for the completion of said project, in accordance with the plans, specifications and all other contract documents. The bidder has inspected the project site and has examined all conditions affecting the proposed work. The bidder is licensed with Contractors State License Board and is registered as a public works contractor with the Department of Industrial Relations as required to bid on this contract.

If this bid is accepted, the bidder agrees to execute the Agreement, and furnish to the City all documents and evidences of bonds and insurance, within ten (10) days after receiving written notice of the award of contract, and complete the project within thirty (30) working days after receiving written notice to proceed. **No bid bond is required for this project.**

Attached to this bid and made a part hereof is a list of proposed subcontractors, setting forth all information required by Section 4104 of the Government Code.

**There is no pre-bid meeting scheduled for this project.**

The undersigned is (state whether individual, partnership or corporation) INDIVIDUAL

DATED: 12-2-17

FIRM NAME: JUDD BUICK CONSTRUCTION BY: J. Judd Buick  
Signature of Authorized Person

ADDRESS: 1061 SUNRIVER LANE

REDDING, CA 96001 P.O. BOX 494564 Contact Person: JUDD BUICK  
REDDING, CA 96049

PHONE: (530) 338-2152

CELL PHONE: (530) 949-8757

CONTRACTOR'S #: 914273

EXPIRATION: 1-31-19

NEVADA CITY BUSINESS LICENSE #:

EXPIRATION: \_\_\_\_\_

**BID SCHEDULE**

**CITY OF NEVADA CITY  
SITE CLEARING AT NEVADA CITY BURN DUMP**

<u>No.</u>	<u>Quantity</u>	<u>Unit</u>	<u>Item Description</u>	<u>Unit Price</u>	<u>Total Price</u>
1.)	1	LS	Site Clearing	<u>\$ 19,000<sup>00</sup></u>	<u>\$ 19,000<sup>00</sup></u>
2.)	1	LS	Erosion Control	<u>\$ 19,400<sup>00</sup></u>	<u>\$ 19,400<sup>00</sup></u>
Grand Total:					<u>\$ 38,400<sup>00</sup></u>

Note

1. Project shall be prevailing wages.

LIST OF SUBCONTRACTORS

<u>NAME</u>	<u>PLACE OF BUSINESS</u>	<u>PORTION OF WORK</u>
1. <i>NITTA EROSION CONTROL</i>	<i>3778 DEL MAR AVE. LOOMIS, CA 95650</i>	<i>HYDROSEEDING</i>
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

## AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, between the CITY OF NEVADA CITY, a municipal corporation, hereinafter called "City," and \_\_\_\_\_, hereinafter called "Contractor."

WHEREAS, City solicited bids pertaining to the SITE CLEARING AT NEVEADA CITY BURN DUMP in said City: and

WHEREAS, after notice duly given, City has awarded the contract for such work to Contractor;

NOW, THEREFORE, IT IS AGREED by and between said parties as follows:

1. Scope of Work. The contractor agrees to furnish all labor, materials, tools and equipment, required to complete the improvements in Nevada City, California, in accordance with the plans, specifications and other contract representation made in mandatory meetings. All such work shall be performed in a good and workmanlike manner and to the satisfaction of the designer of said project.

2. Contract Price. As consideration for all such work, City agrees to pay to Contractor at rates as set forth on the attached bid schedule for an estimated total sum of \_\_\_\_\_ (\$\_\_\_\_\_) Dollars, payable in the manner hereinafter set forth.

3. Contract Documents. The complete contract between the parties hereto consists of the Agreement, Estimate, Job Disclosure, Notice to Owner and Insurance Documentation. All of the foregoing documents are intended to cooperate, so that any work or requirement specified in any of them is to be carried out or observed the same as if mentioned in all.

4. Time for Performance. Within five (5) days after the execution of this Agreement, City shall give Contractor written Notice to Proceed, and thereafter Contractor shall commence the work and shall prosecute the same with due diligence until completion and acceptance by City; provided, however, that all such work shall be completed and ready for use within **thirty (30) working days** after Contractor receives said Notice to Proceed.

5. Extension of Time. If, because of adverse weather conditions, strikes, inability of the Contractor (through no fault on his/her part) to obtain necessary materials, or other cause beyond the reasonable control of Contractor, Contractor is unable to complete the required work within the allowed time, he shall be entitled to an extension or extensions of such time, commensurate with the unavoidable delay thus caused; provided, however that Contractor shall apply to City for approval of any such extension prior to the expiration of the time for performance as specified in the preceding paragraph.

6. Contractor's Failure to Complete Work. If Contractor fails to prosecute the work with such diligence as will insure its completion within the time hereinabove specified, or any extension thereof, or fails to complete such work within such time, or if Contractor shall otherwise violate this Agreement, City may give written notice to Contractor and his sureties of City's intention to terminate this Agreement unless, within five (5) days after services of such notice, satisfactory arrangements are made with the City for the completion of such work or the curing of such breach; and if such arrangements are not made within such time, City may, at its option, terminate this Agreement by giving written notice of such termination to Contractor and his sureties.

7. Payments to Contractor. On or before the tenth day of each month during the progress of the work, Contractor shall submit to the Designer an itemized statement of all labor and materials incorporated into the improvement during the preceding month and the portion of the contract price applicable thereto.

8. Indemnification. Contractor agrees to hold City, and its officers, agents, and employees harmless from any and all liability and claims for damages for death and personal injury, and for property damage, incident to or arising out of the operations of Contractor or any subcontractor under this Agreement, and Contractor further agrees to defend City, and its officers, agents, and employees in any and all lawsuits which may be brought for such damages caused, or alleged to have been caused, by such operations. In addition, Contractor agrees to furnish to the City evidences of insurance coverage. The approval of such insurance by City shall not constitute a waiver or limitation of any rights under this indemnity agreement, regardless of whether such insurance shall be held to be inapplicable to any such damage or claims therefore.

Executed in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

CITY OF NEVADA CITY

\_\_\_\_\_

By: \_\_\_\_\_  
(Mayor)

By: \_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_  
(Authorized Officer)

## Project Specifications

### PROJECT LIMITS

The entire fenced area and 8' beyond fence within the City property APN 05-060-22, "Burn dump area" adjacent to Chief Kelly Drive in Nevada City.

### PROJECT DESCRIPTION

The project consists of site clearing to remove and dispose of trees, shrubs, or other deep rooting vegetation from the Old City Dump within the entire fenced area and within 8' of fence. Upon completion of clearing and grading disturbance work activities, contractor to provide soil stabilization and site drainage. Refer to Erosion Control specification for soil stabilization requirements. Site drainage shall consist of repair of existing swales and minor grading for conveyance of storm water runoff to the swales. For drainage swales with longitudinal slopes that exceed 5%, the repair shall consist of rock lining with rock size approx. 6".

### EROSION CONTROL

Upon completion of grading disturbance work activities, contractor to provide soil stabilization. Soil stabilization shall be a combination of topsoil, wood chips, straw mulch and tackifier. Slopes shall also be stabilized with straw wattles staked at 15' on center and at toe of slope. Straw wattles shall consist of weed free straw and biodegradable material.

All areas disturbed during construction shall be hydroseeded. The hydroseed mix shall consist of mulch, tackifier and seed and applied in the following ratios:

- Straw Mulch 2000 lb/acre
- Tackifier 300 lb/acre
- Seed 40 lb/acre

The mixture in the proportions listed above shall be applied with hydro-seeding equipment within 60 minutes after the seed has been added to the mixture. The following turf seed mixture (or equivalent) shall be used:

<u>Percent</u>	<u>Turf Seed Type</u>	<u>common name</u>	<u>lbs/acre</u>
50%	Luna Pubescent	wheatgrass	20
30%	Palestine	orchard grass	8
10%	Durar	fescue	6
10%	Sherman	bluegrass	6

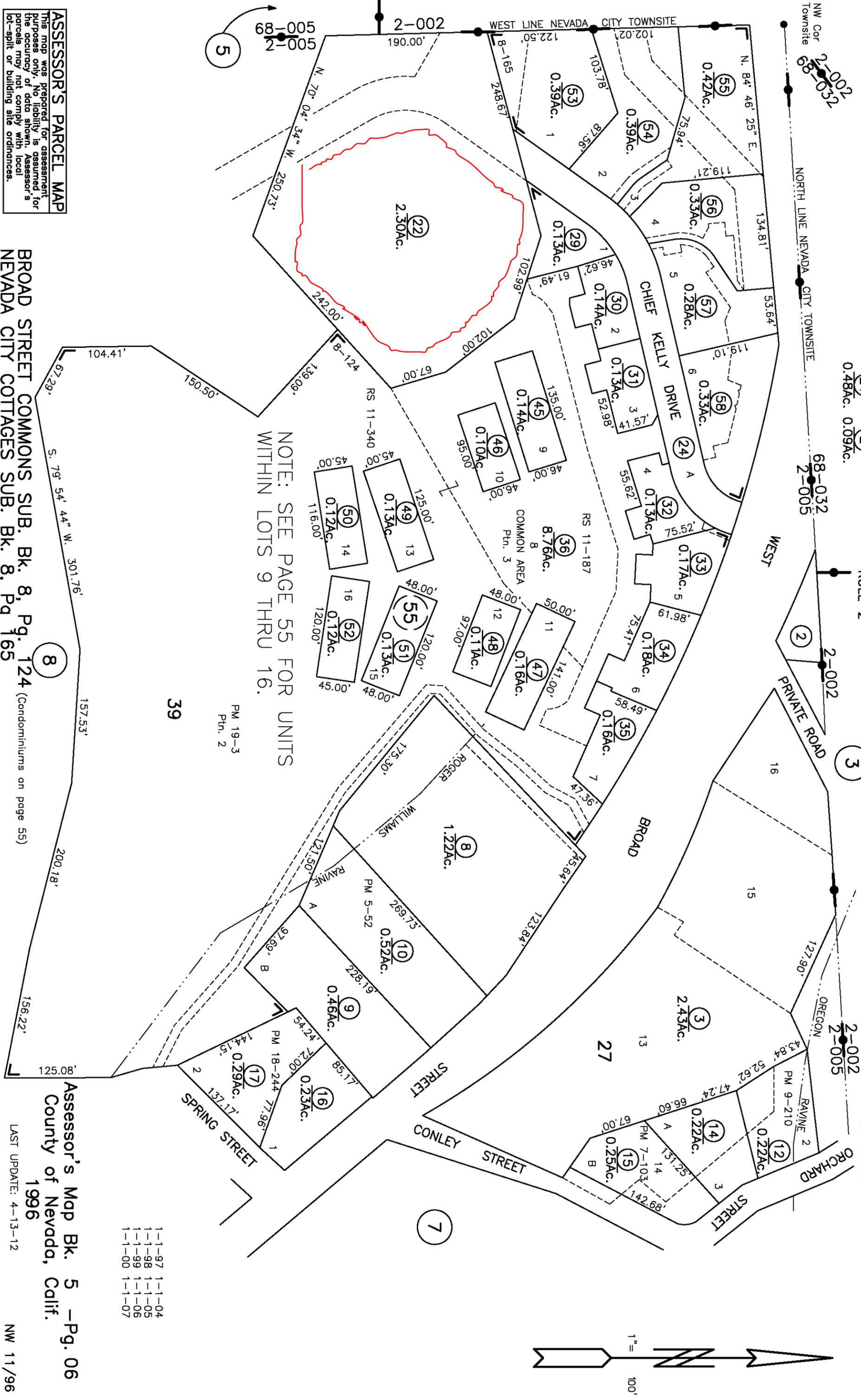
### GENERAL NOTES

Refer to City of Nevada City General Notes and Specifications.

NEVADA CITY  
ROLL-2

Tax Area Code  
2-005

5-06



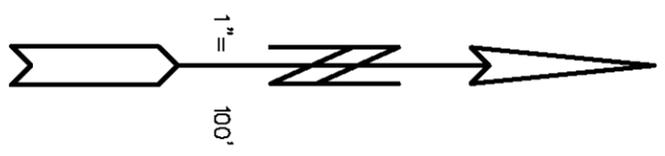
**ASSESSOR'S PARCEL MAP**  
This map was prepared for assessment purposes only. No liability is assumed for the accuracy of data shown. Assessor's parcels may not comply with local lot-split or building site ordinances.

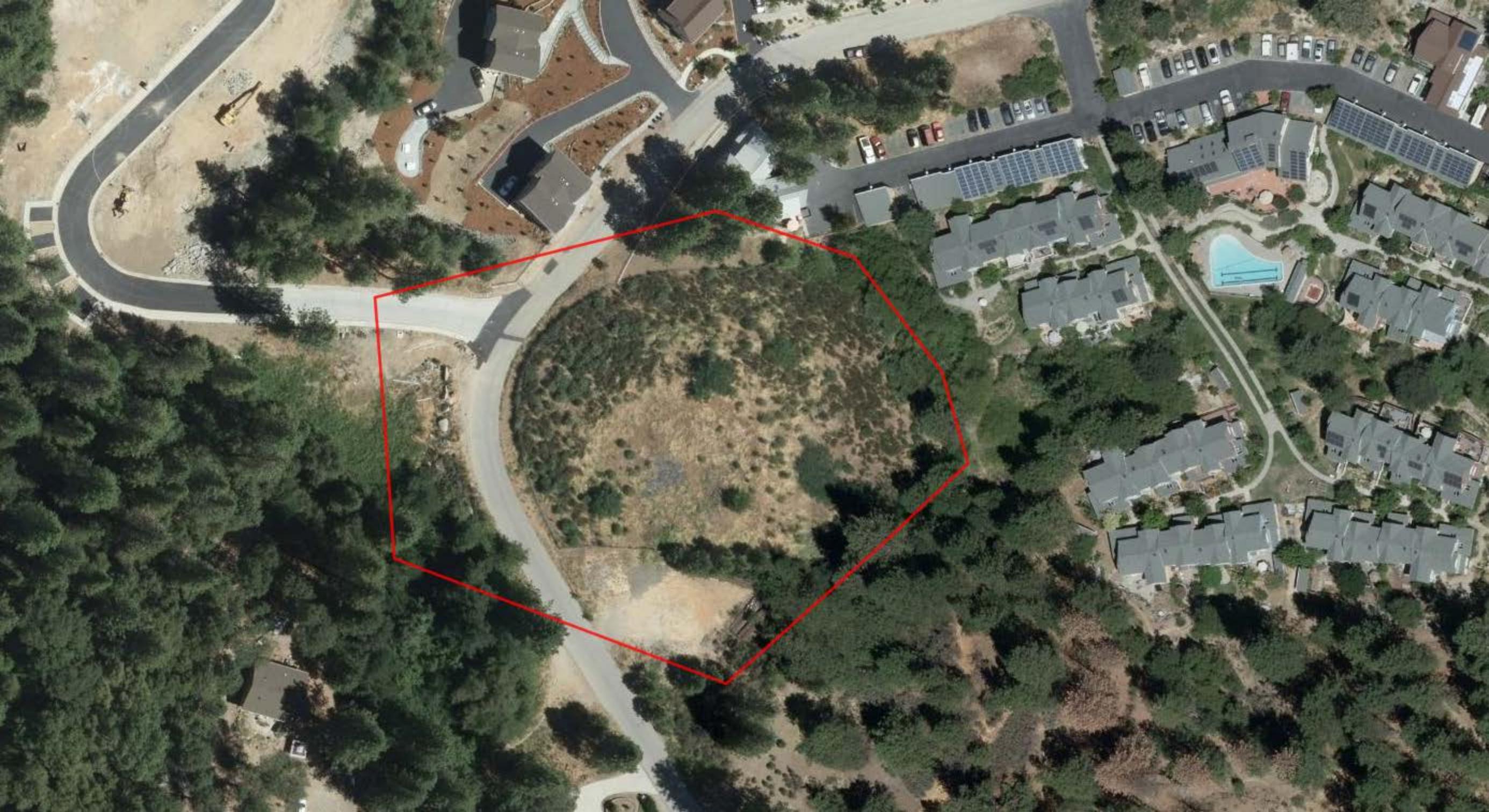
**BROAD STREET COMMONS SUB. Bk. 8, Pg. 124** (Condominiums on page 55)  
**NEVADA CITY COTTAGES SUB. Bk. 8, Pg 165**

Assessor's Map Bk. 5 -Pg. 06  
County of Nevada, Calif.  
1996  
LAST UPDATE: 4-13-12  
NW 11/96

NOTE: SEE PAGE 55 FOR UNITS WITHIN LOTS 9 THRU 16.

- 1-1-97 1-1-04
- 1-1-98 1-1-05
- 1-1-99 1-1-06
- 1-1-00 1-1-07







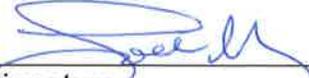
**BID OPENING SIGN-IN SHEET**

PROJECT: Site Cleaning @ NC Burn Dump

DATE: 12/5/17

TIME OF BID OPENING: \_\_\_\_\_ A.M./P.M.

**ATTENDEES – Please Sign-in and Print your name**

 LOREE MCCAY  
Signature Print Name  
(530) 265-2496 x 133  
Phone #

 Shayla Sennett  
Signature Print Name  
530-375-7189  
Phone #

 BRYAN McALESTER  
Signature Print Name  
(530) 558-1326  
Phone #

\_\_\_\_\_  
Signature Print Name  
\_\_\_\_\_  
Phone #

# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

---

**TITLE: Award Of Contract For Sewer Repairs At 324 Jordan Street In Nevada City**

**RECOMMENDATION:** Pass Resolution 2017-XX Awarding a contract to Escehaman Construction in the amount of \$8,000.00 plus \$1,000.00 contingencies for Sewer Repairs at 324 Jordan Street in Nevada City and authorize the Mayor to sign.

**CONTACT:** Bryan K. McAlister, City Engineer

**BACKGROUND/DISCUSSION:** The City Engineer and Public Works staff have identified sewer improvements that are necessary for maintenance of the sewer main. The project consists of two work items for sewer repair, as further shown and described in the contract:

1. Install Coupling on existing sewer bypass line
2. Raising Existing Vault 18"

City staff solicited bids for Sewer Repairs at 324 Jordan Street from four local contractors and received a responsive bid from one contractor on December 5, 2017. Bids received are as follows:

- Escehaman Construction, Brownsville CA \$ 8,000.00

Escehaman Construction was selected as the lowest responsive and responsible bidder.

**FISCAL CONSIDERATIONS:** The project will be funded as authorized in the fiscal year 2017/2018 sewer fund appropriations for sewer collection.

**ATTACHMENT:**

- ✓ Resolution 2017-XX
- ✓ Contract for Sewer Repairs at 324 Jordan Street in Nevada City

**RESOLUTION NO. 2017-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY  
TO AWARD A CONTRACT TO JUDD BUICK CONSTRUCTION FOR SITE  
CLEARING AT NEVADA CITY BURN DUMP AND  
AUTHORIZE MAYOR TO SIGN**

**WHEREAS**, The City of Nevada City provides long term maintenance of the former burn dump in accordance with California Environmental Protection Agency and Nevada County Department of Environmental Health requirements; and

**WHEREAS**, consist with Municipal Code requirements, City staff advertised and received bids for Site Clearing at Nevada City Burn Dump.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Nevada City to award the contract to Judd Buick Construction in the amount of \$38,400.00 plus \$3,000 contingencies for Site Clearing at Nevada City Burn Dump in Nevada City and authorize the Mayor to sign.

**PASSED AND ADOPTED** at the regular meeting of the City Council of the City of Nevada City on the 13<sup>th</sup> day of December, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

**Duane Strawser, Mayor**

**ATTEST:**

---

**Niel Locke, City Clerk**

# **Sewer Repairs at 324 Jordan Street**



City of Nevada City, 95959  
Nevada County, California

---

**Bryan K. McAlister**  
**PE C58570**  
**PLS 9199**

**NOTICE TO CONTRACTOR'S**

**SEWER REPAIRS AT 324 JORDAN STREET**

Sealed proposals for SEWER REPAIRS AT 324 JORDAN STREET will be received by the City at City Hall, 317 Broad Street, Nevada City, California, 95959, until **3:00 PM on December 5<sup>th</sup> 2017**, at which time, or as soon thereafter as practicable, all such proposals will be publicly opened and read at City Hall, 317 Broad Street, Nevada City, California.

Bids shall be enclosed and sealed in an envelope addressed to the City of Nevada City at the above stated address and shall be marked " SEWER REPAIRS AT 324 JORDAN STREET " No Bid Bonds are required.

The work includes the furnishing of all labor, materials, and equipment required for the job in accordance with the plans, specifications and other contract documents as set forth by the City Engineer. Such bid documents will be on file with the City staff and are available for inspection during office hours. **Bid documents may be obtained at the office of said City Hall at 317 Broad Street, Nevada City, California on or after November 29th, 2017.**

**There is no mandatory pre-bid meeting for this project.**

\*\*\*\*\*

The City reserves the right to reject all bids; or to accept any portion of bid schedule; to reject any bid which is incomplete or irregular; to determine which proposal is, in its judgment, the lowest responsible bid of a responsible bidder and to waive any informality or minor irregularity of any bid.

DATED: November 29, 2017

CITY OF NEVADA CITY

---

Bryan McAlister, PE, PLS  
City Engineer

PROPOSAL/CONTRACT

SEWER REPAIRS AT 324 JORDAN STREET, Nevada City, CA

TO: City of Nevada City, City Hall, Nevada City, California.

The undersigned, as a bidder, submits the following proposal for the SEWER REPAIRS AT 324 JORDAN STREET in the City of Nevada City, California, and offers to perform all work and furnish all labor, materials, tools, equipment as required for the completion of said project, in accordance with the plans, specifications and all other contract documents. The bidder has inspected the project site and has examined all conditions affecting the proposed work. The bidder is licensed with Contractors State License Board and is registered as a public works contractor with the Department of Industrial Relations as required to bid on this contract.

If this bid is accepted, the bidder agrees to execute the Agreement, and furnish to the City all documents and evidences of bonds and insurance, within ten (10) days after receiving written notice of the award of contract, and complete the project within twenty (20) working days after receiving written notice to proceed. **No bid bond is required for this project.**

Attached to this bid and made a part hereof is a list of proposed subcontractors, setting forth all information required by Section 4104 of the Government Code.

**There is no pre-bid meeting scheduled for this project.**

The undersigned is (state whether individual, partnership or corporation) Individual.

DATED: 12/05/17

FIRM NAME: Eschelman Construction

ADDRESS: P.O. Box 607

Brownsville, Ca. 95919

PHONE: 530-675-2323

CELL PHONE: 530-913-5651

CONTRACTOR'S #: 357520

EXPIRATION: 04/03/19

NEVADA CITY BUSINESS LICENSE #:

EXPIRATION: \_\_\_\_\_

BY:   
Signature of Authorized Person

Contact Person: Lance Barlean

**BID SCHEDULE**

**CITY OF NEVADA CITY  
SEWER REPAIRS AT 324 JORDAN STREET**

<b><u>No.</u></b>	<b><u>Quantity</u></b>	<b><u>Unit</u></b>	<b><u>Item Description</u></b>	<b><u>Unit Price</u></b>	<b><u>Total Price</u></b>
1.)	1	LS	Sewer Bypass Coupling	\$ <u>2500.00</u>	\$ <u>2500.00</u>
2.)	1	LS	Sewer Vault	\$ <u>5500.00</u>	\$ <u>5500.00</u>
Grand Total:					\$ <u>8000.00</u>

Note

1. Project shall be prevailing wages.

**LIST OF SUBCONTRACTORS**

<u>NAME</u>	<u>PLACE OF BUSINESS</u>	<u>PORTION OF WORK</u>
1. N.A.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

## AGREEMENT

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, between the CITY OF NEVADA CITY, a municipal corporation, hereinafter called "City," and \_\_\_\_\_, hereinafter called "Contractor."

WHEREAS, City solicited bids pertaining to the SEWER REPAIRS AT 324 JORDAN STREET in said City: and

WHEREAS, after notice duly given, City has awarded the contract for such work to Contractor;  
NOW, THEREFORE, IT IS AGREED by and between said parties as follows:

1. Scope of Work. The contractor agrees to furnish all labor, materials, tools and equipment, required to complete the improvements in Nevada City, California, in accordance with the plans, specifications and other contract representation made in mandatory meetings. All such work shall be performed in a good and workmanlike manner and to the satisfaction of the designer of said project.

2. Contract Price. As consideration for all such work, City agrees to pay to Contractor at rates as set forth on the attached bid schedule for an estimated total sum of \_\_\_\_\_ (\$\_\_\_\_\_) Dollars, payable in the manner hereinafter set forth.

3. Contract Documents. The complete contract between the parties hereto consists of the Agreement, Estimate, Job Disclosure, Notice to Owner and Insurance Documentation. All of the foregoing documents are intended to cooperate, so that any work or requirement specified in any of them is to be carried out or observed the same as if mentioned in all.

4. Time for Performance. Within five (5) days after the execution of this Agreement, City shall give Contractor written Notice to Proceed, and thereafter Contractor shall commence the work and shall prosecute the same with due diligence until completion and acceptance by City; provided, however, that all such work shall be completed and ready for use within **twenty (20) working days** after Contractor receives said Notice to Proceed.

5. Extension of Time. If, because of adverse weather conditions, strikes, inability of the Contractor (through no fault on his/her part) to obtain necessary materials, or other cause beyond the reasonable control of Contractor, Contractor is unable to complete the required work within the allowed time, he shall be entitled to an extension or extensions of such time, commensurate with the unavoidable delay thus caused; provided, however that Contractor shall apply to City for approval of any such extension prior to the expiration of the time for performance as specified in the preceding paragraph.

6. Contractor's Failure to Complete Work. If Contractor fails to prosecute the work with such diligence as will insure its completion within the time hereinabove specified, or any extension thereof, or fails to complete such work within such time, or if Contractor shall otherwise violate this Agreement, City may give written notice to Contractor and his sureties of City's intention to terminate this Agreement unless, within five (5) days after services of such notice, satisfactory arrangements are made with the City for the completion of such work or the curing of such breach; and if such arrangements are not made within such time, City may, at its option, terminate this Agreement by giving written notice of such termination to Contractor and his sureties.

7. Payments to Contractor. On or before the tenth day of each month during the progress of the work, Contractor shall submit to the Designer an itemized statement of all labor and materials incorporated into the improvement during the preceding month and the portion of the contract price applicable thereto.

8. Indemnification. Contractor agrees to hold City, and its officers, agents, and employees harmless from any and all liability and claims for damages for death and personal injury, and for property damage, incident to or arising out of the operations of Contractor or any subcontractor under this Agreement, and Contractor further agrees to defend City, and its officers, agents, and employees in any and all lawsuits which may be brought for such damages caused, or alleged to have been caused, by such operations. In addition, Contractor agrees to furnish to the City evidences of insurance coverage. The approval of such insurance by City shall not constitute a waiver or limitation of any rights under this indemnity agreement, regardless of whether such insurance shall be held to be inapplicable to any such damage or claims therefore.

Executed in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

ATTEST:

CITY OF NEVADA CITY

\_\_\_\_\_

By: \_\_\_\_\_  
(Mayor)

By: \_\_\_\_\_  
(Contractor)

By: \_\_\_\_\_  
(Authorized Officer)

## GENERAL CONDITIONS

### 1. Inspection of Construction

The Engineer shall have access to the work and the site of the work at all times and the Contractor shall afford such access to the Engineer and shall furnish all relevant information requested by him. At the request of the Engineer the Contractor shall open for inspection any part of the work which has been covered up, and if any part of the work has been covered up in contravention of the instructions of the Engineer, or if on being opened up, is found not to be in accordance with the terms of the contract, the expense of opening and recovering shall be charged to the Contractor. If the work has been covered up but not in contravention of such instructions and is found to be in accordance with the terms of the contract, the actual cost of opening and recovering shall be borne by the City, and in such case, if the work of opening and recovering is done by the Contractor, it shall be considered as extra work and paid for accordingly.

### 2. Change Orders

If for any reason it becomes necessary or desirable to change the alignment, dimensions, or design of the work, the City shall have the right to issue written change orders therefore. If the Contractor considers that any such change involves extra work, he shall immediately so notify the Engineer in writing, and shall make claim for compensation for such work not later than the first day of the month following the month in which the work was performed. If, in the opinion of the Engineer, any change order results in a change in the amount of work performed, the contract price shall be adjusted for extra work or omitted work, as the case may be.

### 3. Contractor's Employees and Subcontractors

The Contractor shall at all times be responsible for the adequacy and efficiency of his employees and any subcontractor and the latter's employees. All workers shall have adequate skill and experience to perform properly the work assigned to them.

### 4. Errors and Omissions

If the Contractor in the course of the work becomes aware of any error or omission in the contract documents, or of any discrepancy between such documents and the physical conditions of the work site, he shall immediately inform the Engineer, who shall take such action as he may deem necessary in order to rectify the matter. Any work done after such discovery and without the authorization of the Engineer will be at the Contractor's risk.

### 5. Guaranty of Work

For a period of one (1) year after final acceptance of the work by the City, the Contractor shall make all repairs and replacements arising out of any defective workmanship or materials. If the Contractor fails to make such repairs or replacements within ten (10) days after receiving written notice to do so, or within such further time as may be allowed by the City, the City may undertake such repairs or replacements, in which case the Contractor shall be liable to the City for the cost thereof.

### 6. Contractor's Responsibility for Work

The Contractor shall be responsible for the proper care and protection of the work, and of all materials delivered to the work site, until completion of the work and its final acceptance by the City.

7. Performance Bond

No Performance bond shall be required for this project.

8. Payment Bond

A payment (labor and materials) bond is required for public works contracts involving an expenditure in excess of twenty-five thousand dollars (\$25,000). If the contract is in excess of this amount the contractor shall provide a payment bond to the City of Nevada City before commencement of work. Cost for the bond shall be included in the contractor bid proposal and no additional compensation will be provided.

A payment bond shall be in an amount not less than 100 percent of the total amount payable pursuant to the contract. The bond shall be in the form of a bond and not a deposit in lieu of a bond. The bond shall be executed by an admitted surety insurer.

9. Workmen’s Compensation Insurance

The Contractor shall carry workmen’s compensation insurance for all employees working on or about the site of the work, and if any work is subcontracted, the Contractor shall require each subcontractor to carry such insurance for all of the latter’s employees, unless they are covered by the Contractor’s insurance.

10. Insurance Requirements

CONTRACTOR shall purchase and maintain insurance in amounts of coverage not less than the following amounts:

General Liability: (Including operations, products and completed operations)	\$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
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Automobile Liability:	\$1,000,000 per accident for bodily injury and property damage.
-----------------------	--

The Contractor shall deliver to the City, concurrently with the execution of the contract, certificates evidencing all insurance required by the contract, and each such certificate shall include a provision to the effect that the policy or policies cannot be canceled or materially modified unless the insurer gives the City at least fifteen (15) days written notice thereof prior to such cancellation or modification.

11. Prevailing Wages

Contractor shall pay each laborer, workman or mechanic in accordance with State and Federal Prevailing Wage Rates and the California Labor Code. These wage rates are hereby made a part of this contract:

State General Prevailing Wage Determinations in effect on date advertised

General prevailing wage determination

Journeyman and Apprentice Prevailing Wage Rates can be accessed at the following websites:

<http://www.dir.ca.gov/OPRL/2017-2/PWD/index.htm> and

<http://www.dir.ca.gov/das/publicworks.html>

Reference: Labor Code <http://www.labor.ca.gov/laborlawreg.htm>

Federal Prevailing Wage Determinations in effect on bid date

General Decision # CA170009 CA9

<http://www.wdol.gov/wdol/scafiles/davisbacon/ca.html>

#### Electronic Certified Payroll Records

- All contractors must furnish electronic certified payroll records to the Labor Commissioner using the online eCPR data system
- No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
- No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.
- This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.
- The contractor shall post job site notices prescribed by regulation. (See 8 Calif. Code Reg. §16451(d))

## **PROJECT SPECIFICATIONS**

### **PROJECT LIMITS**

As shown on the attached site plan.

### **PROJECT DESCRIPTION**

The project consists of two work items for sewer repair, as further shown and described on the attached exhibits:

1. Install Coupling on existing sewer bypass line
2. Raising Existing Vault 18"



↑  
ACCESS  
SMALL EQUIPMENT



↗  
② VAULT LOCATION  
(see CONSTR. NOTES p 3)

① Sewer Bypass Line Location  
(see CONSTR NOTES p 4)



② VAULT LOCATION  
(see CONSTR. NOTES p 3)



② EXISTING SEWER VAULT

RAISE VAULT 18" WITH CONCRETE

PROVIDE MASTIC SEALANT AND BOLT DOWN LED

GROUT ALL JOINTS INSIDE AND OUTSIDE OF VAULT



① EXISTING SEWER BYPASS LINE

REMOVE TEMPORARY RUBBER COUPLING AND  
PROVIDE ROMAC DUCTILE IRON COUPLING

**BID OPENING SIGN-IN SHEET**

PROJECT: Sewer Repairs@324 Jordan St.

DATE: 12/5/17

TIME OF BID OPENING: \_\_\_\_\_ A.M./P.M.

**ATTENDEES – Please Sign-in and Print your name**

Shayla Bennett  
Signature  
530-375-7189  
Phone #

Shayla Bennett  
Print Name

Bryan McAlister  
Signature  
(530) 559-1326  
Phone #

BRYAN McALISTER  
Print Name

Loree McCay  
Signature  
(530) 265-2496  
Phone #

LOREE MCCAY  
Print Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Phone #

**BID OPENING RESULTS**

PROJECT: Sewer Repairs @ 324 Jordon St DATE: 12/5/17

TIME OF BID OPENING: 3:00 A.M./P.M.

COMPANY NAME

BID AMOUNT

ESCHEMAN CONSTRUCTION

\$ 8,000.00

\_\_\_\_\_

\$ \_\_\_\_\_

\_\_\_\_\_

\$ \_\_\_\_\_

\_\_\_\_\_

\$ \_\_\_\_\_

\_\_\_\_\_

\$ \_\_\_\_\_

\_\_\_\_\_

\$ \_\_\_\_\_

## REPORT TO CITY COUNCIL

December 13, 2017

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

---

**TITLE:** Agreement Between The City Of Nevada City And Boulder Street Properties LLC To Convey Property

**RECOMMENDATION:** Approve the Agreement between the City of Nevada City and Boulder Street Properties LLC to Convey Property and authorize the Mayor to sign.

**CONTACT:** Bryan K. McAlister, City Engineer

**BACKGROUND/DISCUSSION:** City staff recommends approval of an agreement with Boulder Street Properties LLC to convey property at 115 Boulder Street for the purposes of bridge reconstruction of the Nevada Street Bridge over Deer Creek. This consists of a Lot Line Adjustment to convey the following property as further described in the attached agreement:

- Area 1 is property not being used by the City on north side of the sidewalk, to be conveyed from the City to Boulder Street Properties LLC
- Area 2 is property not being used by Boulder Street Properties LLC across Deer Creek, to be conveyed from Boulder Street Properties LLC to the City

**ENVIRONMENTAL CONSIDERATIONS:** Reviewed as part of the Nevada Street Bridge Replacement CEQA document.

**FISCAL IMPACT:** The conveyance of property will result in little to no change in maintenance costs to the City and has equity land value associated with mutual exchange of property.

**ATTACHMENT:**

- ✓ Agreement between the City of Nevada City and Boulder Street Properties LLC to Convey Property
- ✓ Exhibit 'B' for Lot Line Adjustment

**AGREEMENT BETWEEN THE CITY OF NEVADA CITY AND  
BOULDER STREET PROPERTIES LLC TO CONVEY PROPERTY**

THIS AGREEMENT is made and entered into by and between the **CITY OF NEVADA CITY**, ("CITY") and **BOULDER STREET PROPERTIES LLC**, owner of APN 05-395-11 at 115 Boulder Street.

**RECITALS**

**WHEREAS**, CITY public right-of-way property consisting of Nevada Street and Boulder Street is located along the frontage of 115 Boulder Street; and

**WHEREAS**, BOULDER STREET PROPERTIES LLC is the owner of the property at 115 Boulder Street (APN 05-395-11) consisting of land improved for commercial use; and

**WHEREAS**, CITY needs additional property for Nevada Street right-of-way to accommodate a realignment of the Nevada Street Bridge; and

**WHEREAS**, BOULDER STREET PROPERTIES LLC needs additional property behind the sidewalk along the frontage of 115 Boulder Street for landscape and hardscaping purposes; and

**WHEREAS**, CITY is not making use of and has no plans for use of the additional property needed by BOULDER STREET PROPERTIES LLC; and

**WHEREAS**, BOULDER STREET PROPERTIES LLC is not making use of and has no plans for use of the additional property needed by CITY

**NOW, THEREFORE, THE PARTIES MUTUALLY AGREE** as follows:

**CONVEYANCE OF LAND:**

1. BOULDER STREET PROPERTIES LLC agrees to grant and convey to CITY AREA 1 of its property as shown on Exhibit "B", attached hereto and incorporated by such reference.
2. CITY agrees to grant and convey to BOULDER STREET PROPERTIES LLC AREA 2 of its property as shown on Exhibit "B", attached hereto and incorporated by such reference.

This conveyance may be accomplished by a lot line adjustment reflected in the official records of the office of the County Recorder for Nevada County and the parties agree to cooperate in requesting and securing approval of such a lot line adjustment and its recordation.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates hereinafter set forth.

**DATED:** \_\_\_\_\_

**BOULDER STREET PROPERTIES LLC**

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

**Its:** \_\_\_\_\_

**DATED:** \_\_\_\_\_

**CITY OF NEVADA CITY**

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

**Mayor, City of Nevada City**

**APPROVED AS TO FORM:**

\_\_\_\_\_

**City Attorney for Nevada City**



## REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

---

**TITLE:** Agreement between the City of Nevada City and Susan Sugarman to Convey Property

**RECOMMENDATION:** Approve the Agreement between the City of Nevada City and Susan Sugarman to Convey Property and authorize the Mayor to sign.

**CONTACT:** Bryan K. McAlister, City Engineer

**BACKGROUND/DISCUSSION:** City staff recommends approval of an agreement with Susan Sugarman to convey property at the northwest corner of the Sugarloaf Mountain property (APN 36-020-26) owned by the City. This consists of a Lot Line Adjustment to convey the following property as further described in the attached agreement:

- Area 3 is property not being used by the City on north side of the Snow Mountain Ditch, to be conveyed from the City to Susan Sugarman
- Area 2 is property not being used by Susan Sugarman on the south side of Snow Mountain Ditch, to be conveyed from Susan Sugarman to the City
- Area 1 is property that provides access to the City's Sugarloaf Mountain property from North Bloomfield Road, to be conveyed from Susan Sugarman to the City

**ENVIRONMENTAL CONSIDERATIONS:** Reviewed as part of the Annexation #55 CEQA document.

**FISCAL IMPACT:** The conveyance of property will result in little to no change in maintenance costs to the City and has equity land value associated with mutual exchange of property.

**ATTACHMENT:**

- ✓ Agreement between the City of Nevada City and Susan Sugarman to Convey Property
- ✓ Exhibit 1 Record of Survey Map for Lot Line Adjustment

**AGREEMENT BETWEEN THE CITY OF NEVADA CITY AND  
SUSAN SUGARMAN TO CONVEY PROPERTY**

THIS AGREEMENT is made and entered into by and between the **CITY OF NEVADA CITY**, owner of APN 36-020-26, ("CITY") and **SUSAN SUGARMAN**, owner of APN 36-020-11 a single family lot.

**RECITALS**

**WHEREAS**, CITY is the owner of property at 751 Coyote Street (APN 36-020-26) consisting of 32.14 acres of unimproved open space land comprising of Sugarloaf Mountain; and

**WHEREAS**, SUSAN SUGARMAN is the owner of adjacent property at 10671 North Bloomfield Road (APN 37-020-11) consisting of 0.46 acres of land improved as a single family residence; and

**WHEREAS**, CITY needs additional property on the north side of its property for unrestricted access to North Bloomfield Road and use of lands south of Snow Mountain Ditch and SUSAN SUGARMAN needs use of lands north of Snow Mountain Ditch; and

**WHEREAS**, CITY is not making use of and has no plans for use of the additional property needed by SUSAN SUGARMAN; and

**WHEREAS**, SUSAN SUGARMAN is not making use of and has no plans for use of the additional property needed by CITY

**NOW, THEREFORE, THE PARTIES MUTUALLY AGREE** as follows:

**CONVEYANCE OF LAND:**

1. SUSAN SUGARMAN agrees to grant and convey to CITY AREAS 1 and 2 of its property as shown on Exhibit "A", attached hereto and incorporated by such reference.
2. CITY agrees to grant and convey to SUSAN SUGARMAN AREA 3 of its property as shown on Exhibit "A", attached hereto and incorporated by such reference.

This conveyance may be accomplished by a lot line adjustment reflected in the official records of the office of the County Recorder for Nevada County and the parties agree to cooperate in requesting and securing approval of such a lot line adjustment and its recordation.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates hereinafter set forth.

**DATED:** \_\_\_\_\_

**SUSAN SUGARMAN**

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

**Its:** \_\_\_\_\_

**DATED:** \_\_\_\_\_

**CITY OF NEVADA CITY**

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

**Mayor, City of Nevada City**

**APPROVED AS TO FORM:**

\_\_\_\_\_

**City Attorney for Nevada City**

**LEGEND**

- SET 3/4" IRON PIPE, TAGGED L.S. 4370
- FOUND MONUMENT AS NOTED
- NOTHING FOUND, NOTHING SET
- (COA) OVERALL
- (CR1) 13 SURVEYS 156

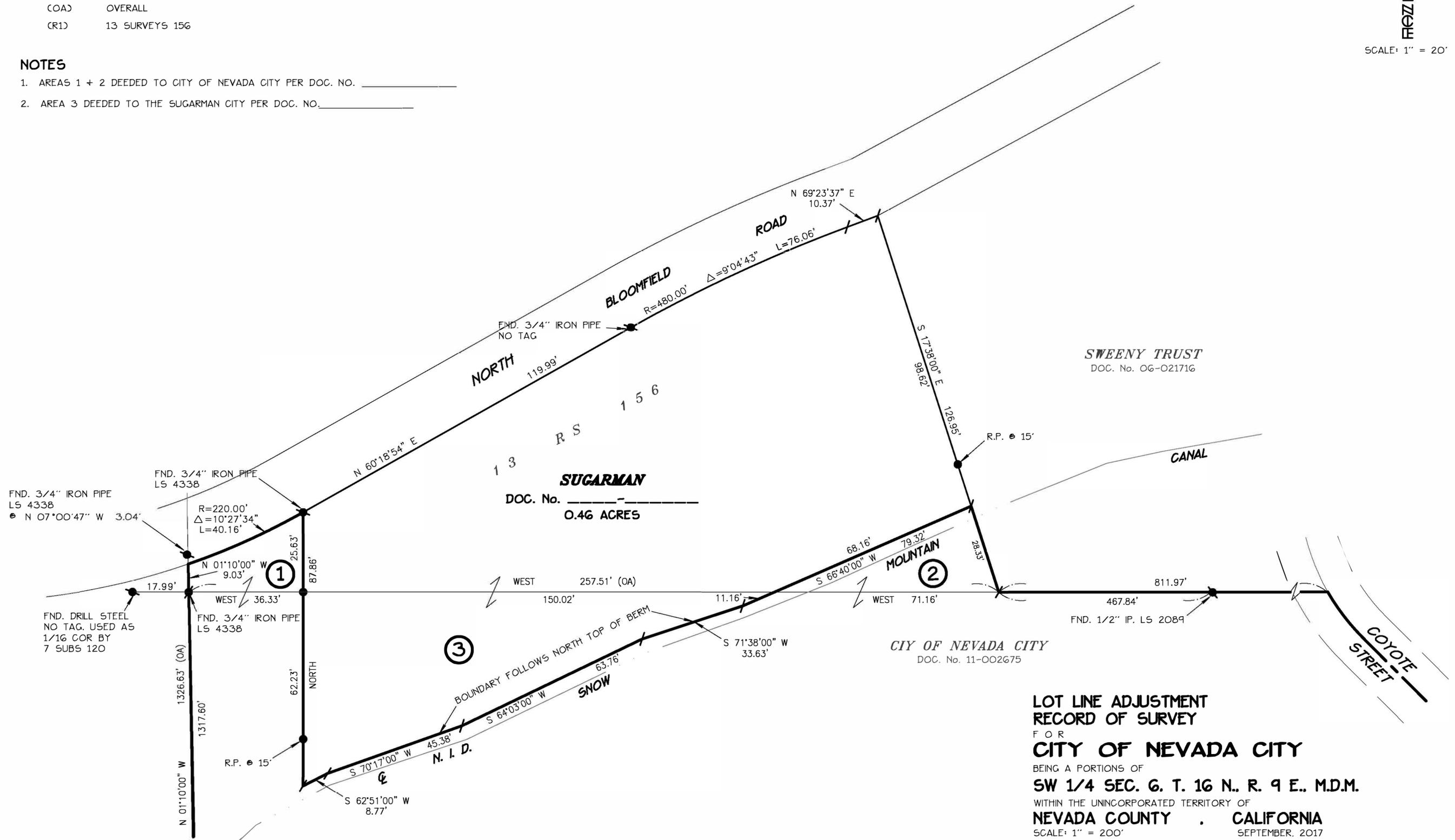
# EXHIBIT A



SCALE: 1" = 20'

**NOTES**

1. AREAS 1 + 2 DEEDED TO CITY OF NEVADA CITY PER DOC. NO. \_\_\_\_\_
2. AREA 3 DEEDED TO THE SUGARMAN CITY PER DOC. NO. \_\_\_\_\_



**LOT LINE ADJUSTMENT  
RECORD OF SURVEY  
FOR  
CITY OF NEVADA CITY**

BEING A PORTIONS OF  
**SW 1/4 SEC. 6, T. 16 N., R. 9 E., M.D.M.**

WITHIN THE UNINCORPORATED TERRITORY OF  
**NEVADA COUNTY, CALIFORNIA**

SCALE: 1" = 200' SEPTEMBER, 2017  
**NEVADA CITY ENGINEERING, INC.**  
505 COYOTE STREET \* P.O. BOX 1437 \* NEVADA CITY \* CALIFORNIA

## REPORT TO CITY COUNCIL

DECEMBER 13, 2017

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

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**TITLE:** A Resolution Amending Passed Resolution 2017-72 Of The City Council Of The City Of Nevada City Approving An Application For Authorization To Access State And Federal Level Summary Criminal History Information For Employment, Volunteers, And Contractors, Licensing Or Certification Purposes

**RECOMMENDATION:**

Pass Resolution 2017-XX authorizing City of Nevada City are hereby to access state summary criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes and may not disseminate the information to a private entity.

**CONTACT:** Tim Foley, Police Chief or Amy Wolfson, City Planner

**BACKGROUND:** Council adopted Ordinance 2017-06 on April 12, 2017 for the regulation of a medical Cannabis dispensary, and Ordinance 2017-10 on June 28, 2017 for the regulation of other medical Cannabis businesses within Nevada City. Application procedures were subsequently approved and included a requirement that applicants submit a receipt for payment of a "Live Scan" Fingerprint Background Check from an authorized Live Scan operator. However, staff has been advised that it is necessary for the City to request authorization from the CA Department of Justice (DOJ) in order to receive this information for medical Cannabis business applicants. Staff has informed applicants that applications for medical Cannabis businesses will be accepted without the Live Scan receipt until the City receives the appropriate authorization from the DOJ. **UPDATE:** The City Council passed Resolution 2017-60, amended by Resolution 2017-72 on October 25, 2017, however the DOJ required changes to the language that refers to the specific business types being authorized in the resolution in order for the City to access criminal background information on potential cannabis business operators. Staff has updated the Resolution accordingly to reference the specific categories of cannabis businesses being requested for City access to criminal history information.

**PURPOSE OF BACKGROUND CHECK:** Securing a criminal background check prior to issuing a medical cannabis business permit provides the City an important evaluation resource. It is important that the City be aware of specified active arrests or convictions. Entrusting permittees with the responsibility of a medical Cannabis business permit prior to a criminal background check potentially jeopardizes the safety and integrity of the workplace and may leave some individuals exposed to unnecessary harm.

The attached Resolution authorizes staff to submit an application to the CA Department of Justice requesting access to State and Federal Criminal History information for applicants of medical Cannabis businesses. Staff recommends that the City Council approve the attached Resolution and authorize staff to immediately submit the application to the DOJ requesting access to pertinent criminal history information.

**ENVIRONMENTAL CONSIDERATIONS:** Not applicable

**FINANCIAL CONSIDERATIONS:** The previously adopted fee schedule associated with the Medical Cannabis Business Permit application process addressed the Background Check process and staff time to review returned information.

**RECOMMENDATION:** Adopt the attached Resolution authorizing access to State and Federal level summary criminal history information

**ATTACHMENTS:**

1. Resolution 2017-XX
2. Exhibit A - Resolution 2017-72

**RESOLUTION NO. 2017-XX**

**A RESOLUTION AMENDING PASSED RESOLUTIONS 2017-60, AND RESOLUTION 2017-72 OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY APPROVING AN APPLICATION FOR AUTHORIZATION TO ACCESS STATE AND FEDERAL LEVEL SUMMARY CRIMINAL HISTORY INFORMATION FOR EMPLOYMENT, VOLUNTEERS, AND CONTRACTORS, LICENSING OR CERTIFICATION PURPOSES**

**WHEREAS**, Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, districts and joint powers authorities to access state and local summary criminal history information for employment, licensing or certification purposes; and

**WHEREAS**, Penal Code Sections 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record; and

**WHEREAS**, Penal Code Sections 11105(b)(11) and 13300(b)(11) require the city council, board of supervisors, or governing body of a city, county, district or joint powers authorities to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF NEVADA CITY** that the City of Nevada City is hereby authorized to access state and federal level summary criminal history information for employment, including volunteers and contract employees, licensing and certification of commercial cannabis operations including cultivation, distribution, transportation, manufacturing, testing laboratory, and retailer purposes and may not disseminate the information to a private entity.

**PASSED AND APPROVED** this 13<sup>th</sup> day of December 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**APPROVED:**

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**Duane Strawser, Mayor**

**ATTEST:**

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**Niel Locke, City Clerk**

**RESOLUTION NO. 2017-72**

**A RESOLUTION AMENDING PASSED RESOLUTION 2017-60 OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY APPROVING AN APPLICATION FOR AUTHORIZATION TO ACCESS STATE AND FEDERAL LEVEL SUMMARY CRIMINAL HISTORY INFORMATION FOR EMPLOYMENT, VOLUNTEERS, AND CONTRACTORS, LICENSING OR CERTIFICATION PURPOSES**

**WHEREAS**, Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, districts and joint powers authorities to access state and local summary criminal history information for employment, licensing or certification purposes; and

**WHEREAS**, Penal Code Sections 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record; and

**WHEREAS**, Penal Code Sections 11105(b)(11) and 13300(b)(11) require the city council, board of supervisors, or governing body of a city, county, district or joint powers authorities to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes.

**NOW THEREFORE, BE IT RESOLVED**, that the City of Nevada City are hereby authorized to access state summary criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes and may not disseminate the information to a private entity.

**PASSED AND APPROVED** this 25<sup>th</sup> day of October 2017, by the following vote:

**AYES: STRAWSER, PARKER, MOBERG, SENUM, PHELPS**

**NOES: NONE**

**ABSENT: NONE**

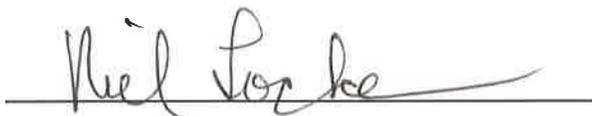
**ABSTAIN: NONE**

**APPROVED:**



**Duane Strawser, Mayor**

**ATTEST:**



**Niel Locke, City Clerk**

# REPORT TO CITY COUNCIL

December 13, 2017

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

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**TITLE:** Calling For A General Municipal Election On June 5, 2018

**RECOMMENDATION:** Pass Resolution 2017-XX Calling For A General Municipal Election

**CONTACT:** Catrina Olson, Interim City Manager

**BACKGROUND / DISCUSSION:** An election will be held within the City of Nevada City on Tuesday, June 5, 2017 for the purpose of electing two (2) members to the City Council and a City Treasurer. The City requests the governing body of the County of Nevada, as prescribed by Election Code Section 10402 and 10403 to consolidate the regularly scheduled municipal election with any other elections to be held on June 5<sup>th</sup>, 2018.

**FISCAL IMPACT:** The City agrees to reimburse the County of Nevada for the City's prorated share of the costs of the election which is approximately \$2,500.

**ATTACHMENT:**

- ✓ Resolution 2017-XX Calling General Municipal Election

**RESOLUTION 2017-XX**

**RESOLUTION OF THE CITY OF NEVADA CITY  
CALLING GENERAL MUNICIPAL ELECTION ON JUNE 5, 2017**

**WHEREAS**, an election will be held within the City of Nevada City on Tuesday, June 5, 2018 for the purpose of electing two (2) members to the City Council and a City Treasurer; and

**WHEREAS**, whenever two or more elections are called to be held on the same day, in the same territory or in part of the same territory, such elections should be consolidated.

**BE IT RESOLVED**, that the City of Nevada City requests the governing body of the County of Nevada, as prescribed by Elections Code Section 10402 and 10403 to consolidate the regularly scheduled municipal election with any other elections to be held on June 5<sup>th</sup>, 2018; and

**BE IT FURTHER RESOLVED**, the candidate is to pay for the publication of the candidate's statement, pursuant to Election's Code Section 10509. The limitation on the number of words that a candidate may use in his/her Candidate's Statement is 200 words; and

**BE IT FURTHER RESOLVED**, the City of Nevada City agrees to reimburse the County of Nevada for the City's prorated share of the costs of the election.

**PASSED AND ADOPTED** at a regularly scheduled meeting of the Nevada City City Council on the 13<sup>th</sup> day of December, 2017 by the following vote.

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

**ATTEST:**

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**Daune Strawser, Mayor**

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**Niel Locke, City Clerk**

**CITY OF NEVADA CITY  
ACTION MINUTES  
REGULAR CITY COUNCIL MEETING OF NOVEMBER 15, 2017**

**NOTE:** This meeting is available to view on the City's website [www.nevadacityca.gov](http://www.nevadacityca.gov) – Go to Quick Links and Click on Agendas & Minutes and find the Archived Videos in the middle of the screen. Select the meeting date and Click on Video to watch the meeting. For website assistance, please contact Loree' McCay, Deputy City Clerk at (530) 265-2496, ext 133.

- City Council Meetings are available on DVD. To order, contact City Hall - cost is \$15.00 per DVD.
- Closed Session Meetings are not recorded.

**CLOSED SESSION – 6:00 PM**

1. Pursuant to Government Code Section 54957(b)(1) a closed session is requested with Interim City Manager Catrina Olson and Consulting City Attorney Hal DeGraw on a personnel matter.

**REGULAR MEETING – 6:30 PM - Call to Order**

**Roll Call:** Present: Moberg, Senum, Phelps, Vice Mayor Parker, Mayor Strawser

**PLEDGE OF ALLEGIANCE**

Consulting City Attorney, Hal DeGraw reported out of Closed Session:

1. No reportable action.

**PROCLAMATIONS:** "Nevada County Food and Toy Run Day" – December 9<sup>th</sup>, 2017

**PRESENTATIONS:** NONE

**BUSINESS FROM THE FLOOR**

**1. PUBLIC COMMENT** (Per Government Code Section 54954.3)

Please refer to the meeting video on the City's website at [www.nevadacityca.gov](http://www.nevadacityca.gov).

**2. COUNCIL MEMBERS REQUESTED ITEMS AND COMMITTEE REPORTS:**

Please refer to the meeting video on the City's website at [www.nevadacityca.gov](http://www.nevadacityca.gov) for comments.

**3. CONSENT ITEMS:**

**A. Subject:** Accounts Payable Activity Report – October 2017

**B. Subject:** Amendment To Agreement With Stantec Consulting Services, Inc. For Wastewater Treatment Plant NPDES Permit Compliance

**Action:** Motion by Phelps, seconded by Senum to approve Consent Items A and B as presented and Pass Resolution 2017-75 to Authorize Professional Services Agreement Change Order No. 6 with Stantec Consulting Services, Inc. in an amount not to exceed \$5,000 to assist with the City's Sewer System Management Plan (SSMP) for compliance with Statewide General Waste Discharge Requirements for Sanitary Sewer Systems, Order 2006-0003-DWQ (General Order), adopted by the

Regional Water Board in 2006.

**(Approved 5 - 0)**

#### **4. APPROVAL OF ACTION MINUTES:**

**A. City Council Meeting – October 25, 2017**

**Action:** Motion by Senum, seconded by Parker to approve October 25, 2017 Minutes as presented.

**(Approved 5 - 0)**

#### **5. DEPARTMENT REQUESTED ACTION ITEMS AND UPDATE REPORTS: None**

#### **6. PUBLIC HEARINGS:**

**A. Subject:** An Ordinance Amending Section 17.12.175 Of Title 17 Of The Nevada City Municipal Code Entitled “Homeless Housing Facilities” To Correct The City’s Definitions For “Emergency Shelter,” “Transitional Housing,” And “Supportive Housing” And Ensure Their Consistency With State Law; Amending Chapter 17.48 Entitled “Light Industrial Zone” To Reference Emergency Shelter Operational Management Standards; And To Add Chapter 17.130 Entitled “Operational Management Standards” To Establish A Chapter For Objective Management Standards For Specific Ministerial Uses Including Emergency Shelter Uses (First Reading)

**Action:** Motion by Senum, seconded by Moberg to approve a public hearing, waive reading of the Ordinance; read title only, and hear a first reading of the Ordinance.

**(Approved 5 - 0)**

#### **7. OLD BUSINESS:**

**A. Subject:** An Ordinance Of The City Of Nevada City Amending Chapter 13.08 Of Title 13 Of The Nevada City Municipal Code Defining And Clarifying Responsibility For Sewer Lines (Second Reading)

**Action:** Motion by Senum, seconded by Parker to approve for introduction and second reading of Ordinance by title only, waiving further reading of the entire Ordinance Of The City Of Nevada City Amending Chapter 13.08 Of Title 13 Of The Nevada City Municipal Code Defining And Clarifying Responsibility For Sewer Lines.

**(Approved 5 - 0)**

**B. Subject:** An Ordinance Amending Ordinance No. 2017-08 To Renumber The Chapter Banning Fireworks Adopted As Chapter 8.34 Fireworks Ban As Chapter 8.38.

**Action:** Motion by Senum, seconded by Moberg to waive reading of the Ordinance, read title only and introduce for first reading.

**(Approved 5 - 0)**

**C. Subject:** A Resolution Of The City Council Of The City Of Nevada City, California Calling A Municipal Election For June 5, 2018; Submitting A Cannabis Business Tax Ordinance To The voters At That Election; Requesting The Assistance Of The County Of Nevada In Connection With That Election; And Requesting Consolidation Of That Election With Any Other Election Held On That Date

**Action:** Agenda item pushed to December 13<sup>th</sup> Council meeting.

#### **8. NEW BUSINESS:**

**A. Subject:** City Of Nevada City To Authorize The Mayor To Sign A Letter Of Support On Behalf of Nevada City Of The Nevada Irrigation District’s (NID) Herbicide Alternatives Research Program

**Action:** Motion by Senum, seconded by Parker to authorize the Mayor to sign a letter of support for Nevada Irrigation District’s Herbicide Alternatives Research Program.

**(Approved 5 - 0)**

**B. Subject:** Request For In-Kind Sponsorship Of the Wild And Scenic Film Festival

**Action:** Motion by Senum, seconded by Parker to approve request to provide in-kind sponsorship of the Wild and Scenic Film Festival waiving fees for the use of the Veteran’s Building, allowing use of the Robinson Plaza and City Hall Council Chambers and assisting in hanging a banner on Broad Street for January 11– 15, 2018.

**(Approved 5 - 0)**

**C. Subject:** Medical Cannabis Dispensary Selection

**Action:** Held a public meeting regarding the received applications and selected an applicant to be issued a permit to operate a medical cannabis dispensary within city limits based upon ranking of applications and interviews. Applications were ranked as follows:

Strawser –	1. Growing Community	2. Elevation 2477	3. Nevada Co. Wellness
Parker -	1. Elevation 2477	2. Nevada Co. Wellness	3. Growing Community
Moberg -	1. Elevation 2477	2. Nevada Co. Wellness	3. Growing Community
Phelps -	1. Elevation 2477	2. Nevada Co. Wellness	3. Growing Community
Senum -	1. Growing Community	2. Elevation 2477	3. Nevada Co. Wellness

Overall Ranking -

- 1- Elevation 2477
- 2- Nevada County Wellness
- 3- Growing Community

**9. CORRESPONDENCE:**

**10. ANNOUNCEMENTS:**

Please refer to the meeting video on the City’s website at [www.nevadacityca.gov](http://www.nevadacityca.gov).

**11. CITY MANAGER’S REPORT:**

**12. ADJOURNMENT – 10:22 pm**

\_\_\_\_\_  
**Duane Strawser, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Niel Locke, City Clerk**

# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

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**TITLE: Pay Scale For Temporary Parks & Recreation Employees**

**RECOMMENDATION:** Adopt Resolution 2017-XX approving the Proposed Parks & Recreation pay scale for 2018.

**CONTACT:** Dawn Zydonis, Parks & Recreation Supervisor

**BACKGROUND / DISCUSSION:**

Due to Senate Bill 3 California's minimum wage will increase to \$15 per hour on January 1, 2022. Minimum wage increases each year to reach that amount. A summary sheet regarding minimum wage has been attached to this staff report showing the wage increases. This will affect the pay of the temporary employees who work during the summer months in the Parks & Recreation Department, with minimum wage increasing from \$10.50 per hour to \$11.00 per hour.

All new employees will start at Step 1. Returning Employees may earn a step increase. To earn a step increase a returning employee needs to meet the following criteria:

1. The employee cannot request more than seven days off during the summer season.
2. The employee cannot receive any "1's" (needs improvement) on their end of season evaluation.
3. The employee cannot have excessive tardiness or sick days.
4. Other factors are evaluated as well, such as, swim lesson evaluations completed by participants, overall attitude and initiative, and timely and accurate completion of paperwork.

The Parks & Recreation Supervisor serves as the Pool Manager, although this position is included on the pay scale, this position is not generally filled during the summer.

In addition to working the summer season, the Parks & Recreation Supervisor has started doing off season trainings and meetings. The goal of these meetings is to keep employees involved in the aquatic programs with hopes that this will help to reduce our turnover rate. The trainings are also a way for lifeguards to practice their CPR & First Aid skills. These are easily forgotten during the off-season, but are a crucial part of how we are required to respond while at the swimming pool.

**ENVIRONMENTAL CONSIDERATIONS:** None

**FISCAL IMPACT:** The average pay for swimming pool staff during the 2017 season was \$10.82 per hour. The average pay for the 2018 season is estimated to be \$11.59 per hour.

**ATTACHMENTS:**

- ✓ Resolution 2017-XX Parks & Recreation Pay Scale for 2018
- ✓ Current & Proposed Pay Scale for Parks & Recreation 2018
- ✓ Minimum Wage Summary

**RESOLUTION NO. 2017-XX**

**RESOLUTION FOR THE CITY COUNCIL OF THE CITY OF NEVADA CITY TO  
ADOPT THE PARKS & RECREATION PART-TIME EMPLOYEE PAY SCALE**

**WHEREAS**, the State of California Minimum Wage increased from \$10.50 to \$11.00 per hour effective January 1, 2018; and

**WHEREAS**, this will affect the pay of the temporary part-time employees who work during the summer months in the Parks & Recreation Department;

**NOW THEREFORE, BE IT RESOLVED**, the City Council of Nevada City hereby approves the 2018 Part-time Employee Pay Scale, attached hereto as Exhibit A.

**PASSED AND ADOPTED** at the regularly scheduled meeting of the Nevada City City Council held on the 13<sup>th</sup> day of December, 2017 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
**Duane Strawser, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Niel Locke, City Clerk**

Nevada City Parks & Recreation  
 Part-time Employee Pay Scale

**Effective March 9, 2017**

<b>Job Title</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>
Cashier	\$10.50	\$10.75	\$11.00
Lifeguard	\$10.50	\$11.00	\$11.50
Head Lifeguard	\$11.25	\$11.75	\$12.25
Assistant Pool Manager	\$12.50	\$13.00	\$13.50
Pool Manager	\$15.25	\$16.00	\$16.50
Recreation Assistant	\$10.50	\$11.00	\$11.50
Facility & Park Maintenance	\$12.50	\$13.00	\$13.50

**Proposed 2018 Pay Scale**

<b>Job Title</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>
Cashier	\$11.00	\$11.25	\$11.50
Lifeguard	\$11.00	\$11.50	\$12.00
Head Lifeguard	\$11.75	\$12.25	\$12.75
Assistant Pool Manager	\$13.00	\$13.50	\$14.00
Pool Manager	\$15.75	\$16.25	\$16.75
Recreation Assistant	\$11.00	\$11.50	\$12.00
Facility & Park Maintenance	\$13.00	\$13.50	\$14.00

## **California's steadily increasing minimum wage**

On April 4, 2016, Governor Brown signed Senate Bill ("SB") 3, which increases California's minimum wage each year so that it will reach \$15 per hour in 2022 (unless the increases are temporarily delayed at any point due to certain economic conditions).

Currently, California's minimum wage is \$10/hour. The new law will increase this amount as follows for employers who employ 26 or more employees:

1. On January 1, 2017, the minimum wage will increase to \$10.50 per hour.
2. On January 1, 2018, the minimum wage will increase to \$11 per hour.
3. On January 1, 2019, the minimum wage will increase to \$12 per hour.
4. On January 1, 2020, the minimum wage will increase to \$13 per hour.
5. On January 1, 2021, the minimum wage will increase to \$14 per hour.
6. On January 1, 2022, the minimum wage will increase to \$15 per hour.

There is a delay in implementations for small businesses. Specifically, the above schedule is delayed at each step by one year for employers with 25 or fewer employees. Commentators have observed that under the schedule set by SB 3, California will soon have the highest minimum wage in the country.

# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

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## **TITLE: Parks & Recreation Swimming Pool Program Fees For The 2018 Season**

### **RECOMMENDATION:**

1. Approve the recommended fees for the 2018 Summer Swimming Pool Season & Adopt Resolution 2017-XX
2. Authorize City staff to give away one free week of camp at the Summer Camp & Activities Fair and one free family pass to the Nevada City School District for a school fundraiser.

**CONTACT:** Dawn Zydonis, Parks & Recreation Supervisor

### **BACKGROUND / DISCUSSION:**

Minimum wage increased from \$10.00 to \$10.50 per hour January 1, 2017. In response to that increase City staff recommended fee increases for the 2017 swimming pool programs. The fees that we proposed were approximately a 10% increase. On the attached form, you will see that not all fees actually increased by 10%, so the proposed fees for 2018 will now be closer to the 10% increase.

In addition to City fee increases, the convenience fee for the online program that we use (ActiveWorks) is increasing from 5.5% to 6.10%. This fee will only affect the programs that or included in our online registration; swim lessons, junior lifeguard camp, summer day camps.

A summary of the last three seasons has been attached. You can see from this summary that our program fees are covering our program costs. We hope to continue this trend. Staff would prefer to have program costs create some profit above our expenses, to help reduce what is used from the City's General Fund. The continued rise in Minimum Wage will make this challenging without making large increases in our program fees.

Fees that are not included on the attached Proposed Fee Schedule include summer day camps and lifeguard training. The City does not provide the programming for day camps. These are outside vendors. The City processes registration and provides the facility. Camp Directors create the fee for their camps. The City receives 30% of the program fees for each participant. The lifeguard training program is generally completed in cooperation with Northern Sierra Swimming (NSS). NSS manages the Grass Valley swimming pool at Memorial Park. Lifeguard Training typically takes place at Memorial Park. They provide the facility and some equipment. Nevada City provides the time of the Parks & Recreation Supervisor to teach the class, accepts & processes registration & provides some equipment. The Parks & Recreation Supervisor and NSS

have worked together to agree on a fee for the program. This year's fees will be \$185 for new lifeguards and \$75 for re-certification.

The City's policy on program registration is that there are no refunds once someone has registered for a program unless the City cancels that class or program. Sometimes there are justifiable reasons for providing a refund (for example: a child breaks their arm and therefore is not able to participate in their swim lessons). In this case, we would like to give a refund, but the City should keep an administrative fee. Staff are recommending that the administrative fee be 10%. This would be 10% of the program cost. There would be no refund of the convenience fee.

Staff are also requesting that the Council authorize staff to provide one free week of camp at the 2018 Summer Camp & Activities Fair & one Free Family Season Pass to the Nevada City School District. The Camp Fair is a City event that is made possible by a partnership with Parents Resource Guide. At the event, there is a raffle for participants to win many different prizes. Many of the organizations involved provide a similar prize. The Parks & Recreation Supervisor has had requests in the past from the Nevada City School District for the contribution of a free family pass for a school fundraiser.

**ENVIRONMENTAL CONSIDERATIONS:** None

**FISCAL IMPACT:** Currently the City contributes approximately 20K-40K from the General Fund toward the operation of the swimming pool. The proposed fee schedule should keep the City in a similar financial situation; no additional fees will need to be paid out of the General Fund, but the increases will not help support the General Fund.

The fees associated with the free week of camp would not exceed \$175.00 and the fee for a free family season pass would be \$240, if the proposed fees are approved.

**ATTACHMENTS:**

- ✓ Resolution 2017-XX approving 2018 Summer Program Fees
- ✓ 2018 Proposed Summer Program Fees
- ✓ Summary of Revenues & Expenses for the past 3 years

**NEVADA CITY PARKS & RECREATION**  
**FEE SCHEDULE FOR THE SWIMMING POOL PROGRAMS**  
**2018 PROPOSED INCREASES**

**Public Swim**

	<u>2016</u>	<u>10% increase</u>	<u>2017</u>	<u>2018 Proposed Fee</u>
Child	\$ 2.50	\$ 2.75	\$ 2.75	\$2.75
Adult	\$ 3.50	\$ 3.85	\$ 3.75	\$3.75
Seniors	\$ 1.50	\$ 1.65	\$ 2.00	\$2.00

**Adult Programs**

	<u>2016</u>	<u>10% increase</u>	<u>2017</u>	<u>2018 Proposed Fee</u>
Drop In	\$ 4.50	\$ 4.95	\$ 4.75	\$5.00
Punch Card (11 entries)	\$ 44.00	\$ 48.40	\$ 45.00	\$45.00 (10 entries)

**Birthday Parties - "Splash Bash"**

	<u>2016</u>	<u>10% increase</u>	<u>2017</u>	<u>2018 Proposed Fee</u>
During Public Swim Times	\$ 80.00		\$ 80.00	\$80.00

**Private Rentals**

	<u>2016</u>	<u>10% increase</u>	<u>2017</u>	<u>2018 Proposed Fee</u>
1-50 People	\$ 143.00	\$ 157.30	\$ 150.00	\$155.00
51-100 People	\$ 187.00	\$ 205.70	\$ 195.00	\$200.00
101-150 People	\$ 231.00	\$ 254.10	\$ 245.00	\$250.00

**Junior Lifeguard**

	<u>2016</u>	<u>10% increase</u>	<u>2017*</u>	<u>2018 Proposed Fee*</u>
Junior Lifeguard Program	\$ 165.00	\$ 181.50	\$ 175.00	\$180.00

**Swimming Lessons**

	<u>2016</u>	<u>10% increase</u>	<u>2017*</u>	<u>2018 Proposed Fee*</u>
Mini Session	\$ 22.00	\$ 24.20	\$ 23.00	\$25.00
Group	\$ 58.27	\$ 64.10	\$ 62.00	\$65.00
Private 1 Person	\$ 121.00	\$ 133.10	\$ 128.00	\$130.00
Private 2 Person	\$ 148.50	\$ 163.35	\$ 157.00	\$160.00
Private 3 Person	\$ 176.00	\$ 193.60	\$ 186.00	\$190.00

**Season Passes**

	<u>2016</u>	<u>10% increase</u>	<u>2017</u>	<u>2018 Proposed Fee</u>
Family Passes	\$ 220.00	\$ 242.00	\$ 225.00	\$240.00
Individual Season Passes - Adults	\$ 110.00	\$ 121.00	\$ 115.00	\$120.00
Individual Season Passes - Child	\$ 77.00	\$ 84.70	\$ 77.00	\$80.00

**Lifeguard Training**

Full Lifeguard Class	\$185.00		\$185.00	\$185.00
Recertification Class	\$75.00		\$75.00	\$75.00

2017\*: Jr Lifeguard & Swim Lessons had a 5.5% convenience fee that is charged by the online registration program (ActiveWorks)

2018 Proposed Fees\*: The registration program is increasing our convenience fee to 6.10%

A 10% fee will be charged on any approved refunds.

Season	Revenues					Expenses						
	Admissions	Lessons	Rentals	Snack Bar	Totals	# of staff	PT Payroll	Personnel Costs	Program	Facility	Snack Bar	Totals
<b>2015</b>	\$44,215	\$47,290	\$9,203	\$13,250		14	\$40,072	\$10,223	\$11,372	\$32,981	\$6,882	
<b>2016</b>	\$40,989	\$40,664	\$6,226	\$10,946		23	\$49,378	\$10,436	\$14,196	\$27,414	\$6,153	
<b>2017</b>	\$44,696	\$40,577	\$6,720	\$11,573		19	\$54,713	\$11,136	\$11,221	\$19,781	\$6,849	
<b>averages</b>	\$43,300	\$42,844	\$7,383	\$35,768	<b>\$129,295</b>	19	\$48,054	\$10,598	\$12,263	\$26,725	\$19,884	<b>\$117,525</b>

### Revenue Notes

Admissions includes Public Swim, Adult Swim

Lessons is also Junior Lifeguard & Lifeguard Training

### Expenses Notes

Supervisor Salary & Benefits, A-87 Allocation not included

Personnel costs include: Social Security & Workers Comp (including Supervisor); Personnel Costs (uniforms, background checks), training & development

Program Costs include: Materials & Supplies, Office Supplies, Telephone, Print & Advertising, Conferences & Mtgs., Postage

Facility Costs include: Building Repair & Maint, Electric & heat, Liab. Insur, Equip. Repair & Maint., Chemicals, State/County Fees

# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

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**TITLE:** Resolution For The City Council Of The City Of Nevada City To Adopt Fees For Hanging Banners Over Zion St.

**RECOMMENDATION:** Approve the attached policy for placement and approval process of banners being hung by the City Public Works Department and Adopt Resolution 2017-XX for the City Council of the City of Nevada City to adopt fees for hanging banners over Zion St.

**CONTACT:** Chris Schack, Public Works Director  
Dawn Zydonis, Parks & Recreation Supervisor

**BACKGROUND / DISCUSSION:** At the May 10, 2017 City Council meeting, Council directed staff to convene a committee to develop a formal banner hanging policy with participation from Vice Mayor Strawser and Council Member Parker; and to suspend future banner requests until the committee develops a formal policy.

The committee has prepared a recommended policy for the location where banners should be hung, priority for events, and details of banners.

Attached to this report are two pictures with an orange line indicating the proposed locations for the poles that will support the banners.

**ENVIRONMENTAL CONSIDERATIONS:** None

**FISCAL IMPACT:** The Public Works Director has estimated the costs to be \$2,500 for materials and installation of posts where the banners will be hung. Public Works time will also be needed monthly to take down/hang banners.

**ATTACHMENTS:**

- ✓ Resolution 2017-XX approving Banner Fee
- ✓ DRAFT Proposed Policy
- ✓ Pictures of proposed location

**RESOLUTION NO. 2017-XX**

**RESOLUTION FOR THE CITY COUNCIL OF THE CITY OF NEVADA CITY TO  
ADOPT FEES FOR HANGING BANNERS OVER ZION ST.**

**WHEREAS**, the public desires to hang banners to market events that they have in Nevada City; and

**WHEREAS**, the City encourages events in town for residents and visitors to enjoy;

**NOW THEREFORE, BE IT RESOLVED**, the City Council of Nevada City hereby approves the \$25 fee for a request to hang a banner above Zion St.

**PASSED AND ADOPTED** at the regularly scheduled meeting of the Nevada City City Council held on the 13<sup>th</sup> day of December, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

\_\_\_\_\_  
**Duane Strawser, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Niel Locke, City Clerk**

# **City of Nevada City**

## **Policy for Hanging Banners for Special Events**

### **DRAFT**

#### **INTRODUCTION**

Banners can reach many people when marketing a special event. There are many fabulous events in Nevada City and the desire to notify the public in a very noticeable way. The City has an ordinance that does not allow banners in the historical downtown area, however, the City does want to encourage positive marketing of events within the City. This policy explains where banners can be hung and how event organizers can apply to have a banner hung.

#### **I. BANNER LOCATION**

The only location available through the City is on posts that are fixed for banners to hang over Zion St. near Forest Charter School. The Public Works Department will be responsible for hanging all banners at this location.

#### **II. APPLICATION & FEES FOR BANNERS**

Organizers of an event that takes place in Nevada City or Nevada County may request to have a banner hung at this City location. The applicant must complete a Banner Request Form (Attachment A) and pay the \$25 application fee. Payment of the processing fee does not guarantee that your banner will be hung and there are no refunds of the application fee for any reason. A \$60 installation fee shall be paid when bringing your banner to the City. If the City is unable to install your banner for any reason, the \$60 installation fee will be returned to you.

#### **III. PROCEDURES**

1. Priority: City events will have first priority. Events taking place within City limits have second priority. Events outside of City limits, but within Nevada County have third priority. Banners for events taking place outside of Nevada County will require approval by City Council.
2. Banners will generally hang during the month prior to the event. Public Works will only hang banners once each month. Banners will generally be taken down/hung the first week of each month, as Public Works schedule allows.
3. Approval for having a banner hung does not guarantee that the banner will go up or be there for a full month. It is possible that Public Works will have other priorities. There are no refunds on the application fees if your banner is not hung, but the installation fee will be returned in the case that the banner is never hung.
4. Organizations requesting a banner must provide the banner by the 15<sup>th</sup> of the month prior to when you want the banner to be hung. (ie: If the event is in November, the banner will hang during October, so it needs to be turned into the City by September 15<sup>th</sup>.) Banners must be picked up within 2 weeks of being taken down.
5. Banner specifications:

- a. Banners shall be a size and have appropriate lettering that will be readable from a distance.
  - b. It is recommended that banners be 2 sided, so they can be read in both directions.
  - c. Banners should have grommets in the corners and every 12" to assist with hanging.
  - d. Banners shall be made with wind holes for venting so that banners do not tear from the wind.
  - e. Banners shall be made of a durable material so as not to tear or fall from the hanging site.
6. Requests to have a banner hung must be turned in 3 months prior to the event date.



**City of Nevada City  
Banner Request Form**

Attachment A

**Contact Information**

Organization Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Contact Phone #: \_\_\_\_\_ Alternate Phone #: \_\_\_\_\_

Contact Email: \_\_\_\_\_

**Event Information**

Event Name: \_\_\_\_\_

Date of event: \_\_\_\_\_

Month that you would like to have the banner hanging (generally banners are changed the 1<sup>st</sup> week of each month): \_\_\_\_\_

Brief Event Description: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**Waiver**

By signing below, I designate that I have read and understand the Banner Policy. I also understand that I will not be refunded any portion of my payment for any reason.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



## REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

DECEMBER 13, 2017

**SUBJECT:** An Ordinance Amending Section 17.12.175 Of Title 17 Of The Nevada City Municipal Code Entitled “Homeless Housing Facilities” To Correct The City’s Definitions For “Emergency Shelter,” “Transitional Housing,” And “Supportive Housing” And Ensure Their Consistency With State Law; Amending Chapter 17.48 Entitled “Light Industrial Zone” To Reference Emergency Shelter Operational Management Standards; And To Add Chapter 17.130 Entitled “Operational Management Standards” To Establish A Chapter For Objective Management Standards For Specific Ministerial Uses Including Emergency Shelter Uses (Second Reading)

**RECOMMENDATION:** Introduce for a second reading an ordinance to amend definitions for homeless housing facilities and to establish management standards for ministerial Emergency Shelter uses, waive reading of the ordinance; read title only, and adopt the ordinance.

**CONTACT:** Amy Wolfson, City Planner

**BACKGROUND:** At the November 15, 2016 meeting the City Council heard a first reading of the subject Ordinance that updates definitions for homeless housing facilities and also establishes management standards for emergency shelters that are allowed as a ministerial use in Light Industrial zoning districts. Recommendation of the subject ordinance was prompted after staff discovered that the City’s definition of “Emergency Shelter” is inconsistent with SB2, the State legislation that compelled the City to provide a zoning designation that allows for homeless “emergency shelters” as a ministerial use.

**CURRENT CODE REGULATIONS:** Presently, the City’s definitions adopted for “Emergency Shelter,” “Transitional Housing,” and “Supportive Housing” each include language that relies on a “state licensing” component instead of adopting local management standards authorized by SB2. Staff has learned that there is no state license available for facilities of these categories and therefore no state standards that the City can rely on to ensure that these facilities are managed in an appropriate manner

Under the City’s Current Municipal Code, Emergency Shelters are permitted as a by-right use in the Light Industrial Zoning district as required under State law. Transitional and Supportive Housing are permitted as by-right uses in the multi-family (R2) zoning designation. All three of the above categories of homeless housing facilities may be permitted at the discretion of the Planning Commission as a Conditional Use Permit in several zoning designations including the Local Business (LB), General Business (GB), Employment Center (EC), Light Industrial (LI), and Public (P) designations under the category of “public or quasi-public use(s).”

**RECOMMENDED DRAFT ORDINANCE:** At their October 19, 2017 regular meeting, the Planning Commission reviewed staff’s recommendation to update the language defining

the three categories of Homeless Housing Facilities so that they do not include a state licensing requirement and so that their management may be conducted in a manner that is consistent with Nevada City standards and in accordance with State Law. The definitions recommended in the Ordinance are taken directly from the California Health and Safety Code and are consistent with other cities and with SB2.

Emergency Shelters are required to be a by-right use in a zone designated by the City. As part of the 2009 Housing Element Update, the City designated the Light Industrial Zone for this purpose. However, with the new definitions that omit the state licensing component, it is necessary to adopt standards to ensure the appropriate management of these facilities. SB2 affords local governments the ability to establish objective development and management standards for the operation of emergency shelters that are approved ministerially. Specifically, SB 2 allows the City to provide objective management standards that are consistent with other residential and commercial uses in the same zoning district, and specific standards outlines in the bill including maximum number of beds, parking ratios, length of stay, etc.

The draft Ordinance includes a variety of management standards inspired by ordinances from several other jurisdictions. In order to remain in compliance with State law, standards must be objective and cannot be overly burdensome. The recommended standards provided by staff are intended to encompass a wide range of standards that are permissible under the law. The Planning Commission reviewed the proposed standards and recommended the standards as presented in the attached Ordinance. At their November meeting, the City Council did not direct staff to make any changes to the Ordinance as drafted and recommended by the Planning Commission.

**ENVIRONMENTAL REVIEW** : The project is exempt from environmental review pursuant to Sections 15061(b)(3) of the California Environmental Quality Act (CEQA). Exemption applies to activities covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The ordinance corrects definitions of “Emergency Shelter”, “Transitional Housing,” and “Supportive Housing” to be consistent with State law and provides objective management standards for the operation of Emergency Shelters as allowed by State law and does not qualify as a project, defined in the CEQA Guidelines as an action which “...has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect change in the environment....” Adoption of the proposed code amendment will not result in either a direct or an indirect change in the environment and merely corrects definitions and provides for the reasonable management standards for the operation of Emergency Shelters within the Light Industrial District.

**FINANCIAL CONSIDERATIONS:** There are no financial considerations with adoption of the proposed Ordinance.

**RECOMMENDED MOTIONS:** Staff recommends that the City Council, after hearing from the public and consideration of the Planning Commission recommendation, adopt the proposed Ordinance with the following motions:

- I. Make a motion to adopt Resolution 2017-XX recommending that the City Council find the adoption of the ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b) (3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, making findings A and B:
  - A. The adoption of the Ordinance does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major period of California history or prehistory.
  - B. That adoption of the Ordinance does not have environmental effects which will cause substantial adverse effects on human beings either directly or indirectly.
  
- II. Make a motion to recommend that the City Council adopt Ordinance 2017-XX to amend Chapter 17.12.175, Homeless Housing Facilities, to correct definitions that are currently inconsistent with State Law; and add Chapter 17.130 for the purpose of establishing operational standards specific to Emergency Shelters, making findings A and B:
  - A. The City has the power to make and enforce within its limits all ordinances and regulations in respect to municipal affairs not in conflict with general laws; and
  - B. That the Draft Ordinance is consistent with and implements the goals and policies of the Nevada City General Plan and reflect policies outlined in the current Housing Element;

**ATTACHMENTS:**

1. Draft Resolution 2017-XX approving CEQA exemption (attached NOE)
2. Draft Ordinance 2017-XX, correction definitions of Homeless Housing Facilities and management standards for Emergency Shelter operation
3. 2007 Senate Bill 2 Text

## RESOLUTION NO. 2017-XX

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, STATE OF CALIFORNIA, RECOMMENDING APPROVAL OF A NOTICE OF EXEMPTION

(Ordinance Amending Section 17.12.175 Of Title 17 Of The Nevada City Municipal Code Entitled “Homeless Housing Facilities” To Correct The City’s Definitions For “Emergency Shelter,” “Transitional Housing,” And “Supportive Housing” And Ensure Their Consistency With State Law; Amending Chapter 17.48 Entitled “Light Industrial Zone” To Reference Emergency Shelter Operational Management Standards; And To Add Chapter 17.130 Entitled “Operational Management Standards” To Establish A Chapter For Objective Management Standards For Specific Ministerial Uses Including Emergency Shelter Uses”)

**WHEREAS**, City planning and legal staff have reviewed the Ordinance amending Section 17.12.175 of title 17 of the Nevada City Municipal Code entitled “homeless housing facilities” to correct the city’s definitions for “emergency shelter,” “transitional housing,” and “supportive housing” and ensure their consistency with state law; and amending chapter 17.48 entitled “light industrial zone” to reference emergency shelter operational management standards; and to add chapter 17.130 entitled “operational management standards” to establish a chapter for objective management standards for specific ministerial uses including emergency shelter uses” (“Project”) and determined that it is exempt from review under the California Environmental Quality Act pursuant to Title 14, Chapter 3, California Code of Regulations, Section 15061 (b)(3) – Activity is not subject to CEQA because there is no possibility the project will have a significant effect on the environment; and

**WHEREAS**, a Notice of Exemption has been prepared for the Project.

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

Section 1. Based on the review and determination of the Planning Department, the City Council of the City of Nevada City finds that the Project is exempt from review under the California Environmental Quality Act.

Section 2. A Notice of Exemption is recommended for approval for the Project.

Section 3. Upon approval of the Project by the City Council, the City Clerk may file the Notice of Exemption with the County Clerk of Nevada County and, if the Project requires a discretionary approval from any state agency, with the State Office of Planning and Research, pursuant to the provisions of Section 21152(b) of the Public Resources Code and the State EIR Guidelines adopted pursuant thereto.

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Nevada City at a public meeting held on the 13th day of December, 2017.

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

\_\_\_\_\_  
**Duane Strawser, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Niel Locke, City Clerk**



## ORDINANCE NO.2017-XX

**AN ORDINANCE AMENDING SECTION 17.12.175 OF TITLE 17 OF THE NEVADA CITY MUNICIPAL CODE ENTITLED “HOMELESS HOUSING FACILITIES” TO CORRECT THE CITY’S DEFINITIONS FOR “EMERGENCY SHELTER,” “TRANSITIONAL HOUSING,” AND “SUPPORTIVE HOUSING” AND ENSURE THEIR CONSISTENCY WITH STATE LAW; AMENDING CHAPTER 17.48 ENTITLED “LIGHT INDUSTRIAL ZONE” TO REFERENCE EMERGENCY SHELTER OPERATIONAL MANAGEMENT STANDARDS; AND TO ADD CHAPTER 17.130 ENTITLED “OPERATIONAL MANAGEMENT STANDARDS” TO ESTABLISH A CHAPTER FOR OBJECTIVE MANAGEMENT STANDARDS FOR SPECIFIC MINISTERIAL USES INCLUDING EMERGENCY SHELTER USES**

**WHEREAS**, pursuant to the authority granted the City by Article XI, Sections 5 and 7 of the California Constitution, the City has the power to make and enforce within its limits all ordinances and regulations in respect to municipal affairs not in conflict with general laws; and

**WHEREAS**, comprehensive zoning regulations and regulations upon the use of land and property lie within the City’s police powers; and

**WHEREAS**, on September 9, 2009, The City Council adopted Ordinance 2009-06, updating Title 17 Zoning Code to reflect policies outlined in the 2015-2019 Housing Element including; and

**WHEREAS**, the City Council finds that the activities permitted under this ordinance are consistent with and implement the goals and policies of the Nevada City General Plan; and

**WHEREAS**, the City Council finds that the adoption of this ordinance is not a “project” under California Environmental Quality Act (CEQA), because the ordinance will allow for the establishment of reasonable regulations of Homeless Housing Facilities which will not cause a direct physical change in the environment nor a reasonably foreseeable indirect physical change in the environment (Public Resources Code section 21065)

**WHEREAS**, the City Council finds that even if the ordinance is found to be a Project Under CEQA, the adoption of this ordinance is exempt from environmental review under pursuant to the following sections of the CEQA Guidelines, 14 Cal. Code of Regulations, Chapter 3:

A. The ordinance is exempt under Section 15061(b) (3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The ordinance corrects definitions of “Emergency Shelter”, “Transitional Housing,” and “Supportive Housing” to be consistent with State law and provides objective management standards for the operation of Emergency Shelters as allowed by State law.

**NOW THEREFORE**, The City Council of the City of Nevada City does ordain as follows:

**SECTION 1.**Chapter 17.12 of the Nevada City Municipal Code entitled “Definitions,” under Subsection 12.12.175 entitled “Homeless Housing Facilities” is hereby amended with the following language:

### **17.12.175 - HOMLESS HOUSING FACILITIES**

“Emergency Shelters” (from Health and Safety Code Section 50801(e): temporary lodging for homeless persons with minimal supportive services that may be limited to occupancy of six months or less.

“Transitional Housing” (from Health and Safety Code Section 50675.2)(h): Any dwelling unit or a Group Living Accommodation configured as a rental housing development, but operated under program requirements that call for the termination of assistance and recirculation of the assisted units to another eligible program recipient at some predetermined future point in time.

“Supportive Housing” (Health and Safety Code 50675.14(b): Any dwelling unit or a Group Living Accommodation, that is occupied by the target population as defined in Section 50675.14(b) of the CA Health and Safety Code with no limit on length of stay, that is linked to on- or off-site services that assist the supportive housing residents in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

“Group Living Accommodation”: A building, group of buildings or portion of a building designed for or accommodating residential use by persons not living together as a Family.

**SECTION 2.** Chapter 17.48 to the Nevada City Municipal Code entitled “Light Industrial Zone,” is hereby amended to provide reference to applicable emergency shelter operational management standards under requirements of Chapter 17.130:

### **Chapter 17.48 LIGHT INDUSTRIAL ZONE**

#### **17.48.020. Principal Permitted Uses.**

In the LI zone, the following uses are permitted:

- A. Automobile and truck service stations and terminals;
- B. Business services, including advertising, credit, bookkeeping, employment and similar agencies, business and management consultants, stenographic, duplicating, blueprinting, photocopying and messenger services;
- C. Building materials sales yards;

- D. Light construction and special trade contractors, offices and shops, ornamental iron works, and sheet metal shops;
- E. Offices, administrative and executive;
- F. Refrigerators, furnaces and water heaters, repairs and servicing;
- G. Electrical transmission and/or substations;
- H. Warehousing, except mini-storage, including storage of furniture and household goods, but excluding feed and grain when handled in bulk;
- I. Public utility service yard or garage;
- J. Light manufacturing uses and all uses allowed in the EC zone;
- K. Artists' studios, craft workshops, and cabinet shops.
- L. Emergency shelters pursuant to the operational management standards outlined in Chapter 17.130
- M. Medical Cannabis Dispensaries pursuant to the provisions outlined in Chapter 17.142.
- N. Medical Cannabis Cultivation businesses pursuant to the provisions outlined in Chapter 17.142.
- O. Medical cannabis manufacturing businesses pursuant to the provisions outlined in Chapter 17.142.
- P. Medical cannabis distribution businesses pursuant to the provisions outlined in Chapter 17.142.
- Q. Medical cannabis transporting businesses pursuant to the provisions outlined in Chapter 17.142.
- R. Medical cannabis testing laboratory businesses pursuant to the provisions outlined in Chapter 17.142.

**SECTION 3.** Adding Chapter 17.130 to the Nevada City Municipal Code entitled “Operational Management Standards,” is hereby amended to include objective management standards as may be necessary to apply to ministerial permitted uses.

### **Chapter 17.130 – Operational Management Standards**

#### **Sections:**

#### **17.130.010 - Purpose.**

The purpose of this chapter is to establish standards to ensure that the development of specific ministerial uses do not adversely impact adjacent parcels or the surrounding neighborhood and

that they are developed in a manner which protects the health, safety, and general welfare of the nearby residents and businesses. A use permit is required to establish a shelter that does not meet all requirements of this Chapter.

### **17.130.020 – Emergency Shelters located in the Light Industrial (LI) Zone**

A. When abutting a residentially-zoned property, the following standards shall apply:

1. The minimum building setbacks from transitional use lot lines (where residential and nonresidential lots meet) shall be either twenty-five feet or one foot for each foot of nonresidential building height, whichever is greater.
2. A fence meeting the design standards of the planning commission may be required to be erected.
3. Off-street parking shall be designed to avoid being immediately adjacent to residentially zoned property, if possible

B. The maximum number of beds shall be two beds per 150 square feet of living space.

C. Emergency shelters shall provide:

1. Sleeping facilities
2. An area for onsite client intake at a minimum size of 120 square feet or 10 square feet per bed, whichever is larger.
3. Secure personal storage.
4. Showers and restroom facilities.
5. Interior and/or exterior common space for clients to congregate at a ratio of not less than 15 square feet per client, with a minimum overall area of 120 square feet.

D. Optional facility services may include:

1. Central cooking and dining room(s) subject to compliance with Nevada County Environmental Health Department
2. Recreation Room
3. Counseling Center
4. Laundry equipment for clients.

5. Child care facilities
  6. Other support services intended to benefit homeless clients
- E. Adequate exterior lighting shall be provided for security purposes. The lighting shall be stationary, shielded and downcast, and directed away from adjacent properties and public rights-of-way.
  - F. On-site management shall be provided at all times the facility is in operation and at least one hour prior to and after facility operation hours.
  - G. The shelter operator shall be a non-profit, public or quasi-public entity or have a contract with a public or quasi-public entity for operation of the shelter.
  - H. The maximum length of stay at the facility shall not exceed 180 days per client in a 365 day period.
  - I. Shelters shall establish and maintain set hours for client intake/discharge. Hours must be prominently posted on site.
  - J. Facility improvements shall comply with the most recently adopted California Building Code in terms of providing adequate toilet and shower facilities.
  - K. Bike rack parking shall be provided onsite
  - L. Off-street parking shall be provided at a ratio of one space per 1,000 square feet of gross floor area, or one space for each employee on the largest shift plus one space for each agency vehicle plus three visitor spaces, whichever is greater;
  - M. Prior to use as an Emergency Shelter, the shelter operator shall submit a Shelter Safety and Management Plan. The Plan shall be available to the public upon request and shall address:
    1. Client congregation outside of the shelter facility in order to prevent queuing within the public right-of-way.
    2. Eligibility criteria, enforcement rules, and procedures for disruptive clients.
    3. Number and responsibilities of on-site support staff, training standards, other management procedures, and a primary and secondary contact person.
    4. Bed bug prevention.
    5. Refuse collection.

6. Security procedures.
7. Separation of sleeping areas and restrooms by gender and for families.
8. Food Service procedures (Preparation / Distribution / Clean-up)

**SECTION 4.** Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

**SECTION 5.** Effective Date. This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in the Union, a newspaper of general circulation printed and published in the County of Nevada and circulated in the City of Nevada City and hereby designated for that purpose by the City Council.

This Ordinance was introduced and read by title only on the 15th day of November, 2017 and

**PASSED AND ADOPTED** at a regular scheduled meeting of the City Council held on the 13th day of December, 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

**Duane Strawser, Mayor**

**ATTEST:**

---

**Niel Locke, City Clerk**

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## CHAPTER 633

An act to amend Sections 65582, 65583, and 65589.5 of the Government Code, relating to local planning.

[ Approved by Governor October 13, 2007. Filed with Secretary of State October 13, 2007. ]

## LEGISLATIVE COUNSEL'S DIGEST

SB 2, Cedillo. Local planning.

(1) The Planning and Zoning Law requires the housing element of the general plan of a city, county, or city and county to contain, among other things, an assessment of housing needs, including an inventory of land suitable for residential development, and a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. This program is also required to identify adequate sites with zoning that permits owner-occupied and multifamily residential use by right, including the development of farmworker housing for low- and very low income households.

This bill would add emergency shelters to these provisions, as specified, and would add provisions to the housing element that would require a local government to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The bill would also authorize a local government to satisfy all or part of this requirement by adopting and implementing a multijurisdictional agreement, as specified, and would delete multifamily residential use from these provisions. By increasing the duties of local public officials, the bill would create a state-mandated local program.

(2) The Planning and Zoning Law requires that a local agency not disapprove a housing development project, including farmworker housing, for very low, low-, or moderate-income households or condition its approval, including through the use of design review standards, in a manner that renders the project infeasible for development for those households unless it makes written findings, based upon substantial evidence in the record, as to one of a number of specified conditions.

This bill would add supportive housing, transitional housing, and emergency shelters to these provisions and would revise the conditions upon which a disapproval or a conditional approval of an emergency shelter is based. The bill would define supportive housing and transitional housing. By increasing the duties of local public officials, the bill would impose a state-mandated local program.

(3) The bill would also make other technical and conforming changes to these provisions.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### **SECTION 1.** The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, like Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness are mental illness, substance abuse, prison release, and lack of affordable housing.

(b) Because homelessness affects people of all races, gender, age, and geographic location there is a growing need for every city and county to plan for the location of adequate emergency shelters. Many people experiencing homelessness, primarily youth and single individuals, need shelter but also have a need for residential substance abuse and mental health services.

(c) The lack or shortage of emergency shelters for homeless individuals and families in cities and counties across the state leads to the concentration of services in inner cities and poor communities, like the skid row area in downtown Los Angeles.

(d) In order to ensure access to services in every city and county for homeless individuals and families, it is important that cities and counties plan for these services to address the special needs and circumstances of this threatened population.

(e) It is the responsibility of cities and counties to plan and identify areas for emergency shelters. Cities and counties should include this as part of their planning process and locate emergency shelters where most appropriate in their community. The state should not dictate where these emergency shelters should be located.

(f) It is the responsibility of the Legislature to promote strong communities and ensure that housing and residential services are available in all communities.

### **SEC. 2.** Section 65582 of the Government Code is amended to read:

**65582.** As used in this article, the following definitions apply:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Emergency shelter" has the same meaning as defined in subdivision (e) of Section 50801 of the Health and Safety Code.

(e) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

(f) "Supportive housing" has the same meaning as defined in subdivision (b) of Section 50675.14 of the Health and Safety Code.

(g) "Transitional housing" has the same meaning as defined in subdivision (h) of Section 50675.2 of the Health and Safety Code.

### **SEC. 3.** Section 65583 of the Government Code is amended to read:

**65583.** The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 commencing with Section 21000) of the Public Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (6), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (6). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(7) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of

housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2.

(B) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9) of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

**SEC. 4.** Section 65589.5 of the Government Code is amended to read:

**65589.5.** (a) The Legislature finds and declares all of the following:

(1) The lack of housing, including emergency shelters, is a critical problem that threatens the economic, environmental, and social quality of life in California.

(2) California housing has become the most expensive in the nation. The excessive cost of the state's housing supply is partially caused by activities and policies of many local governments that limit the approval of housing, increase the cost of land for housing, and require that high fees and exactions be paid by producers of housing.

(3) Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.

(4) Many local governments do not give adequate attention to the economic, environmental, and social costs of decisions that result in disapproval of housing projects, reduction in density of housing projects, and excessive standards for housing projects.

(b) It is the policy of the state that a local government not reject or make infeasible housing developments, including emergency shelters, that contribute to meeting the need determined pursuant to this article without a thorough analysis of the economic, social, and environmental effects of the action and without complying with subdivision (d).

(c) The Legislature also recognizes that premature and unnecessary development of agricultural lands for urban uses continues to have adverse effects on the availability of those lands for food and fiber production and on the economy of the state. Furthermore, it is the policy of the state that development should be guided away from prime agricultural lands; therefore, in implementing this section, local jurisdictions should encourage, to the maximum extent practicable, in filling existing urban areas.

(d) A local agency shall not disapprove a housing development project, including farmworker housing as defined in subdivision (d) of Section 50199.50 of the Health and Safety Code, for very low, low-, or moderate-income households, or an emergency shelter, or condition approval in a manner that renders the project infeasible for development for the use of very low, low-, or moderate-income households, or an emergency shelter, including through the use of design review standards, unless it makes written findings, based upon substantial evidence in the record, as to one of the following:

(1) The jurisdiction has adopted a housing element pursuant to this article that has been revised in accordance with Section 65588, is in substantial compliance with this article, and the jurisdiction has met or exceeded its share of the regional housing need allocation pursuant to Section 65584 for the planning period for the income category proposed for the housing development project, provided that any disapproval or conditional approval shall not be based on any of the reasons prohibited by Section 65008. If the housing development project includes a mix of income categories, and the jurisdiction has not met or exceeded its share of the regional housing need for one or more of those categories, then this paragraph shall not be used to disapprove or conditionally approve the project. The share of the regional housing need met by the jurisdiction shall be calculated consistently with the forms and definitions that may be adopted by the Department of Housing and Community Development pursuant to Section 65400. In the case of an emergency shelter, the jurisdiction shall have met or exceeded the need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. Any disapproval or conditional approval pursuant to this paragraph shall be in accordance with applicable law, rule, or standards.

(2) The development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.

(3) The denial of the project or imposition of conditions is required in order to comply with specific state or federal law, and there is no feasible method to comply without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible.

(4) The development project or emergency shelter is proposed on land zoned for agriculture or resource preservation that is surrounded on at least two sides by land being used for agricultural or resource preservation purposes, or which does not have adequate water or wastewater facilities to serve the project.

(5) The development project or emergency shelter is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation as specified in any element of the general plan as it existed on the date the application was deemed complete, and the jurisdiction has adopted a revised housing element in accordance with Section 65588 that is in substantial compliance with this article.

(A) This paragraph cannot be utilized to disapprove or conditionally approve a housing development project if the development project is proposed on a site that is identified as suitable or available for very low, low-, or moderate-income households in the jurisdiction's housing element, and consistent with the density specified in the housing element, even though it is inconsistent with both the jurisdiction's zoning ordinance and general plan land use designation.

(B) If the local agency has failed to identify in the inventory of land in its housing element sites that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584, then this paragraph shall not be utilized to disapprove or conditionally approve a housing development project proposed for a site designated in any element of the general plan for residential uses or designated in any element of the general plan for commercial uses if residential uses are permitted or conditionally permitted within commercial designations. In any action in court, the burden of proof shall be on the local agency to show that its housing element does identify adequate sites with appropriate zoning and development standards and with services and facilities to accommodate the local agency's share of the regional housing need for the very low and low-income categories.

(C) If the local agency has failed to identify a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit, has failed to demonstrate that the identified zone or zones include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7) of subdivision (a) of Section 65583, or has failed to demonstrate that the identified zone or zones can accommodate at least one emergency shelter, as required by paragraph (4) of subdivision (a) of Section 65583, then this paragraph shall not be utilized to disapprove or conditionally approve an emergency shelter proposed for a site designated in any element of the general plan for industrial, commercial, or multifamily residential uses. In any action in court, the burden of proof shall be on the local agency to show that its housing element does satisfy the requirements of paragraph (4) of subdivision (a) of Section 65583.

(e) Nothing in this section shall be construed to relieve the local agency from complying with the Congestion Management Program required by Chapter 2.6 (commencing with Section 65088) of Division 1 of Title 7 or the

California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources Code). Neither shall anything in this section be construed to relieve the local agency from making one or more of the findings required pursuant to Section 21081 of the Public Resources Code or otherwise complying with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(f) (1) Nothing in this section shall be construed to prohibit a local agency from requiring the development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need pursuant to Section 65584. However, the development standards, conditions, and policies shall be applied to facilitate and accommodate development at the density permitted on the site and proposed by the development.

(2) Nothing in this section shall be construed to prohibit a local agency from requiring an emergency shelter project to comply with objective, quantifiable, written development standards, conditions, and policies that are consistent with paragraph (4) of subdivision (a) of Section 65583 and appropriate to, and consistent with, meeting the jurisdiction's need for emergency shelter, as identified pursuant to paragraph (7) of subdivision (a) of Section 65583. However, the development standards, conditions, and policies shall be applied by the local agency to facilitate and accommodate the development of the emergency shelter project.

(3) This section does not prohibit a local agency from imposing fees and other exactions otherwise authorized by law that are essential to provide necessary public services and facilities to the development project or emergency shelter.

(g) This section shall be applicable to charter cities because the Legislature finds that the lack of housing, including emergency shelter, is a critical statewide problem.

(h) The following definitions apply for the purposes of this section:

(1) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

(2) "Housing development project" means a use consisting of any of the following:

(A) Residential units only.

(B) Mixed-use developments consisting of residential and nonresidential uses in which nonresidential uses are limited to neighborhood commercial uses and to the first floor of buildings that are two or more stories. As used in this paragraph, "neighborhood commercial" means small-scale general or specialty stores that furnish goods and services primarily to residents of the neighborhood.

(C) Transitional housing or supportive housing.

(3) "Housing for very low, low-, or moderate-income households" means that either (A) at least 20 percent of the total units shall be sold or rented to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or (B) 100 percent of the units shall be sold or rented to moderate-income households as defined in Section 50093 of the Health and Safety Code, or middle-income households, as defined in Section 65008 of this code. Housing units targeted for lower income households shall be made available at a monthly housing cost that does not exceed 30 percent of 60 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the lower income eligibility limits are based. Housing units targeted for persons and families of moderate income shall be made available at a monthly housing cost that does not exceed 30 percent of 100 percent of area median income with adjustments for household size made in accordance with the adjustment factors on which the moderate-income eligibility limits are based.

(4) "Area median income" means area median income as periodically established by the Department of Housing and Community Development pursuant to Section 50093 of the Health and Safety Code. The developer shall provide sufficient legal commitments to ensure continued availability of units for very low or low-income households in accordance with the provisions of this subdivision for 30 years.

(5) "Disapprove the development project" includes any instance in which a local agency does either of the following:

(A) Votes on a proposed housing development project application and the application is disapproved.

(B) Fails to comply with the time periods specified in subparagraph (B) of paragraph (1) of subdivision (a) of Section 65950. An extension of time pursuant to Article 5 (commencing with Section 65950) shall be deemed to be an extension of time pursuant to this paragraph.

(i) If any city, county, or city and county denies approval or imposes restrictions, including design changes, a reduction of allowable densities or the percentage of a lot that may be occupied by a building or structure under the applicable planning and zoning in force at the time the application is deemed complete pursuant to Section 65943, that have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, and the denial of the development or the imposition of restrictions on the development is the subject of a court action which challenges the denial, then the burden of proof shall be on the local legislative body to show that its decision is consistent with the findings as described in subdivision (d) and that the findings are supported by substantial evidence in the record.

(j) When a proposed housing development project complies with applicable, objective general plan and zoning standards and criteria, including design review standards, in effect at the time that the housing development project's application is determined to be complete, but the local agency proposes to disapprove the project or to approve it upon the condition that the project be developed at a lower density, the local agency shall base its decision regarding the proposed housing development project upon written findings supported by substantial evidence on the record that both of the following conditions exist:

(1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(k) The applicant or any person who would be eligible to apply for residency in the development or emergency shelter may bring an action to enforce this section. If in any action brought to enforce the provisions of this section, a court finds that the local agency disapproved a project or conditioned its approval in a manner rendering it infeasible for the development of an emergency shelter, or housing for very low, low-, or moderate-income households, including farmworker housing, without making the findings required by this section or without making sufficient findings supported by substantial evidence, the court shall issue an order or judgment compelling compliance with this section within 60 days, including, but not limited to, an order that the local agency take action on the development project or emergency shelter. The court shall retain jurisdiction to ensure that its order or judgment is carried out and shall award reasonable attorney's fees and costs of suit to the plaintiff or petitioner who proposed the housing development or emergency shelter, except under extraordinary circumstances in which the court finds that awarding fees would not further the purposes of this section. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled, including, but not limited to, an order to vacate the decision of the local agency, in which case the application for the project, as constituted at the time the local agency took the initial action determined to be in violation of this section, along with any standard conditions determined by the court to be generally imposed by the local agency on similar projects, shall be deemed approved unless the applicant consents to a different decision or action by the local agency.

(l) If the court finds that the local agency (1) acted in bad faith when it disapproved or conditionally approved the housing development or emergency shelter in violation of this section and (2) failed to carry out the court's order or judgment within 60 days as described in subdivision (k), the court in addition to any other remedies provided by this section, may impose fines upon the local agency that the local agency shall be required to deposit into a housing trust fund. Fines shall not be paid from funds that are already dedicated for affordable housing, including, but not limited to, redevelopment or low- and moderate-income housing funds and federal HOME and CDBG funds. The local agency shall commit the money in the trust fund within five years for the sole purpose of financing newly constructed housing units affordable to extremely low, very low, or low-income households. For purposes of this section, "bad faith" shall mean an action that is frivolous or otherwise entirely without merit.

(m) Any action brought to enforce the provisions of this section shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure, and the local agency shall prepare and certify the record of proceedings in accordance with subdivision (c) of Section 1094.6 of the Code of Civil Procedure no later than 30 days after the petition is served, provided that the cost of preparation of the record shall be borne by the local agency. Upon entry of the trial court's order, a party shall, in order to obtain appellate review of the order, file a petition within 20 days after service upon it of a written notice of the entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the local agency appeals the

judgment of the trial court, the local agency shall post a bond, in an amount to be determined by the court, to the benefit of the plaintiff if the plaintiff is the project applicant.

(n) In any action, the record of the proceedings before the local agency shall be filed as expeditiously as possible and, notwithstanding Section 1094.6 of the Code of Civil Procedure or subdivision (m) of this section, all or part of the record may be prepared (1) by the petitioner with the petition or petitioner's points and authorities, (2) by the respondent with respondent's points and authorities, (3) after payment of costs by the petitioner, or (4) as otherwise directed by the court. If the expense of preparing the record has been borne by the petitioner and the petitioner is the prevailing party, the expense shall be taxable as costs.

(o) This section shall be known, and may be cited, as the Housing Accountability Act.

**SEC. 5.** No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

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**TITLE: A Resolution Of The City Council Of The City Of Nevada City, California Calling A Municipal Election For June 5, 2018; Submitting A Cannabis Business Tax Ordinance To The voters At That Election; Requesting The Assistance Of The County Of Nevada In Connection With That Election; And Requesting Consolidation Of That Election With Any Other Election Held On That Date**

**RECOMMENDATION:** Approve Resolution 2017-XX submitting a cannabis business tax ordinance to the voters at the June 5, 2018 election, request for assistance of the County of Nevada in connection with that election and request for the consolidation of that election with any other election held on that date.

**CONTACT:** Catrina Olson, Interim City Manager

**BACKGROUND / DISCUSSION:**

This resolution is a returning item from the November 15, 2017 City Council meeting and is required to be provided to the County of Nevada Elections to be added to the June 5<sup>th</sup>, 2018 ballot.

The Cannabis Tax Ordinance 2017-12 that was reviewed by City Council on October 25, 2017 is attached to Resolution 2017-XX submitting the Cannabis Business Tax measure to the voters at the June 5, 2018 election. Based on the language provided in the ordinance a second reading is not required. Upon Council approval of the resolution being presented, the Cannabis Business Tax measure will be submitted to the voters and it will become effective if passed by a majority of City voters.

As a result of the recent voter approved changes to state law, there has been a strong interest by cannabis businesses to open in the City of Nevada City. The City does not currently impose any taxes on cannabis businesses. It is likely that cannabis businesses may create additional demands on City services so the City desires to impose a supplemental license tax upon cannabis businesses. The tax must be approved by the voters and is a general tax, and requires a fifty percent (50%) plus one (1) vote.

The attached resolution calls for an election for Tuesday, June 5, 2018 (the "Election") with a request to consolidate the Election with other elections held on the same day pursuant to section 10400 et seq. of the Elections Code.

The resolution proposes the following question be submitted by Section 3 of the resolution and shall appear on the ballot as follows:

To fund general municipal expenses such as police, fire, streets and recreation, shall the City of Nevada City enact a tax on cannabis (marijuana) businesses at annual rates not to exceed \$7.00 per canopy square foot for cultivation (adjustable for inflation), 8% of gross receipts for retail cannabis businesses, and 6% for all other cannabis businesses; generating approximately \$120,000 to \$135,000 annually to be levied until repealed by the voters or the City Council?	<b>YES</b>	
	<b>NO</b>	

The attached Ordinance 2017-12 outlines the following cannabis business tax structure:

- A. Beginning July 1, 2018 for every person engaged in commercial cannabis cultivation the initial rate of the cannabis business tax shall be as follows:
  - 1. \$4.00 annually per square foot of canopy space in a facility that uses exclusively artificial light, with a cap of \$7.00 annually per square foot through June 30, 2021.
  - 2. \$3.00 annually per square foot of canopy space in a facility that uses a combination of natural and supplemental artificial lighting, with a cap of \$5.00 annually per square foot through June 30, 2021.
  - 3. \$1.00 annually per square foot of canopy space in a facility that uses no artificial lighting, with a cap of \$1.00 annually per square foot through June 30, 2021.
  - 4. \$.50 annually per square foot of canopy space for any nursery, with a cap of \$.50 annually per square foot through June 30, 2021.
- B. On July 1, 2021 and on each July 1 thereafter, the maximum annual tax rate per square foot of each type of canopy space shall increase by the percentage change between January of the calendar year prior to such increase and January of the calendar year of the increase in the Consumer Price Index (CPI) for all urban consumers in the Sacramento County area as published by the United States Government Bureau of Labor Statistics.
- C. For every person who engages in the operation of a testing laboratory, 2% of gross receipts with a maximum not to exceed 2%.
- D. For every person who engages in the retail sales of cannabis as a dispensary or delivery business, 4% of gross receipts not to exceed 8%.
- E. For every person who engages in a cannabis manufacturing, processing, distribution or any other type of cannabis business that is not cultivation, a testing laboratory, dispensary or delivery, 2% of gross receipts not to exceed 6%.

The City Attorney shall prepare an impartial analysis of the measure. Any person or persons may file an argument either for or against the ballot measure. An argument for or against the measure shall not exceed three-hundred (300) words in length. If more than one argument is submitted for the measure, or more than one argument against the measure, the City Clerk shall select the argument to be included with the ballot materials. Rebuttal arguments shall be permitted pursuant to applicable law.

The Ordinance of the City of Nevada City, California Adding Chapter 5.06 (Cannabis Business Tax) to Title 5 of the Nevada City Municipal Code being submitted to the voters was reviewed at the October 25, 2017. There was discussion regarding adding a section that addressed the tax implications if a commercial cannabis cultivator was to experience crop loss. Proposed language was provided at the subsequent City Council meeting on November 15, 2017. Language has been implemented into the ordinance in section 5.06.060 (Reporting and remittance of tax) to address this matter. The language is as follows;

*“In the event a crop of a commercial cannabis cultivator is destroyed after being planted but before being cultivated, the Tax Administrator may make a refund of the tax paid (or abate the tax not yet paid) with respect to the square footage of the destroyed crop. Such refund or abatement shall be prorated to reflect only the period between the planting and the destruction of the crop. Such refund or abatement shall be made only if notification of the crop destruction is made to the Tax Administrator within thirty days of the destruction of the crop. The Tax Administrator may require that such notification be given in a specific format and be supported by specific types of evidence. The Tax Administrator may reject any claim for refund or abatement that is not timely, is not in the required form, is not supported by the required types of evidence, or does not, in the opinion of the Tax Administrator, reflect the occurrence of a destruction of crop.”*

**FISCAL IMPACT:**

The City is currently in the process of approving one applicant for a dispensary. Taking this into consideration one dispensary at a 4% rate would equate to approximately \$70,000 - \$85,000 annually. With the possibility of future cannabis businesses to open increased revenue projections are unable to be determined at this time.

**ATTACHMENTS:**

- ✓ Resolution 2017-XX – A Resolution of the City Council of Nevada City Calling for a Municipal election for the June 5, 2018; Submitting a Cannabis Business Tax Ordinance to the Voters at that election; Requesting the Assistance of the County of Nevada in Connection with that Election; and Requesting Consolidation of that Election with any other Election Held on that Date
- ✓ Ordinance 2017-XX (with Markup) An Ordinance of the City of Nevada City, California Adding Chapter 5.06 (Cannabis Business Tax) to Title 5 of the Nevada City Municipal Code
- ✓ Ordinance 2017-XX An Ordinance of the City of Nevada City, California Adding Chapter 5.06 (Cannabis Business Tax) to Title 5 of the Nevada City Municipal Code

**RESOLUTION NO. 2017-XX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY, CALIFORNIA CALLING A MUNICIPAL ELECTION FOR JUNE 5, 2018; SUBMITTING A CANNABIS BUSINESS TAX ORDINANCE TO THE VOTERS AT THAT ELECTION; REQUESTING THE ASSISTANCE OF THE COUNTY OF NEVADA IN CONNECTION WITH THAT ELECTION; AND REQUESTING CONSOLIDATION OF THAT ELECTION WITH ANY OTHER ELECTION HELD ON THAT DATE**

**WHEREAS**, Sections 37101 and 37100.5 of the California Government Code authorize the City to levy a license tax, for revenue purposes, upon business transacted in the City; and

**WHEREAS**, as a result of recent voter-approved changes to state law, there has been a very strong interest by cannabis businesses to open in the City; and

**WHEREAS**, cannabis businesses are likely to create demands upon City services, and the City does not currently impose any taxes upon cannabis businesses, aside from generally applicable municipal taxes;

**WHEREAS**, the City Council desires to seek impose a supplemental license tax upon cannabis businesses, to be known as the “Cannabis Business Tax”; and

**WHEREAS**, the Cannabis Business Tax cannot be imposed without voter approval; and

**WHEREAS**, the City Council desires to submit a Cannabis Business Tax measure to the voters of the City at an election to be held on Tuesday, June 5, 2018, and to be consolidated with any other election to be held on that date; and

**WHEREAS**, the election will be consolidated with the general municipal election, which has not yet been called, but is scheduled to occur on that same date; and

**WHEREAS**, the proposed Cannabis Business Tax is more completely described in the ordinance attached hereto as Attachment “A” and incorporated herein by reference (the “Tax Ordinance”).

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

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

**Section 2. Proposal.** The City Council hereby proposes the Cannabis Business Tax as set forth in the ordinance (the “Tax Ordinance”) attached hereto as Exhibit “A” and incorporated herein by reference.

**Section 3. Election.** The City Council hereby calls an election for Tuesday June 5, 2018 (the “Election”) and orders, pursuant to Section 9222 of the Elections Code, that the Tax Ordinance be submitted to the voters at that election.

**Section 4. Ballot Question.** The question submitted by Section 3 of this Resolutions shall appear on the ballot as follows:

To fund general municipal expenses such as police, fire, streets and recreation, shall the City of Nevada City enact a tax on cannabis (marijuana) businesses at annual rates not to exceed \$7.00 per canopy square foot for cultivation (adjustable for inflation), 8% of gross receipts for retail cannabis businesses, and 6% for all other cannabis businesses; generating approximately \$120,000 to \$135,000 annually to be levied until repealed by the voters or the City Council?	YES	
	NO	

**Section 5. Approval.** Pursuant to Section 2(b) of Article XIII A of the Constitution, this measure requires approval by a majority of those casting ballots on the measure.

**Section 6. Consolidation.** Pursuant Section 10400 et seq. of the Elections Code, the Board of Supervisors of Nevada County is requested to consolidate the Election with other elections held on the same day in the same territory or in the territory that is in part the same.

**Section 7. Canvass.** The Board of Supervisors is authorized to canvass the returns of the Election pursuant to Section 10411 of the Elections Code.

**Section 8. Conduct of Election.** Pursuant to Section 10002 of the Elections Code, the Board of Supervisors is requested to permit the County Clerk to render all services specified by Section 10418 of the Elections Code relating to the election, for which services the City agrees to reimburse the County, in accordance with current County pro-rations and allocation procedures.

**Section 9. Filing with County.** The City Clerk shall file a certified copy of this Resolution with the County Clerk.

**Section 10. Analysis and Argument.** The City Attorney shall prepare an impartial analysis of the measure. Any person or persons may file an argument either for or against the ballot measure. An argument for or against the measure shall not exceed 300 words in length. If more than one argument is submitted for the measure, or more than one argument against the measure, the City Clerk shall select the argument

to be included with the ballot materials. Rebuttal arguments shall be permitted pursuant to applicable law.

**Section 11. Effective Date.** This Resolution shall be effective immediately upon adoption.

**APPROVED AND ADOPTED** this 13<sup>th</sup> day of December 2017, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**APPROVED:**

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**Duane Strawser, Mayor**

**ATTEST:**

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**Niel Locke, City Clerk**

**EXHIBIT A**

**EXHIBIT A**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF NEVADA CITY,  
CALIFORNIA ADDING CHAPTER 5.06 (CANNABIS  
BUSINESS TAX) TO TITLE 5 OF THE NEVADA CITY  
MUNICIPAL CODE**

**THE PEOPLE OF THE CITY OF NEVADA CITY DO ORDAIN AS FOLLOWS:**

SECTION 1. CODE AMENDMENT. Chapter 5.06 of Title 5 of the Nevada City Municipal Code to read as follows:

**CHAPTER 5.06  
CANNABIS BUSINESS TAX**

**Sections:**

- 5.06.010 Title.
- 5.06.020 Authority and Purpose.
- 5.06.030 Intent.
- 5.06.040 Definitions.
- 5.06.050 Tax imposed.
- 5.06.060 Reporting and remittance of tax.
- 5.06.070 Payments and communications –timely remittance.
- 5.06.080 Payment – when taxes deemed delinquent.
- 5.06.090 Notice not required by City.
- 5.06.100 Penalties and interest.
- 5.06.110 Refunds and credits.
- 5.06.120 Refunds and procedures.
- 5.06.130 Personal cultivation not taxed.
- 5.06.140 Administration of the tax.
- 5.06.150 Appeal procedure.
- 5.06.160 Enforcement –action to collect.
- 5.06.170 Apportionment.
- 5.06.180 Constitutionality and legality.
- 5.06.190 Audit and examination of premises and records.
- 5.06.200 Other licenses, permits, taxes or charges.
- 5.06.210 Payment of tax does not authorize unlawful business.
- 5.06.220 Deficiency determinations.
- 5.06.230 Failure to report – nonpayment, fraud.
- 5.06.240 Tax assessment –notice requirements.
- 5.06.250 Tax assessment – hearing, application, and determination.
- 5.06.260 Conviction for violation – taxes not waived.
- 5.06.270 Violation deemed misdemeanor.

- 5.06.280 Severability.
- 5.06.290 Remedies cumulative.
- 5.06.300 Amendment or repeal.

**5.06.010 Title.**

This ordinance shall be known as the Cannabis Business Tax Ordinance.

**5.06.020 Authority and Purpose.**

The purpose of this Ordinance is to adopt a tax, for revenue purposes, pursuant to Sections 37101 and 37100.5 of the California Government Code, upon Cannabis Businesses that engage in business in the City. The Cannabis Business Tax is levied based upon business gross receipts and square footage of plant canopy. It is not a sales and use tax, a tax upon income, or a tax upon real property.

The Cannabis Business Tax is a general tax enacted solely for general governmental purposes of the City and not for specific purposes. All of the proceeds from the tax imposed by this Chapter shall be placed in the City's general fund and be available for any legal municipal purpose.

**5.06.030 Intent.**

The intent of this Ordinance is to levy a tax on all Cannabis Businesses that operate in the City, regardless of whether such business would have been legal at the time this Ordinance was adopted. Nothing in this Ordinance shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

**5.06.040 Definitions.**

The following words and phrases shall have the meanings set forth below when used in this Chapter:

A. "Business" shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

B. "Cannabis" 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" also means marijuana as defined by Section 11018 of the California Health and Safety Code and is not limited to medical cannabis.

C. “Cannabis product” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. “Cannabis product” also means marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.

D. “Canopy” means all areas occupied by any portion of a cannabis plant whether contiguous or noncontiguous on any one site. When plants occupy multiple horizontal planes (as when plants are placed on shelving above other plants) each plane shall be counted as a separate canopy area.

E. “Cannabis business” means any business activity involving cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of cannabis, of cannabis products or of ancillary products and accessories, whether or not carried on for gain or profit.

F. “Cannabis business tax” or “business tax,” means the tax due pursuant to this Chapter for engaging in cannabis business in the City.

G. “Commercial cannabis cultivation” means cultivation in the course of conducting a cannabis business.

H. “City permit” means a permit issued by the City to a person to authorize that person to operate or engage in a cannabis business.

I. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis and includes, but is not limited to, the operation of a nursery.

J. “Employee” means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

K. “Engaged in business as a cannabis business” means the commencing, conducting, operating, managing or carrying on of a cannabis business, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:

1. Such person or person's employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
2. Such person or person's employee owns or leases real property within the

City for business purposes;

3. Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;

4. Such person or person's employee regularly conducts solicitation of business within the City; or

5. Such person or person's employee performs work or renders services in the City.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

L. "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the City.

M. "Fiscal year" means July 1 through June 30 of the following calendar year.

N. "Gross Receipts," except as otherwise specifically provided, means, whether designated a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits and property of any kind or nature) received or payable for sales of goods, wares or merchandise or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. However, the following shall be excluded from Gross Receipts:

1. Cash discounts where allowed and taken on sales;

2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;

4. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

5. Cash value of sales, trades or transactions between departments or units of the same business;

6. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;

7. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;

8. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

O. "Lighting" means a source of light that is primarily used for promoting the biological process of plant growth. Lighting does not include sources of light that primarily exist for the safety or convenience of staff or visitors to the facility, such as emergency lighting, walkway lighting, or light admitted via small skylights, windows or ventilation openings.

P. "Nursery" means a facility or part of a facility that is used only for producing clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

Q. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

R. "Sale" means and includes any sale, exchange, or barter.

S. "State" means the State of California.

T. "State license," "license," or "registration" means a state license issued pursuant to California Business & Professions Code Sections 19300, *et seq.* or other applicable state law.

U. "Tax Administrator" means the Finance Director of the City of Nevada City or his or her designee.

V. "Testing Laboratory" means a cannabis business that (i) offers or performs tests of medical cannabis or medical cannabis products, (ii) offers no service other than such tests, (iii) sells no products, excepting only testing supplies and materials, (iv) is accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state and (v) is registered with the State Department of Public Health.

**5.06.050 Tax imposed.**

- A. Beginning July 1, 2018, there is imposed upon each person who is engaged in business as a cannabis business a cannabis business tax.
- B. The initial rate of the cannabis business tax shall be as follows:
  - 1. For every person who is engaged in commercial cannabis cultivation in the City:
    - a. Four dollars (\$4.00) annually per square foot of canopy space in facility that uses exclusively artificial lighting.
    - b. Three dollars (\$3.00) annually per square foot of canopy space in a facility that uses a combination of natural and supplemental artificial lighting.
    - c. One dollar (\$1.00) annually per square foot of canopy space in a facility that uses no artificial lighting.
    - d. Fifty cents (\$0.50) annually per square foot of canopy space for any nursery.

For purposes of this subdivision (B), the square feet of canopy space for a business shall be rebuttably presumed to be the maximum square footage of canopy allowed by the business's City permit for commercial cannabis cultivation, or, in the absence of a City permit, the square footage shall be the maximum square footage of canopy for commercial cannabis cultivation allowed by the state license type. Should a City permit be issued to a business which cultivates only for certain months of the year, the City shall prorate the tax as to sufficiently reflect the period in which cultivation is occurring at the business. In no case shall canopy square footage which is authorized by the City commercial cannabis permit but not utilized for cultivation be deducted for the purpose of determining the tax for cultivation, unless the Tax Administrator is informed in writing and authorizes such reduction for the purpose of relief from the tax prior to the period for which the space will not be used, that such space will not be used.

- 2. For every person who engages in the operation of a testing laboratory: two percent (2%) of gross receipts.
- 3. For every person who engages in the retail sales of cannabis as a dispensary or delivery business: four percent (4%) of gross receipts.
- 4. For every person who engages in a cannabis manufacturing, processing, distribution or any other type of cannabis business not described in Section (B) (1), (2), or (3): two percent (2%) of gross receipts.

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- C. The City Council may, by resolution or ordinance, adjust the rate of the cannabis business tax. However, in no event may the City Council set any adjusted rate that exceeds the maximum rate calculated pursuant to Subdivision (D) of this Section for the date on which the adjusted rate will commence.
- D. The maximum rate shall be calculated as follows:
1. For every person who is engaged in commercial cannabis cultivation in the City:
    - a. Through June 30, 2021, the maximum rate shall be:
      - i. Seven dollars (\$7.00) annually per square foot of canopy space in a facility that uses exclusively artificial lighting.
      - ii. Five dollars (\$5.00) annually per square foot of canopy space in a facility that uses a combination of natural and supplemental artificial lighting.
      - iii. One dollar (\$1.00) annually per square foot of canopy space in a facility that uses no artificial lighting.
      - iv. Fifty cents (\$.50) annually per square foot of canopy space for any nursery.
    - b. On July 1, 2021 and on each July 1 thereafter, the maximum annual tax rate per square foot of each type of canopy space shall increase by the percentage change between January of the calendar year prior to such increase and January of the calendar year of the increase in the Consumer Price Index ("CPI") for all urban consumers in the Sacramento County area as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this subsection shall be made.
  2. For every person who engages in the operation of a testing laboratory, the maximum tax rate shall not exceed two percent (2%) of gross receipts.
  3. For every person who engages in the retail sales of cannabis as a dispensary or delivery business, the maximum tax rate shall not exceed eight percent (8%) of gross receipts.
  4. For every person who engages in a cannabis manufacturing, processing, distribution, or any other type of cannabis business not described in Section (D) (1), (2), or (3), the maximum tax rate shall not exceed six percent (6%) of gross receipts.

**5.06.060 Reporting and remittance of tax.**

- A. The cannabis business tax imposed by this Chapter shall be paid, in arrears, on a quarterly basis. For commercial cannabis cultivation, the tax due for each calendar quarter shall be based on the square footage of the business's canopy space during the quarter and the rate shall be 25% of the applicable annual rate. For all other cannabis businesses activities, the tax due for each calendar quarter shall be based on the gross receipts for the quarter.
- B. Each person owing cannabis business tax for a calendar quarter shall, no later than the last day of the month following the close of the calendar quarter, file with the tax administrator a statement of the tax owed for that calendar quarter and the basis for calculating that tax. The tax administrator may require that the statement be submitted on a form prescribed by the tax administrator. The tax for each calendar quarter shall be due and payable on that same date as the statement for the calendar quarter is due.
- C. Upon cessation of a cannabis business, tax statements and payments shall be immediately due for all calendar quarters up to the calendar quarter during which cessation occurred.
- D. The tax administrator may, at his or her discretion, establish shorter report and payment periods for any taxpayer as the tax administrator deems necessary to ensure collection of the tax. The tax administrator may also require that a deposit, to be applied against the taxes for a calendar quarter, be made by a taxpayer at the beginning that calendar quarter. In no event shall the deposit required by the tax administrator exceed the tax amount he or she projects will be owed by the taxpayer for the calendar quarter. The tax administrator may require that a taxpayer make payments via a cashier's check, money order, wire transfer, or similar instrument.
- E. For purposes of this section, the square feet of canopy space for a business shall be rebuttably presumed to be no less than the maximum square footage of canopy allowed by the business's City permit for commercial cannabis cultivation, or, in the absence of a City permit, the square footage shall be the maximum square footage of canopy for commercial cannabis cultivation allowed by the state license type. In no case shall canopy square footage which is authorized by the permit or license but not utilized for cultivation be excluded from taxation unless the Tax Administrator is informed in writing, prior to the period for which the space will not be used, that such space will not be used.
- F. In the event a crop of a commercial cannabis cultivator is destroyed after being planted but before being cultivated, the Tax Administrator may make a refund of the tax paid (or abate the tax not yet paid) with respect to the square footage of the destroyed crop. Such refund or abatement shall be prorated to reflect only the period between the planting and the destruction of the crop. Such refund or abatement shall be made only if notification of the crop destruction is made to the

Tax Administrator within thirty days of the destruction of the crop. The Tax Administrator may require that such notification be given in a specific format and be supported by specific types of evidence. The Tax Administrator may reject any claim for refund or abatement that is not timely, is not in the required form, is not supported by the required types of evidence, or does not, in the opinion of the Tax Administrator, reflect the occurrence of a destruction of crop.

**5.06.070 Payments and communications – timely remittance.**

Whenever any payment, statement, report, request or other communication is due, it must be received by the Tax Administrator on or before the final due date. A postmark will not be accepted as timely remittance. If the due date would fall on a Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the City is open to the public.

**5.06.080 Payment - when taxes deemed delinquent.**

Unless otherwise specifically provided under other provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not received by the Tax Administrator on or before the due date as specified in Sections 5.06.060 and 5.06.070.

**5.06.090 Notice not required by the City.**

The City may as a courtesy send a tax notice to the business. However, the Tax Administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

**5.06.100 Penalties and interest.**

A. Any person who fails or refuses to pay any cannabis business tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties and interest as follows:

1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one percent (1.0%) per month.
2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one percent (1.0%) per month on the unpaid tax and on the unpaid penalties.
3. Interest shall be applied at the rate of one percent (1.0%) per month on the first day of the month for the full month, and will continue to accrue monthly on the tax and penalty until the balance is paid in full.

B. Whenever a check or electronic payment is submitted in payment of a cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest as provided for in this Section, and any other amount allowed under state law.

**5.06.110 Refunds and credits.**

A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in Section 5.06.120.

B. No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

**5.06.120 Refunds and procedures.**

A. Whenever the amount of any cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the City under this Chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Tax Administrator within one (1) year of the date the tax was originally due and payable.

B. The Tax Administrator, his or her designee or any other City officer charged with the administration of this Chapter shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Tax Administrator to do so.

C. In the event that the cannabis business tax was erroneously paid and the error is attributable to the City, the City shall refund the amount of tax erroneously paid up to one (1) year from when the error was identified.

**5.06.130 Personal Cultivation Not Taxed.**

The provisions of this Chapter shall not apply to personal cannabis cultivation as defined in the "Medicinal and Adult Use Cannabis Regulation and Safety Act". This Chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use.

**5.06.140 Administration of the tax.**

A. It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this Chapter.

B. For purposes of administration and enforcement of this Chapter generally, the Tax Administrator may from time to time promulgate such administrative interpretations, rules, and

procedures consistent with the purpose, intent, and express terms of this Chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.

C. The Tax Administrator may take such administrative actions as needed to administer the tax, including but not limited to:

1. Provide to all cannabis business taxpayers forms for the reporting of the tax;
2. Provide information to any taxpayer concerning the provisions of this Chapter;
3. Receive and record all taxes remitted to the City as provided in this Chapter;
4. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;
5. Assess penalties and interest to taxpayers pursuant to this Chapter;
6. Determine amounts owed and enforce collection pursuant to this Chapter.

**5.06.150 Appeal procedure.**

Any taxpayer aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the City Council by filing a notice of appeal with the City Clerk within thirty (30) days of the serving or mailing of the determination of tax due. The City Clerk, or his or her designee, shall fix a time and place for hearing such appeal, and the City Clerk, or his or her designee, shall give notice in writing to such operator at the last known place of address. The finding of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this Chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

**5.06.160 Enforcement - action to collect.**

Any taxes, penalties and/or fees required to be paid under the provisions of this Chapter shall be deemed a debt owed to the City. Any person owing money to the City under the provisions of this Chapter shall be liable in an action brought in the name of the City for the recovery of such debt. The provisions of this Section shall not be deemed a limitation upon the right of the City to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this Chapter or the failure to comply with any of the provisions of this Chapter.

**5.06.170 Apportionment.**

If a business subject to the tax is operating both within and outside the City, it is the intent of the City to apply the cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the City. To the extent federal or state law requires that any tax due from any taxpayer be apportioned, the taxpayer may indicate said

apportionment on his or her tax return. The Tax Administrator may promulgate administrative procedures for apportionment as he or she finds useful or necessary.

**5.06.180      Constitutionality and legality.**

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection or due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution or state law. If a person believes that the tax, as applied to him or her, is impermissible under applicable law, he or she may request that the tax administrator release him or her from the obligation to pay the impermissible portion of the tax.

**5.06.190      Audit and examination of premises and records.**

A. For the purpose of ascertaining the amount of cannabis business tax owed or verifying any representations made by any taxpayer to the City in support of his or her tax calculation, the Tax Administrator shall have the power to inspect any location where commercial cannabis cultivation occurs and to audit and examine all books and records (including, but not limited to bookkeeping records, state and federal income tax returns, and other records relating to the gross receipts of the business) of persons engaged in cannabis businesses. In conducting such investigation, the tax administrator shall have the power to inspect any equipment, such as computers or point of sale machines, that may contain such records.

B. It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the Tax Administrator or his/her designee shall have the right to inspect at all reasonable times.

**5.06.200      Other licenses, permits, taxes, fees or charges.**

A. Nothing contained in this Chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any provision of any other Chapter of this code or any other ordinance or resolution of the City, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other Chapter of this code or any other ordinance or resolution of the City. Any references made or contained in any other Chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other Chapter of this Code.

B. Notwithstanding subdivision (A) of this Section a cannabis business shall not be

required to pay the license fee required by Chapter 5.04 of Title 5 of this Code so long as all of business's activities within the City that would require payment of a license fee are activities subject to the cannabis business tax.

- C. The Tax Administrator may revoke or refuse to renew the license required by Chapter 5.04 of this Code for any business that is delinquent in the payment of any tax due pursuant to this Chapter or that fails to make a deposit required by the tax administrator pursuant to Section 5.06.060.

**5.06.210 Payment of tax does not authorize unlawful business.**

A. The payment of a cannabis business tax required by this Chapter, and its acceptance by the City, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this Code and all other applicable state laws.

B. No tax paid under the provisions of this Chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law.

**5.06.220 Deficiency determinations.**

If the Tax Administrator is not satisfied that any statement filed as required under the provisions of this Chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 5.06.240.

**5.06.230 Failure to report—nonpayment, fraud.**

A. Under any of the following circumstances, the Tax Administrator may make and give notice of an assessment of the amount of tax owed by a person under this Chapter at any time:

1. If the person has not filed a complete statement required under the provisions of this Chapter;
2. If the person has not paid the tax due under the provisions of this Chapter;

3. If the person has not, after demand by the Tax Administrator, filed a corrected statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this Chapter; or

4. If the Tax Administrator determines that the nonpayment of any business tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter and any other penalties allowed by law.

B. The notice of assessment shall separately set forth the amount of any tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

**5.06.240 Tax assessment - notice requirements.**

The notice of assessment shall be served upon the person either by personal delivery, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the Tax Administrator for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the Tax Administrator for such purpose, then to such person's last known address. For the purposes of this Section, a service by mail is complete at the time of deposit in the United States mail.

**5.06.250 Tax assessment - hearing, application and determination.**

Within thirty (30) days after the date of service the person may apply in writing to the Tax Administrator for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the Tax Administrator shall become final and conclusive. Within thirty (30) days of the receipt of any such application for hearing, the Tax Administrator shall cause the matter to be set for hearing before him or her no later than thirty (30) days after the receipt of the application, unless a later date is agreed to by the Tax Administrator and the person requesting the hearing. Notice of such hearing shall be given by the Tax Administrator to the person requesting such hearing not later than five (5) days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. After such hearing the Tax Administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 5.06.240 for giving notice of assessment.

**5.06.260 Conviction for violation - taxes not waived.**

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any state law requiring the payment of all taxes.

**5.06.270 Violation deemed misdemeanor.**

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor.

**5.06.280 Severability.**

If any provision of this Chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

**5.06.290 Remedies cumulative.**

All remedies and penalties prescribed by this Chapter or which are available under any other provision of the Nevada City Municipal Code and any other provision of law or equity are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

**5.06.300 Amendment or repeal.**

This Chapter may be repealed or amended by the City Council without a vote of the people to the extent allowed by law. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this Chapter. The people of the City of Nevada City affirm that the following actions shall not constitute an increase of the rate of a tax:

- A. The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, if the City Council has acted to reduce the rate of the tax;
- B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter; or
- C. The collection of the tax imposed by this Chapter even if the City had, for some period of time, failed to collect the tax.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

This Ordinance was approved and adopted by the People of the City of Nevada City at the City's June 5, 2018 statewide election.

\_\_\_\_\_  
Evans Phelps, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**EXHIBIT A**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF NEVADA CITY,  
CALIFORNIA ADDING CHAPTER 5.06 (CANNABIS  
BUSINESS TAX) TO TITLE 5 OF THE NEVADA CITY  
MUNICIPAL CODE**

**THE PEOPLE OF THE CITY OF NEVADA CITY DO ORDAIN AS FOLLOWS:**

SECTION 1. CODE AMENDMENT. Chapter 5.06 of Title 5 of the Nevada City Municipal Code to read as follows:

**CHAPTER 5.06  
CANNABIS BUSINESS TAX**

**Sections:**

- 5.06.010 Title.
- 5.06.020 Authority and Purpose.
- 5.06.030 Intent.
- 5.06.040 Definitions.
- 5.06.050 Tax imposed.
- 5.06.060 Reporting and remittance of tax.
- 5.06.070 Payments and communications –timely remittance.
- 5.06.080 Payment – when taxes deemed delinquent.
- 5.06.090 Notice not required by City.
- 5.06.100 Penalties and interest.
- 5.06.110 Refunds and credits.
- 5.06.120 Refunds and procedures.
- 5.06.130 Personal cultivation not taxed.
- 5.06.140 Administration of the tax.
- 5.06.150 Appeal procedure.
- 5.06.160 Enforcement –action to collect.
- 5.06.170 Apportionment.
- 5.06.180 Constitutionality and legality.
- 5.06.190 Audit and examination of premises and records.
- 5.06.200 Other licenses, permits, taxes or charges.
- 5.06.210 Payment of tax does not authorize unlawful business.
- 5.06.220 Deficiency determinations.
- 5.06.230 Failure to report – nonpayment, fraud.
- 5.06.240 Tax assessment –notice requirements.
- 5.06.250 Tax assessment – hearing, application, and determination.
- 5.06.260 Conviction for violation – taxes not waived.
- 5.06.270 Violation deemed misdemeanor.

- 5.06.280 Severability.
- 5.06.290 Remedies cumulative.
- 5.06.300 Amendment or repeal.

**5.06.010 Title.**

This ordinance shall be known as the Cannabis Business Tax Ordinance.

**5.06.020 Authority and Purpose.**

The purpose of this Ordinance is to adopt a tax, for revenue purposes, pursuant to Sections 37101 and 37100.5 of the California Government Code, upon Cannabis Businesses that engage in business in the City. The Cannabis Business Tax is levied based upon business gross receipts and square footage of plant canopy. It is not a sales and use tax, a tax upon income, or a tax upon real property.

The Cannabis Business Tax is a general tax enacted solely for general governmental purposes of the City and not for specific purposes. All of the proceeds from the tax imposed by this Chapter shall be placed in the City's general fund and be available for any legal municipal purpose.

**5.06.030 Intent.**

The intent of this Ordinance is to levy a tax on all Cannabis Businesses that operate in the City, regardless of whether such business would have been legal at the time this Ordinance was adopted. Nothing in this Ordinance shall be interpreted to authorize or permit any business activity that would not otherwise be legal or permissible under laws applicable to the activity at the time the activity is undertaken.

**5.06.040 Definitions.**

The following words and phrases shall have the meanings set forth below when used in this Chapter:

A. "Business" shall include all activities engaged in or caused to be engaged in within the City, including any commercial or industrial enterprise, trade, profession, occupation, vocation, calling, or livelihood, whether or not carried on for gain or profit, but shall not include the services rendered by an employee to his or her employer.

B. "Cannabis" 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" also means marijuana as defined by Section 11018 of the California Health and Safety Code and is not limited to medical cannabis.

C. “Cannabis product” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate, an edible product, or a topical product. “Cannabis product” also means marijuana products as defined by Section 11018.1 of the California Health and Safety Code and is not limited to medical cannabis products.

D. “Canopy” means all areas occupied by any portion of a cannabis plant whether contiguous or noncontiguous on any one site. When plants occupy multiple horizontal planes (as when plants are placed on shelving above other plants) each plane shall be counted as a separate canopy area.

E. “Cannabis business” means any business activity involving cannabis, including but not limited to cultivating, transporting, distributing, manufacturing, compounding, converting, processing, preparing, storing, packaging, delivering, testing, dispensing, retailing and wholesaling of cannabis, of cannabis products or of ancillary products and accessories, whether or not carried on for gain or profit.

F. “Cannabis business tax” or “business tax,” means the tax due pursuant to this Chapter for engaging in cannabis business in the City.

G. “Commercial cannabis cultivation” means cultivation in the course of conducting a cannabis business.

H. “City permit” means a permit issued by the City to a person to authorize that person to operate or engage in a cannabis business.

I. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis and includes, but is not limited to, the operation of a nursery.

J. “Employee” means each and every person engaged in the operation or conduct of any business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such business for a wage, salary, commission, barter or any other form of compensation.

K. “Engaged in business as a cannabis business” means the commencing, conducting, operating, managing or carrying on of a cannabis business, whether done as owner, or by means of an officer, agent, manager, employee, or otherwise, whether operating from a fixed location in the City or coming into the City from an outside location to engage in such activities. A person shall be deemed engaged in business within the City if:

1. Such person or person’s employee maintains a fixed place of business within the City for the benefit or partial benefit of such person;
2. Such person or person’s employee owns or leases real property within the

City for business purposes;

3. Such person or person's employee regularly maintains a stock of tangible personal property in the City for sale in the ordinary course of business;

4. Such person or person's employee regularly conducts solicitation of business within the City; or

5. Such person or person's employee performs work or renders services in the City.

The foregoing specified activities shall not be a limitation on the meaning of "engaged in business."

L. "Evidence of doing business" means evidence such as, without limitation, use of signs, circulars, cards or any other advertising media, including the use of internet or telephone solicitation, or representation to a government agency or to the public that such person is engaged in a cannabis business in the City.

M. "Fiscal year" means July 1 through June 30 of the following calendar year.

N. "Gross Receipts," except as otherwise specifically provided, means, whether designated a sales price, royalty, rent, commission, dividend, or other designation, the total amount (including all receipts, cash, credits and property of any kind or nature) received or payable for sales of goods, wares or merchandise or for the performance of any act or service of any nature for which a charge is made or credit allowed (whether such service, act or employment is done as part of or in connection with the sale of goods, wares, merchandise or not), without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, losses or any other expense whatsoever. However, the following shall be excluded from Gross Receipts:

1. Cash discounts where allowed and taken on sales;

2. Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

3. Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;

4. Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

5. Cash value of sales, trades or transactions between departments or units of the same business;

6. Whenever there are included within the gross receipts amounts which reflect sales for which credit is extended and such amount proved uncollectible in a subsequent year, those amounts may be excluded from the gross receipts in the year they prove to be uncollectible; provided, however, if the whole or portion of such amounts excluded as uncollectible are subsequently collected they shall be included in the amount of gross receipts for the period when they are recovered;

7. Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar;

8. Amounts collected for others where the business is acting as an agent or trustee and to the extent that such amounts are paid to those for whom collected. These agents or trustees must provide the finance department with the names and the addresses of the others and the amounts paid to them. This exclusion shall not apply to any fees, percentages, or other payments retained by the agent or trustees.

O. "Lighting" means a source of light that is primarily used for promoting the biological process of plant growth. Lighting does not include sources of light that primarily exist for the safety or convenience of staff or visitors to the facility, such as emergency lighting, walkway lighting, or light admitted via small skylights, windows or ventilation openings.

P. "Nursery" means a facility or part of a facility that is used only for producing clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.

Q. "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, whether organized as a nonprofit or for-profit entity, and includes the plural as well as the singular number.

R. "Sale" means and includes any sale, exchange, or barter.

S. "State" means the State of California.

T. "State license," "license," or "registration" means a state license issued pursuant to California Business & Professions Code Sections 19300, *et seq.* or other applicable state law.

U. "Tax Administrator" means the Finance Director of the City of Nevada City or his or her designee.

V. "Testing Laboratory" means a cannabis business that (i) offers or performs tests of medical cannabis or medical cannabis products, (ii) offers no service other than such tests, (iii) sells no products, excepting only testing supplies and materials, (iv) is accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state and (v) is registered with the State Department of Public Health.

**5.06.050 Tax imposed.**

- A. Beginning July 1, 2018, there is imposed upon each person who is engaged in business as a cannabis business a cannabis business tax.
- B. The initial rate of the cannabis business tax shall be as follows:
  - 1. For every person who is engaged in commercial cannabis cultivation in the City:
    - a. Four dollars (\$4.00) annually per square foot of canopy space in facility that uses exclusively artificial lighting.
    - b. Three dollars (\$3.00) annually per square foot of canopy space in a facility that uses a combination of natural and supplemental artificial lighting.
    - c. One dollar (\$1.00) annually per square foot of canopy space in a facility that uses no artificial lighting.
    - d. Fifty cents (\$0.50) annually per square foot of canopy space for any nursery.

For purposes of this subdivision (B), the square feet of canopy space for a business shall be rebuttably presumed to be the maximum square footage of canopy allowed by the business's City permit for commercial cannabis cultivation, or, in the absence of a City permit, the square footage shall be the maximum square footage of canopy for commercial cannabis cultivation allowed by the state license type. Should a City permit be issued to a business which cultivates only for certain months of the year, the City shall prorate the tax as to sufficiently reflect the period in which cultivation is occurring at the business. In no case shall canopy square footage which is authorized by the City commercial cannabis permit but not utilized for cultivation be deducted for the purpose of determining the tax for cultivation, unless the Tax Administrator is informed in writing and authorizes such reduction for the purpose of relief from the tax prior to the period for which the space will not be used, that such space will not be used.

- 2. For every person who engages in the operation of a testing laboratory: two percent (2%) of gross receipts.
- 3. For every person who engages in the retail sales of cannabis as a dispensary or delivery business: four percent (4%) of gross receipts.
- 4. For every person who engages in a cannabis manufacturing, processing, distribution or any other type of cannabis business not described in Section (B) (1), (2), or (3): two percent (2%) of gross receipts.

- C. The City Council may, by resolution or ordinance, adjust the rate of the cannabis business tax. However, in no event may the City Council set any adjusted rate that exceeds the maximum rate calculated pursuant to Subdivision (D) of this Section for the date on which the adjusted rate will commence.
- D. The maximum rate shall be calculated as follows:
1. For every person who is engaged in commercial cannabis cultivation in the City:
    - a. Through June 30, 2021, the maximum rate shall be:
      - i. Seven dollars (\$7.00) annually per square foot of canopy space in a facility that uses exclusively artificial lighting.
      - ii. Five dollars (\$5.00) annually per square foot of canopy space in a facility that uses a combination of natural and supplemental artificial lighting.
      - iii. One dollar (\$1.00) annually per square foot of canopy space in a facility that uses no artificial lighting.
      - iv. Fifty cents (\$.50) annually per square foot of canopy space for any nursery.
    - b. On July 1, 2021 and on each July 1 thereafter, the maximum annual tax rate per square foot of each type of canopy space shall increase by the percentage change between January of the calendar year prior to such increase and January of the calendar year of the increase in the Consumer Price Index (“CPI”) for all urban consumers in the Sacramento County area as published by the United States Government Bureau of Labor Statistics. However, no CPI adjustment resulting in a decrease of any tax imposed by this subsection shall be made.
  2. For every person who engages in the operation of a testing laboratory, the maximum tax rate shall not exceed two percent (2%) of gross receipts.
  3. For every person who engages in the retail sales of cannabis as a dispensary or delivery business, the maximum tax rate shall not exceed eight percent (8%) of gross receipts.
  4. For every person who engages in a cannabis manufacturing, processing, distribution, or any other type of cannabis business not described in Section (D) (1), (2), or (3), the maximum tax rate shall not exceed six percent (6%) of gross receipts.

**5.06.060 Reporting and remittance of tax.**

- A. The cannabis business tax imposed by this Chapter shall be paid, in arrears, on a quarterly basis. For commercial cannabis cultivation, the tax due for each calendar quarter shall be based on the square footage of the business's canopy space during the quarter and the rate shall be 25% of the applicable annual rate. For all other cannabis businesses activities, the tax due for each calendar quarter shall be based on the gross receipts for the quarter.
- B. Each person owing cannabis business tax for a calendar quarter shall, no later than the last day of the month following the close of the calendar quarter, file with the tax administrator a statement of the tax owed for that calendar quarter and the basis for calculating that tax. The tax administrator may require that the statement be submitted on a form prescribed by the tax administrator. The tax for each calendar quarter shall be due and payable on that same date as the statement for the calendar quarter is due.
- C. Upon cessation of a cannabis business, tax statements and payments shall be immediately due for all calendar quarters up to the calendar quarter during which cessation occurred.
- D. The tax administrator may, at his or her discretion, establish shorter report and payment periods for any taxpayer as the tax administrator deems necessary to ensure collection of the tax. The tax administrator may also require that a deposit, to be applied against the taxes for a calendar quarter, be made by a taxpayer at the beginning that calendar quarter. In no event shall the deposit required by the tax administrator exceed the tax amount he or she projects will be owed by the taxpayer for the calendar quarter. The tax administrator may require that a taxpayer make payments via a cashier's check, money order, wire transfer, or similar instrument.
- E. For purposes of this section, the square feet of canopy space for a business shall be rebuttably presumed to be no less than the maximum square footage of canopy allowed by the business's City permit for commercial cannabis cultivation, or, in the absence of a City permit, the square footage shall be the maximum square footage of canopy for commercial cannabis cultivation allowed by the state license type. In no case shall canopy square footage which is authorized by the permit or license but not utilized for cultivation be excluded from taxation unless the Tax Administrator is informed in writing, prior to the period for which the space will not be used, that such space will not be used.
- F. In the event a crop of a commercial cannabis cultivator is destroyed after being planted but before being cultivated, the Tax Administrator may make a refund of the tax paid (or abate the tax not yet paid) with respect to the square footage of the destroyed crop. Such refund or abatement shall be prorated to reflect only the period between the planting and the destruction of the crop. Such refund or abatement shall be made only if notification of the crop destruction is made to the

Tax Administrator within thirty days of the destruction of the crop. The Tax Administrator may require that such notification be given in a specific format and be supported by specific types of evidence. The Tax Administrator may reject any claim for refund or abatement that is not timely, is not in the required form, is not supported by the required types of evidence, or does not, in the opinion of the Tax Administrator, reflect the occurrence of a destruction of crop.

**5.06.070 Payments and communications – timely remittance.**

Whenever any payment, statement, report, request or other communication is due, it must be received by the Tax Administrator on or before the final due date. A postmark will not be accepted as timely remittance. If the due date would fall on a Saturday, Sunday or a holiday, the due date shall be the next regular business day on which the City is open to the public.

**5.06.080 Payment - when taxes deemed delinquent.**

Unless otherwise specifically provided under other provisions of this Chapter, the taxes required to be paid pursuant to this Chapter shall be deemed delinquent if not received by the Tax Administrator on or before the due date as specified in Sections 5.06.060 and 5.06.070.

**5.06.090 Notice not required by the City.**

The City may as a courtesy send a tax notice to the business. However, the Tax Administrator is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter. Failure to send such notice or bill shall not affect the validity of any tax or penalty due under the provisions of this Chapter.

**5.06.100 Penalties and interest.**

A. Any person who fails or refuses to pay any cannabis business tax required to be paid pursuant to this Chapter on or before the due date shall pay penalties and interest as follows:

1. A penalty equal to ten percent (10%) of the amount of the tax, in addition to the amount of the tax, plus interest on the unpaid tax calculated from the due date of the tax at the rate of one percent (1.0%) per month.
2. If the tax remains unpaid for a period exceeding one calendar month beyond the due date, an additional penalty equal to twenty-five percent (25%) of the amount of the tax, plus interest at the rate of one percent (1.0%) per month on the unpaid tax and on the unpaid penalties.
3. Interest shall be applied at the rate of one percent (1.0%) per month on the first day of the month for the full month, and will continue to accrue monthly on the tax and penalty until the balance is paid in full.

B. Whenever a check or electronic payment is submitted in payment of a cannabis business tax and the payment is subsequently returned unpaid by the bank for any reason, the taxpayer will be liable for the tax amount due plus any fees, penalties and interest as provided for in this Section, and any other amount allowed under state law.

**5.06.110 Refunds and credits.**

A. No refund shall be made of any tax collected pursuant to this Chapter, except as provided in Section 5.06.120.

B. No refund of any tax collected pursuant to this Chapter shall be made because of the discontinuation, dissolution, or other termination of a business.

**5.06.120 Refunds and procedures.**

A. Whenever the amount of any cannabis business tax, penalty or interest has been overpaid, paid more than once, or has been erroneously collected or received by the City under this Chapter, it may be refunded to the claimant who paid the tax provided that a written claim for refund is filed with the Tax Administrator within one (1) year of the date the tax was originally due and payable.

B. The Tax Administrator, his or her designee or any other City officer charged with the administration of this Chapter shall have the right to examine and audit all the books and business records of the claimant in order to determine the eligibility of the claimant to the claimed refund. No claim for refund shall be allowed if the claimant refuses to allow such examination of claimant's books and business records after request by the Tax Administrator to do so.

C. In the event that the cannabis business tax was erroneously paid and the error is attributable to the City, the City shall refund the amount of tax erroneously paid up to one (1) year from when the error was identified.

**5.06.130 Personal Cultivation Not Taxed.**

The provisions of this Chapter shall not apply to personal cannabis cultivation as defined in the “Medicinal and Adult Use Cannabis Regulation and Safety Act”. This Chapter shall not apply to personal use of cannabis that is specifically exempted from state licensing requirements, that meets the definition of personal use or equivalent terminology under state law, and for which the individual receives no compensation whatsoever related to that personal use.

**5.06.140 Administration of the tax.**

A. It shall be the duty of the Tax Administrator to collect the taxes, penalties, fees, and perform the duties required by this Chapter.

B. For purposes of administration and enforcement of this Chapter generally, the Tax Administrator may from time to time promulgate such administrative interpretations, rules, and

procedures consistent with the purpose, intent, and express terms of this Chapter as he or she deems necessary to implement or clarify such provisions or aid in enforcement.

C. The Tax Administrator may take such administrative actions as needed to administer the tax, including but not limited to:

1. Provide to all cannabis business taxpayers forms for the reporting of the tax;
2. Provide information to any taxpayer concerning the provisions of this Chapter;
3. Receive and record all taxes remitted to the City as provided in this Chapter;
4. Maintain records of taxpayer reports and taxes collected pursuant to this Chapter;
5. Assess penalties and interest to taxpayers pursuant to this Chapter;
6. Determine amounts owed and enforce collection pursuant to this Chapter.

**5.06.150 Appeal procedure.**

Any taxpayer aggrieved by any decision of the Tax Administrator with respect to the amount of tax, interest, penalties and fees, if any, due under this Chapter may appeal to the City Council by filing a notice of appeal with the City Clerk within thirty (30) days of the serving or mailing of the determination of tax due. The City Clerk, or his or her designee, shall fix a time and place for hearing such appeal, and the City Clerk, or his or her designee, shall give notice in writing to such operator at the last known place of address. The finding of the City Council shall be final and conclusive and shall be served upon the appellant in the manner prescribed by this Chapter for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of the notice.

**5.06.160 Enforcement - action to collect.**

Any taxes, penalties and/or fees required to be paid under the provisions of this Chapter shall be deemed a debt owed to the City. Any person owing money to the City under the provisions of this Chapter shall be liable in an action brought in the name of the City for the recovery of such debt. The provisions of this Section shall not be deemed a limitation upon the right of the City to bring any other action including criminal, civil and equitable actions, based upon the failure to pay the tax, penalties and/or fees imposed by this Chapter or the failure to comply with any of the provisions of this Chapter.

**5.06.170 Apportionment.**

If a business subject to the tax is operating both within and outside the City, it is the intent of the City to apply the cannabis business tax so that the measure of the tax fairly reflects the proportion of the taxed activity actually carried on in the City. To the extent federal or state law requires that any tax due from any taxpayer be apportioned, the taxpayer may indicate said

apportionment on his or her tax return. The Tax Administrator may promulgate administrative procedures for apportionment as he or she finds useful or necessary.

**5.06.180      Constitutionality and legality.**

This tax is intended to be applied in a manner consistent with the United States and California Constitutions and state law. None of the tax provided for by this Chapter shall be applied in a manner that causes an undue burden upon interstate commerce, a violation of the equal protection or due process clauses of the Constitutions of the United States or the State of California or a violation of any other provision of the California Constitution or state law. If a person believes that the tax, as applied to him or her, is impermissible under applicable law, he or she may request that the tax administrator release him or her from the obligation to pay the impermissible portion of the tax.

**5.06.190      Audit and examination of premises and records.**

A.     For the purpose of ascertaining the amount of cannabis business tax owed or verifying any representations made by any taxpayer to the City in support of his or her tax calculation, the Tax Administrator shall have the power to inspect any location where commercial cannabis cultivation occurs and to audit and examine all books and records (including, but not limited to bookkeeping records, state and federal income tax returns, and other records relating to the gross receipts of the business) of persons engaged in cannabis businesses. In conducting such investigation, the tax administrator shall have the power to inspect any equipment, such as computers or point of sale machines, that may contain such records.

B.     It shall be the duty of every person liable for the collection and payment to the City of any tax imposed by this Chapter to keep and preserve, for a period of at least three (3) years, all records as may be necessary to determine the amount of such tax as he or she may have been liable for the collection of and payment to the City, which records the Tax Administrator or his/her designee shall have the right to inspect at all reasonable times.

**5.06.200      Other licenses, permits, taxes, fees or charges.**

A. Nothing contained in this Chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any provision of any other Chapter of this code or any other ordinance or resolution of the City, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other Chapter of this code or any other ordinance or resolution of the City. Any references made or contained in any other Chapter of this code to any licenses, license taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the licenses, license taxes, fees or charges, or schedule of license fees, provided for in other Chapter of this Code.

B. Notwithstanding subdivision (A) of this Section a cannabis business shall not be

required to pay the license fee required by Chapter 5.04 of Title 5 of this Code so long as all of business's activities within the City that would require payment of a license fee are activities subject to the cannabis business tax.

- C. The Tax Administrator may revoke or refuse to renew the license required by Chapter 5.04 of this Code for any business that is delinquent in the payment of any tax due pursuant to this Chapter or that fails to make a deposit required by the tax administrator pursuant to Section 5.06.060.

**5.06.210 Payment of tax does not authorize unlawful business.**

A. The payment of a cannabis business tax required by this Chapter, and its acceptance by the City, shall not entitle any person to carry on any cannabis business unless the person has complied with all of the requirements of this Code and all other applicable state laws.

B. No tax paid under the provisions of this Chapter shall be construed as authorizing the conduct or continuance of any illegal or unlawful business, or any business in violation of any local or state law.

**5.06.220 Deficiency determinations.**

If the Tax Administrator is not satisfied that any statement filed as required under the provisions of this Chapter is correct, or that the amount of tax is correctly computed, he or she may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement or upon the basis of any information in his or her possession or that may come into his or her possession within three (3) years of the date the tax was originally due and payable. One or more deficiency determinations of the amount of tax due for a period or periods may be made. When a person discontinues engaging in a business, a deficiency determination may be made at any time within three (3) years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due. Whenever a deficiency determination is made, a notice shall be given to the person concerned in the same manner as notices of assessment are given under Section 5.06.240.

**5.06.230 Failure to report—nonpayment, fraud.**

A. Under any of the following circumstances, the Tax Administrator may make and give notice of an assessment of the amount of tax owed by a person under this Chapter at any time:

1. If the person has not filed a complete statement required under the provisions of this Chapter;
2. If the person has not paid the tax due under the provisions of this Chapter;

3. If the person has not, after demand by the Tax Administrator, filed a corrected statement, or furnished to the Tax Administrator adequate substantiation of the information contained in a statement already filed, or paid any additional amount of tax due under the provisions of this Chapter; or

4. If the Tax Administrator determines that the nonpayment of any business tax due under this Chapter is due to fraud, a penalty of twenty-five percent (25%) of the amount of the tax shall be added thereto in addition to penalties and interest otherwise stated in this Chapter and any other penalties allowed by law.

B. The notice of assessment shall separately set forth the amount of any tax known by the Tax Administrator to be due or estimated by the Tax Administrator, after consideration of all information within the Tax Administrator's knowledge concerning the business and activities of the person assessed, to be due under each applicable section of this Chapter, and shall include the amount of any penalties or interest accrued on each amount to the date of the notice of assessment.

**5.06.240 Tax assessment - notice requirements.**

The notice of assessment shall be served upon the person either by personal delivery, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the person at the address of the location of the business or to such other address as he or she shall register with the Tax Administrator for the purpose of receiving notices provided under this Chapter; or, should the person have no address registered with the Tax Administrator for such purpose, then to such person's last known address. For the purposes of this Section, a service by mail is complete at the time of deposit in the United States mail.

**5.06.250 Tax assessment - hearing, application and determination.**

Within thirty (30) days after the date of service the person may apply in writing to the Tax Administrator for a hearing on the assessment. If application for a hearing before the City is not made within the time herein prescribed, the tax assessed by the Tax Administrator shall become final and conclusive. Within thirty (30) days of the receipt of any such application for hearing, the Tax Administrator shall cause the matter to be set for hearing before him or her no later than thirty (30) days after the receipt of the application, unless a later date is agreed to by the Tax Administrator and the person requesting the hearing. Notice of such hearing shall be given by the Tax Administrator to the person requesting such hearing not later than five (5) days prior to such hearing. At such hearing said applicant may appear and offer evidence why the assessment as made by the Tax Administrator should not be confirmed and fixed as the tax due. After such hearing the Tax Administrator shall determine and reassess the proper tax to be charged and shall give written notice to the person in the manner prescribed in Section 5.06.240 for giving notice of assessment.

**5.06.260 Conviction for violation - taxes not waived.**

The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any state law requiring the payment of all taxes.

**5.06.270 Violation deemed misdemeanor.**

Any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor.

**5.06.280 Severability.**

If any provision of this Chapter, or its application to any person or circumstance, is determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

**5.06.290 Remedies cumulative.**

All remedies and penalties prescribed by this Chapter or which are available under any other provision of the Nevada City Municipal Code and any other provision of law or equity are cumulative. The use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions of this Chapter.

**5.06.300 Amendment or repeal.**

This Chapter may be repealed or amended by the City Council without a vote of the people to the extent allowed by law. However, as required by Article XIII C of the California Constitution, voter approval is required for any amendment that would increase the rate of any tax levied pursuant to this Chapter. The people of the City of Nevada City affirm that the following actions shall not constitute an increase of the rate of a tax:

- A. The restoration of the rate of the tax to a rate that is no higher than that set by this Chapter, if the City Council has acted to reduce the rate of the tax;
- B. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Chapter; or
- C. The collection of the tax imposed by this Chapter even if the City had, for some period of time, failed to collect the tax.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

This Ordinance was approved and adopted by the People of the City of Nevada City at the City's June 5, 2018 statewide election.

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Evans Phelps, Mayor

ATTEST:

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City Clerk

## REPORT TO CITY COUNCIL

**City of Nevada City**

317 Broad Street  
Nevada City, CA 95959

[www.nevadacityca.gov](http://www.nevadacityca.gov)

**December 13, 2017**

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**TITLE: Resolution Of The City Council Of The City Of Nevada City Approving The Application Of “Elevation 2477” To Operate A Medical Cannabis Dispensary At 569 Searls Avenue, Nevada City**

**RECOMMENDATION:** Pass Resolution 2017-XX confirming the selection of “Elevation 2477” as the applicant to be issued a permit for operation of a dispensary at 569 Searls Avenue.

**CONTACT:** Amy Wolfson, City Planner  
Catrina Olson, Interim City Manager

**BACKGROUND / DISCUSSION:** At the November 15, 2017 City Council Meeting, “Elevation 2477” was selected out of the three applicants to operate a medical cannabis dispensary at 569 Searls Avenue by a majority vote of the City Council. Consistent with that Council action, the Interim City Manager recommends that this Resolution be approved, confirming that selection and directing staff to work with the selected applicant to assure that it complies with all statutory requirements for securing the requisite permits and commencing operations.

**ENVIRONMENTAL CONSIDERATIONS:** Not applicable.

**FINANCIAL CONSIDERATIONS:** Expenses to be covered by application and permit fees.

**ATTACHMENTS:**

- ✓ Resolution 2017-XX confirming the selection of “Elevation 2477” as the applicant to be issued a permit for operation of a dispensary at 569 Searls Avenue

**RESOLUTION 2017-XX**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEVADA CITY APPROVING THE APPLICATION OF "ELEVATION 2477" TO OPERATE A MEDICAL CANNABIS DISPENSARY AT 569 SEARLS AVENUE, NEVADA CITY**

**WHEREAS**, the City Council adopted Ordinance No. 2017-06 on April 12, 2017, providing that the City Council may issue a maximum of one medical cannabis business permit to a qualified medical cannabis dispensary for a term of one year from the date of issuance; and

**WHEREAS**, three (3) applications complying with the statutory requirements for a dispensary permit were received for different applicants at different proposed locations within the City -- Elevation 2477 at 569 Searls Avenue; Nevada County Wellness at 590 Searls Avenue; and Growing Community at 440 Lower Grass Valley Road; and

**WHEREAS**, the Section Committee reviewed the applications based on the adopted criteria established by the selection procedure and interviewed each applicant team and submitted a summary of their evaluations to the Council prior to a public meeting and City Council final selection; and

**WHEREAS**, upon the recommendation of the Interim City Manager the Council conducted a public meeting and upon conclusion, reviewed the information in the report to the City Council, including the rankings of the Selection Committee, and proceeded to discuss and to select the applicant to be issued a permit to operate a medical cannabis dispensary within the city limits, and

**WHEREAS**, at said November 15, 2017 Council meeting, "Elevation 2477" was selected by a majority vote of the City Council as the applicant to be issued a permit to operate a medical cannabis dispensary at 569 Searls Avenue and it being the recommendation of the Interim City Manager to bring a resolution for approval and permit issuance to the December 13, 2017 City Council meeting:

**NOW, THEREFORE, BE IT RESOLVED THAT:**

This City Council finds and declares that "Elevation 2477" is approved as the applicant chosen to be issued a permit to operate a medical cannabis dispensary at 569 Searls Avenue, Nevada City, California in accordance with its application therefore and staff is directed to work with said applicant to assure that it complies with all statutory requirements to secure such permit and commence operations.

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

\_\_\_\_\_  
**Duane Strawser, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Niel Locke, City Clerk**

## REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

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**TITLE:** Bear Yuba Land Trust (BYLT) Trail Maintenance Contract

**RECOMMENDATION:** Approve and authorize the Interim City Manager to sign the 2018 Trail Maintenance Contract

**CONTACT:** Dawn Zydonis, Parks & Recreation Supervisor

**BACKGROUND / DISCUSSION:** BYLT was recently reviewing their Memorandum of Understanding's (MOU) and Agreements for trail maintenance. The MOU with the City states that the City will "Reimburse BYLT for services provided in accordance with terms of contract or purchase agreements executed by both parties." BYLT has requested the attached Trail Maintenance Contract be put in place to meet the agreement made in the MOU.

The original Contract provided by BYLT asked that payment for services not exceed \$5,350. City staff felt that this was more than the City could manage and asked that it not exceed \$2,500. With that said, Item #9 was added so that if there was an emergency situation or unexpected repairs, City staff could negotiate with BYLT for the additional work.

This Contract is in effect for the 2017-2018 Fiscal Year. A new Contract will need to be approved for each following fiscal year. Current repairs and trail improvements have been completed with coordination between the BYLT Trail Coordinator and the City's Parks & Recreation Supervisor. Generally the City would purchase supplies and BYLT would provide the services needed. This Contract would allow BYLT to communicate projects to the City and then go ahead without coordination to purchase supplies. The City will still be willing to deliver rock or other materials if we have the materials available and staff time to do so.

**ENVIRONMENTAL CONSIDERATIONS:** None

**FISCAL IMPACT:**

**ATTACHMENTS:**

- ✓ DRAFT 2018 Trail Maintenance Contract
- ✓ MOU between the City of Nevada City and BYLT for Trail Construction & Maintenance

# 2018 TRAIL MAINTENANCE CONTRACT

This agreement is made between Bear Yuba Land Trust (BYLT) and The City of Nevada City (City).

## 1. Statement of Work

BYLT will provide required maintenance for two public trails located on City property. BYLT and the City have an existing MOU which states the City will reimburse BYLT for services provided in accordance with terms of contract or purchase agreements executed by both parties.

The necessary maintenance anticipated for the time period of January 1, 2018 - December 31, 2018 and includes:

- 1) Deer Creek Tribute Trail
  - General tread repair. Portions of the trail need to be leveled.
  - Maintain signs, posts and make sure information is current and relevant.
  - Brush the trail corridor 10' high and 4' wide.
  - Improve drainage features to ensure water flows across and off the trail tread.
  - Cut back and remove invasive species along the trail.
  
- 2) Hirschman Trail
  - Spread gravel on the trail near the pond to improve tread and drainage.
  - Maintain signs, posts and make sure information is current and relevant.
  - Brush the trail corridor 10' high and 4' wide.
  - Improve drainage features to ensure water flows across and off the trail tread.
  - Cut back and remove invasive species along the trail.
  - Maintain the kiosk infrastructure and materials.

## 2. Payment for Services

**In consideration of BYLT providing services, the City will reimburse BYLT for staff time spent (\$66.78/hr) and expenses incurred including materials and mileage. We anticipate the work outlined above will take between 30-35 hours. Total cost will not exceed \$2,500.** An invoice for services rendered will be emailed to the City within fifteen days of the completion of each project. Payment will be made within thirty days after receipt of invoice.

## 3. Period of Performance

The period of performance is from **January 1st - December 31st 2018.** This agreement may be terminated by either party with thirty days written notice. Neither completion nor termination shall affect BYLT's obligations under Article 9.

## 4. Status of Contractor

BYLT enters into this Agreement, and will remain throughout the term of the Agreement, as an independent contractor. The City agrees BYLT is not and will not become an employee, agent, or principal of the City while this agreement is in effect. The City agrees BYLT is not entitled to the rights or will not be included in the benefits afforded to the Cities employees, including disability or unemployment insurance, workers compensation, medical insurance, sick leave, or any other employment benefit. BYLT is responsible for providing, at BYLT's own expense, disability, unemployment, and other insurance, worker's compensation, training, permits and licenses.

**5. Payment of Income Taxes**

BYLT is responsible for paying when due all income taxes incurred as a result of the compensation paid by the City for services under this agreement. The City agrees to indemnify BYLT for any claims, costs, losses, fees, penalties, interest or damages suffered by BYLT resulting from the City's failure to comply with this provision.

**6. Non-Exclusive Relationship**

BYLT may represent, perform services for, and contract with as many additional clients, persons, or companies as BYLT, in his sole discretion, sees fit.

**7. Time and Place of Performing Work**

Subject to customer needs BYLT may perform the services under this agreement at any suitable time and location he chooses.

**8. Tools, Materials, and Equipment**

All tools, materials, and equipment required to perform the services under this agreement will be paid for by the City. BYLT will provide receipts and invoices for work completed at the time of billing.

**9. Emergency Work**

This contract does not include funding for emergency work needed due to a natural disaster or vandalism. In the event emergency work is needed on any City trail, BYLT and the City will work together to negotiate a funding process to bring the trail back up to public access standards.

**10. Confidential Information**

Any written, printed, graphic, or electronically or magnetically recorded information furnished by BYLT for the City's use is the sole property of BYLT. This proprietary information includes, but is not limited to, marketing information, and information concerning BYLT's employees, services, and operations. The City will keep this confidential information in the strictest confidence, and will not disclose it by any means to any person except with BYLT's approval, and only to the extent necessary to perform the services under this agreement. On termination of this agreement, the City will return any confidential information in the City's possession to BYLT.

**11. Subcontracting**

BYLT will not subcontract or assign any portion of the work under this agreement without the prior written consent of the City. BYLT manages a large Adopt-A-Trail program and these volunteers occasionally remove trash and other obstacles from the trails. The work that the adopters complete is separate from this agreement and will never be invoiced to the City.

**12. Indemnity**

The City agrees to indemnify, defend and hold BYLT free and harmless from all claims and expenses that BYLT may incur as a result of a breach by the City of any representation or agreement contained in the agreement.

**13. Right to Act as Contractor**

The City warrants to BYLT that the City is not subject to any obligations, contracts, or restrictions that would prevent the City from entering into or carrying out the provisions of this Agreement.

**14. Attorney's Fees**

If any legal action, including any action for declaratory relief, is brought to enforce or interpret the provisions of this agreement, the prevailing party will be entitled to reasonable attorney's fees, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any relief to which that party may be entitled.

**15. Amendment**

This Agreement may be amended only by a written document signed by both BYLT and the City.

**16. Governing Law**

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

City Hall  
317 Broad Street  
Nevada City, CA 95959

Bear Yuba Land Trust  
PO Box 1004  
Grass Valley, CA 95945

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

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

Dawn Zydonis  
Parks and Recreation Supervisor

Erin Tarr  
Director of Land Stewardship

Date: \_\_\_\_\_

Date: \_\_\_\_\_

MEMORANDUM OF UNDERSTANDING

CITY OF NEVADA CITY, CALIFORNIA  
AND  
NEVADA COUNTY LAND TRUST  
FOR  
TRAIL CONSTRUCTION AND MAINTENANCE

*Introduction*

This Memorandum of Understanding (MOU) describes the relationship between the City of Nevada City, a public entity, hereinafter referred to as "City", and the Bear Yuba Land Trust, a private, non-profit group, hereinafter referred to as "BYLT", in their joint efforts to provide non-motorized public trails within the sphere of influence of the City.

WITNESSETH

WHEREAS, the BYLT has been operating since 1991 and is a member supported group promoting voluntary conservation of Nevada County's natural, historical, and agricultural resources through protection and enhancement of trails, parks, and open spaces to provide a lasting community heritage; and

WHEREAS, the goals of BYLT are accomplished by acquiring land, conservation easements, and development rights by donation, purchase and other means through voluntary, private action; and

WHEREAS, BYLT was the lead agency responsible for the construction of several trails in western Nevada County; and

WHEREAS, the City recognizes that one of the essential elements of enhancing the quality of life in the City is the construction of parks, recreation programs and facilities, open space and trails; and

WHEREAS, the City has or will obtain public land where trails are proposed and/or planned; and

WHEREAS, the City supports trail development that links park facilities, neighborhoods, schools and other community facilities; and

WHEREAS, it is mutually beneficial for the City and BYLT to collaborate in the development, operation, and maintenance of non-motorized trails,

NOW, THEREFORE, in consideration of the above recitals, the parties agree as follows:

1. To establish the procedure and responsibility for accomplishing the location, design, construction, operation and maintenance of trails on land owned by the City of Nevada City.
2. In concept BYLT agrees to:
  - A. Provide assistance to the designated City representative to plan trail alignments on City property.
  - B. Prepare project descriptions suitable for CEQA review.

## REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City CA  
95959 [www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

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**TITLE:** Special Event Application - Street Closure Request For The Nevada City Bicycle Classic & Broad Street Sprints/Nevada City Brewfest For June 23<sup>rd</sup> And 24<sup>th</sup>, 2018

**RECOMMENDATION:** Review and authorize street closure request for the Nevada City Bicycle Classic and Broad Street Sprints/Nevada City Brewfest for June 23<sup>rd</sup> and 24<sup>th</sup>, 2018.

**CONTACT:** Catrina Olson, Interim City Manager

**BACKGROUND / DISCUSSION:**

Annually the Chamber submits a binder of special events with a requests for street closures which includes the Nevada City Bicycle Classic. This year the closure request for the bike race is being brought forward separately in December because the date and the course are changing.

Typically the race happens on Father's Day weekend. This year the request is for a street closures June 23<sup>rd</sup> and 24<sup>th</sup>, 2018. Saturday, June 23<sup>rd</sup> the request is for the evening from 5:00 p.m. to 10:00 p.m. identifying Broad Street be closed at the bottom from just above Union Alley to Spring Street continuing up Broad Street to just below Bridge Street. The closure request also includes Pine Street and Spring Street to allow for a stage for the event announcer and live music band at the intersection of South Pine Street and Broad Street. The application includes that North Pine Street is closed from Commercial Street to Broad Street, also including closure of York Street. For June 24<sup>th</sup>, 2018 the event hours are 10:00 a.m. to 7:00 p.m. The application identifies closure requests of North Pine Street from Broad Street to Commercial Street from 7:00 a.m. to 7:00 p.m. and the 200 block of Bread Street from Pine Street to Union Alley from 8:00 a.m. to 7:00 p.m.

The expected number of attendees is 3,000 with 500 participants and 150 volunteers. The Nevada City Bicycle Classic is in its 58<sup>th</sup> year.

**FISCAL IMPACT:** None.

**ATTACHMENTS:**

- ✓ Street Closure/Special Event Application



**DRAFT CITY OF NEVADA CITY  
SPECIAL EVENT APPLICATION / CONTRACT**

**OVERVIEW**

Thank you for choosing the City of Nevada City as the location for your event. The City requires the submittal of a Special Event Application as a pre-condition of considering whether to enter into an agreement to grant temporary use of all or any portion of a public street, sidewalk or alley.

Application materials must be completed in full and submitted to the City at least 90 days prior to your event date, and no more than one year in advance of the event date. Applications are accepted on a first-come, first-served basis. A non-refundable application fee must be paid upon submission of your completed application. Fees are described in the "Fees" section below. Use "NA" for "not applicable" to questions or sections that do not apply to your event. Incomplete applications will not be accepted and will delay processing which could affect the availability of your preferred event date or location. Please note the information you provide becomes public information.

City staff review application materials and prepare a Draft Special Event Contract (which may include additional requirements to ensure a safe event) for consideration by the City Council at a formal noticed public meeting. Applicants are strongly encouraged to attend the designated City Council meeting in order to discuss their proposed event and answer related questions. Please ensure you have City Council approval before marketing or advertising your event.

**APPLICANT AUTHORIZATION AND INDEMNITY**

To the extent allowed by law, Applicant agrees to defend, indemnify, and hold harmless the City of Nevada City, its agents, officials, and employees from and against all claims, damages, losses, injuries, illness, accidents relating to, arising out of, or resulting from, the use of this Special Event Application and the information contained therein, and any resulting Contract.

Applicant acknowledges that the information provided in this Application is true and accurate to the best of Applicant's knowledge and belief.

I have read, understand and agree to comply with all the information provided in the Special Event Application (attached) and any resulting permits and Special Event Contract if approved by the City Council.

Cathy Whittlesey  
Signature of Applicant

12/6/17  
Date

Cathy Whittlesey - Executive Director - Nevada City Chamber of Commerce  
Printed Name and Title of Applicant

(Person signing must be the same person who is listed as the Applicant on page 2.)

**APPLICANT INFORMATION**

Name of Requested Event Nevada City Bicycle Classic & Broad STREET Sprints/Nevada City Brewfest

Name of Applicant/Responsible Party Nevada City Chamber of Commerce  
(Must match name on Page 1)

Sponsoring Organization/Company Nevada City Chamber of Commerce

Street Address 132 Main St Apt/Unit/Suite \_\_\_\_\_

City Nevada City State CA Zip Code 95959

Email cathy@nevadacitychamber.com

Daytime Phone 530.265.2692 Cell Phone 530.913.7064 / \_\_\_\_\_

Does the sponsoring organization/party have experience producing similar events?

Yes /  No (Circle One)

**Event Contact for Public Information**

Name Nevada City Chamber of Commerce Contact Phone 530.265.2692

Email info@nevadacitychamber.com

Website www.nevadacitychamber.com

**Day of Event Contact Information**

On-site Contact Name Kurt STOCKTON - Saturday June 23 | Duane STRAWSER - Sunday June 24

On-site Contact Cell Number 530.264.6364 - Kurt | 530.263.3388 - Duane

**Day of Event ALTERNATE Contact Information**

On-site Contact Name Cathy WHITTLESEY

On-site Contact Cell Number 530.913.7064

**EVENT DETAILS**

**Event Description.** Please attach a detailed description of your event to this application (e.g. Overall summary, Is it open to the public? How will it be publicized? Is it kid/family friendly? Can it go forward rain or shine? Etc.)

**Type of Event** (Check all that apply)

- Parade/Procession
- Street Festival/Block Party
- Fundraiser
- Concert
- Run/Walk/Bicycle
- Other: \_\_\_\_\_

Has this event been produced before?  Yes  No  
Is this an annual event?  Yes  No  
Will there be an admission or entry fee?  Yes  No  
If yes, fee per adult: \$ \_\_\_\_\_ Fee per child: \$ \_\_\_\_\_

**[For Parades Only]**

Number of units and floats for parade: \_\_\_\_\_

Event Date(s) **June 23 (evening) & June 24, 2018**

Expected number of:

Attendees **3,000 + -** Participants **500** Volunteers **150**

<b>Event Hours</b>	Start	<b>Please see attached Appendix #1</b>		End	_____
<b>Set-up</b>	Date	_____	Time	_____	_____
<b>Break Down</b>	Date	_____	Time	_____	_____
<b>Names of street(s), sidewalk(s), alley(s) proposed to be closed</b> (attach additional pages or complete attached map if necessary). Note that it may be necessary to consult with a Police Sergeant (265-2626) and/or the Director of Public Works (265-2496) to accurately identify requested street closures.					
_____ between _____ & _____					
_____ between _____ & _____					
_____ between _____ & _____					
_____ between _____ & _____					

**Proposed Street closure information:**

Saturday June 17 (evening): Bicycle straight line street sprints up Broad St.  
5-10:00 PM (includes set-up and break down time)

- Broad Street closed at the bottom from just above Union Alley & Spring St. (so as not to interfere with Union Alley, Hwy 49 entrance & access to Spring St).
- Closure continues up Broad St to just below Bridge St (Bonanza Market). This leaves access open off of Broad St. through Bridge St.
- Pine St closed at Spring Street to allow for stage for event announcer and Live Music (Band) at the intersection of S. Pine & Broad streets. N. Pine St. closed from Commercial St to Broad St.
- York St closed from entering Broad St
- 5-10:00 pm (see attached map)

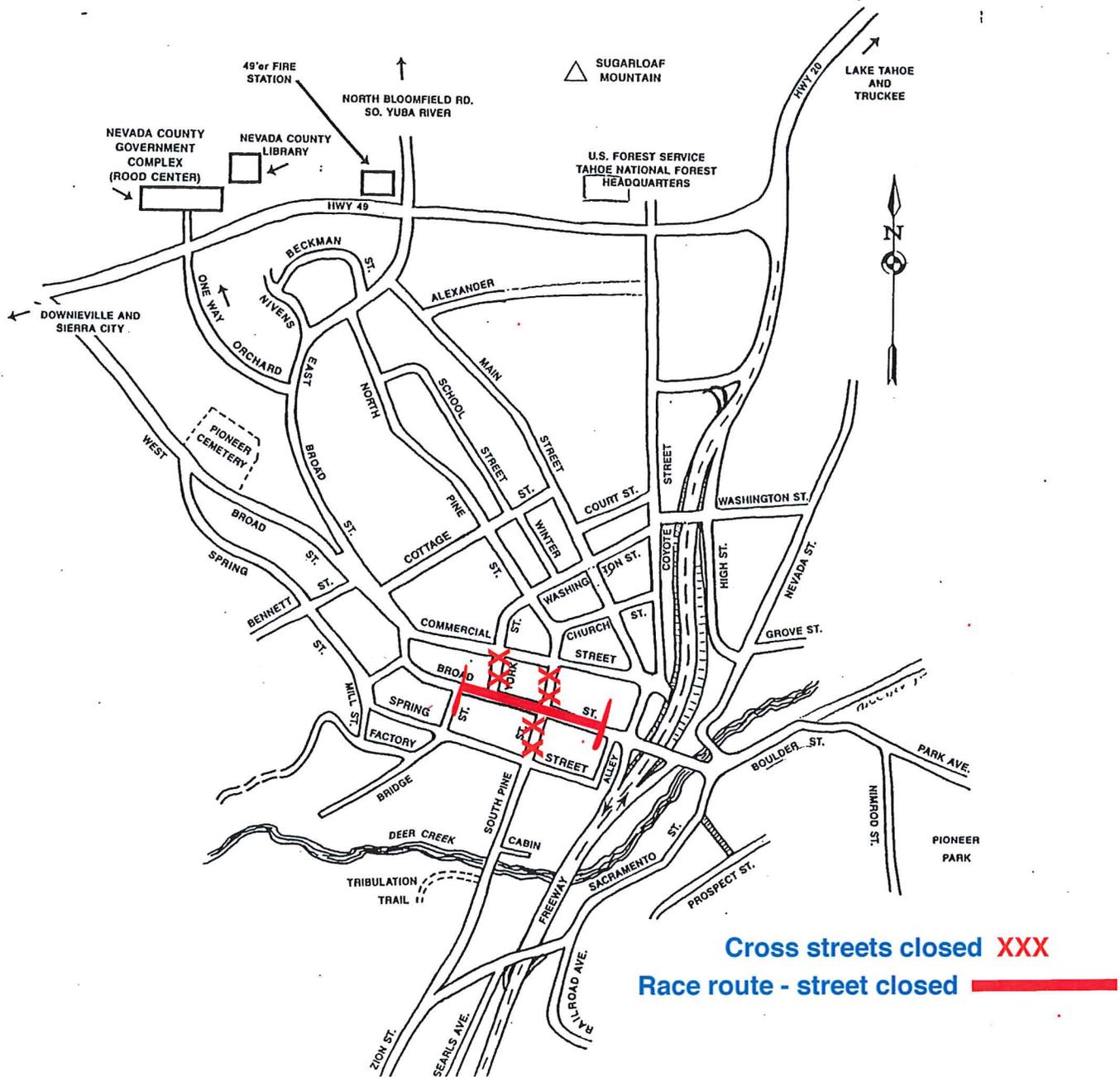
Sunday June 18: Event hours 10 am\* to 7 pm

- Streets closed: 7 am to 7 pm N. Pine from Broad to Commercial
- 8 am to 7 pm 200 Block of Broad from Pine to Union
- 10 am to 7 pm (see attached map)

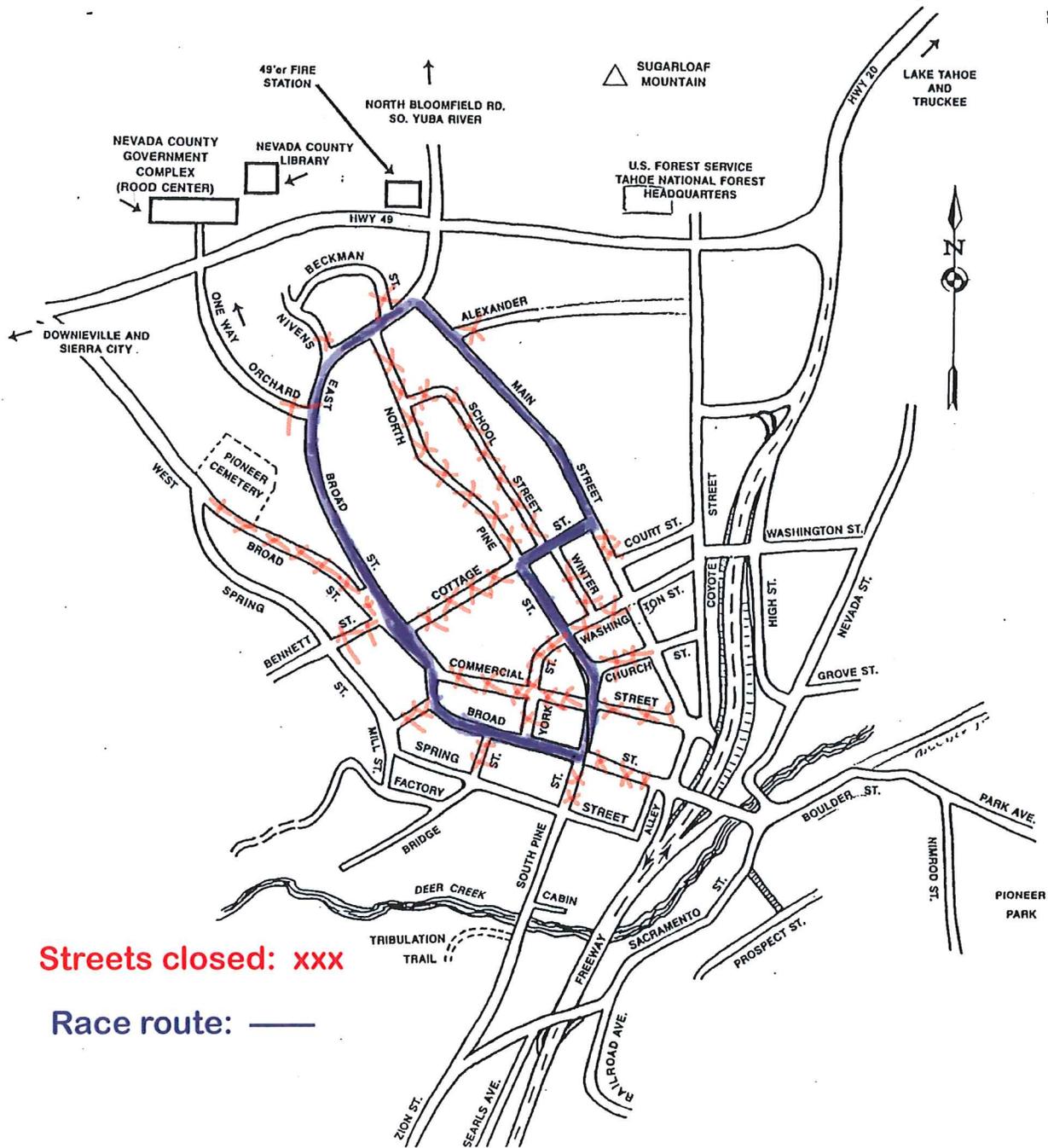
\*This earlier start time is the same as 2017 and is contingent on obtaining agreement (same as 2017) from the Methodist Church at Broad & Mill for a 10 am event start. This will allow for the running events and additional bike race categories.

Running event(s) will take place on the exact same course as the Nevada City Cycling Classic criterium bike race course.

**Proposed street closure for Saturday June 23, 2018**  
**Broad STREET Sprints/Nevada City Brewfest**



**Nevada City Cycling Classic proposed street closure for Sunday June 24, 2018.**



Please note whether your event includes any of the following\*:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Amplified sound | <input checked="" type="checkbox"/> Concessions                |
| <input checked="" type="checkbox"/> Food Vendors    | <input checked="" type="checkbox"/> Stages/Platforms           |
| <input type="checkbox"/> Food Cooking               | <input checked="" type="checkbox"/> Tents/Temporary Structures |
| <input checked="" type="checkbox"/> Alcohol sales   | <input type="checkbox"/> Animals will be present               |
| <input type="checkbox"/> Temporary Lighting         |  |

\*If any of the above are checked, please include additional details below.

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**Amplified Sound: Speakers placed along Broad St for the Saturday evening street sprints and live music. For Sunday, speakers placed around the race course.**

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**Alcohol (Beer): Will be at the Saturday Brewfest and at the NC Classic on Sunday** \_\_\_\_\_

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**Concessions & possible food vendors: Small street festival along with Brewfest at Broad St. & Pine St for Saturday evening. On 200 Blk of Broad St. for Sunday.**

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**Stage: Saturday evening at the intersection of Broad & Pine (set on S Pine St. between Utopian Stone & the former Fur Trader). For race announcer and live music (band). Sunday on Church St at Church & N. Pine St.**

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**Tents/Temporary structures: Saturday evening, at the bottom Broad St and the intersection of Broad & Pine Streets. Sunday, 200 block of Broad St.**

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## FEES

The City requires the payment of a non-refundable application fee upon submission of your completed application. Late fees apply to applications filed less than 90 days in advance of an event. The City does not guarantee any application submitted less than 45 days in advance will be able to be submitted to the City Council for consideration prior to the planned event. Please select from the following table the fee(s) that apply to your application:

- \$100 Timely application for single new event OR old event with new sponsor
- \$50 Timely application for repeat of event with same sponsor
- \$25 For each additional application for new event by the same sponsor
- \$10 For each additional application for repeat of event with same sponsor
- \$75 Additional fee for applications filed less than 90 days in advance of an event

**\$ 10** Total Fees

## EVENT REQUIREMENTS

**Alcohol.** If alcohol is sold at your event, an Alcohol Permit from California Alcohol Beverage Control (ABC) is required. Please contact ABC at (916) 419-1319.

**Amplified Sound.** If the event will have amplified sound, applicant is required to have an event staff member responsible for monitoring sound levels to assure compliance with City noise standards when sound/music/noise may be audible beyond the event venue.

**Business License.** All vendors participating in an event held in Nevada City must obtain a current business license. For information about business license requirements, call City Hall at (530) 265-2496.

**Event Notification.** An event can change the normal flow of residential and business activity potentially causing a negative impact on the community. As the event organizer, you are responsible for notifying those residents and businesses that are adjacent to the planned closure prior to submission of your Application. Applicants must meet the Event Notification requirements unless the event is sponsored by the Nevada City Chamber of Commerce or has been approved and held annually in the same manner for three or more years. The preferred method of notification is the Requested Special Event Notification Form (Addendum A). Unless

otherwise exempt, your application materials must include a signed Notification Certification (Addendum B) confirming adjacent residents and businesses were notified of the planned event.

**Form of Payment.** The City accepts payment in the form of cash, personal/business check, money order or cashier's check. Please note there will be a \$25 service charge for all returned checks.

**Insurance.** The applicant and/or the sponsoring organization is required to provide proof of insurance. A current or valid Certificate of General Liability Insurance in the amount of \$1,000,000 and an endorsement (CG2026 or equivalent) naming the City of Nevada City as additional insured will be required at least 30 days prior to the event.

**Parking.** Applicants will be required to work with the Nevada City Police Department to facilitate ingress/egress requirements for event participants.

**Restrooms.** Public restrooms are limited to two, one at Robinson Plaza and one in the Commercial Street parking lot. If your event is planned for more than 50 people or in an area away from either public restroom, you may be required to provide restroom accommodations and hand washing facilities for event attendees in the quantity prescribed by the City.

**Waste Management/Recycling.** You are responsible for properly disposing of all waste and garbage throughout the term of your event, and immediately upon conclusion of the event the area must be returned to a clean condition. Therefore, the City may require the applicant to provide trash and recycling containers if the event involves food or drink vendors. Should cleanup be inadequate or damage to City property occurs, you will be billed at full recovery rates, plus overhead for cleanup and repair.

## **CHECKLIST**

Thank you for completing the Special Event Application. Before you submit your application to the City of Nevada City, please make sure you have completed the following steps:

- Sign AND date your application.
- Attach a detailed event description to the application.
- Secure required insurance for the event.
- Include a Notification Certification confirming businesses and residents have been notified of the planned event.
- Calculate and include the applicable fee.

### **Submit your completed application to:**

City of Nevada City  
Attn. Special Event Applications  
317 Broad Street  
Nevada City, CA 95959

**[Internal Use Only]**

**Police Comments:**

/

**Fire Comments:**

**Public Works Comments:**

## REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

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**TITLE: City Of Nevada City To Authorize The Mayor To Sign A Letter Of Support Regarding Scotts Flat Dam Public Access**

**RECOMMENDATION:** Authorize the Mayor to sign a letter of support on behalf of Nevada City for Nevada Irrigation Districts to maintain open public access to Scotts Flat Dam/spillway.

**CONTACT:** Catrina Olson, Interim City Manager

**BACKGROUND:**

In August of 2017 Nevada Irrigation District (NID) decided to run a fence and gate off access to the Scotts Flat Dam spillway. This situation caused great concern among residents in the area who had been using the path for recreation purposes and accessing both sides of the lake.

On October 18, 2017, the NID Water and Hydroelectric Operations Committee held a special meeting regarding this matter. It was noted that NID has an obligation to ensure the safety of the dam as expressed in the California Water Code. Also addressed were other safety concerns such as “illegal camping and campfires, unsafe jumping into the lake, excessive trash, graffiti and dumped debris.” The meeting was heavily attended by users of the trail who all spoke against the loss of access and provided ideas to address the safety issues.

On November 17, 2017 the Board of Directors agreed to reopen the gate installed over the summer. The attached letter is in support of NID continuing to work with community members in maintaining the open public access to Scotts Flat spillway and removing any remaining unsafe materials.

**FINANCIAL CONSIDERATIONS:** Not applicable.

**ATTACHMENTS:**

Exhibit A – Letter of Support for Nevada Irrigation District to maintain open public access to Scott’s Flat Dam/Spillway.

December 13, 2017

Directors of the Board  
Nevada Irrigation District Business Center  
1036 West Main Street  
Grass Valley, CA 95945

**RE: Scotts Flat Dam Public Access**

Dear Honorable Directors of the Board,

As Nevada City Council, we are writing to you with regard to the fencing and gate that was across the top of, and along the edge of, the Scotts Flat Dam spillway in August of this year.

As you know, this situation caused great concern among the residents in the area who have long used this path for recreation purposes and for access to both sides of the Lake. At your special meeting of Nevada Irrigation District's Water and Hydroelectric Operations Committee on October 18, 2017, your room was filled to overflowing with residents and groups representing users of the trail. Nearly every speaker who spoke in the first hour and a half of the meeting expressed concern about the drastic measure you have taken to close and lock the access on a full-time, 24 hour basis and asked you to find a different way to deal with your concerns about the area.

We understand your obligation to ensure the safety of the dam, as expressed by the California Water Code. However, as the California Department of the Safety of Dams expressed to you, the safety issue is not in any way related to the condition of the spillway, but rather to the number of people living downstream. The real safety issue you may be looking to address is, as you noted, those "...including illegal camping and campfires, unsafe jumping into the lake, excessive trash, graffiti and dumped debris."

On November 17, 2017, the Board of Directors agreed to reopen the gate installed this summer that was blocking easy access to the other side of the reservoir and nearby trails which greatly pleased the constituency that protested the closure of the recreational trail. Nevada City Council applauds the effort of NID staff and the board to reopen that access and consider suggested potential options offered to address increased public safety concerns in and around the spillway.

Nevada City Council would like to encourage that NID continue to work with the community to find ways to maintain the open access this community has come to enjoy while addressing the nuisance concerns and urging NID to remove any remaining unsafe materials that are still in place.

We all recognize that recreation and access to water and trails are an important part of the lifestyle that draws people to our county. Any effort to restrict this should be taken with care and consideration. We encourage and hope you can find a way to ensure dam safety while maintaining open access to walkers, joggers and bikers allowing continued use of the Scotts Flat Lake on the spillway trail.

Thank you for your consideration.

Sincerely,

Duane Strawser, Mayor  
Nevada City Council

# REPORT TO CITY COUNCIL

City of Nevada City  
317 Broad Street  
Nevada City, CA 95959  
[www.nevadacityca.gov](http://www.nevadacityca.gov)

December 13, 2017

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**TITLE:** Review Ordinance 2017-06 An Ordinance Amending Chapter 9.22 Of Title 9 of the Nevada City Municipal Code Entitled “Prohibiting Medical Marijuana Dispensaries,” And Renaming It “Medical Cannabis Dispensaries And Other Cannabis Businesses and Activity”; Adding Chapter 17.142 Entitled “Medical Cannabis Uses And Activity: To the Nevada City Municipal Code; And Amending Chapter 17.36 Entitled “Local Business Zone,; Chapter 17.40 Entitled “General Business Zone,” And Chapter 17.48 Entitled “Light Industrial Zone” Section 9.22.040 Medical Cannabis Businesses And Provide Direction To Staff As To The Possibility Of Amending Item A.1 (Medical Cannabis Dispensaries) To Allow Nevada City Council To Issue Greater Than One (1) Medical Cannabis Dispensary Permit

**RECOMMENDATION:** Review and discuss Ordinance 2017-06 Section 9.22.040 (Medical Cannabis Businesses) and provide direction to staff as to the possibility of amending item A.1 (Medical Cannabis Dispensaries) to allow Nevada City Council to issue greater than one (1) Medical Cannabis Dispensary Permit.

**CONTACT:** Catrina Olson, Interim City Manager

**BACKGROUND / DISCUSSION:**

At the April 12, 2017 City Council meeting there was final adoption of Ordinance 2017-06 which became effective thirty (30) days from that date. Section 9.22.040 of the ordinance states “Initial Maximum Amount of Medical Cannabis Dispensary Permits. Upon the effective date of this provision, the City Council may issue a maximum of up to one (1) medical cannabis business permit to a qualified medical cannabis dispensary at any one given time.”

At the November 15, 2017 City Council meeting, City Council held a public meeting at which time they reviewed and discussed the applications received and went through the selection process to choose a candidate to be issued a permit to operate a medical cannabis dispensary within city limits. Council Members Phelps, Moberg and Vice Mayor Parker voted with the following ranking;

1. Elevation 2477
2. Nevada County Wellness
3. Growing Communities

Council Member Senum and Mayor Strawser voted as follows;

1. Growing Communities
2. Elevation 2477

### 3. Nevada County Wellness

It was noted during discussion that all three applicants were extremely qualified and was a difficult decision to make as to which applicant should receive the permit.

Also during the cannabis selection conversation the question was raised as to the potential interest from City Council in revisiting the maximum permittance of one (1) dispensary and entertaining the idea of increasing the number of allowable permits. Staff was directed to agendize this matter for discussion at the December 13, 2017 City Council meeting.

#### **ATTACHMENTS:**

- ✓ Ordinance 2017-06 - Amending Chapter 9.22 Of Title 9 of the Nevada City Municipal Code Entitled "Prohibiting Medical Marijuana Dispensaries," And Renaming It "Medical Cannabis Dispensaries And Other Cannabis Businesses and Activity"; Adding Chapter 17.142 Entitled "Medical Cannabis Uses And Activity: To the Nevada City Municipal Code; And Amending Chapter 17.36 Entitled "Local Business Zone,,: Chapter 17.40 Entitled "General Business Zone," And Chapter 17.48 Entitled "Light Industrial Zone"
- ✓ Letter from Growing Community requesting consideration of two questions; Medical Cannabis Dispensary Ordinance and permitting.

**ORDINANCE NO. 2017-06**

**AN ORDINANCE AMENDING CHAPTER 9.22 OF TITLE 9 OF THE NEVADA CITY MUNICIPAL CODE ENTITLED “PROHIBITING MEDICAL MARIJUANA DISPENSARIES,” AND RENAMING IT “MEDICAL CANNABIS DISPENSARIES AND OTHER CANNABIS BUSINESSES AND ACTIVITY”; ADDING CHAPTER 17.142 ENTITLED “MEDICAL CANNABIS USES AND ACTIVITY” TO THE NEVADA CITY MUNICIPAL CODE; AND AMENDING CHAPTER 17.36 ENTITLED “LOCAL BUSINESS ZONE,” CHAPTER 17.40 ENTITLED “GENERAL BUSINESS ZONE,” AND CHAPTER 17.48 ENTITLED “LIGHT INDUSTRIAL ZONE”**

**WHEREAS**, the City of Nevada City is a general law city organized pursuant to Article XI of the California Constitution; and

**WHEREAS**, pursuant to the authority granted the City by Article XI, Sections 5 and 7 of the California Constitution, the City has the power to make and enforce within its limits all ordinances and regulations in respect to municipal affairs not in conflict with general laws; and

**WHEREAS**, comprehensive zoning regulations and regulations upon the use of land and property lie within the City’s police powers; and

**WHEREAS**, on November 5, 1996, California voters approved Proposition 215, the Compassionate Use Act of 1996 (CUA), codified at California Health and Safety Code section 11362.5, the intent of which was to enable persons with a demonstrated need for marijuana for medical/therapeutic purposes, as recommended by a health care provider, to obtain and to use marijuana, or marijuana-derived compounds, under limited and specified circumstances; and

**WHEREAS**, on January 1, 2004, Senate Bill 420 codified as California Health and Safety Code section 11362.7 et seq. and entitled the “Medical Marijuana Program Act” (MMPA) became law to clarify the scope of the CUA. Pursuant to California Health and Safety Code section 11362.77(a), a qualified patient or primary caregiver was permitted to possess no more than eight (8) ounces of dried marijuana plant material per patient. In addition, they were also able to maintain no more than six mature or twelve immature marijuana plants per patient unless a doctor authorized an additional amount; and

**WHEREAS**, the CUA is limited in scope in that it only provides a defense from criminal prosecution for possession and cultivation of medical marijuana to qualified patients and their primary caregivers. The MMPA also is limited in scope in that it establishes a statewide identification program and affords qualified patients, persons with recommendation cards, and their primary caregivers, an affirmative defense to certain enumerated criminal sanctions that would otherwise apply to transporting, processing, administering or distributing marijuana; and

**WHEREAS**, on October 9, 2015, Governor Brown signed into law the Medical Marijuana Regulation and Safety Act (MMRSA) which consisted of three interrelated pieces of legislation (SB 643, AB 243, and AB 266), intended to provide a comprehensive regulatory framework for the licensing, control, and taxation of medical marijuana related businesses in California; and

**WHEREAS**, effective June 27, 2016, SB 837 changed the name of the Medical Marijuana Regulation and Safety Act to the Medical Cannabis Regulation and Safety Act (“MCRSA”).

**WHEREAS**, the MCRSA expressly protects a City’s local licensing practices, zoning authority, and other local actions taken under the City’s constitutional municipal and police powers; and

**WHEREAS**, the MCRSA contains statutory provisions that:

- (1) Allow local governments to enact ordinances expressing their intent to allow or prohibit the cultivation of cannabis and their intent to administer or not administer a conditional permit program pursuant to California Health and Safety Code section 11362.777 for the cultivation of cannabis;
- (2) Expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local ordinances or enforcement of local permit or licensing requirements regarding cannabis per California Business and Professions Code section 19315(a);
- (3) Expressly provide that the Act does not limit the civil or administrative authority or remedies of a local government provision of law regarding cannabis including, but not limited to, a local government’s right to make and to enforce within its limits all regulations not in conflict with general laws per California Business and Professions Code section 19316(c);
- (4) Specifically requires, as a condition of state licensure, compliance with any and all local requirements for all cannabis-related operations;

**WHEREAS**, the California Supreme Court has made clear that neither the CUA nor the MMPA expressly or impliedly preempts the authority of cities or counties, under their traditional land use and police powers, to allow, restrict, limit or entirely exclude facilities that distribute medical marijuana. The MMPA allowed cities and counties to adopt local ordinances that regulate the location, operation or establishment of medical marijuana collectives and to enforce such ordinances. (City of Riverside v. Inland Empire Patients Health and Wellness Center, Inc. (2013) 56 Cal.4th 729; Health and Safety Code section 11362.83). The same authority encompasses the regulation, operation, or establishment of marijuana cultivation. (Maral v. City of Live Oak (2013) 221 Cal.App.4th 975.) That authority remains undisturbed under MCRSA; and

**WHEREAS**, cannabis remains an illegal substance under the Federal Controlled Substances Act, 21 USC 801 et seq., which makes it unlawful for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute or dispense cannabis. The Federal Controlled Substances Act contains no statutory exemption for the cultivation of cannabis for medical purposes. Federal law lists cannabis as a Schedule I drug, meaning that it has a high potential for abuse, it has no currently accepted medical use in treatment, and there is a lack of accepted safety for use under medical supervision; and

**WHEREAS**, despite this classification and treatment under federal law, federal executive and law enforcement agencies have issued memoranda and other guidelines allowing for the development of state-specific regulatory schemes that include the provision of cannabis and cannabis-derived products for medical purposes, as long as the administration of those schemes is consistent with the aims of federal law; and

**WHEREAS**, the City has received inquiries from individuals and incorporated entities inquiring about the ability to open medical cannabis related businesses within the City, including dispensaries, cultivation locations, and manufacturing/processing businesses. Other than a general prohibition of dispensaries and cultivation, the City has not yet adopted land use controls or regulations or other requirements for the operation of these businesses once established; and

**WHEREAS**, without sufficient regulations and standards in effect and which are enforceable pursuant to an adopted ordinance, there is a current and immediate threat to the public health, safety, and welfare of current and future residents of the City, from the establishment of medical cannabis related businesses in the City in a manner which is likely to lead to confusion, public harm, and possible violation of federal executive guidelines; and

**WHEREAS**, the California Attorney General's 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be impacted negatively by nuisance activity such as loitering, or more significant levels of crime; and

**WHEREAS**, Nevada City Municipal Code Section 17.04.040 provides that no land may be used for any purpose other than as permitted and in conformance with the City's zoning laws and other ordinances; and

**WHEREAS**, the City Council recognizes that the investigation and research of the therapeutic uses for medical cannabis and natural cannabis-derived compounds continues to progress, with at least some demonstrated positive impact on users following the advisement and encouragement of their health care providers, for a variety of ailments, including severely debilitating and terminal illnesses; and

**WHEREAS**, the City Council recognizes, upon consultation with law enforcement, that supply chains for medical cannabis and cannabis-related products as they currently exist, in the absence of state and local regulatory schemes, can and do benefit criminal elements to the detriment of residents of the State of California, the County of Nevada, and very likely the City of Nevada City, without full regard for public safety, health, and welfare issues; and

**WHEREAS**, the City Council recognizes the individual freedom and privacy interests that surround the choice of what to take into one's body, following consultation with one's chosen health care provider(s), and for one's own health-related purposes, and in a manner that is responsible in its impacts on others in the community, including children; and

**WHEREAS**, the City Council also recognizes its obligation to provide guidance on appropriate community standards of health, safety, and welfare, and, where appropriate, to protect residents—especially residents of particularly vulnerable populations like children—from violation and abuse of those community standards; and

**WHEREAS**, the City Council desires to establish reasonable land use controls and reasonable regulations on the operation of medical cannabis related businesses which are intended to operate in conjunction with the zoning and land use regulations of the City of Nevada City, and which are intended to address the negative impacts, nuisance impacts, and criminal impacts of unregulated cannabis-related businesses; and

**WHEREAS**, medical cannabis related businesses will be subject to the zoning and land use regulations of the zoning district in which such business establish and operate, as set forth in Chapter 17 of the Nevada City Municipal Code (the Nevada City Zoning Code), and as otherwise established by the City; and

**WHEREAS**, the City Council finds that the activities permitted under this ordinance are consistent with and implement the goals and policies of the Nevada City General Plan; and

**WHEREAS**, the City Council finds that the adoption of this ordinance is not a "project" under California Environmental Quality Act (CEQA), because the ordinance will allow for the establishment of medical cannabis dispensaries to operate in a similar manner as traditional pharmacies which will not cause a direct physical change in the environment nor a reasonably foreseeable indirect physical change in the environment (Public Resources Code section 21065) (See *Union of Medical Marijuana Patients Inc. v. City of San Diego (California Coastal Commission) (2016) 2016 Cal.App. LEXIS 864.*)

**WHEREAS**, the City Council finds that even if the ordinance is found to be a Project Under CEQA, the adoption of this ordinance is exempt from environmental review under pursuant to the following sections of the CEQA Guidelines, 14 Cal. Code of Regulations, Chapter 3:

A. The ordinance is exempt under Section 15061(b) (3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The ordinance permits medical cannabis dispensaries which businesses will have impacts similar to traditional pharmacies which are already authorized within the City. Furthermore, the ordinance contains requirements that prevent any potential impacts on the environment that may be unique to businesses involving medical cannabis. For example, the ordinance establishes prohibitions on nuisance odors, glare, excess energy usage, and establishes safety protections to prevent crime or deterioration of the business area into blight. Further, there is no possibility that this ordinance would create cumulative impacts that are significant because this ordinance only allows medical cannabis dispensaries in limited zones within the City, does not authorize construction or other related activities or any other activities that are not already permitted, except that the ordinance allows the same activities but with a different material (medical cannabis) that is being sold for medical use; there are no other significant impacts that could occur as a result of this ordinance, and there are no unusual circumstances that would cause any such significant impacts;

B. The ordinance is also exempt under Section 15183 (projects consistent with a community plan, general plan, or zoning) since the type of business permitted by the ordinance is consistent with those contemplated by general plan and zoning, such as traditional pharmacies;

C. The ordinance is also exempt under CEQA Guidelines Section 15301 (existing facilities) since the permitted medical cannabis dispensary business under the ordinance may locate in existing facilities, and any additions to structures would be expected to be also exempt under 15301; and

D. The ordinance is exempt under Section 15303 (new construction or conversion of small structures). A medical cannabis dispensary will be established in an urban area, and given the build out of the existing city, and sufficient existing leasable property, the amount of construction that would occur is minimal to non-existent, and any such construction would be less than the thresholds established in Section 15303.

**NOW THEREFORE**, The City Council of the City of Nevada City does ordain as follows:

**SECTION 1.** Chapter 9.22 of the Nevada City Municipal Code entitled “Medical Marijuana Dispensaries,” is hereby repealed in its entirety, shall be retitled “Medial Cannabis Dispensaries and other Cannabis Businesses and Activity” and replaced with the following language:

## **Chapter 9.22 MEDICAL CANNABIS DISPENSARIES AND OTHER CANNABIS BUSINESSES AND ACTIVITY.**

### **9.22.010. General Provisions.**

#### **A. Purpose and Intent.**

It is the purpose and intent of this Chapter to accommodate the needs of medically-ill persons in need of cannabis for medical purposes, as advised and recommended by their health care provider(s), while imposing regulations on the use of land to protect the City's neighborhoods, residents, and businesses from negative impacts. It is a further purpose and intent of this Chapter to regulate the cultivation, manufacturing, processing, testing, transporting, delivery, and distribution of cannabis and cannabis-related products in a manner which is responsible, which protects the health, safety, and welfare of the residents of Nevada City, and to enforce rules and regulations consistent with state law. In part to meet these objectives, an annual permit shall be required in order to own and/or to operate a medical cannabis business within Nevada City. Nothing in this Chapter is intended to authorize the possession, use, or provision of cannabis for purposes which violate state or federal law. The provisions of this Chapter are in addition to any other permits, licenses and approvals which may be required to conduct business in the City, and are in addition to any permits, licenses and approval required under state, county, or other law.

#### **B. Legal Authority.**

Pursuant to Sections 5 and 7 of Article XI of the California Constitution, and the provisions of the Medical Cannabis Regulation and Safety Act (hereinafter "MCRSA"), the City of Nevada City is authorized to adopt ordinances that establish standards, requirements and regulations for local licenses and permits for cannabis and cannabis-related activity. Any standards, requirements, and regulations regarding health and safety, security, and worker protections established by the State of California, or any of its departments or divisions, shall be the minimum standards applicable in the City of Nevada City to cannabis, and/or cannabis-related activity.

#### **C. Compliance with Laws.**

It is the responsibility of the owners and operators of the medical cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate federal, state law or local law with respect to the operation of a medical cannabis business. It shall be the responsibility of the owners and the operators of the medical cannabis business to ensure that the medical cannabis business is, at all times, operating in a manner compliant with all applicable federal, state and local laws, the 2008 Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of

approval of the medical cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions which violate federal or state law with regard to the operation of a medical cannabis business.

#### **9.22.020. Definitions.**

When used in this Chapter, the following words shall have the meanings ascribed to them as set forth herein. Any reference to California statutes includes any regulations promulgated thereunder, and is deemed to include any successor or amended version of the referenced statute or regulatory provision.

- (a) “Cannabis” means all parts of the *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 marijuana. “Cannabis” also means marijuana as defined by Section 11018 of the California Health and Safety Code as enacted by Chapter 14017 of the Statutes of 1972. “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 Chapter, “cannabis” does not mean industrial hemp as that term is defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- (b) “Cannabis concentrate” means manufactured cannabis that has undergone a process to concentrate the cannabinoid active ingredient, thereby increasing the product’s potency. An edible medical cannabis product is not considered food, as defined by Section 109935 of the California Health and Safety Code, or a drug, as defined by Section 109925 of the California Health and Safety Code.
- (c) “Caregiver” or “primary caregiver” has the same meaning as that term is defined in Section 11362.7 of the California Health and Safety Code.
- (d) “City” or “City of Nevada City” means the City of Nevada City, a California general law City.
- (e) “Cultivation” means any activity, whether occurring indoors or outdoors, involving the propagation, planting, growing, harvesting, drying, curing, grading, and/or trimming of cannabis plants or any part thereof for any purpose, including medical marijuana.

- (f) "Cultivation site" means a facility where medical cannabis is cultivated, propagated, planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.
- (g) "Delivery" means the commercial transfer of medical cannabis or medical cannabis products from a dispensary, up to an amount determined to be authorized by the State of California, or any of its departments or divisions, to anyone for any purpose. "Delivery" also includes the use by a dispensary of any technology platform owned, controlled, and/or licensed by the dispensary, or independently licensed by the State of California under the MCRSA (as the same may be amended from time-to-time), that enables anyone to arrange for or facilitate the commercial transfer by a licensed dispensary of medical cannabis or medical cannabis products.
- (h) "Dispensary" means a medical cannabis business facility where cannabis, medical cannabis products, or devices for the use of medical cannabis or medical cannabis products are offered, either individually or in any combination, for retail sale, including an establishment (whether fixed or mobile) that delivers, pursuant to express authorization, medical cannabis and medical cannabis products as part of a retail sale.
- (i) "Dispensing" means any activity involving the retail sale of medical cannabis or medical cannabis products from a dispensary.
- (j) "Distribution" means the procurement, sale, and transport of medical cannabis or medical cannabis products between entities licensed pursuant to the MCRSA and any subsequent State of California legislation regarding the same.
- (k) "Distributor" means a person engaged in the business of purchasing medical cannabis from a licensed cultivator, or medical cannabis products from a license manufacturer, for sale to a licensed dispensary.
- (l) "Dried flower" means all dead medical cannabis that has been harvested, dried, cured, or otherwise processed, excluding leaves and stems.
- (m) "Edible cannabis product" means manufactured cannabis that is intended to be used, in whole or in part, for human consumption. An edible medical cannabis product is not considered food as defined by Section 109935 of the California Health and Safety Code or a drug as defined by Section 109925 of the California Health and Safety Code.
- (n) "Live plants" means living medical cannabis flowers and plants, including seeds, sprouts, immature plants (including unrooted clones), and vegetative stage plants.

- (o) “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of manufactured medical cannabis, as defined in this section, or medical cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis at a fixed location that packages or repackages medical cannabis or medical cannabis products or labels or relabels its container.
- (p) “Manufactured cannabis” means raw cannabis that has undergone a process whereby the raw agricultural product has been transformed into a concentrate or manufactured product intended for internal consumption or topical application.
- (q) “Manufacturing site” means a location that produces, prepares, propagates, or compounds medical cannabis or medical cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.
- (r) “Marijuana” means “cannabis,” as that term is defined in this Chapter.
- (s) “Medical cannabis”, “medical marijuana,” “medical cannabis product” or “cannabis product” means a product containing cannabis, including, but not limited to, concentrates and extractions, intended to be sold for use by medical cannabis patients in California pursuant to the Compassionate Use Act of 1996 (Proposition 215), found at Section 11362.5 of the California Health and Safety Code (as the same may be amended from time-to-time). For purposes of this Chapter, “medical cannabis” does not include industrial hemp as defined by Section 81000 of the California Food and Agricultural Code or Section 11018.5 of the California Health and Safety Code.
- (t) “Medical cannabis activity” includes cultivation, manufacture, processing, laboratory testing, transporting, delivery, distribution, or sale of medical cannabis or a medical cannabis product, within the meaning of California Business and Professions Code 19300 et seq.
- (u) “Medical cannabis business” means any business or operation which engages in medical cannabis activity.
- (v) “Medical cannabis business permit” means a regulatory permit issued by the City of Nevada City pursuant to this Chapter to a medical cannabis business, and is required before any medical cannabis activity may be conducted in the City. The initial permit and annual renewal of a medical cannabis business permit is made expressly contingent upon the business’ ongoing compliance with all of the requirements of this Chapter and any regulations adopted by the City governing the medical cannabis activity at issue.

- (w) "Patient" or "qualified patient" shall have the same definition as California Health and Safety Code Section 11362.7 et seq., as it may be amended, and which means a person who is entitled to the protections of California Health & Safety Code Section 11362.5. For purposes of this ordinance, qualified patient shall also refer to qualified patients who have obtained an identification card from the State Department of Health Services, as that term is defined by California Health and Safety Code Section 11362.7 et seq.
- (x) "Person" means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number.
- (y) "Person with an identification card" shall have the meaning given that term by California Health and Safety Code Section 11362.7.
- (z) "State License" means a permit or license issued by the State of California, or one of its departments or divisions, under MCRSA to engage in medical cannabis activity.
- (aa) "Topical cannabis" means a product intended for external use. A topical cannabis product is not considered a drug as defined by Section 109925 of the California Health and Safety Code.
- (bb) "Testing laboratory" means a facility, entity, or site that offers or performs tests of medical cannabis or medical cannabis products and that is both of the following:
  - (1) Accredited by an accrediting body that is independent from all other persons involved in the medical cannabis industry in the state.
  - (2) Registered with the State Department of Public Health.
- (cc) "Transport" means the transfer of medical cannabis or medical cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting medical cannabis activity authorized by the MCRSA.
- (dd) "Transporter" means a person authorized to transport medical cannabis or medical cannabis products in amounts authorized by the State of California, or by one of its departments or divisions under the MCRSA.

**9.22.030. Medical Cannabis Business Permit Required for Owner/Operator; Requirements for Medical Cannabis Business Employees.**

**A. Medical Cannabis Business Permit Required to Engage in Medical Cannabis Business.**

- (1) No person may engage in any medical cannabis business or in any medical cannabis activity within the City of Nevada City including cultivation, manufacture, processing, laboratory testing, transporting, dispensing, distribution, or sale of medical cannabis or a medical cannabis product unless the person (1) has a valid medical cannabis business permit from the City of Nevada City and (2) is currently in compliance with all applicable state and local laws and regulations pertaining to the medical cannabis business and the medical cannabis business activities, including the duty to obtain any required state licenses.
- (2) Until Health & Safety Code Section 11362.775, subdivision (a), is repealed, the City intends that persons eligible to operate collectives or cooperatives under that subdivision shall be eligible to apply for a City permit to conduct medical cannabis activities, but only to the degree those activities are authorized under state law for collectives and cooperatives. When the Health & Safety Code Section 11362.775, subdivision (a), is repealed, or as soon as collectives and cooperatives are no longer permitted under state law, any City permit holder operating as a collective or cooperative who has not already obtained a state license for the medical cannabis business activities they are engaged in shall automatically forfeit his or her City medical cannabis business permit. At that point they shall no longer be authorized to engage in any medical cannabis activities in the City until they obtain both a City issued medical cannabis business permit and a state license for that medical cannabis activity.

**B. Medical Cannabis Dispensary Employee Qualifications and Training; Employer Obligations to Monitor Employee Compliance.**

(1) The owner or operator of a medical cannabis business shall ensure that all employees comply with all the requirements of this Chapter 9.22.

(2) Medical cannabis business owners or operators shall ensure that employees are educated as to all the requirements of this Chapter 9.22 and applicable state law requirements for medical cannabis businesses and that they adhere to all applicable requirements.

(3) Failure of the owner or operator to take reasonable steps to comply with these requirements shall be grounds for permit revocation.

## **9.22.040. MEDICAL CANNABIS BUSINESSES**

### **A. MEDICAL CANNABIS DISPENSARIES**

1. Initial Maximum Amount of Medical Cannabis Dispensary Permits. Upon the effective date of this provision, the City Council may issue a maximum of up to one (1) medical cannabis business permit to a qualified medical cannabis dispensary at any one given time. The permit shall be issued in accordance with the application and permit approval process contained in this Chapter 9.22 and resolutions adopted pursuant to this Chapter. The medical cannabis dispensary must obtain a medical cannabis business permit from the City before commencing operations, must be in compliance with all applicable state and federal laws pertaining to its operation, including obtaining all necessary licenses from the state, and shall comply with all applicable operational and zoning requirements set forth in the Nevada City Municipal Code. Nothing in this Chapter creates a mandate that the City Council must issue one or more medical cannabis business permit to a medical cannabis dispensary if the City Council determines that there are no qualified applicants, the proposed locations for medical cannabis businesses are incompatible with neighboring land uses, or if the City Council determines that the issuance of a medical cannabis dispensary would have a negative effect on the health, safety, or welfare of the citizens or businesses of Nevada City, or for any other reason allowed by law.

2. City Council Review and Increased Maximum Number of Medical Cannabis Dispensaries to be Issued.

Twelve (12) months after the first medical cannabis business permit for a dispensary is issued, the City Manager shall deliver a report to the City Council during a regular meeting which examines the positive and negative impacts that the medical cannabis dispensary has had on the community during the preceding twelve (12) months. The report shall include, among other things, an analysis of how the medical cannabis dispensary has complied with state and local regulations, any positive or negative community and law enforcement impacts, and any revenue generated. If after hearing the report the City Council makes a determination that there are no significant consequences of allowing these medical marijuana businesses to operate in the City, the City Council at its sole discretion may vote to expand the number of authorized medical cannabis dispensary permits to be issued up to a maximum of three (3). If the City Council takes no action, or finds that the impacts are unacceptable, then the maximum number and type of medical cannabis dispensaries authorized shall continue to be limited to one (1) as provided is subdivision (a) above.

### **B. ALL OTHER MEDICAL CANNABIS BUSINESSES**

Until further action by the City Council to amend this chapter has been taken, medical cannabis businesses other than medical cannabis dispensaries are not permitted to operate within the City.

C. NON-MEDICAL CANNABIS BUSINESSES

Non-medical or personal cannabis businesses including cultivation, manufacturing, distribution, dispensing, testing laboratories, and transporting businesses are not permitted within the City, unless otherwise permitted by state law.

**9.22.050. Application for Medical Cannabis Business Permit: Renewal Applications; and Effect of Revocation or Suspension of State License.**

A. Initial Application Procedure.

- (1) The City Council shall adopt by resolution the procedures which will govern the application process, and the manner in which the decision will ultimately be made regarding the issuance of any medical cannabis business permit(s). The resolution shall authorize the City Manager or his or her designee to prepare the necessary forms, adopt any necessary rules, regulations and processes, solicit applications, conduct initial evaluations of the applicants, and to ultimately provide a final recommendation to the City Council of the top three (3) applicants for consideration.
- (2) At the time of filing, each applicant shall pay an application fee established by resolution of the City Council, to cover all costs incurred by the City in the application process.
- (3) After the initial review the City Manager or his designee will make a recommendation to the City Council, and the City Council shall make a final determination in accordance with the selection procedure set forth in the Resolution adopted by the City Council.

(4) THE CITY'S RESERVATION OF RIGHTS:

The City reserves the right to reject any or all applications. The City may also modify, postpone, or cancel any request for applications, or the entire program under this Chapter, at any time without liability, obligation, or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category of permit potentially authorized under this Chapter, may be cancelled at any time prior to permit issuance. The City further reserves the right to request and obtain additional information from any candidate submitting an application. In addition to any other justification provided a failure to comply with other requirements in this Chapter, an application RISK BEING REJECTED for any of the following reasons:

- (1) Proposal received after designated time and date.

- (2) Proposal not containing the required elements, exhibits, nor organized in the required format.
- (3) Proposal considered not fully responsive to this request for permit application.
- (4) Proposal contains excess or extraneous material not called for in the request for permit application.

B. Expiration of Medical Cannabis Business Permits. A medical cannabis business permit issued pursuant to this Chapter shall expire twelve (12) months after the date of its issuance. Medical cannabis business permits may be renewed as provided in subsection D below.

C. Revocation of Permits. Medical cannabis business permits may be revoked for any violation of any law and/or any rule, regulation and/or standard adopted pursuant to this Chapter 9.22.

D. Renewal Applications.

- (1) An application for renewal of a medical cannabis business permit shall be filed at least sixty (60) calendar days prior to the expiration date of the current permit.
- (2) The renewal application shall contain all the information required for new applications.
- (3) The applicant shall pay a fee in an amount to be set by the City Council to cover the costs of processing the renewal permit application, together with any costs incurred by the City to administer the program created under this Chapter.
- (4) An application for renewal of a medical cannabis business permit shall be rejected if any of the following exists:
  - (a) The application is filed less than sixty (60) days before its expiration.
  - (b) The medical cannabis business permit is suspended or revoked at the time of the application.
  - (c) The medical cannabis business has not been in regular and continuous operation in the four (4) months prior to the renewal application.

- (d) The medical cannabis business has failed to conform to the requirements of this Chapter, or of any regulations adopted pursuant to this Chapter.
  - (e) The permittee fails or is unable to renew its State of California license.
  - (f) If the City or state has determined, based on substantial evidence, that the permittee or applicant is in violation of the requirements of this Chapter, of the City's Municipal Code, or of the state rules and regulations, and the City or state has determined that the violation is grounds for termination or revocation of the medical cannabis business permit.
- (5) The City Manager or his designee is authorized to make all decisions concerning the issuance of a renewal permit. In making the decision, the City Manager or his designee is authorized to impose additional conditions to a renewal permit, if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare. Appeals from the decision of the City Manager or his designee shall be handled pursuant to Section 9.22.060 entitled "Appeals."
- (6) If a renewal application is rejected, a person may file a new application pursuant to this Chapter no sooner than one (1) year from the date of the rejection.

**E. Effect of state license suspension, revocation, or termination.**

Suspension of a license issued by the State of California, or by any of its departments or divisions, shall immediately suspend the ability of a medical cannabis business to operate within the City, until the State of California, or its respective department or division, reinstates or reissues the State license. Should the State of California, or any of its departments or divisions, revoke or terminate the license of a medical cannabis business, such revocation or termination shall also revoke or terminate the ability of a medical cannabis business to operate within the City of Nevada City.

**9.22.060. Appeals.**

A. Appeals from Decisions of the City Manager or his Designee under this Chapter. Unless specifically provided elsewhere to the contrary, whenever an appeal is provided for in this Chapter from a decision of the City Manager or his or her designee, the appeal shall be conducted as prescribed in this Section.

B. Written request for Appeal.

- (1) Within ten (10) calendar days after the date of a decision of the City Manager or his designee(s) to revoke, suspend or deny a permit, or to add conditions to a permit, an aggrieved party may appeal such action by filing a written appeal with the City Clerk setting forth the reasons why the decision was not proper.
- (2) At the time of filing the appellant shall pay the designated appeal fee, established by resolution of the City Council from time to time.

C. Appeal Hearing.

- (1) Upon receipt of the written appeal, the City Clerk shall set the matter for a hearing before the City Council. The City Council shall hear the matter de novo, and shall conduct the hearing pursuant to the procedures set forth by the City.
- (2) The appeal shall be held within a reasonable time after the filing the appeal, but in no event later than ninety (90) days from the date of such filing. The City shall notify the appellant of the time and location at least ten (10) days prior to the date of the hearing.
- (3) At the hearing the appellant may present any information they deem relevant to the decision appealed. The formal rules of evidence and procedure applicable in a court of law shall not apply to the hearing.
- (4) At the conclusion of the hearing the City Council may affirm, reverse or modify the decision appealed. The decision of the City Council shall be final.

**9.22.070. Permittee Selection Process.**

A. Selection and Review of Finalists.

- (1) The City Council shall adopt by resolution a procedure by which the top three applicants applying for a medical cannabis business permit (in each permitted category of business, i.e., dispensary, cultivator, etc.) will be presented to the City Council for a final determination at a public hearing.
- (2) The top three finalists shall be invited to attend the City Council meeting, where they will be expected to make a public presentation introducing their team and providing an overview of their proposal. In order to provide adequate time, presentations may be divided over more than one meeting over multiple days as determined to be necessary.

- (3) At least ten (10) days prior to the hearing, notice of the hearing shall be sent to all property owners located within three hundred (300) feet of the proposed business locations of each of the finalists to be considered by the City Council.
- (4) The City Council shall rank the final three candidates and shall select one or more candidates to be issued a medical cannabis permit. The City Council's decision as to the selection of the candidate(s) to receive the permit(s) shall be final.
- (5) Official issuance of a medical cannabis business permit, however, is conditioned upon the prevailing candidate(s) obtaining all required land use approvals. Following the Council's selection, the prevailing candidate(s) shall apply to the City's planning department to obtain any required land use approvals or entitlements for the permittee's location, if any. Land use approvals shall include compliance with all applicable provisions of the California Environmental Quality Act (CEQA). The City Manager shall formally issue a medical cannabis business permit once the City Manager and Chief of Police have both affirmed that all of the required land use approvals have been obtained.

If the selected permittee(s) is/are unable to fulfill all the requirements of obtaining the medical cannabis business permit(s), the City Council, in its sole discretion, may award the permit to the next highest ranked finalist, or may begin the application process again to allow for selection of a new set of finalists.

- (6) Issuance of a medical cannabis business permit does not create a land use entitlement. A medical cannabis business permit shall only be for a term of twelve (12) months, and shall expire at the end of the twelve (12) month period unless it is renewed as provided herein. Furthermore, no permittee may begin operations, notwithstanding the issuance of a permit, unless all of the state and local laws and regulations, including but not limited to the requirements of this Chapter and of the permit, have been complied with.
- (7) Notwithstanding anything in this Chapter to the contrary, the City Council reserves the right to reject any or all applications if it determines it would be in the best interest of the City, taking into account any health, safety and welfare impacts on the community. Applicants shall have no right to a medical cannabis business permit until a permit is actually issued, and then only for the duration of the permit's term. Each applicant assumes the risk that, at any time prior to the issuance of a permit, the City Council may terminate or delay the program created under this Chapter.
- (8) If an application is denied, a new application may not be filed for one (1) year from the date of the denial.

- (9) A person or entity granted a medical cannabis business permit shall be required to pay the permit fee established by resolution of the City Council, to cover the costs of administering the medical cannabis business permit program created in this Chapter.

**B. Prohibition on Transfer of Medical Cannabis Business Permits.**

1. No person may transfer ownership or control of a medical cannabis business or transfer any medical cannabis business permit issued under this Chapter. Medical cannabis business permits are not a property right, and permittees have no economic interest in any permit issued to them. Permittees have no right to sell or transfer a medical cannabis business permit to another party, or to have the City Council consider whether they should authorize the transfer of a medical cannabis business permit to another party. Any attempt to transfer ownership of a medical cannabis business or of a medical cannabis business permit shall render the medical cannabis business permit void.
2. Any attempt to transfer a medical cannabis business permit or a medical cannabis business shall result in the medical cannabis business permit being declared immediately revoked and/or it is void and no longer of any effect.
3. In any situation where a permit has been lost as a result of an attempted transfer of the medical cannabis business permit or of the medical cannabis business, or as a result of the abandonment or revocation of the permit, any new permit shall be issued using the standard process for the issuance of permits in the first instance. No preference shall be given to any person proposed as new owner or assignee by the former permit holder. In such case, prior to accepting any new applications, the City shall post the availability of the medical cannabis business permit at issue on the City's website. The City Manager or his/her designee may take other actions to help ensure the broadest pool of applicants for the new permit.

**9.22.080. Requirements Before Permittee May Commence Operations.**

A. City Business License. Prior to commencing operations, a medical cannabis business shall obtain a City of Nevada City business license.

B. Building Permits and Inspection. Prior to commencing operations, a medical cannabis business shall be subject to a mandatory building inspection, and must obtain all required permits and approvals which would otherwise be required for any business of the same size and intensity operating in that zone. This includes but is not limited to obtaining any required building permit(s), fire department approvals, Health Department approvals and other zoning and land use permit(s) and approvals.

C. Certification from Planning Director. Prior to commencing operations, a medical cannabis business must obtain a certification from the Planning Director certifying that the business is located on a site that meets all of the requirements of the City's Zoning and Municipal Code, including Chapter 17.142 (Medical Cannabis Uses and Activities).

D. Right to Occupy and to Use Property. As a condition precedent to the City's issuance of a medical cannabis business permit pursuant to this Chapter, any person intending to open and to operate a medical cannabis business shall provide sufficient evidence of the legal right to occupy and to use the proposed location. In the event the proposed location will be leased from another person, the applicant shall be required to provide a signed and notarized statement from the owner of the property, acknowledging that the property owner has read this Chapter and consents to the operation of the medical cannabis business on the owner's property.

E. Limitations on City's Liability. To the fullest extent permitted by law, the City of Nevada City shall not assume any liability whatsoever with respect to having issued a medical cannabis business permit pursuant to this Chapter or otherwise approving the operation of any medical cannabis business. As a condition to the approval of any medical cannabis business permit, the applicant shall be required to meet all of the following conditions before they can receive the medical cannabis business permit:

- (1) They must execute an agreement, in a form approved by the city attorney, agreeing to indemnify, defend (at applicant's sole cost and expense), and hold the City of Nevada City, and its officers, officials, employees, representatives, and agents, harmless, from any and all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to, the City's issuance of the medical cannabis business permit, the City's decision to approve the operation of the medical cannabis business or activity, to process used by the City in making its decision, or the alleged violation of any federal, state or local laws by the medical cannabis business or any of its officers, employees or agents.
- (2) Maintain insurance at coverage limits, and with conditions thereon determined necessary and appropriate from time to time by the city attorney.
- (3) Reimburse the City of Nevada City for all costs and expenses, including but not limited to attorney fees and costs and court costs, which the City of Nevada City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's medical cannabis business permit, or related to the City's approval of a medical cannabis activity. The City of Nevada City may, at its sole discretion, participate at its own expense in the defense of any such action, but such participation shall not relieve any of the obligations imposed hereunder.

**9.22.090. Operating Requirements for Medical Cannabis Businesses.**

**A. Compliance with Laws.**

It is the responsibility of the owners and operators of the medical cannabis business to ensure that it is, at all times, operating in a manner compliant with all applicable state and local laws, and any regulations promulgated thereunder. Nothing in this Chapter shall be construed as authorizing any actions which violate state law or local law with respect to the operation of a medical cannabis business. It shall be the responsibility of the owners and the operators of the medical cannabis business to ensure that the medical cannabis business is, at all times, operating in a manner compliant with all applicable state and local laws, the 2008 Attorney General Guidelines, any subsequently enacted state law or regulatory, licensing, or certification requirements, and any specific, additional operating procedures or requirements which may be imposed as conditions of approval of the medical cannabis business permit. Nothing in this Chapter shall be construed as authorizing any actions which violate state law with regard to the operation of a medical cannabis business.

**B. Fees, Charges and Taxes.**

- (1) No person may commence or continue any medical cannabis activity in the City, without timely paying in full all fees, charges, and any applicable taxes required for the operation of a medical cannabis business. Fees and charges associated with the operation of a medical cannabis activity shall be established by resolution of the City Council which may be amended from time to time.
- (2) A medical cannabis dispensary authorized to operate under this Chapter shall pay all sales, use, business and other applicable taxes, and all license, registration, and other fees required under federal, state and local law. Medical cannabis dispensaries shall cooperate with City with respect to any reasonable request to audit the medical cannabis dispensary's books and records for the purpose of verifying compliance with this section, including but not limited to a verification of the amount of taxes required to be paid during any period.

**C. Operating Requirements for All Medical Cannabis Businesses.**

Hours of Operation. Medical cannabis dispensaries may be open for access to the public only between the hours of 8:00 A.M. and 8:00 P.M. Monday through Sunday.

Other medical cannabis businesses may operate only during the hours specified in the business's medical cannabis business permit.

**D. Restriction on Consumption. Cannabis shall not be consumed on the premises of any medical cannabis business.**

- E. No outdoor storage of cannabis or cannabis products is permitted at any time.
- F. Reporting and Tracking of Product and of Gross Sales. Each medical cannabis business shall have in place a point-of-sale tracking system to track and report on all aspects of the medical cannabis business including, but not limited to, such matters as cannabis tracking, inventory data, and gross sales (by weight and by sale). The medical cannabis business shall ensure that such information is compatible with the City's record-keeping systems. The system must have the capability to produce historical transactional data for review by the City Manager or his/her designee.
- G. All cannabis and cannabis products sold, distributed or manufactured shall be cultivated, manufactured, and transported by licensed facilities that maintain operations in full conformance with the State and local regulations.
- H. Emergency Contact. Each medical cannabis business shall provide the City Manager or his/her designee(s) with the name, telephone number (mobile preferred, if available) of an owner and or manager to whom emergency notice can be provided at any hour of the day.
- I. Signage and Notices.
  - (1) In addition to the requirements otherwise set forth in this section, business identification signage for a medical cannabis business shall conform to the requirements of the Nevada City Municipal Code, including, but not limited to, seeking the issuance of a City sign permit.
  - (2) No signs placed on the premises of a medical cannabis business shall obstruct any entrance or exit to the building or any window.
  - (3) Each entrance to a medical cannabis dispensary shall be visibly posted with a clear and legible notice indicating that smoking, ingesting, or otherwise consuming cannabis on the premises or in the areas adjacent to the medical cannabis dispensary is prohibited.
- J. Minors.
  - (1) Persons under the age of eighteen (18) years shall not be allowed on the premises of a medical cannabis business unless the person is a qualified patient and is accompanied by their own parent, guardian, or primary caregiver. Persons under the age of eighteen (18) years of age shall not be allowed to serve as a driver for a mobile delivery service. It shall be unlawful and a violation of this Chapter for any person to employ any person at a medical cannabis business who is not at least twenty-one (21) years of age.

- (2) The entrance to the medical cannabis business shall be clearly and legibly posted with a notice that no person under the age of eighteen (18) years of age is permitted to enter upon the premises of the medical cannabis business unless the person is a qualified patient and is accompanied by their own parent, guardian, or primary caregiver.

K. Odor Control. Odor control devices and techniques shall be incorporated in all medical cannabis dispensaries to ensure that odors from cannabis are not detectable off-site. Medical cannabis dispensaries shall provide a sufficient odor absorbing ventilation and exhaust system so that odor generated inside the medical cannabis dispensary that is distinctive to its operation is not detected outside of the facility, anywhere on adjacent property or public rights-of-way, on or about the exterior or interior common area walkways, hallways, breezeways, foyers, lobby areas, or any other areas available for use by common tenants or the visiting public, or within any other unit located inside the same building as the medical cannabis dispensary. As such, a medical marijuana dispensary must install and maintain the following equipment, or any other equipment which the City Manager or his/her designee(s) determine is a more effective method or technology:

- (1) an exhaust air filtration system with odor control that prevents internal odors from being emitted externally. The dispensary applicant shall provide a statement from the exhaust air filtration manufacturer that the system has been designed to achieve the above standard based on the specific building size and layout;
- (2) An air system that creates negative air pressure between the medical cannabis dispensary's interior and exterior, so that the odors generated inside the medical cannabis dispensary are not detectable on the outside of the medical cannabis dispensary. The dispensary applicant shall provide a statement from the air system manufacturer that the system has been designed to achieve the above standard based on the specific building size and layout

L. Display of Permit and City Business License. The original copy of the medical cannabis business permit issued by the City pursuant to this Chapter and the City issued business license shall be posted inside the medical cannabis dispensary in a location readily-visible to the public.

M. Background Check. Pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11), which authorizes city authorities to access state and local summary criminal history information for employment, licensing, or certification purposes, and authorizes access to federal level criminal history information by transmitting fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation, every person listed as an

owner, manager, or supervisor of the medical cannabis dispensary must submit fingerprints and other information deemed necessary by the City Manager or his/her designee(s) for a background check by the Nevada City Police Department. Pursuant to California Penal Code sections 11105(b)(11) and 13300(b)(11), which requires that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record, no person shall be issued a permit to operate a medical cannabis dispensary unless they have first cleared the background check, as determined by the Chief of Police, as required by this section. A fee for the cost of the background investigation, which shall be the actual cost to the City of Nevada City to conduct the background investigation as it deems necessary and appropriate, shall be paid at the time the application for a medical cannabis business permit is submitted. The applicant(s) shall provide an initial deposit in an amount the City Manager or his/her designee(s) estimates will cover the cost of the background investigation, which shall be used and drawn upon as a retainer to cover the actual costs of such investigation. If this amount is not sufficient, the applicant shall provide additional amounts that are necessary and if the applicant is unable to provide the additional amounts necessary to complete the investigation, the investigation shall cease and shall not continue until such additional amounts are paid. Upon completion of the investigation or in the event the applicant withdraws their application, any fees paid for this process will be deemed non-refundable.

The City shall not disseminate background check results information to any private party.

When reviewing background check results, the Chief of Police shall verify that applicants have not been convicted of any crimes listed in Business and Professions Code section 19323. Applicants found to have committed any crimes listed in Business and Professions Code Section 19323 shall fail the background, and shall be ineligible for a City medical cannabis business permit.

- N. Loitering. The owner and/or operator of a medical cannabis business shall prohibit loitering by persons outside the facility both on the premises and within fifty (50) feet of the premises of the business.
- O. Permits and other Approvals. Prior to the establishment of any medical cannabis dispensary or the operation of any such business, the person intending to establish a medical cannabis dispensary must first obtain all applicable planning, zoning, building, and other applicable permits from the relevant governmental agency which may be applicable to the zoning district in which such medical cannabis dispensary intends to establish and to operate.

**9.22.100 Additional Operating Requirements for Medical Cannabis Dispensaries.**

**A. Records and Recordkeeping.**

- (1) Each owner and operator of a medical cannabis dispensary shall maintain accurate books and records, detailing all of the revenues and expenses of the dispensary, and all of its assets and liabilities. On no less than an annual basis (at or before the time of the renewal of a medical cannabis business permit issued pursuant to this Chapter), or at any time upon reasonable request of the City, each medical cannabis dispensary shall file a sworn statement detailing the number of sales by the medical cannabis dispensary during the previous twelve-month period (or shorter period based upon the timing of the request), provided on a per-month basis. The statement shall also include gross sales for each month, and all applicable taxes paid or due to be paid.
- (2) Each owner and operator of a medical cannabis dispensary shall maintain a current register of the names and the contact information (including the name, address, and telephone number) of anyone owning or holding an interest in the medical cannabis dispensary, and separately of all the officers, managers, employees, agents and volunteers currently employed or otherwise engaged by the medical cannabis dispensary. The register required by this paragraph shall be provided to the City Manager or his/her designee(s) upon a reasonable request.
- (3) Each medical cannabis dispensary shall maintain a record of all persons, patients, collectives and primary caregivers served by the medical cannabis dispensary, for a period of no less than four (4) years.
- (4) Medical cannabis dispensaries shall maintain records of their inventory acquired, including the name and address of each supplier, the date of acquisition and the quantity acquired from each supplier, and the location of the cultivation of the supplier, and shall maintain a copy of the supplier's state license to cultivate (if required).
- (5) Subject to any restrictions under state or federal law, each medical cannabis dispensary shall allow City of Nevada City officials to have access to the dispensary's books, records, accounts, together with any other data or documents relevant to its permitted medical cannabis activities, for the purpose of conducting an audit or examination. Books, records, accounts, and any and all relevant data or documents will be produced no later than twenty-four (24) hours after receipt of the City's request, unless otherwise stipulated by the City.

## B. Security Measures.

- (1) A permitted medical cannabis dispensary shall implement sufficient security measures to deter and prevent the unauthorized entrance into areas containing medical cannabis or medical cannabis products, and to deter and prevent the theft of medical cannabis or medical cannabis products at the medical cannabis dispensary. Except as may otherwise be determined by the City Manager or his/her designee(s), these security measures shall include, but shall not be limited to, all of the following:
  - (a) Preventing individuals from remaining on the premises of the medical cannabis dispensary if they are not engaging in an activity directly related to the permitted operations of the medical cannabis dispensary.
  - (b) Establishing limited access areas accessible only to authorized medical cannabis dispensary personnel.
  - (c) All medical cannabis and medical cannabis products shall be stored in a secured and locked room, safe, or vault. All medical cannabis and medical cannabis products, shall be kept in a manner as to prevent diversion, theft, and loss, except for limited amounts of cannabis used for display purposes or for immediate sale at a dispensary.
  - (d) Installing 24-hour security surveillance cameras of at least HD-quality to monitor all entrances and exits to and from the premises, all interior spaces within the medical cannabis dispensary which are open and accessible to the public, and all interior spaces where cannabis, cash or currency, is being stored for any period of time on a regular basis. The medical cannabis dispensary shall be responsible for ensuring that the security surveillance camera's footage is remotely accessible by the City Manager or his/her designee(s), and the City's Police Department, and that it is compatible with the City's software and hardware. In addition, remote and real-time, live access to the video footage from the cameras shall be provided to the City Manager or his/her designee(s) and to the City's police department. Video recordings shall be maintained for a minimum of forty-five (45) days, and shall be made available to the City Manager or his designee upon request.
  - (e) Sensors shall be installed to detect entry and exit from all secure areas.
  - (f) Panic buttons shall be installed in all medical cannabis dispensaries.

- (g) Having a professionally installed, maintained, and monitored alarm system.
  - (h) Any bars installed on the windows or the doors of the medical cannabis dispensary shall be installed only on the interior of the building.
  - (i) Security personnel must be licensed by the State of California Bureau of Security and Investigative Services personnel and shall be subject to the prior review and approval of the City Manager or his/her designee(s), with such approval not to be unreasonably withheld.
  - (j) Each medical cannabis dispensary shall have the capability to remain secure and operational during a power outage and shall ensure that all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
  - (k) Entrances into the dispensary shall be locked at all times with entry strictly controlled. A “buzz-in” electronic/mechanical entry system shall be utilized to limit access to and entry to the dispensary, to separate it from the reception/lobby area. Qualified patients must show either their physician’s recommendation for medical cannabis with a government-issued photo identification or their state issued identification card and a government-issued photo identification in order to gain access into the dispensary. Primary caregivers must show: (a) a government-issued photo identification; (b) a copy of a physician’s recommendation for the qualified patients for whom they are purchasing cannabis and/or cannabis products at the dispensary; and (c) written permission from the qualified patient, or his or her authorized representative or parent or guardian if the patient is a minor child, authorizing the primary caregiver to purchase cannabis on behalf of the qualified patient.
  - (l) Uniformed licensed security personnel shall be employed to monitor site activity, control loitering and site access, and to serve as a visual deterrent to unlawful activities.
- (2) A medical cannabis dispensary shall identify a designated security representative/liaison to the City of Nevada City, who shall be reasonably available to meet with the City Nevada City or his/her designee regarding any security related measures or and operational issues.

- (3) As part of the application and permitting process a medical cannabis dispensary shall have a storage and transportation plan, which describes in detail the procedures for safely and securely storing and transporting all cannabis, cannabis products, and any currency.
- (4) The medical cannabis dispensary shall cooperate with the City whenever the City Manager or his designee makes a request, upon reasonable notice to the medical cannabis dispensary, to inspect or audit the effectiveness of any security plan or of any other requirement of this Chapter.
- (5) A medical cannabis dispensary shall notify the City Manager or his/her designee(s) within twenty-four (24) hours after discovering any of the following:
  - (a) Significant discrepancies identified during inventory. The level of significance shall be determined by the regulations promulgated by the City Manager or his/her designee.
  - (b) Diversion, theft, loss, or any criminal activity involving the medical cannabis dispensary or any agent or employee of the medical cannabis dispensary.
  - (c) The loss or unauthorized alteration of records related to cannabis, registering qualifying patients, primary caregivers, or employees or agents of the medical cannabis dispensary.
  - (d) Any other breach of security.

C. Restriction on Alcohol Sales.

No person shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on or about the premises of the medical cannabis dispensary.

- D. If a medical cannabis dispensary permittee is operating as a collective or cooperative under Health and Safety Code Section 11362.775, subdivision (a), members of the applicant authorized to possess cannabis shall sign an agreement with the medical cannabis dispensary which states that members shall not distribute cannabis or cannabis products to non-members or in violation of the "Memorandum for all United States Attorneys," issued by the United States Department of Justice, from James M. Cole, Deputy Attorney General and any other applicable state and federal laws, regulations, or guidelines.
- E. If the medical cannabis dispensary permittee is operating as a collective or cooperative under Health and Safety Code Section 11362.775, subdivision (a), the medical cannabis dispensary shall terminate the membership of any member violating any of the provisions of this Chapter.

- F. Owners and Operators are required to verify the age and the necessary documentation of each customer to ensure the customer is not under the age of eighteen (18) years, and to verify that the potential customer has a valid doctor's recommendation.
- G. There shall not be a physician located in or on the grounds of any medical cannabis dispensary at any time for the purpose of evaluating patients for the issuance of a medical cannabis prescription or card.
- H. Prior to dispensing cannabis or cannabis products to any person, the medical cannabis dispensary shall obtain verification from the recommending physician that the person requesting cannabis or cannabis products is a qualified patient or primary caregiver.
- I. Dispensaries may have on-site, in the retail sales area of the dispensary, only that quantity of cannabis and cannabis products reasonably anticipated to meet the daily demand readily available for sale. Dispensaries may also sell non-cannabis products, such as cannabis and health related educational books and publications, apparel, and the like. However, sales of non-cannabis products shall constitute no more than fifteen percent (15%) of the floor area and not to exceed three hundred (300) feet.
- J. All restroom facilities shall remain locked and under the control of management.
- K. All cannabis and products containing cannabis shall be dispensed in child-proof packaging and shall remain in such packaging until off the premises, unless otherwise provided by state law.

**9.22.110. Reserved.**

**9.22.120. Reserved.**

**9.22.130. Delivery by Medical Cannabis Dispensary Permitted.**

Legally permitted medical cannabis dispensaries are authorized to make deliveries within the City and within any jurisdiction that permits deliveries, subject to following requirements:

(A) The owner, operator, and delivery personnel shall comply with all applicable state law requirements;

(B) The delivery personnel must be an employee of the medical cannabis dispensary;

(C) Before dispensing any products to persons requesting delivery, the delivery personnel must verify that the requestor is an authorized customer (either a qualified patient or a primary caregiver) by inspecting the documents required by subdivision 9.22.100 (B)(1)(k).

**9.22.140 Application of Chapter; Other Legal Duties.**

**A. Promulgation of Regulations and Standards.**

- (1) In addition to any regulations adopted by the City Council, the City Manager or his/her designee is authorized to establish any additional rules, regulations and standards governing the issuance, denial or renewal of medical cannabis business permits, the ongoing operation of a medical cannabis business and the City's oversight, or concerning any other subject determined to be necessary to carry out the purposes of this Chapter.
- (2) Regulations shall be published on the City's website.
- (3) Regulations promulgated by the City Manager shall become effective upon date of publication. A medical cannabis business shall be required to comply with all state and local laws and regulations, including but not limited to any rules, regulations or standards adopted by the City Manager or his designee.

**B. Community Relations Requirements for Medical Cannabis Dispensaries.**

- (1) Each medical cannabis dispensary shall provide the name, telephone number, and email address of a community relations contact to whom notice of problems associated with the medical cannabis dispensary can be provided. Each medical cannabis dispensary shall also provide the above information to all businesses and residences located within one hundred (100) feet of the medical cannabis dispensary property and shall provide opportunity for those businesses and residents within one hundred (100) feet to visit and to tour the medical cannabis dispensary at least once on a mutually convenient date and time. Any additional request shall be at the sole discretion of the dispensary operator.
- (2) During the first year of operation pursuant to this Chapter, the owner, manager, and community relations representative from the medical cannabis dispensary holding a permit issued pursuant to this Chapter shall attend a quarterly meeting with the City Manager or his/her designee(s) to discuss costs, benefits, and other community issues arising as a result of implementation of this Chapter. After the first year of operation, the owner, manager, and community relations representative from the medical cannabis dispensary shall meet with the City Manager or his/her

designee(s) when and as requested by the City Manager or his/her designee(s).

- (3) The medical cannabis dispensary to which a permit is issued pursuant to this Chapter shall develop and make available to youth organizations and educational institutions a public education plan that outlines the risks of youth abuse of cannabis, and that identifies resources available to youth related to drugs and drug addiction.

C. Fees Deemed Debt to City of Nevada City.

The amount of any fee, cost or charge imposed pursuant to this Chapter shall be deemed a debt to the City of Nevada City that is recoverable via an authorized administrative process as set forth in the Municipal Code, or in any court of competent jurisdiction.

D. Permit Holder Responsible for Violations.

The person or members of a business entity to whom a permit is issued pursuant to this Chapter shall be responsible for all violations of the laws of the State of California or of the regulations and/or the ordinances of the City of Nevada City, whether committed by the permittee or any employee or agent of the permittee, which violations occur in or about the premises of the medical cannabis business whether or not said violations occur within the permit holder's presence.

E. Inspection and Enforcement.

- (1) The City Manager or his/her designee(s) are charged with enforcing the provisions of the Nevada City Municipal Code, or any provision thereof, may enter the location of a medical cannabis business at any time during the hours of operation without notice, and inspect the location of any medical cannabis business as well as any recordings and records required to be maintained pursuant to this Chapter or under applicable provisions of State law.
- (2) It is unlawful for any person having responsibility over the operation of a medical cannabis business, to impede, obstruct, interfere with, or otherwise not to allow, the City to conduct an inspection, review or copy records, recordings or other documents required to be maintained by a medical cannabis business under this Chapter or under state or local law. It is also unlawful for a person to conceal, destroy, deface, damage, or falsify any records, recordings or other documents required to be maintained by a medical cannabis business under this Chapter or under state or local law.
- (3) The City Manager or his/her designee(s) charged with enforcing the provisions of this Chapter may enter the location of a medical cannabis business at any time during the hours of operation and without notice to

obtain samples of the cannabis to test for public safety purposes. Any samples obtained by the City of Nevada City shall be logged, recorded, and maintained in accordance with Nevada City Police Department standards for evidence.

F. Concurrent Regulation with State. It is the stated intent of this Chapter to regulate medical cannabis activity in the City of Nevada City concurrently with the state of California.

#### **9.22.150. Violations and Enforcement.**

A. Violations declared a public nuisance.

Each and every violation of the provisions of this Chapter is hereby deemed unlawful and a public nuisance.

B. Each violation a separate offense.

Each and every violation of this Chapter shall constitute a separate violation and shall be subject to all remedies and enforcement measures authorized by the Nevada City Municipal Code. Additionally, as a nuisance per se, any violation of this Chapter shall be subject to injunctive relief, any permit issued pursuant to this Chapter being deemed null and void, disgorgement and payment to the City of any monies unlawfully obtained, costs of abatement, costs of investigation, attorney fees, and any other relief or remedy available at law or in equity. The City of Nevada City may also pursue any and all remedies and actions available and applicable under state and local laws for any violations committed by the medical cannabis business or persons related to, or associated with, the medical cannabis activity. Additionally, when there is determined to be an imminent threat to public health, safety or welfare, the City Manager, his/her designee, or the Chief of Police, may take immediate action to temporarily suspend a medical cannabis business permit issued by the City, pending a hearing before the City Council.

C. Remedies cumulative and not exclusive.

The remedies provided herein are not to be construed as exclusive remedies. The City is authorized to pursue any proceedings or remedies provided by law.

**SECTION 2.** Chapter 17.142 (Medical Cannabis Businesses and Activity) of Title 17 of the Nevada City Municipal Code is enacted as follows:

#### **Chapter 17.142 MEDICAL CANNABIS BUSINESSES AND ACTIVITY**

17.142.010. Purpose. The purpose of this part is to further fulfill the purposes and intents set forth in Chapter 9.22 of the Nevada City Municipal Code. No person shall operate a medical cannabis business without first obtaining a City medical cannabis business permit

and complying with all the requirements of Chapter 9.22 of the Nevada City Municipal Code and complying with all applicable state law requirements including obtaining a license or permit required by the state to operate a medical cannabis business.

17.142.020. Definitions. Unless otherwise provided herein, the terms used in this part shall have the meanings ascribed to them in Chapter 9.22 of the Nevada City Municipal Code.

17.142.030. Location of Medical Cannabis Dispensaries.

Medical cannabis dispensaries shall be permitted only as follows:

- (a) In the following zoning designations: General Business (GB) excluding those properties designated with an Historic District (HD) overlay, Local Business (LB), and Light Industrial (LI) Zones.
- (b) No closer than six hundred (600) feet from any portion of any parcel in the City limits containing any of the following:
  - (1) A school, including pre-school, transitional kindergarten, and K-12 that is in existence at the time the initial medical cannabis dispensary permit is issued; or
  - (2) A public park that is managed by the City of Nevada City that is in existence at the time the initial medical cannabis dispensary permit is issued.

17.142.040. **RESERVED.**

17.142.050. Distances measured; Applicable properties.

The distance between parcels shall be the horizontal distance measured in a straight line from any property line of the sensitive use to the closest property line of the lot on which the medical cannabis business is to be located, without regard to any intervening structures.

17.142.060. Certification from Planning Director. Prior to commencing operations, a medical cannabis business must obtain a certification from the Planning Director certifying that the business is located on a site that meets all of the requirements of this Title.

SECTION 3. Chapter 17.36 of the of the Nevada City Municipal Code entitled "Local Business Zone" is hereby amended to include medical cannabis dispensaries as a permitted use, subject to the requirements of Chapter 17.142:

**Commented [A1]:** B& P code s. 26054 (part of AUMA) provides that the 600 foot distance requirement to schools , day care centers, or youth centers dispensing MJ for recreational use only applies to those uses "in existence at the time the license is issued..." There is not an equivalent provision in MCRSA (H&S s. 11362.768). I think it would be logical to assume a similar qualifier would be interpreted to apply to medical dispensaries. So I'm comfortable amending the language as I did.

**17.36.020 - Principal permitted uses.**

- A. All residential uses as permitted in R1 and R2 zones;
- B. Any local retail business or service establishment, such as a grocery, fruit or vegetable store, drug store, barber and beauty shops, florists, laundromats, clothes cleaning and laundry pickup station, variety store, hardware store, or any combination thereof in one unit, antique shops, banks, gift shops, bicycle shops, dance and music studios, and similar uses, as determined by the commission, supplying commodities or performing services for the residents and visitors to the neighborhood;
- C. Principal permitted uses as allowed in the OP zone;
- D. Restaurants, except drive-in restaurants;
- E. Electrical and plumbing supply stores;
- F. Printing, publishing, letter shops and stationery stores;
- G. Mixed residential uses at a maximum density of 4 (four) units per acre may be included within any building devoted to a nonresidential use or uses permitted in the LB zone, provided that irrespective of lot size, a minimum of one residential unit is permitted.
- H. Art galleries.
- I. Medical Cannabis Dispensaries pursuant to the provisions outlined in Chapter 17.142.

**SECTION 4.** Chapter 17.40 of the of the Nevada City Municipal Code entitled “General Business Zone” is hereby amended to include medical cannabis dispensaries as a permitted use, subject to the requirements of Chapter 17.142.

**17.40.020 - Principal permitted uses.**

In the GB zone, the following uses are permitted:

- A. All residential uses as permitted in the R1 and R2 zones and principal permitted uses of the OP zone;
- B. Offices on the second floor and above, stores and shops supplying commodities or performing services, such as department stores, specialty shops, bakeries, and including regional shopping centers or major elements of such centers;
- C. Restaurants except drive-in, cocktail lounges, theaters and similar enterprises provided that such uses are conducted within a completely enclosed building;
- D. Hotels and motels;
- E. Mixed residential uses at a maximum density of 4 (four) units per acre may be included within any building devoted to a nonresidential use or uses permitted in the GB zone, provided that irrespective of lot size, a minimum of one residential unit is permitted.

- F. Any other similar business or service enterprise, except offices on the ground floor, consistent with the purpose of this chapter and which will not impair the present or potential use of adjacent properties shall be deemed a permitted use under this section upon an adopted motion of the planning commission. Such business or service establishments will be characterized by the following for ground level use:
  - 1. Nature of business depends upon walk-in traffic, and
  - 2. Nature of business provides sales tax revenue to the city of Nevada City, and
  - 3. Business provides products to a broad spectrum of the general public, and
  - 4. The proposal will not weaken the concentration and continuity of retail facilities at ground level, and will not break up an important shopping frontage, and
  - 5. If a manufacturing, assembly, fabricating or handcrafting process is involved, then the major retail outlet for such products will be on the premises where such processes are performed;
- G. Restrictions on ground level uses:
  - 1. No new or expanded office of any type may be located on the ground level of any building, unless the approving authority grants a conditional use permit and finds the use complies with Section 17.40.040(J). The cost of a conditional use permit for a ground level office shall be one hundred dollars (\$100.00).
- H. Medical Cannabis Dispensaries pursuant to the provisions outlined in Chapter 17.142, not including those properties designated with an Historic District (HD) overlay.

**SECTION 5.** Chapter 17.48 of the Nevada City Municipal Code entitled "Light Industrial Zone," is hereby amended to include medical cannabis dispensaries as a permitted use, subject to the requirements of Chapter 17.142:

**Chapter 17.48 LIGHT INDUSTRIAL ZONE**

**17.48.020. Principal Permitted Uses.**

In the LI zone, the following uses are permitted:

- A. Automobile and truck service stations and terminals;
- B. Business services, including advertising, credit, bookkeeping, employment and similar agencies, business and management consultants, stenographic, duplicating, blueprinting, photocopying and messenger services;
- C. Building materials sales yards;

- D. Light construction and special trade contractors, offices and shops, ornamental iron works, and sheet metal shops;
- E. Offices, administrative and executive;
- F. Refrigerators, furnaces and water heaters, repairs and servicing;
- G. Electrical transmission and/or substations;
- H. Warehousing, except mini-storage, including storage of furniture and household goods, but excluding feed and grain when handled in bulk;
- I. Public utility service yard or garage;
- J. Light manufacturing uses and all uses allowed in the EC zone;
- K. Artists' studios, craft workshops, and cabinet shops.
- L. Emergency shelters.
- M. Medical Cannabis Dispensaries pursuant to the provisions outlined in Chapter 17.142.

**SECTION 6. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

**SECTION 7. Effective Date.** This ordinance shall be in full force and effect commencing thirty (30) days after its final adoption and a summary hereof shall be published once within fifteen (15) days in The Union, a newspaper of general circulation printed and published in the County of Nevada and circulated in the City of Nevada City and hereby designated for that purpose by the City Council.

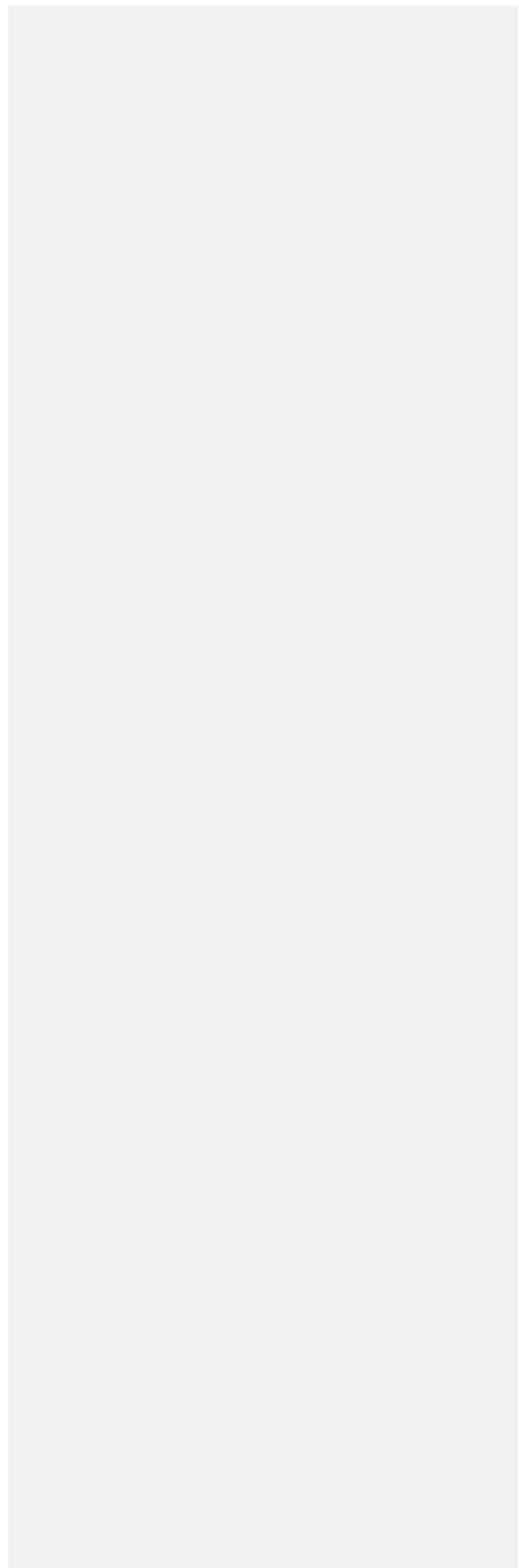
**This Ordinance was introduced and read by title only on the 12<sup>th</sup> day of April, 2017 and was passed and adopted on this 12<sup>th</sup> day of April, 2017 at the regular meeting of the City Council of the City of Nevada City by the following vote:**

**AYES: PHELPS, STRAWSER, MOBERG, PARKER**  
**NOES: NONE**  
**ABSENT: SENUM**  
**ABSTAIN: NONE**

\_\_\_\_\_  
**Evans Phelps, Mayor**

**ATTEST:**

\_\_\_\_\_  
**Niel Locke, City Clerk**





December 7, 2017

Mayor Duane Strawser and City Councilmembers  
City of Nevada City  
317 Broad Street  
Nevada City, CA 95959

Re: December 13<sup>th</sup> City Council meeting: Request to consider two questions re: MCD Ordinance and Permitting

Dear Mayor Strawser and City Councilmembers,

On behalf of Growing Community, I write first to commend you for having the courage to vote unanimously to be the first municipality in our region to move beyond cannabis prohibition with the adoption of the Medical Cannabis Dispensary (MCD) Ordinance earlier this year.

While the Principals and people behind Growing Community are unquestionably disappointed—and somewhat perplexed—by the procedures and outcome of the November 15, 2017, City Council meeting, we write in the spirit of collaboration toward realizing shared goals. **We respectfully request that the City Council consider at the December 13<sup>th</sup> meeting:**

- 1) **Making a motion to amend the MCD Ordinance (2017-06)** that either:
  - a) strikes language requiring 12 months before the Council revisits the question of issuing an additional permit, or;
  - b) affirms the provision in the “Applicant Procedures for MCD Permits” approved at your June 14<sup>th</sup> meeting which states in the description of Phase IV procedures that the “City Council **may award one or more** MCD permit(s) as permitted by Chapter 9.22 of the Nevada City Municipal Code....”<sup>1</sup>
- 2) Clarifying the intentions and results of the “voted ranking” of the alternate MCD candidates by conducting a new vote to determine the Council’s preference for the #2 and #3 ranked applicant.

Rationale for Amending MCD Ordinance:

We recognize that the City has taken some political risks in your work to establish the first set of cannabis business Ordinances in our region, and that as representatives you took seriously and considered the voices of your constituents that urged you to take caution in entering the legal regulated cannabis sector, to go slowly and be observant, and to learn and adapt as you take the steps of reviewing and issuing operating permits for MCDs and other Cannabis Business types.

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<sup>1</sup> If linking to the Applicant Procedures [in the June 14<sup>th</sup> Packet here](#), see page 201.

While the existing MCD Ordinance (2017-06) includes a requirement to allow 12 months to pass before taking up the question of additional permittees, we encourage you to consider the breadth and depth of input you received from the public in the form of written support letters and oral comments at the November 15<sup>th</sup> Council meeting, as well as the arguments raised by some Council members acknowledging the exceptional qualifications of all applicants, the very narrow margin of difference between the applicants at the conclusion of Phase III (160 points, or a 6% spread, separating top from bottom), and the concerns of fostering a monopolistic environment vs. the principle of allowing market competition to play out. If these considerations are compelling to you, it would be prudent to amend the MCD Ordinance to allow consideration of the two other well qualified applicants as immediately as is procedurally possible.

In a split decision on November 15<sup>th</sup>, following a process that has raised some questions about adherence to the adopted Procedures for Phase IV,<sup>2</sup> the City Council has cast its first stone in issuing a permit to the applicant Elevation 2477. **We believe that the City would do well to issue a second MCD operating permit to Growing Community** based on our merits and the opportunity to move past the questions swirling around the efficacy of the review and decision-making process.

Regarding our merits, we hope that we needn't repeat here the extensive testimony on our behalf that exists now in the public record, and simply summarize here that numerous and varied community leaders, long-established successful business persons, experts from throughout California on cannabis markets, regulations and policy, and patients seeking safe and discreet access to naturally-grown medicines have taken a public stance--on a controversial topic in our community—to put their overwhelming support firmly behind our application. As they expressed in their own voices, our community members believe that our business plan, the qualifications and trust in our Principals, our legally-enshrined commitment to keep revenues local and all profits in service to our robust sector of public benefit organizations, and our inconspicuous location made us an exemplary applicant for the City of Nevada City (if not a potential model for successful replication beyond our city limits).

Also, it has been noted by most Council members that the application requirements for the MCD permit were extensive, and the up-front "investment" significant. Like other applicants, Growing Community had to identify and secure tenancy to an appropriately zoned facility before completion of the application. We had to generate investors and demonstrate a capitalization of \$500,000. We had to pay application fees to the City and hire

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<sup>2</sup> We note that the City was wise to the need for providing opportunity for a period of Council reflection after the initial determination, in that you crafted and adopted the Applicant Procedures that clearly indicate in Phase IV included as sequential process and that time should be granted for Staff and the Council to consider input from the Public Meeting (as well as written comments), that the Staff recommendation should come AFTER the Public Meeting (and incorporating the public input that was explicitly absent from the Phase III scoring exercise), and that the decision-makers shall have an opportunity to consider any conditions on the permit between their vote to direct staff to draft a permit for a given applicant and the final approval and issuance of said permit. We have heard directly from City Staff the contention that these Procedures (adopted by Resolution on June 14) were viewed merely as guidelines and that collapsing all of Phase IV into one Council meeting was both permissible and un-contestable (due, as we understood the argument, to the fact that the Agenda for the evening clearly stated the Council would make a "decision" on the permittee). While we consider this approach a bit careless and with consequences for the City's rapport with its citizenry, it's the City's prerogative and we are not formally contesting your process nor your resulting decision to enter the legal cannabis domain with Elevation 2477 as your initial permittee and partner. We gently give voice to these concerns for the sake of honestly and transparently sharing our perspective to you and the public, and in the spirit of moving forward together in what we hope will be a durable partnership between a future Growing Community MCD and the City of Nevada City.

consultants to perform architectural review, parking plans, security plans, development of our MCD operating manual and standard operating procedures. These were extensive, but fair requirements by the City for all applicants. We feel it's worth noting, though, that Growing Community has circumstances that are perhaps unique and worth considering in light of a 12-month waiting period:

- Our business model is as a not-for-profit start-up, and therefore none of our Principals have been paid (by anyone) and our by-laws prohibit them from payment,
- To maintain our independence, we have actively avoided seeking speculative cannabis industry investors,
- We are not an arm of a broader cannabis business, but fundamentally a type of innovative start-up community foundation,
- We have, to date, not spent a single dollar of our \$500k capitalization loan. Why? Because without an operating permit for an MCD, we have no other alternative for revenue generation and thus no ability to pay back a loan.
- Our "skin in the game" (if you will) includes thousands of hours of volunteer labor by a network of community members, a smattering of small donations from those committed to our vision, and the confidence in our team and our supporters that—at some point—a municipality will truly understand the opportunity we're providing for partnership with Growing Community.

We raise these points to suggest that our options for waiting it out are limited due to the uniqueness of our business model and our community benefit purpose. Treading water for 12 months while maintaining our lease could create insurmountable financial burdens, even with aggressive facility management and subleasing. Alternatively, to give up our lease and look for a new location in Nevada City a year from now is—we hope you realize—completely unfeasible due to the cornering of the real estate market by cannabis investors for suitably zoned parcels.

For these reasons, and many more, we believe it is in the best interests of the City **to amend the Ordinance at your earliest opportunity to allow for competition** in the local market. While other applicants can demonstrate more "experience" running profitable dispensaries elsewhere, we interpret our overwhelming support on display November 15<sup>th</sup> not as the result of our effective "PR machine" (because we don't have one) but as a validation that the community wants to see our model succeed and we're confident that we can thrive, even in a competitive environment.

The City Staff and Council would know best the appropriate procedures for allowing this amendment, as well as the degree to which you'd like to encourage public input into this decision. We see one option as a vote to amend which can occur at the December 13<sup>th</sup> meeting, with a 2<sup>nd</sup> reading and final vote to amend in January 2018. We would hope that concurrent to this process, you would select the applicant(s) to receive the additional permit(s). And, we request that no new fees be placed on the applicants. Alternatively, our reading of the Applicant Procedures (as noted above), suggests that you already have a mechanism to "award one or more permits" immediately. We'd gratefully accept such an award immediately.

#### Rationale for a vote to clarify ranking of alternative candidates

As stated above, Growing Community is prepared to compete with (or, perhaps the magnanimous sentiment is to "complement") other applicants and their business models. Ultimately, of course, if you are persuaded to amend the Ordinance due to our argument about competition vs. monopoly, the next question for you to determine is if that should include one or two additional permits.

While we understand that the official recording of the November 15<sup>th</sup> vote ranked Growing Community third behind NC Wellness, we contend that the vote-ranking taken was both confusing and conducted outside the voting procedure recommended that evening by the City Attorney.

We contend that the voting procedure and result was confusing and inconclusive because:

- i. The City Attorney explicitly recommended that first a vote be conducted as to who is the “top” candidate, and then a separate vote would rank the remaining two candidates;
- ii. Mayor Strawser suggested that a simple vote for the favored candidate should be taken, and whichever candidate had the most votes would be “first” and whoever had the next most would be “second.”
- iii. Instead, when the Mayor directed Staff to call for the vote, one ranked vote was taken for each Council member, but despite what in our view resulted in more ranked points for Growing Community than for NC Wellness, we were recorded as 3<sup>rd</sup> place.

To the first point, while we might speculate that had the vote been conducted as advised by the City Attorney, the result would be the same as recorded. But since the vote was not taken in this manner, this is speculative.

To the second point, we might speculate that Growing Community would have been ranked 2<sup>nd</sup> if the Mayor’s suggestion was followed because we would have received two “first place votes” while NC Wellness had none. But, again, this is speculative because the vote wasn’t conducted as the Mayor suggested.

To the third point, the table below illustrates our assertion that—if a ranked vote was to be taken, without a methodology described for scoring “second place”—this methodology is more valid than any in determining the ranking, and Growing Community would be ranked 2<sup>nd</sup>:

Ranking (inverted) scoring based on City Council voting, Nov 15th:

	Phelps	Moberg	Parker	Strawser	Senum	Ranked score total:
Elevation	3	3	3	2	2	13
Growing Community	1	1	1	3	3	<b>9</b>
NC Wellness	2	2	2	1	1	8

Of course, we could make a broader contention that those in the majority decision, who tethered the rationale for their decision on the Phase III scorecard, ought to have given a justification for why all community input received after the Phase III scoring (written comments, oral testimony at the Public Meeting, Applicant Presentations) had no bearing on their final decision; not even a shift in their ranked order (whereby 37.5 points, or 1.5% separated NC Wellness from Growing Community. Or, it could have easily been argued, as we did during our Public Presentation, that scoring tops in 4 categories puts us ahead of the applicant that scored tops in 1 category).

It’s our assumption that the rankings did not change when it came time to vote because the Council members were not given clear enough guidance to the fact that the Public Meeting was in fact designed to be an official aspect of “applicant review” and that—indeed—it was permissible, if not expected, to give whatever weight you as Council members deemed appropriate to the “public support” factor in your ultimate decision and measure of each applicant’s worthiness. In short, it seems there may have been confusion on the purpose of the Phase III

rankings and the Phase IV review, and the manner in which the Council could or should interpret them in the separate issue of a final “ranked vote.”

All this is to assert and recommend that this confusion could be **remedied by a clarifying vote on the 2<sup>nd</sup> and 3<sup>rd</sup> place ranking at the December 13<sup>th</sup> Council meeting.** In effect, you could follow the original advice from staff lead Counsel and take the second vote to rank the remaining candidates. If such a vote were conducted, we would strongly encourage all Council members to bring their full capabilities to such a vote, rather than to adhere to a notion that the HDL-developed scorecard was—and is—intended to be the final word on this important selection process decision.

We respectfully submit these comments and recommendations. Again, Growing Community looks forward to a positive, constructive and long-term partnership with the City. We believe, and hope that you agree, that taking up these recommendations is a good step toward realizing such an aspiration.

On behalf of the Principals of *Growing Community*.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Rainey". The signature is fluid and cursive, with the first name being more prominent.

Jason Rainey  
President, Board of Directors  
*Growing Community*

cc:     Catrina Olson, Interim City Manager  
        Amy Wolfson, City Planner  
        Hal DeGraw, City Attorney