# CITY COUNCIL MEETING

COUNCIL CHAMBERS, 33 SOUTH MAIN STREET, COLFAX, CA

MAYOR DONNA BARKLE • MAYOR PRO-TEM TONY HESCH

COUNCILMEMBERS • KIM DOUGLASS • JASON McKINNEY • TOM PARNHAM

## REGULAR MEETING AGENDA

**CLOSED SESSION at 5:30pm September 11, 2013 REGULAR SESSION at 7:00pm**

Colfax City Council Meetings are ADA compliant. If you need special assistance to participate in this meeting, please contact the City Clerk at (530) 346-2313 at least 72 hours prior to make arrangements for ensuring your accessibility.

**1) OPENING of CLOSED SESSION**

A. Call to Order
B. Roll Call

**2) PUBLIC COMMENT – CLOSED SESSION ITEMS**

**3) CLOSED SESSION AGENDA**

A. Conference With Legal Counsel - Anticipated Litigation: Initiation of litigation pursuant to Government Code Section 54956.9(c), 1 case

B. Public employee employment pursuant to Government Code Section 54957
Title of position to be filled: City Manager

**4) OPENING of REGULAR SESSION**

A. Pledge of Allegiance
B. Roll Call
C. Announcement of Action Taken in Closed Session
D. Approval of Agenda Order
   a. This is the time for changes to the agenda to be considered including removal, postponement, or change to agenda sequence.
   **RECOMMENDED ACTION:** By motion, accept the agenda as presented or amended.

Members of the public who addresses the Council shall do so in an orderly manner. No person shall yell or make profane or threatening remarks to any member of the Council, staff, or general public. No person shall engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, stamping of feet, clapping, or other acts that unreasonably disturb, disrupt, delay or otherwise impede the orderly conduct of the Council meeting. Except as allowed by rules of order, a Councilmember or staff member shall not by conversation or other means delay the Council proceedings or disturb any other Councilmember or staff member while speaking.

## 5) COUNCIL, STAFF AND OTHER REPORTS

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

## 6) PRESENTATIONS

## 7) CONSENT AGENDA

All matters listed under the Consent Agenda are considered routine in nature and will be approved by one blanket motion with a roll call vote. There will be no separate discussion of these items unless persons request specific items to be removed from the Consent Agenda for discussion and separate action. Any items removed will be considered after the motion to approve the Consent Agenda. If you wish to have an item pulled from the Consent Agenda for discussion, please notify the City Clerk.

| | AGENDA ITEM | RECOMMENDED ACTION |
|---|---|---|
| A. | Minutes: August 28, 2013 | *Receive and File* |
| B. | Consideration of Adoption of Resolution No. 37-2013: A Resolution of the City Council of the City of Coflax Rejection the Claim of Brooklyn's West Deli | *Adopt Resolution No. 37-2013* |
| C. | Consideration of Adoption of Resolution No. 38-2013: A Resolution Of The City Council Of The City Of Colfax Authorizing The Interim City Manager To Execute And Record A Notice Of Completion For The Sewer Pump Scada Communications And Server, City Project # 11-01.05 | *Adopt Resolution No. 38-2013 And direct City Clerk to file Notice of Completion* |

## 8) PUBLIC COMMENT

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

## 9) PUBLIC HEARING

## 10) COUNCIL BUSINESS

A. Consideration of Approval of Ball field and Splash Park surveillance system
**Recommended Action:** Approve the purchase and installation of surveillance systems for both the ballpark and splash Park area.

B. Conduct Discussion about Adopting City Council Policies and Procedures.
**Recommended Action:** Discuss and direct staff

C. Conduct discussion and solicit public comments and suggestions for recruitment of a City Manager.
**Recommended Action:** Conduct discussion and provide direction to staff.

D. Conduct discussion regarding the City's standard form agreements.
**Recommended Action:** Conduct discussion and direct staff.

**11) ADJOURNMENT**

**Agenda Posted at Colfax City Hall**
**and Colfax Post Office locations September 6, 2013.**

Karen Pierce

Karen Pierce, City Clerk

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

Minutes
City Council Meeting
August 28, 2013

## 1. OPENING

Mayor Barkle called the meeting to order at 6:00pm.

Present and answering roll call were Council members Hesch, Douglass, Parnham, McKinney and Mayor Barkle.

## 2. PUBLIC COMMENT

There was no public comment

## 3. CLOSED SESSION

Mayor Barkle called the closed session to order at 6:00pm

A. Public employee employment pursuant to Government Code Section 54957
Title of position to be filled: City Manager

B. Conference with Labor Negotiators pursuant To Government Code Section 54957.6
Employee Organization: General Employees and Bargaining Unit Represented by Operating Engineers, Local 39 City's Designated Representative: Gabe Armstrong

C. Conference with Legal Counsel—Anticipated Litigation
Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9
Number of potential cases: 1

Mayor Barkle closed the closed session at 6:58pm.

## 4. OPENING AND AGENDA APPROVAL

Mayor Barkle called the regular meeting to order at 7:04pm.

Kristi Parnham led the Pledge of Allegiance

Mayor Barkle stated that there was no reportable action taken in Closed Session.

A motion was made by councilman McKinney and seconded by councilman Parnham to approve the agenda as presented. The motion was passed by the following vote:

AYES: Hesch, Douglass, Parnham, McKinney and Mayor Barkle
NOES:
ABSENT:
ABSTAIN:

## 5. CITY COUNCIL COMMITTEE REPORTS

Councilman Parnham reported on attending the WAC/MAC meeting
Councilman Douglass reported on attending the Air Quality Control Board meeting
Councilman Hesch reported on attending the PCTPA meeting, Downtown Business meeting and commented on the Planning Department Project Status report. Councilman Hesch also asked about the City contributing $500 toward Railroad Days.

## 6. INFORMATION REPORTS FROM STAFF AND OTHERS

Interim City Manager, Gabe Armstrong reported on the following:

- Updated council that the Underground Storage tank at the Corporation Yard is closed.
- The ramp and slide gate at the wastewater treatment plant are complete.
- Sat on interview board for Placer County for a building official position.
- Quotes have been obtained for the removal of three trees in town that need to be removed.

City Clerk, Karen Pierce updated council on upcoming events:

- Preliminary work on event put on by Colfax High School in downtown for homecoming
- Lions Club Cars Show in freight lot September 13, 2013
- Railroad Days October 5 and 6, 2013

## 7. CONSENT AGENDA

| | AGENDA ITEM | ACTION TAKEN |
|---|---|---|
| A. | Minutes: August 14, 2013 | *Receive and File* |
| B. | Letter from Regional Water Quality Control Board regarding Final Closure of Under Ground Storage Tanks at City Corporation Yard | *Pulled for Discussion* |
| C. | Cash Balance Summary: July 31, 2013, including new graph detailing status of General Fund Undesignated Cash Analysis | *Pulled for Discussion* |
| D. | Consideration Of Approval Of Resolution No. 35-2013: A Resolution Of The City Council Of The City Of Colfax Authorizing The Purchase Of Kruger Discfilter Elements To Replace Worn Filters At The Wastewater Treatment Plant | *Pulled for Discussion* |

A motion was made by councilman McKinney and seconded by councilman Parnham to approve the consent agenda as presented with the above noted items pulled for discussion. The motion was passed by the following vote:

AYES: Hesch, Douglass, Parnham, McKinney and Mayor Barkle
NOES:
ABSENT:
ABSTAIN:

**B. Letter from Regional Water Quality Control Board regarding Final Closure of Under Ground Storage Tanks at City Corporation Yard**

Councilman Hesch stated that it was a job well done in getting Underground Storage Tanks closed. A motion was made by councilman McKinney and seconded by councilman Parnham to approve Consent Item B. The motion was passed by the following vote:

AYES: Hesch, Douglass, Parnham, McKinney and Mayor Barkle
NOES:
ABSENT:
ABSTAIN:

**C. Cash Balance Summary: July 31, 2013, including new graph detailing status of General Fund Undesignated Cash Analysis**

Councilman McKinney asked that the graph be added to the Cash Summary Reports in the future. A motion was made by councilman McKinney and seconded by councilman Parnham to approve Consent Item C. The motion was passed by the following vote:

AYES: Douglass, Parnham, McKinney and Mayor Barkle
NOES:
ABSENT:
ABSTAIN: Hesch

**D Consideration Of Approval Of Resolution No. 35-2013: A Resolution Of The City Council Of The City Of Colfax Authorizing The Purchase Of Kruger Discfilter Elements To Replace Worn Filters At The Wastewater Treatment Plant**

Councilman Hesch asked about competitive bids for these types of purchases. Councilman McKinney asked about the life expectancy of the filters. A motion was made by councilman McKinney and seconded by councilman Parnham to approve Consent Item D. The motion was passed by the following vote:

AYES: Hesch, Douglass, Parnham, McKinney and Mayor Barkle
NOES:
ABSENT:
ABSTAIN:

## 8. PUBLIC COMMENT

David Green, VFW invited council and the public to the pancake breakfast and presentation on September 8 from 8-10:30am.

Al Turner, resident asked about the sidewalks and overhangs on the building and who is responsible for them.
Wade Wolfe, Colfax High School teacher spoke about putting together a Bon Fire event in downtown in October to coincide with Homecoming.
Frank Klein, Chamber President spoke about the Downtown Business Meeting and what they are working on.

## 9. PUBLIC HEARING

## 10. COUNCIL BUSINESS

A. **Consideration of Adoption of Resolution No. 36-2013: A Resolution of the City Council of the City of Colfax Authorizing the Interim City Manager To Execute the Fifth Amendment to the Consultant Services Agreement between the City of Colfax and Psomas.**

City Engineer, Jim Fletter went over the staff report, project and agreement. Council had comments. There was no public comment. A motion was made by councilman Hesch and seconded by councilman Parnham to adopt Resolution No. 36-2013. The motion was passed by the following vote:

| | |
|---|---|
| AYES: | Hesch, Douglass, Parnham, and Mayor Barkle |
| NOES: | McKinney |
| ABSENT: | |
| ABSTAIN: | |

B. **Conduct Discussion And Provide Direction To Staff Regarding A "Feasibility Study" For The I-80 Revitalization Project**

Councilman Hesch went over his opinion about this project and suggested that council choose to not move forward with the I-80 Project at this time. Councilman McKinney spoke about not moving forward with the "Feasibility Study" portion of this project. Councilman Parnham, Douglass and Mayor Barkle all agreed to not move forward with the "Feasibility Study."

Mayor Barkle called for a recess at 8:20pm. Mayor Barkle called the meeting back to order at 8:25pm.

C. **Conduct Discussion about Adopting City Council Policies and Procedures.**

Councilman McKinney went over the Policies and Procedures. Council and staff discussed. Councilmembers McKinney and Hesch will meet in the next two weeks to work together on this and bring it back for discussion at the next city council meeting. Speaking from the public was:

Louana Robinson, business owner suggested that council contact the League of California Cities
Suzanne Roberts, county resident asked if the Rules and Procedures will be incorporated into the Municipal Code.

C. **Conduct discussion and solicit public comments and suggestions for recruitment of a City Manager.**

Council asked for public comments regarding this. Speaking from the public was:

Louana Robinson, business owner asked about the process.
Foxy McCleary, resident asked if we needed City Manager.

D. **Conduct discussion regarding Agenda Staff Report Deadlines**

Councilman McKinney requested this item to be placed on the agenda for public information. Interim city manager, Gabe Armstrong wanted council to be aware that when they request an item be on the "next" agenda it gives council and staff only one week to assemble information.

F. **Discussion of approval to proceed with estimate for cameras to be located at and around the Ball Field**

Interim City Manager, Gabe Armstrong went over the staff report. Council discussed. Speaking from the public was:

Frank Klein, chamber president asked about getting a camera on the "Bull and the Bear" at the Depot."

Council directed staff to look into making adjustments to cameras at the depot that can point at the "Bull and the Bear.

Jim Fletter, City Engineer spoke about camera systems.
Suzanne Roberts, county resident spoke about getting money from Homeland Security for help with funding.

A motion was made by councilman McKinney and seconded by Councilman Parnham to approve staff to proceed with estimates for cameras. The motion was passed by the following vote:

AYES: Hesch, Douglass, Parnham, McKinney and Mayor Barkle
NOES:
ABSENT:
ABSTAIN:

## 11. PRESENTATION

## 12. ADJOURNMENT

Being no further business to come before council by voice vote the meeting was adjourned at 9:04pm.

# STAFF REPORT TO THE COLFAX CITY COUNCIL

## FOR THE SEPTEMBER 11th, 2013 COUNCIL MEETING

**FROM:** Gabe Armstrong, Interim City Manager
Alfred A. "Mick" Cabral, City Attorney

**PREPARED:** September 4, 2013

**SUBJECT:** Consideration of Adoption of Resolution No. 37-2013: A Resolution of the City Council of the City of Coflax Rejection the Claim of Brooklyn's West Deli

**RECOMMENDED ACTION:** Adopt Resolution No. 37-2013

**ISSUE STATEMENT AND DISCUSSION:**

Brooklyn's West Deli claims to have sustained damages during the 2013 Fire and Steel event in Colfax. On June 26, 2013 and July 21, 2013, Mr. Homestead corresponded with the City and asked to be reimbursed by the City for his losses. On August 14, 2013, the City received an invoice from Brooklyn's West Deli in the amount of $1,923.36.

Staff investigated Brooklyn West Deli's allegations and concluded that the City is not responsible for causing or contributing to Brooklyn West Deli's claimed damages. Although the June 26 and July 21 letters and the invoice do not precisely follow the City's requirements for submission of a claim, staff determined to treat the correspondence and invoice as a claim so it can be formally rejected by the Council. Doing so will allow Brooklyn's West Deli to pursue its legal remedies.

Staff therefore recommends that the Council formally reject Brooklyn West Deli's claim. A resolution and notice of rejection are attached. Brooklyn's West Deli will have six months after the notice of rejection is mailed to sue for its losses.

**FINANCIAL AND/OR POLICY IMPLICATIONS**

There are no financial and/or policy implications of rejecting the claim.

**SUPPORTING DOCUMENTS**

1. Resolution rejecting the claim
2. Notice of Rejection of Claim

**COMMITTEE RECOMMENDATION**

This report was not discussed by any committee.

# City of Colfax

Resolution No. 37-2013

## A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLFAX REJECTING THE CLAIM OF BROOKLYN'S WEST DELI

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**WHEREAS**, on June 26, 2013 and July 21, 2013, Brooklyn West Deli corresponded with the City of Colfax and its Mayor regarding incidents that occurred during the 2013 Fire and Steel event in Colfax; and

**WHEREAS**, on August 14, 2013, the City received an invoice from Brooklyn's West Deli in the amount of $1,923.36 for damages allegedly sustained by Brooklyn's West Deli during the 2013 Fire and Steel event; and

**WHEREAS**, the City has determined to treat the above-referenced correspondence and invoice as a claim (the "Claim") even though they do not satisfy all of the statutory criteria of a proper claim against the City; and

**WHEREAS**, the claim of Brooklyn's West Deli should be rejected.

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

1. The foregoing recitals are true and correct statements of fact and are incorporated by reference into this Resolution.

2. The City Council of the City of Colfax hereby rejects the Claim and authorizes and directs the Interim City Manager to execute and cause to be delivered the Notice of Rejection of Claim in the form attached to this Resolution.

**The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Colfax held on the 11th day of September, 2013 by the following roll call vote of the Council**:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Donna L.Barkle, Mayor

ATTEST:

_____
Karen Pierce, City Clerk

CITY of COLFAX
C A L I F O R N I A
T • (530) 346-2313 F • (530) 346-6214 www.Colfax-CA.gov
33 S Main Street, PO Box 702, Colfax, CA 95713

# NOTICE OF REJECTION OF CLAIM

TO: Brooklyn's West Deli
7 N. Main Street, #1
P.O. Box 43
Colfax, CA 95713

PLEASE TAKE NOTICE that the claim you presented to the City of Colfax on June 26, 2013, July 21, 2013 and August 14, 2013 was rejected on September 11, 2013.

## WARNING

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code Section 945.6. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

Dated: September 11, 2013

CITY OF COLFAX

_____
By: Gabe Armstrong, Interim City Manager

# STAFF REPORT TO THE COLFAX CITY COUNCIL

## FOR THE September 11, 2013 COUNCIL MEETING

**FROM:** Gabe Armstrong, Interim City Manager

**PREPARED BY:** Alan Mitchell, City Engineer

**SUBJECT:** Consideration of Adoption of Resolution No. 38-2013: A Resolution Of The City Council Of The City Of Colfax Authorizing The Interim City Manager To Execute And Record A Notice Of Completion For The Sewer Pump Scada Communications And Server, City Project # 11-01.05

**RECOMMENDED ACTION:** Staff recommends that City Council accept the Sewer Pump Station SCADA Communications and Server Project as complete, adopt Resolution No. 38-2013 and direct the City Clerk to file a Notice of Completion.

**ISSUE STATEMENT AND DISCUSSION**:

On May 22, 2012, City Council awarded a construction contract to Aqua Sierra Control for the subject SCADA Communications project. The work included construction of a communications tower at the wastewater treatment plant, installation of radio at the pump stations, and install and programming of a SCADA server.

The project was part of a Regional Water Quality Control Board, USDA, and USEPA funded project to reduce the cost of operating the sewer pump stations and reducing the risk of sewer overflows at the pump stations, which also included lining Pond 3 at the wastewater treatment plant, and rehabilitating the wastewater collection system to reduce inflow and infiltration..

At this time, construction is complete to the satisfaction of the Project Engineer and the City Engineer. Staff recommends that City Council accept the project as complete and direct the City Clerk to file a Notice of Completion with the Placer County Recorder.

**FINANCIAL AND/OR POLICY IMPLICATIONS:**

Construction funding for the SCADA portion of the project was originally $180,000 and Council authorized a contract with Aqua Sierra Control in the amount of $78,940 with a budget up to $100,000. The final project cost is $88,801.

Construction costs for the SCADA project were funded with a loan from the Clean Water State Revolving Fund, which is also funding the pond 3 liner and I&I Mitigation projects. The project funds available for the three projects is $6,638,000 and approximately $6,590,000 has been expended to date. There is approximately $48,000 remaining funds for final construction items (slide gate and access ramp) leftover for the Pond 3 Liner project, and construction management for project closeout.

**SUPPORTING DOCUMENTS:**
Resolution No. 38-2013
Notice of Completion

**COMMITTEE RECOMMENDATION:**
This report was not discussed by any committee.

# City of Colfax

Resolution No. 38-2013

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLFAX AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AND RECORD A NOTICE OF COMPLETION FOR THE SEWER PUMP SCADA COMMUNICATIONS AND SERVER, CITY PROJECT # 11-01.05**

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**WHEREAS**, on May 22, 2012, the City awarded a contract to Aqua Sierra Controls, Inc., for construction and installation of the Sewer Pump Scada Communications and Server, City Project # 11-01.05, State Project # C-06-7086-110 (the "Project"); and

**WHEREAS**, the Project was completed on September 11, 2013.

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

1. The foregoing recitals are true and correct statements of fact and are incorporated by reference into this Resolution.

2. The City Council of the City of Colfax hereby accepts the Project as complete and authorizes the Interim City Manager to execute and record a Notice of Completion in the form attached to this Resolution and to provide notice thereof as required by law.

**The foregoing Resolution was duly and regularly adopted at a regular meeting of the City Council of the City of Colfax held on the 11th day of September, 2013 by the following roll call vote of the Council**:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Donna L.Barkle, Mayor

ATTEST:

_____
Karen Pierce, City Clerk

Recording Request by:

**City of Colfax**

When recorded return to:

**CITY OF COLFAX**
**PO BOX 702**
**COLFAX, CA 95713**

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN pursuant to California Civil Code §9204 that Aqua Sierra Controls, Inc., 1650 Industrial Drive, Auburn, California performed and completed for the City of Colfax the following contract, structure or work of improvement: Sewer Pump Station SCADA Communications and Server at the City's Wastewater Treatment Plant and Lift Stations 1, 2, 3 & 5, City Project # 11-01.05, State Project #C-06-7806-110 (the "Project"). The owner of the Project and property is the City of Colfax at the above address. The Project was completed on September 11, 2013.

Verification: I, Gabe Armstrong, depose and say: I am the Interim City Manager of the City of Colfax, the Owner identified in this Notice of Completion. I have read this notice of completion and know the contents thereof. The same is true of my own knowledge. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 11, 2013 at Colfax, California.

City of Colfax

_____
Gabe Armstrong, Interim City Manager

State of California
County of Placer

On September 11, 2013 before me, Karen Pierce, Notary Public, personally appeared Gabe Armstrong who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____
KAREN PIERCE, CITY CLERK

# STAFF REPORT TO THE COLFAX CITY COUNCIL

## FOR THE SEPTEMBER 11, 2013 COUNCIL MEETING

**FROM:** Gabe Armstrong, Interim City Manager

**PREPARED:** September 4, 2013

**SUBJECT:** Consideration of Approval of Ball field and Splash Park surveillance system

**RECOMMENDED ACTION**: Approve the purchase and installation of surveillance systems for both the ballpark and splash Park area.

**ISSUE STATEMENT AND DISCUSSION**:
The City ballpark, kid's park and splash park areas are in constant danger of vandalism. In just the last couple weeks the snack bar at the ball field was broken into, vandalized, and money was stolen from the cash register. In addition to the snack bar incident, recently on a separate occasion someone went into the men's bathroom and smashed the toilet to smithereens.

Staff has researched and found a good system that I recommend purchasing and installing. One system will go at the ball field and a seperate system at the splash Park.

I am confident that city staff will be able to complete the installation of both systems without the use of contractors.

The supporting documentation has the price of the recommended equipment for one system only. The recommendation is to purchase two systems. The $1500.00 request will include both systems and all incidentals such as cable, connectors, conduit, etc.

The recommended security system has the capability for remote access. The city could implement this feature at any time with the addition of an Internet connection. This feature could prove to be very useful, for example when snow starts falling at 4 AM the Public Works Director can log on and see how much snow has fallen and make a determination whether to send public works crews out to plow streets.

**FINANCIAL AND/OR POLICY IMPLICATIONS:**
Not to exceed $1500.00

**SUPPORTING DOCUMENTS:**
Equipment specifications.

ebay

Listed as ASUS Monitor in category: Computers/Tablets & Networking > Monitors, Projectors & Accs > Monitors

Item: 400543303834

## NEW Asus VB178T 17" LED LCD Monitor - 5 ms

buy ( 2637597 ) Top-rated seller

Item condition: **New**

Quantity: 1 More than 10 available

Price: **US $110.99**

Warranty: Available from **$17.99**

BillMeLater **Spend $99+ and get 6 months to pay**
Subject to credit approval. See terms

Have one to sell? Sell it yourself

Learn more

+2

## Shipping and handling

Item location: United States, United States

Shipping to: United States
Excludes: Alaska/Hawaii, US Protectorates, APO/FPO, PO Box

| Shipping and handling | To | Service | Estimated delivery* |
|---|---|---|---|
| **Free shipping** | United States | Economy Shipping | Between Fri. Sep. 6 and Thu. Sep. 19 |
| US $4.99 | United States | Standard Shipping | On or before Tue. Sep. 10 to 95713 |
| US $5.49 | United States | Expedited Shipping | Between Fri. Sep. 6 and Tue. Sep. 10 |

* Estimated delivery dates include seller's handling time, and will depend on shipping service selected and receipt of cleared payment . Delivery times may vary, especially during peak periods.

| Domestic handling time | Estimated sales tax |
|---|---|
| Will usually ship within 1 business day of receiving cleared payment. | Seller charges sales tax in multiple states. |

## Return policy

| After receiving the item, contact seller within | Refund will be given as | Return shipping |
|---|---|---|
| 30 days | Money back | Buyer pays return shipping |

**Return policy details**

See our Return Policy section in the item description for more information.

## Payment details

| Payment method | Preferred / Accepted |
|---|---|
| PayPal | PayPal Preferred |
| BillMeLater a PayPal service | Accepted |

## Immediate payment required for this item

Immediate payment of US $110.99 is required.

## Seller's payment instructions

By continuing with your purchase using the eBay Buy It Now button, you agree to the Buy Terms of Use (see item description for details). Buy has more than 14 million customers and has been selling online for over 11 years.

## Item specifics

Brand: ASUS MPN: VB178T

## Detailed item info

**Product Information**
The 17 ASUS VB178T LED monitor delivers the essential features for working on documents, spreadsheets, and other business-related tasks with a brilliant LED-backlit display for enhanced energy efficiency. Boasting both ENERGY STAR and EPEAT Gold certifications, is made to save on electricity costs without compromising on visual performance.

**Product identifiers**

| | |
|---|---|
| Brand | ASUS |
| UPC | 886227198078 |
| MPN | VB178T |

## Seller's description

Electronics Cameras Computers Software Housewares Sports DVDs Music Books Games Toys

Company Info | Checkout Info | Shipping Info | Return Policy | FAQ's

Weekly Specials

Electronics

Cameras

Computers

Software

Houseware

Sporting Goods

**By continuing with your purchase using the eBay Buy It Now button, you agree to the Buy Terms of Use at http://stores.ebay.co**

### Asus VB178T 17" LED LCD Monitor - 5 ms - Adjustable Display Angle - 1280 x 1024 - 16.7 Millic Speakers - DVI - VGA - Black - EPEAT Gold, ENERGY STAR, ErP, TCO Certified Displays 5.2, W

**THIS IS A BRAND NEW UNOPENED ITEM.**

### Description

**True-to-life pictures powered by LED**

ASUS SPLENDID™ Video Intelligence Technology carefully evaluates every pixel in every frame and dynamically adjusts them acc

### Features

Speakers Yes
Built-In Devices Speaker
DVI Yes
VGA Yes
Product Type LCD Monitor
Manufacturer Part Number VB178T
Manufacturer ASUS Computer International
Product Model VB178T
Product Name VB178T LCD Monitor
Product Series VB
Brand Name Asus
Package Contents

- VB178T LCD Monitor
- DVI Cable
- VGA Cable
- Audio Cable
- Power Cord
- Quick Start Guide
- Support CD
- Warranty Card

Platform Supported PC
Certifications & Standards

- UL/cUL
- CB
- CE
- FCC
- CCC
- BSMI
- Gost-R
- C-Tick
- VCCI
- PSB
- ISO9241-307
- TUV-GS/ERGO
- WHQL

Green Compliance Certificate/Authority EPEAT Gold
Green Compliance Certificate/Authority ENERGY STAR
Green Compliance Certificate/Authority ErP
Green Compliance Certificate/Authority TCO Certified Displays 5.2
Green Compliance Certificate/Authority WEEE
Green Compliance Certificate/Authority RoHS
Green Compliance Certificate/Authority J-Moss (Japanese RoHS)
Green Compliant Yes

Weight (Approximate) 7.72 lb
Color Black
Height 12.4"
Width 14.8"
Depth 2.4"
VESA Mount Compatible Yes
VESA Mount Standard 100 x 100
Height with Stand 15.20"
Width with Stand 14.84"
Input Voltage 110 V AC
Input Voltage 220 V AC
Depth with Stand 8.27"
Operating Power Consumption 25 W

DVDs & Movies

Music

Books

Games

Toys

Operating Power Consumption 25 W
Standby Power Consumption 1 W
Off-Mode Power Consumption 1 W
Features Splendid Video Intelligence Technology
Features Security Lock
Features Cable Management
Response Time 5 ms
Mount Type Wall Mountable
Screen Size 17"
Screen Mode SXGA
Number of Screens 1
HDCP Supported Yes
Horizontal Viewing Angle 170°
Vertical Viewing Angle 160°
Backlight Technology LED
Adjustable Display Angle Yes
Contrast Ratio 50,000,000:1
Brightness 250 Nit
Color Supported 16.7 Million Colors
Maximum Resolution 1280 x 1024
Standard Refresh Rate 75 Hz
Limited Warranty 3 Year

Buy SKU: 235668433

If you want additional information regarding the content of this item please refer to the manufacturer for more details.

Top Selling Products

# Buy Store Policies

## Payment and Checkout Info

PayPal is the ONLY payment method we accept at this time. Your PayPal account must be a Verified U.S. PayPal Account. We also
Address.

## Shipping Info

The shipping table below is to be used as a general reference guide. The details that apply to your specific purchase will be listed

| Shipping Method | Shipping Timeframe |
|---|---|
| Other (Budget) | Usually arrives within 11 to 14 business days |
| Standard (Ground) | Usually arrives within 4 to 7 business days |
| Expedited (Two Day) | Usually arrives within 2 to 4 business days |
| Overnight (Next Day) | Usually arrives within 1 to 3 business days<br>(1 business day in transit with carrier) |

**Please note:**

- We process and ship orders Mon – Fri and are unable to offer weekend or holiday delivery.
- We only ship to the 48 Continental United States. We are unable to ship internationally or to Hawaii, Alaska and other US Pr
etc.).
- We are unable to ship to PO Boxes or APO/FPO addresses.
- We utilize over 80 warehouses across the Continental United States. If you order two or more products from us, they may sh
- Unfortunately, we are unable to select which shipping company/carrier will deliver your product. This might affect you if you l
from any specific shipping company.

# Return Policy

Returns are permitted and must be initiated by the buyer within 30 days of the delivery date.

In order to return an item you must contact us to request a Return Merchandise Authorization Number (RMA).

See http://stores.ebay.com/Buys-Internet-Superstore/Return-Policy.html for full Return Policy.

#2

ebay

Consumer Electronics > Home Surveillance > Surveillance Security Systems
Consumer Electronics > Home Surveillance > Digital Video Recorders, Cards

Item: 331005571693

## Defeway NEW 4CH HDMI 960H DVR 4 Outdoor 700TVL IR-Cut Security Camera System 1TB

edvr ( 824 ☆ )

Item condition: **New**

Quantity: 1 8 available

Price: **US $399.99**

Warranty: Add from **$53.99**

BillMeLater **Spend $99+ and get 6 months to pay**
Subject to credit approval. See terms

**Have one to sell?** Sell it yourself

Learn more

## Shipping and handling

Item location: San Leandro, California, United States

Shipping to: United States
Excludes: Alaska/Hawaii, APO/FPO

| Shipping and handling | To | Service | Estimated delivery* |
|---|---|---|---|
| **Free shipping** | United States | Standard Shipping | Between Thu. Sep. 19 and Wed. Sep. 25 |
| US $20.00 | United States | Expedited Shipping | Between Thu. Sep. 19 and Mon. Sep. 23 |

* Estimated delivery dates include seller's handling time, and will depend on shipping service selected and receipt of cleared payment . Delivery times may vary, especially during peak periods.

**Domestic handling time**

Will usually ship within 10 business days of receiving cleared payment.

## Return policy

| After receiving the item, contact seller within | Refund will be given as | Return shipping |
|---|---|---|
| 14 days | Money back | Buyer pays return shipping |

## Payment details

| Payment method | Preferred / Accepted |
|---|---|
| PayPal MasterCard VISA DISCOVER BANK | Accepted |
| BillMeLater a PayPal service | Accepted |

## Item specifics

| | | | |
|---|---|---|---|
| Camera Type: | Bullet | Color Mode: | Color Day, B&W Night |
| Camera Connectivity: | CCTV/Closed System - Wired | Camera Feature: | Waterproof/Outdoor, 700TVL,IR-Cut |
| Brand: | Defeway | DVR Feature: | 960H recording;HDMI,4CH Audio recording,4CH ALARM |
| Model: | D5010WH4-4xC1011DP7-1000G | Hard Drive Capacity: | 1000G |
| MPN: | D5010WH4-4xC1011DP7-1000G-X1801F3 | DVR Type: | Digital Video Recorder |
| Number of Cameras: | 4 | Camera resolution: | 700TVL |
| DVR/NVR Channels: | 4 | Camera sensor: | CMOS image sensor |
| Country of Manufacture: | China | | |

Seller's description

**Customer Needs:** With 15 years OEM experience for world top security brands understands your needs.

**Product Quality:** Defeway Security products are CCC/CE/FCC/ROHS certificate

**Competitive Price:** Defeway Security, perfectly controlling the cost, provides y

Store Home | Security System | Surveillance DVR | Security Camera | Wireless Products | Accessc

## Product Details

Choose Defeway, home surveillance manufactur you get high-quality products with the most competitive price.

Defeway D5010WH4, a complete DVR security system, owns all the latest features, motion detection recording, remote viewing, USB backu etc. D5010WH4, 960H series, with 960x480 resolution recording on each channel, 960H is a 34% increase over standard D1 resolution (DVD quality) and a 500% increase over CIF, giving a sharper, undistorted image with a true-to-life aspect ratio that enhances your ability to view your world.

- HDMI output for perfect display on LCD PC TV monitor
- 4 Audio Inputs
- 4 Alarm Inputs
- Dual-core CPU presents the powerful preview, recording, playback and network performance
- All channel simultaneous realtime playback
- H.264 dual-stream video compression ,Up 4 cameras with 960H(NTSC:25fps PAL:30f realtime preview
- Record on motion detection, schedule or continuous
- Smart video detection: MD, camera blank, video loss
- USB ports for backup, image transfer, firmware upgrade and mouse
- Expandable up to 3TB SATA HDD
- With the sound system for the protection circuit, unique triple watchdog function, v low power consumption, to ensure the

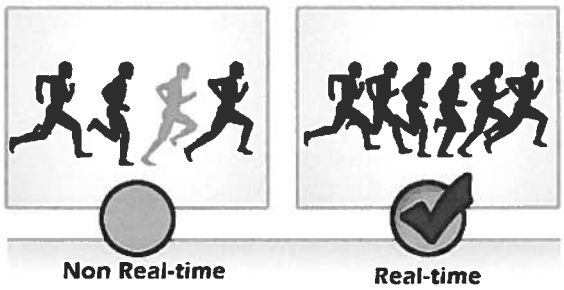
Show

## FullHD - High definition recordin

View your world like never before with the first full HD 1080p surveillance system in the consumer market. Thi easy to install Do-It-Yourself security bundle boasts fu 1080p HD viewing and recording capabilities, producing outstanding high definition images that can be digitally zoomed during live viewing and playback mode. Captur every important event in crystal clear High Definition detail.

## 960H Recording resolution

DEFEWAY was first to market with the industry leading 960H (960x480) recording resolution that ensures high quality live-viewing and recording. 960H is a 34% increase over standard D1 resolution (DVD quality) and a 500% increase over CIF, giving a sharper, undistorted image with a true-to-life aspect ratio that enhances your ability to view your world.

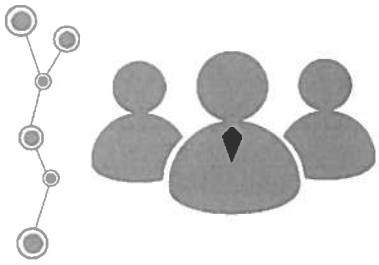



## Real-Time Recording

One of the most important features of a DVR is its abili to record at what frame rate in its top resolution forma Your eyes see everyday life at roughly 30 frames per second (fps), Real-Time frame rates range from 24fps-30fps. Hollywood movies for example are filmed at 24 frames per second, which gives them more flexibility wi editing. DEFEWAY DVRs can record up to 30fps Real-Ti at their highest resolution format on multiple if not at a channels.

## Multiplex Operation

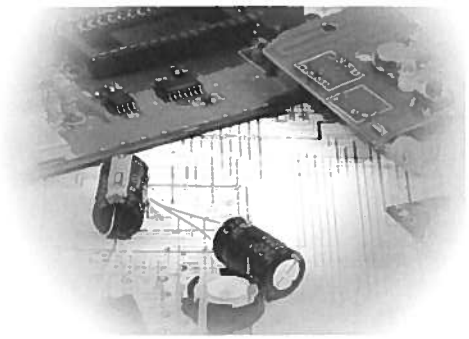
View, Record, Playback, Back Up & Remotely Control the system simultaneously! View live video on one monitor, while recording all channels, while also using playback and reviewing an incident on another screen, while also backing up recorded footage on to a USB stick, and at the same time remotely viewing the system on your smartphone. That's what we call a security grade workhorse!



## Anytime & Anywhere

You can view your DVR's footage with PC, or directly o your smart phone, including iPhone®, BlackBerry®, Android™, Windows Mobile®, or Symbian™, as well as

your iPad®. Whether you are at home or overseas, whehter you are working or travelling, the system enat you to view your footage anytime and anywhere just w PC or smart phone.



## FCC Verification

This equipment has been tested and found to comply with the limits for Class B digital device, pursuant to part 15 of the FCC Rules

## Designed for 24/7 operation

This DVR includes a pre-installed 100% Duty Cycle Security Grade Hard Drive. Record to a specialty hard drive specifically designed for storing surveillance footage, providing weeks or even months of reliable video recordings.

**A Crystal Clear Picture:**The DEFEWAY-PRO Surveillance System is equipped with high resolution 700 TVL cameras. The ability to view live and recorded footage clearly makes a difference. Featuring a 1/3" Color CMOS Image sensor with an automatic cut filter resulting in sharp, crisp clear video you can come to expect in any picture.

**Vandal-resistant design:**Secure and convenient Wire-Thr Mount Stand allowing for completely hidden wires and vandalism prevention

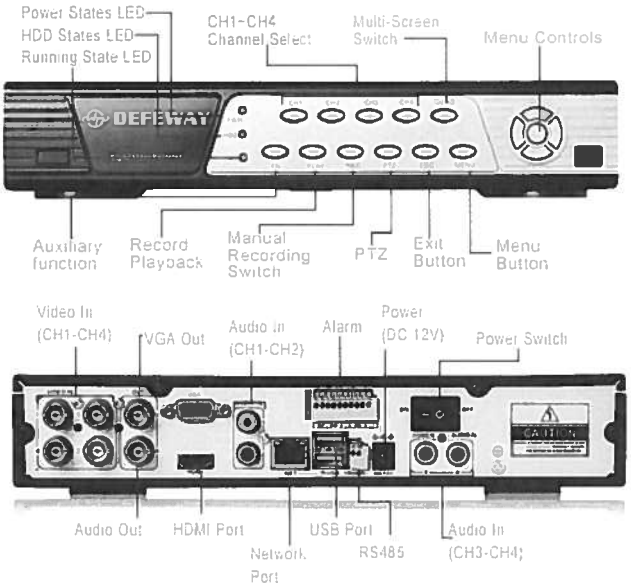
**DEFEWAY CAMERAS WON'T STOP EVEN ON RAINY OR SNOWY DAYS** Defeway Cameras with professional-grade aluminum housing and steady caps, are weather resistant. No matter it's rainy or snowy, Defeway cameras still work professionally with optimal picture quality. Defeway cameras free all your worries.

**DEFEWAY CAMERAS, PROFESSIONAL SOLDIERS, ARE ST WORKING PROFESSIONALLY, WHEN EVERYONE ELSE IS ENJOYING THE NIGHT.** Defeway C1011DP7 cameras, equip with night vision, see up to 100 feet away, even in total darkness. Up to 42 IR LEDS provide detailed night imagey. Thieves never have a chance, even through at complete darkness. Defeway Cameras are defending your world.

## Package Includes

- (1) DEFEWAY 4CH 960H Standalone DVR(1000G hard drive included)
- (2) DC 12V/2A Power Adapter for DVR(cUL certified)
- (4) 60ft video BNC power security camera cables
- (4) C1011DP7 700TVL CMOS SECURITY CAMERA(IR-CUT)
- (1) Quick Start Guide
- (1) USB Mouse
- (1) IR Remote Control(batteries not included)

## Application Diagram



Specifications FAQ

| SYSTEM | D5010WH4 |
|---|---|
| Operating System | Embedded Linux **ARM A9 chip** |
| Pentaplex | Simultaneous View, Record, Playback, Backup & Remote Monitoring |
| Number of Channels | 4 Channel |
| Inputs/Outputs | |
| Video IN | 4 x 1Vp-p, CVBS, 75ohms, BNC |
| Video OUT | 1 x BNC |
| VGA OUT | YES 1280x1024, 800x600, 1024x768 |
| HDMI | Yes 1920x1080P. Video and Audio |
| Audio IN | 4 Line in(RCA) |
| Audio OUT | 1 line OUT (RCA), G.711 |
| USB Port | 2 at the back |
| Alarm IN | 4 ch IN |
| Alarm OUT | 1 ch OUT |
| PTZ control | RS-485 |
| Display | |
| Live Display | 4 ch: 1,4 |
| Live Display Speed | 120 (4 ch)/ 240 (8 ch)/ 240 (16 ch) NTSC<br>100 (4 ch)/ 200 (8 ch)/ 200 (16 ch) PA |
| OSD | ON/OFF |
| System Navigation | USB Mouse, IR Remote Controller, Front Panel |
| Motion Area Setting | Adjustable grid (10 x15) NTSC<br>Adjustable grid (12 x15) PAL |
| Sensitivity levels | 8 |
| Firmware Upgrade | Via USB device |
| User Authority | By user group |
| RECORDING | |
| Video Compression | H.264 |
| Audio Compression | ADPCM |
| Recording Resolution | NTSC:<br>960H: 960x480, 960x240, 480x240<br>D1 mode: 720x480(D1), 720x240(2CIF), 360x240(CIF)<br>PAL:<br>960H: 960x576, 960x288, 480x288<br>D1 mode: 720x576(D1), 720x288(2CIF), 360x288(CIF) |
| Recording Speed: | NTSC:<br>4ch: 960H: 120fps @ 960x480, 960x240 & 480x240<br>D1 mode: 120fps @ D1, 2CIF & CIF<br>PAL:<br>960H: 100fps @ 960x576, 960x288 & 480x288<br>D1 mode: 100fps @ D1, 2CIF & CIF |
| Recording Resolution Setting | Per camera for different resolutions(CIF/2CIF/D1/960H) |
| Recording Schedule | By hour, by day, by recording mode, by motion, by alarm, by ch |
| Pre Recording | Max. 10 Secs |
| Post Recording | Max. 5 Minutes |
| Reliability | Watch-Dog, Auto-recovery after power failure |
| Covert Video | Yes |

| PLAYBACK | |
|---|---|
| Playback | Channel 1,4 |
| Playback Players | Backup Player |
| Audio Play | Yes |
| STORAGE & ARCHIVE | |
| Storage | Up to 2 HDD's (SATA) |
| Maximum Capacity | Up to 2 x 2 TB |
| Backup Media | USB Flash Drive & HDD |
| Backup File Format | H.264 file (AVI generator included) |
| CONNECTIVITY | |
| DDNS | Free DEFEWAY DDNS |
| System Configuration | Full setup configuration over network |
| Supported Operating Systems | Windows™ XP, Vista, 7<br>Mac OSX Snow Leopard 10.6 |
| Browsers | Internet Explorer & Safari 5.0 |
| Email notification | Text with snapchat (just support GMAIL) |
| Instant Smart Phone Compatibility | Ins Instant Smart Phone Compatibility on iPhone™, BlackBerry (supported model numbers: 9700, 9000), Android (version 1.5 & above), Window Mobile (6.0, 6.5), Symbian 3rd & 5th generation phones |
| CMS | Free (Windows OS) |
| Ports | Programmable by User |
| Network Protocol | LAN, DHCP, Dynamic IP, DDNS |
| Network Interface | 10 / 100 Mbps Ethernet (RJ-45) |
| Network Speed Control | 48Kb ~ 8MB/sec. |
| Language | |
| GENERAL | |
| Power Supply | DC12V |
| Operating temperature | 32° ~ 104° F / 0° ~ 40° C |
| Humidity | 10 ~ 90% NC |
| Unit Dimensions | Product size:27*5.2*21.3cm<br>Color box size:31.5*11.5*27.5cm |
| Weight | 1.675KG(without HD,a whole color box weight) |

| Model:C1011DP7 | |
|---|---|
| Image Sensor | Pixelplus1/3 inch Image Sensor |
| Effective Pixels | 756(H) x504(V) |
| Horizontal Resolution | 700TVL |
| Signal System | PAL/NTSC |
| Lens | 3.6mm |
| View Angle | 62.2 degrees |
| IR Cut Filter | Yes |
| IR LED | 42 pcs minimum |
| Frame Rate | PAL: 50 fields/sec; NTSC: 60 fields/sec |
| Minimum Illuminance | 0 Lux (IR ON) |
| Gain Control | Auto |
| S/N Ratio | >48dB (AGC OFF) |
| Gamma Characteristics | 0.45 |
| Shutter Speed | 1/50(1/60)~1/100000 |
| Weather Rating | IP66 |
| Infrared Wave Length | 850nm |
| Video Output | 1.0Vp-p 75 Ohm |
| Night-Vision Range | 100ft+ (30m) |
| Power Supply | DC 12V ±10%(IR ON) |
| Operation temp. | -22°F~+122°F ( -30℃~+50℃) |

## Feedback

We are committed to your satisfaction. Your positive feedback and 5 stars rating will be highly appreciatecd.

Please feel free to contact us first for any product or service issues before leaving feedback or escalating to eBay for solutio
We will try our best to offer you a proper solution.

## Shipping Terms

**US Shipping Terms:**

- FREE US Standard Shipping for most items.
- We offer FREE standard shipping to Continental US , Alaska, Hawaii and US Protectorates for most items.
- We reserve the right to determine the best shipping method and carrier available.
- Free Standard Shipping, delivery time 4 to 6 business das. For US Protectorates Street, delivery time will be 4 to 8 busi days.
- Two-day shipping and One-day shipping service is available for Continental US street.
- Two-day Priority Shipping, delivery time 2 business days.
- One-day Shipping(Get It Fast), delivery time 1 business days.
- Tracking No. and estimated delivery will be updated within 1 BUSINESS days after shipment.
- Currently, pick-up is not available.
- **Note: For buyers to receive items sooner, some items may be despatched in different packages and delivered different days.**

## Return Policy

Products may be returned for refund or replacement within 30 days from the purchase date. Returned merchandise must be unused, in original packaging and include all accessories. Shipping costs are not refundable.

Please contact the seller prior to any return. The seller will provide Return Merchandise Authorization(RMA) and Mailing Label the buyer. Any products returned to the seller without RMA will delay the refund issue or replacement.

We will employ every resource to ensure that your return is processed promptly and without hassle. Please contact us for an product or service issues before escalating to eBay for solution.

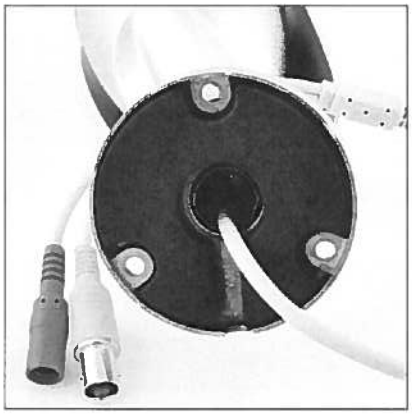
## Contact Us

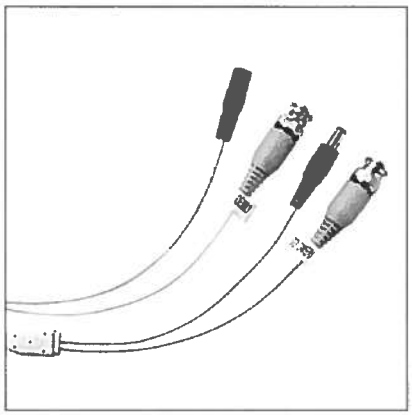
Pls feel free to contact us through eBay message center for any question. We are committed to your satisfaction. Your suggestions help us to be better and provide you better service and products. Thanks for choosing Defeway Security.

## Questions and answers about this item

No questions or answers have been posted about this item.

## Listing images





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# STAFF REPORT TO THE COLFAX CITY COUNCIL

## FOR THE September 11, 2013 COUNCIL MEETING

**FROM:** Gabe Armstrong, Interim City Manager
Alfred A. "Mick" Cabral, City Attorney

**PREPARED:** August 21, 2013

**SUBJECT:** Conduct Discussion And Provide Direction To Staff Regarding Proposed Council Rules Of Procedure

**RECOMMENDED ACTION:** Staff recommends that the Council discuss the proposed rules of procedure and provide direction to staff.

**ISSUE STATEMENT AND DISCUSSION:**

California cities are classified as general law cities or as charter cities. Colfax is a general law city organized as authorized by Government Code §34102. General law cities are subject to all constraints imposed by the general law of California.

Government Code §36813 allows the Council to establish rules for the conduct of its proceedings. The same statute permits the Council to punish a member of the Council or any other person for disorderly behavior at a meeting.

The law imposes few restrictions on the actual rules the Council can adopt for the conduct of its proceedings. The restrictions that exist are fairly obvious. For example, Government Code §54954 requires the Council to hold at least one regular meeting per month. The Council cannot adopt rules of procedure that allow for less than one regular meeting per month. The Brown Act governs the process for noticing and conducting meetings. The Council cannot adopt rules of procedure that modify the Brown Act's requirements. There are many similar examples. The relevant point is that the Council has considerable discretion to adopt local rules and is restrained only by the general statutory and case law applicable to the subject matter it proposes to locally regulate.

The rules of procedure submitted for consideration represent the first draft. Staff anticipates that every member of the Council, the City Attorney, staff and the public will suggest modifications and improvements to this initial draft. Therefore, this draft has been submitted for review and comment. The rules will be submitted for approval once all comments have been received and considered and Council is satisfied that they are appropriate adoption and implementation in Colfax.

## FINANCIAL AND/OR POLICY IMPLICATIONS

Rules of procedure constitute a significant policy statement because, once adopted, they will govern many aspects of how the Council conducts its business. The draft rules warrant careful consideration before they are adopted.

## SUPPORTING DOCUMENTS

City Council Rules of Procedures (Proposed – August 14, 2013)

## COMMITTEE RECOMMENDATION

This report was not discussed by any committee.

# CITY COUNCIL
# RULES OF PROCEDURES
**Proposed – August 14, 2013**

## TABLE OF CONTENTS


1. Authority
2. General Rules
3. Types of Meetings
4. Chairman and Duties
5. Order of Business and Agenda
6. Ordinances, Resolutions, and Motions
7. Creation of Committees, Boards and Commissions
8. Citizen's Rights
9. Amendments
10. Rules of Conduct

1. Authority

1.1 Charter: General Law of the State of California provides that the City of Colfax City Council may determine its own rules of procedure. The following set of rules shall be in effect upon their adoption by the Council and until such time as they are amended or new rules adopted in the manner provided by these rules.

2. General Rules

2.1 Compelling Attendance: City Councilmembers are expected to attend all scheduled meetings. If absence is unavoidable, the City Manager or Mayor shall be notified as stated in Government Code Section 36513.

2.2 Ordinances: Confined to One Subject; Exceptions: No ordinance except an appropriation ordinance, an ordinance adopting or embodying an administrative or governmental code, or an ordinance adopting a code of ordinances, shall relate to more than one subject, which shall be clearly stated in its title.

2.3 Right of Floor for Council Members: Any member desiring to speak shall be recognized by the Chair of the meeting (de facto Chair will be the currently sitting Mayor), or the council member assigned to act as Chair by majority voice vote of the attending City Council members, in the Mayor's absence, and shall confine his or her remarks to the subject under consideration or to be considered.

2.4 Right of Floor for Staff: The chair will be attentive to staff's desire to provide professional advice and recommendations.

2.5 Right of Floor for Public: Members of the public wishing to comment must go to the podium to speak from the microphone at appropriately defined public comment periods during the meeting. All parties speaking shall present comments with courtesy and respect for all others attending the meeting.

- Persons wishing to speak must announce their name and address.
- The City Council will listen with respect and an open mind.
- Council responses to speakers will be as follows:
  1) Short answers by Council or staff as appropriate; or
  2) Item is directed to staff for later action/follow-up; or
  3) Item is placed on a future agenda
- Conversation between the public and staff or the City Council will not be allowed.
- A 3-minute time limit per speaker shall be enforced when there are numerous speakers addressing a single agenda item.

2.6 City Manager: The City Manager shall attend all meetings of the Council unless excused. The City Manager shall designate at his/her discretion, staff representative to Subcommittees and Commissions meetings.

2.7 City Attorney: The City Attorney shall attend all regular meetings of the Council unless excused by the Mayor and shall attend special meetings and workshops upon request. The City Attorney shall act as the Council's parliamentarian.

2.8 City Clerk: The City Clerk or his/her delegate shall attend all meetings of the Council unless excused and shall keep the official journal (minutes) and perform such other duties as may be requested by the Council.

2.9 Officers and Employees: Staff of the City, when there is pertinent business from their departments on the Council agenda, shall attend such Council meetings upon request of the City Manager or Mayor.

2.10 Rules of Order: "Roberts Rules of Order" shall be adopted and govern the proceedings of Council Meetings where they are not in conflict with these rules.

3. Types of Meetings:

3.1 Regular Meeting: The Council shall meet in the Council Chambers for regular meetings. Open session Council Meetings are to commence at 7:00 p.m., on the second and fourth Wednesday of each month, unless otherwise specified in advance.

3.2 Special Meetings: Special meetings may be called by the Mayor or by a majority of the members of the Council. The city manager shall make a finding that the issue cannot wait until the next regular meeting and/or the issue is so important and extensive that it should be discussed at a special meeting dedicated to the item. The call for a special meeting shall be filed with the City Clerk in written form, except that an announcement of a special meeting during any regular meeting at which all members are present shall be sufficient notice of such special meeting. The call for a special meeting shall specify the day, the hour, and the location of the special meeting and shall list the subject or subjects to be considered. No special meeting shall be held until at least forty-eight (48) hours after the call is issued. Only such business may be transacted at a special meeting as may be listed in the call for said meeting or an incident thereto.

3.3. Emergency Meetings: An emergency meeting may be called when the Council determines that an emergency situation exists. At least one hour prior to the meeting, telephonic notice must be provided to all Council Members as well as all media outlets, which have requested that they receive notice of special meetings called pursuant to Government Code Section 54956. Emergency meetings may not be held in closed session per Government Code Section 54956.5.

3.4 Adjourned Meetings: Any meeting of the Council may be adjourned to a later date and time, provided that no adjournment shall be for a longer period than until the next Regular Meeting.

3.5 Study Sessions: The Council may meet informally in Study Sessions (open to the public), at the call of the Mayor or a majority of the Council. Any Study Session shall be noticed and

conducted in the same manner as a regular council meeting. A study session is for discussion only; no action can be taken by t he Council.

3.6 Executive Sessions: Executive Sessions or closed meetings may be held in accordance with the provisions of the Brown Act. Topics that may be discussed would be: (1) Personnel matters, (2) Consideration of acquisitions of property for public purposes, (3) Potential or pending litigations in which the City has in interest. Final action taken on a matter in closed session must be reported out orally upon reconvening in open session. A written summary of final action taken shall be included as an agenda item at the next regularly scheduled council meeting.

3.7 Adjournment of Meetings: All City Council Meetings shall end at 12:00 a.m. with no new business beginning after 11:30 p.m. Agenda items, which have commenced consideration before the 12:00 hour, shall be completed prior to adjournment. Upon completion of that item the meeting shall be adjourned.

4. Chairman and Duties

4.1 Chair: The Chair of City Council meetings shall be the Mayor, and in his/her absence, the Mayor Pro-Tem, or other mutually agreed upon appointee by the Council. In the event of a disagreement regarding choosing the Chair, nominations and roll-call votes will choose the chair by majority vote of the Council.

4.2 Call to Order: The Chair shall call the meetings of the Council to order. In the absence of both the Mayor and Mayor Pro-Tem, the senior Council Member who shall act as the temporary Chair shall call the meeting to order such that, if necessary, a new chair can be chosen immediately pas described in section 4.1 above.

4.3 Preservation of Order: The Mayor shall preserve order and decorum; prevent attacks on personalities or the impugning of members' motives, and confine members in debate to the question under discussion.

4.4 Points of Order: The Mayor shall determine all points of order, subject to the right of any member to request a vote of the entire City Council on the questions whether the determination of the Mayor should be sustained.

4.5 Questions to be stated: The Mayor shall re-state all questions submitted for a vote and announce the result. A roll call vote shall be taken upon the request of any member.

4.6 Substitution for Chair: The Mayor may call on the Mayor Pro-Tem, or other Council Member, to temporarily chair the meeting in order to take part in debate, to make a motion, or to cover a temporary absence. Such substitution should not continue beyond adjournment.

4.7 Rights of Council to Discipline: Any deliberate assembly has the inherent right to make and enforce its own laws and to enforce its own rules and laws, including the discipline of a member of the deliberative body.

The City Council shall have a right to discipline, censure and punish a member where a standard majority of the Council finds that actions of a member are arbitrary and conspiring to the detriment of the City of Colfax. Such discipline, after the Council duly notices and publicly conducts its investigation can include, public censure, civil charges and in grave or extreme cases recommendation to the Colfax citizens at large for the removal of a sitting Council Member.

4.8 City Council Leadership and Expectations: It is the policy and practice of the City Council that each year the City Council shall select a Mayor and Mayor Pro-Tem. These positions shall be filled exclusively by fully and duly elected Council Members, and then by total vote count each received during each Council Member's most recent public election as confirmed by the City Clerk, and rotated in such a way that the elected Council Members have an opportunity to serve as Mayor within five (5) years. A Council Member shall serve in the position of Mayor for a term of one (1) year.

4.8.1 Inability to Serve as Mayor or Mayor Pro-Tem: In the event of a death, removal from office, extreme illness, or abdication, the City Council shall determine who shall serve as the Mayor or Mayor Pro-Tem for the term vacated based upon the rotation described in 4.8 above.

4.8.2 Appointment of Mayor Pro-Tem to Mayor: Upon completion of term as Mayor Pro-Tem, City Council shall appoint the Mayor Pro-Tem as Mayor for a term of one (1) year insofar as that appointment is consistent with 4.8 above.

4.8.3 The policy and practice for selection of Mayor and Mayor Pro-Tem provided in section 4.8, 4.8.1 and 4.8.2 above may be invoked to choose a new Mayor and Mayor Pro-Tem if ten or more percent (10%+) of the registered voters within the city limits of Colfax attend any regular meeting, and upon registering their name and address with the City Clerk, request such.

5. Orders of Business and Agenda

5.1 Order of Business: Shall be as in the agenda prepared by City Clerk as follows:

Colfax City Council Agenda

1. Open Closed Session
    a. Call To Order
    b. Roll Call
2. Public Comment – Closed Session Items
3. Closed Session Agenda
4. Opening of Regular Session
    a. Pledge of Allegiance
    b. Roll Call
    c. Announcement of action taken during Closed Session
    d. Approval of Agenda Order
5. Council and Staff Reports

6. Consent Agenda
7. Presentations
8. Public Comment
9. Public Hearing
10. Council Business
11. Adjournment

5.2 Agenda: the City Clerk shall as contained in the Agenda prepare the order of business of each meeting. The Agenda and all Agenda related to be considered by the Council shall be delivered to members of the Council five calendar days prior to the meeting to which it pertains. The Agenda and all Agenda related reports shall be available on line, posted at identified public notice boards at City Hall and the Colfax Post Office, and distributed via email to any members of the public who request receipt of council agendas, five calendar days prior to the meeting to which it pertains. Any council member may request an agenda item through the City Manager, City Clerk and/or City Attorney.

5.2.1. Supplemental Agenda: A Supplemental Agenda and related materials may be distributed up to 72 hours before an agendized meeting upon a finding by the Mayor and the City Manager that the materials or the matter to be on the agenda came to the attention of the city after the five day agenda required by 5.2 above had been published and made available.

5.3 Presentation by Members of Council: Matters that have not been placed on the agenda and do not relate directly to an agenda item shall not be discussed at a meeting by staff or members of the City Council, except that the Mayor and any Council Member may bring before the Council for scheduling any business or matter that is appropriate for future discussion. For the limited purpose of scheduling, the item may be described with enough sufficiency to allow the other members of the Council to determine whether the matter should be placed on a future agenda, and to set a date for future discussion.

5.4 Process for Addressing Agenda Items before the City Council

- Mayor reads the agenda item
- Staff presents their report
- Council questions staff
- Public Comments are heard
- Council discusses item
- A motion is made
- Final Council discussion
- Council votes or provides direction to Staff

5.5. Consent Calendar. The Consent Calendar is intended to allow the Council to approve multiple routine and non-controversial matters by motion, with no discussion required. Council

members, staff, and members of the public can ask that an item be removed from the Consent Calendar for discussion, prior to a vote being taken on the Consent Calendar items.

5.5.1 No Item shall be placed on the Consent Calendar if that item relates to a contract, or expenditure or financial obligation in excess of $25,000.00. Any item involving a contract, expenditure or financial obligation in excess of $25,000.00 must be scheduled as a regular agenda item with a staff report, and must be approved by separate resolution and a separate vote of the Council.

5.6 Contracts or Expenditures over $500,000. Contracts or expenditures over $500,000 shall be made available to the Council to study 14 days before the meeting on which the contract or expenditure is placed on the agenda. Facts and findings shall be made for the recommendation of approval of such expenditure or contract.

5.6.1 Bidding of Contracts. Competitive bidding (2 or more bids) shall be enforced on building as well as professional service contracts and consultants, unless staff can support facts and findings that no other provider is available who can perform the specialized work required.

5.7 Reading of Minutes: Minutes belong to the City Council. Unless a member of the Council requests a reading of the minutes of a Council meeting, such minutes may be approved without reading if the City Clerk previously furnished each member with a copy thereof. On Consent Calendar, approval of minutes shall be by a standard majority vote and items can be pulled for discussion and reinserted, or pulled for discussion and a separate vote taken.

## 6. Ordinances

6.1 Ordinances Deferred: Emergencies and Appropriations: Ordinances introduced/-read at a Council meeting shall not be formally acted upon until at least the next official meeting, except that urgency ordinances may be acted on immediately. A standard majority affirmative vote of the Council shall be required for the final passage of an urgency ordinance. Urgency is defined in Government Code Section 36937.

6.2 Reading by Title Only: Upon being introduced, each proposed ordinance shall be read by title only, unless any member of the Council requests a full reading of the ordinance.

6.3 Majority Vote Required: An affirmative vote of at least a majority of the members of the Council shall be necessary to pass an ordinance, but a resolution, motion, or any other proposition may be adopted by a majority voting on the issue except as otherwise specified by City Ordinance or the State Statutes. When any vote is called, each Council Member shall respond "yes (aye)," "no", "abstain", or "pass". Any Council Member who responds, "pass" will be given the opportunity at the end of the roll call to change their vote. Any "pass" response not changed shall be recorded as an abstention.

6.4 Tie Vote: In the event of a tie in votes on any motion, the motion shall be considered lost unless the chair votes for the affirmative. The chair may also cast a negative vote to make a tie and thus defeat the measure.

6.5 Requests for Preparation of Ordinances or Issuance of Legal Opinions: Any member of the City Council may request the City Manager to place the proposed adoption of an ordinance on the City Council agenda for discussion purposes. Upon direction by a Council Member, the City Attorney shall review proposed ordinances for consideration and adoption by the City Council. Upon direction by a Council Member, the City Attorney shall render legal opinions, either written or oral, on questions of law. Individual members of the City Council may consult with the City Attorney informally regarding legal issues pertaining to City business, but all legal inquiries requiring a substantial commitment of City Attorney time must be authorized by the City Council as a whole, except that an individual City Council member may request written legal advice regarding a potential conflict of interest which may affect that Council member's ability to participate in an upcoming decision. All written legal opinions and ordinances prepared by the City Attorney shall be provided to the City Manager, who shall distribute them to all members of the City Council so that they may be fully informed of the status of City affairs.

7. Creation of Committees, Boards and Commissions

7.1 Citizen Committees, Boards and Commissions: The Council may create committees, boards, sub-committees and commissions to assist in the conduct of the operation of the City government with such duties as the Council may specify which are consistent with the City Code.

7.2 Membership and Selections: Membership and selection of members shall be appointed by the Mayor if not otherwise specified by the City Code. Any committee, board, or commission so created shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the Council. No committee so appointed shall have powers other than advisory to the Council or to the City Manager, except as otherwise specified by the City Code.

7.3 Removal of Members of Boards and Commissions: The Council may remove any member of any board or commission which it has created or as created by the City Code by a vote of at least a majority of the Council.

7.4 Sub-Committees - Operation of City Council Sub-Committees: The City Council shall utilize the Sub-Committee process to assist the work of staff and to conduct preliminary policy evaluation for purpose of recommendation to the full City Council. Such Sub-Committee shall have no authority to resolve and act on policy issues and shall not act as a committee of the whole Council.

7.5 Citizen Advisory Boards: A citizen's advisory commission, along with a hired consultant, shall investigate and advise proactively the council on matters of serious integrity allegations, rather than allowing the matter to progress into an investigation by an outside law enforcement

agency or the grand jury. The findings and recommendations should then be made available to the public in a report and discussed openly in a city council meeting. A citizen's selection panel shall be formed to advise the council in choosing future city managers and city attorneys, as needed.

8. Citizens Rights

8.1 Public Comment: Any person desiring to address the Council, Commission, Subcommittee or other established body shall first be recognized by the Chair and shall announce their name and address prior to making comment. No person, other than members of the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through the members of the Council.

8.2 Time Limits on Speakers: Disruptive Conduct: The Chair may establish reasonable limits on the amount of time allocated for public testimony on particular issues and for each individual speakers. Speaker time limits should be uniformly applied, so that all members of the public speaking to a particular item receive the same amount of speaking time. The Council shall not set arbitrary time limits, or limit speaker time or grant additional speaker time based on who is speaking or what the speaker has to say.

In addition, The Mayor may rule a speaker to be out of order if that speaker engages in disorderly conduct which disrupts, disturbs or otherwise is disruptive and impedes the orderly conduct of City Council business. A public speaker may be ruled out of order for, among other things; a) uttering loud, threatening, personal or abusive language, continuously interrupting other speakers or speaking out of turn. ; b) by being unduly repetitious; c) by making comments which are not relevant to the City Council's business; or d) by making any superfluous demonstration deemed to be made predominately for the embarrassment of any citizen, staff, or Council Member by any of the same.

8.3 Reading of Protests: Interested persons, or their authorized representatives, may address the Council for the reading of protests, petitions, or communications relating to any matter over which the Council has control when the item is under consideration by the Council, if a majority of the Council present agrees to let them be heard.

8.4 Mayor May Appoint a Committee or Refer Citizen's Complaints: The Mayor may appoint a committee of two members of the City Council to hear Citizens' complaints as the same are referred thereto by the Mayor or may refer Citizens' complaints to an Executive Session of the City Council, whenever the subject meets the criteria specified in the Brown Act. If an appropriate committee of two members of the City Council already exist that properly relates to the subject matter of Citizens' Complaints, the matter may be instead referred to that extant committee as deemed appropriate by the Mayor.

8.5 Written Communications: Interested parties, or their authorized representatives, may address the Council by written communication in regard to any matter concerning the City's

business or over which the Council has control at anytime by direct mail, email, or by addressing the City Clerk and copies will be distributed to the Council Members.

9. Amendments

9.1 Amendment of These Rules: These rules may be amended, or new rules adopted, by a super majority vote of all members of the Council, provided that the proposed amendments or new rules shall have been introduced into the record at a prior Council meeting.

10. Rules of Conduct

10.1 Council Members should be prepared to attend all meetings of the City Council.

10.2 Council Members should prepare themselves for all meetings by reading and reviewing the material provided to them.

10.3 Members of the City Council should be aware that all information covered in Closed Session is confidential and not for public discussion.

10.4 Council Members are encouraged to set up appointments with the City Manager, Department Heads and staff, if possible. Section 2-3.105 of the Municipal Code should always be considered when working with staff at City Hall.

10.5 Council Members conduct when attending meetings, as a representative of the City of Colfax, should always reflect the highest standards.

10.6 Members of the City Council should remember that they are representing the City of Colfax when attending events, not just themselves. The City Manager shall be advised of any speaking engagement at which a Council Member will speak about City Business within 48 hours of that engagement. The City Manager shall inform the remainder of City Council of those engagements. Council Members should also be aware that, contrary to any verbal disclaimers, audience members will still frequently attribute any personal views of City Business and an opinion of the City of Colfax or of the majority of City Council. In that regard, Council Members should maintain awareness of that likelihood and act with appropriate discretion.

# STAFF REPORT TO THE COLFAX CITY COUNCIL

## FOR THE SEPTEMBER 11, 2013 COUNCIL MEETING

**FROM:** Gabe Armstrong, Interim City Manager

**PREPARED:** September 4, 2013

**SUBJECT:** Conduct discussion regarding the City's standard form agreements

**RECOMMENDED ACTION:** Conduct discussion and provide direction to staff

**ISSUE STATEMENT AND DISCUSSION**:
Mayor Pro-Tem (Tony Hesch) requested a discussion about the City's standard contract and whether the City should require its use for all consultants hired by the City. The City's standard contact attached to this staff report along with a form supplied by the City Attorney from other jurisdictions.

**FINANCIAL AND/OR POLICY IMPLICATIONS**:
None.

**SUPPORTING DOCUMENTS**:

A. The City's standard consultant contract
B. Contract Form supplied by the City Attorney

**COMMITTEE RECOMMENDATION**:
This report was not discussed by any committee.

A

# AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT is made and entered into on this _____ day of _____, 20__by and between the City of Colfax, a municipal corporation of the State of California ("City") and _____ ("Consultant".)

## RECITALS

A. The City desires to retain Consultant to provide the Services set forth in detail in Exhibit A hereto (the "Services") subject to the terms and conditions of this Agreement.

B. Consultant is duly licensed and sufficiently experienced to undertake and perform the Services in a skilled and workmanlike manner and desires to do so in accordance with the terms and conditions of this Agreement.

Now, therefore, in consideration of the mutual covenants, promises and conditions set forth in this Agreement, the City and Consultant agree as follows:

**Section 1. Services.**

Subject to the terms and conditions set forth in this Agreement, Consultant shall furnish and perform all of the Services described in detail in Exhibit A hereto and incorporated herein by this reference (the "Services") to the satisfaction of the City. Consultant shall not perform any work exceeding the scope of the Services described in Exhibit A without prior written authorization from the City.

**Section 2. Time of Completion.**

Consultant's schedule for performance of the Services is set forth in Exhibit A hereto which is incorporated herein by this reference. Consultant shall commence performance of the Services promptly upon receipt of written notice from the City to proceed. Performance of the Services shall progress and conclude in accordance with the schedule set forth in Exhibit A. During the performance of the Services, Consultant shall provide the City with written progress reports at least once each month and at such additional intervals as City may from time to time request.

**Section 3. Compensation.**

A. Except as may otherwise be provided in Exhibit A or elsewhere in this Agreement or its exhibits, Consultant shall invoice City once each month for the Services performed during the preceding month. Such invoices shall itemize all charges in such detail as may reasonably be required by City in the usual course of City business but shall include at least (i) the date of performance of each of the Services, (ii) identification of the person who performed the Services, (iii) a detailed description of the Services performed on each date, (iv) the hourly rate at which the Services on each date are charged, (v) an itemization of all costs incurred and (vi) the total charges for the Services for the month invoiced. As long as the Consultant performs the Services to the satisfaction of the City, the City shall pay the Consultant an all inclusive compensation that shall

not exceed the amount as detailed in Exhibit A except pursuant to an authorized written change order issued pursuant to Section 15 of this Agreement before the Services requiring additional compensation are performed. City shall pay Consultant no later than thirty (30) days after approval of the monthly invoice by City's staff.

B. The Consultant's compensation for the Services shall be full compensation for all indirect and direct personnel, materials, supplies, equipment and services incurred by the Consultant and used in carrying out or completing the Services. Payments shall be in accordance with the payment schedule established in Exhibit A or elsewhere in this Agreement or its exhibits.

C. The City shall have the right to receive, upon request, documentation substantiating charges billed to the City pursuant to this Agreement. The City shall have the right to perform an audit of the Consultant's relevant records pertaining to the charges.

D. Any Services performed more than sixty (60) days prior to the date upon which they are invoiced to the City shall not be compensable.

**Section 4. Professional Ability; Standard of Quality.**

City has relied upon the professional training and ability of Consultant to perform the Services described in Exhibit A as a material inducement to enter into this Agreement. Consultant shall therefore provide properly skilled professional and technical personnel to perform all Services under this Agreement. All Services performed by Consultant under this Agreement shall be in a skillful, workmanlike manner in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

**Section 5. Indemnification.**

Consultant shall hold harmless and indemnify, including without limitation the cost to defend, the City and its officers, agents and employees from and against any and all claims, demands, damages, costs or liability that arise out of, or pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant and/or its agents in the performance of the Services. This indemnity does not apply to liability for damages for death or bodily injury to persons, injury to property, or other loss, arising from the sole negligence, willful misconduct or material defects in design by the City or its agents, servants employees or independent contractors other than Consultant who are directly responsible to the City, or arising from the active negligence of the City officers, agents, employees or volunteers

**Section 6. Insurance.**

Without limiting Consultant's indemnification obligations provided for above, Consultant shall take out before beginning performance of the Services and maintain at all times during the life of this Agreement the following policies of insurance with insurers possessing a Best rating of not less than A. Consultant shall not allow any subcontractor, professional or otherwise, to commence work on any subcontract until all insurance required of the Consultant has also been obtained by the

subcontractor.

A. Workers' Compensation Coverage. Statutory Workers' Compensation insurance and Employer's Liability Insurance to cover its employees. In the alternative, Consultant may rely on a self-insurance program to meet its legal requirements as long as the program of self-insurance complies fully with the provisions of the California Labor Code. Consultant shall also require all subcontractors, if such are authorized by the City, to similarly provide Workers' Compensation insurance as required by the Labor Code of the State of California for all of the subcontractor's employees. All Workers' Compensation policies shall be endorsed with the provision that the insurance shall not be suspended, voided, or cancelled until thirty (30) days prior written notice has been provided to City by the insurer. The Workers' Compensation insurance shall also contain a provision whereby the insurance company agrees to waive all rights of subrogation against the City and its elected or appointed officials, officers, agents, and employees for losses paid under the terms of such policy which arise from the Services performed by the insured for the City.

B. General Liability Coverage. General liability insurance, including personal injury and property damage insurance for all activities of the Consultant and its subcontractors, if such are authorized by the City, arising out of or in connection with the Services. The insurance shall be written on a comprehensive general liability form and include a broad form comprehensive general liability endorsement. In the alternative, the City will accept, in satisfaction of these requirements, commercial general liability coverage which is equivalent to the comprehensive general liability form and a broad form comprehensive general liability endorsement. The insurance shall be in an amount of not less than $1 million combined single limit personal injury and property damage for each occurrence. The insurance shall be occurrence based insurance. General liability coverage written on a claims made basis shall not be acceptable absent prior written authorization from the City.

C. Automobile Liability Coverage. Automobile liability insurance covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than $1 million combined single limit for each occurrence.

D. Policy Endorsements. Each general liability and automobile liability insurance policy shall be endorsed with the following provisions:

1. The City, and its elected or appointed officials, employees and agents shall be named as insureds or additional insureds with regard to damages and defenses of claims arising from activities performed by or on behalf of the Consultant.

2. The insurance afforded by each policy shall apply separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limits of liability.

3. The insurance shall be primary insurance as respects the City and its elected or appointed officers, officials, employees and agents. Any other insurance maintained by

the City or its elected or appointed officers, officials, employees, agents or volunteers shall be in excess of this insurance and shall not contribute with it.

4. The insurance shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days prior written notice has been provided to the City.

5. Any failure to comply with the reporting requirements of any policy shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, or agents.

E. Professional Liability Coverage. If required by the City, Consultant shall also take out and maintain professional liability, errors and omissions insurance in an amount not less than $1 million. The professional liability insurance policy shall be endorsed with a provision stating that it shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after thirty (30) days written notice has been provided to the City.

F. Insurance Certificates and Endorsements. Prior to commencing the Services under this Agreement, Consultant shall submit to the City documentation evidencing the required insurance signed by the insurance agent and the companies named. This documentation shall be on forms which are acceptable to the City and shall include all required endorsements and verify that coverage is actually in effect. This Agreement shall not be effective until the required insurance forms and endorsements are submitted to and approved by the City. Failure to provide these forms within the time period specified by City may result in the award of this Agreement to another Consultant should the City, in its sole discretion, decide to do so. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

G. Deductible and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City.

H. Termination of Insurance. If the City receives notification that Consultant's insurance will be suspended, voided, cancelled or reduced in coverage or in limits, and if the Consultant does not provide for either the reinstatement of that insurance or for the furnishing of alternate insurance containing all of the terms and provisions specified above prior to the termination of that insurance, City may either terminate this Agreement for that breach, or City may secure the required insurance to satisfy the conditions of this Agreement and deduct the cost thereof from compensation which would otherwise be due and payable to the Consultant for Services rendered under the terms of this Agreement.

**Section 7. Subcontracts.**

Consultant may not subcontract any portion of the Services without the written authorization of City. If City consents to a subcontract, Consultant shall be fully responsible to the City and third parties for all acts or omissions of the subcontractor to which the Services or any portion thereof are subcontracted. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor, nor shall it create any obligation on the part of the City to pay or cause the

payment of any monies due to any such subcontractor except as otherwise is required by law.

**Section 8. Assignment.**

Consultant shall not assign any right or obligation under this Agreement without the City's prior written consent. Any attempted assignment of any right or obligation under this Agreement without the City's prior written consent shall be void.

**Section 9. Entire Agreement.**

This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. This Agreement may not be modified or altered except in writing signed by both parties.

**Section 10. Jurisdiction.**

This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction over any litigation arising from this Agreement shall be in the Superior Court of the State of California with venue in Placer County, California.

**Section 11. Suspension of Services.**

Upon written request by Consultant, City may suspend, in writing, all or any portion of the Services if unforeseen circumstances beyond the control of the City and Consultant make normal progress of the Services impossible, impractical or infeasible. Upon written City approval to suspend performance of the Services, the time for completion of the Services shall be extended by the number of days performance of the Services is suspended.

**Section 12. Termination of Services.**

City may at any time, at its sole discretion, terminate all or any portion of the Services and this Agreement upon seven (7) days written notice to Consultant. Upon receipt of notice of termination, Consultant shall stop performance of the Services at the stage directed by City. Consultant shall be entitled to payment within thirty (30) days for Services performed up to the date of receipt of the written notice of termination. Consultant shall not be entitled to payment for any Services performed after the receipt of the notice of termination unless such payment is authorized in advance in writing by the City.

Should Consultant fail to perform any of the obligations required of Consultant within the time and in the manner provided for under the terms of this Agreement, or should Consultant violate any of the terms and conditions of this Agreement, City may terminate this Agreement by providing Consultant with seven (7) days written notice of such termination. The Consultant shall be compensated for all Services performed prior to the date of receipt of the notice of termination. However, the City may deduct from the compensation which may be owed to Consultant the amount of damage sustained or estimated by City resulting from Consultant's breach of this

Agreement.

Consultant's obligations pursuant to Sections 5 and 6 of this Agreement shall survive termination, and continue in effect for as long as necessary to fulfill the purposes of Sections 5 and 6.

**Section 13. Independent Contractor.**

Consultant shall in all respects be an independent contractor and not an agent or employee of City. Consultant has and shall retain the right to exercise full control and supervision of the means and methods of performing the Services. Consultant shall receive no premium or enhanced pay for Services normally understood as overtime; nor shall Consultant receive holiday pay, sick leave, administrative leave or pay for any other time not actually expended in the performance of the Services. It is intended by the parties that Consultant shall not be eligible for benefits and shall receive no compensation from the City, except as expressly set forth in this Agreement. Consultant shall submit completed W-9 and Report of Independent Contractor forms upon execution of this Agreement and prior to the payment of any compensation hereunder.

**Section 14. Ownership of Documents.**

Within thirty (30) days after the Consultant substantially completes performance of the Services, or within thirty (30) days after the termination of this Agreement, the Consultant shall deliver to the City all files, records, materials and documents drafted or prepared by Consultant's in the performance of the Services. It is expressly understood and agreed that all such files, records, materials and documents are the property of the City and not the property of the Consultant. All finished and unfinished reports, plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents in the course of performing the Services shall become the sole property of the City upon payment to Consultant for the Services, and the City shall have the exclusive right to use such materials in its sole discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and writings to City or any party the City may designate, upon written request. Consultant may keep file copies of all documents prepared for City. Use of any such documents by the City for projects that are not the subject of this Agreement or for purposes beyond the scope of the Services shall be at the City's sole risk without legal liability or expense to Consultant.

**Section 15. Changes and/or Extra Work.**

Only the City Council may authorize extra and/or changed Services, modification of the time of completion of the Services, or additional compensation for the tasks to be performed by Consultant. Consultant expressly recognizes that other City personnel are without authorization to order extra and/or changed Services or to obligate the City to the payment of additional compensation. The failure of Consultant to secure the prior written authorization for such extra and/or changed Services shall constitute a waiver of any and all right to adjustment in the contract price due to such unauthorized Services, and Consultant thereafter shall not be entitled to any compensation whatsoever for the performance of such extra or changed Services. In the event Consultant and City agree that extra and/or changed Services are required, or that additional compensation shall be

awarded to Consultant for performance of the Services under this Agreement, a supplemental agreement providing for such compensation shall be prepared and shall be executed by the Consultant and the necessary City officials before the extra and/or changed Services are provided.

**Section 16. Compliance with Federal, State and Local Laws.**

Consultant shall comply with all applicable federal, state and local laws, statutes, ordinances, rules and regulations affecting the Services, including without limitation laws requiring licensing and prohibiting discrimination in employment because of race, creed, color, sex, age, marital status, physical or mental disability, national origin or other prohibited bases. City shall not be responsible or liable for Consultant's failure to comply with applicable laws, statutes, ordinances, rules or regulations.

**Section 17. Retention of Records.**

Consultant and any subconsultants authorized by the terms of this Agreement shall keep and maintain full and complete documentation and accounting records, employees' time sheets, and correspondence pertaining to the Services, and Consultant shall make such documents available for review and/or audit by City and City's representatives at all reasonable times during performance of the Services and for at least four (4) years after completion of the Services and/or termination of this Agreement.

**Section 18. Alternative Dispute Resolution**

A. Before resorting to mediation, arbitration or other legal process, the primary contacts of the parties shall meet and confer and attempt to amicably resolve any dispute arising from or relating to this Agreement subject to the following provisions. Any party desiring to meet and confer shall so advise the other party pursuant to a written notice. Within 15 days after provision of that written notice by the party desiring to meet and confer, the primary contacts for each party shall meet in person and attempt to amicably resolve their dispute. Each primary contact, or the person acting in their absence with full authority to resolve the dispute, shall attend the meeting and shall be prepared to devote an entire day thereto. If any dispute remains unresolved at the end of the meeting, any party to this Agreement shall have the right to invoke the mediation process provided for in the subparagraph B below.

B. Subject to the provisions of subparagraph A, any dispute that remains unresolved after the meet and confer shall immediately be submitted to non-binding neutral mediation, before a mutually acceptable, neutral retired judge or justice at the Sacramento Office of the Judicial Arbitration and Mediation Service ("JAMS"). If within five days after the meet and confer the parties are unable to agree upon the selection of a neutral mediator, then the first available retired judge or justice at the Sacramento office of JAMS shall serve as the neutral mediator. The parties agree to commit to at least one full day to the mediation process. Additionally, to expedite the resolution of any dispute that is not resolved by mediation, the parties agree to each bring to the neutral mediation a list of at least five neutral arbitrators, including their resumes, whose availability for an arbitration hearing within 30 days after the mediation has been confirmed.

C. If mediation is unsuccessful, before the mediation concludes, the parties shall mediate the selection of a neutral arbitrator to assist in the resolution of their dispute. If the parties are unable to agree on an arbitrator, the parties agree to submit selection of an arbitrator to the mediator, whose decision shall be binding on the parties. In that case, the mediator shall select a neutral arbitrator from the then active list of retired judges or justices at the Sacramento Office of the JAMS. The arbitration shall be conducted pursuant to the provisions of the California Arbitration Act, sections 1280-1294.2 of the California Code of Civil Procedure. In such case, the provisions of Code of Civil Procedure Section 1283.05 and 1283.1 shall apply and are hereby incorporated into this Agreement.

D. This section 18 shall survive the termination or expiration of this Agreement. If there is no Sacramento office of JAMS, then the office of JAMS closest to the City shall be used instead of a Sacramento office.

**Section 19. Severability.**

The provisions of this Agreement are severable. If any portion of this Agreement is held invalid by an arbitrator or by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by the mutual written consent of the parties.

**Section 20. Entire Agreement; Amendment.**

This Agreement, including all exhibits hereto, constitutes the complete and exclusive expression of the understanding and agreement between the parties with respect to the subject matter hereof. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this Agreement. This Agreement may be amended or extended from time to time only by written agreement of the parties hereto.

**Section 21. Time of the Essence.**

Time is of the essence in the performance of the Services. The Consultant will perform its Services with due and reasonable diligence consistent with sound professional practices and shall devote such time to the performance of the Services as may be necessary for their timely completion.

**Section 22. Written Notification.**

Except as otherwise specified in this Agreement, any notice, demand, request, consent, approval or communications that either party desires or is required to give to the other party shall be in writing and either served personally or sent by first class mail, postage prepaid and addressed as follows. Either party may change its address by notifying the other party in writing of the change of address. Notice shall be deemed communicated within two business days from the time of mailing if mailed within the State of California as provided in this Section.

If to City: City of Colfax
33 S. Main Street
Colfax, CA 95713

If to Consultant:

**Section 23. Execution.**

This Agreement may be executed in original counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one original counterpart is signed by both parties hereto. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

**Section 24. Successors.** This Agreement shall be binding on and inure to the benefit of the respective parties hereto except to the extent of any contrary provision in this Agreement.

**Section 25. Attorney's Fees**. If any party to this Agreement commences legal proceedings to enforce any of its terms or to recover damages for its breach, the prevailing party shall be entitled to recover its reasonable attorney's fees, costs and the expenses of expert witnesses, including any such fees costs and expenses incurred on appeal.

IN WITNESS WHEREOF, the parties hereby have executed this Agreement on the day first above written:

| CITY | CONSULTANT |
|---|---|
| Signature_____ | Signature_____ |
| Printed Name_____ | Printed Name_____ |
| Title_____ | Title_____ |
| Date_____ | Date_____ |

APPROVED AS TO FORM:

_____

City Attorney

B

# DRAFT

# CITY OF COLFAX

## CONSULTANT SERVICES AGREEMENT

WITH _____
TO PROVIDE _____ SERVICES

This Agreement is made by and between the City of Colfax, a municipal corporation ("City") and _____ ("Consultant"), who agree as follows:

1. Services. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide said services described in Exhibit A. Consultant shall provide said services at the time, place and in the manner specified in Exhibit A.

2. Contract Period. Contract work will begin _____, 2009

3. Payment. Exhibit B is the negotiated Fee Schedule for services and expenses. The Consultant shall be paid monthly for the actual fees, costs and expenses for all time and materials required and expended, in accordance with the terms in Exhibit B, for services rendered pursuant to this Agreement at the times and in the manner set forth, put in no event shall costs exceed $____ without prior written City approval.

4. Facilities, Equipment and Other Materials. Consultant shall, at its sole cost and expense, furnish all facilities, equipment and other materials that may be required for furnishing services pursuant to this Agreement.

5. General Provisions. The general provisions set forth in Exhibit C are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control insofar as it is inconsistent with the general provision.

6. Exhibits. All exhibits referred to herein area attached hereto and are by this reference incorporated herein.

7. Time for Performance. Consultant shall devote such resources pursuant to this Agreement as may be reasonably necessary for satisfactory performance of Consultant's obligations pursuant to this Agreement.

8. Conflict of Interest. Consultant states that no City officer or employee, nor any business entity in which they have an interest: a) has an interest in the contract awarded; b) has been

employed or retained to solicit or aid in the procuring of the resulting contract; c) will be employed in the performance of such contract without immediate disclosure of such fact to the City.

Executed as of the day first above stated.

| | |
|---|---|
| _____ | CITY OF COLFAX |
| A California Corporation | A Municipal Corporation |
| _____ | _____ |
| | Bruce Kranz, City Manager |
| ATTEST: | APPROVED AS TO FORM: |
| _____ | _____ |
| Karen Pierce, City Clerk | City Attorney |

# CONSULTANT SERVICES AGREEMENT

## EXHIBIT A

## SCOPE OF SERVICES

# CONSULTANT SERVICES AGREEMENT

## EXHIBIT B

## TIME AND MANNER OF PAYMENT

# CONSULTANT SERVICES AGREEMENT

## EXHIBIT C

## GENERAL PROVISIONS

1. Independent Contractor. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of city. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which consultant accomplishes services rendered pursuant to this Agreement.

2. Licenses, Permits, etc. Consultant represents to City that it has all licenses, permits, qualifications and approval of whatsoever nature that are legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses permits and approval which are legally required for Consultant to practice its profession at the time the services are performed.

3. Time. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of Consultant's obligations pursuant to this Agreement. Neither party shall be considered in default of this Agreement to the extent performance is prevented or delayed by a cause, present or future, which is beyond the reasonable control of the party.

4. Indemnification. Consultant hereby agrees to indemnify and hold harmless the City from and against any and all liability, to the extent actually caused by Consultant, arising out of the negligent acts, errors or omissions of Consultant relating to this Agreement.

   It is understood that the duty of CONSULTANT to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code.

5. Insurance.

   A. General Liability. During the term of this Agreement, Consultant shall maintain in full force and affect a general liability insurance policy in an amount not less than $1,000,000 combined single limit per accident for bodily injury and property damage.

   B. Automobile Liability. During the term of this Agreement, Consultant shall maintain in full force and effect a policy of automobile liability insurance in an amount not less than $1,000,000 combined single limit per accident for bodily injury and property damage.

- ✓ The City, its officers, officials, employees and volunteers are to be named as additional insured on the Consultant's general liability and automobile liability insurance policies.

- ✓ Consultant's general liability and automobile liability insurance coverage shall be primary insurance with respect to the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees and volunteers shall be in excess of Consultant's insurance and shall not contribute with it.

C. Professional Liability. During the term of this Agreement, Consultant shall maintain in full force and effect professional liability insurance for protection against claims alleging negligent acts, errors or omissions which may arise from Consultant's operations under this Agreement, whether such operations be by Consultant or by its employees, subcontractors or subconsultants. The amount of this insurance shall not be less than $1,000,000 per claim and $2,000,000 aggregate on a claims-made annual aggregate basis.

D. Cancellation. Each insurance policy or certificate of insurance required in this paragraph shall not be canceled except after thirty (30) days written notice has been received by the City. Current certification of such insurance shall be kept on file with the City Clerk at all times during the term of this Agreement.

6. Worker's Compensation. During the term of this Agreement, Consultant shall fully comply with the terms of the law of California concerning Worker's Compensation. Said compliance shall include, but not be limited to, maintaining in full force and effect one or more policies of insurance insuring against any liability Consultant may have for Worker's Compensation. The Worker's Compensation Policy shall contain a waiver by the insurer of all rights of subrogation against the City, its officers, agents and employees.

7. Consultant Not Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

8. Assignment Prohibited. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.

9. Personnel. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the removal of any person or persons assigned by Consultant to perform services pursuant to this Agreement, Consultant shall remove any such person immediately upon receiving notice from City of the desire of City for the removal of such person or persons.

10. Standard of Performance. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which consultant is engaged in the geographical area in which Consultant practices its profession. All work products of whatsoever nature which Consultant delivers to City pursuant to this Agreement shall be prepared in a professional manner and conform to the standards or quality normally observed by a person practicing in Consultant's profession.

11. City Representatives. The City Manager and/or City Engineer are the representative of the City and will administer this Agreement for the city.

12. Termination This Agreement may be canceled upon 30 days written notification by either party without cause. Consultant shall be entitled to receive full payment for all services performed and all costs incurred to the date of termination of the contract. Consultant shall be entitled to no further compensation for work performed after the date of termination of the contract. All completed and uncompleted products up to the date of termination of the contract shall become the property of the City.

13. Non-Discrimination. Consultant shall comply with Section 122(a) of the State and Local Fiscal Assistance Act of 1972.

14. Ownership of Information It is mutually agreed that all materials prepared by the Consultant under this Contract shall become the property of the City, and the Consultant shall have no property right therein whatsoever. Immediately upon termination, the City shall be entitled to, and the Consultant shall deliver to the City, all data, drawings, specifications, reports, estimates, summaries and other such materials and commission as may have been prepared or accumulated to date by the Consultant in performing this Contract which is not Consultant's privileged information, as defined by law, or Consultant's personnel information

This agreement creates a non-exclusive and perpetual license for Consultant to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant pursuant to this Agreement. Consultant shall not be limited in any way in its use of such documents and data at any time, provided that any such use not within the purposes intended by this Agreement shall be at Consultant's sole risk and that Consultant shall indemnify, defend, and hold harmless City, its elected officials, officers, employees, agents, and volunteers from any claims arising out of Consultant's use of such documents and data for any project or purpose not covered by this Agreement.

## MEDIATION/ARBITRATION OF DISPUTES

Any controversy between the parties involving the construction, application or performance of any of the terms, provisions or conditions of this agreement shall, on the written request of either party served on the other, be submitted to mediation before a mediator acceptable to all parties. The mediation shall occur within 45 days of the initial request, unless extended by agreement of the parties. Should any party commence arbitration or court action based on a dispute or claim to which this Section applies, without first attempting to resolve the matter through mediation, then that party shall not be entitled to recover attorney's fees, even if they would otherwise be available to that party in any such action or arbitration.

If the mediation is unsuccessful, either party may, within five (5) days thereafter, serve a written request on the other demanding that the matter be submitted to binding arbitration.

Exceptions to Mediation/Arbitration. Neither mediation, nor arbitration is required under the following limited circumstances: the matter is justifiable in small claims court, than the dispute shall be resolved through that court.

If the controversy to be arbitrated also involves third parties who are not willing to submit the matter to arbitration, and multiple proceedings would result from enforcement of this arbitration clause, then the dispute shall be resolved through the courts without referral to arbitration.

If it is alleged that irreparable harm would occur prior to the completion of the arbitration, a party may immediately apply for injunctive relief to prevent the irreparable harm, but the matter shall be stayed and submitted to mediation/arbitration after the Court has acted on the issue of injunctive relief.

Except as provided herein, Arbitration shall comply with and be governed by the provisions of the California Arbitration Act, Section 1280 et.seq. of the California Code of Civil Procedure.

Upon receipt of a notice of intent to arbitrate, the parties shall mutually agree on an arbitrator within 15 days. If they are unable to agree on a single arbitrator, each party shall appoint another individual as a selection arbitrator and the two selection arbitrators shall select a third impartial arbitrator to decide the matter within 30 days of notice of arbitration. If for any reason this process fails to result in the selection of an impartial arbitrator in a timely manner, either party may petition the Court for appointment of an arbitrator pursuant to CCP 1281.6.

The decision of the Arbitrator, after close of the hearing, shall be final and conclusive upon the parties.

The parties agree to do all acts necessary to expedite the arbitration proceedings such that the matter can be arbitrated within 90 days of service of the notice of intent to arbitrate.

Upon a showing of good cause and the approval of the arbitrator, either party may obtain discovery necessary for the proof of their case. Provided that the arbitrator shall supervise the discovery process to insure that it is carried out in an expeditious manner and that it is not permitted to be unduly burdensome or delay the hearing.

Up to the time of award, the cost of arbitration shall be split by the parties. In the event a party fails to pay its share in a timely fashion, the Arbitrator shall treat the omission as a default and enter judgment in favor of the other party. The Arbitrator may award the prevailing party reimbursement for any fees and expenses incurred, including arbitration costs paid, or allocate the attorneys fees and expenses between the parties in such proportions as the Arbitrator decides is just and reasonable.

The Arbitrator shall make his or her decision in writing. In making his or her decision, the arbitrator shall follow California Law and shall have authority to impose any appropriate remedy permitted under California Law. Either party may seek clarification or reconsideration of the award within 10 days of issuance.

NOTICE: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL.

BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS

PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION.

Initial: City _____ Consultant _____

15. Attorney's Fees. If any party to this Agreement commences legal proceedings to enforce any of its terms or for damages for its breach, the prevailing party shall be entitled to recover reasonable attorney's fees, including those incurred on appeal, if any.

16. Entirety of Agreement. This Agreement contains the entire agreement of City and Consultant with respect to the subject matter hereof, and no other agreement, statement or promise made by any party, or to any employee, officer or agent of any party, which is not contained in this Agreement shall be binding or valid. No supplement, modification or amendment of this Agreement shall be binding unless executed by all parties in writing.

17. Counterparts. The partners may execute this Agreement in two or more counterparts, which shall, in the aggregate, be signed by all the parties; each counterpart shall be deemed an original instrument as against any party who has signed it.

18. Governing Law. This Agreement is executed and intended to be performed in the State of California, and the laws of that State shall govern its interpretation and effect.

19. Successors. This Agreement shall be binding on and inure to the benefit of the respective successors and assigns of the parties, except to the extent of any contrary provision in this Agreement.

20. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

END