

YREKA CITY COUNCIL  
AGENDA

May 19, 2016 – 6:30 P.M.

Yreka City Council Chamber 701 Fourth Street, Yreka, CA

The full agenda packet can be found on the City's website [www.ci.yreka.ca.us/council](http://www.ci.yreka.ca.us/council)

PLEDGE OF ALLEGIANCE

**PUBLIC COMMENTS:** This is the time for public comments. Council may ask questions but may take no action during the public comment section of the meeting, except to direct staff to prepare a report or place an item on a future agenda. If you are here to make comments on a specific agenda item, you may speak at that time. If not, this is the time. Please limit your remarks to 5 minutes.

**SPEAKERS:** Please speak from the podium. State your name and mailing address so that City Staff can respond to you in regard to your comments, or provide you with information, if appropriate. You are not required to state your name and address if you do not desire to do so.

1. Discussion/Possible Action - Consent Calendar: All matters listed under the consent calendar are considered routine and will be enacted by one motion unless any member of the Council wishes to remove an item for discussion or a member of the audience wishes to comment on an item. The City Manager recommends approval of the following consent calendar items:
  - a. Approval of Minutes of the meeting held May 5, 2016.
  - b. Approval/ratification of payments issued from May 6 through May 19, 2016.
  - c. Direct City Manager to review the City of Yreka Conflict of Interest Code as required by California Government Code Section 87306.5.
  - d. Adopt Resolution requesting Board of Supervisors of the County of Siskiyou to consolidate a General Municipal Election to be held on Tuesday, November 8, 2016, with the Statewide General Election.
2. Discussion/Possible Action – Approve appointment of Trestin Kimbrell to the Yreka Volunteer Fire Department.
3. Discussion/Possible Action – Introduction of Ordinance of the City Council of the City of Yreka enacting Chapter 9.26 entitled “Medical Marijuana Cultivation, Distribution and Delivery Prohibited” prohibiting the cultivation, distribution, and delivery of medical marijuana within all zones in the City of Yreka, and finding the adoption of this Ordinance to be exempt from CEQA.
4. Discussion/Possible Action – Adopt Resolution approving Consultant Agreement with PACE Engineering for City Engineer and City Surveyor Services.
5. Discussion/Possible Action – Adopt Resolution authorizing the City Manager to award a Construction Contract to Hayes & Sons, Inc., for the Oberlin-Young Trail Development Project in the amount of \$908,336.00 for the base bid and alternates A and B, and execute related documents.
6. Discussion/Possible Action – Discussion and direction to staff to research and prepare for possible introduction, a general sales tax measure for the November 8, 2016 election.

## City Manager Report

Council Statements and Requests: Members of the Council may make brief announcements, reports, or request staff to report to Council on any matter at a subsequent meeting.

### **CLOSED SESSION:**

#### 1. Conference with Legal Counsel - Anticipated Litigation

Initiation of litigation pursuant to Subdivision (c) of Section 54956.9 of the Government Code: (Number of cases to be discussed – 1 - The names of the parties are not disclosed, as it is believed that that to do so would jeopardize the City's ability to serve process or to conclude existing settlement negotiations to the City's advantage).

**RETURN TO OPEN SESSION: Announcement** of any action taken by the City Council in Closed Session required by the Ralph M. Brown Act. (Government Code Section 54950 et. seq.)

Adjournment.

In compliance with the requirements of the Brown Act, notice of this meeting has been posted in a public accessible place, 72 hours in advance of the meeting.

All documents produced by the City which are related to an open session agenda item and distributed to the City Council are made available for public inspection in the City Clerk's Office during normal business hours.

*In compliance with the Americans with Disabilities Act, those requiring accommodations for this meeting should notify the City Clerk 48 hours prior to the meeting at (530) 841-2324 or by notifying the Clerk at [casson@ci.yreka.ca.us](mailto:casson@ci.yreka.ca.us).*

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF  
YREKA HELD IN SAID CITY ON MAY 5, 2016

On the 5<sup>TH</sup> day of May 2016, the City Council of the City of Yreka met in the City Council Chambers of said City in regular session, and upon roll call, the following were present: Deborah Baird, Bryan Foster, Joan Smith Freeman, John Mercier and David Simmen Absent - None.

Mayor Mercier announced that the closed session has been pulled from the agenda.

Consent Calendar: Mayor Mercier announced that all matters listed under the consent calendar are considered routine and will be enacted by one motion unless any member of the Council wishes to remove an item for discussion or a member of the audience wishes to comment on an item:

- a. Approval of Minutes of the meeting held April 21, 2016.
- b. Approval/ratification of payments issued from April 22 through May 5, 2016.
- c. Adopt Resolution approving requests associated with the Siskiyou County Law Enforcement and Veterans Memorial Association event to be held on Saturday July 9, 2016 known as the "Hot Rods for Heroes" car and motorcycle show.

Following Council discussion, Councilmember Baird moved to approve the items on the consent calendar as submitted.

Councilmember Foster seconded the motion, and upon roll call, the following voted YEA: Baird, Foster, Freeman, Mercier and Simmen.

Mayor Mercier thereupon declared the motion carried.

Workshop: Discussion/Direction to Staff: Regulation of Marijuana Cultivation.

City Manager Steve Baker reported that the City Council has discussed the regulation of medical marijuana a number of times over the last six months as new legislation passed by the State of California, among other things, clarified the City's ability to regulate marijuana.

The new legislation sets up a state regulatory structure that will be and timelines for creating various regulations and licensing requirements. These are expected to evolve over the next two years. In addition, the Siskiyou County adopted more restrictive regulations regarding the cultivation of medical marijuana in the unincorporated areas of the County. These actions are the subject of a referendum on the June 2016 ballot and therefore have not yet gone into effect. If the County's proposed regulations that ban outdoor cultivation are upheld by the voters, there could be greater probability that outdoor marijuana grows could occur in the City limits.

There are also various initiatives proposed for the November 2016 ballot that if enough signatures are received and the initiative(s) approved by California voter, would allow the recreational use of marijuana.

In short, the landscape for regulating marijuana has changed and will change in the future, perhaps dramatically.

Staff believes that the most critical need at this point is to determine the City's regulation of marijuana cultivation. Staff previously drafted alternative ordinances to regulate indoor and outdoor cultivation of marijuana; however, when state law was changed to eliminate a deadline for initiating local regulation of marijuana cultivation, consideration of those ordinances was tabled. The Council subsequently held a workshop about marijuana regulation in general.

The major decisions that need to be made regarding cultivation are:

1. Whether to allow outdoor cultivation, and if allowed, what limits on the number of plants or square footage of cultivation.
2. Whether to allow indoor cultivation, and if allowed, what limits on the number of plants or square footage of cultivation.
3. The regulatory structure, including appeals and penalties for violating the limits set for items 1 or 2 above.

One other issue that is on the horizon is distribution of medical marijuana. Deliveries are allowed unless they are expressly prohibited by local ordinance. The City may adopt such an ordinance with the exception that be cannot prohibit a delivery service from passing through Yreka to a delivery location outside its boundaries.

The format for this agenda item is a workshop, followed by Council discussion. Staff is requesting that City Council, after the workshop, provide broad direction on the development of an ordinance that would regulate cultivation in the city limits. Using the existing draft ordinances as a template, Council may also want to address any specific concerns with the language in those ordinances

Following Council discussion, it was the consensus of the Council to direct the City Manager to prepare an Ordinance prohibiting all cultivation of marijuana within the City Limits.

Discussion/Direction to Staff: Limiting the Sale of City of Yreka Water – Councilmember Freeman.

Councilmember Freeman discussed the concept of limiting bulk water sales from the water dispenser located at 195 Greenhorn Road, to only households within the greater Yreka area.

Following Council discussion, it was the consensus of the Council to direct the City Manager to explore the options and to report back to Council at a later meeting.

Discussion/Direction to Staff: Yreka Police Building – Councilmember Simmen and Mayor Mercier.

Mayor Mercier and Councilmember Simmen presented the Council with an alternative option for the Yreka Police Station, which proposes to build a new structure utilizing the “design build”

concept, on City owned property located on Moonlit Oaks with a total budget of approximately \$3,400,000.00.

Councilmember Simmen stated that this concept could be funded by a sales tax measure to be placed on the November ballot adding a ¼% sales tax that would sunset in 5 years, use of 50% of the Crandall Funds, and use of the proceeds from the sale of the property on Fairlane Road. Councilmember Simmen further stated that the Yreka Police Station Tax Measure would probably only be viable if the current Siskiyou County Tax Measure for the Jail is defeated on June 7.

Following Council discussion, it was the consensus of the Council to table this matter until after the June 7, election.

City Treasurer's Report: Discussion/Possible Action – Acceptance of:

- a) Cash Balances Report – March 2016
- b) Quarterly Treasurer's Investment Report – 3rd Quarter Fiscal Year 2015/2016
- c) Budget of Revenue and Expenditures with Year to Date Actuals through March 2016
- d) Quarterly Fiscal Performance Report – 2nd Quarter Fiscal Year 2015/2016

Following Council discussion, Councilmember Simmen moved to accept the Treasurer's reports as submitted.

Councilmember Freeman seconded the motion, and upon roll call, the following voted YEA: Baird, Foster, Freeman, Mercier and Simmen.

Mayor Mercier thereupon declared the motion carried.

Mayor Mercier stated that he would like to take this time to note the passing of Former Director of Public Works, LeRoy Manley, who gave 24 years of dedicated service to the City of Yreka and our community.

**ADJOURNMENT** There being no further business before the Council the meeting was adjourned.

Attest:

\_\_\_\_\_  
John Mercier, Mayor  
Minutes approved by Council  
Motion May 19, 2016

\_\_\_\_\_  
Elizabeth E. Casson, City Clerk

# Accounts Payable

## Computer Check Proof List by Vendor

User: lysandra  
Printed: 05/12/2016 - 9:42AM  
Batch: 00004.05.2016



Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 1527 90204	ACME COMPUTER INV 90204 - WIRELESS INTERACTIVE	1,446.64	05/20/2016	Check Sequence: 1 01-050-0000-550-000	ACH Enabled: False
	Check Total:	1,446.64			
Vendor: 1007 926230332 16/17	ALLIED INSURANCE ACCT 926230332 16/17	250.00	05/20/2016	Check Sequence: 2 01-030-0000-530-000	ACH Enabled: False
	Check Total:	250.00			
Vendor: 3007 802829923 802829923 802829923	AMERIGAS INV 802829923 - PROPANE USAGE FOR FLE INV 802829923 - PROPANE USAGE FOR FLE INV 802829923 - PROPANE USAGE FOR FLE	637.29 263.22 263.22	05/20/2016 05/20/2016 05/20/2016	Check Sequence: 3 01-350-0000-518-002 01-370-0000-518-002 70-510-0000-518-002	ACH Enabled: False
	Check Total:	1,163.73			
Vendor: 2217 1377	TIMOTHY ASELTINE INV 1377 - APRIL 2016	135.00	05/20/2016	Check Sequence: 4 01-200-0000-520-001	ACH Enabled: False
	Check Total:	135.00			
Vendor: 4301 7908802	AT&T CALNET INV 7908802	777.29	05/20/2016	Check Sequence: 5 01-200-0000-517-000	ACH Enabled: False
	Check Total:	777.29			
Vendor: 1023 3011215 4/16	BAXTER AUTO PARTS ACCT 3011215 4/16 - PARTS & FILTERS	209.63	05/20/2016	Check Sequence: 6 01-350-0000-520-000	ACH Enabled: False
	Check Total:	209.63			
Vendor: 1043 154586	BUDGE-MCHUGH INV 154586 - ROMAC REPAIR CAMPS (6) IP	423.77	05/20/2016	Check Sequence: 7 70-500-0000-420-010	ACH Enabled: False

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	423.77			
Vendor: 1057	CDW-G COMPUTING SOLUTIONS			Check Sequence: 8	ACH Enabled: False
CWN8369	INV CWN8369 - AV UPGRADE	414.21	05/20/2016	01-050-0000-550-000	
CXZ7385	INV CXZ7385 - MONITORS	229.75	05/20/2016	01-300-0000-516-000	
CXZ7385	INV CXZ7385 - MONITORS	229.75	05/20/2016	20-300-0000-516-000	
CXZ7385	INV CXZ7385 - MONITORS	229.75	05/20/2016	70-300-0000-516-000	
CXZ7385	INV CXZ7385 - MONITORS	229.75	05/20/2016	80-300-0000-516-000	
	Check Total:	1,333.21			
Vendor: 3050	CHEVRON & TEXACO CARD SERVICES			Check Sequence: 9	ACH Enabled: False
47380563	INV 47380563	34.75	05/20/2016	01-350-0000-520-100	
	Check Total:	34.75			
Vendor: 1077	COMPUTER LOGISTICS CORPORATION			Check Sequence: 10	ACH Enabled: False
67402	INV 67402 - MONTHLY CONTRACT	1,666.67	05/20/2016	01-200-0000-525-001	
67415	INV 67415 - CLOUD	144.00	05/20/2016	01-200-0000-517-000	
	Check Total:	1,810.67			
Vendor: 1081	COWLEY D & L INC			Check Sequence: 11	ACH Enabled: False
10973	INV 10973 - PESTICIDE TRAINING FOR SIM	50.00	05/20/2016	20-313-0000-513-000	
	Check Total:	50.00			
Vendor: 1093	DATA TICKET INC			Check Sequence: 12	ACH Enabled: False
70098	INV 70098 - MARCH 2016	150.00	05/20/2016	24-200-0000-526-005	
	Check Total:	150.00			
Vendor: 1107	DISH NETWORK			Check Sequence: 13	ACH Enabled: False
0354090 5/16	8255707080354090 5/16	72.67	05/20/2016	01-200-0000-517-000	
	Check Total:	72.67			
Vendor: 1116	DRY CREEK LANDFILL INC			Check Sequence: 14	ACH Enabled: False
2235671	INV 2235671 - SLUDGE DISPOSAL FEE FOR	1,304.28	05/20/2016	80-560-0000-420-006	
	Check Total:	1,304.28			
Vendor: 19017	FAIRCHILD MEDICAL CENTER			Check Sequence: 15	ACH Enabled: False
0331380279	YFD EXAM - 04/21/16	258.48	05/20/2016	01-210-0000-525-000	

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1308590015	YPD EXAM - 04/20/16	263.88	05/20/2016	01-200-0000-525-000	
	Check Total:	522.36			
Vendor: 2128	FARR WEST ENGINEERING			Check Sequence: 16	ACH Enabled: False
7001	INV 7001 - GIS	2,842.50	05/20/2016	60-150-1025-525-000	
	Check Total:	2,842.50			
Vendor: 1111	JAMES FITZGERALD			Check Sequence: 17	ACH Enabled: False
2016-048	INV 2016-048 - OBERLIN TRAIL	1,302.15	05/20/2016	60-400-6029-525-000	
	Check Total:	1,302.15			
Vendor: 1917	G & G HARDWARE (POOL)			Check Sequence: 18	ACH Enabled: False
203940	INV 203940 - CHAMPION SPARK PLUGS FO	4.29	05/20/2016	01-420-0000-520-000	
	Check Total:	4.29			
Vendor: 2024	GERARD PELLETIER TRANSFER (FLEET)			Check Sequence: 19	ACH Enabled: False
9464	INV 9464 ACCT 45	15.00	05/20/2016	01-350-0000-416-001	
	Check Total:	15.00			
Vendor: 1141	KARL GREINER			Check Sequence: 20	ACH Enabled: False
10086	INV 10086 - APRIL 2016	500.00	05/20/2016	01-090-0000-525-000	
	Check Total:	500.00			
Vendor: 2142	DOHN HENION			Check Sequence: 21	ACH Enabled: False
05/20/16	MAY 2016 (2)	1,250.00	05/20/2016	01-040-0000-525-001	
	Check Total:	1,250.00			
Vendor: 2319	KOFF & ASSOCIATES			Check Sequence: 22	ACH Enabled: False
3097	INV 3097 - CLASSIFICATION STUDY	1,200.00	05/20/2016	01-110-0000-525-000	
	Check Total:	1,200.00			
Vendor: 1187	LIEBERT CASSIDY & WHITMORE			Check Sequence: 23	ACH Enabled: False
05/02/16	WEBINAR: LABOR NEGOTIATOR	60.00	05/20/2016	01-030-0000-513-000	
05/02/16	WEBINAR: TOP 5 STRENGTHS	60.00	05/20/2016	01-030-0000-513-000	
	Check Total:	120.00			

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 1213 2710-3460	MT SHASTA TITLE INV 2710-3460 PRELIMINARY REPORT	395.00	05/20/2016	60-390-6035-525-000	Check Sequence: 24 ACH Enabled: False
	Check Total:	395.00			
Vendor: 2208 YPD601	KITT MURRISON PHD INV YPD601 - PSYCH EVAL	375.00	05/20/2016	01-200-0000-525-000	Check Sequence: 25 ACH Enabled: False
	Check Total:	375.00			
Vendor: 16030	PACIFIC POWER				Check Sequence: 26 ACH Enabled: False
56810019 4/16	62665681-001 9 4/16	22.05	05/20/2016	01-200-0000-518-001	
56810027 4/16	62665681-002 7 4/16	294.19	05/20/2016	01-400-0000-518-001	
56810035 4/16	62665681-003 5 4/16	13,663.37	05/20/2016	70-510-0000-518-001	
56810043 4/16	62665681-004 3 4/16	26.08	05/20/2016	01-090-0000-518-001	
56810050 4/16	62665681-005 0 4/16	127.20	05/20/2016	01-370-0000-518-001	
56810068 4/16	62665681-006 8 4/16	586.02	05/20/2016	70-510-0000-518-001	
56810076 4/16	62665681-007 6 4/16	2,557.43	05/20/2016	20-312-0000-418-001	
56810100 4/16	62665681-010 0 4/16	539.10	05/20/2016	70-510-0000-518-001	
56810118 4/16	62665681-011 8 4/16	785.97	05/20/2016	01-210-0000-518-001	
56810142 4/16	62665681-014 2 4/16	10.50	05/20/2016	01-400-0000-518-001	
56810217 4/16	62665681-021 7 4/16	473.65	05/20/2016	01-230-0000-518-001	
56810233 4/16	62665681-023 3 4/16	381.10	05/20/2016	01-350-0000-518-001	
56810258 4/16	62665681-025 8 4/16	9,484.10	05/20/2016	80-560-0000-518-001	
56810274 4/16	62665681-027 4 4/16	1,154.68	05/20/2016	01-200-0000-518-001	
56810324 4/16	62665681-032 4 4/16	655.86	05/20/2016	01-470-0000-518-001	
56810332 4/16	62665681-033 2 4/16	1,085.52	05/20/2016	01-480-0000-518-001	
56810340 4/16	62665681-034 0 4/16	29.89	05/20/2016	80-560-0000-518-001	
56810415 4/16	62665681-041 5 4/16	695.65	05/20/2016	01-020-0000-518-001	
56810506 4/16	62665681-050 6 4/16	297.71	05/20/2016	80-550-0000-518-001	
56810514 4/16	62665681-051 4 4/16	43.74	05/20/2016	20-312-0000-418-001	
56810514 4/16	62665681-051 4 4/16	731.36	05/20/2016	01-420-0000-518-001	
56810654 4/16	62665681-065 4 4/16	89.17	05/20/2016	01-400-0000-518-001	
56810688 4/16	62665681-068 8 4/16	54.72	05/20/2016	01-400-0000-518-001	
56810696 4/16	62665681-069 6 4/16	121.40	05/20/2016	01-200-0000-518-001	
	Check Total:	33,910.46			
Vendor: 1008 40804-IN 40804-IN 40804-IN	PR DIAMOND PRODUCTS INC INV 40804-IN - BLADES (2) 14" FOR DUCTII INV 40804-IN - BLADES (2) 14" FOR DUCTII INV 40804-IN - BLADES (2) 14" FOR DUCTII	99.00 132.00 99.00	05/20/2016 05/20/2016 05/20/2016	20-310-0000-416-001 70-500-0000-416-000 80-550-0000-416-000	Check Sequence: 27 ACH Enabled: False

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
	Check Total:	330.00			
Vendor: 2216 1227213	RAY MORGAN COMPANY INV 1227213	42.00	05/20/2016	01-020-0000-515-000	Check Sequence: 28 ACH Enabled: False
	Check Total:	42.00			
Vendor: 1272 04/21/16	BRUCE RIGER YFD EXAM - R020288	233.00	05/20/2016	01-210-0000-525-000	Check Sequence: 29 ACH Enabled: False
	Check Total:	233.00			
Vendor: 1300 04/29/16	SEARS INV 04/29/16 - TOOL CHEST	247.22	05/20/2016	80-560-0000-420-003	Check Sequence: 30 ACH Enabled: False
	Check Total:	247.22			
Vendor: 1320 09/15/15 12/15/15	DONALD SOLUS YFD EXAM - 17994 YFD EXAM - 23636	125.00 125.00	05/20/2016 05/20/2016	01-210-0000-525-000 01-210-0000-525-000	Check Sequence: 31 ACH Enabled: False
	Check Total:	250.00			
Vendor: 2346 735E0D85	SPEAKWRITE LLC INV 735E0D85 - APRIL 2016	416.66	05/20/2016	01-200-0000-525-000	Check Sequence: 32 ACH Enabled: False
	Check Total:	416.66			
Vendor: 1330 05/20/16	STATE WATER RESOURCES CONTROL BOA INV OP 43295 - WATER DISTRIBUTION OPE	55.00	05/20/2016	70-500-0000-535-002	Check Sequence: 33 ACH Enabled: False
	Check Total:	55.00			
Vendor: 1333 45226 45253 45278 45311 45312 45319 45390	STEINHOFF HEAVY EQUIPMENT & REPAIR INV 45226 - CLEAR SUCTION HOSE #412 INV 45253 - FILTERS #415 INV 45278 - BATTERY (SHOP) INV 45311 - SS KING NIPPLE #412 INV 45312 - BATTERY #274 INV 45319 - BRACKET, PIN & FLAG #344 INV 45390 - BATTERY #387	91.98 131.39 227.85 70.22 140.77 163.40 140.77	05/20/2016 05/20/2016 05/20/2016 05/20/2016 05/20/2016 05/20/2016 05/20/2016	01-350-0000-520-000 01-350-0000-520-000 01-350-0000-520-000 01-350-0000-520-000 01-350-0000-520-000 01-350-0000-520-000 01-350-0000-520-000	Check Sequence: 34 ACH Enabled: False
	Check Total:	966.38			

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 1231 APR 2016	TRANSUNION RISK & ALTERNATIVE APR 2016 CONTRACT	140.00	05/20/2016	Check Sequence: 35 01-200-0000-525-000	ACH Enabled: False
	Check Total:	140.00			
Vendor: 1353 940826	USA BLUE BOOK INV 940826 - GAS DETECTOR REPAIR AND	301.42	05/20/2016	Check Sequence: 36 80-560-0000-420-003	ACH Enabled: False
	Check Total:	301.42			
Vendor: 23008 004681	WAL-MART COMMUNITY INV 004681 - COF/CRM/SUG/BATT	79.58	05/20/2016	Check Sequence: 37 01-200-0000-516-000	ACH Enabled: False
	Check Total:	79.58			
Vendor: 23040 40669 40671 40679 40710 40756 40791	WELDON'S TIRE SERVICE INV 40669 - TIRES #324 INV 40671 - FLAT REPAIR #303 INV 40679 - FLAT REPAIR #302 INV 40710 - MT & DISMT, STEM SENSOR #5 INV 40756 - TIRES #342 INV 40791 - TIRES #302 & #334	646.97 22.50 15.00 16.55 1,015.02 1,482.97	05/20/2016 05/20/2016 05/20/2016 05/20/2016 05/20/2016 05/20/2016	Check Sequence: 38 01-350-0000-520-200 01-350-0000-520-000 01-350-0000-520-000 01-350-0000-520-000 01-350-0000-520-200 01-350-0000-520-200	ACH Enabled: False
	Check Total:	3,199.01			
Vendor: 25005 1395 4/16 1415 4/16	YREKA AUTO PARTS ACCT 1395 4/16 - FILTERS & SMALL PARTS ACCT 1415 4/16 - PERMAPOXY PLASTIC W	343.50 6.44	05/20/2016 05/20/2016	Check Sequence: 39 01-350-0000-520-000 80-560-0000-420-003	ACH Enabled: False
	Check Total:	349.94			
Vendor: 1375 05/10/16 05/10/16 05/10/16 05/10/16 05/10/16	YREKA FIRE DEPT APRIL 2016 APRIL 2016 APRIL 2016 APRIL 2016 APRIL 2016	1,338.00 394.10 1,178.50 103.26 259.37	05/20/2016 05/20/2016 05/20/2016 05/20/2016 05/20/2016	Check Sequence: 40 01-210-0000-560-000 01-210-0000-416-000 01-210-0000-421-000 01-210-0000-515-000 01-210-0000-520-000	ACH Enabled: False
	Check Total:	3,273.23			
Vendor: 25120 297433	YREKA TRANSFER INV 297433 ACCT 47811- SLUDGE HAULING	2,165.97	05/20/2016	Check Sequence: 41 80-560-0000-420-006	ACH Enabled: False
	Check Total:	2,165.97			

Invoice No	Description	Amount	Payment Date	Acct Number	Reference
Vendor: 2153	ZAP MANUFACTURING INC			Check Sequence: 42	ACH Enabled: False
45021	INV 45021 - HIP OCT STOP SIGNS, LETTERS	1,441.96	05/20/2016	24-320-0000-450-001	
	Check Total:	<u>1,441.96</u>			
	Total for Check Run:	<u>65,089.77</u>			
	Total of Number of Checks:	<u>42</u>			



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**CITY OF YREKA**  
**CITY COUNCIL AGENDA MEMORANDUM**

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To: Yreka City Council  
Prepared by: Steve Baker, City Manager  
Agenda title: Direct City Manager to review the City of Yreka Conflict of Interest Code as required by California Government Code Section 87306.5.  
Meeting date: May 19, 2016

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Discussion:

The Political Reform Act requires each local government agency to review its conflict of interest code biennially to determine its accuracy or, alternatively, that the code must be amended. The City's Conflict of Interest Code was last amended on September 18, 2014 to delete the designated positions of Community Center/Theater Facilities Director, Senior Program Director, and Recreation Director from the City's Conflict of Interest Code. To meet the requirements of the Political Reform Act, the City Manager, in consultation with the City Attorney, will have to review the conflict of interest code to determine whether amendments are necessary based on whether:

- The addition, deletion or modification of the specific types of investments, business positions, interests in real property, and sources of income which are reportable for the designated positions should occur; or,
- If there should be addition, reclassification, renaming or deletion of previously designated positions.

The deadline for presentation of these recommendations is October 1, 2016. No resolution or ordinance is required for this action; it may be done by minute order. Any recommended changes will be presented to the Council for adoption by Resolution.

Biennial review of the Conflict of Interest Code is required by the Political Reform Act, Government Code Section 87305.6. The last review was conducted by order of the City Council on July 15, 2014.

Fiscal Impact: None

Recommendation: That the City Council direct the City Manager to review the City's Conflict of Interest Code and report back to the Council by its regular meeting on September 1, 2016, for any recommended changes or modifications.

Approved by:   
Steven Baker, City Manager

RESOLUTION NO. 2014-43

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YREKA AMENDING  
RESOLUTION NO. 2136 DELETING THE POSITIONS OF COMMUNITY  
THEATER/CENTER DIRECTOR; SENIOR PROGRAM DIRECTOR;  
AND RECREATION DIRECTOR FROM  
THE CITY OF YREKA CONFLICT OF INTEREST CODE

WHEREAS, the Political Reform Act requires every local government agency to review its conflict of interest code biennially; and

WHEREAS, on June 5, 2014, the Yreka City directed the City Manager to review the conflict of interest code to determine where amendments are necessary; and

WHEREAS, the City Manager has reviewed the Conflict of Interest Code and recommends the deletion of the positions of Community Theater/Center Director; Senior Program Director; and Recreation Director as these positions have been eliminated.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YREKA DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

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

Section 2. Resolution 2136 is hereby amended, deleting the designated positions of Community Center/Theater Facilities Director, Senior Program Director, and Recreation Director from the City's Conflict of Interest Code.

Section 3. This resolution shall take effect immediately upon its passage.

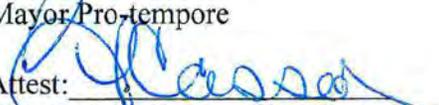
Passed and adopted this 18<sup>th</sup> day of September, 2014, by the following vote:

AYES: Foster, McNeil & Simmen

NAYS: None

ABSENT: Mercier & Bicego

  
\_\_\_\_\_  
David Simmen  
Mayor Pro-tempore

Attest:   
Elizabeth E. Casson, City Clerk

**CITY OF YREKA**  
**CONFLICT OF INTEREST CODE**

The Political Reform Act, Government Code 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 CAL Adm. Code Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after notice and hearings. Therefore, the terms of 2 CAL. Adm. Code Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendix in which officials and employees are designated and disclosure categories are set forth, constitute the Conflict of Interest Code of the City of Yreka.

Pursuant to Section 4 (A) of the standard Code, designated person shall file statements of economic interests with the City of Yreka no later than April 1 of each year. The originals of these statements shall be retained by the City of Yreka.

<b><u>DESIGNATED POSITIONS</u></b>	<b><u>DISCLOSURE CATEGORY</u></b>
Consultants*	1
City Clerk	1
Assistant City Manager	1
Director of Public Works	1
Project Engineer and Project Manager	1
Planning Director	1
Historic District and Landmarks Commissioners	1
Chief of Police	2
Finance Director	2
Yreka Volunteer Fire Department Chief	2
Yreka Volunteer Fire Department Secretary/Treasurer	2
Building Official	3

**DISCLOSURE CATEGORY 1**

Persons designated in this category must disclose business entities in which they have investments, business positions, and income from sources located in or doing business in the City of Yreka. Interests in real property located in the City of Yreka, including property located within a two mile radius of any property owned or used by the City.

**DISCLOSURE CATEGORY 2**

Persons designated in this category must disclose business entities in which they have investments, business positions, and sources of income of the type which:

Provide services, supplies, materials, machinery or equipment of the type utilized by the City.

### **DISCLOSURE CATEGORY 3**

Persons designated in this category must disclose business entities in which they have investments, business positions, and sources of income of the type which:

Are subject to the regulatory, permit or licensing authority of the City of Yreka.

### **DISCLOSURE CATEGORY 4**

Persons designated in this category must disclose business entities in which they have investments, business positions, and sources of income of the type which:

Engage in land development, construction or the acquisition or sale of real property.

Interest in real property located within the City of Yreka including property located within a two mile radius of any property owned or used by the City.

\*The City Manager may determine in writing that a particular consultant, although a “designated position”, is hired to perform a range of duties that are limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant’s duties and based upon the description, a statement of the extent of disclosure requirements. The City Manager’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Conflict of Interest Code adopted by Resolution No. 2136, and amended by Resolutions Nos. 2417, 2733, 2881 and 2014-43.



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**CITY OF YREKA**  
**CITY COUNCIL AGENDA MEMORANDUM**

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To: Yreka City Council  
Prepared by: Steve Baker, City Manager  
Agenda title: Adopt Resolution requesting the Board of Supervisors of the County of Siskiyou to consolidate a General Municipal Election to be held on Tuesday, November 8, 2016, with the Statewide General Election.  
Meeting date: May 19, 2016

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**BACKGROUND:**

Section 10403 of the Elections Code requires the City to adopt a Resolution requesting the consolidation, and setting for the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot.

**FISCAL IMPACT:**

Based on the invoice for the 2014 Primary Election, the estimated cost for the 2016 election is \$3,000.

**RECOMMENDATION:**

That the Council adopt Resolution as submitted.

Approved by:   
Steven Baker, City Manager

**RESOLUTION NO. 2016-29**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YREKA,  
CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE  
COUNTY OF SISKIYOU TO CONSOLIDATE A GENERAL MUNICIPAL  
ELECTION WITH THE STATEWIDE GENERAL ELECTION  
TO BE HELD ON TUESDAY, NOVEMBER 8, 2016.**

**WHEREAS**, Yreka Municipal Code Section 2.56.010 provides: "Pursuant to California Elections Code Sections 1301(b), 1000 and 10403.5, beginning in November of 2014 and every even-numbered year thereafter, the City of Yreka's General Municipal Election shall be consolidated with the Statewide General Election held on the first Tuesday following the first Monday in November"; and

**WHEREAS**, the terms of the City Clerk, Elizabeth Casson and City Treasurer, Shella Rhetta Hogan and Councilmembers Bryan Foster and David Simmen expire in November of 2016; and

**WHEREAS**, pursuant to the California Elections Code, the City Council of the City of Yreka desires to call and give notice of the General Municipal Election for the purpose of the election of City Clerk, City Treasurer and (2) Members of the City Council to four-year full terms shall be held on November 8, 2016; and,

**WHEREAS**, it is desirable that the City of Yreka General Municipal Election be consolidated with the Statewide General Election and that within the City, the precincts, polling places, and election officers be the same, and that the County Clerk of the County of Siskiyou canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YREKA DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1:** Pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Yreka on Tuesday, November 8, 2016, a General Municipal Election for the purpose of electing City Clerk, City Treasurer, and (2) Members of the City Council to four-year full terms;

**Section 2:** The polls for the election shall be open at 7:00 a.m. on the day of the election and shall remain open continuously until 8:00 p.m. when the polls shall be closed pursuant to Elections Code Section 10242, except as provided in Section 14401 of the Elections Code.

**Section 3:** Notice of the time and place of holding the election is given and the County Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

**Section 4:** Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Siskiyou is hereby requested to consent and agree to the consolidation

of the City of Yreka's General Municipal Election with the Statewide General Election to be held on November 8, 2016.

**Section 5:** The Board of Supervisors is requested to issue instructions to the County Clerk's Office Elections Division to take any and all steps necessary for the holding of a consolidated election.

**Section 6:** The County Clerk and the County Clerk's Office is authorized to canvass the returns of the Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

**Section 7:** The City of Yreka recognizes that additional cost will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs that are not reimbursed by the State.

**Section 8:** The City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and County Clerk's Office of the County of Siskiyou.

This resolution shall take effect immediately upon its passage.

Passed and adopted this 19<sup>th</sup> day of May 2016, by the following vote:

AYES:  
NAYS:  
ABSENT:

\_\_\_\_\_  
John Mercier,  
Mayor

Attest: \_\_\_\_\_  
Elizabeth E. Casson, City Clerk

I certify that the foregoing was adopted by the City Council of the City of Yreka, California at a meeting held on May 19, 2016, by the vote shown above.

BY: \_\_\_\_\_  
Elizabeth E. Casson  
Clerk of the City of Yreka [SEAL]

MEMORANDUM

CITY OF YREKA



To: City Council  
From: Jerry Lemos, Fire Chief  
Re: Recruitment and Recommendation Checklist for Appointment of Candidate,  
Name: Trestin Kumbrell  
Date: 1/27/14

I certify this candidate has completed all of the following steps in connection with their application.

- Chief Memo regarding Application process
- Candidate Application

**Background Investigation Forms (prior to Fire Department approval)**

- City of Yreka External Background check form
- Authorization to Procure and Election to Receive/Not Receive Copy of Consumer Report
- Certification to Consumer Credit Agency (*Fire Chief signs*)
- City of Yreka Internal Background check form
- DMV driver record information and report

**Health and Safety Screening (prior to City Council appointment)**

- Essential Functions and Work Conditions of Firefighter
- Certificate of Physician (*Physician signs*)
- Health Screen Questionnaire
- OSHA Respirator Questionnaire
- Candidate's Release for Pre-Appointment Agility Test (*Fire Chief also signs*)
- Fire Chief Certification of Candidate Agility Test (*Fire Chief signs*)
- Live Scan Fingerprint Screening
- Drug Screening (*Fire Chief notes date and time, and also signs*)
- Department Recommendation of Appointment and Approval (*Fire Chief signs before scheduling City Council appointment*)

**Personnel Forms Processing (after City Council appointment)**

- Appointment made with Human Resources. Time/Date: \_\_\_\_\_

I recommend that the City Council approve the appointment of this candidate to the Yreka Volunteer Fire Department:

Jerry A. Lemos  
Jerry Lemos, Fire Chief



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**CITY OF YREKA**  
**CITY COUNCIL AGENDA MEMORANDUM**

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To: Yreka City Council

Prepared by: Steven W. Baker, City Manager

Agenda title: Discussion/Possible Action: INTRODUCE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA ENACTING CHAPTER 9.26 ENTITLED “**MARIJUANA CULTIVATION, DISTRIBUTION AND DELIVERY PROHIBITED**” PROHIBITING THE CULTIVATION, DISTRIBUTION AND DELIVERY OF MARIJUANA WITHIN THE CITY OF YREKA, AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.

Meeting date: May 19, 2016

**Summary:**

The City Council has discussed regulation of medical marijuana on a number of occasions in recent months. Based on direction given at the May 5, 2016 City Council meeting, staff has prepared a revised ordinance that prohibits all cultivation, delivery and commercial sales of marijuana within all city planning zones.

In addition, the City’s current ordinances prohibit dispensaries, except certain entities that are permitted to dispense medical marijuana under state law. This prohibition has been incorporated into this ordinance for clarity. The Council may revisit dispensaries at some point in the future. Since the State will be preparing regulations over the next 18 months or so, there may be an appropriate time to reconsider as the regulations become clearer.

This ordinance also bans the distribution and delivery of medical marijuana, excepting the pass-through of the city limits to another location outside of city limits. This may also be reviewed or reconsidered as state regulations are clarified.

The procedures in the ordinance have changed from previous drafts. The Planning Commission is now the body that will determine whether an nuisance exists and impose administrative penalties and enforcement costs. The administrative fees have been revised to coincide with zoning code violations (i.e. administrative fees begin at \$200 per day and escalate to \$1,000 per day).

Various other provisions have been changed from previous drafts to clarify definitions, procedures, and the appeals process.

**Background:**

On October 9, 2015, Governor Brown signed Assembly Bills (AB) 243 and 266 and Senate Bill (SB) 643 implementing the Medical Marijuana Regulation and Safety Act.

The Medical Marijuana Regulation and Safety Act establishes the new Bureau of Medical Marijuana Regulation within the California State Department of Consumer Affairs to administer and enforce certain provisions of AB 243, AB 266, and SB 643.

### **AB 243**

In part, AB 243 makes the State Department of Food and Agriculture responsible for licensing and regulating medical marijuana cultivation. AB 243 allows the state to become the sole licensing authority for medical marijuana cultivation in cities and counties that do not have land use regulations or ordinances regulating or prohibiting medical marijuana cultivation in effect by March 1, 2016 (this deadline was removed by subsequent legislation).

AB 243 also addresses marijuana cultivation for personal medical use. It exempts qualified patients and primary caregivers from the requirements to obtain a state license for medical marijuana cultivation if the area for cultivation by a qualified patient does not exceed 100 square feet and the area for cultivation by a primary caregiver does not exceed 500 square feet for five qualified patients.

### **AB 266**

AB 266 creates a dual licensing structure between the state, cities, and counties in which both a state license and a local government permit or license will be required for medical marijuana activities. AB 266 also allows dispensaries to deliver medical marijuana to qualified patients. However, cities and counties may prohibit such deliveries within their jurisdictions. According to AB 266, the state will develop regulations for licensing medical marijuana activities. Several provisions in AB 266 imply that the Bureau of Medical Marijuana Regulation may begin issuing licenses for dispensaries and other medical marijuana activities in January 2018.

### **SB 643**

SB 643 requires the Medical Board of California to develop criteria for regulating physicians and administration and use of medical marijuana. SB 643 also contains provisions regarding the transportation, tracking, and taxation of medical marijuana.

### **Planning Commission Action**

The Planning Commission met on January 20, 2016, and heard testimony regarding two proposed ordinances including an outright ban. After the public hearing and deliberation, the Planning Commission voted to recommend to the City Council on a 3-2 vote to adopt what was known then as the second Ordinance, which would ban Marijuana cultivation, except for an area of up to 100 square feet outdoor, with restrictions. The commission found that the ordinances conformed with the city's General Plan.

### **CEQA**

The Planning Commission, at its meeting held January 20, 2016, determined that the project is consistent with the Yreka General Plan and the standards of Yreka Municipal Code and is exempt

from further environmental review pursuant to Section 15061(b) (3) of the California Guidelines for Implementation of the California Environmental Quality Act (CEQA).

**Recommended Action:** Staff recommends that the City Council introduce the proposed ordinance below.

If the Council wishes to proceed with introduction of the ordinance, the action then would be to:

***Waive the reading of the body of the Ordinance and Introduce Ordinance by title:***

INTRODUCE AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA ENACTING CHAPTER 9.26 ENTITLED “**MARIJUANA CULTIVATION, DISTRIBUTION AND DELIVERY PROHIBITED**” PROHIBITING THE CULTIVATION, DISTRIBUTION AND DELIVERY OF MARIJUANA WITHIN THE CITY OF YREKA, AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA.

Approved by   
Steven Baker, City Manager

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ORDINANCE NO.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YREKA ENACTING CHAPTER 9.26 ENTITLED "MEDICAL MARIJUANA CULTIVATION, DISTRIBUTION AND DELIVERY PROHIBITED" PROHIBITING THE CULTIVATION, DISTRIBUTION AND DELIVERY OF MEDICAL MARIJUANA WITHIN ALL ZONES IN THE CITY OF YREKA, AND FINDING THE ADOPTION OF THIS ORDINANCE TO BE EXEMPT FROM CEQA**

THE CITY COUNCIL OF THE CITY OF YREKA FINDS AND ORDAINS AS FOLLOWS:

**Section 1. Enactment.**

Chapter 9.26 of Title 9 of the City of Yreka Municipal Code is hereby enacted and added as a codified ordinance to read as follows:

**CHAPTER 9.26**

**MEDICAL MARIJUANA CULTIVATION, DISTRIBUTION AND DELIVERY PROHIBITED**

**Sections**

**9.26.100 Authority**

**9.26.110 Purpose and Intent**

**9.26.110 Findings**

**9.26.130 Scope**

**9.26.140 Responsibilities**

**9.26.150 Private Right of Action**

**9.26.200 Definitions**

**9.26.300 Cultivation, Processing, Dispensaries and Delivery Prohibited**

**9.26.400 Public Nuisance**

**9.26.500 Enforcement Authority**

**9.26.510 Hearing Authority**

**9.26.515 Right of Entry/Inspection**

**9.26.520 Violations**

**9.26.530 Remedies**

**9.26.540 Notice and Order to Abate**

**9.26.550 Correction, Payment or Hearing**

**9.26.560 Administrative Hearing Procedure**

- 39 **9.26.570 Failure to Appear at Planning Commission Hearing or Pay**
- 40 **Administrative Penalties**
- 41 **9.26.580 Violation Penalties**
- 42 **9.26.590 Enforcement Costs**

43 **ARTICLE I**

44 **GENERAL PROVISIONS**

45 **9.26.100 Authority**

46 Pursuant to authority granted by Article XI Section 7 of the California  
47 Constitution, Section 372 of the California Penal Code, California Code  
48 of Civil Procedure § 731 and California Civil Code §3491 the City  
49 Council of the City of Yreka does hereby enact this Chapter.

50 **9.26.110 Purpose & Intent**

51 The purpose and intent in adopting this Chapter is to acknowledge State law as  
52 it relates to Medical Marijuana and to reduce conditions that create public  
53 nuisances through enacting these regulations including without limitation, the  
54 prohibition of Marijuana Cultivation in order to effectively control the adverse  
55 impacts associated with Marijuana Cultivation as stated herein, while  
56 considering the desires of Qualified Patients Qualified Patients and Primary  
57 Caregivers, in furtherance of the public necessity, health, safety, convenience,  
58 and general welfare within the City's jurisdictional limits. While in 1996, the  
59 voters of the State of California approved Proposition 215 (codified as Health  
60 & Safety Code Section 11362.5 et seq. and entitled "The Compassionate Use  
61 Act of 1996" referred to herein as the "CUA"). In 2003, the California  
62 Legislature adopted SB 420, the Medical Marijuana Program ("MMP"),  
63 codified as Health and Safety Code Section 11362.7 et seq., which permits  
64 qualified patients and their primary caregivers to associate collectively or  
65 cooperatively to cultivate marijuana for Medical purposes without being subject  
66 to criminal prosecution under the California Penal Code. Yreka presently  
67 permits Marijuana dispensaries certain locations. Neither the CUA nor the  
68 MMP require or impose an affirmative duty or mandate upon a local  
69 government to allow, authorize, or sanction the establishment of facilities that  
70 cultivate or process Medical Marijuana within its jurisdiction. Nothing in this  
71 Chapter shall be construed to authorize any use, possession, Cultivation, or  
72 distribution of Marijuana for non-medical purposes or that is in violation of  
73 state or federal law.

74 **9.26.120 Findings**

- 75 A. The Federal Controlled Substances Act, 21 U.S.C. §§ 801 et seq., classifies
- 76 Marijuana as a Schedule I Drug, which is defined as a drug or other
- 77 substance that has a high potential for abuse, that has no currently accepted

- 78 medical use in treatment in the United States, and that has not been  
79 accepted as safe for use under medical supervision.
- 80 B. The Federal Controlled Substances Act makes it unlawful, under federal  
81 law, for any person to cultivate, manufacture, distribute or dispense, or  
82 possess with intent to manufacture, distribute or dispense, Marijuana. The  
83 Federal Controlled Substances Act contains no exemption for the  
84 Cultivation, manufacture, distribution, dispensation, or possession of  
85 Marijuana for medical purposes.
- 86 C. In 1996, the voters of the State of California approved Proposition 215,  
87 “The Compassionate Use Act,” (codified as Health and Safety Code  
88 Section 11362.7 through 11362.83) clarify the scope of The Compassionate  
89 Use Act of 1996 by creating the Medical Marijuana Identification Card  
90 program, creating reasonable regulations for cultivating, processing,  
91 transporting and administering Marijuana, as well as limiting the amount  
92 Marijuana a qualified individual may possess. The Medical Marijuana  
93 Program Act (codified as Health and Safety Code Section 11362.775)  
94 defines a “primary caregiver” as an individual who is designated by a  
95 qualified patient or by a person with an identification card, and who has  
96 consistently assumed responsibility for the housing, health, or safety of  
97 that patient or person and is further defined in the California Supreme  
98 Court decision *People v. Mentch* (2008) 45 Cal. 4<sup>th</sup> 274.
- 99 D. In *City of Riverside v. Inland Empire Patients Health and Wellness Center,*  
100 *Inc.* (2013) 56 Cal.4th 729 the California Supreme Court unanimously  
101 ruled that the CUA and the MMP did not preempt a local agency’s own  
102 ordinances, to regulate the use of its land, including the authority to  
103 provide that facilities for the distribution of Medical Marijuana will not be  
104 permitted to operate within its borders. The court held that the CUA and  
105 the MMP: “...remove state-level criminal and civil sanctions from  
106 specified medical marijuana activities, but they do not establish a  
107 comprehensive state system of legalized medical marijuana; or grant a  
108 ‘right’ of convenient access to marijuana for medicinal use; or override the  
109 zoning, licensing, and police powers of local jurisdictions; or mandate  
110 local accommodation of medical marijuana cooperatives, collectives, or  
111 dispensaries.” This ruling has been applied to a City’s right to prohibit the  
112 cultivation of Marijuana by numerous appellate court decisions.
- 113 E. Under the Federal Controlled Substances Act, codified in 21 U.S.C.  
114 Section 801 et seq., the use, possession, and cultivation of marijuana are  
115 unlawful and subject to federal prosecution without regard to a claimed  
116 medical need.
- 117 F. In 2015 the “Medical Marijuana Regulation and Safety Act” (“Act”),  
118 which is comprised of the state legislative bills known as AB 243, AB 266,  
119 and SB 643, created a comprehensive state regulatory and licensing system  
120 governing the cultivation, testing, and distribution of Medical Marijuana,  
121 as well as physician recommendations for Medical Marijuana. It created the  
122 Bureau of Medical Marijuana Regulation within the Department of

123 Consumer Affairs. It has primary responsibility for administering and  
124 enforcing the MMRSA. That scheme also provided for the protection of a  
125 local government agency's police powers in Business and Professions Code  
126 §§ 19315(a), 19316(a) and 19316(c). Thus all local remedies for any  
127 violation of this ordinance have been retained including the following  
128 enforcement actions: 1) Administrative citations; 2) Administrative  
129 abatement proceedings; 3) License revocation; 4) Civil action for  
130 injunctive relief and 5) Criminal enforcement following the failure to abate  
131 a public nuisance.

132 G. The City's geographic and climatic conditions provide conditions that are  
133 favorable to Outdoor Marijuana Cultivation, thus growers can achieve a  
134 high per-plant yield. The Federal Drug Enforcement Administration reports  
135 that various types of Marijuana plants under various planting conditions  
136 may yield averages of 236 grams, or about one-half (1/2) pound, to 846  
137 grams, or nearly two (2) pounds.

138 H. The strong distinctive odor of Marijuana plants creates an attractive  
139 nuisance, alerting persons to the location of the valuable plants, and has  
140 resulted in burglary, robbery and armed robbery.

141 I. The strong and distinctive odor of Marijuana plants creates a need to  
142 ensure that smells that disrupt the use of adjacent properties are minimized,  
143 much in the same way that many Cities have ordinances currently in place  
144 to minimize the smells associated with raising livestock.

145 J. Children (minors under the age of 18) are particularly vulnerable to the  
146 effects of Marijuana use and the presence of Marijuana plants is an  
147 attractive nuisance for children, creating an unreasonable hazard in areas  
148 frequented by children (including schools, parks, and other similar  
149 locations).

150 K. The Cultivation of Marijuana in the incorporated area of the City of Yreka  
151 can adversely affect the health, safety, and well being of the City, its  
152 residents and environment. Comprehensive civil regulation of premises  
153 used for Marijuana Cultivation is proper and necessary to avoid the risks of  
154 criminal activity, degradation of the natural environment, malodorous  
155 smells, and indoor electrical fire hazards that may result from unregulated  
156 Marijuana Cultivation, and that are especially significant if the amount of  
157 Marijuana cultivated on a single premises is not regulated and substantial  
158 amounts of Marijuana are thereby allowed to be concentrated in one place.

159 L. The indoor Cultivation of substantial amounts of Marijuana within a  
160 residence presents potential health and safety risks to those living in the  
161 residence, especially to children, including, but not limited to, increased  
162 risk of fire from grow light systems, exposure to fertilizers, pesticides,  
163 anti-fungus/mold agents, and exposure to potential property crimes  
164 targeting the residence.

165 M. Comprehensive restriction of premises used for Marijuana Cultivation is  
166 proper and necessary to address the risks and adverse impacts as stated

167 herein, that are especially significant if the amount of Marijuana cultivated  
168 on a single premises is not regulated and substantial amounts of Marijuana  
169 are thereby allowed to be concentrated in one place.

170 N. Outdoor Marijuana Cultivation is creating devastating impacts to  
171 California's surface and groundwater resources and environmental damage.  
172 The State Water Resources Control Board, the Central Valley Regional  
173 Water Quality Control Board and the Department of Fish and Wildlife have  
174 seen a dramatic increase in the number of Marijuana gardens, and  
175 corresponding increases in impacts to water supply and water quality,  
176 including the discharge of sediments, pesticides, fertilizers, petroleum  
177 hydrocarbons, trash and human waste. The sources of these impacts result  
178 from unpermitted and unregulated timber clearing, road development,  
179 stream diversion for irrigation, land grading, erosion of disturbed surfaces  
180 and stream banks, and temporary human occupancy without proper sanitary  
181 facilities.

182 O. The immunities from certain prosecution provided to Qualified Patients and  
183 their Primary Caregivers under State law to cultivate Marijuana plants for  
184 medical purposes does not confer the right to create or maintain a public  
185 nuisance. By adopting the regulations contained in this Chapter, the City  
186 will achieve a significant reduction in the complaints of odor and the risks  
187 of fire, crime and pollution caused or threatened by the unregulated  
188 Cultivation of Marijuana in the City of Yreka.

189 P. Nothing in this Chapter shall be construed to allow the use of Marijuana  
190 for non-medical purposes, or allow any activity relating to the Cultivation,  
191 distribution, or consumption of Marijuana that is otherwise illegal under  
192 State law. No provision of this Chapter shall be deemed a defense or  
193 immunity to any action brought against any person by the City of Yreka,  
194 the Yreka City Attorney, the Siskiyou District Attorney, the Attorney  
195 General of State of California, or the United States of America.

196 Q. The Attorney General's August 2008 Guidelines for the Security and Non-  
197 Diversion of Marijuana Grown for Medical Use recognizes that the  
198 Cultivation or other concentration of Marijuana in any location or premises  
199 without adequate security increases the risk that nearby homes or  
200 businesses may be negatively impacted by nuisance activity such as  
201 loitering or crime.

202 R. Based on the findings above, the potential establishment of the cultivation,  
203 and processing of Medical Marijuana in the City without an express ban on  
204 such activities poses a current and immediate threat to the public health,  
205 safety, and welfare in the City due to the negative impacts of such  
206 activities as described above;

207 S. The issuance or approval of business licenses, subdivisions, use permits,  
208 variances, building permits, or any other applicable entitlement for  
209 Marijuana Cultivation and processing will result in the aforementioned  
210 threat to public health, safety, and welfare; and

- 211 T. It is in the interest of the City, its residents, and its lawfully permitted  
212 businesses that City adopts this Ordinance to expressly prohibit the  
213 establishment and operation of Marijuana Cultivation, processing, delivery,  
214 and dispensary activities as well as the issuance of any use permit,  
215 variance, building permit, or any other entitlement, license, or permit for  
216 any such activity, except where the City is preempted by federal or state  
217 law from enacting a prohibition on any such activity or a prohibition on the  
218 issuance of any use permit, variance, building permit, or any other  
219 entitlement, license, or permit for any such activity
- 220 U. The California Constitution, Article XI, section 7, provides cities with  
221 broad authority to determine, for purposes of health, safety, and welfare,  
222 the appropriate uses of land within a City's boundaries.
- 223 V. The Planning Commission of the City of Yreka, after due notice, at the  
224 public hearing of January 20, 2016, reviewed similar proposed ordinances  
225 and accompanying documents, considered testimony regarding similar  
226 proposed Ordinances both a complete prohibition and a regulation of  
227 outdoor cultivation, and voted Ayes 3 and Nays 2 to adopt the Ordinance  
228 referred to in Resolution number 2016-3a and recommend approval to the  
229 City Council.
- 230 W. The Planning Commission of the City of Yreka, also reviewed similar  
231 proposed ordinances and found that the imposition of restrictions, such as  
232 those imposed here, are consistent and compatible with the objectives,  
233 policies, general land uses, and programs specified in the General Plan.
- 234 X. All legal prerequisites for the adoption of this Ordinance have occurred.
- 235 Y. The above recitals are all true and correct and are incorporated in the  
236 substantive portion of this Ordinance.

237 **9.26.130 Scope**

238 The provisions of this Chapter shall apply generally to all property throughout  
239 the incorporated area of the City of Yreka, as from time to time, annexed and  
240 expanded.

241 **9.26.140 Responsibilities**

- 242 A. Regardless of whether an owner is in actual possession of his or her real  
243 property, it is the duty of every owner of real property within the  
244 incorporated area of City of Yreka to prevent a public nuisance from  
245 arising on, or from existing upon, his or her real property.
- 246 B. No person or entity shall cause, permit, maintain, conduct or otherwise  
247 allow a public nuisance as defined in this Chapter to exist upon any  
248 property within their control and shall not cause a public nuisance to exist  
249 upon any other property within the incorporated limits of the City of  
250 Yreka. It shall be the duty of every owner, occupant, and person that  
251 controls any land or interest therein within the incorporated area of the

252 City of Yreka to remove, abate and prevent the reoccurrence of any public  
253 nuisance upon such land.

254 **9.26.150 Private Right of Action**

255 Nothing contained in this Chapter shall be construed to prohibit the right of any  
256 person or public or private entity damaged by any violation of this Chapter to  
257 institute a civil proceeding for injunctive relief against such violation, for  
258 money damages, for compensatory damages, for injunctive relief, and for the  
259 cost of suit and reasonable attorney's and expert witness' fees, or for whatever  
260 other or additional relief the court deems appropriate. The remedies available  
261 under this Chapter shall be in addition to, and shall not in any way restrict  
262 other rights or remedies available under law.

263

264

265

**ARTICLE 2  
DEFINITIONS**

266 **9.26.200 Definitions**

267 Except where the context otherwise requires, the following definitions shall  
268 govern the construction of this Chapter:

- 269 A. "Building Official" means any person employed by the City of Yreka that  
270 has been delegated or assigned building inspection duties or building plan  
271 approval.
- 272 B. "City Manager" means the City Manager of the City of Yreka, California or  
273 his or her designee.
- 274 C. "Code" means the City of Yreka Municipal Code.
- 275 D. "Code Enforcement Officer" means any person employed by the City of  
276 Yreka that has been delegated or assigned code enforcement  
277 responsibilities.
- 278 E. "Commercial cannabis activity" shall have the meaning set forth in  
279 Business and Professions Code section 19300.5(k).
- 280 F. "Costs of Enforcement" or "Enforcement Costs" means the total cost  
281 incurred by the City in connection with a public nuisance including, but not  
282 limited to:
- 283 1. Any cost incurred in removing or remedying a public nuisance;
- 284 2. The actual expenses and costs of the City in preparation of notice and order,  
285 reconsideration, appeal and termination fees for administrative services rendered  
286 by the City in connection with the inspection, notification, prosecution and  
287 abatement procedures authorized by this code:
- 288 a. Notice and order, appeal and termination fees in such amounts as are  
289 determined from time to time by resolution of the city council;
- 290 b. Notice and order, appeal and termination fees based on services rendered  
291 by the City from the time of the initial complaint intake for the purpose of

292 documenting a violation of this code until the violation is corrected;

293 c. The notice and order, appeal and termination fees are not intended to be a  
294 penalty imposed for violation of this code or other laws;

295 d. Specifications and contracts;

296 e. Any attorney's fees expended by the prevailing party related to the  
297 abatement of the nuisance, through inspection warrant, civil action or  
298 otherwise whenever the City elects, at the initiation of that individual action  
299 or proceeding, to seek recovery of its own attorneys' fees;

300 f. The cost of printings and mailings required under this code;

301 g. All costs or expenses to which the City may be entitled pursuant to  
302 Health and Safety Code Section 510 and other statutory entitlement;

303 h. All costs and expenses for which the City may be liable under state law  
304 arising from or related to the nuisance.

305 3. Any cost incurred by the City in collecting the costs enumerated in subsections 1  
306 and 2 of this definition.

307 G. "City" means the City of Yreka.

308 H. "Chapter" or Ordinance means this ordinance.

309 I. "Cultivation" means the planting, growing, harvesting, drying, processing,  
310 of one or more Marijuana plants or any part thereof in any location, indoor  
311 or outdoor, including from within a fully enclosed and secure building.

312 J. "Enforcement Official" means the Code Enforcement Officer, City  
313 Attorney or the City Police, or the authorized officers or designees of  
314 either, each of whom is independently authorized to enforce this Chapter.

315 K. "Marijuana" or "Marijuana Plant" means all parts of the plant Cannabis  
316 sativa L. or Cannabis ruderalis, whether growing or not; the seeds thereof;  
317 the resin extracted from any part of the plant; and every compound,  
318 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds  
319 or resin. It does not include the mature stalks of the plant, fiber produced  
320 from the stalks, oil or cake made from the seeds of the plant, any other  
321 compound, manufacture, salt, derivative, mixture, or preparation of the  
322 mature stalks (except the resin extracted there from), fiber, oil, or cake, or  
323 the sterilized seed of the plant which is incapable of germination including  
324 marijuana infused in foodstuff or any other ingestible or consumable  
325 product containing marijuana. The term "marijuana" shall also include  
326 "medical marijuana" as such phrase is used in the August 2008 Guidelines  
327 for the Security and Non-Diversion of Marijuana Grown for Medical Use,  
328 as may be amended from time to time, that was issued by the office of the  
329 Attorney General for the state of California or subject to the provisions of  
330 California Health and Safety Code Section 11362.5 (Compassionate Use  
331 Act of 1996) or California Health and Safety Code Sections 11362.7 to  
332 11362.83 (Medical Marijuana Program Act).

- 333 L. "Marijuana Cultivation Facility" means any business, facility, use,  
334 establishment, property, or location where the cultivation of marijuana  
335 occurs.
- 336 M. "Medical Marijuana" is Marijuana used for medical purposes where that  
337 medical use is deemed appropriate and has been recommended by a  
338 physician who has determined that the person's health would benefit from  
339 the use of marijuana in the treatment of acquired immune deficiency  
340 syndrome ("AIDS"), anorexia, arthritis, cancer, chronic pain, glaucoma,  
341 migraine, spasticity, or any other serious medical condition for which  
342 marijuana is deemed to provide relief as defined in subsection (h) of Health  
343 and Safety Code § 11362.7.
- 344 N. "Medical Marijuana Dispensary" means any business, facility, use,  
345 establishment, property, or location, whether fixed or mobile, where  
346 Medical Marijuana is sold, made available to, delivered to and/or  
347 distributed by or to three or more people. A "Medical Marijuana  
348 Dispensary" does not include the following uses, as long as the location of  
349 such uses are otherwise regulated by this Code or applicable law: a clinic  
350 licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code,  
351 a health care facility licensed pursuant to Chapter 2 of Division 2 of the  
352 Health and Safety Code, a residential care facility for persons with chronic  
353 life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of  
354 the Health and Safety Code, a residential care facility for the elderly  
355 licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety  
356 Code, a residential hospice, or a home health agency licensed pursuant to  
357 Chapter 8 of Division 2 of the Health and Safety Code, as long as any such  
358 use complies strictly with applicable law including, but not limited to,  
359 Health and Safety Code §11362.5 and following.
- 360 O. "Marijuana Processing" means any method used to prepare marijuana or its  
361 byproducts for commercial retail and/or wholesale, including but not  
362 limited to: drying, cleaning, curing, packaging, and extraction of active  
363 ingredients to create marijuana related products and concentrates.
- 364 P. "Parcel" means any parcel of real property that may be separately sold in  
365 compliance with the Subdivision Map Act (commencing with Section  
366 66410 of the Government Code) and also means parcels that are described,  
367 recorded and kept in official City records specifically including documents  
368 and maps used by the Siskiyou County Assessor's Office, the Siskiyou  
369 County Tax Collector's Office and the Siskiyou County Recorder's Office.
- 370 Q. "Primary Caregiver" shall have the same meaning as "primary caregiver"  
371 as defined in the California Health and Safety Code, commencing with  
372 Section 11362.7(d), and as further defined in the California Supreme Court  
373 decision *People v. Mentch* (2008) 45 Ca1.4th 274.
- 374 R. "Police" or "Police Department" means the City of Yreka Police  
375 Department or the authorized representatives thereof.

376 S. "Qualified Patient" shall have the same meaning as "qualified patient" as  
377 defined in the California Health and Safety Code, commencing with  
378 Section 11362.7(f) as amended or supplanted.

379 **ARTICLE 3**  
380 **RESTRICTIONS AND REQUIREMENTS**

381 **9.26.300 Cultivation, Processing, Dispensaries and Delivery Prohibited.**

382 A. Marijuana Cultivation Facilities, Marijuana Cultivation, Marijuana  
383 Processing, marijuana delivery, or the establishment or operation of a Medical  
384 Marijuana Dispensary in the City, are prohibited in all zones in the City and  
385 shall not be established or operated anywhere in the City except where this  
386 ordinance is preempted by federal or state law from enacting a prohibition on  
387 any such activity. No use permit, variance, building permit, or any other  
388 entitlement, license, or permit, whether administrative or discretionary, shall  
389 be approved or issued for the activities of Marijuana Cultivation Facilities,  
390 Marijuana Cultivation, Marijuana Processing, marijuana delivery, or the  
391 establishment or operation of a Medical Marijuana Dispensary in the City.

392 B. It is unlawful and a public nuisance for any person owning, leasing, renting,  
393 occupying, or having charge or possession of any Parcel within any zoning  
394 district in the City to cause or allow such Parcel or premises to be used for the  
395 Cultivation of Medical Marijuana Plants except where the City is preempted by  
396 federal or state law from enacting a prohibition on any such activity.  
397 No person may own, establish, open, operate, conduct, or manage a Medical  
398 Marijuana Dispensary, Marijuana Cultivation Facility or Commercial Cannabis  
399 Activity in the City, or be the lessor of property where a Marijuana Cultivation  
400 Facility and/or Commercial Cannabis Activity in all zones in the City. No  
401 person may participate as an employee, contractor, agent, volunteer, or in any  
402 manner or capacity in any Medical Marijuana Dispensary, Marijuana  
403 Cultivation Facility and/or Commercial Cannabis Activity in all zones in the  
404 City. Nothing in this prohibition shall apply to the exceptions to the prohibition  
405 of "Medical Marijuana Distribution Facility" under Yreka Municipal Code  
406 Chapter 9.25, §9.25.010(1) through (5) inclusive.

407 C. No person and/or entity may deliver or transport Medical Marijuana from  
408 any fixed or mobile location, either inside or outside the City, to any person in  
409 the City except where this ordinance is preempted by federal or state law from  
410 enacting a prohibition on any such activity.

411 **ARTICLE 4**  
412 **PUBLIC NUISANCE**

413 **9.26.400 Public Nuisance**

414 Any violation of this Chapter is hereby declared to be a public nuisance.  
415

**ARTICLE 5**  
**ENFORCEMENT**

416

417

418 **9.26.500 Enforcement Authority**

419 The Code Enforcement Official that has been assigned responsibility for  
420 administration of Code Enforcement services is hereby designated to enforce  
421 this Chapter.

422 **9.26.510 Hearing Authority**

423 The City Planning Commission's jurisdiction is expanded to include  
424 conducting hearings on any and all alleged public nuisances under this  
425 Chapter, its abatement and the imposition of administrative penalties in  
426 addition to the City Planning Commission's existing powers already set forth  
427 in other parts of the Code and in applicable statutes.

428 **9.26.515 Right of Entry/Inspection**

429 To enforce the provision of this Code, any Code Enforcement Officer may at a  
430 reasonable time request inspection of any Parcel suspected of Cultivating  
431 Marijuana. If the person owning or occupying the Parcel refuses the request  
432 for an inspection, the Code Enforcement Officer shall have recourse to every  
433 remedy provided by law to secure entry, including obtaining an inspection  
434 warrant.

435 **9.26.520 Violations**

- 436 A. It is unlawful and a violation of this Chapter for any person to permit a  
437 public nuisance to exist upon real property in which such person has an  
438 ownership or possessory interest.
- 439 B. It shall be unlawful and a violation of this Chapter to do anything in  
440 contrary to the requirements and provisions set forth in this Chapter.
- 441 C. Each person violating this Chapter shall be guilty of a separate offense for  
442 each and every day, or portion thereof, which any violation of any  
443 provision of this Chapter is committed, continued, or permitted by any such  
444 person. Any violation, which persists for more than one day, is deemed a  
445 continuing violation.

446 **9.26.530 Remedies**

- 447 A. Any violation of this Chapter shall be deemed a public nuisance and is  
448 subject to any enforcement process authorized by law or as outlined in this  
449 Code.
- 450 B. Nothing herein shall be read, interpreted or construed in any manner so as  
451 to limit any existing right or power of the City of Yreka or any other  
452 governmental entity to enforce City ordinances, to abate any and all  
453 nuisances, or employ any remedy available at law or equity.

- 454 C. Issuance of a warning shall not be a requirement prior to using any  
455 enforcement provision of this Code. Violations are not tiered and are  
456 subject to enforcement without warning.
- 457 D. A civil action to foreclose a lien, the special assessment procedure, and  
458 a personal action against the owner and all other responsible persons  
459 shall not be mutually exclusive and the City shall be free to use all  
460 methods simultaneously as long as the City does not receive multiple  
461 payments for Enforcement Costs.

462 **9.26.540 Notice and Order to Abate**

- 463 A. Upon making a determination that a public nuisance exists, the Code  
464 Enforcement Officer shall notify the owner and/or the alleged violator that  
465 a public nuisance exists upon such owner's property and of the  
466 administrative penalties to be imposed. As to an owner, the Notice and  
467 Order to Abate shall be delivered by personal service or by Certified,  
468 Return Receipt mail, with postage prepaid, addressed to the owner as such  
469 owner's name and address appears on the last equalized assessment roll or  
470 to such other address as the owner directs. As to an alleged violator whom  
471 the Enforcement Official has determined directly or indirectly contributed  
472 to the condition creating the nuisance, the Notice and Order to Abate shall  
473 be delivered by personal service or by Certified, Return Receipt mail, with  
474 postage prepaid, to the last known address of the alleged violator. In  
475 addition, the Notice and Order to Abate shall be delivered by first class  
476 mail, with postage prepaid, addressed to the owner and/or alleged violator  
477 at the same addresses. A copy shall also be posted on the property. The  
478 Code Enforcement Officer shall complete a proof of service.
- 479 B. The Notice and Order to Abate shall describe the use or condition which  
480 constitutes the public nuisance; and shall order that the uses or conditions  
481 constituting the nuisance be abated by demolition, securing, removal,  
482 cleanup, repair or other means of correction within a reasonable time  
483 certain as determined necessary for such abatement by the Code  
484 Enforcement Officer based upon the nature and complexity of the abatement  
485 process, normally being ten (10) days, or more, from the date such notice is  
486 mailed and/or posted. The correction period may be shortened in the event  
487 the Code Enforcement Officer determines that an immediate threat to the  
488 public health and safety may in existence. A correction period longer than  
489 ten (10) days may be granted if deemed necessary by the Code Enforcement  
490 Officer. No administrative penalties shall be assessed in the event the  
491 nuisance is voluntarily abated within the specified correction period.

492 **9.26.550 Correction, Payment or Hearing**

- 493 A. Offenders' Obligation. After the issuance of the Notice and Order to Abate, at a  
494 minimum, an offender or the offender's representative shall do one (1) of the  
495 following to avoid the penalty set forth in Section 9.26.580:

496 1. Pay the administrative penalties amount designated on the Notice and Order to  
497 Abate within twenty-one (21) days of the Notice and Order to Abate issuance  
498 date.

499 Or

500 2. Within and including ten (10) days of the issuance of the Notice and Order to  
501 Abate make a written request for a hearing with the Planning Commission and  
502 appear before the Planning Commission on the designated hearing date and  
503 abide by or appeal the Planning Commission's decision. The offenders' written  
504 request shall be considered timely if it arrives, is delivered, or it reflects a  
505 United States mail postmark date within and including ten (10) days from the  
506 issuance date of the Notice and Order to Abate.

507 Or

508 3. Timely abate the nuisance by its correction and obtain the Code Enforcement  
509 Officer's verification that the nuisance as been abated.

510 B. Payments. Payments shall be sent to the City's Finance Department.

511 C. Obligation to Correct Violation. Nothing in this Code shall be interpreted to mean that  
512 because an offender has paid the administrative penalties that he or she is not required  
513 to correct the violation. Failure to correct the violation could result in the issuance of  
514 additional citations.

515 **9.26.560 Administrative Hearing Procedure**

516 A. Hearing

517 The Planning Commission shall, at the scheduled date and time specified, conduct a  
518 hearing where the Commission can hear and consider any relevant testimony or evidence  
519 offered by the offender, any city official or any other interested party. The hearing shall  
520 be informally conducted. The formal rules of the California Evidence Code shall not  
521 apply, except that irrelevant and unduly repetitious evidence shall be excluded at the  
522 Planning Commission's discretion.

523 B. Jury and Public Defense

524 Pursuant to California Penal Code Section 19.6, an offender shall not be entitled to a jury  
525 in a Planning Commission (infraction) hearing nor shall an Offender be entitled to have  
526 the public defender or other counsel appointed at public expense to represent him or her.

527 C. Continuances

528 At its discretion, the Planning Commission may continue the hearing to another date and  
529 time.

530

531 D. Written Determination Contents

532 If the offender or the offender's representative appears at the hearing, the Planning  
533 Commission shall provide a written determination to the offender and the City.

534 The Planning Commission's written decision shall contain the following:

- 535 1. The Planning Commission's findings of fact and conclusions.  
536 2. The procedure described in Sections 9.26.570(E)(2) and 9.26.570(E)(3) for  
537 appealing the Planning Commission's decision.

538 E. Notification of Written Determination

539 If the Planning Commission produces a written decision, it should do so within thirty (30)  
540 days of the hearing's conclusion. Written Determinations shall be provided by one (1) of  
541 the following methods:

- 542 1. By personal service on the offender.  
543 2. By registered or certified mail to the offender's last known address.

544 Written Determinations shall be considered timely if they arrive, are delivered, or reflect  
545 a United States mail postmark date within and including thirty (30) days from the  
546 conclusion of the Planning Commission hearing where the determination was made.

547 **9.26.570 Failure to Appear at Planning Commission Hearing or Pay**  
548 **Administrative Penalties**

549 A. Penalty

550 If the offender fails to pay the administrative penalties imposed within the time period  
551 specified in Section 9.26.570(G)(1) and fails to appear on the designated hearing date, the  
552 offender will be subject to the penalty set forth in Section 9.26.580. When an offender  
553 requests a hearing and fails to appear at the designated hearing date, the penalty in  
554 Section 9.26.580 shall immediately be in effect if the offender has not paid the  
555 administrative penalties imposed by the Designated Hearing Date and twenty-one (21)  
556 days has passed since the citation issuance date.

557 If the offender fails to appear at the designated hearing date and twenty-one (21) days  
558 from the citation issuance date has not passed, the offender has until the end of the  
559 twenty-one (21) day period to pay the administrative penalties imposed.

560 B. Waiver of Right to Hearing

561 The offender's failure to appear on the designated hearing date shall constitute a waiver  
562 of the right to a hearing. An offender's failure to appear on the designated hearing date  
563 shall be presumed an admission of guilt to the municipal ordinance violation charges as  
564 indicated on the Notice and Order to Abate.

565

566 C. Good Cause

567 Upon a showing of good cause by the offender, the Planning Commission may excuse the  
568 offender's failure to appear on the designated hearing date and reschedule the offender's  
569 hearing on the condition that the offender pays a deposit in the amount of the  
570 administrative penalties.

571 D. Nothing in this Section shall be interpreted to mean the following:

- 572 1. The offender is excused from the requirement to pay the administrative  
573 penalties or appear at a Planning Commission hearing.
- 574 2. The Planning Commission may excuse the offender from appearing altogether.
- 575 3. The Planning Commission may excuse the offender from paying the  
576 administrative penalties, unless a hearing as described in Section 26.9.570(A)  
577 has been conducted and the Planning Commission finds in favor of the  
578 offender.
- 579 4. Notwithstanding the foregoing, the Planning Commission may suspend  
580 payment of the administrative penalty and/or Enforcement Costs on the  
581 condition that the nuisance is abated within a time set by the Planning  
582 Commission.

583 E. Written Decision

584 If the offender fails to appear at the hearing, the Planning Commission may, but is not  
585 required to render a decision. However, any decision that the Planning Commission does  
586 render shall be in favor of the City, as the offender's failure to appear constitutes an  
587 admission of guilt as specified above. The offender's failure to appear shall not affect the  
588 validity of the Planning Commission's decision.

589 F. Planning Commission Decision in Offender's Favor

590 A decision in favor of the offender shall constitute a dismissal of the municipal ordinance  
591 violation. The City shall return any monies paid by the offender as a deposit towards the  
592 dismissed municipal ordinance violation administrative penalties.

593 G. Planning Commission Decision in City's Favor

594 If the Planning Commission conducts a hearing and renders a written decision in favor of  
595 the City, the Offender must do one (1) of the following:

- 596 1. Abide by the Planning Commission's order including paying the administrative  
597 penalties and Enforcement Costs to date in full within twenty (20) calendar days  
598 of service of the Planning Commission's decision.

599 OR

- 600 2. Appeal the Planning Commission's decision pursuant to California Government  
601 Code Section 53069.4 (hereinafter Section 53069.4) within twenty (20) calendar

602 days after service of the Planning Commission's decision. Pursuant to Section  
603 53069.4, the appealing party shall serve a copy of the appeal notice in person or by  
604 first-class mail upon the City. Appeal notices shall be sent to: City Manager, 701  
605 Fourth Street, Yreka, California 96097. If no appeal notice is filed within the  
606 twenty (20) calendar day period, the Planning Commission's decision shall be  
607 deemed confirmed.

608 OR

609 3. File a petition for a writ of mandate pursuant to California Code of Civil  
610 Procedure Section 1094.5 et seq.

611 **9.26.580 Violation Penalties**

612 A. Criminal Penalties.

613 Any responsible party, whether owner, lessee, sublessor, sublessee or occupant  
614 of any premises who violates the provisions of this code shall be guilty of a  
615 misdemeanor for each day such violation continues. Nothing in this provision is  
616 intended to obviate any applicable immunity conferred pursuant to Health and  
617 Safety Code §11362.71(e).

618 B. Administrative Penalties.

619 1. Any person who violates this Chapter shall be guilty of a separate offense  
620 for each and every day, or portion thereof, the violation is committed,  
621 permitted or continued. The city attorney may pursue any lawful civil  
622 remedy and administrative penalties brought to enforce any provisions of  
623 this Chapter.

624 2. In addition to the actual abatement and/or Enforcement Costs incurred by  
625 the City any person who has been issued a Notice and Order to Abate  
626 Public Nuisance shall be assessed an Administrative Penalty payable to the  
627 City as follows:

628 a. A penalty of \$200 for each violation of this Code per day as set forth in  
629 the Notice and Order to Abate.

630 b. A penalty of \$500 for each violation of this Code per day when a second  
631 violation of this Code occurs within twelve (12) months of a previously  
632 issued Notice and Order to Abate.

633 c. A penalty of \$1, 000 for each violation of this Code per day for each  
634 subsequent violation of this Code beyond the second when the violation  
635 occurs within twelve (12) months of the original Notice and Order to  
636 Abate.

637 3. For the purpose of calculating the daily Administrative Penalty, each  
638 offense of any Section of this Chapter shall be charged as a separate  
639 violation; in addition, each cubic foot of area under Cultivation in violation  
640 of this Chapter shall be charged as a separate violation.

641 4. The Administrative Penalty, pursuant to this Section, shall be assessed  
642 immediately upon the issuance of a Notice and Order to Abate Public  
643 Nuisance and shall continue to accrue until the date compliance with the  
644 Order has been met and verified by the Code Enforcement Officer.

645 C. Obstruction a Crime.

646 Any person who obstructs, impedes or interferes with any representative,  
647 officer, employee, contractor or authorized representative of the city council or  
648 with any representative of a City department or with any person who owns or  
649 holds any estate or interest in a building or Parcel which has been ordered to be  
650 abated pursuant to the provisions of this Chapter when any of the  
651 aforementioned individuals are engaged in the work of abating any nuisance as  
652 required by the provisions of this Chapter, or in performing any necessary act  
653 preliminary to or incidental to such work authorized or directed pursuant to this  
654 Chapter lawfully engaged in proceedings involving the abatement of a nuisance  
655 is guilty of a misdemeanor.

656 **9.26.590 Enforcement Costs**

657 A. All costs and penalties associated with the enforcement of this Chapter are  
658 the joint and several responsibility of the owner, lessee, renter, occupier  
659 and person having charge or possession of any Parcel(s) on which a  
660 nuisance has been found to exist and such costs shall be paid within 30  
661 days of the date of demand thereof.

662 B. The City Manager/designee shall keep an account of the Enforcement Costs  
663 (including incidental expenses) of abating such nuisance on each Parcel  
664 where the work is done and shall render an itemized billing to the property  
665 owner, which shall be due and payable within thirty days. If the owner  
666 refuses or neglects to pay the bill, an itemized report in writing shall be  
667 made to the Planning Commission showing the Enforcement Costs and the  
668 demolishing or repairing of said buildings, structures and/or Marijuana  
669 eradication, including any salvage value relating thereto; provided, that  
670 before said report is submitted to the Planning Commission, a copy of the  
671 same shall be mailed together with a notice of the time when said report  
672 shall be heard by the Planning Commission for confirmation.

673 C. The Planning Commission shall set the matter for hearing to determine the  
674 correctness or reasonableness, or both, of such costs, and shall serve notice  
675 thereof as set forth in Government Code §38773.5(C). At the time and  
676 place fixed for receiving and considering the report, the Planning  
677 Commission shall hear and pass upon the reports of the Enforcement Costs  
678 and such other costs of abatement, together with any objections or protests  
679 raised by any of the persons liable to be assessed for the cost of abating the  
680 nuisance.

681 Thereupon, the Planning Commission may make such revision, correction  
682 or modification in the report, as it may deem just, after which, by motion,  
683 the report, as submitted or as revised, corrected or modified, shall be  
684 confirmed. The hearing may be continued from time to time. The decision

685 of the Planning Commission on all protests and objections, that may be  
686 made, shall be final and conclusive. Proof of said service of the Planning  
687 Commission's determination of Enforcement Costs and other costs of  
688 abatement shall be made by declaration under penalty of perjury filed with  
689 the city clerk.

690 D. Where costs and penalties go unpaid beyond 30 days, the Code Enforcement  
691 Officer shall take action to confirm the Enforcement Costs and other costs  
692 and record a lien against the Parcel and will attach as a lien until paid. Costs  
693 or expenses for which the City may be reimbursed shall begin to accrue at the time  
694 the City first receives a complaint regarding a problem on the property. Any lien  
695 recorded pursuant to Government Code §38773.5 shall not include administrative  
696 penalties assessed and shall be limited to the Enforcement Costs. However, upon  
697 entry of a second or subsequent civil or criminal action within a two year period  
698 finding an owner of a Parcel or a person described in paragraph (3) of subdivision (d)  
699 of Government Code §38772 is responsible for the condition that may be abated in  
700 accordance with this Chapter, the Court may order that person to pay treble the  
701 Enforcement Costs..

702 E. The Code Enforcement Officer shall notify the owner of record of the parcel  
703 of land on which the nuisance is maintained, based on the last equalized  
704 assessment roll or the supplemental roll, whichever is more current, that a  
705 nuisance abatement lien will be recorded. The notice shall specify the  
706 amount of the lien, the name of the City, the date of the abatement order, the  
707 street address, the legal description and the assessors parcel number of the  
708 parcel on which the lien is imposed, and the name and address of the  
709 recorded owner of the parcel. The notice shall be served by certified mail, to  
710 the property owner, if the property owner's identity can be determined from  
711 the county assessor's or county recorder's records. The notice shall be given  
712 at the time of imposing the assessment and shall specify that the property  
713 may be sold after three years by the tax collector for unpaid delinquent  
714 assessments. Such notice of lien for recordation shall be in the form  
715 substantially as follows:

716 NOTICE OF LIEN  
717 (Claim of City of Yreka)

718 Pursuant to the authority vested by the provisions of Chapter 9.26 of the  
719 City of Yreka Municipal Code, the city manager (or his designee) of the City of  
720 Yreka did on or about (insert date), cause the premises hereinafter described  
721 [insert description of abatement action taken] to abate a public nuisance on said  
722 real property; and the Planning Commission of the City of Yreka did on (insert  
723 date), assess the cost of such abatement action taken; and the same has not been  
724 paid nor any part thereof; and that said City of Yreka does hereby claim a lien  
725 on premises in the amount of said assessment, to wit: the sum of \$ (insert  
726 amount); and the same shall be a lien upon said real property until the same has  
727 been paid in full and discharged of record. The below described real property  
728 may be sold after three years by the tax collector for unpaid delinquent  
729 assessments.

730 The real property hereinbefore mentioned, and upon which a lien is  
731 claimed, is that certain parcel of land lying and being in the City of Yreka,  
732 County of Siskiyou, State of California, and particularly described as  
733 follows:

734 (Insert description)

735 DATED: (insert date).

736 City Manager of the City of Yreka, California

737 (ACKNOWLEDGEMENT)

- 738 F. The Planning Commission may order a refund of all or part of the  
739 assessment paid pursuant to this Chapter if it finds that all or part of the  
740 assessment was erroneously levied. An assessment or part thereof shall not  
741 be refunded unless a claim is filed with a city clerk within six months after  
742 the assessment became due and payable. The claim shall be verified by the  
743 person who paid the assessment, or the legal representative of such person.
- 744 G. After notice is given in accordance with subsection E of this section, the  
745 notice of lien shall be recorded in the Siskiyou County Recorder's office  
746 and shall thereafter constitute a lien on the real property for the expense of  
747 the abatement, the related administrative costs together with interest  
748 thereon.
- 749 H. In the event the lien is discharged, released or satisfied, either through  
750 payment or foreclosure, notice of the discharge containing the same  
751 information as the notice of lien shall be recorded in the Siskiyou County  
752 Recorder's office.
- 753 I. The City may enforce the nuisance abatement lien by an action for a money  
754 judgment.
- 755 J. An additional fee which shall be set by resolution of the city council shall be  
756 imposed on the owner of the Parcel at the conclusion of any matter in which a notice  
757 and order has been issued. This termination fee shall be calculated to recover the  
758 cost of closing the file, removing or placing liens, and other associated  
759 administrative costs. Costs shall be assessed at the conclusion of the abatement;  
760 provided, however, in the case of abatement by any method which takes more than  
761 six months, costs may be assessed at any time after six months, but in no event more  
762 than two times a year.
- 763 K. Enforcement Costs and expenses may be recovered even if the nuisance is  
764 corrected voluntarily, subsequent to the issuance of an abatement order. No fees  
765 shall be due and owing if it is administratively determined that no nuisance exists.  
766 All fees shall be a personal obligation of the owner and a lien upon the Parcel and  
767 are due and payable within thirty days of issuance of the notice and order or closing  
768 of the file respectively. Any fee not paid within that time shall be payable to the  
769 City.
- 770

771 **Section 4. Severability**

772 If any section, sentence, clause or phrase of this Chapter is for any reason held  
773 to be invalid or unconstitutional by a decision of any court of competent  
774 jurisdiction, such decision shall not affect the validity of the remaining  
775 portions of this Chapter. The City Council hereby declares that it would have  
776 passed this ordinance and adopted this Chapter and each section, sentence,  
777 clause or phrase thereof, irrespective of the fact that any one or more sections,  
778 subsections, sentences, clauses or phrases were to be declared invalid or  
779 unconstitutional.

780 **Section 5. Inconsistency.**

781 Any provisions of the Yreka Municipal Code, or appendices thereto, or any  
782 other ordinances of the City inconsistent herewith, to the extent of such  
783 inconsistencies and no further, are hereby repealed for the purposes of the  
784 enforcement of this Chapter.

785 **Section 6. CEQA Exemption.**

786 The City Council finds the approval of this ordinance is not subject to the  
787 California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines  
788 Sections 15060(c)(2) (the activity will not result in a direct or reasonably  
789 foreseeable indirect physical change in the environment) and 15060(c)(3) (the  
790 activity is not a project as defined in Section 15378) of the CEQA Guidelines,  
791 California Code of Regulations, Title 14, Chapter 3, because it has no potential  
792 for resulting in physical change to the environment, directly or indirectly.  
793 Alternatively, the City Council finds the approval of this ordinance is not a  
794 project under CEQA Regulation Section 15061(b)(3) because it has no potential  
795 for causing a significant effect on the environment. In addition, the ordinance is  
796 exempt from environmental review pursuant to the general rule of the  
797 California Environmental Quality Act, which exempts minor alterations to land  
798 use limitations that do not result in changes in land use or density pursuant to  
799 CEQA Guidelines Section 15305. Finally this Ordinance is exempt because it is  
800 an urgency Ordinance necessary to protect the City from a current and  
801 immediate threat to the public health, safety and welfare. Based on the  
802 information contained in the staff report and accompanying attachments and  
803 exhibits, the City Council hereby finds:

- 804 1. The proposed project will not result in a significant adverse effect on  
805 the environment and will support the public health, safety, and welfare
- 806 2. The Ordinance and its provisions are consistent with the goals and  
807 policies of the General Plan.
- 808 3. The Ordinance provides regulations for Marijuana Cultivation and this  
809 minor alteration to land use limitations that do not result in changes in  
810 land use or density pursuant to CEQA Guidelines Section 15305.
- 811 4. This is an urgency Ordinance necessary to protect the City from a  
812 current and immediate threat to the public health, safety and welfare.

813 **Section 7. Publication of Codification.**

814 At least five (5) days prior to its adoption and within fifteen (15) days  
815 after its adoption, a summary of this ordinance, in a form approved by the  
816 City Attorney, shall be published once in a newspaper of general  
817 circulation printed and published in the County of Siskiyou.

818 **Section 8. Effective Date.**

819 This ordinance shall be effective thirty-one (31) days from and after its  
820 adoption.

821 **Section 9. Implementation.**

822 The City Council hereby authorizes and directs the City Manager to take any  
823 action and sign any documents necessary to implement this Ordinance.

824 **Section 10. Execution.**

825 The Mayor and City Clerk are authorized to subscribe this ordinance where  
826 indicated below to evidence its approval by the City Council.  
827 Introduced at a regular meeting of the City Council held May 19, 2016, and  
828 adopted as an ordinance of the City of Yreka at a regular meeting of the City  
829 Council held on \_\_\_\_\_, 2016 by the following vote:  
830  
831

832 AYES:

833 NOES:

834 ABSENT:

835

836

837

838

839

840

841 Attest:

842

843

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845

846

\_\_\_\_\_  
John Mercier, Mayor

APPROVED AS TO FORM

\_\_\_\_\_  
Elizabeth E. Casson, City Clerk

\_\_\_\_\_  
DOHN HENION, City Attorney



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**CITY OF YREKA**  
**CITY COUNCIL AGENDA MEMORANDUM**

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To: Yreka City Council  
From: Matthew K. Bray, Director of Public Works  
Prepared by: Jeannette Hook, Administrative Assistant *JH MS*  
Agenda title: ADOPT A RESOLUTION APPROVING CONSULTANT AGREEMENT WITH PACE  
ENGINEERING FOR CITY ENGINEER AND CITY SURVEYOR SERVICES  
Meeting date: May 19, 2016

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Discussion:

A number of municipal engineering and surveyor functions must be provided by appropriately licensed professionals. PACE Engineering has been assisting the City on an ad-hoc basis since the retirement of Steve Neill, P.E. and Darrell Hook, P.E. Some funding sources do not allow reimbursement of professional services expenses unless they are obtained in accordance with standard procurement procedures (most notably, Caltrans) and it is in the City's interest to procure the most qualified and cost-effective means for having these required services available.

In January, the City issued a Request for Proposals for City Engineer services. Four proposals were received. These proposals were reviewed by a team consisting of two engineers, the Maintenance Manager and the City Manager. The two most qualified candidates were interviewed by staff of the Public Works Department. PACE was selected to continue providing a range of engineering services to the City of Yreka as City Engineer/Surveyor.

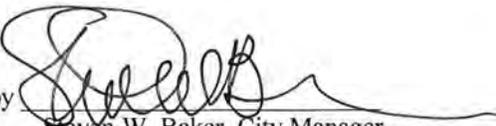
A Professional Services Agreement, similar to the pre-existing General Engineering Services Agreement, has been negotiated (attached). It expands on the prior agreement by including standard municipal services such as development review, parcel map acceptance, small project design, construction oversight, overseeing the work of other engineers and surveyors, and assistance preparing or reviewing Requests for Proposals. It is anticipated that PACE will act as an extension of staff under the supervision of the Department of Public Works. After conducting a formal procurement and for a period of five years, these services for specific projects are now eligible to be reimbursed when they are needed.

The agreement is written to enable staff to obtain rapid and specialized assistance using a Task Order procedure. It is anticipated that most projects with engineering requirements will still utilize project specific procurements to obtain the necessary expertise. PACE may be asked to assist with the development of future procurements, which, in certain circumstances may disqualify them from submitting proposals. They may also assist the City in evaluating the work of other design professionals.

Fiscal Impact: The Agreement with PACE Engineering is not to exceed \$100,000/year without explicit authorization. The majority of anticipated assignments will be specifically authorized by the City Council.

Recommendation and Requested Action: Adopt a Resolution approving Consultant Agreement with PACE Engineering for City Engineer and City Surveyor services.

*Attachments*

Approved by   
Steven W. Baker, City Manager

Resolution No: \_\_\_\_\_

**RESOLUTION OF THE CITY OF YREKA APPROVING  
CONSULTANT AGREEMENT WITH PACE ENGINEERING FOR  
CITY ENGINEER AND CITY SURVEYOR SERVICES**

WHEREAS, the City is a municipal corporation with the legal authority to enter into contracts and agreements in the State of California; and

WHEREAS, the City has a need for services which can only be performed by licensed Engineers and Surveyors; and

WHEREAS, the City conducted procurement procedures that included issuing Requests for Proposals to solicit professional services assistance for a variety of Engineering related services; and

WHEREAS, pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3) approving agreements is an action exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project which has the potential for causing a significant effect on the environment; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YREKA DOES HEREBY RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

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

Section 2. The Professional Services Agreement with PACE Engineering is approved not to exceed \$100,000 per year without specific authorization by the City Council.

Section 3. The City Manager, the City Clerk and all other proper officers and officials of the City are authorized and directed to execute agreements, other documents and certificates, negotiate changes, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

Section 4. The City Manager, the City Clerk and all other proper officers and officials of the City are authorized to negotiate and execute agreement amendments which may be necessary, up to 10% of the initial contract.

Section 5. It is further resolved, if any section, subsection, part, clause, sentence or phrase of this Resolution or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, the validity of the remaining portions of this Resolution, the application thereof, shall not be affected thereby but shall remain in full force and effect, it being the intention of the City Council to adopt each and every section, subsection, part, clause, sentence phrase regardless of

whether any other section, subsection, part, clause, sentence or phrase or the application thereof is held to be invalid or unconstitutional.

Section 6. This resolution shall take effect immediately upon its passage.

Passed and adopted on May 19, 2016, by the following vote:

AYES:  
NAYS:  
ABSENT:

\_\_\_\_\_  
John Mercier  
Mayor of the City of Yreka

Attest: \_\_\_\_\_  
Liz Casson, City Clerk

THE UNDERSIGNED CERTIFIES THAT THIS A TRUE AND CORRECT COPY OF  
RESOLUTION No. 2016-\_\_\_\_\_ AS ADOPTED BY THE CITY COUNCIL AT ITS  
MEETING HELD MAY 19, 2016.

\_\_\_\_\_  
Elizabeth Casson, City Clerk



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**CITY OF YREKA**  
**CITY COUNCIL AGENDA MEMORANDUM**

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To: Yreka City Council

From: MATTHEW BRAY, DIRECTOR OF PUBLIC WORKS

Prepared by: JEANNETTE HOOK, ADMINISTRATIVE ASSISTANT *JH MB*

Agenda title: APPROVE THE RESOLUTION AUTHORIZING THE CITY MANAGER TO AWARD A CONSTRUCTION CONTRACT TO HAYES & SONS, INC. FOR THE OBERLIN-YOUNG TRAIL DEVELOPMENT PROJECT IN THE AMOUNT OF \$ 908,336.00 FOR THE BASE BID AND ALTERNATES A AND B, AND EXECUTE RELATED DOCUMENTS

Meeting date: May 19, 2016

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Discussion:

On April 28, 2016, bids were opened for the Oberlin-Young Trail Development project. The results of the bid opening are as follows:

<u>Name</u>	<u>Location</u>	<u>Total Base Bid</u>	<u>Basis of Award</u> <i>(Base Bid+ Additives A &amp; B)</i>
Hayes & Sons, Inc.	Happy Camp, CA	\$ 892,536.00	\$908,336.00
Marrone Construction	Mt. Shasta, CA	\$ 953,362.80	\$967,821.33
JF Shea, Inc.	Mt. Shasta, CA	\$ 1,043,076.90	\$1,057,601.90
Hanford ARC	Sonoma, CA	\$ 1,598,942.00	\$1,636,805.00
<i>Estimate of Construction Costs</i>		<i>\$797,153.00</i>	<i>\$805,503.00</i>

This project will improve the existing public access trail north of Oberlin Road and link to a primitive trail at the US Forest Service yard which connects to the Greenway Visitor Center. The project includes construction of a trailhead parking area and recreation facilities (i.e. trails, picnic tables, benches, and interpretive signs) as well as restoration of floodplain, removal of noxious weeds, and planting of native riparian and upland vegetation. While primarily recreational in nature, the project will also help the City meet its MS4 obligations to protect water quality. The additive items will allow construction of 1) "rock vanes" which are boulders placed in-stream to prevent down-cutting and provide a measure of grade control and 2) boulder barriers along the property boundaries in order to minimize unauthorized vehicular access to the site.

Approved by   
Steven Baker, City Manager

Staff has evaluated the bidder's and proposed subcontractor's license status, references, and insurance company information and has confirmed that the low bidder is not debarred from working on projects in California.

The City received a bid protest on this project from Marrone Construction. After evaluating the issues raised, legal counsel and staff believes that all issues have been addressed. Therefore, we believe the bid to be responsive and the bidder is responsible, and it is recommended that the City Council approve the attached Resolution to authorize the City Manager to award a construction contract and execute various agreements for the construction of the Oberlin-Young Trail Development Project.

The City's existing contract with designer Tom Hesseldenz and Associates includes having Mr. Hesseldenz provide project inspection and oversight of the contractor during construction with the assistance of City staff. The specifications allow 140 days for construction and staff anticipates the project would be completed by mid-October.

Fiscal Impact:

The fiscal impact of awarding the Base Bid, plus Additives A and B contract is \$ 908,336.00 plus an estimated \$40,000 for the related costs of inspection, testing and contract administration. All costs are grant-eligible and will be reimbursed by the California Resources Agency (the funding agency).

Recommendation and Requested Action:

**That the Council** approve the Resolution authorizing the City Manager to award a construction contract to Hayes & Sons, Inc. for the Oberlin-Young Trail Development project in the amount of \$ 908,336.00 for the Base Bid and Alternates A and B, and execute related documents

***Attachments***

**RESOLUTION NO. 2016-\_\_\_**

**RESOLUTION OF THE CITY OF YREKA AUTHORIZING THE CITY MANAGER TO AWARD A CONSTRUCTION CONTRACT TO HAYES & SONS, INC. FOR THE OBERLIN-YOUNG TRAIL DEVELOPMENT PROJECT IN THE AMOUNT OF \$ 908,336.00 FOR THE BASE BID AND ALTERNATES A AND B, AND EXECUTE RELATED DOCUMENTS**

WHEREAS, the City is a municipal corporation with the legal authority to enter into contracts and agreements in the State of California; and

WHEREAS, at the request of Siskiyou Gardens Parks and Greenway Association (SGPGA), the City of Yreka submitted a grant application to the River Parkways Program, funded by the voter-approved Proposition 84 and administered by the California Resources Agency, as authorized by Resolution No. 2740 approved on November 6, 2008; and

WHEREAS, the City Council certified the Mitigated Negative Declaration and adopted a Mitigation Monitoring and Reporting Plan by Resolution No. 3007 approved on January 17, 2013; and

WHEREAS, the project was advertised for competitive bids on March 28, 2016, and April 8, 2016, in accordance with the California Public Contract Code; and

WHEREAS, bids were opened on August 28, 2016 and a bid analysis, and an evaluation of the bidders who submitted proposals has been completed. The bid analysis identified irregularities in items that could not cause disadvantage to another bidder within the meaning of the Public Contract Code, they are therefore considered to be minor and are waived; and

WHEREAS, Alternates were included in the bid schedule to maximize the available funding; and

WHEREAS, the Public Contracts Code requires the award of construction contracts to the lowest responsive and responsible bidder.

WHEREAS, after completing an environmental review in accordance with the California Environmental Quality Act, a CEQA Notice of Determination was filed with the Siskiyou County Clerk on January 18, 2013, SCH No. 2012122023.

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

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

Section 2. The City Council hereby approves the Construction Plans and Specifications for the Oberlin-Young Trail Development project.

Section 3. The City Manager, or his designee, and all other proper officers and officials of the City are hereby authorized to award the work known as the Oberlin-Young Trail Development to Hayes & Sons, Inc. of Happy Camp, CA who is the lowest responsive and responsible bidder for the Base Bid items, and Alternatives A and B, in the amount of nine hundred eight thousand, three hundred thirty-six dollars (\$908,336.00), execute such agreements, documents and certificates, and to perform such other acts and deeds, as may be necessary or convenient to effect the purposes of this Resolution and the transactions herein authorized.

Section 4. The City Manager, the City Clerk and all other proper officers and officials of the City are authorized to execute change orders and amendments which may become necessary, up to a total of 10% of the initial construction contracts, without additional Council approval.

Section 5. The Public Works Department is authorized to provide construction administration support and arrange ancillary construction services in the estimated amount of \$12,000 and to expend funds on similar related items.

Section 6. It is further resolved, if any section, subsection, part, clause, sentence or phrase of this Resolution or the application thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, the validity of the remaining portions of this Resolution, the application thereof, shall not be effected thereby but shall remain in full force and effect, it being the intention of the City Council to adopt each and every section, subsection, part, clause, sentence phrase regardless of whether any other section, subsection, part, clause, sentence or phrase or the application thereof is held to be invalid or unconstitutional.

Section 7. This Resolution shall take effect immediately upon its passage.

Passed and adopted this 19th day of May, 2016 by the following vote:

AYES:  
NAYS:  
ABSENT:

\_\_\_\_\_  
John Mercier  
Mayor of the City of Yreka

Attest:

\_\_\_\_\_  
Elizabeth Casson, City Clerk



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**CITY OF YREKA**  
**CITY COUNCIL AGENDA MEMORANDUM**

---

To: Yreka City Council  
Prepared by: Ad Hoc Budget Committee  
Agenda title: Discussion/Possible Action – Discussion and direction to staff to research and prepare for possible introduction, a general sales tax measure for the November 8, 2016 election.  
Meeting date: May 19, 2016

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Discussion:

The Ad Hoc budget committee is recommending that City staff be directed to research and prepare for future consideration and possible action a general sales tax measure for the November 8, 2016 election.

The City of Yreka's Ad Hoc budget committee, citizen advisory member and staff met Wednesday, May 11, 2016 to discuss the fiscal state of the City.

The City is facing a \$600,000 structural deficit in operations and has at least \$25-\$30 million in deferred capital maintenance for existing road repair and public safety facilities:

- Public safety operations and capital needs (YPD Building)
- Park and recreation maintenance
- Streets, Storm Drains, Sidewalk Curb and Gutters

The City forecasted this structural deficit since 2010, and has reduced staffing levels, implemented new technology and equipment to operate more effectively and efficiently to cut the cost of both material and labor. Those efforts have kept the City afloat, but deferral of maintenance, is resulting in a steady state of decline. Continued infrastructure decline will result in costing taxpayers even more by the escalation in repair cost of deferred maintenance and face possible complete replacement.

The City has been utilizing road reserve funds for road and street maintenance for the past six years and is on course to deplete those funds by the end of fiscal year 2015-16. The road and street funds are operating at about a \$400,000 operating structure deficit and have current estimate of \$25 million or more in deferred maintenance (e.g. roadbed deterioration).

The City also has been relying on reserves for the past six year for capital outlay projects, combining at times funds from the Crandall Fund and its own capital reserves to make repairs to City facilities, replace equipment (much of it mandated from carbon emission compliance). To acquire and rehabilitate the Fairlane property for the new YPD building, the Council has appropriated from reserves \$2,700,0000 (\$870,000 from General Fund

reserves and \$1,830,000 of the Crandall Fund reserves). In May, contractor bids for the rehabilitation project were rejected as the bid estimates were \$865,000 over available resources and architectural estimates.

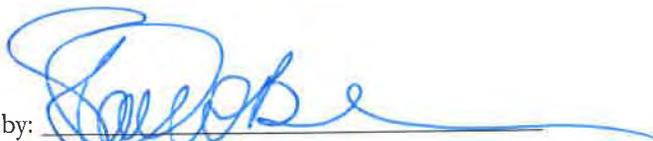
The Ad Hoc budget committee understands that time is of the essence to explore and have available options for the City to explore a sales tax measure for the November 8, 2016 election. At the Ad Hoc Budget meeting, it became clear that the timing of City Council meetings, agenda preparation and the deadline for submitting a ballot measure for the November ballot would make submission of such a measure virtually impossible without some prior staff work.

Recommendation and Requested Action:

Discussion/Possible Action – Discussion and direction to staff to research and prepare for possible introduction, a general sales tax measure for the November 8, 2016 election.

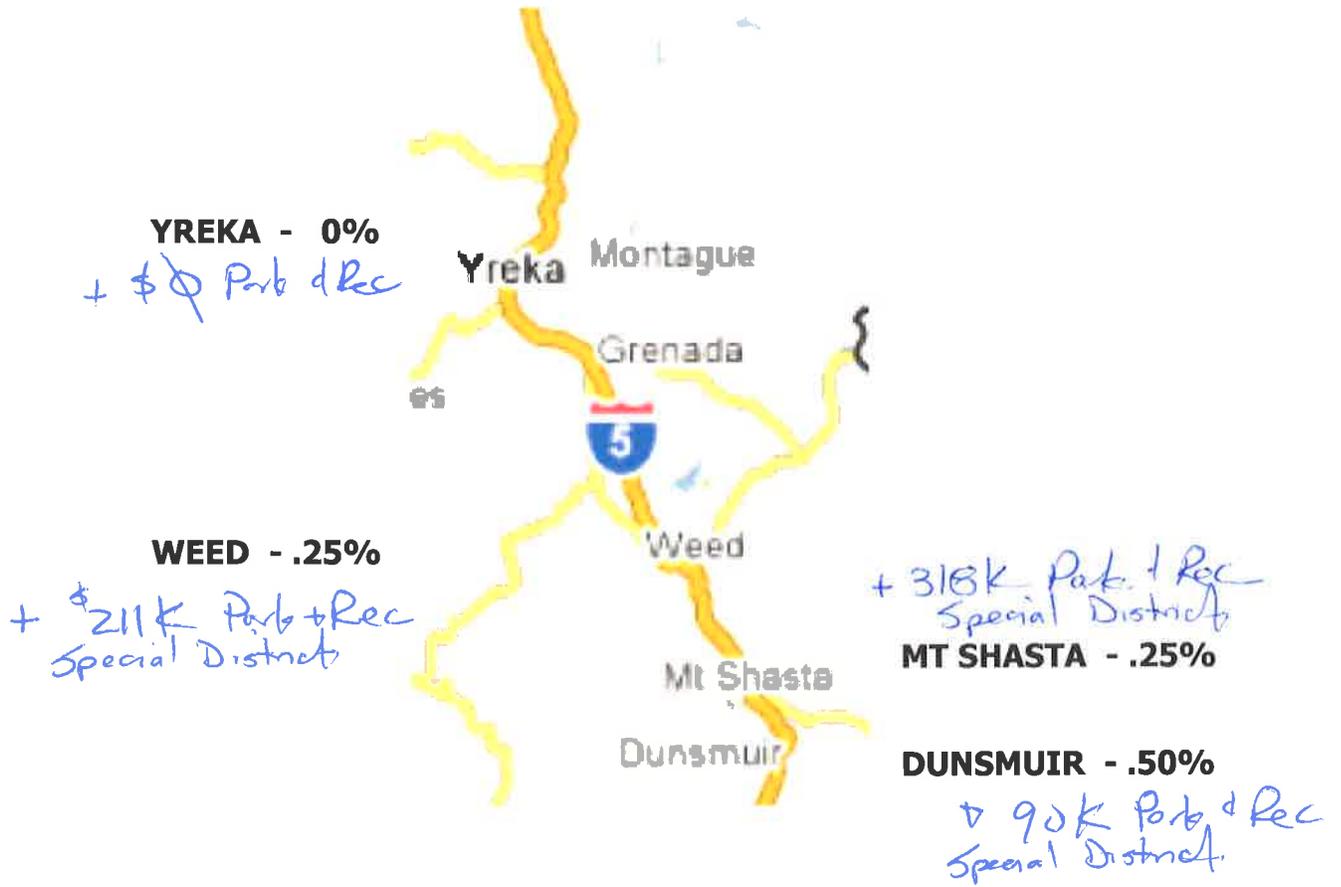
Attachments:

Approved by:



Steven Baker, City Manager

# CITY SALES TAX FOR I-5 CORRIDOR TOWNS



# Detailed Description of the Sales & Use Tax Rate

The [tax rate \(boe.ca.gov/sutax/pam71.htm\)](http://boe.ca.gov/sutax/pam71.htm) in your area may be higher than 7.50% depending on the district taxes that apply there.

Components of the Statewide 7.50 percent Sales and Use Tax Rate:

Rate	Jurisdiction	Purpose	Authority
3.6875%	State	Goes to State's General Fund	Revenue and Taxation Code Sections 6051, 6201
0.25%	State	Goes to State's General Fund	Revenue and Taxation Code Sections 6051.3, 6201.3 (Inoperative 1/1/01 – 12/31/01)
0.50%	State	Goes to Local Public Safety Fund to support local criminal justice activities (1993)	Section 35, Article XIII, State Constitution
0.25%	State	Goes to State's Education Protection Account to support school districts, county offices of education, charter schools, and community college districts.	Section 36, Article XIII, State Constitution (Operative 1/1/13 to 12/31/16)
0.50%	State	Goes to Local Revenue Fund to support local health and social services programs (1991 Realignment)	Revenue and Taxation Code Sections 6051.2, 6201.2
1.0625%	State	Goes to Local Revenue Fund 2011	Revenue and Taxation Code Sections 6051.15 and 6201.15
1.25%	Local	0.25% Goes to county transportation funds 1.00% Goes to city or county operations	Revenue and Taxation Code Section 7203.1 (Operative 7/1/04)
<b>Total:</b>			
7.50%	State/Local	Total Statewide Base Sales and Use Tax Rate	

< 25% >

7.25% sunsets 12/31/16 ↓ 0.25%

# News Release ([boe.ca.gov/news/news\\_and\\_events.htm](http://boe.ca.gov/news/news_and_events.htm))

**For Immediate Release**

**March 22, 2016**

**NR 31-16-G**

**Contact: Office of Public Affairs**

**1-916-327-8988**

## No Foolin' ... April 1, 2016 Effective Date for New Sales and Use Tax Rates

**Sacramento** – The California State Board of Equalization (BOE) reminds Californians that new sales and use tax rates are taking effect on April 1, 2016, as a result of voter-approved initiatives in several cities. The tax rate changes listed below apply only within the indicated city limits.

Visit the [BOE website \(boe.ca.gov/\)](http://boe.ca.gov/) and click on the [Find a Tax Rate by Address \(https://maps.gis.ca.gov/boe/TaxRates/\)](https://maps.gis.ca.gov/boe/TaxRates/) link to find the tax rate for the address of a specific business location. The new tax rates will be reflected on the BOE website beginning on April 1. You may also call our Customer Service Center at 1-800-400-7115 (TTY:711) to find your local tax rates. Representatives are available to assist you weekdays from 8 a.m. to 5 p.m. (Pacific Time), except state holidays.

For more information about sales and use tax rates, including help for consumers who may have been overcharged, visit [Know Your Sales and Use Tax Rate \(boe.ca.gov/knowyourrate\)](http://boe.ca.gov/knowyourrate).

### Cities with Increased Tax Rate

#### Old Rate

#### New Rate



Dunsmuir (Siskiyou County)

7.500%

8.000%

Greenfield (Monterey County)

8.625%

9.375%

South San Francisco (San Mateo County)

9.000%

9.500%

### Cities with Decreased Tax Rate

#### Old Rate

#### New Rate

Half Moon Bay (San Mateo County)

9.500%

9.000%

Novato (Marin County)

9.000%

8.750%

Tracy (San Joaquin County)

8.500%

8.000%

The five-member California State Board of Equalization (BOE) is a publicly elected tax board. The BOE collects \$60.5 billion annually in taxes and fees supporting state and local government services. It hears business tax appeals, acts as the appellate body for franchise and personal income tax appeals, and serves a significant role in the assessment and administration of property taxes. For more information on other taxes and fees in California, visit [www.taxes.ca.gov \(http://www.taxes.ca.gov\)](http://www.taxes.ca.gov).

Note: This news release may discuss complex tax laws and concepts. It may not address every situation, and is not considered written advice under Revenue and Taxation Code section 6596. Changes in law or regulations may have occurred since the time this news release was written. If there is a conflict between the text of this news release and the law, decisions will be based upon the law and not this news release. For specific help, please contact the BOE at 1-800-400-7115.

Share via email

<mailto:?subject=&body=:%20>

Share

Tweet

## News Release ([boe.ca.gov/news/news\\_and\\_events.htm](http://boe.ca.gov/news/news_and_events.htm))

**For Immediate Release**

**June 29, 2015**

NR 57-15-G

**Contact: Office of Public Affairs**

**1-916-327-8988**

### **New Sales and Use Tax Rate in the City of Weed Effective July 1, 2015**

**Sacramento** –The California State Board of Equalization (BOE) reminds Californians a [new sales and use tax rate in the Siskiyou County City of Weed \(boe.ca.gov/pdf/L-415.pdf\)](http://boe.ca.gov/pdf/L-415.pdf) takes effect on July 1, 2015. Voters in Weed approved the additional tax in March.



The tax rate increase from 7.5 percent to 7.75 percent applies only within the Weed city limits. To find the tax rate for your home or business location, visit our website at [www.boe.ca.gov](http://www.boe.ca.gov) ([boe.ca.gov/](http://boe.ca.gov/)) and click on the "[Find a Tax Rate by Address \(https://maps.gis.ca.gov/boe/TaxRates/\)](https://maps.gis.ca.gov/boe/TaxRates/)." link and enter your address.

The new tax rate in Weed will be reflected on the BOE website on July 1. You may also call our Customer Service Center at 1-800-400-7115 (TTY:711) where representatives can help you find your tax rate on weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

For more information about sales and use tax rates, including help for consumers who have been overcharged, visit [www.boe.ca.gov/knowyourrate](http://www.boe.ca.gov/knowyourrate) ([boe.ca.gov/knowyourrate](http://boe.ca.gov/knowyourrate)).

The five-member California State Board of Equalization (BOE) is a publicly elected tax board. The BOE collects \$60.5 billion annually in taxes and fees supporting state and local government services. It hears business tax appeals, acts as the appellate body for franchise and personal income tax appeals, and serves a significant role in the assessment and administration of property taxes. For more information on other taxes and fees in California, visit [www.taxes.ca.gov](http://www.taxes.ca.gov) (<http://www.taxes.ca.gov>).

Note: This news release may discuss complex tax laws and concepts. It may not address every situation, and is not considered written advice under Revenue and Taxation Code section 6596. Changes in law or regulations may have occurred since the time this news release was written. If there is a conflict between the text of this news release and the law, decisions will be based upon the law and not this news release. For specific help, please contact the BOE at 1-800-400-7115.

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## District Taxes, Rates, and Effective Dates

Tax Area	District Name and Acronyms	Rate	Effective Date	End Date
National City (City)	City of National City Transactions and Use Tax (NCGT)	1.00%	10-01-06	
Vista (City)	City of Vista Transactions and Use Tax (VSTA)	0.50%	04-01-07	
San Francisco City and County	San Francisco County Public Finance Authority (SFPF)	0.25%	10-01-93	
	San Francisco County Transportation Authority (SFTA)	0.50%	04-01-90	
	Bay Area Rapid Transit District (BART)	0.50%	04-01-70	
San Joaquin County	San Joaquin Transportation Authority (SJTA)	0.50%	04-01-91	
Lathrop (City)	City of Lathrop Public Safety/Essentials Services Transactions and Use Tax (LTHG)	1.00%	04-01-13	
Manteca (City)	City of Manteca Public Safety Transactions and Use Tax (MTPS)	0.50%	04-01-07	
Stockton (City)	City of Stockton Public Safety Transactions and Use Tax (SPFG)	0.25%	04-01-05	
Tracy (City)	City of Tracy Transactions and Use Tax (TRCY)	0.50%	04-01-11	
San Luis Obispo County				
Arroyo Grande (City)	City of Arroyo Grande Transactions and Use Tax (ARGD)	0.50%	04-01-07	
Grover Beach (City)	City of Grover Beach Transactions and Use Tax (GRBH)	0.50%	04-01-07	
Morro Bay (City)	City of Morro Bay Transactions and Use Tax (MRBY)	0.50%	04-01-07	
Paso Robles (City)	City of Paso Robles Transactions and Use Tax (PRBG)	0.50%	04-01-13	
Pismo Beach (City)	City of Pismo Beach Transactions and Use Tax (PSMO)	0.50%	10-01-08	
San Luis Obispo (City)	City of San Luis Obispo Essential Services Transactions and Use Tax (SLOG)	0.50%	04-01-07	
San Mateo County				
	San Mateo County Retail Transactions and Use Tax (SMGT)	0.50%	04-01-13	
	San Mateo County Transportation Authority (SMTA)	0.50%	01-01-89	
	San Mateo County Transit District (SMCT)	0.50%	07-01-82	
Half Moon Bay (City)	City of Half Moon Bay Transactions and Use Tax (HMBG)	0.50%	04-01-13	
San Mateo (City)	City of San Mateo Transactions and Use Tax (SMTG)	0.25%	04-01-10	
Santa Barbara County	Santa Barbara County Local Transportation Authority (SBAB)	0.50%	04-01-90	
Santa Maria (City)	City of Santa Maria Transactions and Use Tax (SMAG)	0.25%	10-01-12	
Santa Clara County				
	Santa Clara County Retail Transactions and Use Tax (SCCR)	0.125%	04-01-13	
	Santa Clara County Transactions and Use Tax (SCGF)	0.50%	04-01-97	03-31-06
	Santa Clara County Transit District (SCCT)	0.50%	10-01-76	
	Santa Clara County Valley Transportation Authority (SCVT)	0.50%	04-01-06	
	Santa Clara VTA BART Operating and Maintenance Transactions and Use Tax (SVTB)	0.125%	07-01-12	
Campbell (City)	City of Campbell Vital City Services, Maintenance and Protection Transactions and Use Tax (CMPL)	0.25%	04-01-09	
Santa Cruz County				
	Santa Cruz County Public Library Transactions and Use Tax (SZPL)	0.25%	04-01-97	
	Santa Cruz County Earthquake Recovery Bond (SCER)	0.50%	04-01-91	03-31-97
	Santa Cruz County Metropolitan Transit District (SCMT)	0.50%	01-01-79	
Capitola (City)	City of Capitola Permanent Retail Transactions and Use Tax (CPRG)	0.25%	04-01-13	
Capitola (City)	City of Capitola Transactions and Use Tax (CPGT)	0.25%	04-01-05	
Santa Cruz (City)	City of Santa Cruz Replacement Transactions and Use Tax (STCZ)	0.50%	04-01-07	
Santa Cruz (City)	City of Santa Cruz Transactions and Use Tax (SZGT)	0.25%	07-01-04	03-31-07
Scotts Valley (City)	City of Scotts Valley Transactions and Use Tax (SVGT)	0.50%	04-01-06	03-31-09
Scotts Valley (City)	City of Scotts Valley Transactions and Use Tax (SVGF)	0.25%	04-01-09	03-31-11
Watsonville (City)	City of Watsonville Transactions and Use Tax (WTVL)	0.25%	04-01-07	
X Siskiyou County				
Mount Shasta (City)	City of Mt. Shasta Libraries Transactions and Use Tax (MTSH)	0.25%	10-01-11	
Solano County				
Fairfield (City)	Solano County Public Library Transactions and Use Tax (SLPL)	0.125%	10-01-98	
	City of Fairfield Transactions and Use Tax (FLDG)	1.00%	04-01-13	
Rio Vista (City)	City of Rio Vista General Transactions and Use Tax (RVGG)	0.75%	04-01-13	
Vacaville (City)	City of Vacaville Transactions and Use Tax (VACG)	0.25%	04-01-13	
Vallejo (City)	City of Vallejo Transactions and Use Tax (VJGT)	1.00%	04-01-12	
Sonoma County				
	Sonoma County Open Space Authority (SCOS)	0.25%	04-01-91	03-31-11
	Sonoma County Transportation Authority (SNTA)	0.25%	04-01-05	
	Sonoma-Marin Area Rail Transportation Authority (SMRT)	0.25%	04-01-09	
	Sonoma County Agricultural Preservation & Open Space District Transactions and Use Tax (SAPD)	0.25%	04-01-11	
Cotati (City)	City of Cotati Transactions and Use Tax (CTGF)	0.50%	10-01-10	
Healdsburg (City)	City of Healdsburg Transactions and Use Tax (HDBG)	0.50%	04-01-13	
Rohnert Park (City)	City of Rohnert Park Transactions and Use Tax (RPGF)	0.50%	10-01-10	
Santa Rosa (City)	City of Santa Rosa Public Safety Transactions and Use Tax (SRPS)	0.25%	04-01-05	
Santa Rosa (City)	City of Santa Rosa 2010 Transactions and Use Tax (SRGF)	0.25%	04-01-11	
Sebastopol (City)	City of Sebastopol Community Transactions and Use Tax (SEBG)	0.25%	04-01-05	
Sebastopol (City)	City of Sebastopol Increase in the Community Transactions and Use Tax (SBCGS)	0.50%	04-01-13	
Sebastopol (City)	City of Sebastopol Transactions and Use Tax (SEGR)	0.125%	04-01-03	03-31-05
Sonoma (City)	City of Sonoma Transactions and Use Tax (SOGT)	0.50%	10-01-12	