



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda City Council

**THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY
AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT
NO. 1 AND THE FORT BRAGG REDEVELOPMENT SUCCESSOR
AGENCY**

Monday, November 27, 2023

6:00 PM

Town Hall, 363 N. Main Street and Via Video
Conference

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

COUNCILMEMBERS PLEASE TAKE NOTICE

Councilmembers are reminded that pursuant to the Council policy regarding use of electronic devices during public meetings adopted on November 28, 2022, all cell phones are to be turned off and there shall be no electronic communications during the meeting. All e-communications such as texts or emails from members of the public received during a meeting are to be forwarded to the City Clerk after the meeting is adjourned.

ZOOM WEBINAR INVITATION

This meeting is being presented in a hybrid format, both in person at Town Hall and via Zoom.

You are invited to a Zoom webinar.

When: Nov 27, 2023 06:00 PM Pacific Time (US and Canada)

Topic: City Council Meeting

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/85619135897>

Or Telephone:

+1 669 444 9171 US

Webinar ID: 856 1913 5897

To speak during public comment portions of the agenda via zoom, please join the meeting and use the raise hand feature when the Mayor or Acting Mayor calls for public comment on the item you wish to address.

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

2. PUBLIC COMMENTS ON: (1) NON-AGENDA, (2) CONSENT CALENDAR & (3) CLOSED SESSION ITEMS

MANNER OF ADDRESSING THE CITY COUNCIL: All remarks and questions shall be addressed to the City Council; no discussion or action will be taken pursuant to the Brown Act. No person shall speak without being recognized by the Mayor or Acting Mayor. Public comments are restricted to three (3) minutes per speaker.

TIME ALLOTMENT FOR PUBLIC COMMENT ON NON-AGENDA ITEMS: Thirty (30) minutes shall be allotted to receiving public comments. If necessary, the Mayor or Acting Mayor may allot an additional 30 minutes to public comments after Conduct of Business to allow those who have not yet spoken to do so. Any citizen, after being recognized by the Mayor or Acting Mayor, may speak on any topic that may be a proper subject for discussion before the City Council for such period of time as the Mayor or Acting Mayor may determine is appropriate under the circumstances of the particular meeting, including number of persons wishing to speak or the complexity of a particular topic. Time limitations shall be set without regard to a speaker's point of view or the content of the speech, as long as the speaker's comments are not disruptive of the meeting.

BROWN ACT REQUIREMENTS: The Brown Act does not allow action or discussion on items not on the agenda (subject to narrow exceptions). This will limit the Council's response to questions and requests made during this comment period.

WRITTEN PUBLIC COMMENTS: Written public comments received after agenda publication are forwarded to the Councilmembers as soon as possible after receipt and are available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, during normal business hours. All comments will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except comments that are in an unrecognized file type or too large to be uploaded to the City's agenda software application. Public comments may be submitted to the City Clerk, cityclerk@fortbragg.com.

3. STAFF COMMENTS

4. MATTERS FROM COUNCILMEMBERS

5. CONSENT CALENDAR

All items under the Consent Calendar will be acted upon in one motion unless a Councilmember requests that an individual item be taken up under Conduct of Business.

- 5A. [23-405](#)** Approve Scope of Work for an RFP for a Construction Management Contract for the Raw Water Line Replacement Project

Attachments: [Raw Water Line Replacement Project RFP Scope of Work](#)
[Exhibit A - Standard PSA Agreement](#)

- 5B. [23-330](#)** Adopt City Council Resolution of the Fort Bragg City Council Determining that this Project is Exempt from CEQA and Approving the Purchase of Eaton Electric Equipment for the EV Fleet Charging Station Project, City Project No. PWP-00126, and Authorizing City Manager to Execute Contract (Amount not to Exceed \$27,748.57; Account No. 522-4550-0742)

Attachments: [Reso EV Charging Switchgear Purchase](#)

- 5C. [23-410](#) Approve Scope of Work for an RFP for a Construction Management Contract for the Water Treatment Plant Upgrade Project

Attachments: [WTP RFP Prof Svcs Constr Mgmt Scope of Work](#)
[Exhibit A - Standard PSA](#)

- 5D. [23-416](#) Resolution of the Fort Bragg City Council Approving Professional Services Agreement with City Management Advisors, LLC, dba Peckham & Mckenney to Provide Executive Recruitment Services for the Position of City Manager and Authorizing the Mayor to Execute Same (Amount not to Exceed \$27,000; Account No. 110-4110-0319 For \$10,000; Account No. 110-4130-0319 For \$17,000)

Attachments: [RESO City Manager Recruitment](#)
[Peckham & Mckenney Contract](#)
[EXHIBIT A](#)

- 5E. [23-400](#) Receive and File Minutes of the Public Works and Facilities Committee Meeting for July 13, 2023

Attachments: [07132023 PFW Minutes](#)

- 5F. [23-403](#) Approve Minutes of November 13, 2023

Attachments: [CCM 20231113](#)

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

7. PUBLIC HEARING

When a Public Hearing has been underway for a period of 60 minutes, the Council must vote on whether to continue with the hearing or to continue the hearing to another meeting.

- 7A. [23-388](#) [Cancelled] Public Hearing Regarding Impact Fees and Miscellaneous Fees

Attachments: [11272023 Ft Bragg Fees Cancelled Hearing Staff Report](#)

8. CONDUCT OF BUSINESS

- 8A. [23-371](#) Direct Staff to Prepare an Ordinance Amending FBMC Chapter 15.06 Automatic Fire Sprinkler and Alarm Systems

Attachments: [Fire Sprinkler Staff Report](#)
[Att 1 - Current Automatic Fire Sprinkler and Alarm Systems](#)
[Att 2 - 2015 Version of Automatic Sprinkler](#)
[Att 3 - Proposed Sprinkler Updates](#)
[Public Comment Item 8A](#)
[Public Comment Item 8A \(2\)](#)

9. CLOSED SESSION

ADJOURNMENT

The adjournment time for all Council meetings is no later than 10:00 p.m. If the Council is still in session at 10:00 p.m., the Council may continue the meeting upon majority vote.

**NEXT REGULAR CITY COUNCIL MEETING:
6:00 P.M., MONDAY, December 11, 2023**

STATE OF CALIFORNIA)
)ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on November 22, 2023.

Cristal Munoz
Acting City Clerk

NOTICE TO THE PUBLIC:

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection upon making reasonable arrangements with the City Clerk for viewing same during normal business hours.*
- *Such documents are also available on the City of Fort Bragg’s website at <https://city.fortbragg.com> subject to staff’s ability to post the documents before the meeting.*

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

It is the policy of the City of Fort Bragg to offer its public programs, services and meetings in a manner that is readily accessible to everyone, including those with disabilities. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities.

If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Text File

File Number: 23-405

Agenda Date: 11/27/2023

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Consent Calendar

Agenda Number: 5A.

Approve Scope of Work for an RFP for a Construction Management Contract for the Raw Water Line Replacement Project

The Raw Water Line Replacement Project (Project WTR-00016) Notice Inviting Bids (NIB) was released on November 16, 2023. Upon approval, this RFP will be issued to secure the services of a Construction Management consultant to assist with project management and inspection services for the duration of project construction



CITY OF FORT BRAGG

REQUEST FOR PROPOSALS FOR PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES FOR THE RAW WATER LINE REPLACEMENT PROJECT, WTR-00016

The City of Fort Bragg (City) is seeking proposals from qualified engineering firms interested in contracting with the City to provide construction management and inspection services (CM) for the Fort Bragg Raw Water Line Replacement Project (Project), Project #WTR-00016.

The City anticipates the start of construction in March of 2024. The engineer's estimate of construction cost is approximately \$7 million. The City is seeking services to provide construction inspection and materials testing for the duration of the project. The contract allows 390 working days for the completion of the project over two construction seasons.

The Project includes the construction of approximately 2 miles of untreated water pipeline between the City's Water Treatment Plant on Monsen Way and Forest Road 450 in Jackson State Demonstration Forest. The pipeline traverses both rural residential and steep, rugged, and undeveloped terrain environments. The project includes the Hare Creek crossing replacement, a bore and jack crossing of State Highway 20 at Dwyer Lane, along with a small pump station and a short distance of force main located at Newman Reservoir on Summers Lane.

The Project is funded by California Department of Water Resources (DWR), and the project must comply with State bid contracting guidelines. The City's project manager will be the CM's primary contact.

SCOPE OF WORK

This contract consists of the following tasks, at a minimum:

1. **Pre-construction Assistance:**
 - A. **Constructability review:** Review of the plans and contract documents for possible problems and/or changes.
 - B. **Environmental Review:** Review of environmental mitigation measures for CEQA, including familiarizing with the Initial Study (IS)/Mitigated Negative Declaration (MND) and all Coastal Development Permit (CDP) and State/Federal Section permit requirements:
 - County of Mendocino Building/Grading permit # 2023-0336
 - Coastal Commission CDP Waiver 1-22-0743 W
 - The Regional Water Quality Control Board issued Section 401 permit
 - Caltrans Encroachment Permit 01-23-NB-UJ-0297
 - CDFW Section 1602, permit in process
 - USACE Section 404, permit in process
 - County of Mendocino CDP 2023-0003, in process
 - C. **Scheduling:** Review order of work/sequencing requirements to ensure maximum productivity and project compliance. Ensure that all necessary permits for a particular portion of the work have been acquired prior to the construction of that portion and that all

applicable conditions are met throughout the process. The outstanding section permits are required for the Hare Creek Crossing and the County CDP for Segments 2 and 3 lying within the Coastal Zone.

- D. **Safety:** Review all safety-related documents such as IIPP and TCP to ensure compliance with all applicable regulations.
- E. **Pre-Construction Meeting:** Consultant to prepare meeting agenda for City review and approval. Consultant shall coordinate meeting invites with all attendees and shall prepare and distribute meeting minutes to all attendees within three (3) business days.
- F. **Stormwater:** Review and understand all of the stormwater related documents and conditions of approval, including but not limited to the 401 Permit, 1602 Permit, Coastal Development Permit, preliminary SWPPP, and the Contractor's SWPPP to ensure there is successful implementation of all controls and protection measures. Notify the City and Contractor of any potential deficiencies and provide recommendations to address them.
- G. **Submittal Review:** Consultant to coordinate the submittal/shop drawing review process and route all transmittals to the appropriate reviewers. Consultant shall maintain a log to track the status and review action of all submittals. Consultant shall ensure that all submittals required by the contract documents have been submitted by the contractor, including tie-in/connection plans and schedule.
- H. **Administration:** Provide a Construction Management (CM) Plan that includes procedures, methods, and an overall plan for the construction management of the Project. Draft plan to be submitted to the City before the pre-construction meeting and the final plan issued within two weeks following the pre-construction meeting.
 - Process, track, and respond to Requests for Information (RFI)
 - Process and track Change Orders and other forms
 - Establish and monitor procedures and methods for construction work, offsite fabrication of materials, and startup activities
 - Establish quality control and quality assurance (QAQC) procedures to ensure the project is delivered in accordance with the contract documents and the CM's Scope of Work
 - Establish a communication plan for all project stakeholders that will ensure the project is completed in an efficient and timely manner. Consultant shall prepare meeting agendas in advance of meetings and transmit meeting minutes to all attendees

2. **Construction Management** - Consultant to provide the following services:

- A. Construction and contract administration compliance.
- B. Provide daily, on-site inspections of construction activities.
- C. Provide construction and specialty inspections as required to ensure conformance with the plans and specifications throughout construction. Inspections include but are not limited to:
 - Electrical and instrumentation (code requirements, field inspection, operational and acceptance testing)
 - Mechanical code requirements, field inspection, operational and acceptance testing
 - Construction safety (shoring, confined space, Cal OSHA, etc.)
 - Structural steel, wood framing, and concrete
 - Geotechnical/Materials testing - field sampling and laboratory testing of various construction materials and existing soil materials as required in the construction documents
 - Supervision of any Contractor-required testing activities
- D. Verification of Contractor surveys.
- E. Documentation of compliance with environmental permitting and mitigation measures in accordance with the requirements of the environmental documents and regulatory permits.

- F. Inspect, observe, and monitor the Contractor's implementation of stormwater control, prevention and protection measures as required by the project permits and the project SWPPP, along with installation and maintenance of BMP's. The consultant shall prepare and file the required pre and post-storm event inspection paperwork.
- G. Ensure that sensitive or protected areas are not disturbed.
- H. Review and approve of the contractor's Baseline Schedule, weekly look-ahead schedules, and monthly schedule updates to ensure that the project is completed efficiently with minimum delay.
- I. Schedule biological and Native American monitors.
- J. Coordination of and response to any Request for Information (RFI's) from contractor.
- K. Management of the change order process including review, negotiation, and response to proposed change orders from the contractor. The consultant shall implement a proactive approach to minimize change orders to the maximum extent possible. All change orders shall be reviewed and approved by the City.
- L. Processing of certified progress payments and payment management.
- M. Verification of Labor Compliance and Prevailing Wage.
 - Verify classifications and rates for Prime and all Subcontractors at the beginning of the project.
 - Check and verify online payroll submissions to the Department of Industrial Relations.
 - Assist with Certified Payroll Verifications.
 - Verify compliance with Apprentice requirements.
- N. Chair regular progress meetings, and prepare and distribute meeting minutes.
- O. Conflict resolution and claim management.
- P. Oversee required DWR signage design and installation.
- Q. Assist with the completion of required DWR reports.
- R. Manage American Iron and Steel (AIS) certifications and tracking.
- S. Certify that change orders are AIS compliant.
- T. Verify that field conditions meet the requirements for constructing the various aspects of the project
- U. Inspect existing facilities and ensure that the contractor protects or repairs/replaces facilities to remain.
- V. Complete required employee interviews.
- W. Schedule and attend a final engineering inspection with the City and the contractor immediately upon completion of the construction in accordance with DWR requirements.
- X. Ensure As-Builts are being prepared as work progresses and that the As-Builts reflect the stage/status of work completed before processing pay estimates.

3. **Daily Field Inspection and Documentation:**

- Provide documentation of the work in the form of daily reports including:
 - Construction activities
 - Anticipated changes
 - Important conversations
 - Weather
 - Names of all workers
 - Equipment used
 - Hours of work
 - Safety concerns or accidents
 - Quality of work and materials
 - Materials testing performed
 - Record of any other significant information

- Information for record drawings (As-Built)
- Preservation/protection of sensitive habitat/areas or other environmental concerns
- Preservation/protection of historical/archeological sensitive areas
- Confirm that the contractor's stormwater control and protection measures are in place and functioning properly
- Construction video and photos
- Construction Schedule
- Record of visitors to the project site
- DBE verifications
- **Daily quantities** (to be agreed upon with contractor daily)

4. **Reports:**

The CM will keep the City informed, and document construction and safety issues by use of the following:

- Daily inspection reports
- Phone calls, emails, and correspondence
- Progress meeting, agendas, and minutes
- Weekly Statement of Working Days
- Weekly Construction Summary Report
- Weekly look ahead schedule
- Monthly as-built plans - required before payment of invoices
- Prepare regular press releases and/or information for distribution to the public by the City.

5. **Close-out:**

As the project nears completion, the CM will coordinate with the project manager to prepare and maintain preliminary and final punch lists for the contractor and the City. The CM will notify the City for their input for final punch lists.

After the CM has determined that facilities are complete and in compliance with contract documents, the CM will participate in a final project close-out meeting with City staff within a week after the project has been completed to confirm the availability of construction documents within the project files and that the project closeout requirements for the project funding sources have been addressed.

Within thirty (30) days of completion and acceptance of the Project, CM will furnish the City with the following:

- Photo log
- Information for record drawings
- O&M manual submittal coordination with the Contractor
- Submit all record drawings made by Contractor and Consultant during construction
- Final documents shall be delivered to the City in electronic format and shall become the sole property of the City. Acceptable formats include Microsoft Word, Excel, and AutoCAD-DWG.

PROPOSAL SUBMITTAL REQUIREMENTS

1. Proposers should send three (3) hard copies and one (1) electronic copy, on flash drive, or by email to cmunoz@fortbragg.com, of the completed proposal and cost bid so that it is received by the City no later than **2:00 p.m. on Friday, January 12, 2024**, to:

City of Fort Bragg
Attention: Cristal Munoz, Acting City Clerk
416 North Franklin Street
Fort Bragg, CA 95437
cmunoz@fortbragg.com

2. Format: Proposal should be 8 ½ x 11 inches, printed two-sided on recycled and recyclable paper with removable bindings, bound in a single document and organized in sections following the order specified under contents.
3. Contents: Proposal shall contain the following information
 - A. Firm Description
Provide a description of your firm and list relevant information about capabilities, size, rate of services, and length of time in existence.
 - B. Relevant Experience
Describe relevant construction inspection experience and history in performing recent work on wastewater treatment-related projects for public agencies with federal and state funding sources. Recent experience with the United States Department of Agriculture Rural Development (USDA) grant(s)/loan(s) and State Water Resources Control Board State Revolving Fund (SRF) grant(s) are especially valuable and highly desired. Timely and complete reporting to meet a long list of funding requirements will be essential.
 - C. Key Personnel Qualifications
Provide a table of the organization setting forth the project manager, supporting staff, and sub-consultants. Identify key personnel who will be assigned to the project and describe their responsibilities. A statement of qualification and experience for each licensed individual expected to perform work. Firms must be able to staff the project with qualified individuals who shall be committed to the work from beginning through completion.
 - D. References
List of public agencies or clients for whom similar work has been performed, with the name, title, and phone number of a contact person. We may request a copy of a similar report prepared previously by the firm for another agency.
 - E. Scope of Work
Provide an explanation of tasks associated with the project, including how you propose to complete each task. This should be reasonably consistent with the Scope of Work as described in this Request For Proposals.
 - F. Budget and Schedule of Charges
Provide a "Not to Exceed" amount and a list of Personnel Rates, Equipment Charges, Travel Reimbursement Costs, and Job Descriptions for Personnel.
 - G. Work Schedule
Provide a timeline for the completion of work.
 - H. Insurance
The individual or firm receiving the contract shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, employees or subcontracts as set forth in Section 13 of Exhibit "A" which is attached hereto and incorporated by reference herein.
The cost of such insurance shall be included in the consultant's proposal.
 - I. Consultant Agreement
The City's standard consultant services agreement is attached as Exhibit "A". Please identify if your firm would have any issues with the provisions of the City's standard

consulting services agreement. All requests for amendments to language in the agreement **must** be included in the proposal.

J. Prevailing Wage Requirements

In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the project is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code shall be paid to all workers engaged in performing the project. The Director of Industrial Relations has determined the general prevailing wage per diem rates for work in the locality in which the project is to be performed. In accordance with California Labor Code Section 1773.2, copies of the applicable determinations of the Director are on file in the City Clerk's Office and may be reviewed upon request. This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR). Attention is directed to the Federal minimum wage rate requirements. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the proposer shall pay not less than the higher wage rate. The City will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determinations otherwise available for use by the proposer, the proposer shall pay not less than the Federal minimum wage rate which most closely approximates the duties of the employees in question.

K. EVALUATION CRITERIA

Proposals will be evaluated on the basis of the following criteria:

- Capabilities and resources of the firm.
- Qualifications and experience of key individuals.
- Schedule for completion of work.
- Rate Schedule for Services.
- Use of local subcontractors.

The above selection criteria are provided to assist proposers and are not meant to limit other considerations that may become apparent during the course of the selection process.

OTHER CONSIDERATIONS

The City reserves the right to reject any and all proposals. This Request for Proposals does not commit the City to award contracts, pay any costs incurred in the preparation of proposals, or procure or contract for supplies or services.

The City reserves the right to negotiate with any qualified source or to cancel, in part of or in its entirety, this Request for Proposals, if it is in the best interest of the City to do so. The City may require the selected consultant to participate in negotiations and submit such price, technical or other revisions of the proposal that may result from negotiations.

RFP Schedule

RFP Release	December 1, 2023
Deadline for Written Questions	December 22, 2023
Proposals Due	January 12, 2024
Interviews (as needed)	Week of Jan 29 to February 2, 2024
Selection	February 12, 2024

QUESTIONS

Questions should be directed to:

City of Fort Bragg
416 North Franklin Street
Fort Bragg CA 95437

Diane O'Connor
Assistant City Engineer
(707) 961-2823, x 134
E-mail: doconnor@fortbragg.com

ATTACHMENTS

Exhibit "A" – City's Professional Services Agreement

**CITY OF FORT BRAGG
PROFESSIONAL SERVICES AGREEMENT
WITH**

THIS AGREEMENT is made and entered into this ___ day of _____, ___ [date, date & year] (“Effective Date”), by and between the CITY OF FORT BRAGG, a municipal corporation, 416 N. Franklin Street, Fort Bragg, California 95437 (“City”), and _____, a [state] [type of corporation] [address] (“Consultant”).

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to _____, as more fully described herein; and

B. WHEREAS, Consultant represents that it is a “design professional” as that term is defined by California Civil Code Section 2782.8 and has that degree of specialized expertise contemplated within California Government Code Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and **[Delete if not design professional and renumber paragraphs]**

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit “A” (the “Project”) and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

E. WHEREAS, the legislative body of the City on _____, [date] by Resolution No. _____ authorized execution of this Agreement on behalf of the City in accordance with Chapter 3.20 of the City Municipal Code and/or other applicable law;

[Delete whichever Paragraph E doesn't apply]

E. WHEREAS, the City Manager is authorized by Fort Bragg Municipal Code Section 3.20.040 to negotiate contracts in an amount not to exceed \$25,000.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Work. Consultant shall provide the professional services described in the Consultant’s Proposal (“Proposal”), attached hereto as **Exhibit A** and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect

Consultant's performance of this Agreement. Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. City officers and employees shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City as hereinafter specified. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability except as permitted pursuant to Section 12940 of the Government Code. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

Consultant shall, in all solicitations and advertisements for employees placed by, or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability. Consultant shall cause the paragraphs contained in this Section to be inserted in all subcontracts for any work covered by the Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this

Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense. All insurance requirements contained in this Agreement are independently applicable to any and all subcontractors that Consultant may engage during the term of this Agreement.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION, BILLING AND PREVAILING WAGES

2.1. Compensation. Consultant's total compensation shall not exceed _____ Dollars (\$ _____ .00).

[Delete whichever paragraph 2.1 does not apply.]

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in **Exhibit A**, for a total amount not to exceed _____ Dollars (\$ _____ .00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of work specified in the Consultant's Proposal or which is inconsistent with or in violation of the provisions of this Agreement unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable. Should the City request in writing additional services that increase the hereinabove described "Scope of Work," an additional fee based upon the Consultant's standard hourly rates shall be paid to the Consultant for such additional services. The City Manager may approve contract change orders not exceeding a total of 10% of the approved contract or up to the contingency amount whichever amount is less for any one project.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but not more often than monthly. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient

times for a period of three (3) years from the date of final payment.

2.5 Prevailing Wage Laws. In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 and following, the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed. In accordance with California Labor Code Section 1773, the City has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project. In accordance with California Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at the City Public Works Department and will be made available on request. Throughout the performance of the Work the Contractor, and its subcontractors, must comply with all provisions of the Contract Documents and all applicable laws and regulations, including without limitation Labor Code Sections 1776 and 1810-1815, that apply to wages earned and hours worked in performance of the Work. Pursuant to California Labor Code Section 1771.1, this Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR). A Contractor may not bid, nor be listed as a subcontractor for any bid proposal submitted for public work without first registering with the DIR and paying the annual fee. Application and renewal are completed online at <http://www.dir.ca.gov/PublicWorks/PublicWorks.html>. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractor, and its subcontractors, shall be responsible for compliance with Labor Code Section 1776. This Project is subject to prevailing wage compliance monitoring and enforcement by the Department of Industrial Relations. Contractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the work for this Project. Each payroll record shall contain or be verified by a written declaration as required by Labor Code Section 1776. The payroll records must be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor as required by Labor Code Section 1776.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the issuance of Notice to Proceed. Said services shall be performed in strict compliance with the schedule set forth in the Scope of Work attached hereto as **Exhibit A**. Consultant will complete the services in accordance with this Agreement by [REDACTED], 20 [REDACTED]. The Time of Completion may only be modified by a written amendment of the Agreement signed by both the City and the Consultant and in accordance with its terms.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party. If a delay beyond the control of the Consultant is encountered, a time extension may be mutually agreed upon in writing by the City and the Consultant. The Consultant shall present documentation satisfactory to the City to substantiate any request for a time extension.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and expire on _____, 20__, [3 months after Completion Date in 3.1] unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing at least ten (10) days prior written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. If the City suspends, terminates or abandons a portion of this Agreement, such suspension, termination or abandonment shall not make void or invalidate the remainder of this Agreement.

If the Consultant defaults in the performance of any of the terms or conditions of this Agreement, it shall have ten (10) days after service upon it of written notice of such default in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

The City shall have the right, notwithstanding any other provisions of this Agreement, to terminate this Agreement, at its option and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement, immediately upon service of written notice of termination on the Consultant, if the latter should:

- a. Be adjudged a bankrupt;
- b. Become insolvent or have a receiver of its assets or property appointed because of insolvency;
- c. Make a general assignment for the benefit of creditors;
- d. Default in the performance of any obligation or payment of any indebtedness under this Agreement;
- e. Suffer any judgment against it to remain unsatisfied or unbonded of record for thirty (30) days or longer; or
- f. Institute or suffer to be instituted any procedures for reorganization or rearrangement of its affairs.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination within thirty-five (35) days after service of the notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant. City

shall not be liable for any claim of lost profits.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Broad-form commercial general liability, in a form at least as broad as ISO form #CG 20 01 04 13, including premises-operations, products/ completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) aggregate, combined single limits. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit. If Consultant maintains higher limits than the specified minimum limits, City requires and shall be entitled to coverage for the high limits maintained by the Consultant.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, each incident for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California and Employers Liability Insurance with a minimum limit of \$1,000,000 per accident for any employee or employees of Consultant. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, agents, employees, and volunteers for losses arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

Before execution of this Agreement by the City, the Consultant shall file with the City Clerk the following signed certification:

I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work.

The Consultant shall also comply with Section 3800 of the Labor Code by securing, paying for and maintaining in full force and effect for the duration of this Agreement, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the City Clerk before execution of this Agreement by the City. The City, its officers and employees shall not be responsible for any claims in law or equity occasioned by failure of the consultant to comply with this section.

- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

Neither the City nor any of its elected or appointed officials, officers, agents, employees, or volunteers makes any representation that the types of insurance and the limits specified to be carried by Consultant under this Agreement are adequate to protect Consultant. If Consultant believes that any such insurance coverage is insufficient, Consultant shall provide, at its own expense, such additional insurance as Consultant deems adequate.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Fort Bragg and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (b) Notice: "Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, Consultant shall forthwith obtain and submit proof of substitute insurance. Should Consultant fail to immediately procure other insurance, as specified, to substitute for any canceled policy, the City may procure such insurance at Consultant's sole cost and expense."
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Fort Bragg, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Fort Bragg shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Fort Bragg, its officers, officials, agents, employees, and volunteers.

- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self-Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance and endorsements shall be attached hereto as **Exhibit B** and incorporated herein by this reference.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. The Project Manager designated to work directly with Consultant in the performance of this Agreement will be [REDACTED]. It shall be the Consultant's responsibility to assure that the Project Manager is kept informed of the progress of the performance of the services and the Consultant shall refer any decision, which must be made by City, to the Project Manager. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Project Manager.

Consultant designates [REDACTED] as its Project Manager, who shall represent it and be its agent in all consultations with City during the term of this Agreement and who shall not be changed by Consultant without the express written approval by the City. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile

or if mailed, shall be addressed as set forth below and placed in a sealed envelope, postage prepaid, and deposited in the United States Postal Service. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 72 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

[Redacted]
[Redacted]
[Redacted]
[Redacted]
Tel: [Redacted]
Fax: [Redacted]

IF TO CITY:

City Clerk
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437
Tel: 707-961-2823
Fax: 707-961-2802

6.5. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Mendocino County, California. Consultant agrees to submit to the personal jurisdiction of such court in the event of such action.

6.7. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.8. Indemnification and Hold Harmless.

If Consultant is not a design professional performing "design professional" services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings brought against the City, its elected and appointed officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful

misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

If Consultant is a design professional performing "design professional" services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the negligence, recklessness, or willful misconduct of the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.9. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.10. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City,

including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.11. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, preliminary notes, working documents, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City, but shall be made available to the City within ten (10) days of request or within ten (10) days of termination. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, preliminary notes and working documents, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City. Consultant or Consultant's agents shall execute such documents as may be necessary from time to time to confirm City's ownership of the copyright in such documents.

6.13. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.14. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.15. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to

Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.16. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, the conflict shall be resolved by giving precedence in the following order, if applicable: This Agreement, the City's Request for Proposals, the Consultant's Proposal.

6.18. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20. Headings. Paragraph and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.22. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.23. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.24. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding,

then both parties agree to substitute such provision(s) through good faith negotiations.

6.25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.26. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

6.27. Use of Recycled Paper Products. In the performance of this Agreement, Consultant shall use paper products and printing and writing paper that meets Federal Trade Commission recyclability standards as defined in 16 CFR 260.12.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY

CONSULTANT

By: _____
Peggy Ducey
Its: City Manager

By: _____

Its: _____

ATTEST:

By: _____
June Lemos, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
Keith F. Collins
City Attorney

EXHIBIT A

CONSULTANT'S PROPOSAL
(Scope of Work, Fee Schedule and Time Table)

EXHIBIT B
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 23-330

Agenda Date: 11/27/2023

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5B.

Adopt City Council Resolution of the Fort Bragg City Council Determining that this Project is Exempt from CEQA and Approving the Purchase of Eaton Electric Equipment for the EV Fleet Charging Station Project, City Project No. PWP-00126, and Authorizing City Manager to Execute Contract (Amount not to Exceed \$27,748.57; Account No. 522-4550-0742)

RESOLUTION NO. ____-2023

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING THE PURCHASE OF EATON ELECTRIC EQUIPMENT FOR THE EV FLEET CHARGING STATION PROJECT, CITY PROJECT NO. PWP-00126 AND AUTHORIZING CITY MANAGER TO EXECUTE PURCHASE AGREEMENT (AMOUNT NOT TO EXCEED \$27,748.57; ACCOUNT NO. 428-4879-0731)

WHEREAS, electrification of the Police Department EV Charging Station Project requires the purchase of behind-the-meter switchgear equipment; and

WHEREAS, two quotes were received for the purchase of this equipment with the lowest quoted cost from Rexel; and

WHEREAS, the estimated lead time for shipment of associated switchgear equipment is up to 80 weeks, thus staff is recommending the purchase of this equipment direct with this agreement; and

WHEREAS, based on all the evidence presented, the City Council finds as follows:

1. The purchase of this equipment is necessary to complete the electrification of the Police EV Fleet Chargers.
2. Sufficient funds are available to purchase the electrical equipment as budgeted in FY 23/24.

NOW, THEREFORE, BE IT RESOLVED that this Project (including installation of Electric Vehicle Supply Equipment) is exempt from CEQA as installation of Electric Vehicle Chargers are considered a ministerial action in accordance with Assembly Bill 1236.

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg does hereby accept the quote for the purchase of the electric equipment for the Electric Vehicle Charging Station Project, City Project No. PWP-00126, and authorize City Manager to purchase agreement (Amount Not to Exceed \$27,748.57; Account No. 428-4879-0731).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 27th day of November 2023, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

Cristal Munoz
Acting City Clerk



City of Fort Bragg

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Text File

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Approve Scope of Work for an RFP for a Construction Management Contract for the Water Treatment Plant Upgrade Project

The Water Treatment Plant Upgrade Project (Project WTR-00017) Notice Inviting Bids (NIB) was released on November 22, 2023. Upon approval, this RFP will be issued to secure the services of a Construction Management consultant to assist with project management and inspection services for the duration of project construction



CITY OF FORT BRAGG

REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES

The City of Fort Bragg (City) is seeking proposals from qualified engineering firms interested in contracting with the City to provide construction management and inspection services (CM) for the Fort Bragg Water Treatment Plant Upgrade Project (Project), Project WTR-00017.

The City anticipates the start of construction in March 2024. The engineer's estimate of construction cost is \$10.1 million. The City is seeking services to provide construction inspection and materials testing for the duration of the project. The contract allows 520 working days for completion of the project over two construction seasons.

Background

The Water Treatment Plant (WTP) is located at 31301 E. Cedar Street, Fort Bragg, CA 95437. The WTP was originally built in 1958. There was a major treatment process upgrade at the plant in 1986 which made the nominal plant capacity 2.2 MGD. The upgrade replaced the old treatment process with two packaged Trident® filter treatment units (FTUs). Since then the treatment process has mostly remained unchanged. The last major improvement project at the plant was constructed in 2004 and modified the raw water storage ponds to construct backwash water storage ponds.

The current treatment process relies on the two packaged Trident® FTUs. The FTUs receive pumped raw water from two unlined raw water storage ponds. The FTUs employ three basic treatment elements: 1) adsorption, 2) clarification, and 3) filtration, all inside the packaged unit. After raw water is treated by the FTUs the filter effluent is disinfected before it is directed to the finish water clear well. The finish water is then pumped up to storage tanks where it is stored prior to city-wide distribution.

The Project is funded by the State Water Resources Control Board (SWRCB), and as such, the funds for this project are federal funds, the project must comply with Federal and State bid contracting guidelines. The City's project manager will be the CM's primary contact.

SCOPE OF WORK

This contract consists of the following tasks:

1. **Pre-construction Assistance:**
 - Review the contract documents for possible problems and/or changes
 - Review order of work requirements
 - Attend pre-bid and pre-construction conferences and participate with pre-construction agenda, etc.
 - Review and understand stormwater requirements for the project

- Submittal management
- Schedule management
- Requests for Information (RFI) management and processing
- Familiarity with State Water Resources Control Board reporting requirements
- Familiar with Project phasing requirements

2. **Construction Management**

- Construction and contract administration compliance
- Provide construction and specialty inspections including but not limited to:
 - Electrical and instrumentation (code requirements, field inspection, operational and acceptance testing.
 - Mechanical code requirements, field inspection, operational and acceptance testing
 - Construction safety (shoring, confined space, Cal OSHA)
 - Structural steel, wood framing and concrete
 - Materials testing - field sampling and laboratory testing of various construction materials and existing soil materials as required in the construction documents.
- Oversight of construction staking; actual construction staking to be performed by the project Contractor
- Review and approval of Contractor's survey layouts
- Schedule biological and Native American monitors when needed
- Coordinate and respond to any Request for Information (RFI's) from contractor
- Draft and process any required change orders (coordinate with City's project manager as necessary)
- Provide daily, on-site inspections of construction activities
- Process progress payments and oversee payment management
- Assist with labor compliance as needed
 - Verify classifications and rates for Prime and all Subcontractors at beginning of project.
 - Check and verify online payroll submissions to Department of Industrial Relations.
 - Assist with other Certified Payroll and/or Davis Bacon Verifications, if needed, upon request by City.
 - Verify compliance with Apprentice requirements.
- Chair regular progress meetings, prepare and distribute meeting minutes
- Conflict resolution and claim management
- Oversee required SWRCB signage design and installation
- Complete required SWRCB required reports
- Manage American Iron and Steel (AIS) certifications and tracking
- Certify that change orders are AIS compliant
- Review Russian Sanctions - Executive Order N-6-22
- Verify that field conditions meet the requirements for constructing the various aspects of the project
- Inspect existing facilities and ensure that the contractor protects or repairs/replaces facilities to remain
- Complete required employee interviews
- Schedule and attend a warranty inspection with SWRCB and contractor before the end of the one-year warranty period.

3. **Daily Field Inspection and Documentation:**

- Provide documentation of the work in the form of daily reports including:

- Construction activities
- Anticipated changes
- Important conversations
- Weather
- Names of all workers
- Equipment used
- Hours of work
- Safety concerns or accidents
- Quality of work and materials
- Materials testing performed
- Record of any other significant information
- Information for record drawings (As-Built)
- Preservation/protection of sensitive habitat/areas or other environmental concerns if found
- Preservation/protection of historical/archeological sensitive areas
- Confirm that contractor's stormwater measures are in place and functioning properly
- Construction videos and photos
- Construction schedule
- Record of visitors to the project site
- DBE verifications
- **Daily quantities** (to be agreed upon with contractor daily)

4. **Reports:**

The CM will keep the City informed, and document construction and safety issues by use of the following:

- Daily inspection reports
- Phone calls, emails, and correspondence
- Progress meeting agendas and minutes
- Weekly Statement of Working Days
- Weekly Construction Summary Report
- Weekly look ahead schedule
- Monthly as-built plans - required prior to payment of invoice
- Compose press releases and/or information to be distributed to public by City upon request.

5. **Close-out**

As the project nears completion, the CM will coordinate with the project manager to prepare and maintain preliminary and final punch lists for the contractor and the City. The CM will notify the City for their input for final punch lists.

After the CM has determined that facilities are complete and in compliance with contract documents, the CM will participate in a final project close out meeting with City staff and funding source representatives within a week after the project has been completed to confirm availability of construction documents within the project files and that the project closeout requirements for the project funding sources have been addressed.

Within thirty (30) days of completion and acceptance of the Project, CM will furnish the City with the following:

- Photo log
- Information for record drawings
- O&M manual submittal coordination with Contractor
- Submit all record drawings made by Contractor and Consultant during construction
- Final documents shall be delivered to the City in electronic format and shall become the sole property of the City. Acceptable formats include Microsoft Word, Excel and AutoCAD-DWG.

PROPOSAL SUBMITTAL REQUIREMENTS

1. Proposers should send three (3) hard copies and one (1) electronic copy, on flash drive and, or by email to cmunoz@fortbragg.com, of the completed proposal and cost bid so that it is received by the City no later than 3:00 p.m. on **Friday, January 12, 2024** to:

City of Fort Bragg
Attention: Cristal Munoz, Acting City Clerk
 416 North Franklin Street
 Fort Bragg, CA 95437
cmunoz@fortbragg.com

2. Format: Proposal should be 8 ½ x 11 inches, printed two-sided on recycled and recyclable paper with removable bindings, bound in a single document and organized in sections following the order specified under contents.
3. Contents: Proposal shall contain the following information
 - A. Firm Description
Provide a description of your firm and list relevant information about capabilities, size, rate of services, and length of time in existence.
 - B. Relevant Experience
Describe relevant construction inspection experience and history in performing recent work on water treatment related projects for public agencies with state funding sources. Recent State Water Resources Control Board grant(s) are especially valuable and highly desired. Timely and complete reporting to meet funding requirements will be essential.
 - C. Key Personnel Qualifications
Provide a table of organization setting forth the project manager, supporting staff and sub-consultants. Identify key personnel who will be assigned to the project and describe their responsibilities. A statement of qualification and experience for each licensed individual expected to perform work. Firms must be able to staff the project with qualified individuals who shall be committed to the work from beginning through completion.
 - D. References
List of public agencies or clients for whom similar work has been performed, with the name, title and phone number of a contact person. We may request a copy of a similar report prepared previously by the firm for another agency.
 - E. Scope of Work
Provide an explanation of tasks associated with the project, including how you propose to complete each task. This should be reasonably consistent with the Scope of Work as described in this Request for Proposals.
 - F. Budget and Schedule of Charges
Provide a "Not to Exceed" amount and a list of Personnel Rates, Equipment Charges, Travel Reimbursement Costs, and Job Descriptions for Personnel.
 - G. Work Schedule
Provide time schedule for completion of work.
 - H. Insurance

The individual or firm receiving the contract shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, employees or subcontracts as set forth in Section 13 of Exhibit "A" which is attached hereto and incorporated by reference herein. **The cost of such insurance shall be included in the consultant's proposal.**

I. Consultant Agreement

The City's standard consultant services agreement is attached as Exhibit "A". Please identify if your firm would have any issues with the provisions of the City's standard consulting services agreement. All requests for amendments to language in the agreement **must** be included in the proposal.

J. Prevailing Wage Requirements

In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the project is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code shall be paid to all workers engaged in performing the project. The Director of Industrial Relations has determined the general prevailing wage per diem rates for work in the locality in which the project is to be performed. In accordance with California Labor Code Section 1773.2, copies of the applicable determinations of the Director are on file in the City Clerk's Office and may be reviewed upon request. This Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR). Attention is directed to the Federal minimum wage rate requirements. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the proposer shall pay not less than the higher wage rate. The City will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determinations otherwise available for use by the proposer, the proposer shall pay not less than the Federal minimum wage rate which most closely approximates the duties of the employees in question.

K. EVALUATION CRITERIA

Proposals will be evaluated on the basis of the following criteria:

- Capabilities and resources of the firm.
- Qualifications and experience of key individuals.
- Schedule for completion of work.
- Rate Schedule for Services.
- Use of local subcontractors.

The above selection criteria are provided to assist proposers and are not meant to limit other considerations that may become apparent during the course of the selection process.

Proposals will be reviewed and evaluated by the City. Interviews may be required after the City evaluates the proposals. A recommendation for award of contract will be presented to the Fort Bragg City Council on February 12th 2024. The CM is required to attend this meeting to answer any additional questions from the Council.

OTHER CONSIDERATIONS

The City reserves the right to reject any and all proposals. This Request for Proposals does not commit the City to award contract, pay any costs incurred in the preparation of proposals, or to procure or contract for supplies or services.

The City reserves the right to negotiate with any qualified source or to cancel, in part of or in its entirety, this Request for Proposals, if it is in the best interest of the City to do so. The City may require the selected consultant to participate in negotiations, and submit such price, technical or other revisions of the proposal that may result from negotiations.

QUESTIONS

Questions should be directed to:

City of Fort Bragg
416 North Franklin Street
Fort Bragg CA 95437

John Smith
Director of Public Works
(707) 961-2823, x 136
E-mail: jsmith@fortbragg.com

and

Heath Daniels
Operations Manager
(707) 961-4141
Email: hdaniels@fortbragg.com

ATTACHMENTS

Exhibit "A" – City's Professional Services Agreement

**CITY OF FORT BRAGG
PROFESSIONAL SERVICES AGREEMENT
WITH**

THIS AGREEMENT is made and entered into this ___ day of _____, ___ [date, date & year] (“Effective Date”), by and between the CITY OF FORT BRAGG, a municipal corporation, 416 N. Franklin Street, Fort Bragg, California 95437 (“City”), and _____, a [state] [type of corporation] [address] (“Consultant”).

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to _____, as more fully described herein; and

B. WHEREAS, Consultant represents that it is a “design professional” as that term is defined by California Civil Code Section 2782.8 and has that degree of specialized expertise contemplated within California Government Code Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and **[Delete if not design professional and renumber paragraphs]**

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit “A” (the “Project”) and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

E. WHEREAS, the legislative body of the City on _____, [date] by Resolution No. _____ authorized execution of this Agreement on behalf of the City in accordance with Chapter 3.20 of the City Municipal Code and/or other applicable law;

[Delete whichever Paragraph E doesn’t apply]

E. WHEREAS, the City Manager is authorized by Fort Bragg Municipal Code Section 3.20.040 to negotiate contracts in an amount not to exceed \$25,000.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Work. Consultant shall provide the professional services described in the Consultant’s Proposal (“Proposal”), attached hereto as **Exhibit A** and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect

Consultant's performance of this Agreement. Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. City officers and employees shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City as hereinafter specified. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability except as permitted pursuant to Section 12940 of the Government Code. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

Consultant shall, in all solicitations and advertisements for employees placed by, or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability. Consultant shall cause the paragraphs contained in this Section to be inserted in all subcontracts for any work covered by the Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this

Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense. All insurance requirements contained in this Agreement are independently applicable to any and all subcontractors that Consultant may engage during the term of this Agreement.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION, BILLING AND PREVAILING WAGES

2.1. Compensation. Consultant's total compensation shall not exceed _____ Dollars (\$ _____.00).

[Delete whichever paragraph 2.1 does not apply.]

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in **Exhibit A**, for a total amount not to exceed _____ Dollars (\$ _____.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of work specified in the Consultant's Proposal or which is inconsistent with or in violation of the provisions of this Agreement unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable. Should the City request in writing additional services that increase the hereinabove described "Scope of Work," an additional fee based upon the Consultant's standard hourly rates shall be paid to the Consultant for such additional services. The City Manager may approve contract change orders not exceeding a total of 10% of the approved contract or up to the contingency amount whichever amount is less for any one project.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but not more often than monthly. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient

times for a period of three (3) years from the date of final payment.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the issuance of Notice to Proceed. Said services shall be performed in strict compliance with the schedule set forth in the Scope of Work attached hereto as **Exhibit A**. Consultant will complete the services in accordance with this Agreement by _____, 20____. The Time of Completion may only be modified by a written amendment of the Agreement signed by both the City and the Consultant and in accordance with its terms.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party. If a delay beyond the control of the Consultant is encountered, a time extension may be mutually agreed upon in writing by the City and the Consultant. The Consultant shall present documentation satisfactory to the City to substantiate any request for a time extension.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and expire on _____, 20____, [3 months after Completion Date in 3.1] unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing at least ten (10) days prior written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. If the City suspends, terminates or abandons a portion of this Agreement, such suspension, termination or abandonment shall not make void or invalidate the remainder of this Agreement.

If the Consultant defaults in the performance of any of the terms or conditions of this Agreement, it shall have ten (10) days after service upon it of written notice of such default in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

The City shall have the right, notwithstanding any other provisions of this Agreement, to terminate this Agreement, at its option and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement, immediately upon service of written notice of termination on the Consultant, if the latter should:

- a. Be adjudged a bankrupt;
- b. Become insolvent or have a receiver of its assets or property appointed because of insolvency;

- c. Make a general assignment for the benefit of creditors;
- d. Default in the performance of any obligation or payment of any indebtedness under this Agreement;
- e. Suffer any judgment against it to remain unsatisfied or unbonded of record for thirty (30) days or longer; or
- f. Institute or suffer to be instituted any procedures for reorganization or rearrangement of its affairs.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination within thirty-five (35) days after service of the notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant. City shall not be liable for any claim of lost profits.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Broad-form commercial general liability, in a form at least as broad as ISO form #CG 20 01 04 13, including premises-operations, products/ completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) aggregate, combined single limits. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit. If Consultant maintains higher limits than the specified minimum limits, City requires and shall be entitled to coverage for the high limits maintained by the Consultant.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, each incident for bodily injury and

property damage.

- (c) Workers' compensation insurance as required by the State of California and Employers Liability Insurance with a minimum limit of \$1,000,000 per accident for any employee or employees of Consultant. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, agents, employees, and volunteers for losses arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

Before execution of this Agreement by the City, the Consultant shall file with the City Clerk the following signed certification:

I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work.

The Consultant shall also comply with Section 3800 of the Labor Code by securing, paying for and maintaining in full force and effect for the duration of this Agreement, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the City Clerk before execution of this Agreement by the City. The City, its officers and employees shall not be responsible for any claims in law or equity occasioned by failure of the consultant to comply with this section.

- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

Neither the City nor any of its elected or appointed officials, officers, agents, employees, or volunteers makes any representation that the types of insurance and the limits specified to be carried by Consultant under this Agreement are adequate to protect Consultant. If Consultant believes that any such insurance coverage is insufficient, Consultant shall provide, at its own expense, such additional insurance as Consultant deems adequate.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Fort Bragg and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."

- (b) Notice: "Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, Consultant shall forthwith obtain and submit proof of substitute insurance. Should Consultant fail to immediately procure other insurance, as specified, to substitute for any canceled policy, the City may procure such insurance at Consultant's sole cost and expense."
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Fort Bragg, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Fort Bragg shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Fort Bragg, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self-Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance and endorsements shall be attached hereto as **Exhibit B** and incorporated herein by this reference.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. The Project Manager designated to work directly with Consultant in the performance of this Agreement will be [REDACTED]. It shall be the Consultant's responsibility to assure that the Project Manager is kept informed of the progress of the performance of the services and the Consultant shall refer any decision, which must be made by City, to the Project Manager. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Project Manager.

Consultant designates [REDACTED] as its Project Manager, who shall represent it and be its agent in all consultations with City during the term of this Agreement and who shall not be changed by Consultant without the express written approval by the City. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or if mailed, shall be addressed as set forth below and placed in a sealed envelope, postage prepaid, and deposited in the United States Postal Service. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 72 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Tel: [REDACTED]
Fax: [REDACTED]

IF TO CITY:

City Clerk
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437
Tel: 707-961-2823
Fax: 707-961-2802

6.5. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Mendocino County, California. Consultant agrees to submit to the personal jurisdiction of such court in the event of such action.

6.7. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement.

Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.8. Indemnification and Hold Harmless.

If Consultant is not a design professional performing "design professional" services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings brought against the City, its elected and appointed officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

If Consultant is a design professional performing "design professional" services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the negligence, recklessness, or willful misconduct of the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.9. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the

independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.10. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.11. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, preliminary notes, working documents, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City, but shall be made available to the City within ten (10) days of request or within ten (10) days of termination. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, preliminary notes and working documents, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City. Consultant or Consultant's agents shall execute such documents as may be necessary from time to time to confirm City's ownership of the copyright in such documents.

6.13. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade

secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.14. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.15. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.16. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, the conflict shall be resolved by giving precedence in the following order, if applicable: This Agreement, the City's Request for Proposals, the Consultant's Proposal.

6.18. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20. Headings. Paragraph and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties

and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.22. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.23. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.24. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.26. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

6.27. Use of Recycled Paper Products. In the performance of this Agreement, Consultant shall use paper products and printing and writing paper that meets Federal Trade Commission recyclability standards as defined in 16 CFR 260.12.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY

CONSULTANT

By: _____

Peggy Ducey

Its: City Manager

By: _____

Its: _____

ATTEST:

By: _____

June Lemos, MMC
City Clerk

APPROVED AS TO FORM:

By: _____
Keith F. Collins
City Attorney

EXHIBIT A

CONSULTANT'S PROPOSAL
(Scope of Work, Fee Schedule and Time Table)

EXHIBIT B
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 23-416

Agenda Date: 11/27/2023

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 5D.

Resolution of the Fort Bragg City Council Approving Professional Services Agreement with City Management Advisors, LLC, dba Peckham & Mckenney to Provide Executive Recruitment Services for the Position of City Manager and Authorizing the Mayor to Execute Same (Amount not to Exceed \$27,000; Account No. 110-4110-0319 For \$10,000; Account No. 110-4130-0319 For \$17,000)

RESOLUTION NO. ____-2023

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING PROFESSIONAL SERVICES AGREEMENT WITH CITY MANAGEMENT ADVISORS, LLC, DBA PECKHAM & MCKENNEY TO PROVIDE EXECUTIVE RECRUITMENT SERVICES FOR THE POSITION OF CITY MANAGER AND AUTHORIZING THE MAYOR TO EXECUTE SAME (AMOUNT NOT TO EXCEED \$27,000; ACCOUNT NO. 110-4110-0319 FOR \$10,000; ACCOUNT NO. 110-4130-0319 FOR \$17,000)

WHEREAS, on September 10, 2023, the City Manager provided notice of resignation to the Mayor and City Councilmembers; and

WHEREAS, on October 10, 2023, the City Council voted to accept the resignation of the City Manager; and

WHEREAS, Mayor Norvell received a proposal from Roseville-based executive search firm City Management Advisors, LLC dba Peckham & McKenney, who previously conducted a successful search for Fort Bragg City Manager; and

WHEREAS, the cost of \$27,000 for full recruitment services has not changed since the first recruitment in 2017; and

WHEREAS, approval of the contract with Peckham & McKenney is recommended so the search for a replacement City Manager can promptly go forward; and

WHEREAS, funds for these services are provided through both the City Council and City Manager's professional services budget.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve a Professional Services Agreement with City Management Advisors, LLC dba Peckham & McKenney to provide executive recruitment services for the position of City Manager and authorize the Mayor to execute the same.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 27th day of November 2023, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**
- RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

Cristal Munoz
Acting City Clerk

**CITY OF FORT BRAGG
PROFESSIONAL SERVICES AGREEMENT
WITH
CITY MANAGEMENT ADVISORS, LLC
dba PECKHAM & MCKENNEY**

THIS AGREEMENT is made and entered into this ___ day of November, 2023 (“Effective Date”), by and between the CITY OF FORT BRAGG, a municipal corporation, 416 N. Franklin Street, Fort Bragg, California 95437 (“City”), and CITY MANAGEMENT ADVISORS, LLC, a California Limited Liability Company located at 300 Harding Boulevard, Suite 203D, Roseville, California 95437, dba PECKHAM & MCKENNEY (“Consultant”).

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide executive search services for Fort Bragg City Manager recruitment, as more fully described herein; and

B. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit “A” (the “Project”) and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

C. WHEREAS, no official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

D. WHEREAS, the legislative body of the City on November 27, 2023 by Resolution No. _____ authorized execution of this Agreement on behalf of the City in accordance with Chapter 3.20 of the City Municipal Code and/or other applicable law;

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Work. Consultant shall provide the professional services described in the Consultant’s Proposal (“Proposal”), attached hereto as **Exhibit A** and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant’s performance of this Agreement. Consultant shall keep itself informed of State and Federal laws and regulations, which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. City officers and employees shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to

the complete satisfaction of the City as hereinafter specified. Evaluations of the work will be done by the City Manager or his or her designee. If the quality of work is not satisfactory, Consultant shall conduct another recruitment under the terms set forth in Consultant's proposal.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability except as permitted pursuant to Section 12940 of the Government Code. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

Consultant shall, in all solicitations and advertisements for employees placed by, or on behalf of Consultant, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender, sexual orientation, or disability. Consultant shall cause the paragraphs contained in this Section to be inserted in all subcontracts for any work covered by the Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense. All insurance requirements contained in this Agreement are independently applicable to any and all subcontractors that Consultant may engage during the term of this Agreement.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement

are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in **Exhibit A**, for a total amount not to exceed **Twenty-seven Thousand Dollars (\$27,000.00)**.

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of work specified in the Consultant's Proposal or which is inconsistent with or in violation of the provisions of this Agreement unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable. Should the City request in writing additional services that increase the hereinabove described "Scope of Work," an additional fee based upon the Consultant's standard hourly rates shall be paid to the Consultant for such additional services. The City Manager may approve contract change orders not exceeding a total of 10% of the approved contract or up to the contingency amount whichever amount is less for any one project.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but not more often than monthly. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the date of final payment.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the issuance of Notice to Proceed. Said services shall be performed in strict compliance with the schedule set forth in the Scope of Work attached hereto as **Exhibit A**. Consultant will complete the services in accordance with this Agreement by **July 1, 2024**. The Time of Completion may only be modified by a written amendment of the Agreement signed by both the City and the Consultant and in accordance with its terms.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party. If a delay beyond the control of the Consultant is encountered, a time extension may be mutually agreed upon in writing by the City and the Consultant. The Consultant shall present documentation satisfactory to the City to substantiate any request for a time extension.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and expire on **July 1, 2024** unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing at least ten (10) days prior written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. If the City suspends, terminates or abandons a portion of this Agreement, such suspension, termination or abandonment shall not make void or invalidate the remainder of this Agreement.

If the Consultant defaults in the performance of any of the terms or conditions of this Agreement, it shall have ten (10) days after service upon it of written notice of such default in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

The City shall have the right, notwithstanding any other provisions of this Agreement, to terminate this Agreement, at its option and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement, immediately upon service of written notice of termination on the Consultant, if the latter should:

- a. Be adjudged a bankrupt;
- b. Become insolvent or have a receiver of its assets or property appointed because of insolvency;
- c. Make a general assignment for the benefit of creditors;
- d. Default in the performance of any obligation or payment of any indebtedness under this Agreement;
- e. Suffer any judgment against it to remain unsatisfied or unbonded of record for thirty (30) days or longer; or
- f. Institute or suffer to be instituted any procedures for reorganization or rearrangement of its affairs.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination within thirty-five (35) days after service of the notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services

contemplated herein whether delivered to the City or in the possession of the Consultant. City shall not be liable for any claim of lost profits.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Broad-form commercial general liability, in a form at least as broad as ISO form #CG 20 01 04 13, including premises-operations, products/ completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence, Two Million Dollars (\$2,000,000.00) aggregate, combined single limits. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit. If Consultant maintains higher limits than the specified minimum limits, City requires and shall be entitled to coverage for the high limits maintained by the Consultant.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, each incident for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California and Employers Liability Insurance with a minimum limit of \$1,000,000 per accident for any employee or employees of Consultant. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officials, officers, agents, employees, and volunteers for losses arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

Before execution of this Agreement by the City, the Consultant shall file with the City Clerk the following signed certification:

I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work.

The Consultant shall also comply with Section 3800 of the Labor Code by securing, paying for and maintaining in full force and effect for the duration of this Agreement, complete Workers' Compensation Insurance, and shall furnish a Certificate of Insurance to the City Clerk before execution of this Agreement by the City. The City, its officers and employees shall not be responsible for any claims in law or equity occasioned by failure of the consultant to comply with this section.

- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than Two Million Dollars (\$2,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

Neither the City nor any of its elected or appointed officials, officers, agents, employees, or volunteers makes any representation that the types of insurance and the limits specified to be carried by Consultant under this Agreement are adequate to protect Consultant. If Consultant believes that any such insurance coverage is insufficient, Consultant shall provide, at its own expense, such additional insurance as Consultant deems adequate.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Fort Bragg and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (b) Notice: "Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, Consultant shall forthwith obtain and submit proof of substitute insurance. Should Consultant fail to immediately procure other insurance, as specified, to substitute for any canceled policy, the City may procure such insurance at Consultant's sole cost and expense."
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Fort Bragg, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Fort Bragg shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Fort Bragg, its officers, officials, agents, employees, and volunteers.

- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self-Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance. Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement. The certificates of insurance and endorsements shall be attached hereto as **Exhibit B** and incorporated herein by this reference.

5.5. Non-limiting. Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. The Project Managers designated to work directly with Consultant in the performance of this Agreement will be **Mayor Bernie Norvell**. It shall be the Consultant's responsibility to assure that the Project Manager is kept informed of the progress of the performance of the services and the Consultant shall refer any decision, which must be made by City, to the Project Manager. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Project Manager.

Consultant designates **Anton "Tony" Dahlerbruch, Managing Member**, as its Project Manager, who shall represent it and be its agent in all consultations with City during the term of this Agreement and who shall not be changed by Consultant without the express written approval by the City. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or if mailed, shall be addressed as set forth below and placed in a sealed envelope, postage prepaid, and deposited in the United States Postal Service. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 72 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:
Anton "Tony" Dahlerbruch
Peckham & McKenney
300 Harding Blvd., Suite 203D
Roseville, CA 95678
Tel: 310-567-1554
Toll-free: 866-912-1919

IF TO CITY:
City Clerk
City of Fort Bragg
416 N. Franklin St.
Fort Bragg, CA 95437
Tel: 707-961-2823
Fax: 707-961-2802

6.5. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Mendocino County, California. Consultant agrees to submit to the personal jurisdiction of such court in the event of such action.

6.7. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.8. Indemnification and Hold Harmless. If Consultant is not a design professional performing "design professional" services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings brought against the City, its elected and appointed officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable

for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.9. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.10. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.11. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, preliminary notes, working documents, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City, but shall be made available to the City within ten (10) days of request or within ten (10) days of termination. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at

the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, preliminary notes and working documents, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City. Consultant or Consultant's agents shall execute such documents as may be necessary from time to time to confirm City's ownership of the copyright in such documents.

6.13. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.14. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.15. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.16. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in Consultant's Proposal shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, the conflict shall be resolved by giving precedence in the following order, if applicable: Consultant's Proposal, This Agreement, the City's Request for Proposals

6.18. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20. Headings. Paragraph and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.22. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.23. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.24. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.26. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY

By: _____
Bernie Norvell
Its: Mayor

CONSULTANT

By: _____
Anton Dahlerbruch
Its: Managing Member

ATTEST:

By: _____
Cristal Munoz
Acting City Clerk

APPROVED AS TO FORM:

By: _____
Keith F. Collins
City Attorney



October 13, 2023

Mayor Bernie Norvell
416 North Franklin Street
Fort Bragg, CA 95437
Via PDF/Email To: BNorvell2@FortBragg.com

Dear Mayor Norvell,

Thank you for considering Peckham & McKenney once again for the City of Fort Bragg recruitment for City Manager. We have enjoyed working with the City over the years and most recently in the recruitment for Police Chief and City Manager. Peckham & McKenney would be honored to again represent the City Council in this important search and specifically *finding* exceptionally skilled and experienced candidates for working with you, serving City residents, achieving your goals, and serving as the organization's leader.

As a long-standing, successful, and boutique firm specifically serving small and medium size cities in California, Peckham & McKenney is the recruiter of choice for cities; four key reasons are:

- We actively and personally search for, find and pursue candidates. We don't rely on ads and posts for attracting applicants. We have an extensive network, use the telephone and LinkedIn, and sell the opportunity.
- We limit the number of concurrent searches in order to directly focus on serving our client.
- We prioritize communicating with our client and applicants to keep everyone informed.
- Your recruiter is personally, solely, and directly doing, and responsible for, all aspects of the search while also serving as your one point of contact. In other words, the individual who knows you and the position the most is handling all components of the recruitment.

Our Peckham & McKenney team is comprised of retired City executives who are passionate about the public sector. As a Recruiter and owner of the firm, I'm proud of what we do because our team's values and priorities are to assist public agencies in furtherance of good government; place quality above quantity; and build long lasting relationships with those in the public service. We have also conducted several searches in the general region of Fort Bragg, specifically the Cities of Anderson, Healdsburg, Petaluma, and Windsor, among other generally remote communities like Corning, Susanville, Redding, Mariposa County, and Mammoth Lakes.

Either Tara Schultz or I will serve as your recruiter. Both of us are retired City Managers with decades of experience working in local governments. As such, we are both very familiar with the responsibilities of the City Manager, expectations of the position and working with the City Council. Moreover, with personally having conducted numerous searches, we know and understand what is necessary to find good candidates and we have a strong, excellent network for attracting candidates. I would be pleased to conduct the search while on the other hand, Tara maybe a refreshing alternative to me.

Peckham & McKenney, 300 Harding Boulevard, Suite 203D, Roseville, CA 95678

Attached is an example of a Candidate Profile that illustrates the information we collect, detail and utilize to attract applicants. Also attached is our proposal for conducting the search that includes information about our firm, process, timeline, resources, references, experience and fee. We still charge a fixed, all-inclusive fee; and because this search will necessitate a lot of personal, direct outreach and time to find the right fit for you (based on experience), we are again proposing \$27,000¹ that I'd be pleased to discuss. We would also be pleased to participate in a Zoom interview to personally present and discuss our proposal. Our proposal outlines a 12- to 14-week search process.

We are excited for the opportunity to implement the process leading to the successful placement of a candidate that "fits" the City's interests. Please feel free to call me at 310.567.1554 if there are any questions.

Sincerely,



Anton "Tony" Dahlerbruch
Executive Recruiter

Tony@PeckhamAndMcKenney.com

Enclosure:

City of Fort Bragg Search Proposal
Candidate Profile Examples

¹ This represents a discount from our regular fee of \$29,000.

City of Fort Bragg

RECRUITMENT PROPOSAL

for

City Manager

October 13, 2023

Peckham & McKenney
"All about fit"

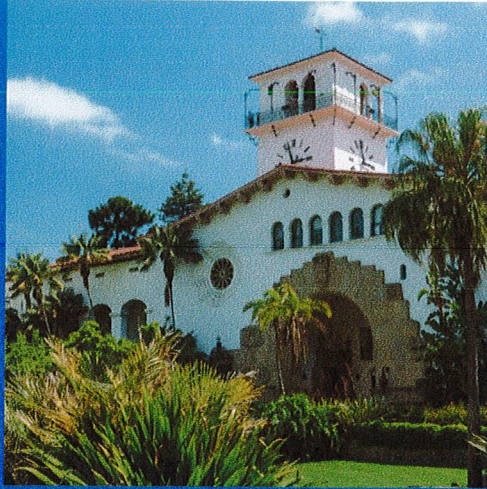


Peckham & McKenney
EXECUTIVE SEARCH

Serving local governments (cities, counties, districts) by conducting recruitments and placing management and executive leaders that fit the personnel needs and interests of agencies.

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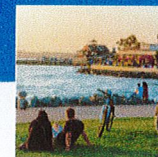
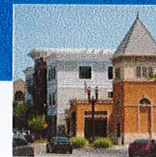
WHY CHOOSE US?

Peckham & McKenney focuses on *quality* searches and placements (over quantity) in recognition that each placement is “All about fit”. Serving local government since 2004, we are one of the most trusted and respected executive recruitment firms in the country. We have successfully placed hundreds of local government professionals including City Managers, County Executive Officers, General Managers, Police and Fire Chiefs, Department Heads, Assistant Managers, and mid-level Managers. Time and again, we receive unsolicited compliments from clients and candidates

in reference to our integrity and high ethics, commitment, follow-through, communication, and service. We take pride in treating both our clients and candidates with utmost respect.



For more information, please visit our website at www.PeckhamAndMcKenney.com.



OUR COMMITMENT TO YOU

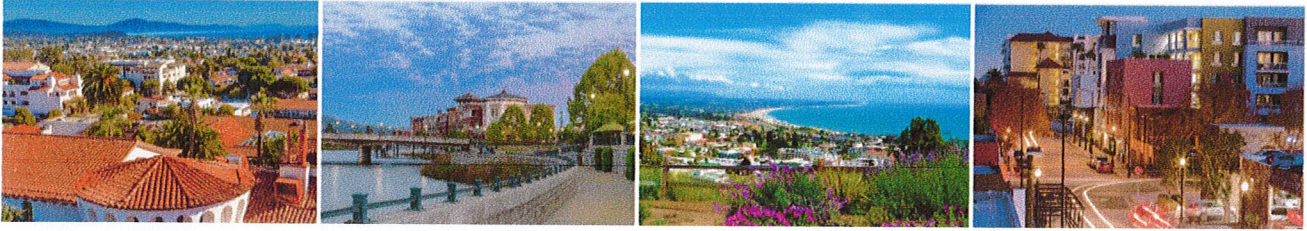
Peckham & McKenney, by maintaining the quality, style, values and culture established by Bobbi Peckham and Phil McKenney, performs on the premise that an executive search firm must be dedicated to providing its clients and candidates with professional and responsive service, and a personal, hands-on approach. Our business philosophy is founded on the understanding that we are in a “people” related industry and that attention to others’ needs is the key to providing effective customer service.

- **We believe in honesty.** No client should ever appoint an individual without being fully knowledgeable of the candidate’s complete background and history. Additionally, no candidate should ever enter into a new career opportunity without full disclosure of any organizational “issues.”
- **We keep everyone involved in the recruitment process informed.** Not only do we provide regular updates to our clients, we also have a reputation for keeping our candidates up to date.
- **We do not recruit staff from our client agencies** for another recruitment during an active engagement, nor

do we “parallel process” a candidate, thereby pitting one client against another for the same candidate.

- **We do not recruit our placements — ever.** Should a placement of ours have an interest in a position for which we are recruiting, they may choose to apply. If they become a finalist, we ask that they speak to their supervisor to alert them of their intent.
- **We are retained only by cities, counties and special districts.** We are not retained by applicants or non-governmental agencies.
- **We do not over commit ourselves to too many searches.** Your recruiter maintains a small, limited number of concurrent searches at all times in order to focus specifically and diligently on recruiting qualified candidates for your vacancy.
- **We commit to diversity in its broadest possible definition in every aspect of each executive recruitment.** Peckham & McKenney has a well established reputation of placing women and people with diverse backgrounds.

EXPERIENCE



With our recruitment team that solely consists of retired City Managers, Assistant City Managers, Police Chiefs and Department Heads, and our expert support team, Peckham & McKenney brings more experience and knowledge of local government and executive search than any other California recruiter. Just a few of our most recent recruitments related to your search for a City Manager have been for:

- City Manager, City of Anderson, CA (current)
- City Manager, City of Big Bear Lake, CA
- City Manager, City of Corning, CA
- City Manager, City of Manteca, CA
- Town Manager, City of Mammoth Lakes, CA (current)
- City Manager, City of Pleasant Hill, CA
- City Manager, City of Seaside, CA
- City Manager, City of Watsonville, CA
- Assistant City Manager, City of Hollister, CA
- Assistant City Manager, City of San Luis Obispo, CA
- Deputy City Manager, City of Thousand Oaks, CA
- County Executive Officer, Napa County, CA
- County Administrator, Solano County, CA
- County Administrative Officer, Mono County, CA
- Assistant County Executive Officer, Santa Barbara County, CA
- Assistant County Administrative Officer/Human Resources Director, Mariposa County, CA

Please don't hesitate to contact these agencies as well as our large list of current and former clients on our website ([here](#)); they will attest to our quality of service, on-going communication throughout the process, personal and direct outreach and sourcing of candidates, quality applicant pool, written materials and interview facilitation.

As an ambassador of our clients, Peckham & McKenney is also known for maintaining ongoing communications with our applicants throughout the search process, treating every applicant with respect, and appropriately informing candidates to support their best effort. The numerous compliments we have received from applicants fairly illustrate this reputation.

Comfortable and Professional Experience

"I'd like to thank you again for your support and guidance throughout the recruitment and selection process. It was a comfortable and professional experience, and I attribute a great deal of that to you. It's my hope that our professional paths may cross again in the

Straightforward, Friendly, and Humane Recruitment Process

"I wanted to let you know what a terrific job I thought you and Peckham & McKenney did on the recruitment. It was absolutely the most straightforward, friendly, and humane recruitment process I've ever participated in. And I would feel the same way even if the outcome was not

Proactive and Responsive

Diana worked with the City to fill the Chief of Police position early in 2023. Diana is clearly well respected in the LEO community and has a vast network which led to a competitive pool of candidates for the City to select from. Diana was proactive from our very first meeting and always very responsive. The City team valued Diana's integrity, opinion and sense of humor. She was a pleasure to work with and I wouldn't hesitate to hire her for any executive recruitment critical to your organization. **Client**

You Made Me Feel So Comfortable

"This is my first time working with a recruiting company, and I'm so happy for having the opportunity to work with your company, wow! I truly enjoyed the process! Your interview skills are amazing! You made me feel so comfortable and I felt like I was just talking shop with a longtime friend. Thanks for the personal touch that you include in your job, I believe that this is what makes your firm so desirable and successful." **Candidate**

Testimonials from clients and candidates are at <https://www.peckhamandmckenney.com/testimonials>.

Please feel free to contact any of the following current and recent clients to inquire about their experience with Peckham & McKenney. In addition, we would be pleased to furnish the client contact and phone numbers for any past clients listed in this proposal.

City of Big Bear Lake, CA – City Manager

Mayor/Councilmembers Rick Herrick and Randall Putz, and / or Erik Sund, City Manager
(909) 866-5831; rherrick@citybigbearlake.com, rputz@citybigbearlake.com and / or esund@cityofbigbearlake.com

City of Fillmore, CA – Public Works Director and Finance Director

David Rowlands, City Manager or Erika Herrera, Assistant City Manager
(805) 524-1500 x 209; drowlands@fillmore.gov or (805) 946-1712; eherrera@fillmore.gov

City of San Dimas, CA – City Manager

Mayor Emmett Badar, Members of the City Council and / or City Attorney Jeffrey Malawy
(909) 394-6200; ebadar@sandimasca.gov or (310) 801-9529; jmalawy@awattorneys.com

City of Santa Barbara, CA – Economic Development Manager, Finance Director, Community Development Director, Information Technology Director and City Administrator (current)

Rebecca Bjork, City Administrator, or Wendy Levy, Human Resources Director
(805) 564-5301; rbjork@santabarbara.gov or (805) 564-5313; wlevy@santabarbara.gov

County of Santa Barbara, CA – Assistant County Executive Officer for Municipal Services, General Services Director, Chief Data Officer, Chief Information Officer, and Deputy Director for Long Range Planning

Carolyn Marceda, County Recruiter or Mona Miyasato, County Executive Officer
(805) 618-8711; cmarceda@sbcountyhr.org or (805) 568-3400; mmiyasato@countyofsb.org

YOUR RECRUITMENT TEAM

Our Approach

With every Peckham & McKenney recruitment, your Recruiter has the entire Peckham & McKenney team of Recruiters and administrative personnel for backup, support, collaboration, and sourcing. *However*, when you retain Peckham & McKenney, *your Recruiter* serves as your single point of contact throughout the entire search process and is fully responsible for its success. Moreover, in order to fully focus on your search and finding applicants that fit with the ideal candidate you are seeking, your Recruiter also maintains no more than 6 active searches.

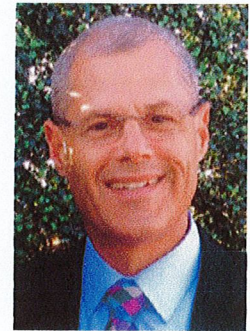
The Executive Recruiter for you in this search is either Tony Dahlerbruch or Tara Schultz.



Peckham & McKenney Team

Tony Dahlerbruch, Executive Recruiter Managing Member (owner) of Peckham & McKenney Executive Search

Tony worked in local government over 30 years before joining the Peckham & McKenney team. His experience spans most every city department in the Cities of Beverly Hills, California; Scottsdale and Phoenix, Arizona; and Rockville, Maryland, with ultimately serving a combined 12 years as City Manager in Rolling Hills and Palos Verdes Estates, California. Tony has represented the City Managers Department in CalCities as a two term Director on the Executive Board, President of City Managers Department, and member of numerous Policy Committees. He has also served as a Regional Vice President on the Executive Board of the International City/County Management Association. Tony holds a Bachelor of Arts in Political Science from the University of California at Santa Barbara and a Master of Public Administration from The American University in Washington, D.C.



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Tony and Tara are supported by the following [team](#).

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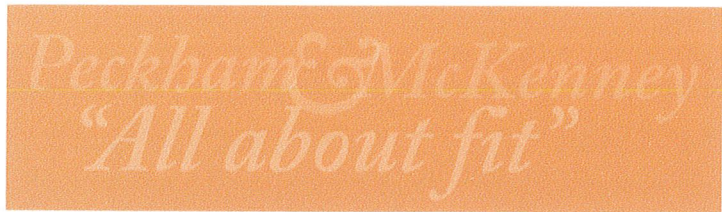
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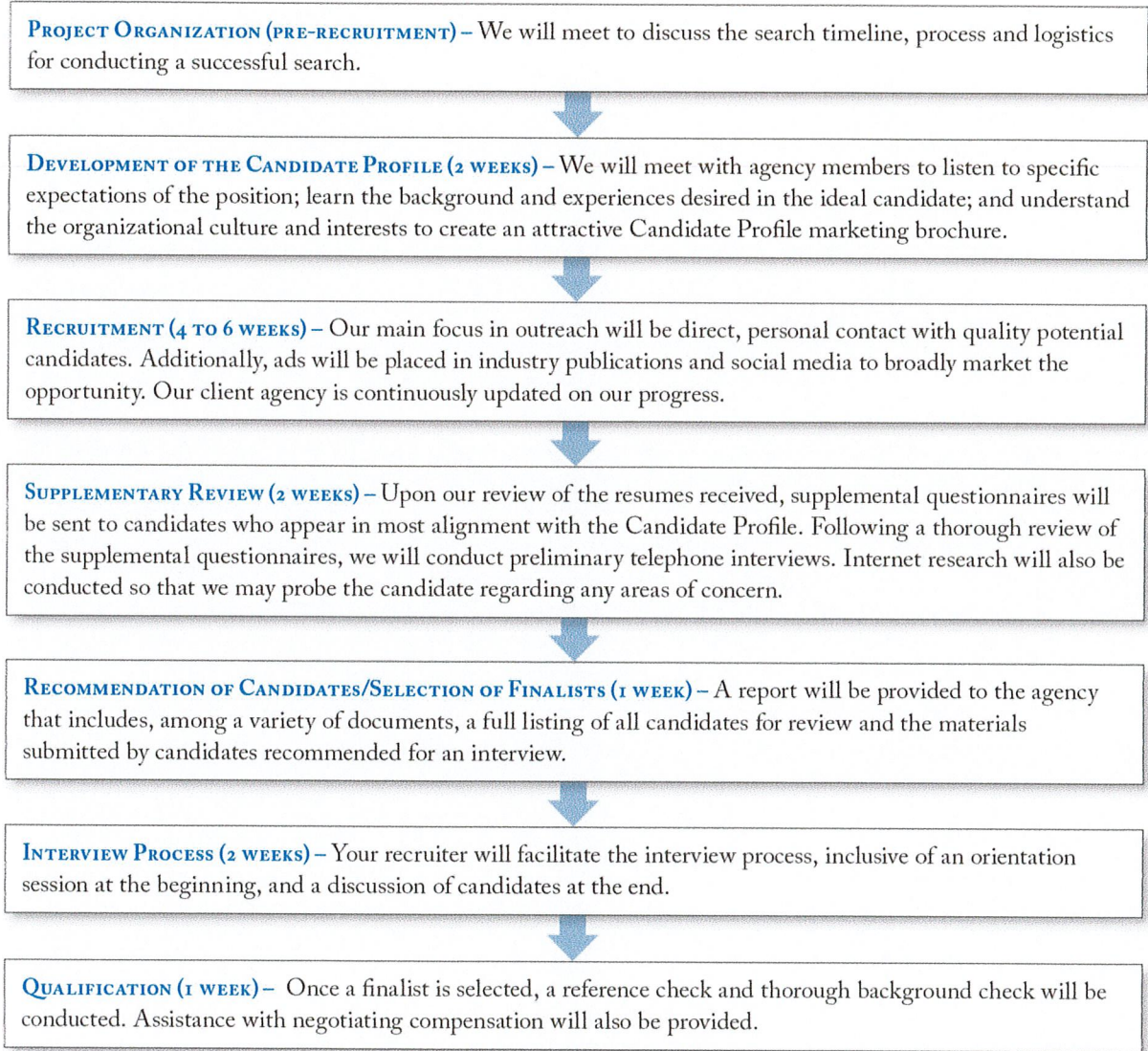
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The all-inclusive fee above includes professional fees and expenses (out-of-pocket costs associated with advertising, Recruiter travel, administrative support / printing / copying / postage / materials, telephone / technology, internet research checks on recommended candidates, and full background check on selected finalist only). For services not specified herein, we will discuss your interests and an appropriate fee.

PROCESS OF PAYMENT

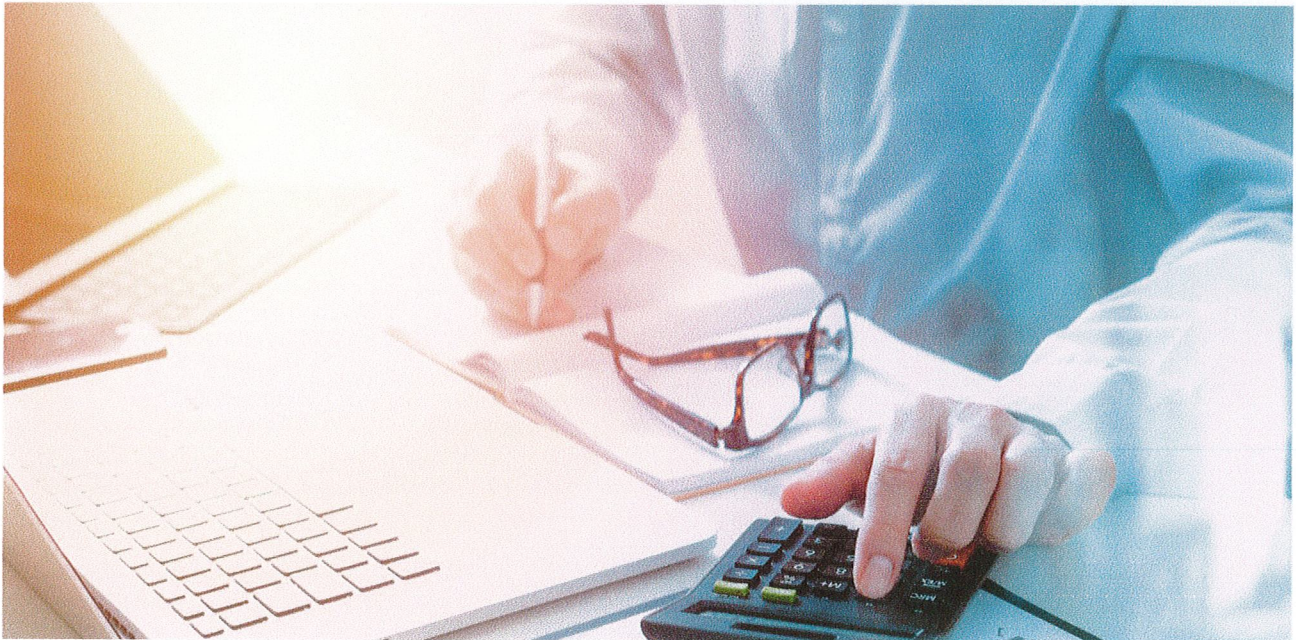
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INSURANCE

Peckham & McKenney carries Professional Liability Insurance (\$1,000,000 limit), Commercial General Liability Insurance (\$2,000,000 General Liability, and \$4,000,000 Products) and Automobile Liability Insurance (\$1,000,000). Our Insurance Broker is B&B Premier Insurance Solutions, Agoura Hills, CA.



GUARANTEE

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OUR GUARANTEE:

- We will connect with you and our placement in 6 months and 1 year after the appointment to check-in.
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In the unlikely event that a second search is needed, we will review with you the changes necessary for a new outcome. Recognizing the current market for finding competent and successful executives and the changes in strategy that would be needed for a second search, the cost of a second search will be discounted to half of the fee for conducting the original search.

DIVERSITY STATEMENT



Peckham & McKenney is committed to diversity in its broadest possible definition in every aspect of each executive recruitment our firm provides. We take pride in the placement of women and applicants of diversity, and are known for long, successful tenures of candidates selected by the agency.

Peckham & McKenney does not discriminate on the basis of race, color, religion, creed, sex/gender, national origin/ancestry, disability, pregnancy, sexual orientation (including transgender status), marriage or family status, military status, or age. We are fully compliant with all applicable federal and state employment laws and regulations in all of our recruitments.

For over 30 years, founder Bobbi Peckham has been a champion of women seeking executive leadership positions within local government.

With our diverse team of Recruiters, Peckham & McKenney supports, promotes and advocates for diversity in the recruitment and hiring processes. In addition to our outreach methods, Peckham & McKenney routinely advertises with the National Forum of Black Public Administrators (NFBPA), Local Government Hispanic Network (LGHN) and CivicPRIDE as well as the National Diversity Network to ensure placement of your opportunity with the following online venues:

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- Asian Job Network
- Disability Job Network
- Latino Job Network
- LGBT Job Network
- Retirement Job Network
- Veteran Job Network
- Women's Job Network

City of Fort Bragg

RECRUITMENT PROPOSAL

for

City Manager

October 13, 2023

Peckham & McKenney
“All about fit”

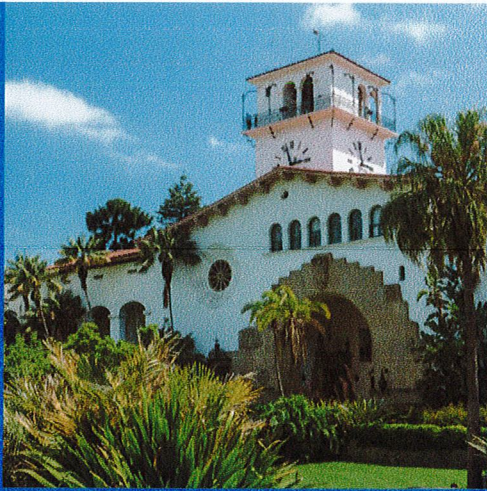


Peckham & McKenney
EXECUTIVE SEARCH

Serving local governments (cities, counties, districts) by conducting recruitments and placing management and executive leaders that fit the personnel needs and interests of agencies.

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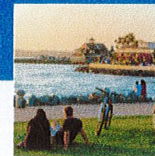
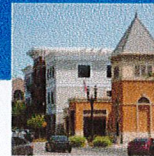
WHY CHOOSE US?

Peckham & McKenney focuses on *quality* searches and placements (over quantity) in recognition that each placement is “All about fit”. Serving local government since 2004, we are one of the most trusted and respected executive recruitment firms in the country. We have successfully placed hundreds of local government professionals including City Managers, County Executive Officers, General Managers, Police and Fire Chiefs, Department Heads, Assistant Managers, and mid-level Managers. Time and again, we receive unsolicited compliments from clients and candidates

in reference to our integrity and high ethics, commitment, follow-through, communication, and service. We take pride in treating both our clients and candidates with utmost respect.



For more information, please visit our website at www.PeckhamAndMcKenney.com.



OUR COMMITMENT TO YOU

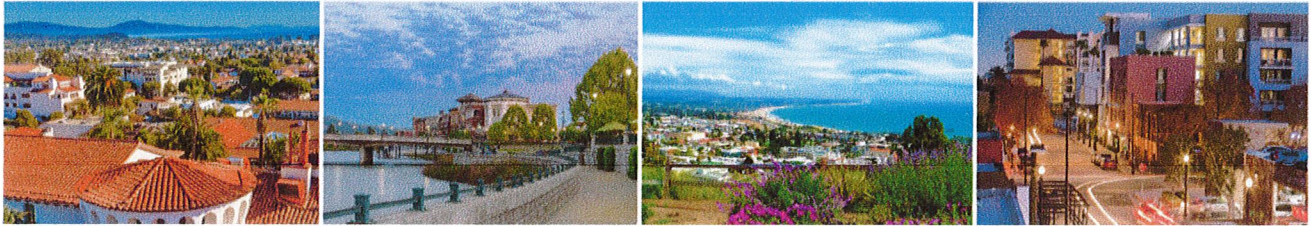
Peckham & McKenney, by maintaining the quality, style, values and culture established by Bobbi Peckham and Phil McKenney, performs on the premise that an executive search firm must be dedicated to providing its clients and candidates with professional and responsive service, and a personal, hands-on approach. Our business philosophy is founded on the understanding that we are in a “people” related industry and that attention to others’ needs is the key to providing effective customer service.

- **We believe in honesty.** No client should ever appoint an individual without being fully knowledgeable of the candidate’s complete background and history. Additionally, no candidate should ever enter into a new career opportunity without full disclosure of any organizational “issues.”
- **We keep everyone involved in the recruitment process informed.** Not only do we provide regular updates to our clients, we also have a reputation for keeping our candidates up to date.
- **We do not recruit staff from our client agencies** for another recruitment during an active engagement, nor

do we “parallel process” a candidate, thereby pitting one client against another for the same candidate.

- **We do not recruit our placements — ever.** Should a placement of ours have an interest in a position for which we are recruiting, they may choose to apply. If they become a finalist, we ask that they speak to their supervisor to alert them of their intent.
- **We are retained only by cities, counties and special districts.** We are not retained by applicants or non-governmental agencies.
- **We do not over commit ourselves to too many searches.** Your recruiter maintains a small, limited number of concurrent searches at all times in order to focus specifically and diligently on recruiting qualified candidates for your vacancy.
- **We commit to diversity in its broadest possible definition in every aspect of each executive recruitment.** Peckham & McKenney has a well established reputation of placing women and people with diverse backgrounds.

EXPERIENCE



With our recruitment team that solely consists of retired City Managers, Assistant City Managers, Police Chiefs and Department Heads, and our expert support team, Peckham & McKenney brings more experience and knowledge of local government and executive search than any other California recruiter. Just a few of our most recent recruitments related to your search for a City Manager have been for:

- City Manager, City of Anderson, CA (current)
- City Manager, City of Big Bear Lake, CA
- City Manager, City of Corning, CA
- City Manager, City of Manteca, CA
- Town Manager, City of Mammoth Lakes, CA (current)
- City Manager, City of Pleasant Hill, CA
- City Manager, City of Seaside, CA
- City Manager, City of Watsonville, CA
- Assistant City Manager, City of Hollister, CA
- Assistant City Manager, City of San Luis Obispo, CA
- Deputy City Manager, City of Thousand Oaks, CA
- County Executive Officer, Napa County, CA
- County Administrator, Solano County, CA
- County Administrative Officer, Mono County, CA
- Assistant County Executive Officer, Santa Barbara County, CA
- Assistant County Administrative Officer/Human Resources Director, Mariposa County, CA

Please don't hesitate to contact these agencies as well as our large list of current and former clients on our website ([here](#)); they will attest to our quality of service, on-going communication throughout the process, personal and direct outreach and sourcing of candidates, quality applicant pool, written materials and interview facilitation.

As an ambassador of our clients, Peckham & McKenney is also known for maintaining ongoing communications with our applicants throughout the search process, treating every applicant with respect, and appropriately informing candidates to support their best effort. The numerous compliments we have received from applicants fairly illustrate this reputation.

Comfortable and Professional Experience

"I'd like to thank you again for your support and guidance throughout the recruitment and selection process. It was a comfortable and professional experience, and I attribute a great deal of that to you. It's my hope that our professional paths may cross again in the

Straightforward, Friendly, and Humane Recruitment Process

"I wanted to let you know what a terrific job I thought you and Peckham & McKenney did on the recruitment. It was absolutely the most straightforward, friendly, and humane recruitment process I've ever participated in. And I would feel the same way even if the outcome was not

Proactive and Responsive

Diana worked with the City to fill the Chief of Police position early in 2023. Diana is clearly well respected in the LEO community and has a vast network which led to a competitive pool of candidates for the City to select from. Diana was proactive from our very first meeting and always very responsive. The City team valued Diana's integrity, opinion and sense of humor. She was a pleasure to work with and I wouldn't hesitate to hire her for any executive recruitment critical to your organization. **Client**

You Made Me Feel So Comfortable

"This is my first time working with a recruiting company, and I'm so happy for having the opportunity to work with your company, wow! I truly enjoyed the process! Your interview skills are amazing! You made me feel so comfortable and I felt like I was just talking shop with a longtime friend. Thanks for the personal touch that you include in your job, I believe that this is what makes your firm so desirable and successful." **Candidate**

Testimonials from clients and candidates are at <https://www.peckhamandmckenney.com/testimonials>.

Please feel free to contact any of the following current and recent clients to inquire about their experience with Peckham & McKenney. In addition, we would be pleased to furnish the client contact and phone numbers for any past clients listed in this proposal.

City of Big Bear Lake, CA – City Manager

Mayor/Councilmembers Rick Herrick and Randall Putz, and / or Erik Sund, City Manager
(909) 866-5831; rherrick@citybigbearlake.com, rputz@citybigbearlake.com and / or esund@cityofbigbearlake.com

City of Fillmore, CA – Public Works Director and Finance Director

David Rowlands, City Manager or Erika Herrera, Assistant City Manager
(805) 524-1500 x 209; drowlands@fillmore.gov or (805) 946-1712; eherrera@fillmore.gov

City of San Dimas, CA – City Manager

Mayor Emmett Badar, Members of the City Council and / or City Attorney Jeffrey Malawy
(909) 394-6200; ebadar@sandimasca.gov or (310) 801-9529; jmalawy@awattorneys.com

City of Santa Barbara, CA – Economic Development Manager, Finance Director, Community Development Director, Information Technology Director and City Administrator (current)

Rebecca Bjork, City Administrator, or Wendy Levy, Human Resources Director
(805) 564-5301; rbjork@santabarbara.gov or (805) 564-5313; wlevy@santabarbara.gov

County of Santa Barbara, CA – Assistant County Executive Officer for Municipal Services, General Services Director, Chief Data Officer, Chief Information Officer, and Deputy Director for Long Range Planning

Carolyn Marceda, County Recruiter or Mona Miyasato, County Executive Officer
(805) 618-8711; cmarceda@sbcountyhr.org or (805) 568-3400; mmiyasato@countyofsb.org

YOUR RECRUITMENT TEAM

Our Approach

With every Peckham & McKenney recruitment, your Recruiter has the entire Peckham & McKenney team of Recruiters and administrative personnel for backup, support, collaboration, and sourcing. *However*, when you retain Peckham & McKenney, *your Recruiter* serves as your single point of contact throughout the entire search process and is fully responsible for its success. Moreover, in order to fully focus on your search and finding applicants that fit with the ideal candidate you are seeking, your Recruiter also maintains no more than 6 active searches.

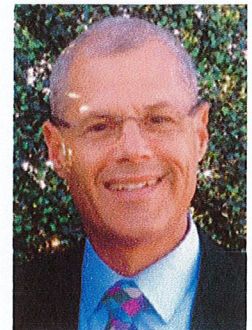
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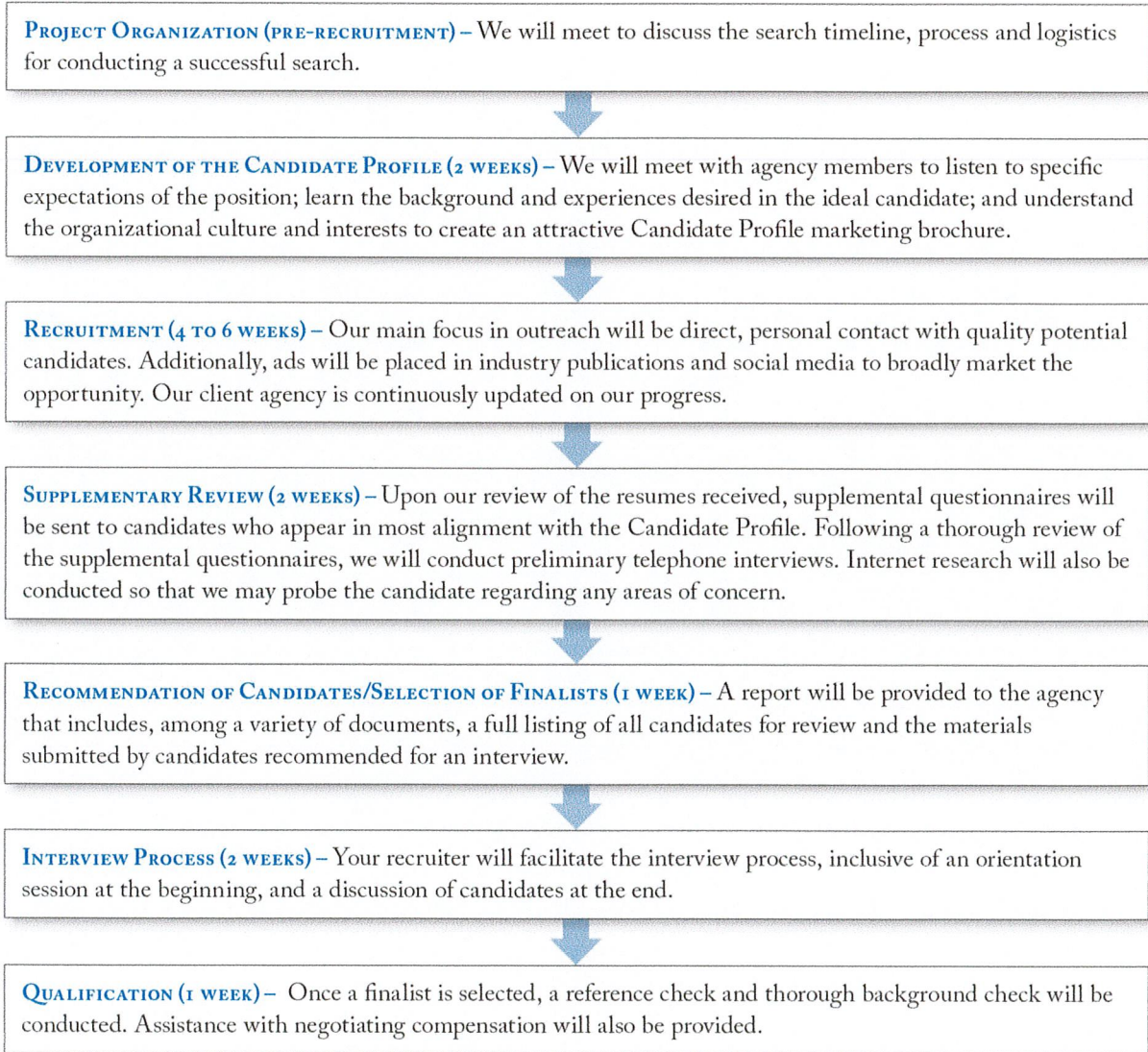
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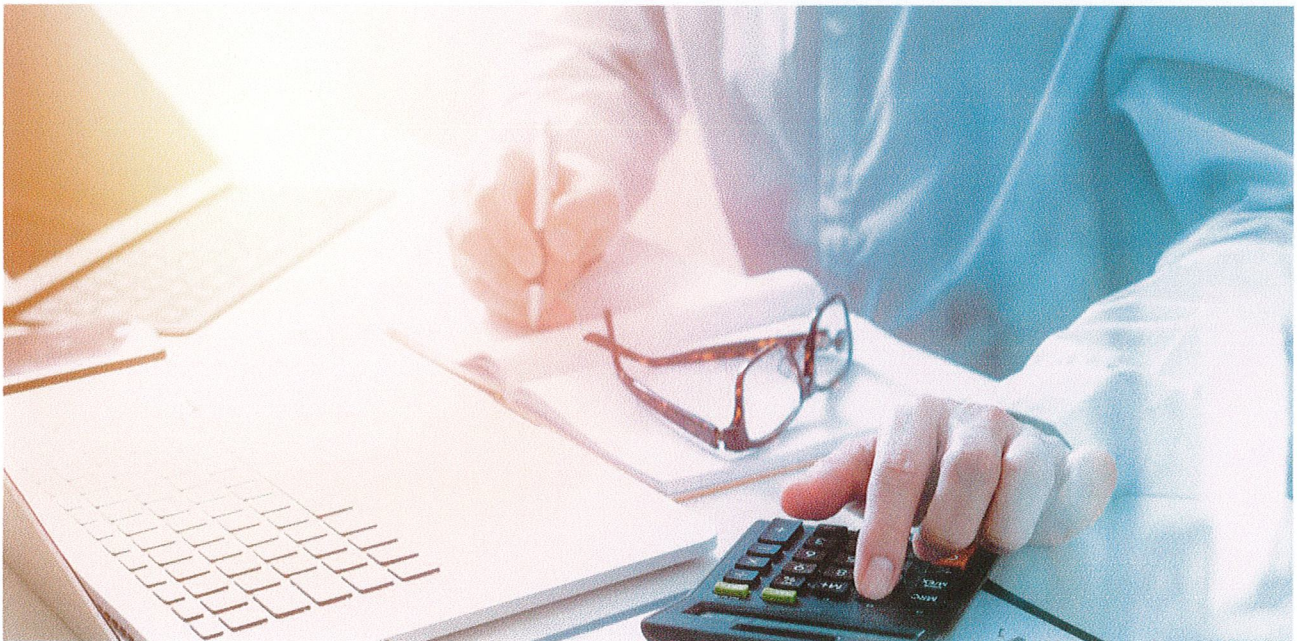
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- Veteran Job Network
- Women's Job Network



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 23-400

Agenda Date: 11/27/2023

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Agenda Number: 5E.

Receive and File Minutes of the Public Works and Facilities Committee Meeting for July 13, 2023



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Minutes Public Works and Facilities Committee

Thursday, July 13, 2023

3:00 PM

Town Hall, 363 N. Main Street
and Via Video Conference

MEETING CALLED TO ORDER

Committee Member Tess Albin-Smith called meeting to order at 3:10 pm

ROLL CALL

Present: 2 - Tess Albin-Smith and Lindy Peters

1. APPROVAL OF MINUTES

1A. [23-230](#) Approve Minutes of June 8, 2023

A motion was made by Committee Member Albin-Smith, seconded by Chair Peters, that the Committee Minutes be approved for Council review.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

3. CONDUCT OF BUSINESS

3A. [23-216](#) Presentation From Redwood Waste Solutions

Michelle Goodman, Outreach Manager of C & S Waste (Redwood Waste Solutions) presented

Michelle added that on August 3rd & 4th from 9am - 1pm there will be a Hazardous waste collection at the Caspar Waste Station. She also noted that there is a Hazardous Waste Collection every Wednesday in Ukiah.

Albin-Smith requested that Michelle make her presentation to the full City Council. Albin-Smith also requested more information on recycling.

Peters asked how the CRV pick up will work in our area. Will people get a check, cash or a voucher? Michelle explained the buyback center will have a mobile scale and customers will receive a check. Peters also asked how the Household Hazardous Materials collection will work. Michelle said it will take place on Thursday's and Friday's at the Caspar Waste Station using the Hazardous Materials Mobile Unit. Attendee Paul Clark, via zoom asked for the hours of operation and if there would be restrictions. Michelle responded by saying the hours of operation will be 9 am - 1 pm and there will be a 15 gallon limit per household

Committee Member Albin-Smith requested this item be brought to the full Council.

3B. [23-229](#) Director Oral Report on Departmental Activities and Project Updates

Director Smith provided updates on the following projects:

- Desalination Unit - Testing of the Oneka floating units as been postponed to August due to weather. Project has gotten National attention
- Raw Water Line Project - Moving forward, hope to have contract in September
- Reservoirs Project - RFP is out for design
- Recycled Water Feasibility Study - Application is complete
- Water Treatment Plant - Should go out to bid in August
- Water Meter Replacements - Extended do to supply chain issue, chip is not available, could take up to a year to complete
- Pudding Creek Water and Sewer Line - Currently working on sewer line, water line will start next
- 2022 Street Project - Construction to start in September
- Playground Project - AKEFF to start soon
- Bainbridge Park - RFP for design to go out soon
- Rooftop Solar Project - The Inflation Reduction Act allows for a 30 % rebate, with possibilities of a 50% to 60% rebate. This could result in a \$20 million dollars savings over the next 30 years.
- Broadband Project - Working on design and moving forward. This is approximately a \$15 million dollar project

Albin-Smith asked about the Middle School Tennis courts being redone. Smith said they are in the process now and the Pickle ball courts should be done soon. Peter's commented on how happy the public and the Pickle ball folks were with this project. Smith gave special thanks to Fort Bragg Unified for taking on this project.

Albin-Smith committed on State Parks funds allowing Bainbridge Park to be finished. Smith added that ADA rubber will be placed instead of chips.

Albin-Smith thanked Smith for his hard work. Smith thanked his team.

4. MATTERS FROM COMMITTEE / STAFF

None.

ADJOURNMENT

Albin-Smith adjourned meeting at 4:00 pm



City of Fort Bragg

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Phone: (707) 961-2823
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Text File

File Number: 23-403

Agenda Date: 11/27/2023

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 5F.

Approve Minutes of November 13, 2023



City of Fort Bragg

416 N Franklin Street
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Phone: (707) 961-2823
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Meeting Minutes City Council

*THE FORT BRAGG CITY COUNCIL MEETS CONCURRENTLY
AS THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT
NO. 1 AND THE FORT BRAGG REDEVELOPMENT
SUCCESSOR AGENCY*

Monday, November 13, 2023

6:00 PM

Town Hall, 363 N. Main Street
and Via Video Conference

CALL TO ORDER

Mayor Norvell called the meeting to order at 6:10 PM.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: 5 - Mayor Bernie Norvell, Vice Mayor Jason Godeke, Councilmember Tess Albin-Smith, Councilmember Lindy Peters and Councilmember Marcia Rafanan

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A.** [23-375](#) Presentation of Proclamation Recognizing November as Native American Heritage Month

Councilmember Rafanan read the Proclamation recognizing November as Native American Heritage Month. She thanked the council for recognizing her heritage and is very pleased that more is being done to keep the cultural preservation of the Native American Culture.

2. PUBLIC COMMENTS ON: (1) NON-AGENDA, (2) CONSENT CALENDAR

- (1) Heidi Sorensen (Sea Dragon board member and parent), Jay Rosenquist, Jacob Patterson.
(2) None.

3. STAFF COMMENTS

Finance Director, Isaac Whippy gave a status update on the CV Starr's pool repairs. The repairs were completed and the center is now open for business as usual.

4. MATTERS FROM COUNCILMEMBERS

Councilmember Godeke thanked the Culture and Education Ad-hoc Committee and council for the proclamation and for approving the use of the Fort Building for a learning center and for the seed money that was granted. Councilmember Albin-Smith talked about the pickleball tournament on Saturday that was well attended. She also mentioned the Winter Wonderland Event and parade in downtown Fort Bragg are coming up on December 2, 2023, all are welcome. Tomorrow the Visit Fort Bragg Committee will be meeting at 9:30 AM to further plan and discuss the Winter Wonderland event. Albin-Smith inquired about advertising for CV Starr memberships. Whippy responded that the big advertising campaign would be for the New Year. Councilmember Peters thanked Heidi from the Sea Dragons for coming in to acknowledge the support from council. He also spoke to Veronica Bazor about the Otsuchi exchange program. They are hoping to kick it off again with a visit from Otsuchi friends in March of 2024. Councilmember Rafanan went to the Veteran's Memorial Service and was very pleased with the service. She also reminded for anyone wanting to enter the Winter Wonderland Parade to sign up.

5. CONSENT CALENDAR

A motion was made by Councilmember Peters, seconded by Councilmember Rafanan, that the Consent Calendar be approved. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Godeke, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

- 5A. [23-385](#)** Approve Scope of Work for a Request for Proposals for Professional Services for Preparation of a Biosolids Treatment and Disposal Feasibility Study
This Scope of Work for Request for Proposals was approved on the Consent Calendar.
- 5B. [23-368](#)** Receive and File Minutes of the Public Safety Committee Meeting for June 21, 2023
These minutes were approved on the Consent Calendar.
- 5C. [23-389](#)** Receive and File Minutes of the April 12, 2023 Finance and Administration Committee Meeting
These minutes were approved on the Consent Calendar.
- 5D. [23-382](#)** Receive and File Minutes of the Finance and Administration Committee Meeting of June 14, 2023
These minutes were approved on the Consent Calendar.
- 5E. [23-383](#)** Receive and File Minutes of the Finance and Administration Committee Meeting of August 24, 2023
These minutes were approved on the Consent Calendar.

- 5F. [23-384](#) Receive and File Minutes of the Finance and Administration Committee Meeting of October 11, 2023

These minutes were approved on the Consent Calendar.

- 5G. [23-391](#) Approve Minutes of October 23, 2023 City Council meeting

These minutes were approved on the Consent Calendar.

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

7. PUBLIC HEARING

None.

8. CONDUCT OF BUSINESS

- 8A. [23-399](#) Approve an Update to the City of Fort Bragg Personnel Rules and Regulations Regarding Catastrophic Leave Program

Manager Peggy Ducey presented the Staff Report for this item.

Public Comment: Jacob Patterson

Discussion: It was discussed that employees should be required to apply for State Disability in order to be eligible for donations. It was clarified that employees are in fact required to apply.

A motion was made by Councilmember Peters, seconded by Councilmember Rafanan, that the Staff Report be approved. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Godeke, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

- 8B. [23-374](#) Receive Report and Consider Adoption of Fort Bragg Municipal Improvement District Resolution Approving Professional Services Agreement with HDR Engineering, Inc to Prepare the WasteWater Collection System Master Plan, City Project No. WWP-00021, and Authorizing City Manager to Execute Contract (Amount Not To Exceed \$725,000; Account No. 716-7009-0731)

Assistant Director of Engineering Chantell O'Neal presented the Staff Report for this item.

Public Comment: Jenny Shattuck

Discussion: Councilmember Peters is pleased to hear that we will be getting cameras in order to facilitate finding sewage blockages or pipe issues rather than having to dig up the pipes to find the problems. Mayor Norvell thanked public works staff.

A motion was made by Councilmember Peters, seconded by Councilmember Albin-Smith, that the Resolution be adopted. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Godeke, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

- 8C. [23-387](#)** Approval of Agreement with the County of Mendocino to Terminate Leasehold and Cooperative Agreement Pertaining to the Operation of the Animal Control Facility Located at 19701 Summers Lane, Fort Bragg, CA

City Manager Peggy Ducey presented the Staff report on this item.

Public Comment: Shelley Green, Jacob Patterson

Discussion: There was no discussion.

A motion was made by Vice Mayor Godeke, seconded by Councilmember Albin-Smith, that the Staff Report be approved. The motion carried by the following vote:

Aye: 5 - Mayor Norvell, Vice Mayor Godeke, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

- 8D. [23-390](#)** Resolution of the Fort Bragg City Council Approving Professional Services Agreement with City Management Advisors, LLC, dba Peckham & Mckenney to Provide Executive Recruitment Services for the Position of City Manager and Direct Staff to Agendize a Professional Service Agreement for Action by City Council (Not To Exceed \$27,000; Account # 110-4110-0319 for \$10,000; Account # 110-4130-0319 For \$17,000) (Amount Not To Exceed \$27,000; Account No. 110-4110-0319 For \$10,000; Account No. 110-4130-0319 For \$17,000)

Tony Dahlerbruch of Peckham and McKenney presented the proposal for this item. Tara Schultz new to Peckham and McKenney introduced herself.

Mayor Norvell appointed Councilmember Peters and Vice Mayor Godeke to the City Manager Recruitment Ad-hoc Committee.

Public Comment: Jacob Patterson

Discussion: Mayor Norvell suggested that council approve the item as to move forward with a contract. Schultz stated that if council approves the contract, she would be working closely with city councilmembers to better understand what the candidate requirements and qualifications they are looking for. Vice Mayor Godeke stated that it seemed like an important investment in order to get a good candidate pool.

A motion was made by Councilmember Peters, seconded by Councilmember Rafanan, that the Resolution be adopted. The motion carried by the following vote:

Aye: 5- Mayor Norvell, Vice Mayor Godeke, Councilmember Albin-Smith, Councilmember Peters and Councilmember Rafanan

ADJOURNMENT Mayor Norvell adjourned the meeting at 7:27 PM.



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 23-388

Agenda Date: 11/27/2023

Version: 1

Status: Public Hearing

In Control: City Council

File Type: Resolution

Agenda Number: 7A.

[Cancelled] Public Hearing Regarding Impact Fees and Miscellaneous Fees



AGENCY: City Council
MEETING DATE: November 27, 2023

AGENDA ITEM SUMMARY

TITLE:

[Cancelled] Public Hearing Regarding Impact Fees and Miscellaneous Fees

The public hearing regarding impact fees and miscellaneous fees that had been noticed for this City Council Meeting has been cancelled. It is the intent of staff to schedule and notice a new hearing on these matters for late January, 2024.

When this agenda item is reached during tonight's meeting, a brief announcement will be made reflecting the above. In the interest of public participation, any member of the public who wishes to speak will be able to do so. However, the Council will not be asked to take any formal action at this time.

AGENDA ITEM NO. _____



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Text File

File Number: 23-371

Agenda Date: 11/27/2023

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8A.

Direct Staff to Prepare an Ordinance Amending FBMC Chapter 15.06 Automatic Fire Sprinkler and Alarm Systems



AGENCY: City Council
MEETING DATE: November 27, 2023
DEPARTMENT: Fort Bragg Fire Protection Authority
PRESENTED BY: Steve Wells, Fire Prevention Officer
EMAIL ADDRESS: fbfireprevention@mcn.org

AGENDA ITEM SUMMARY

TITLE:

Direct Staff to Prepare an Ordinance Amending FBMC Chapter 15.06 Automatic Fire Sprinkler and Alarm Systems

ISSUE:

In 2015, when the Fort Bragg Fire Protection Authority proposed changes to the Fort Bragg Municipal Code (FBMC) Chapter 15.06, Automatic Fire Sprinkler and Alarm Systems, a section was altered that fundamentally changed the intent of this ordinance. The altered language actually made it easier to ignore the sprinkler requirements. If remodeling was completed in phases over time, the Applicant could legally bypass City sprinkler requirements.

ANALYSIS:

The purpose of FBMC Chapter 15.06, Automatic Fire Sprinkler and Alarm Systems is to ensure that new construction and significant remodels include installation of automatic fire sprinklers. In 2015, the ordinance read as follows:

Existing commercial and multifamily buildings which are remodeled, added to, or altered, including maintenance and repair activities, when the valuation cost of such work **within any 36- month period** exceeds \$75,000, shall have an automatic fire sprinkler system installed.

In June 2015, staff recommended new language that omitted the 36-month period, which inadvertently created a "loophole" that, can allow the Applicant to bypass sprinkler requirements. The current ordinance now reads:

Existing commercial and multifamily buildings which are remodeled, added to, or altered, including maintenance and repair activities, when the building permit valuation cost of such exceeds \$75,000, shall have an automatic fire sprinkler system installed.

As currently written, the following scenario has happened. An Applicant submits plans for a remodel with an estimated cost of \$150,000. The owner is informed that they are required to install fire sprinklers as they exceed the \$75,000 threshold. The Applicant installs the required sprinklers. The alternate scenario is that an Applicant submits six separate plans with an estimated cost of \$50,000 for each plan. The total estimated cost of the entire project is \$300,000 but the Applicant is not required to install fire sprinklers because none of the plans presented meet or exceed the \$75,000 threshold. What makes this an even greater issue is that owners of commercial property that abide by the intent of the ordinance and

install sprinklers as required are seeing projects that cost much more than not being required to do so.

Staff recommends that the City add the 36-month timeframe back into the ordinance so we close the loophole. The proposed changes will be:

Existing commercial and multifamily buildings which are remodeled, added to, or altered, including maintenance and repair activities, when valuation cost of such work within any 36-month period exceeds \$75,000, shall have an automatic fire sprinkler system installed. The sprinkler system shall be connected with water service as determined by the Director of Public Works. Roof replacement costs will not be calculated into the \$75,000 limit.

RECOMMENDED ACTION:

Direct staff to amend Chapter 15.06 Automatic Fire Sprinkler & Alarm Systems and bring back to City Council for formal action.

ALTERNATIVE ACTION(S):

None.

ATTACHMENTS:

Att 1 – Current Chapter 15.06 Automatic Fire Sprinkler & Alarm System

Att 2 - 2015 Version of Automatic Sprinkler

Att 3 - Proposed Sprinkler Updates

CHAPTER 15.06 AUTOMATIC FIRE SPRINKLER AND ALARM SYSTEMS

Section

15.06.010 Purpose

15.06.020 Definitions in general

15.06.030 Automatic fire sprinkler systems – Required

15.06.050 Exemptions and waivers

15.06.060 Annual inspection and maintenance

15.06.070 *[Reserved]*

15.06.080 Fire alarm systems defined and required

15.06.090 Violations

15.06.010 PURPOSE.

A. The California Fire Code, California Code of Regulations, Title 24, Part 9, 2019 Edition, as modified and amended from time to time, establishes certain standards for automatic fire extinguishing systems. A copy of the code, in its latest form, is on file in the office of the Fire Chief.

B. The purpose of this chapter is to provide regulations establishing minimum standards for automatic fire sprinkler systems where the standards are not specifically covered by the California Fire Code. Where specific standards are provided by the California Fire Code and provide a greater degree of fire protection than the provisions of this chapter, those standards shall apply. In those cases where the California Fire Code does not provide specific standards, the terms of this chapter shall apply.

C. The intent of this chapter is to apply those fire protection standards which will provide the residents and property owners of the City the greatest degree of fire protection which is reasonable under the circumstances. All buildings are subject to the provisions of this chapter.

(Ord. 957, § 2, passed 01-13-2020)

15.06.020 DEFINITIONS IN GENERAL.

Definitions contained in the California Fire Code, California Code of Regulations, Title 24, Part 9, 2019 Edition, shall apply to this chapter unless specifically amended. Whenever any of the following names or terms are used in any of the compilations adopted by reference by this chapter such names or terms shall have the following meanings:

APPEAL AUTHORITY. As defined in Chapter 1.06.

BUILDING. Any building or group of buildings that requires a sprinkler under this chapter or the California Fire Code, California Code of Regulations, Title 24, Part 9, 2019 Edition.

BUILDING PERMIT VALUATION. The value of repairs, maintenance and remodel work as determined by the Mendocino County Planning and Building Department through their plan review process. The building permit valuation will include the total of all active building permits for the building at the same location, excluding separate permits to install automatic fire sprinkler systems.

(Ord. 957, § 2, passed 01-13-2020)

15.06.030 AUTOMATIC FIRE SPRINKLER SYSTEMS – REQUIRED.

- A. All new buildings shall have an automatic fire sprinkler system installed, unless specifically exempted in accordance with § 15.06.050.
- B. Buildings in existence prior to the adoption of this code shall be subject to the requirements for automatic fire sprinkler systems upon the change of occupancy to a higher hazard level as defined by the Fire Marshal.
- C. Existing commercial and multifamily buildings which are remodeled, added to, or altered, including maintenance and repair activities, when the building permit valuation cost of such exceeds \$75,000, shall have an automatic fire sprinkler system installed. The sprinkler system shall be connected with water service as determined by the Director of Public Works. Roof replacement costs will not be calculated into the \$75,000 limit. Determination of the building permit valuation of work completed shall proceed as follows:
 - 1. As determined by the Mendocino County Planning and Building Department through their plan review process and completed on the application for any building permit.

2. The Fire Marshal shall: (a) review the building permit, plans and building permit valuation at the time of the building permit application submittal; and (b) review the building permit, any applicable building permit application and plans upon any change in scope of work or modification to the building permit application to determine if the building permit valuation of the proposed work and all work completed on the building for all active building permits exceeds the \$75,000 threshold.

3. If the building permit valuation exceeds the threshold, the Fire Marshal shall require installation of fire sprinklers per this chapter prior to approval of the building permit or final inspection.

(Ord. 957, § 2, passed 01-13-2020)

15.06.050 EXEMPTIONS AND WAIVERS.

A. All 1- and 2-family dwellings and detached utility (“U” occupancy) buildings are exempted from the requirement to install automatic fire sprinkler systems.

B. The Fire Chief may grant exemptions for the automatic fire sprinkler system requirements for new construction by placing such conditions upon construction and/or use of the building so as to reduce the fire risk to a diminished level and by making a finding that the use of structure would present low or no fire risk. Examples:

1. Portable fire extinguisher or Class 2 standpipe installation;
2. Providing 1-hour resistive occupancy separation for equipment rooms;
3. Sprinklers undesirable because of nature of the contents in the room/area, the items being noncombustible or not exposed to other rooms/areas.

(Ord. 957, § 2, passed 01-13-2020)

15.06.060 ANNUAL INSPECTION AND MAINTENANCE.

The owner of any building in which automatic fire alarm systems or fire sprinkler systems have been installed shall have the systems inspected and maintained per NFPA 25 and shall provide a report of the inspection to the Fire Chief.

(Ord. 957, § 2, passed 01-13-2020)

15.06.070 [RESERVED].

15.06.080 FIRE ALARM SYSTEMS DEFINED AND REQUIRED.

- A. *FIRE ALARM SYSTEM* means all devices, controls, and circuits, together with the energy necessary to sound the alarm, electrically supervise the system, and activate the alarm bells, trouble bells or trouble signals.
- B. Every new building shall have installed an approved, automatically operated fire alarm system designed to warn all occupants simultaneously. In addition, the Fire Chief may require that this system be monitored in the manager's quarters and/or by a supervising station as defined in NFPA 72. The Fire Chief may also require the installation of a manually operated fire alarm system.
- C. All required fire alarm systems shall be installed in accordance with NFPA 72.
- D. Exceptions to this section are all "U" occupancies. These exceptions do not apply to 1- and 2-family dwellings within a building that otherwise requires an alarm system (i.e., commercial occupancy below a dwelling).

15.06.090 VIOLATIONS.

Failure to comply with the requirements of this chapter is hereby declared to be unlawful and a public nuisance, and shall be subject to the remedies and penalties established by Chapter 6.12.

Fort Bragg - Buildings and Construction

is not limited to, all structural, electrical and mechanical systems as well as all interior and exterior finishes.

VALUATION. The value of repairs, maintenance and remodel work as determined by the Fire Marshal or a third-party cost estimator.

VALUE. The value of completing all repairs, maintenance and remodel work. This includes the cost of materials and labor and profit and overhead. The value is the price charged to a client for work completed by a licensed independent contractor.

(Ord. 916, § 3, passed 08-24-2015)

15.06.030 AUTOMATIC FIRE SPRINKLER SYSTEMS-REQUIRED.

A. All new buildings shall have an automatic fire sprinkler system installed, unless specifically exempted in accordance with § 15.06.050.

B. Buildings in existence prior to the adoption of this code shall be subject to the requirements for automatic fire sprinkler systems upon the change of occupancy to a higher hazard level as defined by the Fire Marshal.

C. Existing commercial and multifamily buildings which are remodeled, added to, or altered, including maintenance and repair activities, when the valuation cost of such work within any 36-month period exceeds \$75,000, shall have an automatic fire sprinkler system installed. The sprinkler system shall be connected with water service as determined by the Director of Public Works. Roof replacement costs will not be calculated into the \$75,000 limit. Determination of the valuation of work completed shall proceed as follows:

1. The applicant shall submit the value of all work on the sprinkler valuation from with the building permit.
2. The Fire Marshal shall: (a) review the form at the time of the building permit submittal, and (b) review the project at the time of the building permit final to determine if the valuation of the proposed work and all work completed within the past 3 years exceeds the \$75,000 threshold.
3. If the project valuation exceeds the threshold, the Fire Marshal shall require installation of fire sprinklers per this chapter prior to approval of the final inspection for the building permit.
4. If an applicant disputes the valuation of the project by the Fire Marshal, the applicant may appeal the project to the appeal authority.
5. During the appeal process the applicant shall provide: (a) a cost estimate, prepared by a licensed architect; and/or (b) all invoices and receipts from the project's licensed contractor; and/or (c) all material receipts and timesheets for the project to the appeal authority. In the event that the applicant is unable or unwilling to provide detailed cost data, or if the City determines that the data is provided by an entity with a conflict of interest with regard to the project, the applicant shall pay for a third party contractor/cost estimator (selected by the City) to prepare a valuation of the work.
6. In the absence of evidence proving that the value of the work is less than \$75,000, the appeal will be denied and fire sprinklers will be installed as required by the Fire Marshal prior to the final of the building permit for the project.

(Ord. 916, § 3, passed 08-24-2015)

Current (with requested alteration)

3/28/22, 1:41 PM

Chapter 15.06 AUTOMATIC FIRE SPRINKLER AND ALARM SYSTEMS

Definitions contained in the California Fire Code, California Code of Regulations, Title 24, Part 9, 2019 Edition, shall apply to this chapter unless specifically amended.

Whenever any of the following names or terms are used in any of the compilations adopted by reference by this chapter such names or terms shall have the following meanings:

APPEAL AUTHORITY. As defined in Chapter 1.06.

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(Ord. 957, § 2, passed 01-13-2020)

15.06.030 AUTOMATIC FIRE SPRINKLER SYSTEMS - REQUIRED.

- A. All new buildings shall have an automatic fire sprinkler system installed, unless specifically exempted in accordance with § 15.06.050.
- B. Buildings in existence prior to the adoption of this code shall be subject to the requirements for automatic fire sprinkler systems upon the change of occupancy to a higher hazard level as defined by the Fire Marshal.
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1. As determined by the Mendocino County Planning and Building

Department through their plan review process and completed on the application for any building permit.

2. The Fire Marshal shall: (a) review the building permit, plans and building permit valuation at the time of the building permit application submittal; and (b) review the building permit, any applicable building permit application and plans upon any change in scope of work or modification to the building permit application to determine if the building permit valuation of the

<https://www.codepublishing.com/CA/FortBragg/html/FortBragg15/FortBragg1506.html>

From: [Paul Clark](#)
To: [City Clerk](#)
Cc: [Paul Clark](#)
Subject: Council meeting November 28 2023 item 8A
Date: Monday, November 27, 2023 7:27:59 AM

Change in requirements for sprinklers.

I was surprised to hear this was an error, I recall thinking at the time it was a reasonable solution to a problem that this ordinance created.

The city can't keep track of permits pulled; they hardly can process a permit application with current staffing. There have been several projects that were informed AFTER they pulled permits that sprinklers had to be installed, and the City lost those battles. The move to one permit and 75,000 made sense, it did not put the City or an applicant in the position of calculating values. What if it was a new owner? What is the solution? Just drop this for existing buildings and go with the Uniform Building Code like most cities do. This was created from concerns years ago about downtown mainly. Make things simpler, not more complicated. Also, this has not gotten much attention, I don't think it was an agenda item on the Public Safety Committee meeting but was discussed. The process should be open and transparent, like called for in the City's Economic Development Strategy requires, you may want to revisit that adopted plan for the City and reach out to the interested parties.

Paul Clark
DRE 00640014
809 North Main Street
Fort Bragg, CA 95437
707-964-0811
pclark@fortbraggrealty.co

From: [Paul Clark](#)
To: [City Clerk](#)
Cc: [Paul Clark](#); [CMAR \(CMAR@MCN.ORG\)](mailto:CMAR@MCN.ORG)
Subject: Item 8A November 27 2023
Date: Monday, November 27, 2023 7:38:42 AM
Attachments: [PublicSafetyMeeting.pdf](#)

I attended this meeting where the fire sprinkler issue was discussed, not on the agenda but under staff comments.

Now it is at the council for action.

Paul Clark