



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, February 28, 2022

6:00 PM

Via Video Conference

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PLEASE TAKE NOTICE

Due to state and county health orders and to minimize the spread of COVID-19, City Councilmembers and staff will be participating in this meeting via video conference. The Governor's executive Orders N-25-20, N-29-20, and N-15-21 suspend certain requirements of the Brown Act and allow the meeting to be held virtually.

The meeting will be live-streamed on the City's website at <https://city.fortbragg.com/> and on Channel 3. Public Comment regarding matters on the agenda may be made by joining the Zoom video conference and using the Raise Hand feature when the Mayor or Acting Mayor calls for public comment. Any written public comments received after agenda publication will be forwarded to the Councilmembers as soon as possible after receipt and will be available for inspection at City Hall, 416 N. Franklin Street, Fort Bragg, California, 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 those written 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 City Clerk June Lemos at jlemos@fortbragg.com.

ZOOM WEBINAR INVITATION

*You are invited to a Zoom webinar.
When: Feb 28, 2022 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/88612696140>
Or Telephone: US: +1 253 215 8782 or +1 346 248 7799 (*6 mute/unmute; *9 raise hand)
Webinar ID: 886 1269 6140*

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.

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. [22-083](#)** Adopt City Council Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency
- Attachments:** [RESO Authorize Continuing Remote Meetings](#)
- 5B. [22-084](#)** Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg
- Attachments:** [RESO Declaring Continuing Local Emergency](#)
- 5C. [22-090](#)** Adopt City Council Resolution Authorizing Submittal of Notification of Intent to Comply with SB 1383 Regulations
- Attachments:** [RESO CalRecycle NOIC SB1383 Regulations](#)
[Exhibit A NOIC SB1383 Application](#)
- 5E. [22-092](#)** Adopt City Council Resolution Approving Professional Services Agreement with City Management Advisors, LLC dba Peckham & McKenney to Provide Executive Recruitment Services for the Position of Police Chief and Authorizing the City Manager to Execute Same (Amount Not to Exceed \$27,000; Account No. 110-4130-0317)

Attachments: [RESO Police Chief Recruitment](#)
[Peckham McKenney Contract - Police Chief](#)

- 5F. [22-094](#) Adopt City Council Resolution Approving a Payment to the Fort Bragg Unified School District from the Measure AB Special Project Funds for the Improvements to Dana Gray Water System and Authorizing the City Manager to Release Payment (Amount Not to Exceed: \$36,500; Account No. 110-4390-0619)

Attachments: [RESO School Playing Fields](#)
[Proposal Cost Estimate](#)

- 5G. [22-085](#) Receive and File Minutes of the Public Safety Committee Meeting of January 19, 2022

Attachments: [PSCM 2022-01-19](#)

- 5H. [22-096](#) Receive and File Minutes of the Finance and Administration Committee Meeting of December 8, 2021

Attachments: [FAC 12082021](#)

- 5I. [22-080](#) Approve Minutes of February 14, 2022

Attachments: [CCM2022-02-14](#)

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. [22-062](#) Conduct Public Hearing, Receive Report, and Consider Adoption of City Council Resolution Vacating the Adoption of the Mitigated Negative Declaration with Mitigation Monitoring and Reporting Plan, and Vacating the Approval of Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street

Attachments: [02282022 Staff Report - Request to Vacate Permits](#)
[Att 1 - Letter Requesting Vacating of Approvals](#)
[Att 2 - Resolution Vacating Approvals](#)
[Att 3 - PH Notice Vacate Grocery Outlet Permits](#)
[Public Comment 7A](#)

- 7B. [22-068](#) Conduct Public Hearing, Receive Report and Consider Adoption of Urgency Ordinance Extending the Temporary Four (4) Month Moratorium on the Approval of Applications and Permits for Cannabis Dispensaries in the Inland Zoning Areas for an Additional Ten (10) Months

- Attachments:** [02282022 Cannabis Dispensary Moratorium Extension](#)
[Att. 1 - ORD Extending Cannabis Dispensaries Moratorium](#)
[Att. 2 - 02142022 Cannabis Moratorium Progress Report](#)
[Att. 3 - 02282022 PH Notice - Cannabis Dispensary Moratorium Extension](#)
[Public Comment 7B](#)

8. CONDUCT OF BUSINESS

- 8A. [22-082](#)** Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 977-2022 Adding Chapter 2.02 (Electronic Filing of Campaign Disclosure Statements and Statements of Economic Interest) to Title 2 (Administration and Personnel) of the Fort Bragg Municipal Code to Mandate Electronic and Paperless Filing of Fair Political Practices Commission Campaign Disclosure Statements and Statements of Economic Interest

- Attachments:** [02282022 ORD 977 Electronic Campaign Disclosure System](#)
[Att 1 - ORD 977 Electronic Filing of FPPC Forms](#)
[Att 2 - Gov Code 84615](#)

9. CLOSED SESSION

- 9A. [22-095](#)** CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Pursuant to Paragraph (1) of Subdivision (d) of Government Code Section 54956.9; Name of Case: City of Fort Bragg vs. Mendocino Railway and Does 1-10, Case No.: 21CV00850, Superior Court of the State of California, County of Mendocino

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, MARCH 14, 2022**

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 February 23, 2022.

June Lemos, MMC
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
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Text File

File Number: 22-083

Agenda Date: 2/28/2022

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5A.

Adopt City Council Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency

RESOLUTION NO. ____-2022

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
MAKING THE LEGALLY REQUIRED FINDINGS TO CONTINUE TO
AUTHORIZE THE CONDUCT OF REMOTE “TELEPHONIC”
MEETINGS DURING THE STATE OF EMERGENCY**

WHEREAS, on March 4, 2020, pursuant to California Gov. Code Section 8625, the Governor declared a state of emergency; and

WHEREAS, on September 17, 2021, Governor Newsom signed AB 361, which bill went into immediate effect as urgency legislation; and

WHEREAS, AB 361 added subsection (e) to Gov. Code Section 54953 to authorize legislative bodies to conduct remote meetings provided the legislative body makes specified findings; and

WHEREAS, as of February 23, 2022, the COVID-19 pandemic has killed more than 84,484 Californians; and

WHEREAS, social distancing measures decrease the chance of spread of COVID-19; and

WHEREAS, this legislative body previously adopted a resolution to authorize this legislative body to conduct remote “telephonic” meetings; and

WHEREAS, Government Code 54953(e)(3) authorizes this legislative body to continue to conduct remote “telephonic” meetings provided that it has timely made the findings specified therein;

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Fort Bragg as follows:

1. This legislative body declares that it has reconsidered the circumstances of the state of emergency declared by the Governor and at least one of the following is true: (a) the state of emergency continues to directly impact the ability of the members of this legislative body to meet safely in person; and/or (2) state or local officials continue to impose or recommend measures to promote social distancing.

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 28th day of February 2022, by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 22-084

Agenda Date: 2/28/2022

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5B.

Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg

At a special meeting on March 24, 2020, the Fort Bragg City Council ratified the City Manager's Proclamation declaring a local emergency due to COVID-19 in its Resolution No. 4242-2020. Since that date, the Council has adopted 43 resolutions reconfirming the existence of a local emergency. The City is required to reconfirm the existence of a local emergency every 21 days pursuant to Fort Bragg Municipal Code Section 2.24.040.

RESOLUTION NO. ____-2022

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
CONFIRMING THE CONTINUED EXISTENCE OF A LOCAL
EMERGENCY IN THE CITY OF FORT BRAGG**

WHEREAS, California Government Code section 8630 empowers the Fort Bragg City Council to proclaim the existence of a local emergency when the City is threatened or likely to be threatened by the conditions of extreme peril to the safety of persons and property that are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City; and

WHEREAS, California Government Code section 8558(c) states that a “local emergency” means the duly proclaimed existence of conditions of disaster or extreme peril to the safety of persons and property within the territorial limits of a city; and

WHEREAS, COVID-19, a novel coronavirus causing infectious disease, was first detected in China in December 2019 and has spread across the world and to the United States. Symptoms of COVID-19 include fever, cough, and shortness of breath; outcomes have ranged from mild to severe illness, and, in some cases, death. The Center for Disease Control and Prevention (CDC) has indicated the virus is a tremendous public health threat; and

WHEREAS, on March 13, 2020, the President of the United States issued a proclamation declaring the COVID-19 outbreak in the United States as a national emergency, beginning March 1, 2020; and

WHEREAS, the Governor of the State of California and the Public Health Officer of the County of Mendocino have both issued Shelter-in-Place orders to combat the spread of COVID-19; and

WHEREAS, on March 17, 2020 the City Manager, as the City’s Director of Emergency Services, issued Proclamation No. CM-2020-01 declaring a local emergency as authorized by Government Code section 8630 and Fort Bragg Municipal Code section 2.24.040(B); and

WHEREAS, at a special meeting on March 24, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4242-2020, ratifying the City Manager’s Proclamation declaring the existence of a local emergency; and

WHEREAS, at a special meeting on April 6, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4245-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on April 20, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4247-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 11, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4250-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 26, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4253-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 8, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4266-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 22, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4270-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 13, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4284-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 27, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4289-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on August 10, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4294-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on August 31, 2020, the City Council of the City of Fort Bragg adopted Resolution No. 4300-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on September 21, 2020, the City Council of the City of Fort Bragg adopted Resolution 4304-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 13, 2020, the City Council of the City of Fort Bragg adopted Resolution 4317-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 26, 2020, the City Council of the City of Fort Bragg adopted Resolution 4319-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 9, 2020, the City Council of the City of Fort Bragg adopted Resolution 4323-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 23, 2020, the City Council of the City of Fort Bragg adopted Resolution 4329-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on December 14, 2020, the City Council of the City of Fort Bragg adopted Resolution 4333-2020 by which it continued the local emergency; and

WHEREAS, at a special meeting on December 22, 2020, the City Council of the City of Fort Bragg adopted Resolution 4340-2020 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 11, 2021, the City Council of the City of Fort Bragg adopted Resolution 4343-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 25, 2021, the City Council of the City of Fort Bragg adopted Resolution 4347-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on February 8, 2021, the City Council of the City of Fort Bragg adopted Resolution 4351-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on February 22, 2021, the City Council of the City of Fort Bragg adopted Resolution 4358-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on March 8, 2021, the City Council of the City of Fort Bragg adopted Resolution 4363-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on March 22, 2021, the City Council of the City of Fort Bragg adopted Resolution 4366-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on April 12, 2021, the City Council of the City of Fort Bragg adopted Resolution 4376-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on April 26, 2021, the City Council of the City of Fort Bragg adopted Resolution 4381-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 10, 2021, the City Council of the City of Fort Bragg adopted Resolution 4385-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on May 24, 2021, the City Council of the City of Fort Bragg adopted Resolution 4391-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 14, 2021, the City Council of the City of Fort Bragg adopted Resolution 4396-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on June 28, 2021, the City Council of the City of Fort Bragg adopted Resolution 4405-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 12, 2021, the City Council of the City of Fort Bragg adopted Resolution 4418-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on July 26, 2021, the City Council of the City of Fort Bragg adopted Resolution 4422-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on August 9, 2021, the City Council of the City of Fort Bragg adopted Resolution 4427-2021 by which it continued the local emergency; and

WHEREAS, at a special meeting on August 30, 2021, the City Council of the City of Fort Bragg adopted Resolution 4434-2021 by which it continued the local emergency; and

WHEREAS, at a special meeting on September 20, 2021, the City Council of the City of Fort Bragg adopted Resolution 4447-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 12, 2021, the City Council of the City of Fort Bragg adopted Resolution 4451-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on October 25, 2021, the City Council of the City of Fort Bragg adopted Resolution 4460-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 8, 2021, the City Council of the City of Fort Bragg adopted Resolution 4463-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on November 22, 2021, the City Council of the City of Fort Bragg adopted Resolution 4473-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on December 13, 2021, the City Council of the City of Fort Bragg adopted Resolution 4480-2021 by which it continued the local emergency; and

WHEREAS, at a special meeting on December 27, 2021, the City Council of the City of Fort Bragg adopted Resolution 4491-2021 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 10, 2022, the City Council of the City of Fort Bragg adopted Resolution 4497-2022 by which it continued the local emergency; and

WHEREAS, at a regular meeting on January 24, 2022, the City Council of the City of Fort Bragg adopted Resolution 4504-2022 by which it continued the local emergency; and

WHEREAS, at a regular meeting on February 14, 2022, the City Council of the City of Fort Bragg adopted Resolution 4509-2022 by which it continued the local emergency;

NOW, THEREFORE, BE IT RESOLVED AND PROCLAIMED by the City Council of the City of Fort Bragg that for reasons set forth herein, said local emergency shall be deemed to continue to exist until the City Council of the City of Fort Bragg, State of California, proclaims its termination; and

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg will review the need for continuing the local emergency at least once every 21 days until the City Council terminates the local emergency; and

BE IT FURTHER RESOLVED that this resolution confirming the continued existence of a local emergency shall be forwarded to the Director of the Governor's Office of Emergency Services and the Governor of the State of California, as well as the Mendocino County Office of Emergency Services.

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 28th day of February, 2022 by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 22-090

Agenda Date: 2/28/2022

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5C.

Adopt City Council Resolution Authorizing Submittal of Notification of Intent to Comply with SB 1383 Regulations

Jurisdictions were required to implement the SB 1383 regulations starting January 1, 2022. As jurisdictions were preparing to implement the law, many local governments faced challenges due to the COVID-19 pandemic. In response, Governor Newsom signed SB 619 (Laird, Chapter 508, Statutes of 2021) into law to support local governments as they design and implement successful organic waste recycling programs throughout the state. The law authorizes CalRecycle to waive civil penalties if a jurisdiction submits a Notification of Intent to Comply for some or all of the regulatory requirements and successfully implements a plan to correct their violations.

RESOLUTION NO. ____-2022

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
AUTHORIZING SUBMITTAL OF NOTIFICATION OF INTENT TO COMPLY
WITH SB 1383 REGULATIONS**

WHEREAS, CalRecycle, in consultation with the California Air Resources Board, has adopted regulatory requirements (Regulations) consistent with the mandate of Senate Bill 1383 (Lara, 2016), that are designed to achieve the organic waste reduction goals established in Section 39730.6 of the Health and Safety Code through a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2025; and

WHEREAS, the City of Fort Bragg is a local jurisdiction required to comply with the Regulations; and

WHEREAS, the City of Fort Bragg is or expects to be facing continuing violations of the Regulations commencing during the 2022 calendar year; and

WHEREAS, Senate Bill 619 (Laird, 2021), through amendments to Section 42652.5 of the Public Resources Code (Statute), created a mechanism called a Notification of Intent to Comply (NOIC) through which a local jurisdiction may secure administrative civil penalty relief from any continuing violations of the Regulations for the 2022 calendar year and may be eligible for a broader and longer-term regulatory compliance path, including suspended administrative civil penalties, through a corrective action plan; and

WHEREAS, the City of Fort Bragg is a local jurisdiction authorized by the Statute to submit a Notification of Intent to Comply for CalRecycle approval; and

WHEREAS, CalRecycle shall approve a Notification of Intent to Comply that is duly adopted by the jurisdiction by formal written resolution and meets the requirements of the Statute;

NOW, THEREFORE, BE IT RESOLVED that the Fort Bragg City Council by and through its Engineering Department hereby formally adopts the Notification of Intent to Comply attached as Exhibit "A"; and

BE IT FURTHER RESOLVED that the Fort Bragg City Council hereby authorizes and directs its Assistant City Engineer, on its behalf, to submit the Notification of Intent to Comply attached as Exhibit "A" to CalRecycle for approval pursuant to the Statute; and

BE IT FURTHER RESOLVED that by submitting the Notification of Intent to Comply pursuant to and subject to the above referenced requirements, the City of Fort Bragg represents and certifies that it will implement the proposed actions to remedy the

violations according to the proposed schedule as approved by CalRecycle and in accordance with the Statute and Regulations; and

BE IT FURTHER RESOLVED that the City of Fort Bragg by and through its Engineering Department also acknowledges and agrees to comply with any maximum compliance deadline in any corrective action plan that CalRecycle, in its sole discretion, determines to be necessary and appropriate under the circumstances for the correction of any violation(s) of the Statute and Regulations identified in its Notification of Intent to Comply.

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 28th day of February, 2022, by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk

EXHIBIT A

Notification of Intent to Comply

CalRecycle is providing this optional form as a convenience to assist jurisdictions (counties, cities, a county and city, or special districts providing solid waste collection services) for purposes of submitting a notification of intent to comply to CalRecycle [see Public Resources Code (PRC) section 42652.5(c)].

A jurisdiction may submit a notification of intent to comply if it is facing continuing violations of the Short-lived Climate Pollutants: Organic Waste Reductions requirements in Title 14 California Code of Regulations (14 CCR). The written notification of intent to comply, adopted by resolution of the jurisdiction's governing body, shall be sent to CalRecycle no later than **March 1, 2022**, to NOIC@CalRecycle.ca.gov.

A jurisdiction shall, at minimum, include the following in its notification:

1. A description, with specificity, of the continuing violations.
2. A detailed explanation of the reasons, supported by documentation, why the local jurisdiction is unable to comply.
3. A description of the impacts of the COVID-19 pandemic on compliance.
4. A description of the proposed actions the local jurisdiction will take to remedy the violations within the timelines established in 14 CCR section 18996.2 with a proposed schedule for doing so. The proposed actions shall be tailored to remedy the violations in a timely manner.

Upon approval by CalRecycle of a jurisdiction's notification and implementation of the intent to comply, a jurisdiction may be eligible for both of the following:

1. Administrative civil penalty relief for the 2022 calendar year pursuant to PRC section 42652.5(d).
2. A corrective action plan pursuant to 14 CCR section 18996.2.
 - a. CalRecycle may address through a corrective action plan any violations disclosed in a jurisdiction's notification that will take more than 180 days to correct. In this situation, the proposed actions and schedule in the jurisdiction's approved notification will be in effect until a corrective action plan is issued.

CalRecycle will respond in writing to a jurisdiction within 45 business days of receiving its notification with an approval, disapproval, request for additional information, or timeline for a decision on approval or disapproval. CalRecycle will include details about why a jurisdiction did not meet the requirements for a Notification of Intent to Comply when disapproving the jurisdiction's notification.

Please clearly print or type responses. Attach additional pages as necessary.

Jurisdiction Name: City of Fort Bragg County: Mendocino

Person Completing the Form: Alfredo Huerta

First Name: Alfredo

Last Name: Huerta

Title: Assistant City Engineer

Mailing Address: 416 North Franklin Street

City: Fort Bragg

Zip Code: 95437

Email Address: ahuerta@fortbragg.com

Phone Number: 707-961-2823 x 138

1. Select using the check boxes below or write in the continuing violations for each applicable regulatory section. For each selection, please describe the specific violations related to the regulatory section.

(A) 14 CCR section 18984 Combined Organic Waste Collection Services. *This requirement is not included since the requirements are further specified in sections 18984.1-18984.11.*

- (B) 14 CCR section 18984.1 Three-Container Organic Waste Collection Services
- (C) 14 CCR section 18984.2 Two-Container Organic Waste Collection Services
- (D) 14 CCR section 18984.3 Unsegregated Single Container Collection Services
- (E) 14 CCR section 18984.4 Recordkeeping Requirements for Compliance with Organic Waste Collection Services
- (F) 14 CCR section 18984.5 Container Contamination Minimization
- (G) 14 CCR section 18984.6 Recordkeeping Requirements for Container Contamination Minimization
- (H) 14 CCR section 18984.7 Container Color Requirements
- (I) 14 CCR section 18984.8 Container Labeling Requirements
- (J) 14 CCR section 18984.11 Waivers Granted by a Jurisdiction
- (K) 14 CCR section 18985.1. Organic Waste Recovery Education and Outreach.
- (L) 14 CCR section 18985.2. Edible Food Recovery Education and Outreach
- (M) 14 CCR section 18985.3. Recordkeeping Requirements for a Jurisdiction's Compliance with Education and Outreach Requirements
- (N) 14 CCR section 18988.1. Jurisdiction Approval of Haulers and Self-Haulers
- (O) 14 CCR section 18988.3. Self-haulers of Organic Waste
- (P) 14 CCR section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program
- (Q) 14 CCR section 18989.1. CALGreen Building Codes
- (R) 14 CCR section 18989.2 Model Water Efficient Landscape Ordinance
- (S) 14 CCR section 18991.1. Jurisdiction Edible Food Recovery Program
- (T) 14 CCR section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program
- (U) 14 CCR section 18992.1. Organic Waste Recycling Capacity Planning
- (V) 14 CCR section 18992.2. Edible Food Recovery Capacity
- (W) 14 CCR section 18993.1. Recovered Organic Waste Product Procurement Target
- (X) 14 CCR section 18993.2. Recordkeeping Requirements for Recovered Organic Waste Procurement Target
- (Y) 14 CCR section 18993.3. Recycled Content Paper Procurement Requirements
- (Z) 14 CCR section 18993.4. Recordkeeping Requirements for Recycled Content Paper Procurement

(AA) 14 CCR section 18994.2. Jurisdiction Annual Reporting

Note: This requirement is not included since jurisdictions are still expected to report to CalRecycle.

(BB) 14 CCR section 18995.1. Jurisdiction Inspection Requirements

Note: Section 18995.1(a)(1) should not be included because a jurisdiction should already be completing this action due to the requirements of PRC Chapter 12.9 (commencing with Section 42649.8)

(CC) 14 CCR section 18995.2. Implementation Record and Recordkeeping Requirements

(DD) 14 CCR section 18995.3. Jurisdiction Investigation of Complaints of Alleged Violations

Note: This requirement is not included since jurisdictions are still expected to investigate complaints.

(EE) 14 CCR section 18995.4. Enforcement by a Jurisdiction

Use the check box(es) below to write in the continuing violations for any regulatory section(s) not reflected above and describe the specific violations related to the regulatory section.

Example:

(1) (Type regulatory section number) (Type regulatory section title)

i. *Describe the specific violations related to the regulatory section*

- (1)
- (2)
- (3)
- (4)
- (5)

2. A detailed explanation of the reasons why the jurisdiction is unable to comply, supported by documentation, if applicable.

There are several reasons why the City of Fort Bragg is unprepared to fully implement SB1383 as if January 2022 including:

1. SB 1383 is a sweeping, comprehensive, and complicated law

SB 1383 is one of the most sweeping solid waste management laws that has been passed in the United States. As a result, the preparation to comply with the law will require significant time to develop the appropriate plans, contracts, staffing, resources, and local oversight.

2. The regulations were adopted in late 2020 and are still being debated and clarified

Given the sweeping nature and complexity of SB 1383, CalRecycle has been conducting outreach and providing clarifications on the interpretation of the regulations. This outreach and clarification continue to today. As a result, the development and implementation of programs to comply with the regulations has been delayed.

3. Current Franchise collection service agreement terminates in June 2022.

The City went through a reprocurement of the Franchise collection service agreement in 2021, and the timing of the contract made it difficult, if not impracticable, to be able to implement SB 1383 services at the beginning of 2022. The new contract is intended to comply with SB 1383 regulations beginning July 1, 2022.

4. The COVID-19 pandemic has compounded the complexity of SB 1383 implementation and contributed to delays with compliance as described below in Section 3.

3. A description of the impacts of the COVID-19 pandemic on compliance.
 The COVID-19 pandemic, including supply chain disruptions, has impacted the ability to hire new drivers and procure the new trucks and carts needed to comply with SB 1383. The pandemic has also led to City, Consultant and Vendor staffing shortages and constantly changing work environments and procedures, which has contributed to delays with compliance.
4. Provide a description of the proposed actions the jurisdiction will take to remedy the violations with a proposed schedule for completing each action. The proposed actions shall be tailored to remedy the violations in a timely manner. See attached compliance plan with planned compliance schedule.

I hereby certify under penalty of perjury that the information provided herein is true and correct to the best of my knowledge.

-----	Alfredo Huerta	Assistant City Engineer	-----
Signature	Printed Name	Title	Date



CITY OF FORT BRAGG

416 N. FRANKLIN, FORT BRAGG, CA 95437
PHONE 707/961-2823 FAX 707/961-2802

SB1383 Compliance Plan

COMPLIANCE TASKS

Collection & Processing

- Collection Franchise (14 CCR § 18984.1, 18984.7, 18984.8, 18992.1, 18995.1) – Planned compliance date 7/1/2022
 - New franchise agreement compliant with SB 1383 begins on July 1, 2022
 - Prior to July 1, 2022:
 - Acquire trucks, carts, and bins
 - Conduct education and outreach
 - Roll-out carts and bins
- Education and Outreach – will be included in Franchise Agreement
 - Organic Waste Recovery (14 CCR § 18985.1)– Planned compliance date 1/1/2023
 - Edible Food Recovery (14 CCR § 18985.2) – Planned compliance date 1/1/2023
- Perform collection services monitoring (14 CCR § 18984.5) – will be included in Franchise Agreement – Planned compliance date 1/1/2023
 - Monitor services to ensure customers are complying with organic waste segregation
 - Conduct compliance reviews
 - Conduct contamination monitoring and provide penalties for non-complying generators
- Plan/implement waiver program for multi-family and commercial generators – will be included in Franchise Agreement – Planned compliance date 1/1/2023
 - De minimis [14 CCR § 18984.11(1)]
 - Physical space [14 CCR § 18984.11(2)]
- Record keeping and reporting – Planned compliance date 1/1/2023
 - Contamination Monitoring (14 CCR § 18984.6)
 - Collection Services (14 CCR § 18984.4)
 - Education and outreach (14 CCR § 18985.3)
 - Waivers (14 CCR § 18984.14)

Ordinance & Policies

- Adopt City Ordinance – Planned compliance date 4/1/2022

- Draft updates to Title 6 of City of Fort Bragg Municipal Code (Health and Sanitation)
- Draft updates to Title 15 of City of Fort Bragg Muni Code (Buildings and Construction)
- Ensure City ordinance complies with CALGreen Building Standards (14 CCR § 18989.1)
- Ensure City ordinance complies with Model Water Efficient Landscape (14 CCR § 18989.2)
- Approve Ordinance
- Update City of Fort Bragg procurement policy – Planned compliance date 1/1/2023
 - Procurement of products made from recovered organic waste including compost, mulch, and renewable energy (14 CCR § 18993.1)
 - Procure recycled-content paper (14 CCR § 18993.3)

Procurement

- Procure products made from recovered organic waste such as compost, mulch and renewable energy (14 CCR § 18993.1) – Planned compliance date 1/1/2023
- Procure recycled-content paper (14 CCR § 18993.3) – Planned compliance date 1/1/2023
- Record keeping and reporting – Planned compliance date 1/1/2023
 - Recovered organics waste product procurement (14 CCR § 18993.2)
 - Recycled-content paper procurement (14 CCR § 18993.4)

Edible Food Recovery

- Identify Tier 1 and Tier 2 commercial edible food generators (14 CCR § 18991.3)
 - Tier 1 (supermarkets, grocery stores, food service providers, food distributors, wholesale food vendors) – Included in Franchise agreement – Planned compliance date 7/1/2022
 - Tier 2 (restaurants, hotels with onsite food and 200+ rooms, health facilities with onsite food and 100+ beds, large events, local education facilities with on-site food) – will be included in Franchise Agreement – Planned compliance date 1/1/2024 (as required)
- Inspect Tier 1 and Tier 2 commercial edible food generators (14 CCR § 18991.1) – Planned compliance date 1/1/2023
- Identify organizations that can utilize edible food (14 CCR § 18991.2 and § 18991.4) – Planned compliance date 1/1/2023
- Edible Food Recovery Capacity (14 CCR § 18992.2) – Planned compliance date 1/1/2023
- Edible Food Recovery Inspections & Enforcement (14 CCR § 18995.1, 18995.4) – Planned compliance date 1/1/2023
- Facilitate agreements between generators and organizations that can utilize edible food (14 CCR § 18991.5) – Planned compliance date 1/1/2023
- Record keeping and reporting (14 CCR § 18991.2, 18991.4, 18995.2) – Planned compliance date 1/1/2023
 - Commercial edible food generators
 - Edible food recovery

COMPLIANCE SCHEDULE

Action Items	Responsible Party	2022			2023			2024		
Acquire equipment (trucks, carts, bins)	Hauler									
Conduct education and outreach	PWD, Hauler									
Implement collection & processing services	Hauler									
Contamination monitoring/recordkeeping	Hauler									
Edible Food Education and outreach	PWD, Hauler									
Waivers	PWD									
Annual reporting	PWD, Hauler									
Update City solid waste ordinance	PWD, CC									
Update City procurement policy	PWD, CC									
Organic waste products	PWD, FD									
Recycled paper	PWD, FD									
Procurement recordkeeping & reporting	PWD, FD									
Tier 1 generators	PWD, Hauler									
Tier 2 generators	PWD, Hauler									
Edible Food Recovery Capacity Planning	PWD, DOT									
Edible Food Recovery Inspections & Enforcement	PWD									
Food Recovery recordkeeping & reporting	PWD									

PWD = Public Works Department
 CC = City Council
 DOT = Department of Transportation

Hauler = Franchise Collection Hauler
 FD = City Finance Department



City of Fort Bragg

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

Text File

File Number: 22-092

Agenda Date: 2/28/2022

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5E.

Adopt City Council Resolution Approving Professional Services Agreement with City Management Advisors, LLC dba Peckham & McKenney to Provide Executive Recruitment Services for the Position of Police Chief and Authorizing the City Manager to Execute Same (Amount Not to Exceed \$27,000; Account No. 110-4130-0317)

RESOLUTION NO. ____-2022

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 POLICE CHIEF AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAME (AMOUNT NOT TO EXCEED \$27,000; ACCOUNT NO. 110-4130-0317)

WHEREAS, on February 3, 2020, the City of Fort Bragg hired John Naulty to serve as Interim Police Chief on a temporary basis as a retired annuitant for six months; and

WHEREAS, due to the Covid-19 pandemic, Governor Newsom issued Executive Order N-12-21 which suspended the CalPERS 960 work hour per fiscal year limit on retired annuitants, and Chief Naulty graciously agreed to remain in the interim position throughout the pandemic emergency; and

WHEREAS, the City now needs to move forward with a recruitment for a permanent full-time Chief of Police; and

WHEREAS, on February 17, 2022, Interim City Manager David Spaur received a proposal from Roseville-based executive search firm City Management Advisors, LLC dba Peckham & McKenney, who is currently conducting a search for a permanent Fort Bragg City Manager; and

WHEREAS, the cost of full recruitment services for Police Chief is \$27,000; and

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

WHEREAS, funds for these services will be provided through a Budget Amendment at the mid-year budget review on March 9, 2022;

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 Police Chief and authorizes the City Manager to execute same (Amount Not to Exceed \$27,000; Account No. 110-4130-0317).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a special meeting of the City Council of the City of Fort Bragg held on the 28th day of February, 2022, by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
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 1st day of March, 2022 (“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 February 28, 2022 by Resolution No. ____-2022 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 **August 1, 2022**. 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 **August 1, 2022** 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) [Section Removed.]
- (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 One Million Dollars (\$1,000,000.00), 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 **David Spaur, Interim City Manager**. 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 **Kimberly Petersen, Executive Recruiter**, 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.

[SIGNATURES ON NEXT PAGE]

CITY

CONSULTANT

By: _____

David Spaur
Its: Interim City Manager

By: _____

Anton Dahlerbruch
Its: Managing Member

ATTEST:

By: _____

June Lemos, MMC
City Clerk

APPROVED AS TO FORM:

By: _____

Keith F. Collins
City Attorney

Exhibit A



February 17, 2022

Interim City Manager David Spaur
416 North Franklin Street
Fort Bragg, CA 95437

Sent Via PDF/Email To: dspaur@fortbragg.com

Dear Mr. Spaur,

Thank you for the opportunity for Peckham & McKenney to again work with the City of Fort Bragg in its search for a new Police Chief. It would be an honor to conduct the recruitment process. As a boutique firm that specializes in recruitments for small and medium size communities, Peckham & McKenney knows the importance of finding a good “fit” for the position, what is involved in completing a successful process, and how to achieve a positive outcome.

On behalf of Peckham & McKenney, I will serve as your Recruiter. As a former Police Chief, I understand the complexities faced by law enforcement and the qualities required to succeed in these challenging times. I also recognize the importance the City of Fort Bragg places on maintaining public safety and quality of life in sustaining the City’s reputation as a special place to live, work and visit.

The attached proposal includes detailed information regarding Peckham & McKenney, the search process and timeline, our guarantee, and client references. We have the capacity to begin this process immediately.

I would be pleased to talk about the process as well as answer any questions you might have, 510.520.3569. We would be honored to conduct your recruitment.

Sincerely,

Kimberly A. Petersen

Kimberly A. Petersen
Executive Recruiter
Peckham & McKenney
<http://www.peckhamandmckenney.com>
kim@peckhamandmckenney.com



**City of Fort Bragg
Recruitment Proposal
for
Police Chief**

February 17, 2022

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THE FIRM

Peckham & McKenney Peckham & McKenney provides executive search services to local government agencies throughout the western United States and is headquartered in Roseville, California. Under the leadership of Anton “Tony” Dahlerbruch, continuing the values and principles of the firm’s founders Bobbi Peckham and Phil McKenney, Peckham & McKenney has a strong and well-recognized reputation as a leader of successful local government recruitments. The team of Peckham & McKenney’s executive recruiters brings numerous decades of experience in local government and executive search to achieving effective placements that align each client’s unique needs and interests. We are supported by administrative and research specialists, marketing and design professionals, a web and social media expert, and distribution staff.

Since 2004, Peckham & McKenney has conducted more than 650 executive level recruitments in the states of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. On behalf of cities, counties, and special districts throughout the West, we have successfully placed hundreds of local government professionals including, City and County Managers and their Assistants, Police and Fire Chiefs, Department Heads, and mid-level managers. In addition, Peckham & McKenney has placed hundreds of executives and organizational leaders in the areas of public safety (police and fire), community development and planning, economic development, public works and engineering, finance, human resources, city clerk, information technology, library services, parks and recreation and community services.

Peckham & McKenney is a boutique firm that is established on the premise that an executive search and consulting firm must be dedicated to providing its clients and candidates with professional service, as well as a personal, hands-on approach. Our business philosophy centers upon the understanding that this is a “people” related industry and that attention to others’ needs is the key to providing effective customer service.

Our Reputation Peckham & McKenney is one of the most trusted and respected executive recruitment firms in the country. Time and again, we receive unsolicited compliments from clients and candidates relating to our integrity, high ethics, customer service, and centered focus on each individual client. Not only are we committed to providing our clients with well-qualified candidates, but we also take pride in treating both our clients and candidates with utmost respect. This commitment has led to multi-year retainer agreements with a number of agencies, as well as numerous client and candidate testimonials to their experiences with us, which you can find on our website at www.peckhamandmckenney.com.

“All about fit” We recognize that every agency and community we serve is unique, and the candidate you ultimately select must “fit.” We take the time to become familiar with your community, organizational culture, and issues and challenges to identify and recruit the best candidates for your consideration. Nearly 89% of our placements stay in those positions for over five years, which is a testament to their “fit.”

PUBLIC SAFETY EXECUTIVE EXPERIENCE

Our Experience

With every executive search, your personal recruiter has the full backing, support, and resources of the entire Peckham & McKenney team. Bringing more experience to local government search than any other California recruiter, Peckham & McKenney has successfully completed the following Public Safety recruitments in California since 2015:

Alhambra	Police Chief
Antioch	Police Chief
Atherton	Police Chief
Bell	Police Chief
Belmont	Police Chief
Benecia	Fire Chief
Beverly Hills	Police Chief
Consumnes CSD	Fire Chief
Calistoga	Police Chief
El Centro	Police Chief
Eureka	Police Chief
Galt	Police Chief
Healdsburg	Police Chief
Menlo Park	Police Chief
Milpitas	Police Chief
Oceanside	Fire Chief
Piedmont	Fire Chief
Porterville	Police Chief
Rocklin	Fire Chief
Sacramento County	Deputy County Administrator*
San Pablo	Police Chief
San Rafael	Police Chief
Sebastopol	Police Chief
Sonoma Valley Fire & Rescue	Fire Chief
South Gate	Police Chief

*Public Safety and Justice

YOUR RECRUITMENT TEAM

Our Approach

Peckham & McKenney limits the number of active searches of each Recruiter to totally focus on your search. When you retain Peckham & McKenney, your Recruiter is fully responsible for the success of the recruitment process. Each recruitment is additionally supported by experienced administrative, research, and marketing specialists.

Recognizing the importance of this search, Kimberly Petersen will serve as your Recruiter. Ms. Petersen is currently assisting only one other city with a recruitment process and has the immediate capacity to conduct the Police search for the City of Fort Bragg.

Kimberly Petersen, Executive Recruiter

Kimberly Petersen's career as a public servant began in 1996 when she was hired as a police officer with the Fremont Police Department. Over the course of the next 25 years, she served in various assignments, moving through the ranks as a supervisor and manager. Ms. Petersen was appointed as the Fremont Police Department's seventh Chief of Police in 2018. In this capacity she was a senior member of the city's executive management team and a key partner in guiding the city through the first years of the pandemic before retiring at the end of 2021.

Ms. Petersen's contributions to the City of Fremont include developing Fremont's first Mobile Evaluation Team, a partnership with the Human Services Department pairing mental health professionals with police officers to better serve those in mental health crisis, and community members experiencing homelessness. Additionally, she oversaw the implementation of several life-saving programs including equipping all patrol officers with AEDs to assist the public with cardiac incidents, and naloxone to assist with drug overdoses. She also developed the department's Tactical Emergency Medical Support team, a collaboration with the Fire Department. Chief Petersen brought the Fremont Police Department into a new era of accessibility by launching the agency's first Transparency Portal and overseeing the release of critical incident videos.

Ms. Petersen is a former Division I athlete who played soccer professionally in Japan's "J" League. She holds a Bachelor of Arts degree from Stanford University in Human Biology, and a master's degree from the Naval Postgraduate School in Security Studies. She is a graduate of the Peace Officer Standards and Training Supervisory Leadership Institute, and Command College.

Anton (Tony) Dahlerbruch, Executive Recruiter

Prior to joining Peckham & McKenney in 2019, Tony Dahlerbruch worked in local government for over 30 years. As a problem solver, Mr. Dahlerbruch worked in most every city department in Beverly Hills, California (ultimately as Deputy City Manager); Scottsdale and Phoenix, Arizona; and Rockville, Maryland, before subsequently serving a combined 12 years as City Manager in Rolling Hills and Palos Verdes Estates, California. With direct and personal experience in the diverse aspects of city services, Tony has knowledge in the many disciplines of city management including finance/budget, human resources, planning, public works, and public safety. During his city management career, he was

recognized for his integrity, hard work, responsiveness, focus on service, and ethics.

Mr. Dahlerbruch has additionally served in numerous leadership positions in state and national/international professional organizations. Noting his commitment to professional local government management, Tony represented the City Managers Department of the League of California Cities as a two term Director on the League's Executive Board, President of City Managers Department of the League of California Cities and served on numerous League Policy Committees. He has also served as a Regional Vice President on the Executive Board of the International City/County Management Association (ICMA) and other various ICMA committees.

Mr. Dahlerbruch 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.

Joyce Johnson, Operations Manager

Joyce Johnson joined Peckham & McKenney in 2005 and serves as the firm's Operations Manager. She has over 30 years' experience in the field of administrative and executive support for all aspects of the executive recruitment process. She oversees internal administration of the firm as well as directing contract administrative support in the areas of advertising and design, web posting, and duplication and mailing services. Prior to joining Peckham & McKenney, Ms. Johnson oversaw internal administration in the Western Region headquarters of two national management consulting and executive recruitment firms. Ms. Johnson is complimented regularly on her strong customer orientation working with both clients and candidates alike. Ms. Johnson holds an Associate of Arts degree from American River College.

Kevin Johnson, Research Assistant

Kevin Johnson has been a member of the Peckham & McKenney team since 2009 and currently serves as a Research Assistant. He supports the firm's Recruiters through his research of local government agencies and networks, potential candidates, and current candidates prior to recommendation to our clients. Mr. Johnson mastered his researching abilities while obtaining a Bachelor of Arts in Economics from Willamette University.

Linda Pucilowski, Graphic Designer

With nearly 30 years of experience, Linda Pucilowski provides her expert design and marketing skills to Peckham & McKenney. She is the firm's "go-to" professional for all advertising and brochure design and creation. Ms. Pucilowski holds a bachelor's degree from California State University, Sacramento.

Rachel Moran, Website & Social Media Assistant

Rachel Moran has been in the graphic design field since 2007 and prides herself on creating eye-catching visual art. She supports the Peckham & McKenney team by handling all website visual and technical design as well as social media. Ms. Moran graduated from the Art Institute of Houston obtaining her bachelor's degree in Fine Arts with a concentration in Graphic Design.

THE SEARCH PROCESS

While it is our intent to customize the search and project schedule to fit the specific needs of the City of Fort Bragg the search process typically includes the following key steps.

Project Organization Prior to beginning the recruitment, necessary documentation (contract, insurance, business license, retainer invoice, etc.) will be processed. We ask that the City identify a single point of contact that will serve as our liaison throughout the recruitment, providing necessary information to us, responding to our questions, and receiving and distributing all correspondence. A single point of contact will ensure timely and clear communication throughout the process.

We will request a conversation with the City Manager (or other lead decision-maker) to discuss the process, listen to specific desires and expectations, and respond to any questions or concerns. We will discuss the parameters of the search, receiving input about the ideal candidate, outreach efforts, the search timeline, compensation, and confirm future meeting dates. This conversation is scheduled with the City Manager/lead decision-maker concurrent with Development of the Candidate Profile (see below). During this phase of the process, we will also discuss and determine the extent of involvement of individuals in the search process.

In this phase of the process, we will also discuss with the City Manager the finalist interview process and the various components to be considered. Ms. Petersen will provide recommendations of best practices. Please note that decisions on the extent of involvement of others as well as additional components to the finalist interview process will impact the search, search timeline, and ultimately the cost of the recruitment process.

Development of Candidate Profile (virtual meeting #1) This step provides for the development of the Candidate Profile that will serve as a guide in the identification of potential candidates, outreach and recruitment efforts, screening, and selection of your next Police Chief. The Candidate Profile includes information relating to the City of Fort Bragg, the Police Department, current and future issues and opportunities for the Department, expectations, goals, and objectives leading to the success of the new Police Chief, and the background and experience, leadership style, skills and abilities, and personality traits of the ideal candidate.

Ms. Petersen will develop this profile following conversations with the City Manager, as well as individual or group discussions with the City's leadership team and other individuals identified in the initial conference call (see Project Organization above). We will recommend a group meeting with the executive staff team for preparation of the Candidate Profile. This can also include outreach to select labor representatives, appointed commission or committee members, business leaders, and community stakeholders designated by the City Manager. With COVID-19, we have found conducting outreach via Zoom is effective and efficient.

Our proposal includes up to two days of virtual meetings to develop the Candidate Profile. We will request information relating to compensation and benefits, organization charts, and budget data. In addition, we will request high-resolution photos to be used in an attractive brochure to market the

opportunity. A draft of the Candidate Profile will be provided to our point of contact for review. We ask that all revisions and corrections be provided to us in a timely manner to maintain the agreed upon search timeline. Our marketing and design professional will then prepare an attractive marketing brochure incorporating the Candidate Profile. This brochure will be distributed to up to 500 identified industry professionals. Copies of the brochure will also be made available to the City.

Advertisements will be placed in the appropriate industry publications and websites, and our firm will assume responsibility for presenting your opportunity in an accurate and professional manner. Social media, including LinkedIn and other platforms, will be used as appropriate. Full information on the position will be posted on the Peckham & McKenney website and provide to the City for posting on its website as well.

Recruitment The main focus of our outreach will be direct phone contact with quality potential candidates. With over 60 years of combined executive search experience, we are personally familiar with potential applicants, have developed an extensive candidate database that is continuously updated, and well connected to seasoned professionals for finding well qualified referrals. We take pride in the placement of women and applicants of diverse backgrounds, and are known for long, successful tenures of candidates selected by the agency. In addition, Ms. Petersen's extensive professional network within the public safety field will be critical to our outreach efforts. Our recruiting efforts will focus on direct and aggressive recruiting of individuals aligned with the experience, background and knowledge determined during the Candidate Profile Development. Outreach will also be consistent with the conversations and plans/goals for finding the ideal candidate as discussed during the Candidate Profile Development. We believe direct recruiting produces the most qualified candidates.

Throughout this active search process, we will regularly update the City of the recruitment status and share questions, concerns, and comments received from potential candidates as they consider the opportunity. By doing so, we will "team" with the City Manager to ensure that all issues and concerns of candidates are discussed and understood thereby eliminating "surprises" once the resume filing deadline has occurred.

As resumes are received, they will be promptly acknowledged within 48 hours, and we will personally respond to all inquiries. Once the resume filing deadline has passed, we will update the City on the status of the recruitment, the number of resumes received, and our intent for preliminary interviews.

Preliminary Interviews Upon our review of the resumes received, supplemental questionnaires will be sent to candidates who appear to meet the Candidate Profile. The supplemental questionnaire is intended, in part, to ascertain the applicant's familiarity with the City and writing ability; applicants will be asked to address a few questions pertaining to the position that are based on information learned during Candidate Profile Development.

Ms. Petersen will conduct preliminary interviews with the individuals that most closely align with the Candidate Profile. Internet research will be conducted so that we may probe the candidate regarding areas of concern.

Candidates will be advised of the search schedule and updated regularly as to their status.

Recommendation of Candidates/Selection of Finalists (virtual meeting #2) A bound report will be provided to the City Manager prior to our meeting to discuss our recommendation of leading candidates for further consideration. This report will include a full listing of all candidates who applied for the position, as well as the cover letters, resumes, and supplemental questionnaires of approximately four to eight recommended candidates. We may include a first and second tier of candidates within our recommendation.

Ms. Petersen will meet with the City Manager in a one- to two-hour meeting and will provide an overview of each recommended candidate for the City Manager to determine who to interview as well as share any concerns or negative information. Once a group of finalists has been selected by the City Manager, we will revisit early decisions made during Project Organization relating to the finalist interview process.

Peckham & McKenney will notify all candidates of their status. Those candidates selected as finalists will be notified and provided with all necessary information to attend finalist interviews with the City. We will prepare an interview schedule and confirm with our point of contact all necessary details.

If necessary, finalists will make their own travel plans and reservations. It is customary that the City reimburse finalists for round-trip airfare, car rental, and lodging necessary to attend the interviews with the City. We will confirm this with the City Manager at our meeting to recommend candidates.

Finalist Interview Process (on-site or virtual – meeting #3)

Finalist Interview Process Ms. Petersen will provide facilitation during the finalist interview process. *These initial interviews may be conducted on-site or alternatively, they may be conducted virtually. (For an initial screening interview, virtual interviews may be easier and more attractive for candidates and panelists).* An orientation session will be held at the beginning of the process, and we will facilitate a review and discussion of the finalists at the end of the day. Interview materials, including suggested interview questions, evaluation and ranking sheets will be provided. Again, a standard finalist interview process of the leading four to eight candidates is typically conducted within one day. Should the process desired by the City Manager require more than one day, an additional fee will be charged.

Qualification Once the finalist candidate has been selected and a conditional offer has been made by the City, a thorough background check will be conducted that is compliant with the Fair Credit Reporting Act and Investigative Consumer Reporting Agencies Act. Peckham & McKenney utilizes the services of Sterling Talent Solutions (www.sterlingtalentsolutions.ca), the world's largest company focused entirely on conducting background checks. This background check is optional as most agencies hiring public safety management level employees will contract with a private investigator to conduct a more thorough background investigation which would duplicate the information provided in our more limited background check conducted by Sterling Talent Solutions.

Ms. Petersen will also personally contact professional references, and a full report will be provided to the City. This comprehensive process ensures that only the most thoroughly screened candidate is hired. In addition, negotiation assistance will be provided as requested by the City.

Peckham & McKenney's qualification process of internet-based research, background checking through Sterling Talent Solutions, and reference checking has proven successful for our clients through the years. In addition to relying on our services, clients are encouraged to utilize the background checking protocols they normally would use in hiring a position of this type. Enhanced reference checking and background investigation, if any, beyond the scope of this proposal is the client's responsibility.

SEARCH SCHEDULE

<u>ACTIVITY</u>	<u>TIME FRAME</u>
I. Project Organization <ul style="list-style-type: none"> • Conference call discussion of recruitment process • Formalize project schedule 	Pre-Recruitment
II. Development of Candidate Profile <ul style="list-style-type: none"> • <u>Virtual meeting #1</u> • With City Executive Team and/or other individuals • Develop Candidate Profile/Marketing Brochure • Develop advertising and recruitment plan 	March 7-25 March 14-16
III. Recruitment <p style="text-align: center;">FILING DEADLINE IS 5/2/22</p> <ul style="list-style-type: none"> • Advertise, network, and electronically post in appropriate venues • Distribute Candidate Profile to industry professionals • Post opportunity on the Peckham & McKenney and City websites • Focused outreach to individuals within the parameters of the Candidate Profile • Respond to all inquiries and acknowledge all resumes received within 48 hours 	March 28 – May 2 (5 weeks)
IV. Preliminary Review and Interviews <ul style="list-style-type: none"> • Screen resumes and conduct Internet research • Identify leading candidates and request supplemental questionnaires • Review supplemental questionnaires • Conduct preliminary interviews with leading candidates 	May 2-11 (2 weeks)
V. Recommendation of Candidates/Selection of Finalists <ul style="list-style-type: none"> • Provide written recommendation of candidates to the City • <u>Virtual meeting #2</u> to provide recommended candidates • City selects finalist candidates for finalist interview process • Peckham & McKenney notifies all candidates of status in recruitment process 	Week of May 23
VI. Finalist Interview Process <ul style="list-style-type: none"> • <u>On-site meeting #3</u> to facilitate finalist interviews • Assist City throughout process and provide recommendations • City selects candidate or leading 2-3 candidates for further consideration • Second interview(s) 	Week of May 30 (not the 30 th , Memorial Day)
VII. Qualification <ul style="list-style-type: none"> • Conduct thorough background and reference checks on leading candidate • Provide negotiation assistance • Exceed expectations and successfully place candidate who “fits.” 	One Week

In today's competitive recruiting environment, our goal is to make the process as efficient and effective as possible; as such, we ask that our clients work with us to identify future meeting dates that will be published within the Candidate Profile. This will ensure that the momentum of the search is consistent and that all parties are available leading to a successful result. At the conclusion of the process, we will kindly request that the written public announcement of the appointment attribute the recruitment to Peckham & McKenney Executive Search.

COST OF SERVICES

Cost of Services

Peckham & McKenney is unique among recruiting firms for several reasons including having a fixed all-inclusive fee. Over years of experience, we have found that an all-inclusive fee for a search process is simpler, cost-effective, and efficient. The fee to conduct the search process for your next Police Chief is \$27,000. Our all-inclusive fee includes professional fees and expenses (out-of-pocket costs associated with advertising, consultant travel, administrative support / printing / copying/ postage / materials, telephone / technology, partial background checks on recommended candidates, and full background check on selected finalist only).

The fee quoted above is to complete the recruitment process as described in The Search Process, including three days of virtual and/or on-site meetings. The first meeting (one to two days) is to develop the Candidate Profile; the second meeting (one day) is to provide a recommendation of candidates; and the third meeting (one day) is to facilitate finalist interviews.

Additional Service Costs

The following “menu” details fees for additional requested services. Some fees may be negotiated.

Facilitation of Community Forum	\$1,500
Community Survey & Results Analysis	\$1,500
Additional Meeting Day	\$1,000/mtg. (three days included in proposal)
Each additional full background check	\$300/each
Additional placement within organization*	\$5,000 (if selected within one year)

*If the City of Fort Bragg hires an additional candidate from among those recommended for another position within one year of the close of the recruitment, a fee of \$5,000 will be charged to the City.

Process of Payment

One-third of the all-inclusive fee is due as a retainer upon execution of the agreement. This retainer covers upfront and necessary expenses incurred by Peckham & McKenney on the City’s behalf for the preparatory work and advertising. If the retainer is not received by Peckham & McKenney within 30 days of execution of the agreement, we will suspend the recruitment process until payment is received. The second one-third of the full payment will be invoiced one month from contract execution, and it is due within 30 days following the invoice date. The final one-third of the full payment will be invoiced two months from contract execution, and it is due within 30 days following the invoice date.

If the City of Fort Bragg requires a different payment schedule, this must be agreed upon within the contract. Peckham & McKenney expects payment of all invoices in a timely manner.

Agreement

Peckham & McKenney is the operating name of City Management Advisors LLC, Anton Dahlerbruch, Managing Member.

Insurance

City Management Advisors, doing business as 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.

Necessary insurance documentation will be provided to the City of Fort Bragg in a timely manner.

GUARANTEE AND ETHICS

Placement Guarantee Our placement record is particularly strong in that 89% of the candidates we have placed remain in those positions for over five years. In the unlikely event, however, that a candidate recommended by our process (external candidates only) leaves your employment ***for any reason within the first year from the date of appointment*** (except in the event of budgetary cutbacks, promotion, position elimination, or illness/death), we agree to provide a second search process upon negotiating a mutual agreement on the professional services fee plus expenses.

Reopening the Recruitment Throughout the recruitment process, all our efforts are made to present recommended applicants for the successful placement of a candidate who fits the Candidate Profile. It is extremely rare that our recruitment process fails to produce a preferred candidate in the first instance. If the search process, however, does not result in a placement, we agree to provide a second search process upon negotiating a mutual agreement on the professional services fee plus expenses.

As Albert Einstein said, the definition of insanity is “doing the same thing over and over again and expecting different results.” Prior to reopening the recruitment, we will thoroughly review with the City any adjustments in approach, compensation, and/or other variables necessary to achieve a placement as a result of the process.

Ethics Time and again, we receive unsolicited comments from clients and candidates relating to our integrity and high ethics.

- First, we believe in honesty. No client should ever appoint an individual without being fully knowledgeable of the candidate’s complete background and history. Conversely, no candidate should ever enter a new career opportunity without full disclosure of any organizational “issues.”
- We strive to keep everyone involved in a recruitment process informed of the status. Not only do we provide regular updates to our clients, but we also have a reputation for keeping our candidates posted.
- As recruitment professionals, 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. However, if they become a finalist, we ask that they speak to their supervisor to alert them of their intent.
- During an active engagement, we do not recruit staff from our client agencies for another recruitment. Nor do we “parallel process” a candidate, thereby pitting one client against another for the same candidate.
- We are retained only by client agencies and not by our candidates. While we have a reputation for being actively involved in the profession and providing training, workshops, and general advice to candidates, we represent only our clients. In addition, we ***always*** represent and speak of our clients in a positive manner, during the recruitment engagement as well as years after.

CLIENT REFERENCES

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 San Mateo, CA – Police Captain

Ed Barberini, Chief of Police
650-522-7600 ebarberini@cityofsanmateo.org

City of Healdsburg, CA – Police Chief

Jeff Kay, City Manager
707-431-3452 jkay@ci.healdsburg.ca.us

City of Belmont, CA- Police Chief

Cora Dino, Human Resources Director
650-637-2988 cdino@belmont.gov

City of El Cerrito- Fire Battalion Chief

Alexandra Orologas, Assistant City Manager
510-215-4302 aorologas@ci.el-cerrito.ca.us

City of El Cerrito- Police Captain- in (progress)

County of Sacramento- Deputy County Executive Public Safety & Justice

Candice Mabra, Principal Human Resources Analyst
916-874-1682 mabrac@saccounty.net

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. In the last five years, 53% of Peckham & McKenney placements are women and people of color.

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 our recruitments.

For over 30 years, founder Bobbi Peckham has been a champion of women seeking executive leadership positions within local government. Through leadership positions in organizations, as a speaker at conferences, and in professional roles in city management, other members of our recruitment team additionally have a history of promoting diversity in local government positions. With our diverse team of Recruiters, Peckham & McKenney goes to great lengths to support, promote, and advocate for diversity in the recruitment and hiring process.

In addition to all other outreach methods, our firm utilizes the Local Government Hispanic Network (LGHN), National Forum of Black Public Administrators (NFBPA), Women Leading Government (WLG), and the Municipal Managers of Association of Northern and Southern California (MMANC/MMASC) to advertise searches, as well as the National Diversity Network, which ensures placement of your opportunity with the following online venues:

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



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/20/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement.

PRODUCER: B & B Premier Insurance Solutions, 5008 Chesebro Road Suite 200, Agoura Hills, CA 91301. CONTACT NAME: Milana Medvedeva, PHONE: (818) 223-8383, FAX: (818) 223-8181, E-MAIL ADDRESS: milanam@bbpremierins.com. INSURER(S) AFFORDING COVERAGE: INSURER A: Hartford Insurance Company, INSURER B: Employers Insurance Group, INSURER C: Westchester Surplus Lines Ins Co, INSURER D: , INSURER E: , INSURER F: .

COVERAGES CERTIFICATE NUMBER: CL2151929016 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSD, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include Commercial General Liability, Automobile Liability, Umbrella Liab, Excess Liab, Workers Compensation and Employers' Liability, and Professional Liability.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder is named as an additional insured as per policy terms, limits, conditions, coverages and exclusions as their interests may appear in the operation of the named insured.

CERTIFICATE HOLDER: City of Fort Bragg, 416 N Franklin Street, Fort Bragg, CA 95437. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: [Signature]

POLICY NUMBER: 72SBMBC5772

COMMERCIAL GENERAL LIABILITY
ISSUE DATE: 12-20-2021

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED—DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of person or organization:

City of Fort Bragg

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule as an insured but only with respect to liability arising out of your acts or omissions.



City of Fort Bragg

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

Text File

File Number: 22-094

Agenda Date: 2/28/2022

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5F.

Adopt City Council Resolution Approving a Payment to the Fort Bragg Unified School District from the Measure AB Special Project Funds for the Improvements to Dana Gray Water System and Authorizing the City Manager to Release Payment (Amount Not to Exceed: \$36,500; Account No. 110-4390-0619)

RESOLUTION NO. ____-2022

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING A PAYMENT TO THE FORT BRAGG UNIFIED SCHOOL DISTRICT (FBUSD) FOR THE IMPROVEMENTS TO DANA GRAY WATER SYSTEM AND AUTHORIZING CITY MANAGER TO RELEASE PAYMENT (AMOUNT NOT TO EXCEED \$36,500; ACCOUNT NO. 110-4390-0619)

WHEREAS, the Fort Bragg City Council adopted Ordinance No. 924-2016 to increase the City's existing Transient Occupancy Tax (a tax paid when overnight visitors rent a room) from ten percent (10%) to twelve percent (12%) to fund public services and maintain public areas, effective April 1, 2017, which Ordinance was approved by the voters at the November 8, 2016 General Election; and

WHEREAS, Measure AB advises the use of these additional funds generated by the TOT increase in the following manner: (i) Half of the revenues to substantially increase promotions, events and marketing for Fort Bragg; (ii) One-quarter of the revenues to enhance Coastal Trail maintenance and security; (iii) One-eighth of the revenues to support establishment of the Noyo Center for Marine Science as a premier visitor attraction; and (iv) One-eighth of the revenues to undertake special projects that support tourism and benefit the community including, but not limited to, repair and enhancement of local athletic fields; and

WHEREAS, the City has received a request from the Fort Bragg Unified School District (FBUSD) for the use of Special Projects Measure AB funds to make improvements to the Dana Grey Water Systems; and

WHEREAS, the Measure AB Special Projects fund has sufficient funds to cover these costs with an adopted budget of \$60,000 for FY 2021/22 in addition to the carried forward surplus balance from the prior year; and

WHEREAS, the Professional Cost Estimate provided by the FBUSD is attached hereto as Exhibit A, including the scope of work; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve a payment to the Fort Bragg Unified School District for the improvements to the School's Water System and authorizes the City Manager to release the payment in an amount not to exceed \$36,500 (Account No. 110-4390-0619).

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 28th day of February, 2022, by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk

Fort Bragg Electric, Inc.

Mail: PO Box 1578, Fort Bragg, CA, 95437

License #391464

Tel: (707)964-9118 Fax: (707)964-1404 Email: mark@fortbraggelectric.com

PROPOSAL REVISED 8-20-21

To:	Fort Bragg Unified School District	Date:	August 20, 2021
Attention:	Barry Silva	Office:	707-961-2850
Address:	312 S. Lincoln Street Fort Bragg, CA 95437	Fax:	707-964-5002

JOB NAME	JOB NUMBER	JOB ADDRESS
FBUSD Dana Gray water system		250 Sanderson street Fort Bragg, CA 95437

BID ITEM	PROPOSAL SUMMARY	BID AMOUNT	APPROVED AMOUNT
Base Bid	Description	\$36,272	\$36,272
	Total >>>>>	\$36,272	

Fort Bragg Electric, Inc is pleased to present the following bid for **FBUSD Dana Gray water system**, based on plans and specifications dated **August 20, 2021**, and subject to the following inclusions, exclusions and qualifications:

Provide 2 each 5000 plastic storage tanks adjacent to existing concrete storage tank located at the Noyo High School Complex. Provide excavation, compaction, base rock pads to accommodate addition of tanks into existing water system complete. Provide 1 each 4-horsepower pump with a variable frequency drive to provide water on demand with adequate pressure and volume to each water station. Provide all related valving, plumbing, pressure tanks, floats, electrical to accommodate the install. Specifications of system will be provided prior to order for approval by all.

INCLUSIONS

- 1 Prevailing wages as required

EXCLUSIONS

- 1 Water delivery or temporary water
- 2 Upgrade of water well system.
- 3 Upgrade of electrical system to well house (Shouldn't be required)
- 4 Off haul of dirt from site.
- 5 Work not outlined above

QUALIFICATIONS

- 1 This proposal is valid for 30 days from the above date.
- 2 Progress payments due as the work proceeds.
- 3 Payment due upon completion of work.

Fort Bragg Electric, Inc.

Mail: PO Box 1578, Fort Bragg, CA, 95437

License #391464

Tel: (707)964-9118 Fax: (707)964-1404 Email: mark@fortbraggelectric.com

We look forward to working with you on this project. If you have any questions, please do not hesitate to call.

PROPOSAL OF TERMS BY Mark Mertle Date August 20th, 2021
FORT BRAGG ELECTRIC

ACCEPTANCE OF TERMS _____ Date _____
CUSTOMER

Thank you for your business!



City of Fort Bragg

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

Text File

File Number: 22-085

Agenda Date: 2/28/2022

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Agenda Number: 5G.

Receive and File Minutes of the Public Safety Committee Meeting of January 19, 2022



City of Fort Bragg

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

Meeting Minutes Public Safety Committee

Wednesday, January 19, 2022

3:00 PM

Via Video Conference

MEETING CALLED TO ORDER

Meeting Chair Peters opened the meeting at 3:01 PM.

ROLL CALL

Present: 2 - Bernie Norvell and Lindy Peters

1. APPROVAL OF MINUTES

1A. [22-022](#) Approve Minutes Of The Public Safety Committee Meeting July 21, 2021

Moved by Chair Peters and seconded by Committee Member Norvell that the minutes be approved as presented.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public Comments made by: Becky Walker, Jennifer Salyer, and Patty Bonuccelli.

3. CONDUCT OF BUSINESS

3A. [22-020](#) Petition for Safety

Chief Naulty opened the discussion by stating that the department is aware of the on going issues at the location. The usual issues are overnight parking, speeders, and people staying after hours. Chief Naulty commented that the officers always respond to the location, but that the problem is not going away.

Committee Member Norvell referred to the petition submitted regarding the placement of a gate but he believes a lot of issues come with installing a gate. He believes that the County should get involved since they own the roadway.

Public Works Director John Smith seconded Norvell's opinion about the gate being more of a problem due to issues like staffing, minimal parking, and no designated area for a turnaround.

Chair Peters recommended placing more proper signage and also placing the radar trailer in order to prevent speeding. Chief Naulty agreed to placing the radar trailer out at the location and also send out more police to patrol the area. Captain O'Neal closed the discussion by stating that the radar trailer will be placed out the location since the radar collects data regarding vehicle amount and speeds. He recommended to the reporting parties to gather vehicle descriptions, and license and forwarding the information to the Police Department in order to attempt contact with responsible parties and educate them of the circumstances.

Public Comments made by: Patty Bonuccelli, and Kristin Nashhour-Azad.

4. MATTERS FROM COMMITTEE / STAFF

4A. [22-021](#) Receive Oral Update From Staff on Departmental Activities

Chief Naulty began by thanking City Public Works Department for setting up the barricades on Oak Street and Harold Street to have a safer traffic control. He mentioned how the Tsunami that was expected on Saturday January 15, 2022 was not as anticipated but it was good practice in preparation efforts. He discussed the new police recruits that are in the Academy at the moment and also that in February we should be seeing a new female officer join the department.

Captain O'Neal informed the public of the amount of Driving Under the Influence arrests this calendar year which have been 12 in 19 days. Chief Naulty recommends to the public that it is best to call someone else for a ride if you are under the influence and prevent any traffic accidents that can hurt someone or damage property.

ADJOURNMENT

Chair Peters adjourned the meeting at 4:06 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: 22-096

Agenda Date: 2/28/2022

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Agenda Number: 5H.

Receive and File Minutes of the Finance and Administration Committee Meeting of December 8, 2021



City of Fort Bragg

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

Meeting Minutes Finance and Administration Committee

Wednesday, December 8, 2021

4:00 PM

Via Video Conference

MEETING CALLED TO ORDER

Chair Albin-Smith called the meeting to order at 4:00 PM

ROLL CALL

Present: 2 - Tess Albin-Smith and Marcia Rafanan

1. APPROVAL OF MINUTES

1A. [21-633](#) Approve Minutes of August 16, 2021

The minutes were approved by the Committee as presented and will be forwarded for Council review.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public Comment was received from Jacob Patterson.

3. CONDUCT OF BUSINESS

3A. [21-622](#) Receive Asset Forfeiture Fund Year-End Report and Budget Reconciliation for FY 2020-21

The Committee reviewed the report prepared for this item. The committee report was presented by Chief Naulty and prepared by Administrative Assistant Lesley Bryant. Bryant explained that now in the second year of the global pandemic it has made it difficult to use the funds for events. The report outlined the policies and gave general overview of the spending. In addition, there was summary and detail list of the asset forfeiture expenditures.

Public Comment:

None.

Discussion:

There was much discussion about the use of the funds and how the Asset Forfeiture funds are set aside for community events such as A Day in the Park and National Night Out, Police Activities League, Neighborhood Watch and others. Chief Naulty answered questions about the limited spending due in part to the pandemic. Lesley Bryant further explained the different funds and the manner that they can be used. The federal funds are more guarded which makes it difficult to spend, however the State funds are more general and could be used for various reasons including educational.

3B. [21-623](#) Receive Reportable Items Report: Includes Treasury Report, Approved Intradepartmental Budget Transfers, Contracts Under \$25k Approved by the

City Manager, Contract Change Orders Not Exceeding 10% of Contract, and Disbursements Listing

The Committee reviewed the report prepared for this item. The committee report was presented by Assistant Director of Finance Isaac Whippy, who summarized the Treasury Report, Intradepartmental budget transfers, contracts under \$25k, Contract Change Orders not exceeding 10% of contract, and Disbursements Listing.

Public Comment:

None

Discussion:

The report is intended to give committee and community an overview of the economic condition of the City. This reports demonstrated that they City's finances are doing better than expected. There was some questions about the maturing of the City's CD's and if they should change their strategy. There were also some questions about the disbursements and if a policy should be created to make sure that the spending is done equally.

3C. [21-627](#) Receive Report on Fiscal Year 2020/21 Year End Results

The Committee reviewed the report prepared for this item. The committee report was presented by Assistant Finance Director Whippy who reported on the FY 2020-2021 Year end results. In this report he summarized the outcomes of the General Fund and the three Enterprise Funds.

Public Comment:

Jacob Patterson

Discussion:

There was some discussion about the Water Enterprise fund and Capital Improvement plans for the next year. The committee pointed out that the Water Enterprise Fund had a higher income even though the City implemented water restrictions. It was explained that the majority of the restrictions came after the end of the fiscal year. The reductions will show up in the next quarter report instead.

3D. [21-625](#) Discussion on Water/Wastewater Utility Rate Fees and Provide Direction to Staff.

Assistant Finance Director Isaac Whippy gave an oral update on the last Utility Rate study that was done back in 2016. He explained that the City Council had approved to postpone the rate increase in July 2020 and in January 2021 they approved to do the rate study but to not increase the current rate. Due to staffing shortages the City has not initiated the rate study yet.

Public Comment:

Jacob Patterson

Discussion:

The committee has provided direction to go ahead and start the rate study as a high priority. The timeline will start in late January and that it be completed in a couple months. The rate study will be done by Rural Community Cooperation and we will assist them with the process.

3E. [21-626](#) Receive Oral Update From Staff on Departmental Activities

Department Update:

Assistant Finance Director Isaac Whippy reported on the following:

- * The FY 20-21 audit is complete and the Comprehensive Annual Financial Report will come out the second week in January.
- * Business license renewals will go out at the end of December and are due by the end of February.
- * The accounting software Springbrook will be upgraded to the cloud base Springbrook instead.
- * Preparing for round two of CDBG funding.
- * Utility assistance program is still providing up to \$500 in utility payments and the Business Assistance program is still available
- * Fee waiver updates will come from the City Manager at the next meeting.

4. MATTERS FROM COMMITTEE / STAFF

None

ADJOURNMENT

Chair Albin-Smith adjourned the meeting at 5:15 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: 22-080

Agenda Date: 2/28/2022

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 5I.

Approve Minutes of February 14, 2022



City of Fort Bragg

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

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, February 14, 2022

6:00 PM

Via Video Conference

CALL TO ORDER

Mayor Norvell called the meeting to order at 6:01 PM, all Councilmembers appearing via video conference.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: 5 - Mayor Bernie Norvell, Vice Mayor Jessica Morsell-Haye, Councilmember Tess Albin-Smith, Councilmember Lindy Peters and Councilmember Marcia Rafanan

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

1A. [22-067](#) Presentation of Proclamation Declaring February 2022 as Black History Month

Mayor Norvell read the Black History Month Proclamation and introduced Jonathan Ratliff, the first African American hired by the City of Fort Bragg, who reflected on his time working at the City and living on the Coast.

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

- (1) Public Comments on Non-Agenda Items were received from: Greg Ratliff, Mary Rose Kaczorowski, LimaSierra Wooten, Andrew Jordan, and Jonathan Lehan.
- (2) Public Comments on Consent Calendar Items: None.
- (3) Public Comment on Closed Session Item 9A was received from Mary Rose Kaczorowski.

3. STAFF COMMENTS

Public Works Director Smith gave an update on the water situation and cited flow statistics from the Noyo River, Waterfall Gulch and Newman Gulch. He mentioned that members of the community raised funds to upgrade the dog park. City Manager Spaur noted that City Clerk Lemos and the IT Department launched the City's new website on February 1. Mr. Spaur reported that a new Police Officer, Aldea Miles, was sworn in this morning.

4. MATTERS FROM COUNCILMEMBERS

Vice Mayor Morsell-Haye announced that a work day will take place at the Community Garden

on Sunday, February 20, from 10AM to 2PM. She reported that there will be two events regarding the Jackson State Demonstration Forest on February 27 and 28 at Jughandle State Reserve at 11AM on both days. She noted that the Timber Harvest Plan will be redrafted to incorporate tribal co-management and there is a call for a moratorium on logging until the plan has been redrafted. Councilmember Albin-Smith reported on the League of California Cities meetings on environmental quality and finance and taxation. She asked the City Manager to set up a meeting with the library to talk about fees. Councilmember Rafanan asked for an update on the Grocery Outlet store project. City Manager Spaur stated that the City received a letter from the project applicant asking that their permit be vacated so they could apply again and have a full Environmental Impact Report prepared. Mayor Norvell reported that he joined a forum recently hosted by the Democratic Club regarding the hospital's plans to upgrade the facility. Another meeting will be held soon to discuss the urgent situation at Sherwood Oaks Health Center. Mayor Norvell announced that Restaurant Week in Fort Bragg will be March 14-20, 2022.

5. CONSENT CALENDAR

Approval of the Consent Calendar

A motion was made by Vice Mayor Morsell-Haye, seconded by Councilmember Peters, to approve the Consent Calendar. The motion carried by the following vote:

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

- 5A. [22-058](#)** Adopt City Council Resolution Authorizing Submittal of Application(s) for All CalRecycle Grants for Which the City of Fort Bragg is Eligible
This Resolution was adopted on the Consent Calendar.
Enactment No: RES 4508-2022
- 5B. [22-060](#)** Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg
This Resolution was adopted on the Consent Calendar.
Enactment No: RES 4509-2022
- 5C. [22-061](#)** Adopt City Council Resolution Making the Legally Required Findings to Continue to Authorize the Conduct of Remote "Telephonic" Meetings During the State of Emergency
This Resolution was adopted on the Consent Calendar.
Enactment No: RES 4510-2022
- 5D. [22-063](#)** Receive and File 2021 Pavement Management Program Update Report from Nichols Consulting Engineers, Chtd. (NCE)
This Report was accepted on the Consent Calendar.
- 5E. [22-040](#)** Receive and File Minutes of the Public Safety Committee Meeting of July 21,

2021

These Committee Minutes were received and filed on the Consent Calendar.

5F. [22-059](#) Approve Minutes of January 24, 2022

These Minutes were approved on the Consent Calendar.

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

7. PUBLIC HEARING

8. CONDUCT OF BUSINESS

8A. [22-069](#) Receive Presentation Regarding Fort Bragg Police Department Biennial Report 2020-2021

Captain O'Neal presented the Fort Bragg Police Department Biennial Report. Chief Naulty thanked staff, City Council and the Mayor for the assistance, support and resources to successfully operate the department.

Public Comment was received from Jacob Patterson, Andrew Jordan, LimaSierra Wooten and Mary Rose Kaczorowski.

Discussion: All Councilmembers expressed appreciation to the Captain for a thorough presentation and to the Police Department in general for bringing these important issues to the Council's attention.

Mayor Norvell recessed the meeting at 7:55 PM; the meeting reconvened at 8:02 PM.

A motion was made by Mayor Norvell, seconded by Vice Mayor Morsell-Haye, that this Report be received and filed. The motion carried by the following vote:

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

8B. [22-066](#) Receive Council Report on Actions Following Adoption of Interim Urgency Ordinance Placing a Four Month Moratorium on the Approval of Applications for Cannabis Dispensaries in the Inland Zoning Area

Assistant Director Engineering O'Neal presented the report on this agenda item.

Public Comment was received from Andrew Jordan, Shelley Green, Brandy Moulton and Jacob Patterson.

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

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

8C. [22-057](#) Receive Report and Consider Adoption of City Council Resolution Authorizing City Manager to Execute Contract Amendment for the Design of the 2022 Streets Rehabilitation Project, City Project No. PWP-00120, Increasing the Amount of the Design Contract with R.E.Y. Engineers, Inc., by a Not To

Exceed Amount of \$82,000 (Account No. 421-4870-0731)

Assistant Director Engineering O'Neal summarized the staff report on this agenda item. Public Comment was received from Shelley Green and Andrew Jordan.

Discussion: After a brief discussion on the dig-once policy, the Council consensus was to approve the contract amendment as outlined in the resolution.

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

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

Enactment No: RES 4511-2022

9. CLOSED SESSION

Mayor Norvell recessed the meeting at 8:52 PM; the meeting reconvened to Closed Session at 8:57 PM.

9A. [22-070](#) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Pursuant to Paragraph (1) of Subdivision (d) of Government Code Section 54956.9; Name of Case: City of Fort Bragg vs. Mendocino Railway and Does 1-10, Case No.: 21CV00850, Superior Court of the State of California, County of Mendocino

9B. [22-071](#) CONFERENCE WITH REAL PROPERTY NEGOTIATORS, Pursuant to Government Code Section 54956.8: Real Property: 20100 Hanson Road, APN 019-050-13-00, APN 019-620-02-00; Agency Negotiator, David Spaur, City Manager; Negotiating Party, Robert Boddy; Under Negotiation, Terms of Acquisition, Price

Mayor Norvell reconvened the meeting to Open Session at 9:29 PM and reported that no reportable action had been taken on Closed Session items.

ADJOURNMENT

Mayor Norvell adjourned the meeting at 9:29 PM.

BERNIE NORVELL, MAYOR

June Lemos, MMC, City Clerk

IMAGED (_____)



City of Fort Bragg

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

Text File

File Number: 22-062

Agenda Date: 2/28/2022

Version: 1

Status: Public Hearing

In Control: City Council

File Type: Resolution

Agenda Number: 7A.

Conduct Public Hearing, Receive Report, and Consider Adoption of City Council Resolution Vacating the Adoption of the Mitigated Negative Declaration with Mitigation Monitoring and Reporting Plan, and Vacating the Approval of Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street



AGENCY: City Council
MEETING DATE: February 28, 2022
DEPARTMENT: Community Development
PRESENTED BY: Heather Gurewitz
EMAIL ADDRESS: hgurewitz@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Conduct Public Hearing, Receive Report, and Consider Adoption of City Council Resolution to Vacate the Adoption of the Mitigated Negative Declaration with Mitigation Monitoring and Reporting Plan, Approval of Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street

ISSUE:

BRR Architecture (Applicant), submitted an application for a Coastal Development Permit, Design Review and Parcel Merger to construct the Grocery Outlet project, which includes demolition of an existing vacant 16,436 square foot office building and associated parking lot and the construction and operation of a 16,157 square foot, one-story retail store with a 55-space parking lot and associated improvements and infrastructure.

Pursuant to Section 15074 of the California Environmental Quality Act (CEQA) Guidelines, a Mitigated Negative Declaration (MND) was prepared for the Coastal Development Permit, Design Review Permit and Parcel Merger for the Grocery Outlet proposed on Assessor Parcel Numbers: 018-120-47, 018-120-48, and 018-120-49.

The Planning Commission held a public hearing on May 26, 2021 and continued the meeting to June 9, 2021. At the June 9th meeting, the Planning Commission adopted Resolution PC 08-2021 to approve Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 and the Mitigated Negative Declaration for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street.

The project was appealed by Leslie Kashiwada and by Ken Armstrong and Fort Bragg Local Business Matters.

On July 26, 2022, the City Council adopted Resolution No. 4424-2021 to uphold the Planning Commission's approval of Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 and adoption of the Mitigated Negative Declaration for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street.

A lawsuit was filed by Leslie Kashiwada and Fort Bragg Local Business Matters on August 24, 2021 challenging the City's adoption of the MND and the related approvals, arguing that an Environmental Impact Report (EIR) was required for the project under CEQA.

On February 2, 2022, Best Development Group (Best), the Project Applicant, sent a letter to the City requesting that the City Council vacate the approval of Coastal Development Permit

8-19, Design Review 1-19, Parcel Merger 1-19, and adoption of the MND so that Best can submit a new application for the Project based upon an EIR prepared by the City.

The letter from Best stated that “given the small size of the Project and its minimal environmental effects, a spirited legal defense of the MND could be mounted,” but added that “any such effort could consume as much as three years or more, given how slowly the California court system moves,” and concluded that, for this reason, “the better and more prudent course of action will be to have the City prepare an EIR and put the Planning Commission and, if need be, the City Council back into a position to consider the Project anew based on such an EIR.”

ANALYSIS:

While staff believes that the Mitigated Negative Declaration was an appropriate document for the project and that an Environmental Impact Report is not necessary, we understand the applicant’s desire to proceed with the project in a timely manner and there is nothing that prevents the City from agreeing to the process at the applicant’s request. However, staff believes that the revocation of these permissions and the preparation of an EIR for this project should not set a precedent for future projects of similar scope and size as the document prepared was appropriate.

RECOMMENDED ACTION:

Given the prospect of extended litigation over the MND, staff recommends that the City Council honor the project applicant’s request that the earlier City Council actions adopting the MND and approving the Project be vacated, so that an EIR can be prepared.

ALTERNATIVE ACTION(S):

City Council can decide not to vacate existing permissions.

FISCAL IMPACT:

All project costs including litigation are borne by the applicant, so there is no fiscal impact.

GREENHOUSE GAS EMISSIONS IMPACT:

N/A

CONSISTENCY:

The revocation of the approvals is consistent with the City’s General Plan and does not conflict with any specific plans.

IMPLEMENTATION/TIMEFRAMES:

Action will be effective immediately and is not appealable to the California Coastal Commission.

ATTACHMENTS:

1. Letter from Remy Moose, and Manley on behalf of the Applicant
2. Draft Resolution Vacating the Project Approvals
3. Public Hearing Notice

NOTIFICATION:

1. Terry Johnson, Best Development Group
2. Leslie Kashiwada
3. Ken Armstrong and Fort Bragg Local Business Matters



REMY | MOOSE | MANLEY

LLP

James G. Moose
jmoose@rmmenvirolaw.com

February 2, 2022

Sent via Email and US Mail

City Council of City of Fort Bragg
Fort Bragg City Hall
416 N. Franklin St.
Fort Bragg, CA 95437
citycouncil@fortbragg.com

Re: Grocery Outlet Project on South Franklin Street

Dear Honorable City Council members,

On behalf of the Best Development Group (Best), I am writing to respectfully request that the City Council act at its earliest convenience to vacate its July 26, 2021, actions approving the Grocery Outlet project (the Project) at 825 South Franklin Street. In particular, Best asks the City Council to vacate its actions adopting a Mitigated Negative Declaration (MND) for the Project and approving Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19.

These City actions were challenged in court in *FB Local Business Matters & Leslie Kashiwada v. City of Fort Bragg* (Mendocino County Superior Court Case No. 21CV00652). In that lawsuit, filed in August 2021, the petitioners argue that the City acted improperly by adopting the MND for the Project, and that the City should have prepared an environmental impact report (EIR) instead. Although Best believes that, given the small size of the Project and its minimal environmental effects, a spirited legal defense of the MND could be mounted, any such effort could consume as much as three years or more, given how slowly the California court system moves. Best has therefore concluded that the better and more prudent course of action will be to have the City prepare an EIR and put the Planning Commission and, if need be, the City Council back into a position to consider the Project anew based on such an EIR.

If the City Council grants our request to vacate its prior actions adopting the MND and approving the Project, we will immediately request that the petitioners dismiss their lawsuit as moot. If, for reasons that I cannot imagine, they do not cooperate in bringing about the

procedural outcome they are seeking, we will file a motion with the court requesting dismissal of the lawsuit as moot. In a spirit of full transparency, I have notified petitioners' counsel that we would be making these requests, and I will be sending him a copy of this letter.

We hope that, given the small size of the Project and the fact that much detailed analysis of its environmental impacts already exists, an EIR can be completed relatively quickly. We also hope that, given the fact that the Project has already gone through an extensive public process, the City will give priority to completing an EIR and scheduling another hearing on the Project before the Planning Commission.

Since the litigation was filed, I have worked with City Attorney Keith Collins and his partner Krista MacNevin Jee, whose efforts the people at Best and I have much appreciated. Mr. Collins and Ms. Jee are aware that Best would be making these requests.

Thank you in advance for your consideration of our requests and, assuming you agree with them, for the City's future efforts to complete an EIR on a timely basis and to schedule a public hearing on the Project before the Planning Commission. Although we understand that the Planning Commission, and possibly the City Council, must review the EIR and consider the Project anew with open minds, we are hopeful that the City's land use decision-making bodies will approve the Project when it comes around again, so that Best and Grocery Outlet can bring the benefits of affordable high-quality food and other grocery products to your community. We remember well the support the community support the Project engendered the first time around, particularly from individuals with limited incomes.

Sincerely,



James G. Moose

Fort Bragg Planning Commission
David Spaur, Interim City Manager
June Lemos, City Clerk (by email)
Keith Collins, City Attorney (by email)
Heather Gurewitz, Community Development Department
Carl Best, Best Property Group (by email)
Terry Johnson, Best Property Group (by email)
Mark Wolfe (by email)

RESOLUTION NO. ____-2022

RESOLUTION OF THE FORT BRAGG CITY COUNCIL VACATING THE ADOPTION OF THE MITIGATED NEGATIVE DECLARATION AND APPROVAL OF THE ASSOCIATED MITIGATION MONITORING AND REPORTING PLAN, COASTAL DEVELOPMENT PERMIT 8-19, DESIGN REVIEW 1-19, AND PARCEL MERGER 1-19 FOR THE GROCERY OUTLET PROJECT AT 825, 845, AND 851 S. FRANKLIN STREET

WHEREAS, BRR Architecture submitted an application for a Coastal Development Permit, Design Review and Parcel Merger to construct the Grocery Outlet project (Project), which includes demolition of an existing vacant 16,436 square foot office building and associated parking lot and the construction and operation of a 16,157 square foot, one-story retail store with a 55-space parking lot and associated improvements and infrastructure; and

WHEREAS, the Planning Commission held a duly noticed public hearing on May 26, 2021, to consider the Project, took public testimony, and continued the matter to a date certain of June 9, 2021; and

WHEREAS, on June 9, 2021, the Planning Commission heard additional testimony; and

WHEREAS, pursuant to Section 15074 of the California Environmental Quality Act (CEQA) Guidelines, a Mitigated Negative Declaration (MND) was prepared for the Coastal Development Permit, Design Review Permit and Parcel Merger for the Grocery Outlet proposed on Assessor Parcel Numbers: 018-120-47, 018-120-48, and 018-120-49; and

WHEREAS, on June 9, 2021, the Planning Commission adopted Resolution PC 08-2021 to approve Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 and to adopt the MND for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street; and

WHEREAS, the Coastal Land Use and Development Code Chapter 17.92 establishes procedures for the appeal and review of determinations of the Planning Commission to be considered by City Council; and

WHEREAS, Leslie Kashiwada filed a timely appeal with the City Clerk on June 15, 2021; and

WHEREAS, Ken Armstrong and Fort Bragg Local Business Matters filed a timely appeal with the City Clerk on June 17, 2021; and

WHEREAS, the City Council opened the public hearing on said appeals that was properly noticed in all respects on July 12, 2021 and continued the matter to July 26, 2021; and

WHEREAS, at said public hearing, a staff report was presented and the appellant(s), the Project Applicant, and the public offered testimony to be considered by City Council; and

WHEREAS, on July 26, 2021, the City Council adopted Resolution No. 4424-2021 to uphold the Planning Commission's approval of Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 and adoption of the MND for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street; and

WHEREAS, a lawsuit was filed by Leslie Kashiwada and Fort Bragg Local Business Matters on August 24, 2021 challenging the City's adoption of the MND and the related approvals, arguing that an Environmental Impact Report (EIR) was required for the project under CEQA; and

WHEREAS, sections 17.76.080 and 17.98.070(E) of the City's Coastal Land Use and Development Code provide that changes/revocations of an approved project can be made upon written request from the applicant and a noticed public hearing; and

WHEREAS, on February 2, 2022, Best Development Group (Best), the Project Applicant, sent a letter to the City requesting that the City Council vacate the approval of Coastal Development Permit 8-19, Design Review 1-19, Parcel Merger 1-19, and adoption of the MND so that Best can submit a new application for the Project based upon an EIR prepared by the City; and

WHEREAS, the letter from Best stated that "given the small size of the Project and its minimal environmental effects, a spirited legal defense of the MND could be mounted," but added that "any such effort could consume as much as three years or more, given how slowly the California court system moves," and concluded that, for this reason, "the better and more prudent course of action will be to have the City prepare an EIR and put the Planning Commission and, if need be, the City Council back into a position to consider the Project anew based on such an EIR"; and

WHEREAS, given the prospect of extended litigation over the MND, the City Council is willing to honor the project applicant's request that the earlier City Council actions adopting the MND and approving the Project be vacated, so that an EIR can be prepared.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg, based on the entirety of the record before it and finding that the circumstances surrounding the adoption of Resolution No. 4424-2021 have changed such that vacation/revocation is necessary, does hereby vacate Resolution No. 4424-2021 in its

entirety, including the approval of Coastal Development Permit 8-19, Design Review 1-19, Parcel Merger 1-19, and the adoption of the Mitigated Negative Declaration.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon its passage and adoption.

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 28th day of February, 2022, by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk



CITY OF FORT BRAGG

Incorporated August 5, 1889

416 N. Franklin Street, Fort Bragg, CA 95437

Phone: (707) 961-2827 Fax: (707) 961-2802

<https://city.fortbragg.com/>

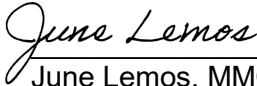
**NOTICE OF PUBLIC HEARING
TO VACATE APPROVAL OF PERMITS**

NOTICE IS HEREBY GIVEN that the Fort Bragg City Council will hold a public hearing at a regular meeting on **Monday, February 28, 2022, at 6:00 PM**, or as soon thereafter as the matter may be heard. Due to state and county health orders and to minimize the spread of COVID-19, City Councilmembers and staff will be participating in the public hearing by video conference. A link to the meeting will be listed on the first page of the agenda. The public hearing will concern the following item:

ACTION:	The City Council will consider vacating Coastal Development Permit 8-19 (CDP 8-19), Design Review 1-19 (DR 1-19), Lot Merger 1-19 (MGR 1-19) and adoption of the Mitigated Negative Declaration
APPLICANT/AGENT:	BRR Architecture / Best Development
PROJECT DESCRIPTION:	Vacate the approvals for the Coastal Development Permit, Design Review and Notice of Merger to construct a Grocery Outlet Market (retail store) and the associated Mitigated Negative Declaration
PROJECT LOCATION:	825, 845, & 851 S. Franklin Street
APN:	018-120-47, -48, & -49

The hearing will be opened for public participation. All interested persons are invited to appear at that time to present their comments. The public comment period runs from the date this notice is published until the date of the hearing to allow sufficient time for submission of comments by mail. Written communications must be directed to the City Clerk, 416 N. Franklin Street, Fort Bragg, CA 95437, or emailed to jlemos@fortbragg.com, and received no later than the meeting date. At the conclusion of the public hearing, the City Council will consider a decision on the above permit.

Appeal process: Decisions of the City Council shall be final. If you challenge the above case in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk at, or prior to, the public hearing.



June Lemos, MMC
City Clerk

POSTING/MAILING DATE: On or Before February 17, 2022
PUBLICATION DATE: February 17, 2022

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 notice to be posted in the City Hall Notice case on February 17, 2022.

June Lemos

June Lemos, MMC
City Clerk

cc: Property owners within 300' radius/Residents within 100' radius
Planning Commission
Coastal Commission
Owner/Applicant/Agent
Public Hearing Notify Me Subscribers



CIUDAD DE FORT BRAGG

Incorporada el 5 de agosto 1889

416 N. Franklin Street, Fort Bragg, CA 95437

Telefono: (707) 961-2827 Fax: (707) 961-2802

<https://city.fortbragg.com/>

AVISO DE AUDIENCIA PÚBLICA PARA ANULAR LA APROBACIÓN DE PERMISOS

POR LA PRESENTE SE NOTIFICA que el Concejo Municipal de Fort Bragg llevará a cabo una audiencia pública en una reunión ordinaria **el lunes 28 de febrero 2022 a las 6:00 pm**, o tan pronto como se escuche el asunto. Debido a las órdenes de salud estatales y del condado y para minimizar la propagación de COVID-19, los miembros del Concejo Municipal y el personal participarán en la audiencia pública por videoconferencia. Se incluirá un enlace a la reunión en la primera página de la agenda. La audiencia pública se referirá al siguiente punto:

ACCIÓN: El Concejo Municipal considerará desocupar el Permiso de Desarrollo Costero 8 19 (CDP 8-19), Revisión de Diseño 1-19 (DR 1-19), Fusión de Lote 1-19 (MGR 1-19) y adopción de la Declaración Negativa Mitigada

SOLICITANTE/AGENTE: BRR Architecture / Best Development


DESCRIPCIÓN DEL PROYECTO: Anular las aprobaciones para el Permiso de Desarrollo Costero, Revisión de Diseño y Aviso de Fusión para construir un Mercado de Tiendas de Comestibles (tienda minorista) y la Declaración Negativa Mitigada asociada

UBICACIÓN DEL PROYECTO: 825, 845 y 851 S. Franklin Street

APN: 018-120-47, -48 y -49

La audiencia estará abierta a la participación pública. Se invita a todas las personas interesadas a presentarse en ese momento para presentar sus comentarios. El período de comentarios públicos se extiende desde la fecha de publicación de este aviso hasta la fecha de la audiencia para permitir el tiempo suficiente para la presentación de comentarios por correo. Las comunicaciones por escrito deben dirigirse al Secretario de la Ciudad, 416 N. Franklin Street, Fort Bragg, CA 95437, o enviarse por correo electrónico a jlemons@fortbragg.com, y recibirse a más tardar en la fecha de la reunión. Al concluir la audiencia pública, el Concejo Municipal considerará una decisión sobre el permiso anterior.

Proceso de apelación: Las decisiones del Concejo Municipal serán definitivas. Si impugna el caso anterior en el tribunal, es posible que se limite a plantear solo los problemas que usted u otra persona plantearon en la audiencia pública descrita en este aviso o en la correspondencia escrita entregada al Secretario Municipal en la audiencia pública o antes de ella.


June Lemos, MMC
Secretaria de Ciudad

FECHA DE PUBLICACIÓN / ENVÍO: En o antes del 17 de febrero 2022
FECHA DE PUBLICACIÓN: 17 de febrero 2022

ESTADO DE CALIFORNIA)
) ss.
CONDADO DE MENDOCINO)

Declaro bajo pena de perjurio, que soy empleado de la Ciudad de Fort Bragg y que hice que este aviso se publicara en la Vitrina de Avisos del Ayuntamiento el 17 de febrero 2022.

June Lemos

June Lemos, MMC
Secretaria de Ciudad

cc: Propietarios dentro de un radio de 300 pies / Residentes dentro de un radio de 100 pies
Comisión de planificación
Comisión Costera
Propietario / Solicitante / Agente
Suscriptores de Audiencias Públicas

Dear City Council members,

I am in favor of approving item 7A. 22-062 Conduct Public Hearing, Receive Report, and Consider Adoption of City Council Resolution Vacating the Adoption of the Mitigated Negative Declaration (MND) with Mitigation Monitoring and Reporting Plan, and Vacating the Approval of Coastal Development Permit 8-19, Design Review 1-19, and Parcel Merger 1-19 for the Grocery Outlet Project at 825, 845, and 851 S. Franklin Street.

As you might recall the Grocery Outlet Bargain Market MND project totaled over 1,000 pages of public comments in support/not in support, petitions from both sides, charts, graphs, articles, in person comments, etc. and was discussed by the Planning Commission on May 26, 2021 and June 9, 2021. The project was approved and then appealed by Leslie Kashiwada, and Ken Armstrong and Fort Bragg Local Business Matters.

On July 26, 2022, the City Council upheld the Planning Commission's approval.

A lawsuit was filed by Leslie Kashiwada and Fort Bragg Local Business Matters on August 24, 2021 challenging the City's adoption of the MND and the related approvals, arguing that an Environmental Impact Report (EIR) was required for the project under CEQA.

Many community members among them Leslie Kashiwada PhD, Edward Oberweiser, Mikael Blaidsdell, attorney Jacob Patterson, Kyra Rice, Ken Armstrong, Michele Herrick, Evan S. Dick (next door neighbor), Mary Rose Kaczorowski, myself, and the Department of Fish & Wildlife commented that only an EIR will analyze the cumulative (as well as direct) impacts of the project (including the project as a whole) on the environment and protected resource.

It is hard to understand that after the issue with the development to accommodate the Grocery Outlet mall at the Hare Creek site which resulted in an EIR after community members appealed the MND, the city went ahead and hired an out of town incompetent environmental company and was ok with their faulty MND.

When will the city get some serious CEQA trainings along with the Planning Commission and the City Council?

Why should private citizens have to carry the financial burden and time intensive labor to appeal a faulty MND and carry the burden to hire a lawyer?

Why do big franchise businesses think they can get away with an MND and not have to do an EIR?

I understand that on February 2, 2022, Best Development Group (Best), the Project Applicant, sent a letter to the City requesting that the City Council vacate the approval of the MND so that Best can submit a new application for the Project based upon an EIR prepared by the City.

Sincerely, Annemarie Weibel
2-28-2022

Lemos, June

From: Leslie Kashiwada <kashiwa@mcn.org>
Sent: Monday, February 28, 2022 4:41 PM
To: Lemos, June
Subject: Agenda Item 7A

Hi June,

I'm not sure I will be able to attend the meeting tonight. I'd like to submit the following comment for Agenda Item 7A:

From: Leslie Kashiwada

Re: Agenda Item 7A on Feb 28, 2022

I was intrigued to find out that Best Development Group (BDG) requested the City vacate their prior approvals for the Grocery Outlet Project on South Franklin Street. I was particularly amused to read the letter from BDG, where they expressed the conviction that they could mount a "spirited legal defense of the MND" given the small size of the project and its minimal environmental effects.

It's important to remember that this project is not small in relation to our community, and that significant impacts were found (and that other impacts were ignored). An EIR is not just a matter of adding a few paragraphs to a pre-existing MND. All the prior concerns of the public and all the mitigations imposed by the Planning Commission must be addressed. Multiple alternatives must be provided with more than just a perfunctory statement that a given alternative is not viable. It is perfectly appropriate to state that the cost of a given alternative might be too high to make the project financially viable, but that does not invalidate that alternative.

The letter implies that the City will complete the EIR, and I assume BDG will pay the costs. Regardless of who prepares the EIR, it should include, but not be limited to, the following list of items:

1. **Traffic Study:** A thorough, complete, and up-to-date traffic study, with analysis of the various options for traffic control on Main Street, South Franklin Street, North Harbor Drive, and South Street. Pedestrian safety as well as flow of vehicles must be fully addressed.
2. **New build versus Reuse of Existing Building:** The General Code for the City states that reuse of existing buildings is preferred and encouraged. The similarity in square footage of the Old Social Services Building and the proposed new build requires that a full analysis be done for building reuse. If the existing building is deemed unusable due to mold, then an air quality study should be performed. If the layout of the existing building is not workable, present diagrams showing that the space cannot be reconfigured to meet the needs of the client (Grocery Outlet). Indicate how the existing parking lot might be repurposed for loading and unloading, and for parking.
3. **New building placement and parking lots:** Alternatives for the placement of the new building should be presented and include analysis of parking lot function and pedestrian safety. The Planning Commission specifically asked BDG about building placement and they said it couldn't be changed. However, in the same hearing, BDG went on to say that they did change the placement of a new building in another location because

(drum roll please) the Planning Commission in that town demanded it. As currently proposed, there is far too much interaction between vehicles and customers walking to the entrance of the building. One of the mitigations imposed by the Planning Commission to provide separation between customers walking to the entrance and vehicles coming, going, and driving in the parking lot is not actually possible given the proposed configuration of the parking lot. Therefore, it is essential to provide alternatives for building placement, parking lot placement, and placement of the entrance. In addition, accommodation for employee parking needs to be addressed

4. Noise Study: The MND for this project used data from a previous study done nearby (not as part of this project). Their analysis indicated no significant impact. The analysis done by an expert for FBLBM used the same data to show that there would be significant impact. During the appeal hearing, a statement was made that those data could not be relied on as valid. That means a new study should be done in the actual area of the project.
5. Biological Review: The initial and follow up studies were an embarrassment. The surveys were superficial and included some incorrect species identifications. The timing of the survey for wetland plants was inappropriate. The bat studies, as requested by California Department of Fish and Wildlife were never completed. A time series should be undertaken with in depth surveys of flora and fauna monthly for 1 year (or quarterly at a minimum). The study should include wet as well as dry seasons.
6. Survey for wetland soils: While the methodology appeared appropriate, the area with the greatest likelihood of having wetland soils was studiously avoided. This must be corrected.
7. Retention of Mature Trees: While many of the mature trees on the site are Monterey Cypress (a tree that is not native to the area), these mature trees provide important habitat and should be maintained. The EIR should include analysis of the measures to be taken that will protect not only these trees, but also their root structure.

These are a few of the areas that must be fully addresses in an EIR. Simply repackaging the MND will not be sufficient.



City of Fort Bragg

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

File Number: 22-068

Agenda Date: 2/28/2022

Version: 1

Status: Public Hearing

In Control: City Council

File Type: Ordinance

Agenda Number: 7B.

Conduct Public Hearing, Receive Report and Consider Adoption of Urgency Ordinance
Extending the Temporary Four (4) Month Moratorium on the Approval of Applications and Permits
for Cannabis Dispensaries in the Inland Zoning Areas for an Additional Ten (10) Months



AGENCY: City Council
MEETING DATE: February 28, 2022
DEPARTMENT: CDD/PW
PRESENTED BY: Chantell O'Neal
EMAIL ADDRESS: coneal@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Conduct Public Hearing, Receive Report and Consider Adoption of Urgency Ordinance Extending the Temporary Four (4) Month Moratorium on the Approval of Applications and Permits for Cannabis Dispensaries in the Inland Zoning Areas for an Additional Ten (10) Months

ISSUE:

On September 27, 2021, the City Council unanimously passed Urgency Ordinance #972-2021, placing a 45-day moratorium on the approval of applications and permits for Cannabis Dispensaries in the Inland Zoning Area. The moratorium provided the City Council an opportunity to review and possibly revise the City's current Cannabis Dispensary Ordinance. The two prior applications denied by the Planning Commission for Sunshine Holistic located at 144 N. Franklin Street, raised concerns from Councilmembers, Planning Commissioners and members of the public regarding the City's current ordinance.

City Council met again on October 25, 2021, and issued a report of actions following adoption of the urgency ordinance establishing the 45-day moratorium on approval of Cannabis Dispensaries in the Inland Zoning Area. At the same City Council meeting, the City Council discussed several of the outstanding issues and provided staff direction on revisions to the existing Cannabis Dispensary Ordinance. Direction included establishing a cap or maximum number of dispensaries allowed in the Central Business District (CBD) of three and changing the requirement for a minor use permit to allow the dispensaries by right with an administrative application, a definition of a Youth Center and establishment of a buffer of 100 feet from such designated centers.

At the November 8, 2021 regular City Council meeting, additional topics discussed included siting cannabis dispensaries in relationship to residential neighborhoods, zoning for Cannabis microbusinesses, and the possibility of overlay districts that would control where dispensaries can be located within a specific commercial zoning district. At this same meeting, Council authorized an extension of the moratorium for an additional four (4) months with the adoption of Urgency Ordinance No. 975-2021. Urgency Ordinance No. 975-2021 is set to expire on March 8, 2022.

On December 13, 2021, the Fort Bragg City Council received a report on proposed updates to the Municipal Code Chapter 9.30 Cannabis Businesses and proposed updates to the Inland Land Use and Development Code to revise regulations for Retail Cannabis and Cannabis Microbusinesses. City Council provided direction to staff to move forward with an Initial Study under CEQA review with the proposed ordinance.

On February 14, 2022, City Council received and accepted a Progress report of actions to date to alleviate the conditions leading to the moratorium.

On February 17, 2022 the Initial Study was distributed to the State Clearinghouse. February 23, 2022, the Planning Commission held a duly noticed Public Hearing to consider and recommend the adoption of amendments to Title 18 of the Inland Land Use and Development Code regulating Cannabis Businesses. At the time of this writing, the Planning Commission hearing had not occurred, so a verbal status update will be provided to Council at the meeting in regard to the Planning Commission's progress to date.

In order to complete the review of the Cannabis Dispensary ordinance and provide for time to introduce, and adopt, staff is proposing one final extension of the moratorium for ten (10) months, or until December 28, 2022. Staff anticipates that the City Council will have an opportunity to review and consider revisions to the existing ordinance as soon as April 11, 2022. The City Council may rescind the urgency ordinance extending the moratorium prior to its stated termination.

ANALYSIS:

Urgency Ordinances

Under [California Government Code Section 65858](#), a city or county may adopt an interim ordinance to temporarily prohibit certain land uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the City Council and/or Planning Commission is considering or studying. The temporary prohibition or moratorium provides municipalities time to study the impact of certain activities and develop appropriate regulations, if deemed necessary.

An urgency ordinance may remain in effect for only 45 days, unless it is extended by another four-fifths vote. After notice and a hearing, the City can extend the Ordinance for up to either ten months and 15 days, with the option to extend it once more for an additional one year, or once for 22 months and 15 days. Either option equates to a total moratorium period of up to two years and each requires the four-fifths votes. The City Council may rescind the Urgency Ordinance prior to its stated termination.

Current Cannabis Dispensary Applications

As of writing this staff report, there are three applications in process for Cannabis Dispensaries in the City (in order of receipt):

1. UVH, Inc. DBA Cannavine
Proposed site: 362 N. Franklin St. (CBD)
2. Perfect Union LLC
Proposed Site: 112 S. Main St. (Outside CBD)

3. Sunshine Holistic
Proposed Site: 144 N. Franklin St. (CBD)

Provisional Licensure Deadlines

At the February 14, 2022 Council Meeting, Council received a public comment expressing concerns about the State's upcoming provisional licensure date of March 31, 2022. Staff reached out to the Department of Cannabis Control (DCC) to further understand the pending deadline and determined the following:

1. State law and regulation do state that applications for licensure will only be considered for provisional licensure if received by March 31, 2022 and can only be issued a provisional license if they are completed and approved and license fees are paid no later than June 30, 2022.
2. A provisional license allows someone who already has other cannabis licenses to operate a business while going through the annual license process. The main differences between a provisional license approval and full annual approval is complete CEQA review and full local approval.
3. Applicants should obtain approval from their local jurisdiction prior to applying for State licensure as a State license may not be approved without confirmation from the local jurisdiction that the applicant has approval to conduct the applied for commercial cannabis activity at the location listed on their application.
4. The DCC does not have average processing timeframes, but it is uncommon for an application to remain under review for more than six months unless the local jurisdiction does not respond timely to a request to verify the local status, if the applicant does not satisfy deficiencies in a timely and responsive manner, or if the application is highly complex or has complex CEQA review issues.
5. Applicants can move more smoothly through the annual State licensure process if they complete the local jurisdiction approval process prior to applying, provide full accurate documents upon submission of their application, complete the fingerprinting process with the Department in a timely manner, and remain responsive to Department requests for clarification or additional information/documentation.

RECOMMENDED ACTION(S):

1. Open the Public Hearing, receive staff report, take evidence and public testimony and close the public hearing.
2. Waive reading of the text in its entirety, read by title only, and adopt Ordinance No. 976-2022, "AN UNCODIFIED INTERIM URGENCY MEASURE OF THE CITY COUNCIL OF FORT BRAGG EXTENDING INTERIM ORDINANCE NO. 975-2021 PLACING A MORATORIUM ON THE APPROVAL OF APPLICATIONS AND PERMITS FOR CANNABIS DISPENSARIES IN THE INLAND ZONING AREA."
3. Please note, that a four-fifths vote is required for adoption of the Interim Urgency Ordinance.

FISCAL IMPACT:

The impact of extending a temporary moratorium on Cannabis Dispensaries to the City's revenue is likely minimal.

GREENHOUSE GAS EMISSIONS IMPACT:

Adoption of the temporary moratorium on Cannabis Dispensaries will have little impact on greenhouse gas emissions but could slow down development and resulting construction that causes an increase in greenhouse gas emissions.

CONSISTENCY:

The City's current Inland General Plan provides support for regulating cannabis businesses, particularly in the Central Business District.

Policies and Goals from the City's General Plan include:

Goal LU-3 Ensure that the Central Business District remains the historic, civic, cultural, and commercial core of the community.

Policy LU-3.1 Central Business District: *Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).*

Policy LU-3.2 Mixed Uses: *Support mixed use development (i.e., a combination of residential and commercial uses) in the Central Business District that does not conflict with the primary retail function of this area.*

Policy LU-3.4 Encourage Infill Development: *Encourage infill development of vacant and underdeveloped land in the Central Business District and adjacent commercial areas before amending the Inland General Plan and rezoning to obtain additional commercial land elsewhere.*

Policy LU-3.6 Re-Use of Existing Buildings: *Encourage the adaptive re-use and more complete utilization of buildings in the Central Business District and other commercial districts.*

Policy LU-4.3 Standards for Commercial Uses in Residential Areas: *Commercial uses in and adjacent to residential areas shall not adversely affect the primarily residential character of the area.*

Goal C-5 *Regard the quality of life in Fort Bragg and maintaining community identity as more important than accommodating through-traffic.*

Policy C-5.1 Community Priorities for Transportation Improvements: *Place a higher priority on maintaining a sense of place and enhancing the attractiveness of the Central Business District than on efficient traffic flow and movement.*

Policy CD-2.1 Adaptive Reuse: *Facilitate the adaptive reuse of existing older buildings in the Central Business District.*

Policy CD-2.2 Pedestrian Activity: *Encourage increased pedestrian movement and activity in the Central Business District.*

Policy CD-2.3 Economic Vitality: *Continue to support the economic diversity and vitality of downtown businesses.*

Policy CD-2.5 Strengthen the Distinctive Identity of the Central Business District: *Strengthen the distinctive identity and unique sense of place of the Central Business District.*

Policy CD-6.1 Protect and Preserve Buildings and Sites with Historic and Cultural Significance to the Community.

IMPLEMENTATION/TIMEFRAMES:

Urgency Ordinance No. 972-2021 was to remain in effect for 45 days; it was extended by Urgency Ordinance 975-2021 for four (4) months, or until March 8, 2022. On February 14, 2022, City Council issued a written report describing the measures taken to alleviate the condition that led to the adoption, which met the requirements of California Government Code Section 65858(d). After notice and a hearing, the City Council by four-fifths vote can extend this Ordinance a final time for up to an additional one year. Staff is recommending a ten (10) month extension, which will expire on December 28, 2022. The City Council may rescind the Urgency Ordinance prior to its stated termination.

ATTACHMENTS:

1. Proposed Ordinance
2. Report on Measures Taken
3. Public Hearing Notice

NOTIFICATION:

1. Cannabis Legislation, **Notify Me subscriber list**

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN UNCODIFIED INTERIM URGENCY
MEASURE OF THE CITY COUNCIL OF
FORT BRAGG EXTENDING INTERIM
ORDINANCE NO. 975-2021 PLACING A
MORATORIUM ON THE APPROVAL OF
APPLICATIONS AND PERMITS FOR
CANNABIS DISPENSARIES IN THE
INLAND ZONING AREA**

**URGENCY ORDINANCE
NO. 976-2022**

WHEREAS, Government Code section 65858 allows a city to adopt, as an urgency measure, an interim ordinance for the immediate preservation of the public safety, health and welfare without following the procedures otherwise required prior to adoption of a zoning ordinance; and

WHEREAS, the City of Fort Bragg (“City”) previously adopted ordinances governing cannabis businesses, including dispensaries and manufacturing; and

WHEREAS, on November 21, 2019, the City Council of the City of Fort Bragg (“City Council”) adopted Ordinance 953-2019 which established rules and regulations by which cannabis dispensary businesses may be permitted; and

WHEREAS, on January 25, 2021, the City Council conducted a public hearing and considered the appeal of the Fort Bragg Planning Commission denial of Minor Use Permit 4-20 (MUP 4-20) on the proposed Sunshine Holistic Microbusiness at 144 N. Franklin Street. City Council failed to take action by a majority vote, which resulted in upholding the Planning Commission’s denial of MUP 4-20; and

WHEREAS, on September 1, 2021, the City Council conducted a public hearing and considered the appeal of the Fort Bragg Planning Commission denial on Minor Use Permit 1-21 (MUP 1-21) on the proposed Sunshine Holistic Cannabis Dispensary at 144 N. Franklin Street. City Council failed to take action by a majority vote, which resulted in upholding the Planning Commission’s determination that the proposed use was not compatible with the existing and future land uses of that neighborhood and that there was not sufficient evidence that the required noticing of the Minor Use Permit, the Minor Use Permit Administrative Hearing, and the Minor Use Permit Appeal were properly posted at the property; and

WHEREAS, during the appeals of both the Sunshine Holistic Minor Use Permit applications, the City Council, the Planning Commission and members of the public raised concerns about the impact of residential uses located in or near the Central Business District (CBD) where cannabis dispensaries are allowed with an approved Minor Use Permit; concerns over the number of dispensaries allowed in the CBD and whether a maximum number should be set to avoid overconcentration of cannabis dispensaries; and the proximity

of cannabis dispensaries to facilities that could be defined as a “youth center” including the City Hall gymnasium located at 213 East Laurel Street; and

WHEREAS, Chapter 9.30 Cannabis Businesses of the Municipal Code does not define “youth center” nor does the Fort Bragg Inland Land and Use Development Code define “youth center” or address it; therefore, California State law requires a 600-foot separation between youth centers and cannabis storefronts; and

WHEREAS, the City received a completed application for a cannabis dispensary located at 362 N. Franklin Street which is directly across the street from the City Hall gymnasium located at 213 East Laurel Street and within the 600-foot buffer required by California State law; and

WHEREAS, City staff have determined that seventy-nine percent (79%) of the total hours the City Hall gymnasium located at 213 East Laurel Street was rented for activities associated with youth activities but that number fell to nineteen percent (19%) of hours when the gymnasium and City Hall are considered together as a single site. A determination by the City Council that the City hall gymnasium is a “youth center” will impact the City’s ability to permit cannabis dispensary businesses in the Central Business District and uses may be in conflict with a contemplated general plan, specific plan or zoning proposal that the City Council is considering related to cannabis businesses; and

WHEREAS, the City intends to study whether it would be appropriate to amend how the City regulates cannabis dispensaries in the Inland Zoning Areas; and

WHEREAS, the City of Fort Bragg City Council adopted Interim Urgency Ordinance No. 972-2021 on September 27, 2021 by five-fifths (5/5) vote placing a 45-day moratorium on the Approval of Applications and Permits for Cannabis Dispensaries in the Inland Zoning Area; and

WHEREAS, on October 25, 2021, the City Council considered a number of outstanding issues on Cannabis Dispensaries; and

WHEREAS, on October 25, 2021, the City Council issued a report on actions taken to alleviate the conditions that led to the adoption of Ordinance No. 972-2021, placing a 45-day moratorium on the Approval of Applications and Permits for Cannabis Dispensaries in the Inland Zoning Area; and

WHEREAS, On November 8, 2021, the Fort Bragg City Council adopted Urgency Ordinance No. 975-2021 by five-fifths (5/5) vote, effectively extending Interim Ordinance No. 972-2021 for four months, or until March 8, 2022; and

WHEREAS, on November 8, 2021 and December 13, 2021, Council conducted additional review of outstanding issues on Cannabis Dispensaries; and

WHEREAS, on February 14, 2022, the City Council issued a report on actions taken to alleviate the conditions that led to the adoption of Ordinance No. 975-2021; and

WHEREAS, on February 23, 2022, the Planning Commission held a duly noticed Public Hearing to consider and recommend to City Council the adoption of amendments to

Title 18 of the Inland Land Use and Development Code regulating Cannabis Businesses; and

WHEREAS, based on the report, the City Council has determined that the circumstances and conditions that led to the adoption of Interim Urgency Ordinance No. 972-2021 and Urgency Ordinance No. 975-2021, have not been alleviated as of the date of this Urgency Ordinance and continue to create the concerns described in Interim Urgency Ordinance No. 972-2021 and Urgency Ordinance No. 975-2021; and

WHEREAS, the notice and public hearing required by Government Code Section 65858(a) for the extension of Interim Urgency Ordinance No. 975-2021 have been provided in accordance with applicable law; and

WHEREAS, based on the foregoing the City Council finds that approving applications and permits for Cannabis Dispensaries prior to completion of the City’s study may conflict with future amendments to the City’s General Plan, Specific Plan or zoning code.

WHEREAS, all legal prerequisites prior to the adoption of this Ordinance have occurred.

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Findings. The City Council hereby finds as follows:

1. All the recitals, facts, findings, and conclusions set forth above in this Ordinance are true and correct.
2. This Ordinance is not a “project” under the California Environmental Quality Act (CEQA) and is therefore exempt from CEQA review. CEQA defines a “project” as including an activity directly undertaken by a public agency that “may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” (Pub. Res. Code, §21065.) The proposed Ordinance will not do either.

This Ordinance concerns activities intended to preserve the status quo while the City considers further regulation relating to cannabis dispensaries in the Inland Zoning Areas, and does not constitute a “project” as defined by CEQA and will not result in a direct or reasonably foreseeable indirect physical change in the environment pending the review of overconcentration issues (Pub. Res. Code, §21065, CEQA Guidelines §§15060(c)(2)(3); 15061(b)(3); 15064(d)(3); and 15378(a).).

3. The establishment and expansion of cannabis dispensaries in the Inland Zoning Area has created a current and immediate threat to public health, safety, and welfare because cannabis dispensaries may be located directly adjacent to residential uses, creating a potential for conflict between incompatible and potentially unsafe adjacent land uses. Cannabis dispensaries located within 600 feet of facilities that are defined as a “youth center” conflict with State law and create a potential hazard to the health, safety and welfare of minor children.
4. The future establishment and expansion of cannabis dispensaries and production in the Inland Zoning Area allowed with a Minor Use Permit (MUP) would further threaten public health, safety, and welfare in the Inland Zoning Area.

5. The City intends to study whether it would be appropriate to amend how the City regulates cannabis dispensaries in the Inland Zoning Area.
6. This ordinance is intended to protect the public health, safety, and welfare by prohibiting the establishment of any new cannabis dispensary use with an MUP or expansion or modification of those uses while the City studies and enacts new land use regulations. The continued establishment, expansion, and modification of these uses during this process would defeat the City Council's objectives in studying and potentially adopting new regulations governing these uses in the area.
7. Approval of cannabis dispensary uses may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, Planning Commission or the planning department is considering or studying or intends to study within a reasonable time.
8. This ordinance promotes the public health, safety, convenience, and welfare of the City.

Section 2: Moratorium on Cannabis Dispensaries. The City of Fort Bragg extends the declared moratorium to establish a cannabis dispensary on any parcel, which is, in whole or in part, in the Inland Zoning Area for ten months through December 28, 2022. However, the City will continue to accept and process applications for such businesses.

Section 3: Inconsistencies. Any provision of the City of Fort Bragg Municipal Code thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further is hereby repealed or modified to that extent necessary to affect the provisions of this Ordinance.

Section 4: Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, state, or federal law, regulation, or codes dealing with life safety factors.

Section 5: Uncodified Ordinance. This Ordinance is to be uncodified.

Section 6: Immediately Effective. This Ordinance shall become effective February 28, 2022 and shall remain in effect for ten months through December 28, 2022, unless prematurely terminated.

Section 7: Certification. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted or published in the manner as required by law.

The foregoing Urgency Ordinance was introduced by Councilmember _____ and adopted by no less than the required 4/5 vote at a regular meeting of the City Council of the City of Fort Bragg held on February 28, 2022 by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, MMC
City Clerk

PUBLISH DATE: March 10, 2022
EFFECTIVE DATE: February 28, 2022



CITY OF FORT BRAGG

416 N. FRANKLIN, FORT BRAGG, CA 95437
PHONE 707/961-2823 FAX 707/961-2802

**REPORT ON MEASURES TAKEN TO ALLEVIATE THE CONDITIONS THAT LED TO
THE ADOPTION OF ORDINANCE NO. 972-2021 AND ORDINANCE NO. 975-2021,
AN UNCODIFIED URGENCY ORDINANCE ESTABLISHING A MORATORIUM ON
APPROVAL OF APPLICATIONS AND PERMITS FOR CANNABIS DISPENSARIES
IN THE INLAND ZONING AREA**

MEETING DATE: FEBRUARY 14, 2022
TO: GENERAL PUBLIC
**FROM: MAYOR AND CITY COUNCIL MEMBERS OF THE CITY
OF FORT BRAGG**

On September 27, 2021, the Fort Bragg City Council adopted Urgency Ordinance No. 972-2021 that placed a 45-day moratorium on the approval of applications and permits for cannabis dispensaries in the City's Inland Zoning Area. The moratorium was established to allow the City the opportunity to study and possibly revise the existing cannabis dispensary ordinance regulations in order to address the unique health, safety and welfare impacts of such businesses.

On October 25, 2021, Council received and filed a City Council Report of Actions and provided further direction on six (6) staff reports for various sections of the draft ordinance. Council provided recommendations to amend the Inland Land Use and Development Code regulations for Cannabis Dispensary Businesses regarding buffer zones, proximity to residences, limitation on permits, zoning tables, microbusinesses, and commercial cultivation of cannabis.

On November 8, 2021, the Fort Bragg City Council adopted Urgency Ordinance No. 975-2021, effectively extending Interim Ordinance No. 972-2021 for four months, or until March 8, 2022. Also on November 8, 2021, Council conducted a review of Article 4 of the Land Use Code and clarified direction on the proposed zoning for Cannabis Microbusinesses.

On December 13, 2021, the Fort Bragg City Council received a report on proposed updates to the Municipal Code Chapter 9.30 Cannabis Businesses and proposed updates to the Inland Land Use and Development Code to revise regulations for Retail Cannabis and Cannabis Microbusinesses. City Council provided direction to staff to move forward with an Initial Study under CEQA review with the proposed ordinance.

Ordinance No. 972-2021 and Ordinance No. 975-2021 were adopted pursuant to California Government Code Section 65858 and provide that the current moratorium shall expire on March 8, 2022, unless the ordinance is extended by the Fort Bragg City Council after additional notice and a public hearing.

The noticed public hearing will be held on February 28, 2022, and the Fort Bragg City Council will be asked to consider extending the interim moratorium by adopting a new ordinance, as authorized by Government Code Section 65858. Staff will recommend one final extension of the moratorium for a period of ten (10) months to one (1) year, as provided for in Government Code Section 65858. However, completion of and possible adoption of the revised Cannabis Dispensary Ordinance may take less time. In which case, staff will request that the City Council terminate the temporary moratorium prior to its expiration date.

California Government Code Section 65858(d) requires that at least ten (10) days prior to the expiration (March 8, 2022) of the moratorium or any extension, the City Council issue a written report describing the measures taken to alleviate the conditions which led to the adoption of the ordinance. This memo serves as the required report.

Since the adoption of the moratorium, the Community Development Department staff has researched options and possible revisions that can address the possible health, safety and welfare impacts of Cannabis Dispensaries on the City and will complete the draft Initial Study on or before February 18th. A Public Hearing by the Fort Bragg Planning Commission is scheduled for February 23, 2022, to review the proposed Cannabis Dispensary Ordinance and discuss possible revisions and/or additions. The Cannabis Dispensary Ordinance will be brought to City Council at a regularly scheduled meeting following Planning Commissions' recommendation for approval.

As set forth above, staff continues to work diligently on addressing the health, safety and welfare impacts of Cannabis Dispensaries' locations and operations but the work is not complete. Staff anticipates that the City Council will have an opportunity to review and consider revisions to the existing ordinance by March 31, 2022 and consider adoption in mid-April.

Respectfully submitted,

Mayor, Vice Mayor and City Council
Fort Bragg, California



CITY OF FORT BRAGG

Incorporated August 5, 1889
416 N. Franklin St.
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Fort Bragg City Council will consider the following matter at a Public Hearing to be held at 6:00 p.m., or as soon thereafter as the matter may be heard, on **Monday, February 28, 2022**. Due to state and county health orders and recommendations, and to minimize the spread of COVID-19, City Councilmembers and staff will be participating in the public hearing by video conference. A link to the meeting will be listed on the first page of the agenda.

The agenda item to be discussed is:

Receive report, conduct public hearing, and consider an additional Interim Urgency Ordinance extending Urgency Ordinance No. 975-2021 entitled, “An Uncodified Urgency Ordinance Extending Interim Ordinance No. 972-2021 Placing a Moratorium on Approval of Applications and Permits for Cannabis Dispensaries in the Inland Zoning Area.”

Urgency Ordinance No. 975-2021 shall expire four months after its adoption, or March 8, 2022. If adopted, said Interim Urgency Ordinance will extend the moratorium on the approval of applications and permits for Cannabis Dispensary Businesses in the Inland Zoning Area of Fort Bragg, as permitted by law. Pursuant to Government Code Section 65858, the report on the efforts taken to alleviate the conditions for adoption of the interim ordinance is set forth in the staff report to the City Council dated February 14, 2022. Extension of the existing urgency ordinance will facilitate continued study of and development of revisions to the Cannabis Dispensary Ordinance and will facilitate the possible orderly adoption of zoning code amendments.

The hearing will be opened for public participation. All interested persons are invited to appear at that time to present their comments virtually using the Zoom information provided at the time of agenda publication. The public comment period runs from the date this notice is published until the date of the hearing to allow sufficient time for submission of comments by mail.

The proposed ordinance is available for review and/or copying during normal office hours at Fort Bragg City Hall, 416 North Franklin Street, Fort Bragg, California. The Agenda Item Summary and supporting documents that will be considered by Councilmembers will be available for review after publication of the agenda packet at Fort Bragg City Hall and also on the City's website: www.city.fortbragg.com.



CIUDAD DE FORT BRAGG

Incorporada el 5 de agosto 1889

416 N. Franklin Street, Fort Bragg, CA 95437

Teléfono: (707) 961-2827 Fax: (707) 961-2802

<https://city.fortbragg.com/>

AVISO DE AUDIENCIA PÚBLICA

POR LA PRESENTE SE NOTIFICA que el Concejo Municipal de Fort Bragg considerará el siguiente asunto en una Audiencia Pública que se llevará a cabo a las 6:00 p. m., o tan pronto como se escuche el asunto, **el lunes 28 de febrero 2022**. Debido a las órdenes y recomendaciones de salud estatales y del condado, y para minimizar la propagación de COVID-19, los miembros del Concejo Municipal y el personal de La Ciudad participarán en la audiencia pública por videoconferencia. Se incluirá un enlace a la reunión en la primera página de la agenda.

El punto de orden a tratar es:

Recibir el informe, realizar una audiencia pública y considerar una Ordenanza de Urgencia Temporal adicional que extienda la Ordenanza de Urgencia No. 975-2021 titulada, “Una Ordenanza de Urgencia No Codificada que Extiende la Ordenanza Interina No. 972-2021 que impone una Moratoria en la Aprobación de Solicitudes y Permisos para Dispensarios de Cannabis en el Área de Zonificación Interior.”


La Ordenanza de Urgencia No. 975-2021 vencerá cuatro meses después de su adopción, o el 8 de marzo 2022. Si se adopta, dicha Ordenanza de Urgencia Temporal extenderá la moratoria sobre la aprobación de solicitudes y permisos para Negocios de Dispensarios de Cannabis en el Área de Zonificación Interior de Fort Bragg según lo permita la ley. De conformidad con la Sección 65858 del Código de Gobierno, el informe sobre los esfuerzos realizados para aliviar las condiciones para la adopción de la ordenanza interina se establece en el informe del personal al Concejo Municipal con fecha del 14 de febrero 2022. La extensión de la ordenanza de urgencia existente facilitará la continuación del estudio y desarrollo de revisiones a la Ordenanza de Dispensarios de Cannabis y facilitará la posible adopción ordenada de enmiendas al código de zonificación.

La audiencia estará abierta para la participación pública. Se invita a todas las personas interesadas a presentarse en ese momento para presentar sus comentarios de manera virtual utilizando la información de Zoom proporcionada al momento de la publicación de la agenda. El período de comentarios públicos se extiende desde la fecha de publicación de este aviso hasta la fecha de la audiencia para permitir el tiempo suficiente para la presentación de comentarios por correo.

La ordenanza propuesta está disponible para su revisión y/o copia durante el horario normal de oficina en el Ayuntamiento de Fort Bragg, 416 North Franklin Street, Fort Bragg, California. El resumen del tema de la agenda y los documentos de respaldo que serán considerados por los miembros del consejo estarán disponibles para su revisión después de la publicación del paquete de la agenda en el ayuntamiento de Fort Bragg, y también en el sitio web de la ciudad: www.city.fortbragg.com.

Las comunicaciones por escrito deben recibirse a más tardar la fecha de la reunión. Al concluir la audiencia pública, el Ayuntamiento de Fort Bragg considerará la decisión de adoptar la ordenanza.

FECHA DE PUBLICACIÓN/
ENVÍO: 8 de febrero 2022

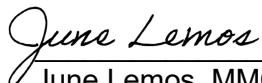


June Lemos, MMC
Secretaria de Ciudad

FECHA DE PUBLICACIÓN: 17 de febrero 2022

ESTADO DE CALIFORNIA)
) ss.
CONDADO DE MENDOCINO)

Declaro, bajo pena de perjurio, que soy empleada de la Ciudad de Fort Bragg en el Departamento de Servicios Administrativos y hice que este Aviso se publicara en el demostrador de avisos del Ayuntamiento el 17 de febrero 2022.



June Lemos, MMC
Secretaria de Ciudad

From: [Jay Koski](#)
To: Bhorvel2@fortbragg.com; [Peters, Lindy](#); Jmorselhave@fortbragg.com; [Albin-Smith, Tess](#); [Rafanan, Marcia](#); [Lemos, June](#); [Gurewitz, Heather](#); [Peters, Sarah](#); [Naulty, John](#); [O'Neal, Chantell](#)
Subject: Pot dispensaries and crime
Date: Sunday, February 27, 2022 3:06:06 AM

How are you not putting a number on dispensaries in our industrial business district? How are you allowing these business right up against our residential neighborhood? How many police do we have on duty from 10:00pm to 6:00 am? What gives you the right to put our police force and the people of this town in harms way? These types of business are a huge target for criminal activity, why do you not see and understand that? If criminals are brave enough to rob these businesses in the big city where they have huge police forces what makes you think it can't happen here? What makes you believe we are immune to this type of criminal activity? You are rolling the dice with lives of the police force and people of this town for tax dollars. I imagine our police department is already spread very thin during the night time while people should be home and sleeping comfortably in their beds. All you you are going to be doing buy having no limit and allowing these business wherever they want to be in this town is inviting unwanted criminal activity, our town should not have to put itself in harms way for a few tax dollars. You, our city council is wearing blinders to a business types that is going to invite unwanted criminal activity. I don't understand how you can't see this, it is on the news daily. It's not a matter of will this type of crime happen if we allow as many of these business as we want in town with no limits, it's when will it happen, what will happen, will lives be lost? What are you going to do, do you think the tax dollars generated from these business will be enough to put a bunch of extra policeman on duty 24 hours a day to protect those tax dollars? I don't think the extra tax money will be there, you will just be chasing your own tails. Please I ask you to reconsider the new pot zoning regulations you are trying to impose on the people of this town. Just because you're an elected official it does not give you the right to put our police force and the people of this town in harm's way for tax dollars. I think you all may need to backtrack your thinking on this and put more emphasis on safety of the people and not tax dollars. If something terrible happens in this town because of this type of business allowed based on your zoning regulations by your administration you will be the ones responsible wether you think so or not because it was you who allowed them. We our a small town with a small police force please consider this when making your final decisions on these matters.



City of Fort Bragg

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

Text File

File Number: 22-082

Agenda Date: 2/28/2022

Version: 1

Status: Business

In Control: City Council

File Type: Ordinance

Agenda Number: 8A.

Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 977-2022 Adding Chapter 2.02 (Electronic Filing of Campaign Disclosure Statements and Statements of Economic Interest) to Title 2 (Administration and Personnel) of the Fort Bragg Municipal Code to Mandate Electronic and Paperless Filing of Fair Political Practices Commission Campaign Disclosure Statements and Statements of Economic Interest



AGENCY: City Council
MEETING DATE: February 28, 2022
DEPARTMENT: Administrative Services
PRESENTED BY: June Lemos, MMC
EMAIL ADDRESS: jlomos@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 977-2022 Adding Chapter 2.02 (Electronic Filing of Campaign Disclosure Statements and Statements of Economic Interest) to Title 2 (Administration and Personnel) of the Fort Bragg Municipal Code to Mandate Electronic and Paperless Filing of Fair Political Practices Commission Campaign Disclosure Statements and Statements of Economic Interest

ISSUE:

The City of Fort Bragg is currently a paper-filing agency for statutory Fair Political Practices Commission (FPPC) campaign disclosure forms and statements of economic interest. Appointed officials, City Council candidates, campaign committees and designated City employees may file their statements in hard copy form only, with an original signature per FPPC regulations. Filers identified in Government Code Section 87200 have the alternative option to file electronically directly with the FPPC.

Pursuant to Government Code Section 84615, local agencies may mandate electronic filing of FPPC disclosure statements. To increase efficiency and facilitate compliance with state law and FPPC regulations, the City Clerk's Office looks to employ a system for electronic filing of economic and financial disclosure statements for all required filers in the City of Fort Bragg organization. In addition to increased efficiency, electronic filing will eliminate the need for wet signatures, will redact statements posted online, and will automatically link to the FPPC's system.

If approved, all filers will be required to submit their statutory filings through the automated system, and paper filings will no longer be accepted. However, to support the City's efforts toward diversity, equity and inclusion, the City Clerk, as the City's filing officer, will have the right to accept a paper filing in lieu of an electronic filing at the City Clerk's discretion, under certain circumstances, and to accommodate an Americans with Disabilities Act (ADA) request. Examples of exceptions may include limited access to an electronic device or internet connection.

In order for the City of Fort Bragg to accept electronically filed statements, the City Council must adopt an ordinance permitting the use of an online filing system for filing and designating the filings received electronically by the City Clerk's Office as the filings of record for the City. In addition, the system must operate securely and effectively, be no cost to filers, be available to the public to view filings, not place an undue burden on filers, and include procedures for filers to comply with the requirement that they sign statements and reports under penalty of perjury.

AGENDA ITEM NO. 8A

ANALYSIS:

The City entered into a contract with NetFile, a hosted solution created specifically for cities and counties responsible for administering campaign finance filings and Statements of Economic Interest, which meets the requirements of the Secretary of State and allows for electronic and paperless filing of campaign statements. NetFile is widely used by other agencies throughout California.

Campaign Finance Disclosure Statements (Form 460)

Adoption of the proposed ordinance is required to implement electronic filings of the campaign finance component of the NetFile system, and will only apply to those filers that exceed a threshold of \$2,000 for expending or receiving campaign funds. This threshold is consistent with the Political Reform Act (the “Act”), which recognizes campaigns that spend or raise more than \$2,000 as “Controlled Committees.” Under the Act, these types of committees are obligated to file detailed campaign finance disclosure statements, also known as Form 460s. For those smaller campaigns that do not exceed the \$2,000 threshold, they may continue to file paper versions of the Form 470 disclosure forms. It should be noted that the NetFile system is able to accommodate the online filing of several types of required forms by the FPPC, including Forms 460, 470, 496, and 497, which are the most commonly used in Fort Bragg’s local election campaigns.

Statement of Economic Interest (Form 700)

The “Statement of Economic Interest” Form 700 component of NetFile does not require an ordinance, however staff recommends that all designated Form 700 filers identified in the City’s Conflict of Interest Code also be required to file electronically, to fully transition the City to electronic, paperless filing pursuant to Government Code 84615. This process would simply require an internal procedural change. The City Clerk is currently responsible for the annual filing of all Form 700s, which include the City Council, Planning Commission, City Manager, City Attorney, Finance Director/Treasurer, designated City employees and consultants. Form 700s occasionally need amendments or are submitted incomplete or without marked schedules attached. The Form 700 electronic filing incorporates an initial review process and alerts the filer of errors at the time they are entering information, thereby minimizing the need for the City Clerk to request amendments.

Upon adoption of the ordinance, all required and designated Form 700 filers, and filers of campaign disclosure statements, will use the online system, unless exempt from the requirement to file online pursuant to Government Code Section 84615(a) because the officer, candidate, or committee receives less than \$2,000 in contributions and makes less than \$2,000 in expenditures in a calendar year. An alternative to the proposed mandate ordinance is to provide for opt-in electronic filings, which would allow FPPC statements to be filed electronically, but paper filings would still be accepted. To maintain consistency with processing and publishing filers’ FPPC statements, staff does not recommend the “opt-in” ordinance. The proposed mandate ordinance will still allow the City Clerk to accept a paper filing in lieu of an electronic filing at the City Clerk’s discretion, under certain circumstances, and to accommodate an ADA request.

To ensure a smooth transition, and as part of the agreement and acquisition of the system, NetFile and the City Clerk's Office can offer extensive training to filers and committees. Staff can schedule one-on-one training with NetFile staff and individual filers and treasurers that will cover the entire electronic filing process including the setup of filer accounts, explanation of the online filing process, demonstration of the data input and saving reports, preparation of statements for e-signature, and finalizing statements for electronic filing.

In terms of security, the NetFile system is a web-based, vendor-hosted application that utilizes industry best practices for securing data, using the same data encryption for online filings that is used by banks for online banking. NetFile stores and backs up data at three separate locations, creating the essential safety measures and redundancy that will allow for recovery of information in the event of an emergency or disaster. The City's data will be retained for the required minimum 10-year period. Implementation of the NetFile system will promote transparency and provide convenience for committees, individuals, and the public. It provides 24-hour filing and viewing accessibility of campaign finance information from any computer, anywhere. In certain instances, the NetFile program will also increase the accuracy of filed campaign statements by prohibiting any filings that may have inadvertently omitted required information under the Act (e.g. missing addresses or the stated occupation of individual donors).

Government Code Section 84615

A local government agency may require an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 (commencing with Section 84100) to file online or electronically, unless the officer, candidate, or committee receives less than \$2000 in contributions and has less than \$2000 in expenditures in a calendar year. The following is a summary of requirements that a local government agency must meet:

- 1) Local legislative body must adopt an ordinance approving such online filing and include a legislative finding that the online or electronic filing system will operate securely and effectively and would not unduly burden filers;
- 2) Electronic system used must accept filings that are compatible with format developed by Secretary of State, must ensure security and integrity of data, and must provide a way for electronic filer to sign under penalty of perjury;
- 3) No charge to file;
- 4) File date will be date received by local filing officer;
- 5) Specifies that a timely electronic confirmation along with a copy of filing kept by filer constitute rebuttable presumption that filing was timely;
- 6) Filings must be made available on Internet, with certain information removed, and requires local filing officer to make complete and unredacted copies of electronic filings available to any person upon request;
- 7) Data shall be maintained for at least 10 years for audit purposes and may then be archived in a secure format;
- 8) Notwithstanding any other provision of law, any statement, report, or other document filed online or electronically pursuant to this section shall not be required to be filed with the local filing officer in paper format.

In order to comply with state law, the requirements from Government Code Section 84615 have been incorporated in the proposed ordinance for the City to transition to an electronic filing system (**Attachment 1**).

RECOMMENDED ACTION:

Introduce by title only and waive the first reading of Ordinance 977-2022 adding Chapter 2.02 (Electronic Filing of Campaign Disclosure Statements and Statements of Economic Interest) to Title 2 (Administration and Personnel) of the Fort Bragg Municipal Code.

ALTERNATIVE ACTION(S):

1. The City Council may elect not to introduce the Ordinance and remain a paper filing agency, or
2. The Council may choose to instead enact an “opt-in” ordinance where electronic filing will be optional but not required, or
3. The Council may provide direction to staff for further revisions to the Ordinance.

FISCAL IMPACT:

The contract amount for the NetFile system is \$2,900 per year for up to five years, for a total of \$14,500 through FY 2025/26. A budget amendment to cover this cost for FY 2021/22 will be included in the mid-year budget workshop on March 9, 2022. The FPPC requires a fee of \$1,000 to register as an electronic filing agency, however NetFile has agreed to pay this cost on behalf of the City.

GREENHOUSE GAS EMISSIONS IMPACT:

There is no direct greenhouse gas emissions impact with the proposed changes to the City’s municipal code.

CONSISTENCY:

This ordinance is consistent with California Government Code Section 84615.

IMPLEMENTATION/TIMEFRAMES:

If the ordinance is introduced on February 28, 2022 and adopted at a regular meeting of the City Council on March 14, 2022, the ordinance will go into effect April 13, 2022.

ATTACHMENTS:

1. Proposed Ordinance 977-2022
2. Government Code 84615

NOTIFICATION:

None.

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE ADDING CHAPTER 2.02
(ELECTRONIC FILING OF CAMPAIGN
DISCLOSURE STATEMENTS AND
STATEMENTS OF ECONOMIC INTEREST)
TO TITLE 2 (ADMINISTRATION AND
PERSONNEL) OF THE FORT BRAGG
MUNICIPAL CODE TO MANDATE
ELECTRONIC AND PAPERLESS FILING OF
FAIR POLITICAL PRACTICES
COMMISSION CAMPAIGN DISCLOSURE
STATEMENTS AND STATEMENTS OF
ECONOMIC INTEREST**

ORDINANCE NO. 977-2022

WHEREAS, California Government Code Section 84615 provides that a legislative body of a local government agency may adopt an ordinance that requires an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 of the Political Reform Act to file such statements, reports, or other documents online or electronically with the City Clerk; and

WHEREAS, the City of Fort Bragg ("City") has entered into an agreement with a vendor approved by the California Secretary of State that meets the requirements set by Government Code Section 84615, to provide an online electronic filing system ("System") for the California Fair Political Practices Commission campaign statements; and

WHEREAS, the System will operate securely and effectively and will not unduly burden filers. Specifically: (1) the System will ensure the integrity of the data and includes safeguards against efforts to temper with, manipulate, alter, or subvert the data; (2) the System will only accept a filing in the standardized record format developed by the Secretary of State and compatible with the Secretary of State's system for receiving an online or electronic filing; and (3) the System will be available free of charge to filers and to the public for viewing filings.

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Findings.

The City Council of the City of Fort Bragg finds and determines as follows:

- A. California Government Code Section 84615 provides that a legislative body of a local government agency may adopt an ordinance that requires an elected officer, candidate, or committee required to file statements, reports, or other documents required by Chapter 4 of the Political Reform Act to file such statements, reports, or other documents online or electronically with the City Clerk.

- B. The web-based system operated by the City Clerk contains multiple safeguards to protect the integrity and security of the data, it will operate securely and effectively, and it will not unduly burden filers.
- C. The City Clerk will operate the electronic filing system in compliance with the requirements of California Government Code Section 84615 and any other applicable laws.

Section 2. Chapter 2.02 is hereby added to the Fort Bragg Municipal Code as follows:

CHAPTER 2.02 ELECTRONIC FILING OF CAMPAIGN DISCLOSURE STATEMENTS AND STATEMENTS OF ECONOMIC INTEREST

Sections:

- 2.02.010 Purpose and Authority.
- 2.02.020 Basic Requirement.

2.02.010 Purpose and Authority.

- A. The purpose of this ordinance is to require the filing of Campaign Disclosure Statements and Statements of Economic Interest by elected officials, candidates, staff, consultants or committees to be completed electronically. The City Council enacts this ordinance in accordance with the authority granted to cities by state law. This ordinance is intended to supplement, and not conflict with, the Political Reform Act.
- B. While electronic filing of statements will be mandated under this ordinance, the City Clerk, as the City's filing officer, will have the right to accept a paper filing in lieu of an electronic filing at the City Clerk's discretion, under certain circumstances, and to accommodate an Americans with Disabilities Act (ADA) request.

2.02.020 Basic Requirement.

- A. An elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 of the Political Reform Act or designated in the City's local conflict of interest code adopted pursuant to Government Code Section 87300 shall file any required Statement of Economic Interests (Form 700) online or electronically with the City Clerk. Electronic filing is mandatory unless the officer, candidate, or committee is exempt as described in Government Code 84615.
- B. The City Clerk shall issue an electronic confirmation that notifies the filer that the Statement was received, and the notification shall include the date and the time that the Statement was received and the method by which the filer may view and print the data received by the City Clerk. The date of filing for a Statement filed online shall be the day that it is received by the City Clerk.

- C. If the City Clerk’s system is not capable of accepting a Statement due to technical difficulties, a Statement in paper format shall be filed with the City Clerk.
- D. The City Clerk will operate the electronic filing system in compliance with the requirements of California Government Code Section 84615.

Section 3. CEQA Exemption. This proposed ordinance has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 et seq.). The ordinance is not a project under CEQA Guidelines Section 15378 because it involves administrative activities that will not result in direct or indirect physical changes in the environment.

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

Section 5. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on February 28, 2022 and adopted at a regular meeting of the City of Fort Bragg held on March 14, 2022 by the following vote:

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

**Bernie Norvell,
Mayor**

ATTEST:

**June Lemos, MMC
City Clerk**

PUBLISH: March 3, 2022 and March 24, 2022 (by summary).
EFFECTIVE DATE: April 13, 2022.

GOVERNMENT CODE - GOV

TITLE 9. POLITICAL REFORM [81000 - 91014]

(Title 9 added June 4, 1974, by initiative Proposition 9.)

CHAPTER 4.6. Online Disclosure Act of 1997 [84600 - 84616]

(Chapter 4.6 added by Stats. 1997, Ch. 866, Sec. 1.)

84615.

A local government agency may require an elected officer, candidate, committee, or other person required to file statements, reports, or other documents required by Chapter 4 (commencing with Section 84100), except an elected officer, candidate, committee, or other person who receives contributions totaling less than two thousand dollars (\$2,000), and makes expenditures totaling less than two thousand dollars (\$2,000) in a calendar year, to file those statements, reports, or other documents online or electronically with a local filing officer. A local government agency that requires online or electronic filing pursuant to this section shall comply with all of the following:

(a) The legislative body for the local government agency shall adopt an ordinance approving the use of online or electronic filing, which shall include a legislative finding that the online or electronic filing system will operate securely and effectively and would not unduly burden filers. The ordinance adopted by the legislative body for the local government agency may, at the discretion of that legislative body, specify that the electronic or online filing requirements apply only to specifically identified types of filings or are triggered only by identified monetary thresholds. In any instance in which the original statement, report, or other document is required to be filed with the Secretary of State and a copy of that statement, report, or other document is required to be filed with the local government agency, the ordinance may permit, but shall not require, that the copy be filed online or electronically.

(b) The online or electronic filing system shall accept a filing in the standardized record format that was developed by the Secretary of State pursuant to paragraph (2) of subdivision (a) of Section 84602, or the local government agency may transition to the Cal-Access Replacement System format, and then the system shall accept a filing in the new standardized record format developed by the Secretary of State pursuant to subdivision (b) of Section 84602, and that is compatible with the Secretary of State's system for receiving an online or electronic filing.

(c) The online or electronic filing system shall ensure the integrity of the data transmitted and shall include safeguards against efforts to tamper with, manipulate, alter, or subvert the data.

(d) (1) The local filing officer shall issue to a person who files a statement, report, or other document online or electronically an electronic confirmation that notifies the filer that the statement, report, or other document was received. The confirmation shall include the date and the time that the statement, report, or other document was received by the filing officer and the method by which the filer may view and print the data received by the filing officer.

(2) A copy retained by the filer of a statement, report, or other document that was filed online or electronically and the confirmation issued pursuant to paragraph (1) that shows the filer timely filed the statement, report, or other document shall create a rebuttable presumption that the filer timely filed the statement, report, or other document.

(e) The date of filing for a statement, report, or other document that is filed online or electronically shall be the day that it is received by the local filing officer.

(f) The local filing officer shall make all the data filed available on the Internet in an easily understood format that provides the greatest public access. The data shall be made available free of charge and as soon as possible after receipt. The data made available on the Internet shall not contain the street name and building number of the persons or entity representatives listed on the electronically filed forms or any bank account number required to be disclosed by the filer. The local filing officer shall make a

complete, unredacted copy of any statement, report, or other document filed pursuant to this section, including any street names, building numbers, and bank account numbers disclosed by the filer, available to any person upon request.

(g) The online or electronic filing system shall include a procedure for filers to comply with the requirement that they sign statements and reports under penalty of perjury pursuant to Section 81004.

(h) The local government agency shall enable filers to complete and submit filings free of charge.

(i) The local filing officer shall maintain, for a period of at least 10 years commencing from the date filed, a secured, official version of each online or electronic statement, report, or other document filed pursuant to this section, which shall serve as the official version of that record for purpose of audits and any other legal purpose. Data that has been maintained for at least 10 years may then be archived in a secure format.

(j) Notwithstanding any other provision of law, any statement, report, or other document filed online or electronically pursuant to this section shall not be required to be filed with the local filing officer in paper format.

(Amended by Stats. 2018, Ch. 662, Sec. 28. (SB 1239) Effective January 1, 2019. Conditionally operative on date prescribed by Stats. 2018, Ch. 662, Sec. 44.)



City of Fort Bragg

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

File Number: 22-095

Agenda Date: 2/28/2022

Version: 1

Status: Closed Session

In Control: City Council

File Type: Report

Agenda Number: 9A.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION, Pursuant to Paragraph (1) of Subdivision (d) of Government Code Section 54956.9; Name of Case: City of Fort Bragg vs. Mendocino Railway and Does 1-10, Case No.: 21CV00850, Superior Court of the State of California, County of Mendocino