



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, April 8, 2024

6:00 PM

Town Hall, 363 N. Main Street Fort Bragg,
Via Video Conference,
7353 East Cascada Circle, Tucson, AZ 85715

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

COUNCILMEMBERS PLEASE TAKE NOTICE

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

ZOOM WEBINAR INVITATION

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

You are invited to a Zoom webinar.

When: Apr 8, 2024 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/85258039158>

*Or Telephone: +1 669 444 9171 US (*6 mute/unmute, *9 raise hand)*

Webinar ID: 852 5803 9158

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.

CLOSED SESSION REPORT

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

[24-600](#) Proclamation Declaring April 2024 as Sexual Assault Awareness Month

Attachments: [07- Sexual Assault Awareness Month](#)

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

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

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

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

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

3. STAFF COMMENTS

4. MATTERS FROM COUNCILMEMBERS

5. CONSENT CALENDAR

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

[24-673](#) Approval of Settlement Agreement for Acquisition of Easement and Certificate of Acceptance

Attachments: [Settlement Agreement for Acquisition of Easement](#)
[Certificate of Acceptance](#)

[24-696](#) Authorize City Manager to execute Contract with Strategy Driver, Inc, Amount Not to Exceed \$53,370 Consistent with Attached Proposal, Subject to City Attorney Review.

Attachments: [SDI Ft Bragg Proposal \(004\)](#)
[Contract 4 - Standard PSA](#)

- [24-653](#) Resolution of the Fort Bragg City Council Approving Contract Amendment 3 with SHN Consulting Engineers and Geologists, Inc. for On-Call Engineering Services and Authorizing the City Manager to Execute Contract (Amount Not to Exceed \$60,000)
- Attachments:** [RESO SHN On-Call Contract Amendment](#)
- [24-680](#) Adopt City Council Resolution Authorizing City Manager to Execute Contract Amendment with Coleman Engineering for Additional Design Services (Amount Not to Exceed \$952,987)
- Attachments:** [RESO Coleman Auth for Additional Services](#)
[EX A - Additional Services No. 4](#)
- [24-681](#) Adopt Fort Bragg Improvement District Resolution Approving Budget Amendment 2023/24-12 for the Pudding Creek Force Main Relocation Project and Amend Fiscal Year 2023-24 Budget (Amount Not to Exceed \$400,000)
- Attachments:** [Reso Pudding Creek Force Main](#)
[Exhibit A - B.A. 2023/24-12](#)
- [24-688](#) Adopt Resolution of the Fort Bragg City Council Approving Submittal of an Application to the California Department of Housing and Community Development for funding under the HOME Investment Partnerships Program; and if selected, the execution of any related documents necessary to participate in the HOME Investment Partnerships Program
- Attachments:** [04082024 RESO HOME Application](#)
[HOME Program Authorizing Resolution Instructions and Template effective 1-29](#)
- [24-684](#) Receive and File Minutes of the Finance and Administration Committee of February 14, 2024.
- Attachments:** [Finance and Admin Minutes 02-14-2024](#)
- [24-685](#) Receive and File Minutes of the Finance and Administration of March 28, 2024.
- Attachments:** [Special Finance and Admin Minutes 03-28-2024](#)

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.

[24-537](#)

Conduct Public Hearing and (1) Consider Adoption of a Resolution Approving the Mitigated Negative Declaration and the Mitigation and Monitoring and Reporting Plan; (2) Introduce, by Title Only, and Waive Further Reading of Ordinance XXX-2024 Amending Chapter 18.42.165 - Restaurants of Division 18 of the Fort Bragg Municipal Code to Establish Regulations and Standards for Outdoor Dining; and (3) Adopt a Resolution that the City Council Submit a Local Coastal Plan Amendment Application (LCP 3-23) to the Coastal Commission, to Amend Chapter 17.42.190 - Restaurants of Division 17 of the Fort Bragg Municipal Code to Establish Regulations and Standards for Outdoor Dining.

Attachments: [Staff Report Outdoor Dining](#)

[Att 1 - Draft Resolution MND](#)

[Att 2 - Draft Ord ILUDC Outdoor Dining](#)

[Att 3 - Draft Reso LCP Outdoor Dining](#)

[Att 4 - PC Resolution ILUDC Outdoor Dining](#)

[Att 5 - PC Resolution - LCP Outdoor Dining](#)

[Att 6- Draft Consistency Analysis Outdoor Dining](#)

[Att 7 - MND ILUDC Zoning Amendment](#)

[Att 8- Draft Consistency Analysis Outdoor Dining](#)

[Public Hearing Notice](#)

[24-538](#)

Conduct Public Hearing and (1) Introduce, by Title Only, and Waive Further Reading of Ordinance xxx-2024 Amending Chapter 18.71.090 - Planned Development Permit of Division 18 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of One Acre or More, Subject to Previously Approved Mitigated Negative Declaration; and (2) Adopt Resolution xxx-2024 approving a Local Coastal Plan Amendment Application (LCP 6-23) to the Coastal Commission to Amend Chapter 17.71.090 - Planned Development Permit of Division 17 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of One Acre or More, Statutorily Exempt 15265.

Attachments: [Staff Report PUD](#)

[Att 1 - draft Ord ILUDC PUD](#)

[Att 2 - draft Reso CLUDC PUD](#)

[Att 3 - Resolution PC 03-2024](#)

[Att 4 - Resolution PC 02-2024](#)

[MND - Initial Study 12-7-2024](#)

[Public Hearing Notice](#)

[24-665](#)

Conduct a Public Hearing and (1) Introduce, by Title Only, and Waive Further Reading of Ordinance (MUNI 1-2024) Repealing and Replacing Chapter 15.04 (Construction Codes - Adopted By Reference) and Chapter 15.05 (California Fire Code) of Title 15 (Buildings And Construction) of The Fort Bragg Municipal Code; Adopting and Incorporating The 2022 California Administrative Code, California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Historical Building Code, California Existing Building Code, California Green Building Standards Code, California Referenced Standards Code and California Fire Code; Adopting Local Findings; and Making Other Technical And Administrative Revisions To Title 15, and

(2) Introduce, by Title Only, and Waive Further Reading of Ordinance (MUNI 2-2024) Amending Chapter 15.06 of the Fort Bragg Municipal Code to Require Sprinkler Installation in Buildings With Building Permits with a Cumulative Valuation of \$75,000 or More, Over a Three-Year Period.

Attachments: [Staff Report Building Code & Fire Sprinkler Ordinance 4-9-2024](#)

[Att 1- ORD XXX-2024 Update to 2022 CA Building Codes](#)

[Att 2- ORD XXX-2024 Fire Sprinkler Revision 4-2024](#)

[Public Hearing Notice Building Code, Fire Code and Sprinkle Ordinance 1st Re](#)

8. CONDUCT OF BUSINESS

[24-687](#)

Receive Report and Provide Direction on Potential Tax Ballot Measure for November 2024, Authorize City Manager to Execute Contract with Lee Edwards Group (Amount not to Exceed \$38,500) and FM3 Research (Amount not to Exceed \$24,750) consistent with Attached Proposal and Subject to City Attorney Review.

Attachments: [08082024 Staff Report on Ballot Measure](#)

[Election Calendar for 11-5-24](#)

[City of Fort BraggLEG.Proposal](#)

[921-7160 Fort BraggFM3 Survey Scope](#)

[Long-Term Financial Plan 23-24](#)

[Contract 4 - Standard PSA](#)

9. CLOSED SESSION

ADJOURNMENT

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

**NEXT REGULAR CITY COUNCIL MEETING:
6:00 P.M., MONDAY, April 22, 2023**

STATE OF CALIFORNIA)
)ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on April 5, 2024.

Diana Sanchez
City Clerk

NOTICE TO THE PUBLIC:

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

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

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

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

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

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



City of Fort Bragg

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

Text File

File Number: 24-600

Agenda Date: 4/8/2024

Version: 2

Status: Mayor's Office

In Control: City Council

File Type: Proclamation

Proclamation Declaring April 2024 as Sexual Assault Awareness Month

PROCLAMATION
DECLARING APRIL 2024 AS SEXUAL ASSAULT AWARENESS MONTH

WHEREAS, Sexual Assault Awareness Month (SAAM) calls attention to the fact that sexual violence is widespread and impacts every person in the community. SAAM aims to raise public awareness about sexual violence and educate communities about how to prevent it.

WHEREAS, systems of oppression such as racism, sexism, classism, heterosexism, ageism, ableism, etc. contribute to higher rates of sexual harassment, assault, and abuse.

WHEREAS, more than 4 in 5 American Indian and Alaska Native women (84.3%) have experienced violence in their lifetime (Rosay, 2016).

WHEREAS, 1 in 3 Hispanic women (84.3%) reported unwanted sexual contact in their lifetime (Basile et al., 2022).

WHEREAS, 32.9% of adults with intellectual disabilities have experienced sexual violence (Tomsa et al., 2021).

WHEREAS, 47% of all transgender people have been sexually assaulted at some point in their lives (James et al., 2016).

WHEREAS, not one person, organization, agency or community can eliminate sexual assault their own—with leadership, dedication, and encouragement, there is compelling evidence that we can be successful in reducing sexual violence in the City of Fort Bragg through prevention education and increased awareness.

WHEREAS, Project Sanctuary’s mission is to provide trauma informed, supportive services, by offering a 24-hour hotline to victims/survivors, responding to emergency calls, offering support and comfort during medical exams, criminal proceedings, and empowering those impacted by sexual assault to chart their own journey for healing.

WHEREAS, ending sexual violence in the City of Fort Bragg means that we must strongly support the efforts of national, state, and local partners, and of every citizen to actively engage in public and private efforts, including conversations about what sexual violence is, how to prevent it, and how to help survivors connect with services.

NOW THEREFORE BE IT RESOLVED, that I, Bernie Norvell, Mayor of the City of Fort Bragg, join not only Project Sanctuary, but advocates and communities across the country in taking action to prevent sexual violence by proclaiming April as Sexual Assault Awareness Month.

SIGNED this 8th day of April, 2024

ATTEST:

BERNIE NORVELL, Mayor

DIANA SANCHEZ; City Clerk

No. 07-2024





City of Fort Bragg

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

Text File

File Number: 24-673

Agenda Date: 4/8/2024

Version: 2

Status: Consent Agenda

In Control: City Council

File Type: Consent Calendar

Approval of Settlement Agreement for Acquisition of Easement and Certificate of Acceptance

**SETTLEMENT AGREEMENT FOR
ACQUISITION OF EASEMENT
(INCLUDING ESCROW INSTRUCTIONS)**

This SETTLEMENT AGREEMENT FOR ACQUISITION OF EASEMENT (INCLUDING ESCROW INSTRUCTIONS) (“**Agreement**”) is made and entered into as of February 2, 2024, by and between Defendants REDWOOD TIMBER COMPANY LLC¹, a Delaware Limited Liability Company formerly known as LYME REDWOOD TIMBERLANDS LLC, RJS TIC HTC LLC, a California Limited Liability Company, PV TIC HTC, LLC a California Limited Liability Company, RMB TIC HTC LLC, a California Limited Liability Company (collectively, “**Grantor**”) and the CITY OF FORT BRAGG, a municipal corporation (“**City**”). Grantor and City may collectively be referred to as the “**Parties**.”

RECITALS

A. Grantor is the owner of that certain real property designated by Mendocino County as Assessor Parcel Numbers 019-630-05, 019-640-01, and 019-640-04 (“**Greater Parcel**”).

B. City desires to construct a primary water transmission line that delivers raw water from sources at Waterfall Gulch, Newman Reservoir, and Summers Lane Reservoir to the City’s water treatment plant and all uses appurtenant thereto (the “**Project**”).

C. In order to proceed with the Project, City needs to acquire from Grantor certain easement rights in regard to the Greater Parcel.

D. On or about July 28, 2023, City filed a Complaint in Eminent Domain (“**Complaint**”), in the Mendocino County Superior Court, Case Number Case No. 23CV000682 (“**Eminent Domain Action**”), to acquire a permanent subsurface easement described and depicted in the Eminent Domain Action.

E. On August 1, 2023, City deposited \$6,900 with the State Condemnation Deposits Fund (“**Deposit**”) as probable just compensation for the taking of the permanent subsurface easement described and depicted in the Eminent Domain Action

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and other valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties hereby agree as follows:

¹ Defendant Lyme Redwood Timberlands LLC, is an owner of record of the Greater Parcel, however on January 31, 2022, Lyme Redwood Timberlands LLC executed a Certificate of Amendment which was filed in the State of Delaware that legally changed its name from Lyme Redwood Timberlands LLC, to Redwood Timber Company LLC. Redwood Timber Company LLC is executing this Agreement on behalf of itself, as formerly known as Lyme Redwood Timberlands LLC

1. Incorporation of Recitals. Each of the Recitals set forth above is incorporated herein by this reference.

2. Conveyance of Easement; Payment. Grantor agrees to convey to City, and City agrees to acquire from Grantor, a (1) Non-Exclusive **Permanent Easement** in the form of a **Permanent Easement Deed** attached hereto as Exhibit 1, the precise location to be 5 feet in width on each side (for a total width of 10 feet) as measured from the centerline of the Project's as-built primary water transmission line, and (2) a 1.65 acre **Temporary Construction Easement** as described and depicted in the **Temporary Construction Easement Deed** attached as Exhibit 2, on the terms and conditions set forth herein.

The precise dimensions and location on the Greater Parcel of the Permanent Easement ("**Permanent Easement Location**") will be determined through a City-approved survey of the as-built primary water transmission line to be conducted by a licensed surveyor at City's sole cost and expense following completion of construction of the Project on the Greater Parcel.

3. Purchase and Sale: Settlement of All Claims Arising Out of the Action. For valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor agrees to convey the Permanent Easement and Temporary Construction Easement (collectively, "**Easements**") to City and settle all claims arising out of the Eminent Domain Action, including but not limited to, compensation for the acquisition of the Easements and compensation for all damages of every kind and nature suffered, or to be suffered, by reason of the acquisition of the Easements and construction of the Project for which the Easements are being acquired, and City agrees to acquire the Easements from Grantor upon the terms and conditions herein set forth.

3.1 Compensation. The total all-inclusive fair and just compensation for City's acquisition of the Easements, as well as for all damages of every kind and nature suffered, or to be suffered, by reason of the acquisition of the Easements and construction of the Project for which the Easements is being acquired, shall be TWENTY-SIX THOUSAND TWO HUNDRED SIXTY-SEVEN DOLLARS And No Cents (\$26,267.00) (hereinafter, the "**Compensation**") to be paid to Grantor at the Close of Escrow.

3.2 Payment of Compensation. Prior to the Close of Escrow (as defined in Section 3, below), City shall deposit or cause to be deposited with Escrow Agent, in cash or by a certified or bank cashier's check made payable to Escrow Agent or a confirmed wire transfer of funds, the Compensation. City shall be entitled to an order from the Court in the Eminent Domain Action directing the State to return the Deposit, together with all interest accruing thereon, to City, which Grantor shall not oppose.

3.3 Parking & Staging Equipment. Should City exceed the boundaries of the Permanent Easement and TCE for parking and/or staging of equipment, City shall pay Grantor \$1,000 per month as compensation for same. City, its employees, agents, and/or contractors shall not under any circumstances change any equipment fluids on the Property.

3.4 Fire Prevention. No smoking shall occur on the Property. All equipment shall be equipped with a fire extinguisher and shovel. City shall have a full water truck on site during construction.

4. Condition of Title. Subject to the fulfillment of the Conditions Precedent described in Section 10 below, at Close of Escrow, Grantor shall grant to the City the Easements free and clear of all recorded and unrecorded liens, encumbrances, assessments, other property, leases, taxes, and exceptions to title, except for Exceptions 1-16, 18-19 in that certain June 14, 2023 Litigation Guarantee issued by Old Republic National Title Insurance Company (“**Lit Guarantee**”), a copy of which is attached hereto as Exhibit 3 (collectively, the “**Permitted Exceptions**”).

4.1 The deed of trust identified as Exception 17 to the Lit Guarantee, and any and all other recorded and unrecorded liens, encumbrances, assessments, leases, easements, restrictions, conditions, covenants, rights, rights-of-way, taxes, or other matters (collectively, the “**Title Exceptions**”) must be eliminated, subordinated or ameliorated to City’s satisfaction by Grantor prior to the Close of Escrow. Should Grantor be unable to eliminate, subordinate or ameliorate to City’s satisfaction any such Title Exceptions prior to the Close of Escrow, City may either (a) accept the Title Exceptions which Grantor is unable to eliminate, subordinate or ameliorate and proceed with the Closing, or (b) terminate this Agreement, in which case both City and Grantor shall be relieved of all further obligation and liability to each other under this Agreement, except for such obligations and liabilities that accrued prior to the date of termination, and all the funds and documents deposited with Escrow Holder shall be promptly refunded or returned, as the case may be, by Escrow Holder to the depositing party. City shall be responsible for all reasonable costs associated with the partial reconveyance or subordination of any such recorded and unrecorded liens, encumbrances, assessments, leases, easements, restrictions, conditions, covenants, rights, rights-of-way, taxes, or other matters.

Escrow Agent shall at Close of Escrow provide the City with an updated Lit Guarantee or, alternatively, standard CLTA or ALTA (as the City may request in its sole discretion) policy of title insurance in the amount of \$600,000.00 issued by Old Republic National Title Insurance Company, together with any endorsements reasonably requested by the City, showing the Easements vested in City, subject only to the Permitted Exceptions set forth above and the printed exceptions and stipulations in the policy (“**Title Policy**”). The City shall pay the title policy premium. The term “**Close of Escrow,**” if and where written in this Agreement, shall be deemed to have occurred on the date the Permanent Easement Deed and other necessary instruments of conveyance are recorded in the office of the Mendocino County Recorder and the fully-executed Temporary Construction Easement Deed is delivered to City. If Grantor is unable to deliver the Easements in the condition described herein, this Agreement may be terminated by the City, and neither party shall have any liability to the other with respect to the subject matter hereof. Recordation of instruments delivered through this Escrow is authorized, if necessary or proper, in the issuance of the policy of title insurance.

5. Escrow. The City and Grantor will open an escrow for the conveyances described in this Agreement (“**Escrow**”) at Redwood Empire Title Company (“**Escrow Agent**”). This Agreement, together with any supplementary escrow instructions prepared by Escrow Agent and executed by the City and Grantor, constitutes the joint escrow instructions of the City and

Grantor, and Escrow Agent to whom these instructions are delivered is hereby empowered to act under this Agreement. The Parties agree to do all acts necessary to close this Escrow in the shortest possible time.

5.1 Documents. Prior to Close of Escrow Grantor shall execute, acknowledge, and deliver into Escrow the Permanent Easement Deed containing the City-approved legal description and depiction of the Permanent Easement Location and the Temporary Construction Easement Deed. The Permanent Easement Deed must be in a form suitable for recordation; the Temporary Construction Easement Deed is not to be recorded. If required by the City, a Certificate of Acceptance, prepared pursuant to the requirements of California Government Code Section 27281 (“**Certificate of Acceptance**”) as to each of the Easements shall be executed, acknowledged and delivered into Escrow by City on or before Close of Escrow. The City and Grantor agree to deposit with Escrow Agent any additional instruments as may be necessary to complete this transaction.

6. Escrow Agent Authorization. Escrow Agent is authorized to, and shall:

6.1 Pay and Charge the City. Pay and charge the City for any Escrow fees, recording fees, title insurance premium and any endorsements thereto, and other costs and expenses of Escrow payable under Section 8, below.

6.2 Disbursement; Recordation and Delivery of Documents. Disburse funds; record the Permanent Easement Deed; deliver the Title Policy to the City; and deliver conformed copies of the Easement Deeds when conditions of the Escrow have been fulfilled by the City and Grantor.

7. Time Limits. All time limits within which any matter specified is to be performed may be extended by mutual agreement of the parties. Any amendment of, or supplement to, any instructions must be in writing.

8. Time of the Essence. TIME IS OF THE ESSENCE IN THESE INSTRUCTIONS AND, EXCEPT AS OTHERWISE PROVIDED BELOW, ESCROW IS TO CLOSE 12 MONTHS AFTER ESCROW IS OPENED AS SET FORTH IN SECTION 4 OF THIS AGREEMENT OR AT SUCH EARLIER OR LATER TIME AS MAY BE AGREED UPON IN WRITING BY City AND GRANTOR, UNLESS SAID DATE IS EXTENDED BY THE MUTUAL WRITTEN AGREEMENT OF THE PARTIES. If this Escrow is not in condition to close by such date, then any party who has fully complied with this Agreement may, in writing, demand the return of its money or property; provided, however, no demand for return shall be recognized until five days after Escrow Agent shall have mailed copies of demand to the other party at the addresses shown in the notice provisions below, and if any objections are raised within such five-day period, Escrow Agent is authorized to hold all money, papers and documents until instructed by a court of competent jurisdiction or mutual instructions.

9. Escrow Fees, Charges and Costs. Recording fees and all usual fees, charges, and costs which arise in this Escrow shall be paid by the City.

10. Transfer Taxes. No transfer tax shall be due because the City is a public entity.

11. Conditions Precedent to Close of Escrow.

11.1 The City's Conditions Prior to Closing. The obligation of the City to acquire the Easements is subject to the satisfaction of the following conditions:

(a) Grantor shall deliver through Escrow the executed, acknowledged and recordable Permanent Easement Deed, as well as the executed and acknowledged Temporary Construction Easement Deed. The Temporary Construction Easement Deed is not to be recorded.

(b) Grantor shall deliver through Escrow such other documents as are necessary to comply with Grantor's obligations under this Agreement.

(c) Grantor shall not be in default of any of its obligations under the terms of this Agreement.

(d) All of Grantor's representations and warranties made as of the date of this Agreement shall continue to be true and correct as of Close of Escrow.

(e) Escrow Agent shall have committed to deliver to the City the Title Policy.

On failure of any of the conditions set forth above, the City may terminate its obligations under this Agreement with no further liability to Grantor by giving notice to Grantor on or before the expiration of the time allowed for each condition. The City's failure to elect to terminate its obligations shall constitute a waiver of the condition by the City.

11.2 Grantor's Conditions Precedent to Closing. The obligation of Grantor to convey the Easements is subject to the satisfaction of the following conditions:

(a) The City shall not be in default of any of its obligations under the terms of this Agreement.

(b) The City shall have deposited with the Escrow Agent duly executed and acknowledged Certificates of Acceptance and other documents required to close Escrow, including the Permanent Easement Deed with legal description determined during escrow pursuant to an as-built survey as described in para. 2 above, closing costs, and all other funds required for closing.

(c) The City shall have deposited with the Escrow Agent the Compensation.

On failure of any of the conditions set forth above, Grantor may terminate its obligations under this Agreement with no further liability to the City by giving notice to the City on or before the expiration of the time allowed for each condition. Grantor's failure to elect to terminate its obligations shall constitute a waiver of the condition by Grantor.

12. Closing Statement. Grantor instructs Escrow Agent to release a copy of Grantor's closing statement to the City.

13. Warranties, Representations, and Covenants of Grantor. Grantor hereby makes the following warranties, representations, and/or covenants to the City, which shall survive the Close of Escrow:

13.1 Pending Claims. To the best of Grantor's knowledge, other than the Eminent Domain Action, there are no actions, suits, claims, legal proceedings, or any other proceedings affecting the area encompassing the Easements ("**Easement Area**") or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.

13.2 Encroachments. To best of Grantor's actual knowledge without a duty to investigate, there are no encroachments onto the Easements by improvements on any adjoining property, nor do any improvements located on the Easements encroach on other properties.

13.3 Title. Until Close of Escrow, Grantor shall not intentionally do anything which would impair Grantor's title to the Easements.

13.4 Condition of Land. To the best of Grantor's knowledge without inquiry, and excepting the existing City water pipe currently situated within the Greater Parcel, there are no substances, materials or conditions on or in the Easement Area that qualify as a Hazardous Material (as defined below) or otherwise violate any Environmental Law (as defined below). For the purposes of this Agreement, the following items have the following meanings:

(a) "**Environmental Law**" means any law, statute, ordinance or regulation pertaining to health, industrial hygiene or the environment including, without limitation, CERCLA (Comprehensive Environmental Response, Compensation and Liability Act of 1980) and RCRA (Resources Conservation and Recovery Act of 1976).

(b) "**Hazardous Material**" means any substance, material or waste which is or becomes designated, classified or regulated as being "toxic" or "hazardous" or a "pollutant" or which is or becomes similarly designated, classified or regulated, under any Environmental Law, including asbestos, petroleum and petroleum products.

13.5 Conflict with Other Obligations. To the best of Grantor's knowledge, neither the execution of this Agreement nor the performance of the obligations herein will conflict with, or breach any of the provisions of any bond, note, evidence of indebtedness, contract, lease, covenants, conditions and restrictions, or other agreement or instrument to which Grantor or the Easement Area may be bound.

13.6 Authority. Grantor is the owner of and has the full right, power, and authority to sell, convey, and grant the Easements to the City as provided herein and to carry out Grantor's obligations hereunder. Each party executing this Agreement on behalf of Grantor represents and warrants that such person is duly and validly authorized to do so on behalf of Grantor.

13.7 Bankruptcy. Neither Grantor nor any related entity is the subject of a bankruptcy proceeding, and permission of a bankruptcy court is not necessary for Grantor to be able to transfer the Easements as provided herein.

13.8 Governmental Compliance. To the best of Grantor's knowledge, Grantor has not received any notice from any governmental agency or authority alleging that the Easement Area is currently in violation of any law, ordinance, rule, regulation or requirement applicable to its use and operation. If any such notice or notices are received by Grantor following the date this Agreement is signed by the City, Grantor shall notify the City within ten days of receipt of such notice. Grantor then, at its option, may either elect to perform the work or take the necessary corrective action prior to Close of Escrow or refuse to do so, in which case Grantor shall notify the City of such refusal and the City shall be entitled to either close Escrow with knowledge of such notice(s) or terminate this Agreement.

13.9 No Tenancies. There are no leases, tenancies, sublease or any other forms of occupancy agreements granting any other party that is not a party to this Agreement a possessory interest in the Easement Area. Grantor acknowledges that the City is relying on Grantor's representation and warranty herein. In the event that this representation is untrue, then without limiting the City's recourse for Grantor's breach, if such other tenants or occupants shall be entitled to relocation or other benefits, Grantor shall have the sole and exclusive responsibility for providing all such benefits and paying all costs required to comply with all applicable federal and state laws, rules, and regulations and satisfying all claims of such parties. Grantor hereby agrees to indemnify, defend, protect, and hold City harmless from and against any claims asserted against or sustained by City arising from Grantor's breach of this representation.

14. Waiver of Property Rights and Interests. Except for those obligations expressly set forth herein, Grantor for itself and for its successors and assigns fully releases, acquits and discharges the City and its officers, officials, council members, employees, attorneys, accountants, other professionals, insurers, and agents, and all entities, boards, commissions, and bodies related to any of them (collectively, the "**Released Parties**") from all claims that Grantor and its successors and assigns has or may have against the Released Parties arising out of or related to City's acquisition of the Easements, including, without limitation, all of Grantor's property rights and interests therein, including but not limited to (i) any improvements, including improvements pertaining to the realty, furniture, fixture, and equipment, (ii) business goodwill, (iii) lost income (past or future), (iv) relocation benefits, assistance and/or compensation (v) severance damages, if any, (vi) economic or consequential damages, (vii) professional consultant fees and attorney's fees and costs, (viii) precondemnation damages, (ix) any right to repurchase, leaseback from City, or receive any financial gain from, the sale of any portion of the Easement Area, (x) any right to enforce obligation(s) placed upon City pursuant to Code of Civil Procedure sections 1245.245 and 1263.615, (xi) any rights conferred upon Grantor pursuant to Code of Civil Procedure sections 1245.245 and 1263.615 and 1263.025, and (xii) all other costs, and any and all compensable interests, and/or damages, and/or claims, of any kind and nature, claimed or to be claimed, suffered or to be suffered, by Grantor, its agents, successors and assigns by reason of the City's acquisition of the Easements subject of the Eminent Domain Action provided that nothing herein shall release claims of Grantor for any liability resulting from the City's breach of any agreement, warranty, or covenant for which it is responsible under this Agreement. This waiver does not apply to any claims for damage or injury to any person or property arising from the construction of the Project due to the negligence or willful misconduct of the City's agents or contractors constructing the Project. This waiver applies solely to those claims arising out of or related to the City's acquisition of the Easements by eminent domain in the Action, and does not apply to those claims held by Grantor, if any, related to claims of

environmental contamination and damage caused by the City's existing water pipeline originally identified in recorded deed at Mendocino County Official Records at book 80 page 168, and subsequently adjusted to its current location as identified by the label "approx location of proposed pipeline" in the map attached as Exhibit 4 hereto dated June 14, 1958. This paragraph shall survive the Close of Escrow.

15. Waiver of Civil Code Section 1542. Grantor, on behalf of itself and its agents, successors and assigns, expressly waives all rights under Section 1542 of the Civil Code of the State of California ("Section 1542"), or any other federal or state statutory rights or rules, or principles of common law or equity, or those of any jurisdiction, government, or political subdivision thereof, similar to Section 1542 (hereinafter referred to as a "Similar Provision"). Thus, Grantor and its agents, successors and assigns, and any business, enterprise, or venture in which they are involved, may not invoke the benefits of Section 1542 or any Similar Provision in order to prosecute or assert in any manner the matters released in Section 13 above. Section 1542 provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

Grantor's Initials: MD

This waiver applies solely to those claims arising out of or related to the City's acquisition of the Easements by eminent domain in the Action, and does not apply to those claims held by Grantor, if any, related to claims of environmental contamination and damage caused by the City's existing water pipeline originally identified in recorded deed at Mendocino County Official Records at book 80 page 168, and subsequently adjusted to its current location as identified by the label "approx location of proposed pipeline" in the map attached as Exhibit 4 hereto dated June 14, 1958.

16. Survival. Any warranties, representations, promises, covenants, agreements, and indemnifications that this Agreement does not require to be fully performed prior to Close of Escrow shall survive Close of Escrow and shall be fully enforceable after Close of Escrow in accordance with their terms.

17. Waiver, Consent and Remedies. Each provision of this Agreement to be performed by the City and Grantor shall be deemed both a covenant and a condition and shall be a material consideration for Grantor's and the City's performance hereunder, as appropriate, and any breach thereof by the City or Grantor shall be deemed a material default hereunder. Either party may specifically and expressly waive in writing any portion of this Agreement or any breach thereof, but no such waiver shall constitute a further or continuing waiver of a preceding or succeeding breach of the same or any other provision. A waiving party may at any time thereafter require further compliance by the other party with any breach or provision so waived.

The consent by one party to any act by the other for which such consent was required shall not be deemed to imply consent or waiver of the necessity of obtaining such consent for the same or any similar acts in the future. No waiver or consent shall be implied from silence or any failure of a party to act, except as otherwise specified in this Agreement. All rights, remedies, undertakings, obligations, options, covenants, conditions and agreements contained in this Agreement shall be cumulative and no one of them shall be exclusive of any other. Except as otherwise specified herein, either party hereto may pursue any one or more of its rights, options or remedies hereunder or may seek damages or specific performance in the event of the other party's breach hereunder, or may pursue any other remedy at law or equity, whether or not stated in this Agreement.

18. Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by reputable overnight courier, sent by registered or certified mail, postage prepaid, return receipt requested, or emailed, and shall be deemed received upon the earlier of: (i) if personally delivered, the date of delivery to the address of the person to receive such notice; (ii) if mailed, three business days after the date of posting by the United States post office; (iii) if delivered by Federal Express or other overnight courier for next business day delivery, the next business day; or if emailed, the date the email was sent to the email address of the person to receive such notice. Notice of change of address shall be given by written notice in the manner described in this Section 17. Rejection or other refusal to accept or the inability to deliver because of a change in address of which no notice was given shall be deemed to constitute receipt of the notice, demand, request or communication sent. Unless changed in accordance herewith, the addresses for notices given pursuant to this Agreement shall be as follows:

If to Grantor: Redwood Timber Company LLC
 90 W. Redwood Avenue
 Fort Bragg, CA 95437

Copy to: Stephen F. Johnson
 Mannon, King, Johnson & Wipf, LLP
 PO Box 419
 Ukiah, CA 95482
 (707) 707-468-0284 (fax)
 steve@mkjlex.com

 Redwood Timber Company LLC
 P.O. Box 1300
 Morgan Hill, CA 95437

If to the City: John Smith, Director of Public Works
 City of Fort Bragg
 416 North Franklin Street
 Fort Bragg, CA 95437
 jsmith@fortbragg.com

Copy to: Baron J. Bettenhausen
Jones Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835
(714) 446-1448 fax
bjb@jones-mayer.com

19. Default. Failure or delay by either party to perform any covenant, condition or provision of this Agreement within the time provided herein constitutes a default under this Agreement. The injured party shall give written notice of default to the party in default, specifying the default complained of. The defaulting party shall immediately commence to cure such default and shall diligently complete such cure within ten (10) days from the date of the notice. The injured party shall have the right to terminate this Agreement by written notice to the other party in the event of a default which is not cured within such ten-day period.

20. Interpretation. This Agreement shall be interpreted as though jointly prepared by both parties.

21. Entire Agreement. This Agreement and its exhibits constitute the entire agreement between the parties hereto pertaining to the subject matter hereof, and the final, complete and exclusive expression of the terms and conditions thereof. All prior agreements, representations, negotiations and understanding of the parties hereto, oral or written, express or implied, are hereby superseded and merged herein.

22. Captions. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

23. Amendments. No addition to or modification of any provision contained in this Agreement shall be effective unless fully set forth in writing by the City and Grantor.

24. Counterparts. This Agreement may be executed in any number of identical counterparts and each counterpart shall be deemed to be an original document. All executed counterparts together shall constitute one and the same document, and any counterpart signature pages may be detached and assembled to form a single original document. This Agreement may be executed by signatures transmitted by facsimile, adobe acrobat or other electronic image files and these signatures shall be valid, binding and admissible as though they were ink originals.

25. Legal Advice. Each Party represents and warrants to the other the following: they have carefully read this Agreement, and in signing this Agreement, they do so with full knowledge of any right which they may have; they have received independent legal advice from their respective legal counsel as to the matters set forth in this Agreement, or have knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, they have freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

26. Cooperation. Each Party agrees to cooperate with the other in the closing of this transaction and, in that regard, to sign any and all documents which may be reasonably necessary, helpful, or appropriate to carry out the purposes and intent of this Agreement.

27. Effective Date. This Agreement shall become effective upon the full execution by the Parties (the “Effective Date”).

28. Right of Entry and Possession. Immediately upon execution of this Agreement by all Parties, Grantee and/or its employees, contractors, agents, and assigns, shall have the right to enter upon and take possession of the Easement Area during the Escrow period for the purpose of constructing the Project and accomplishing all necessary incidents thereto. The City shall have access to the Easement Area through the “Haul Road” access gate. A keypad opens the gate, and the gate automatically closes after a vehicle passes through the gate. There is another gate located on the A&W Road, East of Newman Gulch, and City staff and contractors will not have access to the Easement Area through the Newman Gulch gate or otherwise unless if construction equipment necessary for the Project or other equipment required to be present for performance of the terms of this Agreement cannot enter through the “Haul Road” access gate and Access Road as depicted in Exhibit C hereto, City staff and contractors along with the aforesaid equipment shall be permitted to enter the Easement Area through the southern terminus of the Easement Area where it intersects and meets with the neighboring owner Celeri Trust’s property located at Mendocino County Assessor Parcel Number 019-690-12. The City shall provide Grantor with at least 24-hour notice prior to accessing the Property. The City shall provide Grantor with a list of all individuals authorized to access the Project on the Property, and all individuals accessing the Easement Area shall sign in and sign out daily on Grantor’s form at the access gate. The list of individuals to be provided shall include all contractor employees, sub-contractor employees, City employees, and any other agents of the City. At all times during construction, the City shall keep at least one lane of the Haul Road open to vehicular, logging truck, and equipment traffic for the benefit of Grantor, its contractors, employees, and its other agents. The City, its employees, contractors, and agents shall not make any recreational use of the Property. City shall indemnify, defend and hold harmless Grantor and Grantor’s officers, directors, members, shareholders, employees, contractors, licensee, agents, and representatives (individually and collectively, “Indemnitee”) from and against any action, cause of action, liability, suit, costs and expenses (including court costs and reasonable attorney’s fees), claim, liens (including mechanics’ liens), or demand whatsoever (collectively, “Claims”) brought or asserted by any third person whomsoever, at law or in equity, arising out of or in connection with City’s operation, use, maintenance or repair of City’s facilities, or use of the Easement Area during the term of this Right of Entry.

29. Consent to Dismissal of Eminent Domain Action and Return of Deposit:
California Code of Civil Procedure Section 664.6.

29.1 Grantor and Grantee agree and consent to the dismissal of the Eminent Domain Action, and Grantor waives any and all claim to money, including interest, that may be deposited in the with the State Condemnation Deposits Fund in such an action, and hereby stipulates to the release of the Deposit money back to City, and Grantor and City hereby waive any right to recover any litigation costs or attorney’s fees as a result of the dismissal or abandonment of the Eminent Domain Action by City. The provisions of this Section shall

survive any termination of this Agreement or the Close of Escrow and the recording of the Permanent Easement Deed. Each of the Parties shall bear their own attorney's fees and costs incurred in prosecuting and/or defending the Eminent Domain Lawsuit.

29.2 The Parties agree that this Agreement may be enforced pursuant to California Code of Civil Procedure Section 664.6, and that the Court shall retain jurisdiction of this matter until all terms of this Agreement are satisfied.

26. Attorney Fees. In any claim or controversy arising out of or in connection with this Agreement or any provision contained herein, the prevailing party shall be entitled to be reimbursed for all costs incurred, including, but not limited to, attorneys' fees and expenses.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

[SIGNATURES ON FOLLOWING PAGE]

“City”
CITY OF FORT BRAGG:

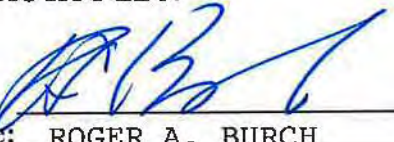
“Grantor”

REDWOOD TIMBER COMPANY LLC
formerly known as LYME REDWOOD
TIMBERLANDS LLC:


By: _____
Name: Isaac Whippy
Its: City Manager

By: 
Name: ROGER A. BURCH
Its: MANAGING MEMBER


RJS TIC HTC LLC:

By: 
Name: ROGER A. BURCH
Its: MANAGING MEMBER

PV TIC HTC LLC:

By: 
Name: ROGER A. BURCH
Its: MANAGING MEMBER

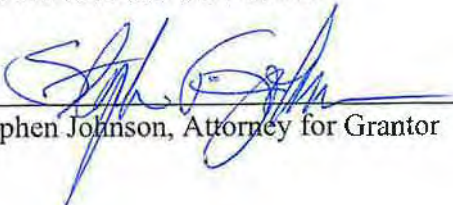
RMB TIC HTC LLC:

By: 
Name: ROGER A. BURCH
Its: MANAGING MEMBER

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Baron J. Bettenhausen, City Attorney
City of Fort Bragg


Stephen Johnson, Attorney for Grantor

“City”
CITY OF FORT BRAGG:

“Grantor”

REDWOOD TIMBER COMPANY LLC
formerly known as LYME REDWOOD
TIMBERLANDS LLC:

By: DocuSigned by:
Isaac Whippy
50E8C1A52F474A7...
Name: Isaac Whippy
Its: City Manager

By: _____
Name: _____
Its: _____

RJS TIC HTC LLC:

By: _____
Name: _____
Its: _____

PV TIC HTC LLC:

By: _____
Name: _____
Its: _____

RMB TIC HTC LLC:

By: _____
Name: _____
Its: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

DocuSigned by:
Baron J. Bettenhausen
5B8D1F8825C84D1...
Baron J. Bettenhausen, City Attorney

Stephen Johnson, Attorney for Grantor

City of Fort Bragg

EXHIBIT 1

[DO NOT USE—EXEMPLAR ONLY]

PERMANENT EASEMENT AGREEMENT

**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

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

A.P.N.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

THIS IS TO CERTIFY THAT THIS DOCUMENT IS PRESENTED FOR RECORDING
BY THE CITY OF FORT BRAGG UNDER GOVERNMENT CODE SECTION 27383
AND IS ALSO EXEMPT FROM PAYMENT OF DOCUMENTARY TRANSFER TAX

PERMANENT EASEMENT AGREEMENT

THIS PERMANENT EASEMENT AGREEMENT (the "**Agreement**"), dated the ____ day of _____, 2023, by and between _____, hereinafter called "**Grantor**", and THE CITY OF FORT BRAGG, a municipal corporation, hereinafter called "**Grantee**".

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor does hereby GRANT to the City a non-exclusive permanent, subsurface easement ("Permanent Easement" or "Easement") to survey, install, construct, reconstruct, alter, operate, remove, replace, inspect, repair, and maintain underground pipeline(s) for water and storm water (collectively, the "Facilities") in, under, across, and along that certain real property located in the County of Mendocino, State of California, as described in Exhibit "A," and as depicted in Exhibit "B," and Exhibit "C."

The Permanent Easement is subject to the following terms and conditions:

Trimming.

Grantee may from time to time, trim or cut down, without Grantee paying compensation, any and all trees and brush now or hereafter located within said Permanent Easement.

Ingress/Egress.

Grantee, and its employees, contractors, agents and assigns ("Authorized Users") shall have the right of reasonable egress and ingress over and across the Easement and a portion of the Grantor's real property as depicted in "Exhibit "B" and Exhibit "C" (collectively, "Property") and a portion of the remaining servient larger parcel to allow for access to personnel, vehicles, and construction equipment, to, from, and along the Permanent Easement,, including the right to reasonably use existing roadways, driveways, drive aisles, and parking areas, if any, within the larger parcel as shall be convenient and necessary to access the Facilities and/or the Permanent Easement; provided however, that nothing shall prevent or limit Grantor's s right to close such roadways, driveways, drive aisles, or parking areas, if any, and to provide Grantee or its Authorized Users with comparable alternative access to the Permanent Easement. Grantee shall not construct a road, or otherwise use the Permanent Easement for ingress and egress, recreation, or for any other purpose, except as expressly referenced in this Agreement.

Right of Entry and Road Use.

Grantee shall have access to the Easement Area through the "A&W Haul Road" and access gate as depicted in Exhibit "C." And, if construction equipment necessary for the Project or other equipment required to be present for performance of the terms of this Agreement cannot enter through the "A&W Haul Road" access gate and Access Road as depicted in Exhibit C hereto, City staff and contractors along with the aforesaid equipment shall be permitted to enter the Easement Area through the southern terminus of the Easement Area where it intersects and meets with the neighboring owner Celeri Trust's property located at Mendocino County Assessor Parcel Number 019-690-12. A keypad opens the gate, and the gate automatically closes after a vehicle passes through the gate. There is another gate located on the A&W Haul Road, East of Newman Gulch, and City staff and contractors will not have access to the Easement Area through the Newman Gulch gate or otherwise. Grantee shall provide Grantor with at least 24-hour notice prior to accessing the Property. Grantee shall provide Grantor with a list of all individuals authorized to access the Project on the Property, and all individuals accessing the Easement Area shall sign in and sign out daily on Grantor's form at the access gate. The list of individuals to be provided shall include all contractor employees, sub-contractor employees, Grantee's employees, and any other agents of Grantee. At all times during construction, Grantee shall keep at least one lane of the A&W Haul Road open to vehicular, logging truck, and equipment traffic for the benefit of Grantor, its contractors, employees, and its other agents. Grantee, its employees, contractors, and agents shall not make any recreational use of the Property.

Fire Prevention.

No smoking shall occur on the Property. All equipment shall be equipped with a fire extinguisher and shovel. Grantee shall have a full water truck on site during construction.

Agreement Runs With the Property.

The rights granted to Grantee by this Agreement are appurtenant to Grantor's Property, and run with the land, and shall bind and inure to the benefit of the Parties, and their respective representatives, heirs, executors, administrators, successors, assigns, families, partners, employers, employees, officers, directors, shareholders, and agents.

Insurance

Grantee shall name Grantor as an additional insured on its general liability insurance policy and provide a copy of such coverage to Grantor.

Contractor's Insurance.

Liability Insurance. Any contractors that shall work on the Property shall maintain in full force throughout the term of such work commercial general liability insurance providing coverage on an occurrence form basis with limits of Two Million Dollars (\$2,000,000.00) each occurrence for bodily injury and property damage combined, Two Million Dollars (\$2,000,000.00) annual general aggregate, and Two Million Dollars (\$2,000,000.00) products and completed operations annual aggregate.

Certificates of Insurance.

Grantee and Grantee's Contractor shall furnish to Grantor a certificate of insurance reflecting that the insurance required by this Section is in force.

No Interference.

Following the initial construction and installation of the Facilities in the Permanent Easement, any further use, maintenance, operation, alteration, addition to, inspection, repair, removal, reconstruction, and/or replacement of the Facilities by Grantee shall be undertaken in a manner so as to minimize interference with the use and operation of, and access to, Grantor's Property.

Improvements.

No building, fences, walls or other permanent structures of any kind, flammable substance, wells, reservoirs, or other obstructions, and no deep rooted trees, deep rooted shrubs or other plants or vegetation, shall be installed, constructed, erected, placed, planted or maintained within the Permanent Easement without prior written consent of the Grantee, which consent shall not be unreasonably withheld, conditioned or delayed. Nor shall the ground level in the Permanent

Easement area be diminished or substantially added to, nor shall any fences be constructed that will interfere with the maintenance, repair and operation of said Facilities.

Damage to Pipeline.

Grantee warrants that the Facilities have been designed to eliminate the risk of damage by heavy equipment typically used for timber operations, up to 100,000 pounds. Except as otherwise provided herein, Grantor is a timber company, it is free to make full use of the surface of the Easement and Facilities, and to conduct timber harvesting, timber operations on and/or around the Easement and Facilities. Except as otherwise provided herein, and excepting Grantor's gross negligence and intentional misconduct, Grantor shall not be responsible for the damage or repair to the Permanent Easement or Facilities arising out of timber harvesting, timber related operations, use of heavy equipment, and/or any other surface related activities on or around the Permanent Easement and Facilities.

Location.

Grantee and its Authorized Users shall have the right to mark the location of the Permanent Easement in a manner which will not interfere with the landowner's reasonable and lawful use of the Permanent Easement and will not interfere with its customary business operations.

Exclusivity.

Except for preexisting easements, if any, and any subsequently granted right, license, or easement to use the Haul Road that bisects a portion of the Easement, no other easement or easements shall be granted within the Permanent Easement without the prior written consent of Grantee, which consent shall not be unreasonably withheld, conditioned, or delayed. Except as otherwise provided herein, Grantor shall have the right to use the surface of the Permanent Easement for any purpose that does not interfere and is not inconsistent with the rights granted to Grantee under this Easement.

Compliance with Laws.

Grantee is responsible for any damage to landowner's property caused by Grantee's or the Authorized Users' activities related to the Easement. In the event Grantee's or Authorized Users' activities damage landowner's larger property, then subject to any restrictions set forth herein, Grantee shall restore the damaged area to its prior condition to the best it is able. Any work performed by Grantee or the Authorized Users in the Permanent Easement must be performed in a good and workmanlike manner and Grantee shall be solely responsible for obtaining all applicable permits necessary to install, repair, maintain and/or replace the Facilities.

Indemnity.

Grantee shall indemnify, defend and hold harmless landowner from and against any action, cause of action, liability, suit, costs and expenses (including court costs and reasonable attorneys' fees), claim, liens (including mechanics' liens), or demand whatsoever (collectively, "Claims") brought or asserted by any third person whomsoever, at law or in equity, arising out of or in connection with Grantee's installation, repair, maintenance and/or operation of the Facilities in the Permanent Easement, or use of the Permanent Easement, provided, however, that this indemnity shall not extend to that portion of such loss or damage that shall have been caused by landowner's comparative negligence or willful misconduct.

Hazardous Substances.

Nothing contained herein shall authorize Grantee or the Authorized Users to bring Hazardous Substances onto the Permanent Easement, or authorize any release of Hazardous Substances in, on, under or from same. For the purposes of this Easement, Hazardous Substances (or any derivation thereof) means any and all hazardous materials, toxic substances, chemicals, contaminants, pollutants, solid wastes or waste, as defined by any applicable environmental law, and also includes, but is not limited to, any lead paint, mold, radon, petroleum, petroleum products, petroleum by products, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous waste, toxic substances, toxic chemicals, chemicals, pesticides, radioactive materials, polychlorinated biphenols, methane, soil vapor, gas, linoleum, and surface and subsurface man-made media left at or underneath the larger property, and any other element, compound, mixture, solution, substance, material, waste or the like which may pose a present or potential danger to human health and safety, biota or the environment. Grantee, its employees, agents, and/or contractors shall not under any circumstances change any equipment fluids on the Property.

Attorney Fees.

In any claim or controversy arising out of or in connection with this Agreement or any provision contained herein, the prevailing party shall be entitled to be reimbursed for all costs incurred, including, but not limited to, attorneys' fees and expenses.

Assignment.

Grantee may not assign, or otherwise transfer, any rights, benefits, or interests under this Agreement without the prior written consent and approval of Grantor, or its successors and assigns, and such approval shall not be unreasonably withheld.

Entire Agreement.

This Agreement constitutes the entire agreement between the Parties relating to the Permanent Easement. Any prior agreements, promises, negotiations or representations not expressly set forth in this Agreement are of no force and effect unless it is in writing and signed by the Parties.

[signature on following page]

IN WITNESS WHEREOF, the said parties hereto have caused this Agreement to be duly executed as of the date first hereinabove written.

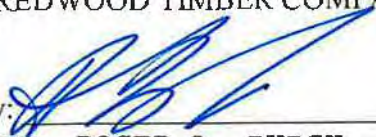
“GRANTEE”

“GRANTOR”

CITY OF FORT BRAGG

REDWOOD TIMBER COMPANY LLC

By: _____
Name: Isaac Whippy
Title: City Manager


By:  _____
Name: ROGER A. BURCH
Title: MANAGING MEMBER

ATTEST:


City Clerk

RJS TIC HTC LLC:

APPROVED AS TO FORM:

By:  _____
Name: ROGER A. BURCH
Its: MANAGING MEMBER

Baron J. Bettenhausen, Esq., City Attorney
City of Fort Bragg

PV TIC HTC LLC:
By:  _____
Name: ROGER A. BURCH
Its: MANAGING MEMBER

ALL GRANTOR SIGNATURES MUST BE
NOTARIZED.
ATTACH ACKNOWLEDGEMENTS AS REQUIRED

RMB TIC HTC LLC:
By:  _____
Name: ROGER A. BURCH
Its: MANAGING MEMBER

IN WITNESS WHEREOF, the said parties hereto have caused this Agreement to be duly executed as of the date first hereinabove written.

“GRANTEE”

“GRANTOR”

CITY OF FORT BRAGG

REDWOOD TIMBER COMPANY LLC

DocuSigned by:
Isaac Whippy
50E8C1A52E474A7
By: _____
Name: Isaac Whippy
Title: City Manager

By: _____
Name: _____
Title: _____

ATTEST:
DocuSigned by:
Diana Sanchez
383A7A096E154B2...

City Clerk

RJS TIC HTC LLC:

APPROVED AS TO FORM:

By: _____
Name: _____
Its: _____

DocuSigned by:
Baron J. Bettenhausen
5B6D1F6925C84D1...

Baron J. Bettenhausen, Esq., City Attorney
City of Fort Bragg

PV TIC HTC LLC:

By: _____
Name: _____
Its: _____

ALL GRANTOR SIGNATURES MUST BE
NOTARIZED.
ATTACH ACKNOWLEDGEMENTS AS REQUIRED

RMB TIC HTC LLC:

By: _____
Name: _____
Its: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

State of California
County of Mendocino

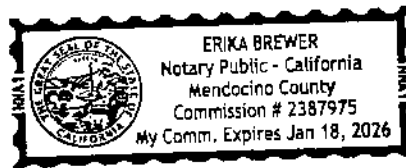
On March 12, 2024, before me, Erika Brewer, Notary Public, personally appeared Roger A. Burch, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Notary Signature



(Seal)

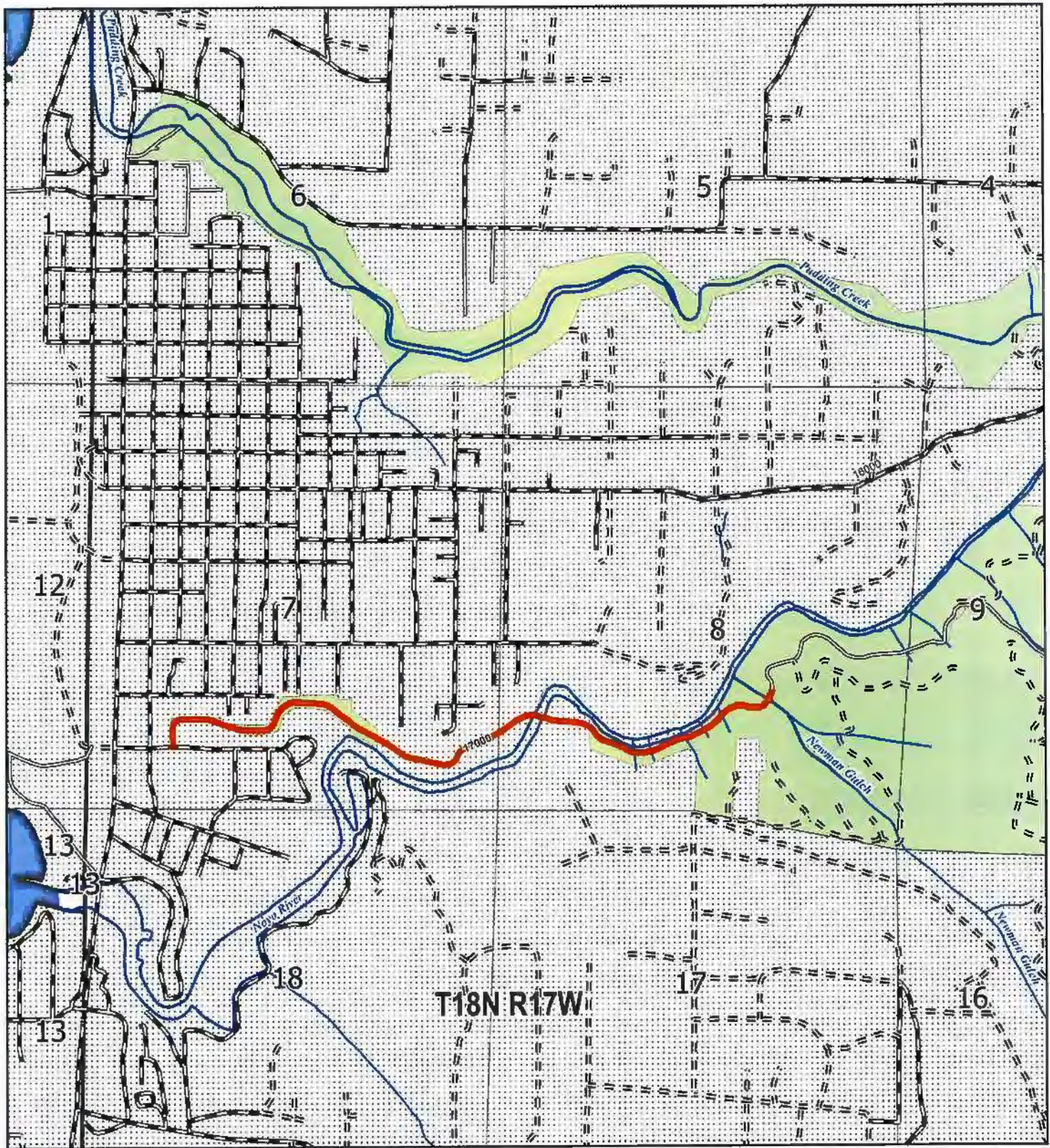
Exhibit A

[to be inserted during escrow following completion of an as-built survey]

Exhibit B

[to be inserted during escrow following completion of an as-built survey]

Exhibit C



A&W Haul Road to Newman Gulch



- Streams
- Access Road
- Paved Road
- Redwood Timber Co LLC
- Rock Road
- Off Ownership
- Dirt Road

EXHIBIT 2

[DO NOT USE—EXEMPLAR ONLY]

TEMPORARY CONSTRUCTION EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (the “**Agreement**”), dated the ____ day of _____, 2023, by and between _____, hereinafter called “**Grantor**”, and THE CITY OF FORT BRAGG, a municipal corporation, hereinafter called “**Grantee**”.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Grantor does hereby GRANT to the City a Temporary Construction Easement for the purposes of facilitating construction of underground pipeline(s) for water and storm water (collectively, the “**Facilities**”), including the right to place equipment and vehicles, pile earth thereon, and utilize said Temporary Construction Easement for all other related activities and purposes under, in, over and upon the real property in the City of Fort Bragg, County of Mendocino, State of California, as described in Exhibit “A,” and as depicted in Exhibit “B,” and Exhibit “C.”

(hereinafter, the “**TCE Area**”). The Temporary Construction Easement shall commence immediately upon its execution and delivery to City and shall automatically terminate thirty (30) days after the Grantee provides written notice to Grantor of the completion of construction and installation of the Facilities (“**TCE Term**”).

The Temporary Construction Easement is subject to the following terms and conditions:

Trimming.

During the TCE Term, Grantee may from time to time, trim or cut down, without Grantee paying compensation, any and all trees and brush now or hereafter located within the TCE Area.

Ingress/Egress.

Grantee, and its employees, contractors, agents and assigns (“**Authorized Users**”) shall have the right of reasonable egress and ingress over and across the TCE Area and a portion of the remaining servient larger parcel to allow for access to personnel, vehicles, and construction equipment, to, from, and along the TCE Area, including the right to reasonably use existing roadways, driveways, drive aisles, and parking areas, if any, within the larger parcel as shall be convenient and necessary to access the Facilities and/or the TCE Area; provided however, that nothing shall prevent or limit Grantor’s right to close such roadways, driveways, drive aisles, or parking areas, if any, and to provide Grantee or its Authorized Users with comparable alternative access to the TCE Area.

Right of Entry and Road Use.

Grantee shall have access to the TCE Area through the “**A&W Haul Road**” and access gate as depicted in Exhibit “C.” And, if construction equipment necessary for the Project or other equipment required to be present for performance of the terms of this Agreement cannot enter through the “**A&W Haul Road**” access gate and Access Road as depicted in Exhibit C hereto, City staff and contractors along with the aforesaid equipment shall be permitted to enter the Easement Area through the southern terminus of the Easement Area where it intersects and meets with the neighboring owner Celeri Trust’s property located at Mendocino County Assessor Parcel Number 019-690-12. A keypad opens the gate, and the gate automatically closes after a vehicle passes through the gate. There is another gate located on the A&W Haul Road, East of Newman Gulch, and Grantee’s staff and contractors will not have access to the Easement Area through the Newman Gulch gate or otherwise. Grantee shall provide Grantor with at least 24-hour notice prior to accessing the Property. Grantee shall provide Grantor with a list of all individuals authorized to access the Project on the Property, and all individuals accessing the Easement Area shall sign in and sign out daily at the access gate. The list of individuals to be provided shall include all contractor employees, sub-contractor employees, Grantee’s employees, and any other agents of Grantee. At all times during construction, Grantee shall keep at least one lane of the A&W Haul Road open to vehicular, logging truck, and equipment traffic for the benefit of Grantor, its contractors, employees, and its other agents. Grantee, its employees, contractors, and agents shall not make any recreational use of the Property.

Fire Prevention.

No smoking shall occur on the Property. All equipment shall be equipped with a fire extinguisher and shovel. Grantee shall have a full water truck on site during construction.

Improvements.

During the TCE Term, no building, fences, walls or other permanent structures of any kind, flammable substance, wells, reservoirs, or other obstructions, and no deep rooted trees, deep rooted shrubs or other plants or vegetation, shall be installed, constructed, erected, placed, planted or maintained within the TCE Area without prior written consent of the Grantee, which consent shall not be unreasonably withheld, conditioned or delayed. Nor shall the ground level in the TCE Area be diminished or substantially added to, nor shall any fences be constructed that will interfere with the construction and installation of said Facilities.

Location.

Grantee and its Authorized Users shall have the right to mark the location of the TCE Area in a manner which will not interfere with the landowner's reasonable and lawful use of the TCE Area and will not interfere with its customary business operations.

Damage to Pipeline.

Grantee warrants that the Facilities have been designed to eliminate the risk of damage by heavy equipment typically used for timber operations, up to 100,000 pounds. Except as otherwise provided herein, Grantor is a timber company, it is free to make full use of the surface of the Easement and Facilities, and to conduct timber harvesting, timber operations on and/or around the Easement and Facilities. Except as otherwise provided herein, and excepting Grantor's gross negligence and intentional misconduct, Grantor shall not be responsible for the damage or repair to the Permanent Easement or Facilities arising out of timber harvesting, timber related operations, use of heavy equipment, and/or any other surface related activities on or around the Permanent Easement and Facilities.

Exclusivity.

During the TCE Term, no other easement or easements shall be granted within the TCE Area without the prior written consent of Grantee, which consent shall not be unreasonably withheld, conditioned or delayed. During the TCE Term, Grantor shall have the right to use the surface of the TCE Area for any purpose that does not interfere and is not inconsistent with the rights granted to Grantee under this Easement.

Compliance with Laws.

Grantee is responsible for any damage to landowner's property caused by Grantee's or the Authorized Users' activities related to the Temporary Construction Easement. In the event Grantee's or Authorized Users' activities damage landowner's larger property, then subject to any restrictions set forth herein, Grantee shall restore the damaged area to its prior condition to the best it is able. Any work performed by Grantee or the Authorized Users in the TCE Area must be performed in a good and workmanlike manner and Grantee shall be solely responsible for obtaining all applicable permits necessary to install the Facilities.

Indemnity.

Grantee shall indemnify, defend and hold harmless landowner from and against any action, cause of action, liability, suit, costs and expenses (including court costs and reasonable attorneys' fees), claim, liens (including mechanics' liens), or demand whatsoever (collectively, "Claims") brought or asserted by any third person whomsoever, at law or in equity, during the TCE Term arising out of or in connection with Grantee's construction and installation of the Facilities in the TCE Area, provided, however, that this indemnity shall not extend to that portion of such loss or damage that shall have been caused by landowner's comparative negligence or willful misconduct.

Insurance

Grantee shall name Grantor as an additional insured on its general liability insurance policy and provide a copy of such coverage to Grantor,

Contractor's Insurance.

Liability Insurance. Any contractors that shall work on the Property shall maintain in full force throughout the term of such work commercial general liability insurance providing coverage on an occurrence form basis with limits of Two Million Dollars (\$2,000,000.00) each occurrence for bodily injury and property damage combined, Two Million Dollars (\$2,000,000.00) annual general aggregate, and Two Million Dollars (\$2,000,000.00) products and completed operations annual aggregate.

Certificates of Insurance.

- 11 -

LA #4822-8206-1307 v1
4888-3192-7166 v17

The City and its contractor shall furnish to Grantor a certificate of insurance reflecting that the insurance required by this Section is in force.

Hazardous Substances.

Nothing contained herein shall authorize Grantee or the Authorized Users to bring Hazardous Substances onto the TCE Area, or authorize any release of Hazardous Substances in, on, under or from same. For the purposes of this Easement, Hazardous Substances (or any derivation thereof) means any and all hazardous materials, toxic substances, chemicals, contaminants, pollutants, solid wastes or waste, as defined by any applicable environmental law, and also includes, but is not limited to, any lead paint, mold, radon, petroleum, petroleum products, petroleum by products, reactive materials, ignitable materials, corrosive materials, hazardous chemicals, hazardous waste, toxic substances, toxic chemicals, chemicals, pesticides, radioactive materials, polychlorinated byphenols, methane, soil vapor, gas, linoleum, and surface and subsurface man-made media left at or underneath the larger property, and any other element, compound, mixture, solution, substance, material, waste or the like which may pose a present or potential danger to human health and safety, biota or the environment. Grantee, its employees, agents, and/or contractors shall not under any circumstances change any equipment fluids on the Property.

Attorney Fees.

In any claim or controversy arising out of or in connection with this Agreement or any provision contained herein, the prevailing party shall be entitled to be reimbursed for all costs incurred, including, but not limited to, attorneys' fees and expenses.

Assignment.

Grantee may not assign, or otherwise transfer, any rights, benefits, or interests under this Agreement without the prior written consent and approval of Grantor, or its successors and assigns, and such approval shall not be unreasonably withheld.

[signature on following page]

IN WITNESS WHEREOF, the said parties hereto have caused this Agreement to be duly executed as of the date first hereinabove written.

“GRANTEE”

“GRANTOR”

CITY OF FORT BRAGG

REDWOOD TIMBER COMPANY LLC

By: _____
Name: Isaac Whippy
Title: City Manager

By: 
Name: ROGER A. BURCH
Title: MANAGING MEMBER

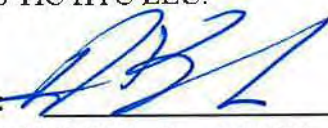
ATTEST:

City Clerk

APPROVED AS TO FORM:

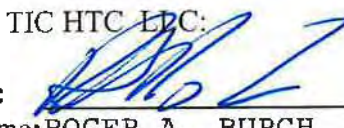
Baron J. Bettenhausen, Esq., City Attorney
City of Fort Bragg

RJS TIC HTC LLC:

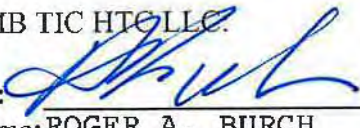
By: 
Name: ROGER A. BURCH
Its: MANAGING MEMBER

ALL GRANTOR SIGNATURES MUST BE NOTARIZED.
ATTACH ACKNOWLEDGEMENTS AS REQUIRED

PV TIC HTC LLC:

By: 
Name: ROGER A. BURCH
Its: MANAGING MEMBER

RMB TIC HTC LLC:

By: 
Name: ROGER A. BURCH
Its: MANAGING MEMBER

IN WITNESS WHEREOF, the said parties hereto have caused this Agreement to be duly executed as of the date first hereinabove written.

“GRANTEE”

“GRANTOR”

CITY OF FORT BRAGG

REDWOOD TIMBER COMPANY LLC

DocuSigned by:
Isaac Whippy
50E8C1A52F474A7...
By: _____
Name: Isaac Whippy
Title: City Manager

By: _____
Name: _____
Title: _____

ATTEST:
DocuSigned by:
Diana Sanchez
383A7A998E154B2...

City Clerk

APPROVED AS TO FORM:

RJS TIC HTC LLC:

DocuSigned by:
Baron J. Bettenhausen
5B8D1F6925C64D1...

Baron J. Bettenhausen, Esq., City Attorney
City of Fort Bragg

By: _____
Name: _____
Its: _____

ALL GRANTOR SIGNATURES MUST BE NOTARIZED.
ATTACH ACKNOWLEDGEMENTS AS REQUIRED

PV TIC HTC LLC:

By: _____
Name: _____
Its: _____

RMB TIC HTC LLC:

By: _____
Name: _____
Its: _____

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document

State of California
County of Mendocino

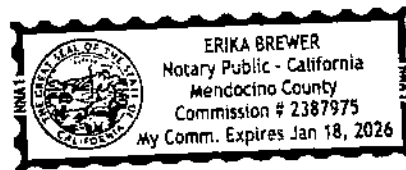
On March 12, 2024, before me, Erika Brewer, Notary Public, personally appeared Roger A. Burch, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Notary Signature



(Seal)

EXHIBIT 'A'
20' WATER LINE EASEMENT

Lying within the unincorporated area of County of Mendocino, State of California, and being a portion of the lands of Redwood Timber Company LLC, a Delaware limited liability company, as shown on that Co-Tenancy Agreement recorded under Document Number 2022-02810, Official Records of Mendocino County, said Redwood Timber Company LLC was formerly known and appears of record as Lyme Redwood Timberlands LLC, a Delaware limited liability company, as to an undivided 75.00000% interest; RJS TIC HTC, LLC, a California limited liability company, as to an undivided 0.78346% interest; PV TIC HTC, LLC, a California limited liability company, as to an undivided 3.40448% interest; and RMB TIC HTC, LLC, a California limited liability company, as to an undivided 20.81206% interest, as described by Grant Deed recorded under Document Number 2015-18090, Official Records of Mendocino County, said portion is more particularly described as follows:

Being all that portion of said lands of Redwood Timber Company LLC et al. lying within a strip of land, 20 feet in width, and lying 10 feet on each side of an underground water pipeline, the centerline of which is more particularly described as follows:

COMMENCING at a 1-inch iron pipe, not tagged, marking the easterly common corner of said lands of Redwood Timber Company LLC et al. and the lands of Don H. Celeri and Julia C. Celeri, Trustees of The Don H. Celeri and Julia C. Celeri Revocable Living Trust, as described by Grant Deed recorded under Document Number 1998-14070, Official Records of Mendocino County, and marking the common corner of Sections 8, 9, 16 and 17, Township 18 North, Range 17 West, Mount Diablo Base and Meridian as shown on that Record of Survey filed in Drawer 82 of Maps at Page 66, Mendocino County Records, from which a 1-inch rebar and cap stamped "LS 3184" as shown on said Record of Survey bears North 78°36'46" West 1345.06 feet; thence along the easterly boundary of said lands of Celeri Trust, South 1°37'31" West 409.30 feet; thence leaving said easterly boundary, North 74°58'04" West 4.35 feet; thence North 7°28'04" West 151.70 feet; thence North 6°49'26" East 107.35 feet; thence North 18°57'35" East 52.47 feet; thence North 7°54'51" East 53.83 feet; thence North 65°11'42" West 131.84 feet; thence North 76°59'23" West 130.62 feet; thence North 80°17'45" West 97.94 feet; thence North 54°14'13" West 37.23 feet to common boundary of said lands of Redwood Timber Company LLC et al. and said lands of Celeri Trust, and the POINT OF BEGINNING of the herein described centerline of said pipeline, from which said 1-inch rebar bears North 78°36'46" West 965.58 feet; thence leaving said common boundary the following courses:

North 54°14'13" West 52.68 feet;
thence North 59°34'07" West 88.80 feet;
thence North 69°06'28" West 102.70 feet;
thence South 87°42'51" West 50.31 feet;
thence North 83°25'16" West 105.69 feet;
thence North 71°21'09" West 108.39 feet;
thence North 75°51'19" West 68.05 feet;
thence North 58°49'20" West 142.83 feet;
thence North 45°40'28" West 107.30 feet;

Cinquini & Passarino, Inc.
1360 North Dutton Avenue, Suite 150
Santa Rosa, CA 95401

Page 1 of 6

CPI No.: 8466-19
Tel: (707) 542-6268 Fax: (707) 542-2106
www.cinquinipassarino.com

EXHIBIT 'A'
20' WATER LINE EASEMENT

thence North 63°54'49" West 76.83 feet;
thence North 32°33'54" West 54.12 feet;
thence North 37°57'00" West 160.08 feet;
thence North 56°15'41" West 101.35 feet;
thence North 31°47'21" West 202.07 feet;
thence North 44°33'52" West 70.35 feet;
thence North 33°56'28" West 61.76 feet;
thence North 10°20'25" East 41.43 feet;
thence North 5°27'13" East 51.02 feet;
thence North 36°34'39" West 52.16 feet;
thence North 29°20'17" West 72.83 feet;
thence North 11°33'23" West 76.84 feet;
thence North 36°44'08" West 26.66 feet;
thence North 18°20'21" West 30.95 feet;
thence North 7°23'46" East 76.65 feet;
thence North 30°45'06" West 138.10 feet;
thence North 17°26'29" West 73.57 feet, from which a 3/4-inch rebar and cap stamped "PLS 5940" marking the northeast corner of the lands of Templer as shown on said Record of Survey bears South 76°40'05" West 108.45 feet;
thence North 4°09'27" West 19.44 feet;
thence North 26°19'36" West 78.07 feet;
thence North 46°08'38" West 82.08 feet;
thence North 55°14'52" West 39.73 feet;
thence North 85°01'21" West 60.93 feet;
thence North 77°33'02" West 54.77 feet;
thence North 46°51'02" West 144.07 feet;
thence South 83°10'57" West 81.45 feet;
thence North 31°41'18" West 46.79 feet;
thence along a non-tangent curve to the right, the radius point of which bears South 31°41'18" East 372.00 feet, through a central angle of 17°26'08", for a length of 113.20 feet;
thence North 75°44'50" East 36.32 feet;
thence North 86°38'31" East 52.68 feet;
thence South 79°00'08" East 132.16 feet;
thence along a curve to the left having a radius of 188.00 feet, through a central angle of 62°31'01", for a length of 205.13 feet;
thence North 56°37'30" East 15.40 feet;
thence North 30°40'51" East 50.19 feet;
thence North 4°44'12" East 11.43 feet;
thence North 30°40'51" East 26.06 feet;
thence North 22°39'32" East 65.63 feet;
thence along a curve to the left having a radius of 133.00 feet, through a central angle of 17°31'09", for a length of 40.67 feet;
thence North 40°55'12" East 4.00 feet;

Cinquini & Passarino, Inc.
1360 North Dutton Avenue, Suite 150
Santa Rosa, CA 95401

Page 2 of 6

CPI No.: 8466-19
Tel: (707) 542-6268 Fax: (707) 542-2106
www.cinquinipassarino.com

EXHIBIT 'A'
20' WATER LINE EASEMENT

thence North 49°04'48" West 48.00 feet to the TERMINUS of the herein described centerline of said pipeline.

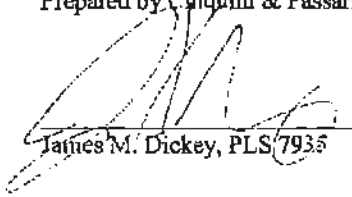
The northerly and southerly lines of said strip at the POINT OF BEGINNING shall be lengthened or shortened to terminate at the common boundary of said lands of Redwood Timber Company LLC et al. and said lands of Celeri Trust.

Containing 71,993 square feet (1.65 acres), more or less.

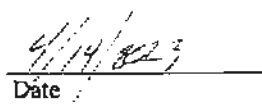
END OF DESCRIPTION

Being a portion of APN 019-630-05-00, 019-640-01-00 & -04-00

Prepared by Cinquini & Passarino, Inc.


James M. Dickey, PLS 7935




Date

Cinquini & Passarino, Inc.
1360 North Dutton Avenue, Suite 150
Santa Rosa, CA 95401

Page 3 of 6

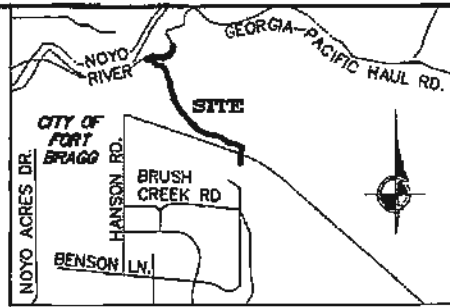
CPI No.: 8466-19
Tel: (707) 542-6268 Fax: (707) 542-2106
www.cinquinipassarino.com

EXHIBIT 'B'

THIS DIAGRAM IS FOR GRAPHIC PURPOSES ONLY. ANY ERRORS OR OMISSIONS SHALL NOT AFFECT THE LEGAL DESCRIPTION.

LEGEND

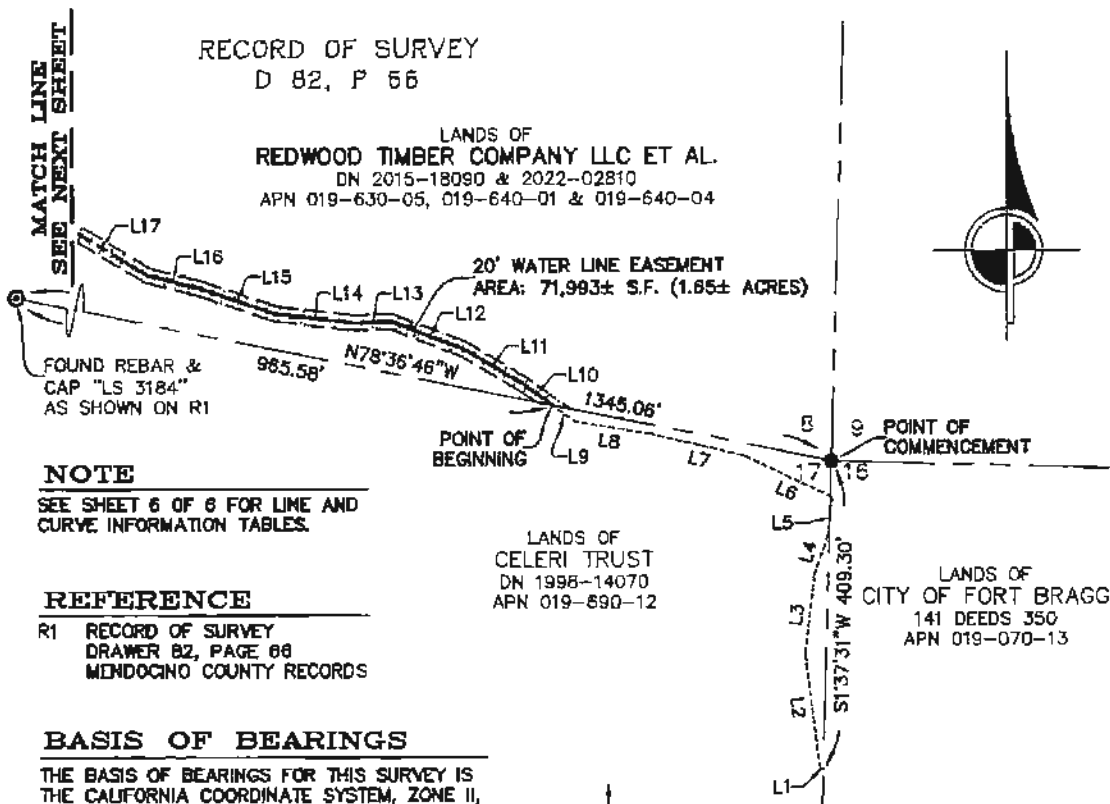
- ADJACENT PROPERTY BOUNDARY
- EASEMENT CENTERLINE
- SURVEY TIE
- ▨ WATER LINE EASEMENT AREA
- FOUND 1" IRON PIPE AS SHOWN ON R1, NO TAG
- ⊙ FOUND REBAR & CAP AS NOTED
- S.F. SQUARE FEET
- DN DOCUMENT NUMBER



SITE MAP
NO SCALE

RECORD OF SURVEY
D 82, P 56

LANDS OF
REDWOOD TIMBER COMPANY LLC ET AL.
DN 2015-18090 & 2022-02810
APN 019-630-05, 019-640-01 & 019-640-04



NOTE

SEE SHEET 6 OF 6 FOR LINE AND CURVE INFORMATION TABLES.

REFERENCE

R1 RECORD OF SURVEY
DRAWER 82, PAGE 66
MENDOCINO COUNTY RECORDS

BASIS OF BEARINGS

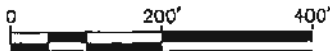
THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CALIFORNIA COORDINATE SYSTEM, ZONE II, NAD 83, EPOCH 2017.50 AS DETERMINED LOCALLY BY A LINE BETWEEN CONTINUOUS GLOBAL POSITIONING SYSTEMS (CGPS) STATION P184 AND STATION P312; BEING NORTH 02°12'53" EAST AS DERIVED FROM GEODETIC VALUES PUBLISHED BY THE CALIFORNIA SPATIAL REFERENCE CENTER (CSRC).

LANDS OF
CELERI TRUST
DN 1996-14070
APN 019-890-12

LANDS OF
CITY OF FORT BRAGG
141 DEEDS 350
APN 019-070-13

CINQUINI & PASSARINO, INC.
LAND SURVEYING

△ BOUNDARY 1360 No. Dutton Ave.
△ TOPOGRAPHIC Santa Rosa, Ca. 95401
△ CONSTRUCTION Phone: (707) 542-6268
△ SUBDIVISIONS Fax: (707) 542-2106
WWW.CINQUINIPASSARINO.COM

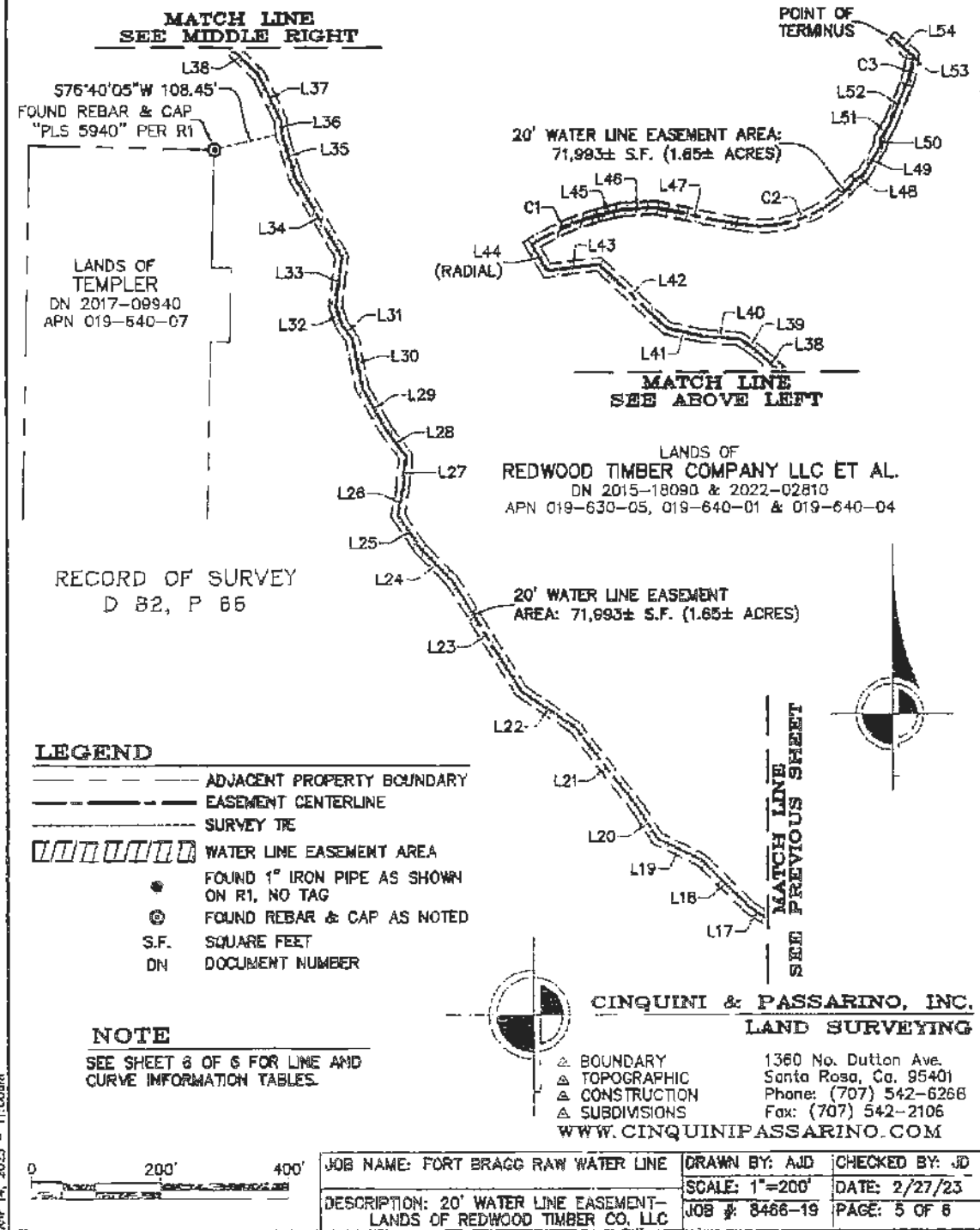


JOB NAME: FORT BRAGG RAW WATER LINE	DRAWN BY: AJD	CHECKED BY: JD
DESCRIPTION: 20' WATER LINE EASEMENT- LANDS OF REDWOOD TIMBER CO. LLC	SCALE: 1"=200'	DATE: 2/27/23
	JOB #: 8466-19	PAGE: 4 OF 6

Y:\8466\Con\ExhibitA\Phase 3\8466EXH1_Phase 3_Lyns_Redwood.dwg
Apr 14, 2023 10:58am

EXHIBIT 'B'

THIS DIAGRAM IS FOR GRAPHIC PURPOSES ONLY. ANY ERRORS OR OMISSIONS SHALL NOT AFFECT THE LEGAL DESCRIPTION.



Y:\8466\Cad\Exhibits\Phase 3\8466EXHIT_Phase 3_Lyme Redwood.dwg
Apr 14, 2023 11:00am

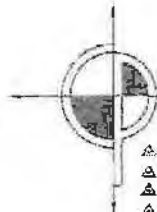
EXHIBIT 'B'
 THIS DIAGRAM IS FOR GRAPHIC PURPOSES ONLY. ANY ERRORS
 OR OMISSIONS SHALL NOT AFFECT THE LEGAL DESCRIPTION.

Line Table		
Line #	Direction	Length
L1	N74°58'04"W	4.35'
L2	N7°28'04"W	151.70'
L3	N6°49'26"E	107.35'
L4	N18°57'35"E	52.47'
L5	N7°54'51"E	53.83'
L6	N65°11'42"W	131.84'
L7	N76°59'23"W	130.62'
L8	N80°17'45"W	97.94'
L9	N54°14'13"W	37.23'
L10	N54°14'13"W	52.68'
L11	N59°34'07"W	88.80'
L12	N69°06'28"W	102.70'
L13	S87°42'51"W	50.31'
L14	N83°25'18"W	105.69'
L15	N71°21'09"W	108.39'
L16	N75°51'19"W	68.05'
L17	N58°49'20"W	142.83'
L18	N45°40'28"W	107.30'
L19	N63°54'49"W	76.83'
L20	N32°33'54"W	54.12'

Line Table		
Line #	Direction	Length
L21	N37°57'00"W	160.08'
L22	N56°15'41"W	101.35'
L23	N31°47'21"W	202.07'
L24	N44°33'52"W	70.35'
L25	N33°56'28"W	61.76'
L26	N10°20'25"E	41.43'
L27	N5°27'13"E	51.02'
L28	N36°34'39"W	52.16'
L29	N29°20'17"W	72.83'
L30	N11°33'23"W	76.84'
L31	N36°44'08"W	26.66'
L32	N18°20'21"W	30.95'
L33	N7°23'46"E	76.65'
L34	N30°45'06"W	138.10'
L35	N17°26'29"W	73.57'
L36	N4°09'27"W	19.44'
L37	N26°19'36"W	78.07'
L38	N46°08'38"W	82.08'
L39	N55°14'52"W	39.73'
L40	N85°01'21"W	60.93'

Line Table		
Line #	Direction	Length
L41	N77°33'02"W	54.77'
L42	N46°51'02"W	144.07'
L43	S83°10'57"W	81.45'
L44	N31°41'18"W	48.79'
L45	N75°44'50"E	36.32'
L46	N86°38'31"E	52.68'
L47	S79°00'08"E	132.16'
L48	N56°37'30"E	15.40'
L49	N30°40'51"E	50.19'
L50	N4°44'12"E	11.43'
L51	N30°40'51"E	26.06'
L52	N22°39'32"E	65.63'
L53	N40°55'12"E	4.00'
L54	N49°04'48"W	48.00'

CURVE TABLE			
CURVE #	RADIUS	DELTA	LENGTH
C1	372.00'	17°26'08"	113.20'
C2	188.00'	62°31'01"	205.13'
C3	133.00'	17°31'09"	40.67'



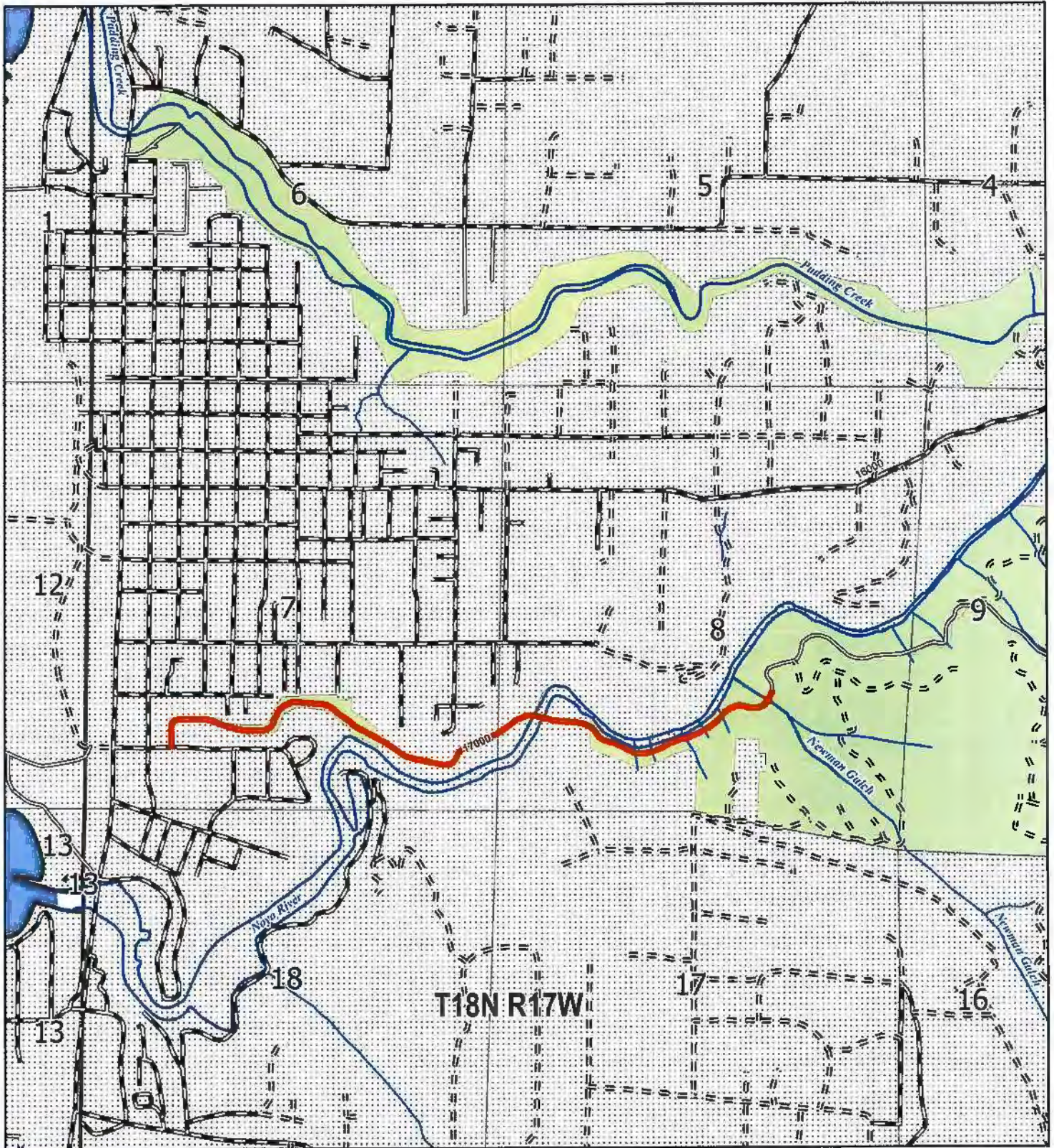
CINQUINI & PASSARINO, INC.
LAND SURVEYING

▲ BOUNDARY 1360 No. Dutton Ave.
 ▲ TOPOGRAPHIC Santa Rosa, Ca. 95401
 ▲ CONSTRUCTION Phone: (707) 542-6268
 ▲ SUBDIVISIONS Fax: (707) 542-2106
 WWW.CINQUINIPASSARINO.COM

JOB NAME: FORT BRAGG RAW WATER LINE	DRAWN BY: AJD	CHECKED BY: JD
DESCRIPTION: 20' WATER LINE EASEMENT- LANDS OF REDWOOD TIMBER CO. LLC	SCALE: NO SCALE	DATE: 2/27/23
	JOB #: 8466-19	PAGE: 6 OF 6

Y:\8466\Cad\Exhibits\Phase 3\8466E\MT_Phase 3_Lyme Redwood.dwg
 Apr 14, 2023 11:10:00am

Exhibit C



A&W Haul Road to Newman Gulch



- Streams
- Paved Road
- Rock Road
- Dirt Road
- Access Road
- Redwood Timber Co LLC
- Off Ownership

EXHIBIT 3

**LITIGATION GUARANTEE
ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
DATED JUNE 14, 2023**

LITIGATION GUARANTEE

Order No.: **20230788MN**
Guarantee No.: **LITA08006141**
Reference: **Lyme**

SUBJECT TO THE LIMITATIONS CONTAINED HEREIN, THE EXCLUSIONS FROM COVERAGE, THE LIMITS OF LIABILITY AND OTHER PROVISIONS OF THE CONDITIONS AND STIPULATIONS HERETO ANNEXED AND MADE A PART OF THIS GUARANTEE,



**OLD REPUBLIC NATIONAL
TITLE INSURANCE COMPANY**
a Corporation, of Minneapolis, Minnesota

GUARANTEES

The Assured named in Schedule A against loss not exceeding the liability amount stated in Schedule A which the Assured shall sustain by reason of any incorrectness in the assurance which the Company hereby gives that, according to the public records, as of Date of Guarantee shown in Schedule A:

1. The title to the herein described estate or interest is vested in the vestee named in Schedule A.
2. Except for the matters shown in Schedule B, there are no defects, liens, encumbrances or other matters affecting title to the estate or interest in the land shown in Schedule A, which matters are not necessarily shown in the order of their priority.
3.
 - a. The current interest holders claiming some right, title or interest by reason of the matters shown in Part II of schedule B are as shown therein. The vestee named in Schedule A and parties claiming to have some right, title or interest by reason of the matters shown in Part II of Schedule B may be necessary to name defendant in action, the nature of which is referred to in Schedule A.
 - b. The current interest holders claiming some right, title or interest by reason of the matters shown in Part I of Schedule B may also be necessary to name defendant in an action, the nature of which is referred to in Schedule A. However, no assurance is given hereby as to those current interest holders.
4. The return addresses for mailing after recording, if any, as shown on each and every document referred to in Part II of Schedule B by specific recording information, and as shown on the document(s) vesting title as shown in Schedule A are as shown in Schedule C.


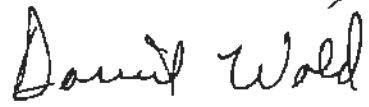
THIS LITIGATION GUARANTEE IS FURNISHED SOLEY FOR THE PURPOSE OF FACILITATING THE FILING OF THE ACTION REFERRED TO IN SCHEDULE A. IT SHALL NOT BE USED OR RELIED UPON FOR ANY OTHER PURPOSE.

Dated: June 14, 2023

Redwood Empire Title Company of Mendocino
County, as Agent for
OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111



Authorized Signatory

By  *President*
Attest  *Secretary*

SCHEDULE A

Order No.: **20230788MN**

Guarantee No.: **LITA08006141**

Liability: **\$600,000.00**

Premium Amount: **\$1,680.00**

1. Name of Assured:

Burke, Williams & Sorensen, LLP

2. Date of Guarantee: **June 14, 2023**

3. This Litigation Guarantee is furnished solely for the purpose of facilitating the filing of an action to:

To be determined

4. The estate or interest in the land which is covered by this Guarantee is:

a Fee

5. Title to the estate or interest in the land is vested in:

Lyme Redwood Timberlands LLC, a Delaware limited liability company, as to an undivided 75.00000% interest; RJS TIC HTC, LLC, a California limited liability company, as to an undivided 0.78346% interest; PV TIC HTC, LLC, a California limited liability company, as to an undivided 3.40448% interest; and RMB TIC HTC, LLC, a California limited liability company, as to an undivided 20.81206% interest, as tenants in common

6. The land referred to in this guarantee is situated in the State of California County of Mendocino and is described as follows:

See Exhibit A attached hereto and made a part hereof.

SCHEDULE B

Defects, liens, encumbrances or other matters affecting title:

Part I:

- 1. Taxes and assessments, general and special, for the fiscal year 2023- 2024, a lien not yet due or ascertainable.
- 2. The lien of supplemental taxes, if any, assessed pursuant to the provisions of Section 75, et seq. of the Revenue and Taxation Code of the State of California.
- 3. Any adverse claim based upon the assertion that some portion of said land is tide or submerged land or has been created by artificial means, or has accreted to such portion so created.
- 4. (a) Any adverse claim based upon the assertion that some portion of said land has been created by artificial means, or has accreted to such portion so created; some portion of said land has been brought within the boundaries thereof by an avulsive movement of any and all streams and rivers, or has been formed by accretion to any such portion.

 (b) Any easement for water course over that portion of said land lying within the banks of any and all streams and rivers and any changes in the boundary lines of said land that have occurred or may hereafter occur from natural causes.

 (c) Rights and easements for navigation and fishery which may exist over that portion of said land lying beneath the waters of any and all streams and rivers.
- 5. Easement(s) for the purposes stated herein and incidental purposes as provided in the document(s):
 Recorded: July 5, 1905 in Book 99 of Deeds, Page 185, Mendocino County Records
 For: water pipe
 In favor of: Fort Bragg Water Company

 Said easement was granted to The City of Fort Bragg in the Deed recorded January 6, 1915 in Book 141 of Deeds, Page 348, Mendocino County Records.
- 6. Easement(s) for the purposes stated herein and incidental purposes as provided in the document(s):
 Recorded: January 6, 1933 in Book 80, Page 68 of Official Records
 For: water pipe
 In favor of : Fort Bragg Water Company

 Said easement was granted to The City of Fort Bragg in the Deed recorded January 6, 1915 in Book 141 of Deeds, Page 348, Mendocino County Records.
- 7. Easement(s) for the purposes stated herein and incidental purposes as provided in the following instrument(s):
 Recorded: June 21, 1954 in Book 373, Page 130 of Official Records
 In Favor of: State of California
 For: right of way
- 8. Terms and provisions as contained in an instrument,
 Entitled : Agreement Respecting Exchange of Rights of Way
 Recorded: June 21, 1954 in Book 373, Page 144 of Official Records

9. Terms and provisions as contained in an instrument,
Entitled : Grant of City Pipeline Crossing
Recorded: August 15, 1957 in Book 466, Page 377 of Official Records
10. Easement(s) for the purposes stated herein and incidental purposes as provided in the document(s):
Recorded: July 30, 1970 in Book 822, Page 266 of Official Records
For: right of way
11. Terms and provisions as contained in an instrument,
Entitled : Reciprocal Right of Way and Road Agreement
Recorded: April 9, 1976 in Book 1035, Page 526 of Official Records
 - a. Consent to Transfer Agreement recorded December 15, 1999 as 1999-23468 of Official Records
12. Easement(s) for the purposes stated herein and incidental purposes as provided in the document(s):
Recorded: December 15, 1999 as 1999-23469 of Official Records
For: non-exclusive easement
13. Easements, terms and provisions as contained in an instrument,
Entitled : Access Easement Agreement
Recorded: May 13, 2004 as 2004-10531 of Official Records
14. Easement(s) for the purposes stated herein and incidental purposes as provided in the following instrument(s):
Recorded: March 7, 2005 as 2005-04626 of Official Records
In Favor of: Pacific Gas and Electric Company
For: pole lines
15. Matters as contained or referred to in an instrument,
Entitled : Grant Deed
Recorded: December 30, 2015 as 2015-18090 of Official Records
16. Terms and provisions as contained in an instrument,
Entitled : Memorandum of Co-Tenancy Agreement
Recorded: December 30, 2015 as 2015-18091 of Official Records
17. Deed of Trust to secure the performance of an obligation and any other terms,
Dated: December 30, 2015
Trustor: Lyme Redwood Timberlands LLC, a Delaware limited liability company; RMB TIC HTC, LLC, a California limited liability company; RJS TIC HTC, LLC, a California limited liability company and PV TIC HTC, LLC, a California limited liability company
Trustee: Chicago Title Company
Beneficiary: American AgCredit, FLCA
Recorded: December 30, 2015 as 2015-18092 of Official Records
 - a. Substitution of Trustee under said Deed of Trust,
New Trustee: Redwood Empire Title Company of Mendocino County
Recorded: June 29, 2020 as 2020-07374 of Official Records
18. Terms and provisions as contained in an instrument,
Entitled : Subordination Agreement
Recorded: December 30, 2015 as 2015-18093 of Official Records

19. Terms and provisions as contained in an instrument,
Entitled : Memorandum of Agreement with Respect to Log Support Agreement
Recorded: December 30, 2015 as 2015-18094 of Official Records
 - a. A document recorded December 30, 2015 as 2015-18093 of Official Records, provides that said Memorandum was subordinated to the Deed of Trust, recorded December 30, 2015 as 2015-18092 of Official Records.

Part II:
None

SCHEDULE C

ADDRESSES

<u>Paragraph No.</u>	<u>Recording Information</u>	<u>Mailing Address</u>
5 of Schedule A	Grant Deed recorded December 30, 2015 as 2015-18090 of Official Records	Stoel Rives LLP Attn: Mark Norby 900 SW Fifth Avenue, Suite 2600 Portland, OR 97204-1268 Lyme Redwood Timberlands, LLC c/o Lyme Redwood Forest Company LLC 23 South Main Street, Third Floor Hanover, NH 03755 Attn: James W. Hourdequin
17 of Schedule B Part I	Deed of Trust recorded December 30, 2015 as 2015-18092 of Official Records	Winston & Strawn LLP 101 California Street, 34th Floor San Francisco, CA 94111-5812 Attn: Loren Kessler Higgins

EXHIBIT "A"

The land referred to herein is described as follows:

All that certain real property situate, lying and being in the County of Mendocino, State of California, more particularly described as follows:

All that certain real property situated in the County of Mendocino, State of California, and being a portion of Section Eight (8), Township Eighteen (18) North, Range Seventeen (17) West, Mount Diablo Base and Meridian, more particularly described as follows:

The Southeast one-quarter of the Southeast one-quarter; and all that portion of the North one-half of the Southeast one-quarter lying Southerly and Easterly of the Noyo River; and all that portion of the Southwest one-quarter of the Southeast one-quarter lying Southeasterly of the Noyo River.

EXCEPTING THEREFROM that portion thereof described as follows:

Commencing at the 1/4 section corner common to Sections 8 and 17, said Township and Range, as shown and delineated upon that certain Record of Survey Map filed for record April 23, 1969 in Map Case 2, Drawer 12, Page 86, Mendocino County Records; thence South 78°32'43" East (Record = South 79°48' East), along the section line common to said Sections 8 and 17, a distance of 471.61 feet to the true point of beginning; thence from said true point of beginning and along the exterior boundary lines of the parcel of land to be described as follows:

Leaving said section line, North 01°15'17" East (Record = North), 1063.03 feet; thence South 88°44'43" East (Record = East), 285.88 feet; thence South 01°15'17" West (Record = South), 180.00 feet; thence South 88°44'43" East 30.00 feet; thence South 01°15'17" West (Record = South), 114.34 feet; thence North 88°44'43" West (Record = North 79°48' West), 30.00 feet; thence South 01°15'17" West; 820.13 feet to the above mentioned section line common to said Sections 8 and 17; thence North 78°32'43" West, along said section line, 290.47 feet to the true point of beginning.

Together with that portion of the East fractional half of the Southwest fractional quarter of said Section Eight (8), lying Southerly of the Southerly or left bank of the Noyo River; the same being Lot Six (6) and containing 24.00 acres as per the official plat of Township 18 North, Range 17 West, Mount Diablo Base and Meridian by the General Land Office of the United States.

EXCEPTING THEREFROM all that portion thereof conveyed by deed from Union Lumber Company to Robert Grundman et ux, recorded August 22, 1961 in Book 575 Official Records, Page 376, Mendocino County Records, being more particularly described as follows:

Beginning at the quarter section corner on the South boundary of Section Eight (8), Township 18 North, Range 17 West, Mount Diablo Base and Meridian, said corner being the point of beginning for the parcel hereby described; thence North 795.00 feet; thence South 72°46' West, 270.00 feet; thence South 64°34' West, 318.00 feet; thence South 83°26' West, 200.00 feet; thence North 66°34' West, 318.00 feet; thence South 83°26' West, 200.00 feet; thence North 66°47' West, 270.00 feet; thence North 73°42' West, 200.00 feet; thence North 61°25' West, 162.77 feet, more or less to the West boundary of Lot Six (6) of said Section Eight (8); thence South 796.00 feet along the West boundary to the Southwest corner of said Lot 6; thence East, 1326.78 feet along the South boundary of said Lot Six (6) to the point of beginning.

APN: 019-630-05, 019-640-01 and 019-640-04

Por. N 1/2 of SE 1/4 of Sec. 8 T. 18 N. R. 17 W. M. D. B. & M.

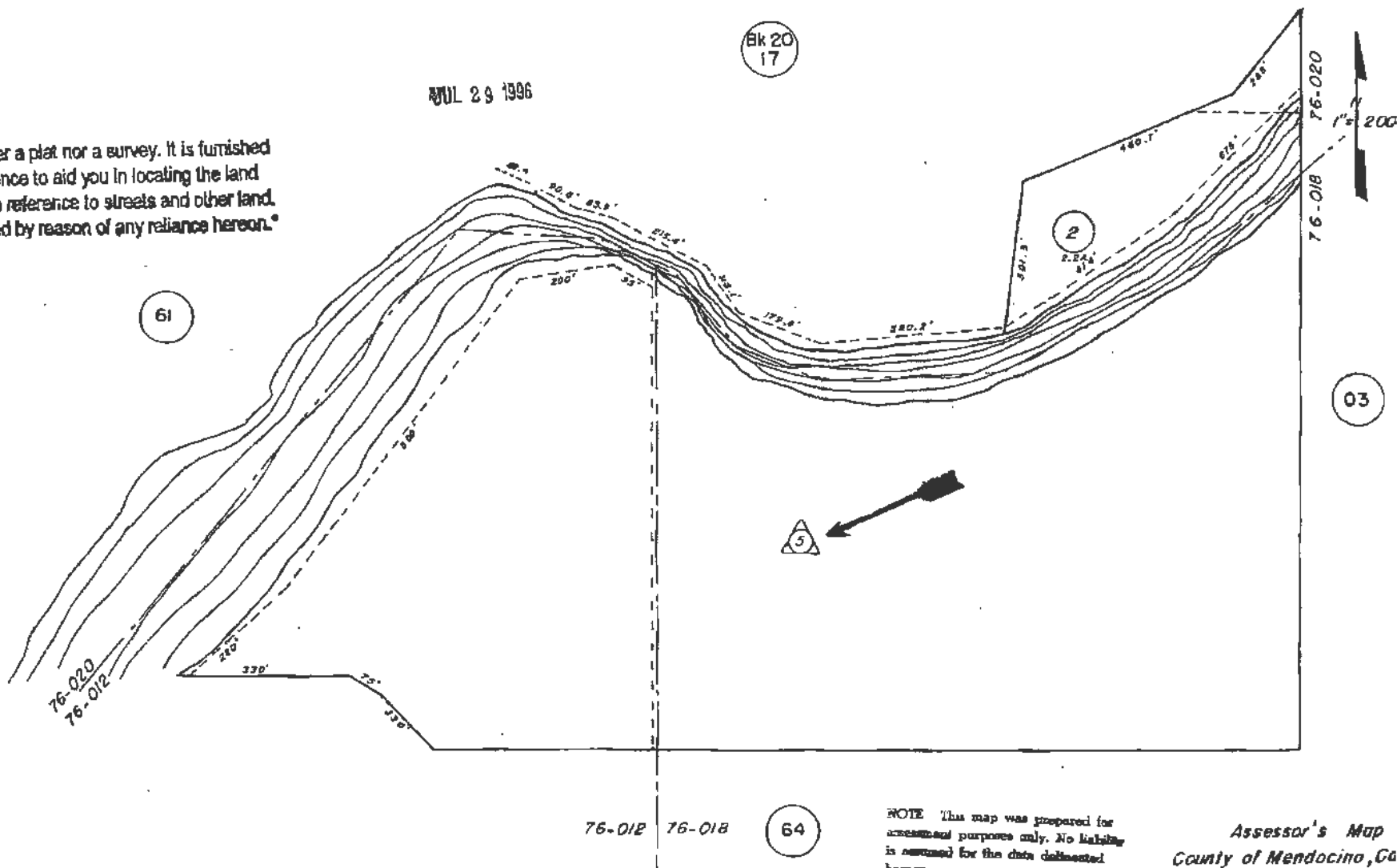
76-012
76-018
76-020

19-63

AUG 29 1966

Bk 20
17

Notice: This is neither a plat nor a survey. It is furnished merely as a convenience to aid you in locating the land indicated hereon with reference to streets and other land. No liability is assumed by reason of any reliance hereon.



NOTE: This map was prepared for assessment purposes only. No liability is assumed for the data delineated hereon.

Assessor's Map
County of Mendocino, Ca
March, 1965
59

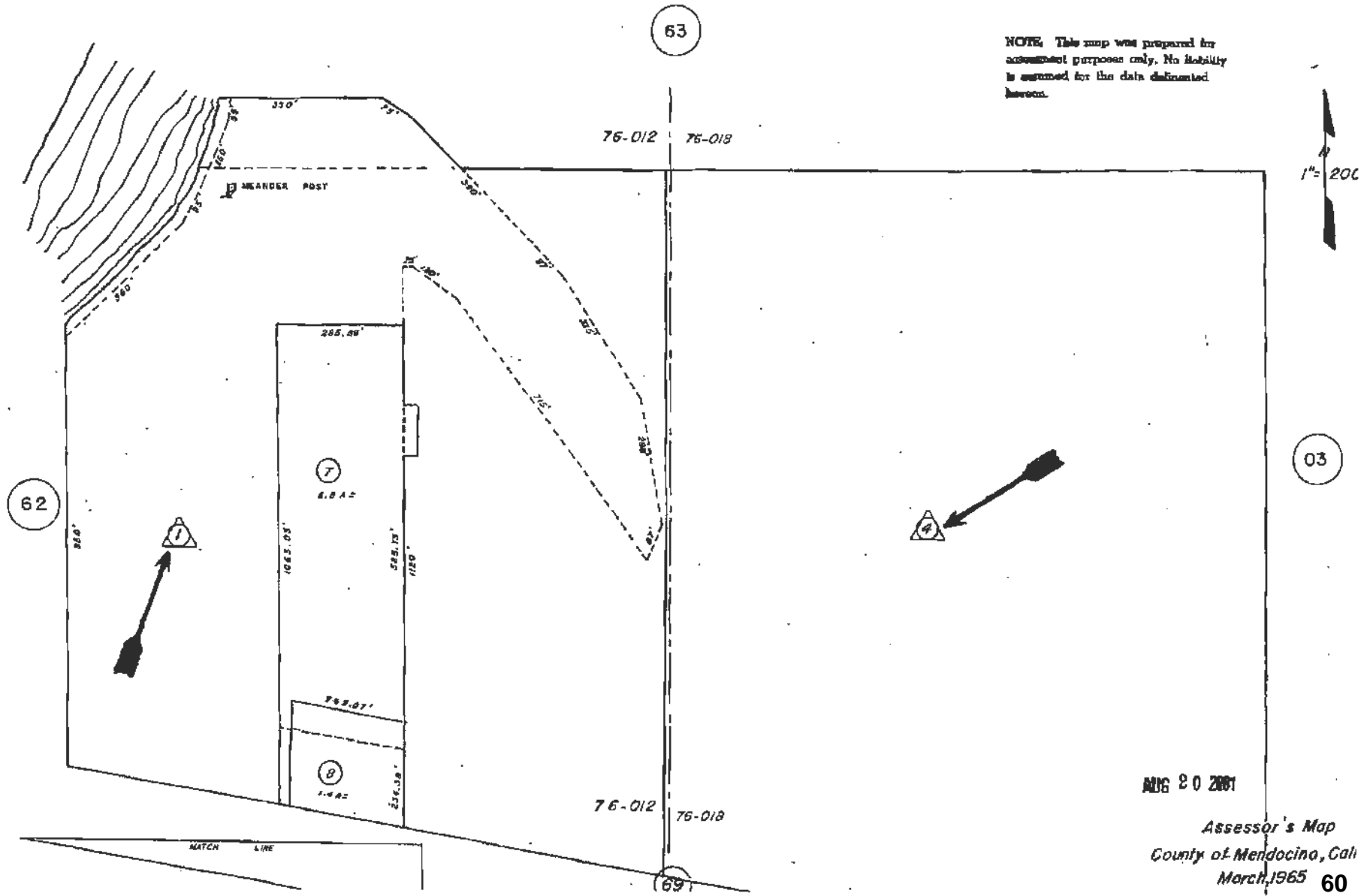
"Notice: This is neither a plat nor a survey. It is furnished merely as a convenience to aid you in locating the land indicated hereon with reference to streets and other land. No liability is assumed by reason of any reliance hereon."

S 1/2 of SE 1/4 of Sec. 8 T. 18 N. R. 17 W. M.D.B. & M.

76-012
76-018

19 - 64

NOTE: This map was prepared for assessment purposes only. No liability is assumed for the data delineated hereon.



AUG 20 2001

Assessor's Map
County of Mendocino, Cali
March, 1965 60

GUARANTEE CONDITIONS AND STIPULATIONS

1. DEFINITION OF TERMS.

The following terms when used in the Guarantee mean:

- (a) the "Assured": the party or parties named as the Assured in this Guarantee, or on a supplemental writing executed by the Company.
- (b) "land": the land described or referred to in Schedule (A)(C) or in Part 2, and improvements affixed thereto which by law constitute real property. The term "land" does not include any property beyond the lines of the area described or referred to in Schedule (A)(C) or in Part 2, nor any right, title, interest, estate or easement in abutting streets, roads, avenues, alleys, lanes, ways or waterways.
- (c) "mortgage": mortgage, deed of trust, trust deed, or other security instrument.
- (d) "public records": records established under state statutes at Date of Guarantee for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge.
- (e) "date": the effective date.

2. EXCLUSIONS FROM COVERAGE OF THIS GUARANTEE

The Company assumes no liability for loss or damage by reason of the following:

- (a) Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the public records.
- (b) (1) Unpatented mining claims; (2) reservations or exceptions in patents or in Acts authorizing the issuance thereof. (3) water rights, claims, or title to water whether or not the matters excluded by (1), (2), or (3) are shown by the public records.
- (c) Assurances to title to any property beyond the lines of the land expressly described in the description set forth in Schedule (A)(C) or in Part 2 of this Guarantee, or title to streets, roads, avenues, lanes, ways or waterways on which such land abuts, or the right to maintain therein vaults, tunnels, ramps or any other structure or improvement; or any rights or easements therein unless such property, rights or easements are expressly and specifically set forth in said description.
- (d) (1) Defects, liens, encumbrances or adverse claims against the title, if assurances are provided as to such title and as limited by such assurances.

(2) Defects, liens, encumbrances, adverse claims or other matters (a) whether or not shown by the public records and which are created, suffered, assumed or agreed to by one or more of the Assureds; (b) which result in no loss to the Assured; or (c) which do not result in the invalidity or potential invalidity of any judicial or non-judicial proceeding which is within the scope and purpose of assurances provided.

3. NOTICE OF CLAIM TO BE GIVEN BY ASSURED CLAIMANT.

An Assured shall notify the Company promptly in writing in case knowledge shall come to an Assured hereunder of any claim of title or interest which is adverse to the title to the estate or interest, as stated herein, and which might cause loss or damage for which the Company may be liable by virtue of this Guarantee. If prompt notice shall not be given to the Company, then all liability of the Company shall terminate with regard to the matter or matters for which prompt notice is required; provided, however, that failure to notify the Company shall in no case prejudice the rights of any Assured under this Guarantee unless the Company shall be prejudiced by the failure and then only to the extent of the prejudice.

4. NO DUTY TO DEFEND OR PROSECUTE.

The Company shall have no duty to defend or prosecute any action or proceeding to which the Assured is a party, notwithstanding the nature of any allegation in such action or proceeding.

5. COMPANY'S OPTION TO DEFEND OR PROSECUTE ACTIONS; DUTY OF ASSURED CLAIMANT TO COOPERATE.

Even though the Company has no duty to defend or prosecute as set forth in Paragraph 3 above:

- (a) The Company shall have the right, at its sole option and cost, to institute and prosecute any action or proceeding, interpose a defense, as limited in (b), or to do any other act which in its opinion may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured, or to prevent or reduce loss or damage to the Assured. The Company may take any appropriate action under the terms of this Guarantee, whether or not it shall be liable hereunder, and shall not thereby concede liability or waive any provision of this Guarantee. If the Company shall exercise its rights under this paragraph, it shall do so diligently.
- (b) If the Company elects to exercise its options as stated in Paragraph 4(a) the Company shall have the right to select counsel of its choice (subject to the right of such Assured to object for reasonable cause) to represent the Assured and shall not be liable for and will not pay the fees of any other counsel, nor will the Company pay any fees, costs or expenses incurred by an Assured in the defense of those causes of action which allege matters not covered by this Guarantee.
- (c) Whenever the Company shall have brought an action or interposed a defense as permitted by the provisions of this Guarantee, the Company may pursue any litigation to final determination by a court of competent jurisdiction and expressly reserves the right, in its sole discretion, to appeal from an adverse judgment or order.
- (d) In all cases where this Guarantee permits the Company to prosecute or provide for the defense of any action or proceeding, an Assured shall secure to the Company the right to so prosecute or provide for the defense of any action or proceeding, and all appeals therein, and permit the Company to use, at its option, the name of such Assured for this purpose. Whenever requested by the Company, an Assured, at the Company's expense, shall give the Company all reasonable aid in any action or proceeding, securing evidence, obtaining witnesses, prosecuting or defending the action or lawful act which in the opinion of the Company may be necessary or desirable to establish the title to the estate or interest as stated herein, or to establish the lien rights of the Assured. If the Company is prejudiced by the failure of the Assured to furnish the required cooperation, the Company's obligations to the Assured under the Guarantee shall terminate.

6. PROOF OF LOSS OR DAMAGE.

In addition to and after the notices required under Section 2 of these Conditions and Stipulations have been provided to the Company, a proof of loss or damage signed and sworn to by the Assured shall be furnished to the Company within ninety (90) days after the Assured shall ascertain the facts giving rise to the loss or damage. The proof of loss or damage shall describe the matters covered by this Guarantee which constitute the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage. If the Company is prejudiced by the failure of the Assured to provide the required proof of loss or damage, the Company's obligation to such assured under the Guarantee shall terminate. In addition, the Assured may reasonably be required to submit to examination under oath by any authorized representative of the Company and shall produce for examination, inspection and copying, at such reasonable times and places as may be designated by any authorized representative of the Company, all records, books, ledgers, checks, correspondence and memoranda, whether bearing a date before or after Date of Guarantee, which reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the Assured shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect and copy all records, books, ledgers, checks, correspondence and memoranda in the custody or control of a third party, which reasonably pertain to the loss or damage. All information designated as confidential by the Assured provided to the Company pursuant to this Section shall not be disclosed to

others unless, in the reasonable judgment of the Company, it is necessary in the administration of the claim. Failure of the Assured to submit for examination under oath, produce other reasonably requested information or grant permission to secure reasonably necessary information from third parties as required in the above paragraph, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this Guarantee to the Assured for that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS: TERMINATION OF LIABILITY.

In case of a claim under this Guarantee, the Company shall have the following additional options:

(a) To Pay or Tender Payment of the Amount of Liability or to Purchase the Indebtedness.

The Company shall have the option to pay or settle or compromise for or in the name of the Assured any claim which could result in loss to the Assured within the coverage of this Guarantee, or to pay the full amount of this Guarantee or, if this Guarantee is issued for the benefit of a holder of a mortgage or a lienholder, the Company shall have the option to purchase the indebtedness secured by said mortgage or said lien for the amount owing thereon, together with any costs, reasonable attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of purchase.

Such purchase, payment or tender of payment of the full amount of the Guarantee shall terminate all liability of the Company hereunder. In the event after notice of claim has been given to the Company by the Assured the Company offers to purchase said indebtedness, the owner of such indebtedness shall transfer and assign said indebtedness, together with any collateral security, to the Company upon payment of the purchase price.

Upon the exercise by the Company of the option provided for in Paragraph (a) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4, and the Guarantee shall be surrendered to the Company for cancellation.

(b) To Pay or Otherwise Settle With Parties Other Than the Assured or With the Assured Claimant.

To pay or otherwise settle with other parties for or in the name of an Assured claimant any claim assured against under this Guarantee, together with any costs, attorneys' fees and expenses incurred by the Assured claimant which were authorized by the Company up to the time of payment and which the Company is obligated to pay.

Upon the exercise by the Company of the option provided for in Paragraph (b) the Company's obligation to the Assured under this Guarantee for the claimed loss or damage, other than to make the payment required in that paragraph, shall terminate, including any obligation to continue the defense or prosecution of any litigation for which the Company has exercised its options under Paragraph 4.

8. DETERMINATION AND EXTENT OF LIABILITY.

This Guarantee is a contract of Indemnity against actual monetary loss or damage sustained or incurred by the Assured claimant who has suffered loss or damage by reason of reliance upon the assurances set forth in this Guarantee and only to the extent herein described, and subject to the Exclusions From Coverage of This Guarantee.

The liability of the Company under this Guarantee to the Assured shall not exceed the least of:

(a) the amount of liability stated in Schedule A or in Part 2;

(b) the amount of the unpaid principal indebtedness secured by the mortgage of an Assured mortgagee, as limited or provided under Section 6 of these Conditions and Stipulations or as reduced under Section 9 of these Conditions and Stipulations, at the time the loss or damage assured against by this Guarantee occurs, together with interest thereon; or

- (c) the difference between the value of the estate or interest covered hereby as stated herein and the value of the estate or interest subject to any defect, lien or encumbrance assured against by this Guarantee.

9. LIMITATION OF LIABILITY.

- (a) If the Company establishes the title, or removes the alleged defect, lien or encumbrance, or cures any other matter assured against by this Guarantee in a reasonably diligent manner by any method, including litigation and the completion of any appeals therefrom, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused thereby.
- (b) In the event of any litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals therefrom, adverse to the title, as stated herein.
- (c) The Company shall not be liable for loss or damage to any Assured for liability voluntarily assumed by the Assured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF LIABILITY OR TERMINATION OF LIABILITY.

All payments under this Guarantee, except payments made for costs, attorneys' fees and expenses pursuant to Paragraph 4 shall reduce the amount of liability pro tanto.

11. PAYMENT OF LOSS.

- (a) No payment shall be made without producing this Guarantee for endorsement of the payment unless the Guarantee has been lost or destroyed, in which case proof of loss or destruction shall be furnished to the satisfaction of the Company.
- (b) When liability and the extent of loss or damage has been definitely fixed in accordance with these Conditions and Stipulations, the loss or damage shall be payable within thirty (30) days thereafter.

12. SUBROGATION UPON PAYMENT OR SETTLEMENT.

Whenever the Company shall have settled and paid a claim under this Guarantee, all right of subrogation shall vest in the Company unaffected by any act of the Assured claimant.

The Company shall be subrogated to and be entitled to all rights and remedies which the Assured would have had against any person or property in respect to the claim had this Guarantee not been issued. If requested by the Company, the Assured shall transfer to the Company all rights and remedies against any person or property necessary in order to perfect this right of subrogation. The Assured shall permit the Company to sue, compromise or settle in the name of the Assured and to use the name of the Assured in any transaction or litigation involving these rights or remedies.

If a payment on account of a claim does not fully cover the loss of the Assured the Company shall be subrogated to all rights and remedies of the Assured after the Assured shall have recovered its principal, interest, and costs of collection.

13. ARBITRATION.

Unless prohibited by applicable law, either the Company or the Assured may demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Arbitration Association. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the Assured arising out of or relating to this Guarantee, any service of the Company in connection with its issuance or the breach of a Guarantee provision or other obligation. All arbitrable matters when the Amount of Liability is \$1,000,000 or less shall be arbitrated at the option of either the Company or the Assured. All arbitrable matters when the amount of liability is in excess of \$1,000,000 shall be arbitrated only when agreed to by both the Company and the Assured. The Rules in effect at Date of Guarantee shall be binding upon the parties. The award may

include attorneys' fees only if the laws of the state in which the land is located permits a court to award attorneys' fees to a prevailing party. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

The law of the situs of the land shall apply to an arbitration under the Title Insurance Arbitration Rules.

A copy of the Rules may be obtained from the Company upon request.

14. LIABILITY LIMITED TO THIS GUARANTEE; GUARANTEE ENTIRE CONTRACT.

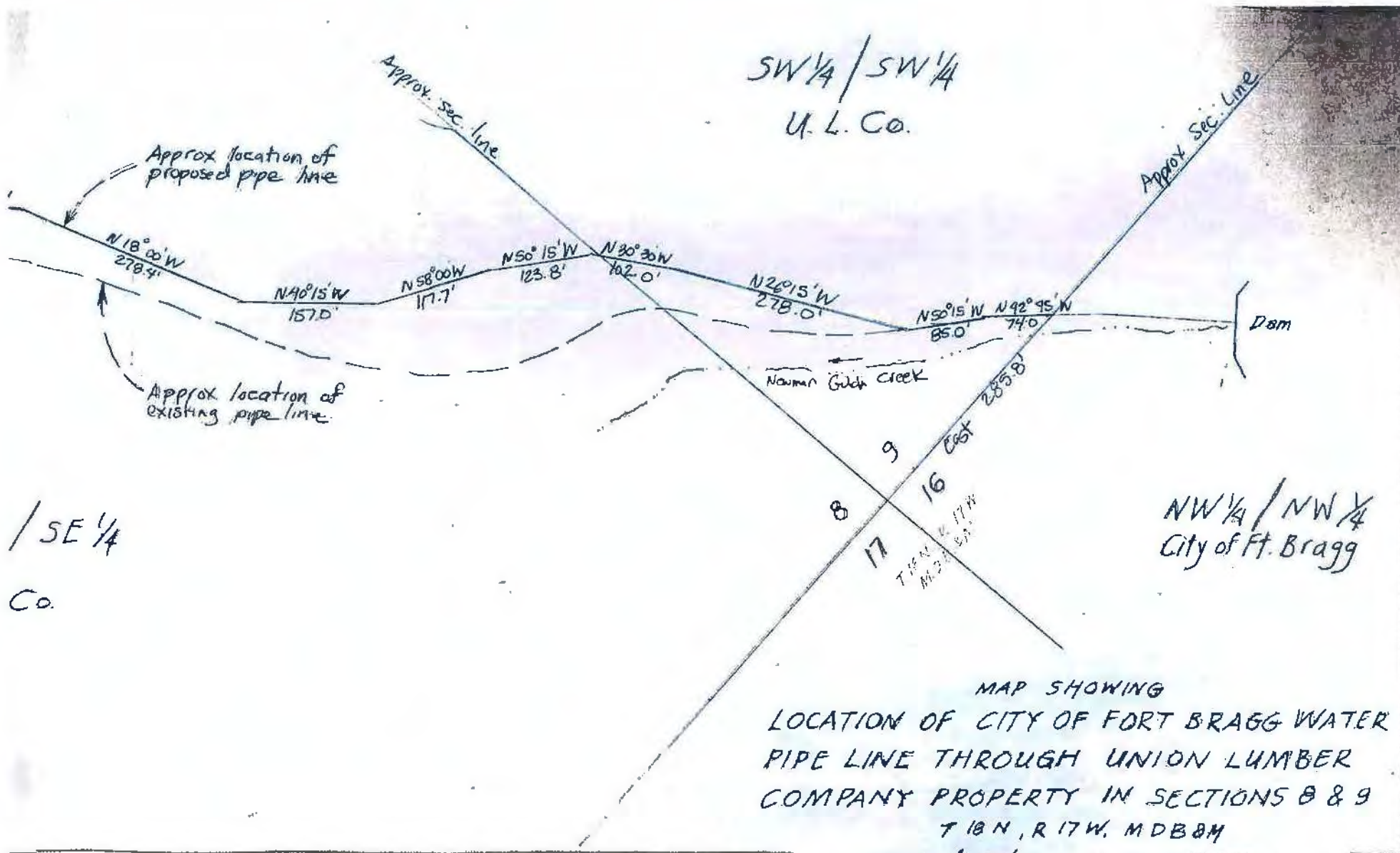
- (a) This Guarantee together with all endorsements, if any, attached hereto by the Company is the entire Guarantee and contract between the Assured and the Company. In interpreting any provision of this Guarantee, this Guarantee shall be construed as a whole.
- (b) Any claim of loss or damage, whether or not based on negligence, or any action asserting such claim, shall be restricted to this Guarantee.
- (c) No amendment of or endorsement to this Guarantee can be made except by a writing endorsed hereon or attached hereto signed by either the President, a Vice President, the Secretary, an Assistant Secretary, or validating officer or authorized signatory of the Company.

15. NOTICES, WHERE SENT.

All notices required to be given the Company and any statement in writing required to be furnished the Company shall include the number of this Guarantee and shall be addressed to the Company at: the office which issued this Guarantee or to its Home Office, Minneapolis, Minnesota.

EXHIBIT 4

Map dated June 14, 1958



MAP SHOWING
LOCATION OF CITY OF FORT BRAGG WATER
PIPE LINE THROUGH UNION LUMBER
COMPANY PROPERTY IN SECTIONS 8 & 9

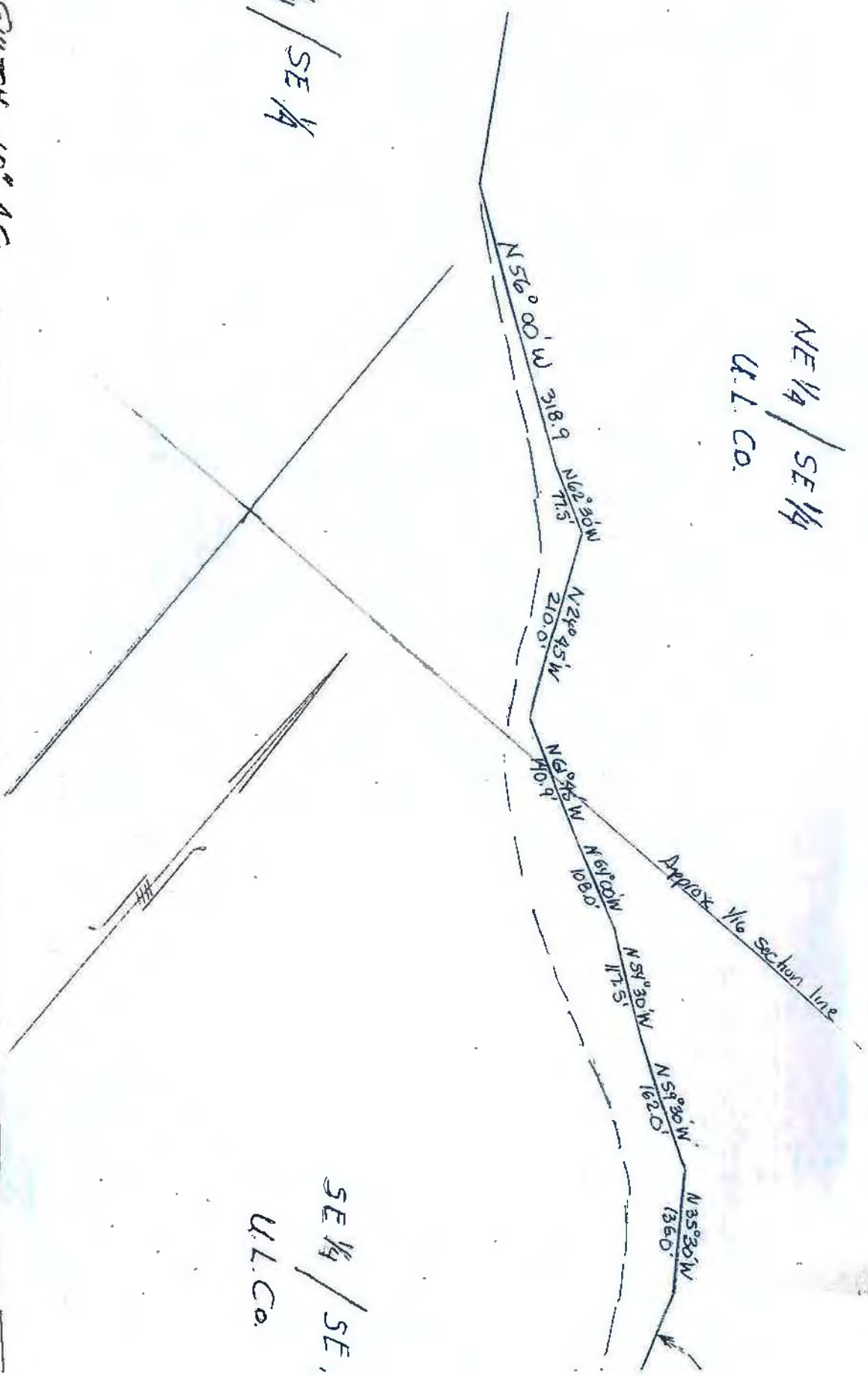
T 18 N, R 17 W, MDB & M
SCALE 1" = 100'
JUNE 14, 1958
By: W. Kimball Dodge

R/W-20

NEWMAN GULCH 10" A.C.

NW 1/4 / SE 1/4

NE 1/4 / SE 1/4
U.L. CO.



SE 1/4 / SE 1/4
U.L. Co.

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by that certain Permanent Easement Agreement dated April 8, 2024, from the Redwood Timber Company LLC to the City of Fort Bragg, a municipal corporation is hereby accepted by order of the City Council of the City of Fort Bragg on April 8, 2024 and the grantee consents to the recordation thereof by its duly authorized officer.

Dated April 8, 2024
a municipal corporation

CITY OF FORT BRAGG

Isaac Whippy, City Manager



City of Fort Bragg

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

Text File

File Number: 24-696

Agenda Date: 4/8/2024

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Consent Calendar

Authorize City Manager to execute Contract with Strategy Driver, Inc, Amount Not to Exceed \$53,370 Consistent with Attached Proposal, Subject to City Attorney Review.

Proposal to Provide
**Facilitation of a Strategic Plan for
City of Fort Bragg**

Submitted by
Strategy Driver, Inc.

March 21, 2024





March 21, 2024

City of Fort Bragg
Isaac Whippy, City Manager
416 N. Franklin Street
Fort Bragg, CA 95437

RE: Proposal for Facilitation of a Strategic Plan

Dear Mr. Whippy,

Strategy Driver is pleased to present the attached Proposal for **Facilitation of a Strategic Plan** for City of Fort Bragg. We look forward to meeting with you and your leadership team, the City Council, and other key stakeholders to discuss top priorities and opportunities on the horizon. Our team, led by **Ellen Cross**, has extensive experience facilitating strategic planning projects with organizations throughout California including clients such as City of Oakley, Pajaro Valley Water Management Agency, Regional Water Authority, and San Bernardino Valley Water Conservation District.

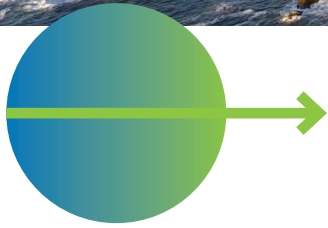
We believe Strategy Driver's collaborative strategic planning approach will greatly benefit the City based on our team's key strengths:

- **Positive stakeholder outcomes are our priority.** We have a solid reputation of leading diverse stakeholders to create common ground and successful outcomes with 100% unanimous approval for our strategic planning projects.
- **Our planning process is data-driven.** We invest time at the beginning of the process to gather and analyze critical data relevant to the City's mission, strengths, opportunities, and challenges. This data drives development of a custom Strategic Planning Workshop so we may successfully collaborate to define the City's goals and objectives.
- **Our approach is efficient and consensus-building.** We solicit formal City Council approval of the plan content as we progress through each step to ensure consensus along the way; maintaining a shared understanding throughout the planning process.

Strategy Driver's approach will result in an actionable Strategic Plan to guide the City, staff, and Council into the future with a shared vision and focused objectives. If you have any questions about our submittal, please do not hesitate to contact me at (510) 316-9657. I can also be reached via email at crosse@strategydriver.com.

Sincerely,

Ellen Cross, President
Strategy Driver, Inc.



Planning Approach

Strategy Driver proposes a strategic planning approach that begins with your identity as it stands today; gathers information from the City Council, Staff, and key stakeholders to identify issues, opportunities, and needs; and results in a plan that provides a vision for the City of Fort Bragg's future with actionable objectives and corresponding metrics.

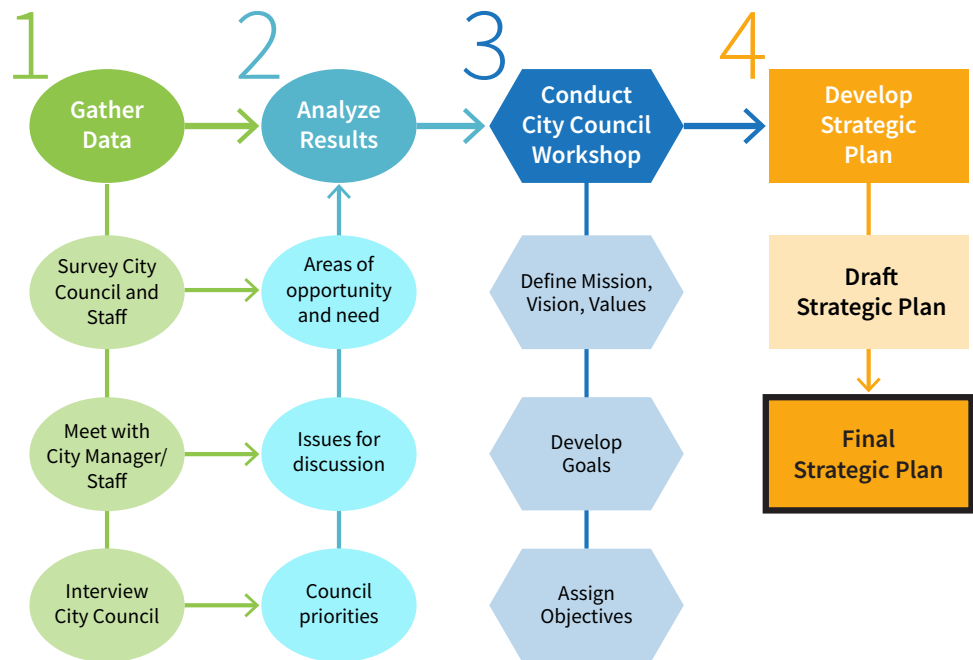
Project Approach

Strategy Driver's approach is based on our previous strategic planning experience as well as the specific circumstances of the City. Our approach is presented in four tasks, as shown in Figure 1 and discussed in detail below.

“*Strategy Driver was instrumental in leading and facilitating two very important and critical documents for the City of Oakley. Ellen helped develop a Governance Guidelines + Protocols Policy Framework that our City Council still uses to this day. I also had the pleasure of bringing Ellen back after that project to lead our Strategic Planning efforts that culminated in a our Strategic Plan 27+ document that we are currently implementing. Ellen’s ability to bring people together to find common ground and her overall professionalism shined throughout both projects and I would highly recommend Ellen and Strategy Driver to anyone looking to obtain her services.*

Joshua McMurray
City Manager, City of Oakley

Figure 1. Strategy Driver Strategic Plan Approach



1

Task 1. Gather Data

The first step in all Strategy Driver strategic planning efforts involves data gathering. It is imperative that quality data is collected at the outset of the process to inform the subsequent strategic planning meetings and City Council workshop. At the outset of the project, Strategy Driver will work with the City Manager to conduct an online survey of all strategic planning participants. This survey will provide critical insight that enables Strategy Driver to facilitate quality conversations during strategic planning meetings and interviews with the City Council.

As a part of Task 1, Strategy Driver will:

- Attend a City Council meeting to share the strategic planning process (remote)
- Develop a survey for all strategic planning participants (online)
- Meet with the City Manager and staff to flag issues for discussion (remote)
- Conduct interviews with City Council to identify priorities (via telephone)

Data gathering is conducted remotely for efficiency and as a cost-saving strategy. The City Council Workshop will be conducted in person, unless otherwise directed by the City Manager.

2

Task 2. Analyze Results

Task 1 activities will generate a wealth of data for Strategy Driver and the City to consider. Task 2 involves consolidation and sharing of these data with staff.

As a part of Task 2, Strategy Driver will:

- Consolidate and analyze data
- Group data into categories that will begin the framework for the Strategic Plan
- Conduct meetings with staff to report data before and after the City Council Workshop

3

Task 3. Conduct City Council Workshop

After the data are analyzed, they will be presented to the City Council at an in-person Workshop. We anticipate this workshop will take one full day.

As a part of Task 3, Strategy Driver will:

- Conduct **City Council Workshop** (in person) to:
 - ➔ Review data results
 - ➔ Consider updating the City's Mission Statement
 - ➔ Define a Vision for the future
 - ➔ Identify today's shared Values
 - ➔ Develop Goals to deliver on the City's Mission and Vision
 - ➔ Develop Objectives to deliver on the Goals

The City Council Workshop produces the essential content for the Strategic Plan document. We are collaboratively writing the plan as we go, confirming buy-in along the way, which is both effective and time-saving.

4

Task 4. Develop Strategic Plan

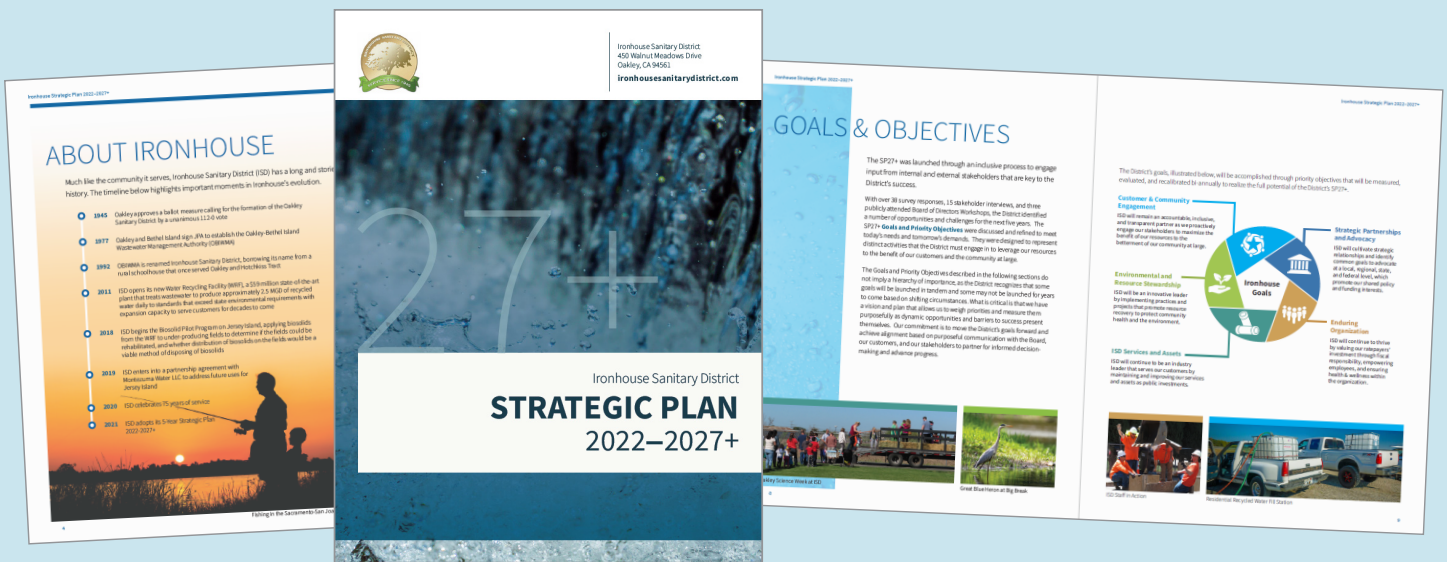
Task 4 results in the final Strategic Plan. As part of Task 4, Strategy Driver will:

- Consolidate City Council Workshop results including Mission, Vision, Values, Goals, and Objectives into a draft Strategic Plan document
- Collaborate with City staff to craft the narrative portions of the document (e.g., introduction, process description, acknowledgments)
- Solicit and incorporate comments from the City Council Members
- Present final plan to the City Council

The final document will be professionally formatted using graphics software with a focus on simplicity and readability.

Task 5. Project Management

A fifth task is reserved for project management activities including monthly remote meetings with the City Manager.



The City's final Strategic Plan document will be professionally designed and easy to read, like the example above from Strategy Driver's engagement with Ironhouse Sanitary District which was recognized with awards from the California Water Environment Association (2021) and the California Association of Sanitation Agencies (2022).

Schedule

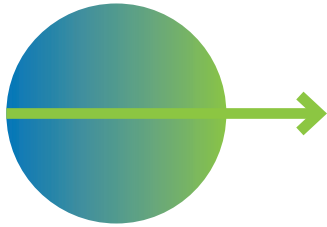
Strategy Driver anticipates that the City may complete the strategic planning process in as little as 4 months, with the final plan delivered at subsequent City Council meetings for review and approval. Below is a preliminary schedule that assumes an expected April 1, 2024 start date. This draft schedule reflects an aggressive approach to complete the process, understanding that dates may be shifted to accommodate the availability of key participants.

	2024				
	APR	MAY	JUN	JUL	AUG
1. Gather Data					
Conduct Survey	9 - 23				
Share process at City Council Meeting	22				
Interview City Council Members	10	8			
2. Analyze Results					
Consolidate and analyze data					
Staff Preparation Meeting 1		20			
Staff Preparation Meeting 2		30			
3. Conduct City Council Workshop					
City Council Workshop			14		
4. Develop Strategic Plan					
Present content to Board for vote				22	
Board Adopts Final Plan					12

Cost Estimate

Estimated costs for the scope described are shown below. The estimates are on a time and materials basis of Ellen Cross' billing rate at \$290/hour and Maria Pascoal at \$225/hour.

Activity	Hours	Cost
Kickoff	7	\$ 1,770
Survey	25	\$ 6,210
Interviews	30	\$ 8,050
Workshop (1 full day)	52	\$ 13,260
Strategic Plan Document	66	\$ 16,605
Project Management	12	\$ 3,155
Travel	16	\$ 4,320
TOTAL	208	\$ 53,370



About Strategy Driver

Strategy Driver, founded by Ellen Cross, provides strategic planning, strategic implementation, and business consulting services. For more than 30 years, Ellen has represented architecture, environmental, and engineering organizations to broaden their client markets with a big picture approach while implementing strategic programs that translate into business growth. Ellen has served as in-house Regional Operations Director, Strategy Officer, and Development Director for several established industry-leading firms prior to incorporating Strategy Driver, where she serves both private industry and public agencies.

For this project, Strategy Driver will be supported by Minds Illustrated.

Minds Illustrated is a strategic communications firm serving engineering and scientific clients in California. Minds Illustrated works with state, regional, and local agencies to successfully communicate with stakeholders and the public. Maria Pascoal operates as Minds Illustrated's sole proprietor, providing graphic design, public outreach, strategic planning, and technical writing.

“*Ellen facilitated the development of a Strategic Plan for our District that exceeded our expectations! She was able to guide staff, the Board of Directors and external stakeholders to create a masterpiece framework. Through her inclusive style, she helped the District strengthen partnerships between the District and our community stakeholders.*”

Tyson Zimmerman,
Assistant General Manager,
Ironhouse Sanitary District

Team Qualifications and Experience



Ellen Cross, Executive Facilitator, has more than 30 years of experience in California creating innovative solutions for visioning, goal setting, and achievement of sustained organizational success. Her understanding of governance, funding, stakeholders, technical and regulatory perspectives in the one-water industry is key to understanding challenges and opportunities. She has successfully

facilitated strategic planning for public agencies and professional associations including the examples below.

- Facilitation of Regional Water Authority’s (RWA) strategic plans over the past 15 years spanning three Executive Directors and supporting 20 Sacramento-area water agencies and Regional San. The most recent [Strategic Plan](#) was published in 2020.
- Facilitation of El Dorado Water Agency’s [Strategic Plan](#) and development of key communication collateral including new website

“As one of five Groundwater Sustainability Agencies (GSAs) in the Paso Robles Groundwater Basin, the County of San Luis Obispo had the opportunity to work with Ellen Cross of Strategy Driver, Inc. on development of a Communication & Engagement (C&E) Plan for the Paso Robles Basin Groundwater Sustainability Plan (GSP). With rapid response, Ellen developed the C&E Plan and swiftly began designing the outreach to “Fast Launch” a series of Sustainable Groundwater Management Act (SGMA) workshops to engage the GSAs and Interested Parties on the GSP development process. Her communication style encouraged a results-driven process to minimize barriers and promote progress towards meeting the SGMA requirements while conveying meaningful benefits to the community at large.

Angela Ruberto,
Water Resources Engineer/
GSA Staff, Department of
Public Works, County of San
Luis Obispo

design and content, brochures, and facilitation of their Inaugural Plenary with more than 30 local, regional, state, and federal thought leaders and partners.

- Facilitated PV Water's Groundwater Sustainability Plan (GSP) Alternative and Paso Robles Groundwater Basin GSP working with stakeholders in developing a strategic approach.
- Facilitation of strategic plans for industry organizations including Delta Stewardship Council’s Science Program, Water Education Foundation, and Association of California Water Agencies.
- Facilitation of City of Oakley’s Governance Guidelines & Protocol Policy Framework followed by a focused [Strategic Plan](#) to align the Board and Staff.

Ellen has facilitated successful outcomes with a track record of **100% unanimous approval** from Council and Board members in her 30-year history of facilitating and developing Strategic Plans.



Maria Pascoal is a visual artist and strategic communications professional with 22 years of experience with communications for engineering and scientific clients. Having designed hundreds of outreach materials such as brochures, annual reports, and presentations, Maria will provide graphic design for the final Strategic Plan. She will also serve as a writer for the plan document which will be informed by her 19 years as a consultant with a

national water resources firm serving clients such as the California Department of Water Resources, Sacramento County, and several Groundwater Sustainability Agencies. Her unique perspective allows her to facilitate meaningful discussion and capture the essence in writing. Maria collaborated previously with Ellen on Strategic Plans for San Bernardino Valley Water Conservation District, Pajaro Valley Water Management Agency, City of Oakley, Calaveras County Water District, and Ironhouse Sanitary District. She and Ellen also worked successfully together on the Paso Robles Subbasin Groundwater Sustainability Plan when Maria provided graphics and writing support.

Recent Experience

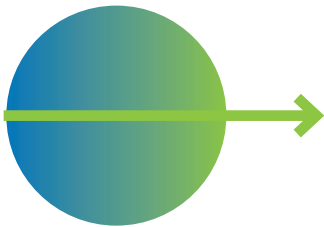
Ellen and Maria offer examples of recent strategic planning work they completed together below.

- Development of a long-term framework in the form of a [Strategic Plan](#) for the City of Oakley’s thoughtful growth, safe and healthy neighborhoods, vibrant open spaces, and collaborative engaged partnerships that will benefit current and future residents and businesses.
- Facilitation of Ironhouse Sanitary District’s [Strategic Plan](#).
- Facilitation of Calaveras County Water District’s (CCWD) [Strategic Plan](#) where they have endured nine General Managers over a 20-year span. Ellen and

Maria facilitated the planning process with their Executive/Management Team and Council of Directors who are responsible for water, wastewater, and hydropower services.

- Recently facilitated the strategic planning process for Pajaro Valley Water Management Agency and received Board approval of the Agency's final [Strategic Plan](#) document.
- Recently completed facilitation of the strategic planning process for San Bernardino Valley Water Conservation District, with the final [Strategic Plan](#) approved in November 2023.

Resumes for Ellen and Maria can be found on the following pages.



“ *I recommend Ellen above all others for organizations that need a strategic plan...She is outcome focused and makes it happen, but most importantly, she makes sure the plan works for all of the participants. Ellen does her homework by asking the right questions in stakeholder interviews, a skill which benefits from her long experience in the water sector and successful creation of many strategic plans. She thinks through the details, makes sure she understands where conflict may occur and offers ideas on how to resolve conflict with win-win solutions.*

Jim Peifer, Executive Director, Regional Water Authority

ELLEN CROSS



SUMMARY OF QUALIFICATIONS

Ellen Cross focuses on communication, strategic planning and facilitating high stakes initiatives in the areas of water scarcity, sustainable groundwater, climate adaptation, flood protection, water resources and natural resources fields. Ellen drives diverse stakeholders forward to develop and realize shared vision and success.

Ellen Cross has more than 30 years of experience in the California water and environmental science industry creating successful innovative solutions through forums for vision, collaboration, and achievement. Ellen brings a large-scale view of proven strategic and tactical approaches to develop outcomes that meet multi-party objectives. Beginning her career on Capitol Hill leading workshops on anti-terrorism, global environmental issues and narco-trafficking under the auspices of the United Nations and United States Information Agency, Ellen has a history of creating neutral forums to work on critical issues where communication and leadership are key to moving complex issues forward.

In the area of emerging challenges, Ellen has successfully facilitated groundwater forums for Sustainable Groundwater Management Act (SGMA) for Paso Robles Groundwater Sustainability Plan (GSP), Sacramento Central Groundwater Authority (SCGA) GSP, Santa Cruz Mid County GSP, Pajaro Valley Water Management Agency (Prop 1) and SCGA (Prop 68) grants. Ellen has facilitated initiatives that envision diverse interested parties success goals and operationalizes the tactics to achieve results holistically on policy, governance, political, funding, institutional and technical goals to ensure sustained success.

PROJECT EXPERIENCE

San Bernardino Valley Water Conservation District (2023-present) Ellen partnered with the District’s new General Manager, staff, and Board to update the organization’s mission, vision, and values to better reflect who they are today. Engaged staff and Board to clarify current opportunities and challenges and collaborated to proactively envision the District’s future in a [Strategic Plan](#). Currently developing Communication & Engagement Plan to support implementation of the Board's strategic priorities.

San Joaquin County Department of Public Works Mokelumne River Integrated Conjunctive Use Project (MICUP) (2023-present) Ellen conducted outreach with partner agencies, surveyed and interviewed key interested parties, and facilitated a workshop for the multi-agency Project Planning Committee, culminating in a Partnership Charter Agreement signed by more than 20 parties as MICUP partners. Ellen is currently developing a Communications & Engagement Plan to provide strategies for continued proactive outreach to interested parties for the duration of the project.

crosse@strategydriver.com
(510) 316-9657

SKILLS

- Governance frameworks for water and flood agencies
- Strategic plan implementation and metric tracking
- Executive facilitation
- Strategic communications
- Strategies for emerging water (SGMA) and flood (Sea Level Rise) initiatives (funding, stakeholder, policy)

EDUCATION

BS, Political Science
University of Oregon

Eagleton Institute of Politics
Rutgers University

EXPERIENCE IN THE INDUSTRY

30+ years

AWARDS

California Association of Sanitation Agencies

California Water Environmental Association

Floodplain Management Association

National Center for Employee Ownership

Society of Marketing Professionals

Pajaro Valley Water Management Agency Strategic Plan (2023) Ellen worked closely with the Board of Directors and executive team to envision a path forward with a [Strategic Plan](#) as the Agency and its General Manager launched construction of one of their largest water resources projects to-date, the College Lake Integrated Resources Management Project.

Sacramento Water Forum (WF) Executive Facilitator for the Water Caucus Renegotiation with the Public, Environmental, and Business Caucuses (2022-present) Ellen is facilitating 22 water agencies who have Purveyor Water Agreements with the WF in renegotiating the 30-year WF Agreement that expires in 2030. This Agreement was initiated after many years of gridlock due to lawsuits and has enabled the interested parties to manage within shared parameters to provide a reliable and safe water supply for the region's economic health and planned development to the year 2030; and preserve the fishery, wildlife, recreational, and aesthetic values of the Lower American River.

City of Oakley Executive Facilitation and Development of a Governance Framework and Strategic Plan (2021-2022) Ellen was contracted by the Interim City Manager to facilitate one of the most challenging local government issues in Northern California. With four City Council Members and five Staff Executives under review from the Fair Political Practices Commission, Ellen was contracted to work with Executive Staff, City Council and the Public to develop a Governance Guidelines and Protocol Policy (GGPP) to return the City to functional governance. Ellen facilitated and developed the GGPP which resulted in unanimous approval. As part of the GGPP implementation, Ellen was contracted to facilitate and develop a unifying [Strategic Plan](#) (SP) to define common goals, create common ground, and define roles and responsibilities in partnership. The SP also was voted on unanimously to provide a path forward and promote trust and transparency.

Mendocino County Water Agency Redevelopment during Drought Emergency Executive Facilitation and Feasibility Report (2022) During one of Mendocino County's driest years, Ellen provided Executive Facilitation and Stakeholder Assessment as an emergency drought response when local residents and businesses were under water restrictions and local

governments were trucking water as far as 60 miles away. Ellen facilitated the Board of Supervisors; County Divisions, Cities, Regional Water Providers, Tribes, Chamber of Commerce, Environmental NGOs, and State and Federal Representatives and Legislators to evaluate value, governance, staffing and financial mechanisms to reinstate a Water Agency for one of the States most disadvantaged counties.

Ironhouse Sanitary District Strategic Plan 2022-2027+ (2021) Collaborated with District management and Board of Directors to develop a [Strategic Plan](#). Hosted a series of workshops that included local stakeholders such as city and county officials, neighboring water districts, and the local fire protection district. Co-authored the final Strategic Plan document that was unanimously adopted by the Board in 2021.

Calaveras County Water District Strategic Plan 2021-2026+ (2020) Collaborated with District management, Board of Directors, and consultant team to develop a refreshed mission and vision for the organization and its [Strategic Plan](#). Assisted with development of core values, goals, and objectives via remote working meetings. In collaboration with the project team, designed and distributed a stakeholder survey to gather information for the Plan. Conducted Board of Directors workshops to ensure Board participation and support resulting in a final Strategic Plan that was unanimously adopted in 2020.

Paso Robles Basin Groundwater Sustainability Plan (GSP) (2018) Ellen was contracted through Montgomery & Associates, Inc. to lead the public engagement and facilitation for the Paso Robles Basin GSP. Ellen supported the five Groundwater Sustainability Agencies (GSA): Paso Basin – County of San Luis Obispo GSA, City of Paso Robles GSA, San Miguel Community Services District GSA, and Shandon–San Juan GSA, Heritage Ranch Community Services District GSA. Ellen co-authored the Communication & Engagement Plan and Survey, facilitated five Informational “Fast Start” and Cooperative Committee meetings within 5 weeks, developed bilingual postcards, and identified disadvantaged community outreach, Native American outreach, as well as an overall engagement to more than 500 Interested Parties.

Sacramento Central Groundwater Authority (SCGA) Executive Facilitation for Strategic Plan 2023+, Prop 68 and GSP (2019 to 2021) Ellen served as Senior Facilitator and Strategist to lead a 16-member Board of Directors representing 9 public agencies, 2 private water purveyors, and agriculture and residential water users through a process to develop a 5-year Strategic Plan. Recognizing that governance, funding and project implementation are key to sustainability, the SCGA embarked on an all-encompassing re-evaluation of their decision-making, priority goals and project implementation strategy. The plan addressed governance in considerations of its Joint Power Authorities developed in 2006 and priority goals. She also facilitated the five GSAs of the South American Subbasin on a Prop 68 grant (awarded) and their one shared GSP.

Various Clients Groundwater and Sustainable Groundwater Management Act (SGMA) Executive Facilitation + Strategic Communications (2005-present) Ellen has served as a Senior Facilitator and Strategic Communications Advisor for private industry consultants that focus on groundwater challenges from a broad range of perspectives including: technical, environmental compliance and permitting, and specific basin stakeholder concerns. Scope has included developing strategy and approach for pursuing groundwater and SGMA related projects for Groundwater Sustainability Plan (GSP) grants and public facilitation including: strategic planning to capture Fox Canyon SGMA, Mid Kaweah, Tulare, Irvine Ranch Water Agency, Kings Canyon, Department of Water Resources, San Luis Obispo, and Sacramento Water Forum.

San Juan Water District (SJWD) Strategic Planning + Executive Facilitation (2017-March 2018) Ellen led SJWD in developing the approach and facilitating SJWD's Board of Directors, Executive Team and Directors in developing their first strategic plan. Ellen led the team, which includes a new General Manager and new Board Director to align priorities and goals to optimize SJWD's existing operations while anticipating state and federal water policy that may impact their retail and wholesale customers. The Strategic Plan 2022 received unanimous approval.

Sacramento Suburban Water District (SSWD) Facilitation for Strategic Plan 2023+ (2018-2019) Ellen facilitated SSWD's 5-year Strategic Plan process working with more than 70 stakeholders on its most robust Strategic Plan in the history of the agency. Working with SSWD's executive team, managers and all staff in addition to its 5 member Board, Ellen facilitated a comprehensive and integrated process to develop SSWD's mission, vision, core values, goals and strategic priorities with an early start on the companion Implementation Plan. This process included 98% participation of the District at all levels to create alignment and ownership for successful execution with unanimous approval by the Board.

Regional Water Authority Strategic Planning and Implementation Support (2005-2020) Ellen lead RWA's 2025+ Strategic Plan and has led two former strategic planning processes (2005, 2013) for 15 years under the direction of three different Executive Directors receiving unanimous approval from a 22 agency-member board. She developed program process, surveys, and facilitation followed by assistance to implement focused objectives including educating members through the creation of *The RWA Forum: An Advanced Discussion on Emerging Water Issues*. The RWA Forum was developed and led by SDI to educate RWA members on relevant water topics. Ellen also supported RWA as Water Resources Team Leader for Sacramento MetroChamber's Cap to Cap, and led discussions with legislators on the priority water issues in Sacramento.

Association of California Water Agencies (ACWA) 2016/17 and 2018/19 Strategic + Business Plan Ellen facilitated both the 2016 and 2018 ACWA Board of Directors to determine the Vision and Priorities for the Strategic and Business Plan. The 36 Directors and Committee Chairs participated in a one-day workshop to review existing priorities and envision new priorities for both policy and organizational goals. Ellen led a process that prioritized critical and bold goals to be implemented over a 2-year period. Ellen also led the participants through an activity that monetized the priorities to create an outcome that could be operationalized for successful implementation.

MARIA PASCOAL



maria@mindsillustrated.com
(916) 834-1166

SUMMARY OF QUALIFICATIONS

Maria Pascoal is founder and owner of Minds Illustrated, a strategic communications firm specializing in public outreach, strategic planning, graphic design, and technical writing. She has 22 years of experience with communications for engineering and scientific clients in the California water resources industry. She combines industry knowledge with technical and creative expertise to produce clear, effective communications for her clients, their stakeholders, and the public.

Maria has produced hundreds of outreach materials such as brochures, guides, infographics, and presentations and has assisted with development of dozens of strategic documents such as Groundwater Sustainability Plans, Strategic Plans, Integrated Regional Water Management Plans, Communication and Engagement Plans, Executive Summaries, and Annual Reports. Ms. Pascoal has expert knowledge in graphics software including Adobe InDesign, Photoshop, and Illustrator. In 2017, she completed a University of California Extension Certificate in Technical Communications, including extensive coursework related to technical documentation, user-centric design, and visual systems.

PROJECT EXPERIENCE

San Bernardino Valley Water Conservation District (2023-present) In partnership with Strategy Driver, Inc. (SDI), assisted with facilitation of workshops with the District's Board of Directors for development of a Strategic Plan. Co-authored and provided graphic design for final Plan document. Currently providing the District with graphics support and partnering with SDI to develop a Communication & Engagement Plan.

San Joaquin County Department of Public Works Mokelumne River Integrated Conjunctive Use Project (MICUP) (2023-present) In partnership with Rincon Consultants, Inc., developed and conducted a survey of interested parties to inform facilitation of a multi-agency workshop that resulted in the Partnership Charter Agreement signed by more than 20 parties as MICUP partners. Currently assisting with development of a Communication & Engagement Plan that will provide strategies for continued proactive outreach to interested parties for the duration of the project.

Pajaro Valley Water Management Agency Strategic Plan (2023) In partnership with SDI, worked closely with the Board of Directors and executive team to envision a path forward as the Agency and its General Manager launched construction of one of their largest water resources projects to-date, the College Lake Integrated Resources Management Project.

SKILLS

- Strategic Communications
- Strategic Planning
- Public Outreach
- Graphic Design
- Technical Writing

EDUCATION

B.F.A., Graphic Design
University of the Pacific

Technical Writing and Communication Certificate
U.C. Santa Cruz Silicon Valley Extension

Facilitation Training,
American Water Resources Association

EXPERIENCE IN THE INDUSTRY

22 years

AWARDS

California Water Environment Association-San Francisco Bay Section, **Community Engagement and Outreach: Project of the Year** for the Ironhouse Sanitary District Strategic Plan

Public Relations Society of America, California Capital Chapter **Influence Award** for California Department of Water Resources Stakeholder Communication and Engagement Guidance Document

City of Oakley Strategic Plan 2027+ (2022) In partnership with SDI, developed a framework for the City's strategic and thoughtful growth, safe and healthy neighborhoods, vibrant open spaces, and collaborative engaged partnerships with a sustainable organization that will benefit current and future residents and businesses. Co-authored and led graphic design for the final Strategic Plan.

Texas Floodplain Management Association newsletter, Texas Flood Today (2021-current) Assisted the TFMA Communications Committee with re-design and publication of the quarterly newsletter. Provided new design template, assisted with technical editing for contributor submissions, and published final document for all 2021 and 2022 newsletters. Work ongoing.

Ironhouse Sanitary District Strategic Plan 2022-2027+ (2021) Collaborated with District management, Board of Directors, and SDI to develop a Strategic Plan. Co-hosted a series of workshops that included local stakeholders such as city and county officials, neighboring water districts, and the local fire protection district. Co-authored and led graphic design for the final Strategic Plan document that was unanimously adopted by the Board in 2021.

Calaveras County Water District Strategic Plan 2021-2026+ (2020) Collaborated with District management, Board of Directors, and consultant team to develop a refreshed mission and vision for the organization and its Strategic Plan. Assisted with development of core values, goals, and objectives via remote working meetings. In collaboration with the project team, designed and distributed a stakeholder survey to gather information for the Plan. Provided materials for and helped conduct Board of Directors workshops to ensure Board participation and support. Provided graphic design for the final Strategic Plan that was unanimously adopted by the Board in 2020.

California Department of Water Resources (DWR) Sustainable Groundwater Management Program Communications Support (2016-2020) Provided communications support including graphic design for DWR's implementation of Sustainable Groundwater Management Act (SGMA). Collaborated with DWR

program team and consultant team to develop graphics communicating SGMA requirements to local agencies and the public. Assisted with development of the best management practices and guidance documents for Groundwater Sustainability Plan (GSP) development, including the Stakeholder Communication and Engagement guidance document. Assisted with development of GSP Emergency Regulations Guide. Created technical and conceptual illustrations used in outreach presentations and printed materials.

Atascadero Basin Groundwater Sustainability Plan (2016-2022) Led development of an on-line communications portal for local agencies to engage their constituents and track public outreach activities supporting GSP development. Authored Communication and Engagement Plan for GSP development and co-authored Executive Summary when GSP was complete. Provided graphics to support successful basin boundary modification request to DWR. Updated website as needed to reflect most recent SGMA activities. Developed stakeholder outreach materials such as FAQ, postcards, and newsletters.

Sacramento County Small Communities Flood Risk Reduction Feasibility Studies (2019) Assisted with public relations materials related to the implementation of Small Communities Flood Risk Reduction grants in the Delta Legacy communities of Courtland, Hood, Locke, Walnut Grove, and Ryde. Designed Small Communities logo to create continuity throughout program implementation. Wrote content for and designed postcards used for public outreach. Assisted with creation of an ArcGIS StoryMap for each community.

Paso Robles Subbasin Groundwater Sustainability Plan (GSP) (2018) Conducted public outreach and community engagement as part of the consultant team for the five Groundwater Sustainability Agencies in the Paso Robles Subbasin responding to SGMA. Co-author of Paso Robles Subbasin Communication and Engagement Plan. Assisted with planning and execution of public meetings and workshops. Developed a variety of outreach materials including presentations, mailers, and handouts.

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

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

WITNESSETH:

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

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

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

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

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

[Delete whichever Paragraph E doesn’t apply]

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

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

1.0. SERVICES PROVIDED BY CONSULTANT

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

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

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

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

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

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

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

Consultant shall, in all solicitations and advertisements for employees placed by, or on behalf of Consultant, state that all qualified applicants will receive

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

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

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

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

2.0. COMPENSATION, BILLING AND PREVAILING WAGES

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

[Delete whichever paragraph 2.1 does not apply.]

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

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of work specified in the Consultant's Proposal or which is inconsistent with or in violation of the provisions of this Agreement unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable. Should the City request in writing additional services that increase the hereinabove described "Scope of Work," an additional fee based upon the Consultant's standard hourly rates shall be paid to the Consultant for

such additional services. The City Manager may approve contract change orders not exceeding a total of 10% of the approved contract or up to the contingency amount whichever amount is less for any one project.

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

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

3.0. TIME OF PERFORMANCE

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

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

4.0. TERM AND TERMINATION

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

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing at least

ten (10) days prior written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. If the City suspends, terminates or abandons a portion of this Agreement, such suspension, termination or abandonment shall not make void or invalidate the remainder of this Agreement.

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

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

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

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

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

5.0. INSURANCE

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

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

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

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

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

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

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

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

- (a) Additional insureds: "The City of Fort Bragg and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (b) Notice: "Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, Consultant shall

forthwith obtain and submit proof of substitute insurance. Should Consultant fail to immediately procure other insurance, as specified, to substitute for any canceled policy, the City may procure such insurance at Consultant's sole cost and expense."

- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Fort Bragg, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Fort Bragg shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Fort Bragg, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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

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

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

6.0. GENERAL PROVISIONS

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

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

except as otherwise expressly provided in this Agreement.

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

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

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

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

IF TO CONSULTANT:

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

IF TO CITY:

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

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

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the

parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Mendocino County, California. Consultant agrees to submit to the personal jurisdiction of such court in the event of such action.

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

6.8. Indemnification and Hold Harmless.

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

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

indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

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

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

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

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

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, preliminary notes, working documents, files and tapes furnished or prepared by Consultant or any of its

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

6.13. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 7920.000 *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 7924.510, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

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

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

participate in any meeting required with regard to the correction.

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

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

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

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

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

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

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

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

6.24. Severability. If any provision of this Agreement is determined by a court of

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

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

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

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

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

CITY

CONSULTANT

By: _____
Isaac Whippy
Its: City Manager

By: _____

Its: _____

ATTEST:

By: _____
Diana Sanchez
City Clerk

APPROVED AS TO FORM:

By: _____
Baron J. Bettenhausen
City Attorney

EXHIBIT A

CONSULTANT'S PROPOSAL

(Scope of Work, Fee Schedule and Time Table)

EXHIBIT B
CERTIFICATES OF INSURANCE AND ENDORSEMENTS



City of Fort Bragg

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

Text File

File Number: 24-653

Agenda Date: 4/8/2024

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Resolution of the Fort Bragg City Council Approving Contract Amendment 3 with SHN Consulting Engineers and Geologists, Inc. for On-Call Engineering Services and Authorizing the City Manager to Execute Contract (Amount Not to Exceed \$60,000)

The current contract with SHN has almost fully spent existing funds and the contract remains in place until June 30, 2024. City Staff intend to prepare and solicit a Request for Proposals for these services at the start of the next fiscal year.

RESOLUTION NO. ____-2024

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING CONTRACT AMENDMENT WITH SHN CONSULTING ENGINEERS & GEOLOGISTS, INC. FOR ON-CALL ENGINEERING SERVICES AND AUTHORIZING CITY MANAGER TO EXECUTE SAME (AMOUNT NOT TO EXCEED \$60,000)

WHEREAS, on February 18, 2021, the City of Fort Bragg (“City”) entered into a Professional Services Agreement (“Contract”) in the amount of \$20,000.00 with SHN Consulting Engineers & Geologists, Inc. for their services to provide on-call civil engineering support for city projects as needed; and

WHEREAS, on June 13, 2022, the City Council authorized Resolution No. 4549-2022, adding an additional \$20,000 to this engineering contract; and

WHEREAS, the current contract with SHN expires June 30, 2024; and

WHEREAS, in order for the Consultant to continue to provide these services through the expiration date, staff recommends the allocation of additional funds in the amount of \$20,000 bringing the total Not to Exceed Amount to \$60,000.00; and

WHEREAS, there are still sufficient funds budgeted in the 23/24 FY for these activities; and

WHEREAS, per Fort Bragg Municipal Code Section 3.20.050, the City Manager’s signing authority for change orders may not exceed 10% of the approved contract cost;

WHEREAS, authorization of this contract is not subject to CEQA because it is not a project (§ 21065. PROJECT), any actions resulting from work performed under this contract in preparation for a project will be evaluated on an individual case basis; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the third Amendment to the Professional Services Agreement with SHN Consulting Engineers & Geologists, Inc. for On-Call Engineering services and authorizes the City Manager to execute the same (Contract Amount Not To Exceed \$60,000.00).

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the Fort Bragg City Council held on the 25th day of March 2024, by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

Diana Sanchez
City Clerk



City of Fort Bragg

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

Text File

File Number: 24-680

Agenda Date: 4/8/2024

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Adopt City Council Resolution Authorizing City Manager to Execute Contract Amendment with Coleman Engineering for Additional Design Services (Amount Not to Exceed \$952,987)

RESOLUTION NO. ____-2024

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING AUTHORIZATION FOR CONTRACT AMENDMENT WITH COLEMAN ENGINEERING FOR ADDITIONAL DESIGN SERVICES AND AUTHORIZING CITY MANAGER TO EXECUTE THE SAME (AMOUNT NOT TO EXCEED \$952,987)

WHEREAS, on January 24, 2019, the City of Fort Bragg entered into a contract in the amount of \$680,000 with Coleman Engineering to complete construction design and bid documents for the Raw Water Line Replacement Project (Project); and

WHEREAS, the Contract amount included an original design budget of \$594,096 plus a contingency amount of \$85,904, for a total amount of \$680,000; and

WHEREAS, in May of 2020 it was recognized that a section of the Hare Creek crossing that was replaced in 1991 has been undercut, is at risk of failure, and needs to be replaced; and

WHEREAS, on November 9, 2020, City Council approved the Authorization for Additional Services No. 1 in the amount of \$64,920 to add Hare Creek crossing and Noyo River crossing to the Project, which was absorbed into the original contract amount; and

WHEREAS, on May 9, 2022, City Council approved the Authorization for Additional Services No. 2 in the amount of \$81,824 to add Construction Permitting Services to the Scope of Work; and

WHEREAS, on November 14, 2022, City Council approved the Authorization for Additional Service No. 3 in the amount of \$109,734 because site constraints in the vicinity of Newman Reservoir required the addition of a pump station to the project, along with the addition of Bid and Pre-mobilization Construction Services; and

WHEREAS, the consultant has requested additional funds shown in Exhibit A, Authorization for Additional Services No. 4, in the amount of \$102,413 to cover additional costs associated with other project additions and changes; and

WHEREAS, there is still \$20,984 remaining in the contingency balance, which will be used to offset some of the additional costs reducing the requested budget increase to \$81,429; and

WHEREAS, Resolution no. 4775-2024 was approved on March 25, 2024, approving budget amendment 2023/24-10 amending fiscal year 2023-24 allocating funds for this contract amendment;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the Authorization for Additional Services for the Raw Water Line

Replacement Design Project and authorizes the City Manager to execute same (Amount Not to Exceed \$952,987).

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 8th day of April 2024, by the following vote:

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

Bernie Norvell
Mayor

ATTEST:

Diana Sanchez
City Clerk

Authorization for Additional Services

This Agreement is to provide additional professional engineering services for the project identified as follows:

Project Name: Raw Water Line Replacement Project
Client Project Number: 2019-02
Consultant Project Number: FTBG18-001
Additional Services #: 4
Date of Original Agreement: January 24, 2019

The Client and the Consultant are identified as follows:

CLIENT: <u>City of Fort Bragg</u>	CONSULTANT: <u>Coleman Engineering, Inc.</u>
Name: <u>Diane O'Connor</u>	Name: <u>Chad Coleman</u>
Title: <u>Project Manager</u> <u>City of Fort Bragg, Public Works</u>	Title: <u>Principal</u>
Address: <u>Department, 416 N Franklin</u>	Address: <u>1223 Pleasant Grove Blvd., Suite 100</u>
City, ST, Zip: <u>Fort Bragg, CA 95437</u>	City, ST, Zip: <u>Roseville, CA 95678</u>
Phone: <u>707-961-2823 x 134</u>	Phone: <u>916-791-1188</u>
e-mail: <u>doconnor@fortbragg.com</u>	e-mail: <u>chad@coleman-eng.com</u>

The following Scope of Additional Services, Schedule, Budget, and Budget Summary are added to the existing agreement referenced above, are effective as of the date signed on the last page and are subject to all the terms of the original agreement.

Summary of Additional Services

The Coleman Engineering team has provided the following additional services.

1) Environmental Permitting Fees for Dewberry

Dewberry was asked by the City to submit permit applications and to pay the associated fees with the understanding that the City would execute an additional services authorization to reimburse Dewberry for the fees that were not included in the original agreement. See the attached email from Diane O'Connor to Dewberry dated April 14, 2023.

In addition, Dewberry has provided an additional Biological Assessment as required by the various agencies. A letter detailing Dewberry's additional services is attached.

2) Noyo River Lining Design

Design of the crossing of the Noyo River was not included in our original Scope of Services. Coleman Engineering was directed by the City to consider trenchless lining of the crossing pipe. However, before the effort progressed to complete design, Coleman Engineering was able to determine that the proposed application and materials were not appropriate for the site specific installation and would also not meet the City's design criteria. Design was stopped before further labor effort was incurred.

3) Newman Pump Station building permit review

The design of the Newman Pump Station was added to the agreement in Additional Services 3. Following the design of the facility, the City chose to move the location of the pump station to a new site that necessitates a retaining wall. The retaining wall design was not included in the original design or in any additional services scope or fee. Coleman Engineering coordinated with the City to outline the required geotechnical and structural engineering inputs. Alternatively, Coleman Engineering proposed a design-build solution whereby the Contractor will provide the design during construction. After consultation with Coleman Engineering staff, the City selected the design-build solution.

In addition, our Scope of Services specifically excluded design to accommodate a building permit review, including response to comments from building department officials. (See the Assumptions to Task 3 which state "City or County building permit reviews are not required.") When the City chose to submit to Humboldt County for a building permit, we were happy to provide support. But the subsequent need to revise the design to address building officials' comments has taken time that was not allocated in the agreement.

4) Lengthened Pipe in Segment 5

Our team has been diligently working on finalizing the plans and associated easements. During that process it was determined that there was a gap in the pipeline in Segment 5. While we are happy to help it is important to state our understanding that the City approved of the design as it was formerly completed. This required coordination with the surveyors to document the extended easement area.

5) SWPPP required for Environmental Permitting

The Coleman Engineering team was directed by the City to prepare a Stormwater Pollution Prevention Plan (SWPPP) which is required to respond to comments from the environmental permitting agencies. This activity is not included in our Scope of Services. It is only required as a response to comments from the permitting agency. We are happy

to help and to prepare the SWPPP so that the permit applications can be submitted in a timely manner.

6) Changes to the design of the Newman Pump Station

Following completion of the final design it was determined that several changes were desired by the City. These include the following:

- Addition of a strainer on the inlet side to protect the pumps from large debris from the Newman Reservoir.
- Removal of the existing metering vault to provide the space needed for the new strainer.

Coleman Engineering has provided these services, or continues to provide these services so that the design can be completed efficiently.

7) Bid Quantities Updates

The City requested that bid quantities be adjusted so that the City could use many more unit priced bid items rather than a lump sum approach to bidding. Coleman Engineering engaged with Aaron Smud of Alpine Summit Development to update previous services related to quantity take-offs when Mr. Smud was developing construction cost estimates.

8) Redesign of the electrical service to the Newman Pump Station

After completion of the design for the new electrical service to the Newman Pump Station, PG&E implemented a requirement that does not allow for multiple metered services on the same parcel. As a result, the electrical design for the service to the Newman Pump Station, as well as the existing service to the existing Summers Lane Reservoir requires updating. This task includes labor required to evaluate the existing site cables, breakers, and load locations; redesign of the service so that a single service can be provided; and, updates to the plans to depict the updated design sufficient for the City to resubmit the design to PG&E for approval of the service.

Schedule and Agreement End Date

Coleman Engineering will provide the services outlined in this Scope consistent with the requirements of the project and in conjunction with the overall project schedule. The Agreement End Date is amended to December 31, 2024.

Additional Services #4 Budget

Services detailed above will be provided using the following budgets. Coleman Engineering reserves the right to transfer budgets between tasks without changing the Total Additional

Services Budget. Services will be provided on a time and materials basis not to exceed the total amount summarized below. The attached spreadsheet provides a detailed breakdown of the additional fee by task.

TASK	Budget
Task 1 – Environmental Permitting Fees for Dewberry	\$34,837
Task 2 – Noyo River Lining Design	\$10,416
Task 3 – Newman Pump Station building permit review	\$10,660
Task 4 – Lengthened Pipe in Segment 5	\$9,376
Task 5 – SWPPP required for Environmental Permitting	\$15,756
Task 6 – Changes to the design of the Newman Pump Station	\$9,856
Task 7 – Bid Quantities Updates	\$2,500
Task 8 – Redesign of the electrical service to the Newman Pump Station	\$9,012
Total Budget for Additional Services #4 =	\$102,413

Project Budget Summary

Original Budget =	\$594,096
Sum of Previous Changes to Budget =	\$256,478
Budget of this Scope of Additional Services =	\$102,413
New Project Budget =	\$952,987

The above is mutually agreed to this ____ day of _____, 2024.

City of Fort Bragg

By: _____
Name: _____
Title: _____

Coleman Engineering, Inc.

By: Chad R. Coleman
Name: Chad R. Coleman, P.E.
Title: Principal
CA PE #: C56490



Chad Coleman

Subject: FW: Fort Bragg Permit application submittal

From: O'Connor, Diane <doconnor@fortbragg.com>

Sent: Friday, April 14, 2023 4:24 PM

To: Tisch, Lindsay <LTisch@Dewberry.com>; Redd, Christa <CRedd@Dewberry.com>; Bray, Jeff <jbray@Dewberry.com>; Simon Gray <simon@coleman-eng.com>

Cc: Smith, John <jsmith@fortbragg.com>

Subject: RE: Fort Bragg Permit application submittal

[CAUTION] External Email. DO NOT click links or open attachments unless expected. Please use the "Phish Alert" button to report all suspicious emails.

Hi Lindsay,

Thank you for this! I want to make sure that I understand. The fee for the 1602 is \$6,236. The fee calculator for the dredge has two separate amounts. It sounds like we only pay for the application fee of \$2,734 now, and the annual fee will be billed to us in Nov/Dec. is that correct? Does that fee cover both the 401 and 401 permit fees? That would be a total of \$8,970 to submit all of the permits, if I understand correctly.

How do you recommend we pay for the permits? It may be the most efficient to have you submit payment with the applications, rather than having us cut and mail checks. We can do a contract amendment with Coleman to include an additional \$9,000, if needed.

Thank you,

Diane

Diane O'Connor
Assistant City Engineer

416 N Franklin
Fort Bragg, CA 95437
Phone: 707-961-2823 x 134
Email: doconnor@fortbragg.com



June 16, 2023

Coleman Engineering, Inc.
Attn: Mr. Simon Gray, P.E.
1223 Pleasant Grove Boulevard #200
Roseville, CA 95678

RE: City of Fort Bragg Raw Waterline Project- Scope of Work and Fee for Additional Biological Assessment and Permitting Fees

Dear Mr. Gray:

Dewberry Engineers Inc. appreciates the opportunity to serve as a subconsultant to Coleman Engineering on the City of Fort Bragg water line project. As you are aware, there were several environmental permits and approvals needed for this project to proceed to the construction phase. These permits were submitted to the agency on April 25, 2023. During the technical assistance in preparing the permit applications on behalf of the City and coordinating with the regulatory agencies for these permits, it was discovered that separate Biological Assessments (BAs) were required for the Section 404 Permit, one for U.S. Fish and Wildlife (USFWS) and one for the National Atmospheric and Oceanic Administration Marine Fisheries (NOAA Fisheries).

At the time of the original proposal, NOAA Fisheries was accepting a combined BA that covered species for both agencies. In late 2022, NOAA Fisheries began changing their acceptance of BAs, requiring the BA to be separate from the USFWS BA. This is because USFWS and NOAA Fisheries are concerned about different species. For this project, the NOAA Fisheries BA focused on the Central California Coast Coho Salmon and Northern California Steelhead and their habitats; the USFWS BA focused on the Marbled Murrelet and the Northern Spotted Owl.

In addition, during the submittal of the permit applications, the City requested Dewberry to pay the application fees. This scope of work covers the required second BA for the Section 404 permit application and the permit application fees for the California Department of Fish and Wildlife (CDFW) and Regional Water Quality Control Board (RWQCB).

Scope of Work

Task 1 Nationwide Permit Verification (Clean Water Act, Section 404).

As part of the Preconstruction Notification (PCN) submitted to the USACE Dewberry is required to prepare two Biological Assessments (BAs), one BA for USFWS and one for NOAA Fisheries. Dewberry will prepare a draft and final BA using existing information in the City's IS/MND to support Section 7 consultation with NOAA Fisheries. The BA will be prepared according to the *ESA Information Guidelines for the Regulatory Program*, dated March 2018, to determine the potential for the pipeline project to impact federally listed proposed, or candidate species under the Federal Endangered Species Act (FESA). The BA will describe the action area and the species and critical habitat (if any) considered. The BA will include an effects analysis and determination as to the potential for the project to affect the subject species and critical habitat, if any. We have budgeted 15 hours for responding to comments generated during client and

City review of the BA and 20 hours to assist USACE and the City throughout the Section 7 consultation process (e.g., providing additional information or analysis). The total cost for the NOAA Fisheries BA is \$16,953.50.

Task 2 Permit Fees

TASK 2.1 WATER QUALITY CERTIFICATION PROCESSING FEE

The Water Quality Certification application processing fee must be included with the submittal. The original scope indicated that the fee would be provided by City. During the preparation of the application packages in April 2023, the City requested that Dewberry pay the permit application processing fee. Dewberry has allotted 12 hours for agency coordination and will provide a payment to the State Water Resources Control Board for \$2,734. The total cost for this task is \$4,394.50.

TASK 2.2 STREAMBED ALTERATION AGREEMENT (FISH AND GAME CODE, SECTION 1602) PROCESSING FEE

The Streambed Alteration Agreement application processing fee must be included with the submittal. The original scope indicated that the fee would be provided by City. During the preparation of the application packages in April 2023, the City requested that Dewberry pay the permit application processing fee. Dewberry has allotted 12 hours for agency coordination and will provide a payment to the California Department of Fish and Wildlife, Northern Region – Coastal (Region 1) for \$6,236. The total for this task is \$7,896.50

Estimated Cost

Dewberry will perform the above scope of work based on a time and materials basis not to exceed \$29,244.50. Please call me at (916) 245-2833, or Christa Redd at (916) 231-5109, if you have any questions regarding our proposed scope of work and fee.

Sincerely,



Jeff Bray
Senior Associate



Christa Redd
Project Manager

Attachments

1. Fee Table

City of Fort Bragg Waterline Permitting					Total Hours	Total Fees*
		6/16/2023	Jeff Bray	Lindsay Tisch		
		\$246	\$138	\$97		
Task 1	Nationwide Permit Verification (Clean Water Act, Section 404)					
1.1	NOAA Fisheries Biological Assessment	16.00	40.00	60.00	132.00	\$16,953.50
Task 1 Nationwide Permit Verification (Clean Water Act, Section 404) Subtotal		16.00	40.00	60.00	132.00	\$16,953.50
Task 2	Permit Fees					
2.1	Water Quality Cerification		12.00		12.00	\$1,660.50
2.2	Streambed Alteration Agreement (Fish and Game Code, Section 1602)		12.00		12.00	\$1,660.50
Task 2 Permit Fees Subtotal		0.00	24.00	0.00	24.00	\$3,321.00
Subtotal Labor		16.00	64.00	60.00	156.00	\$20,274.50
Reimbursable Expenses						
	RWQCB 401 Certification Processing Fee					\$2,734.00
	CDFW 1602 Agreement Processing Fee					\$6,236.00
Subtotal Reimbursable Expenses						\$8,970.00
					Total	\$29,244.50



City of Fort Bragg

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

Text File

File Number: 24-681

Agenda Date: 4/8/2024

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: ID Resolution

Adopt Fort Bragg Improvement District Resolution Approving Budget Amendment 2023/24-12 for the Pudding Creek Force Main Relocation Project and Amend Fiscal Year 2023-24 Budget (Amount Not to Exceed \$400,000)

Approval of this action will move the \$400,000 budgeted for the Pudding Creek Force Main Relocation Project in the 2022/23 Fiscal Year to the 2023/24 Fiscal Year budget.

RESOLUTION NO. ID ____-2024

RESOLUTION OF THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT APPROVING BUDGET AMENDMENT 2023/24-12 FOR THE PUDDING CREEK FORCE MAIN RELOCATION PROJECT AND AMENDING FISCAL YEAR 2023-24 BUDGET (AMOUNT NOT TO EXCEED \$400,000)

WHEREAS, in 2008 the City and Municipal Improvement District located the Pudding Creek Sewer Force Main on the Pudding Creek Bridge; and

WHEREAS, California Department of Transportation (Caltrans) widened the Pudding Creek Bridge in 2023; and

WHEREAS, the sewer line had to be relocated in order for the bridge to be widened; and

WHEREAS, all costs except for construction of the utility pedestals must be paid by the Municipal Improvement District; and

WHEREAS, on June 14, 2021, the Fort Bragg Municipal Improvement District No. 1 District Board approved the execution of that agreement in the amount of \$225,000; and

WHEREAS, on September 7, 2022, Caltrans opened the bids for the project, in which the lowest and winning bid included a bid amount of \$400,000 for the sewer main relocation portion of the project; and

WHEREAS, Budget Adjustment 2022/23-19 was approved on May 18, 2023 via Resolution ID 474-2023 by the Board in the amount of \$400,000; and

WHEREAS, the allotted \$400,000 was not rolled forward to the current fiscal year and needs to be budgeted in order to be dispersed; and

NOW, THEREFORE, BE IT RESOLVED that the District Board of the Fort Bragg Municipal Improvement District No. 1 does hereby amend the previously adopted FY 2023-24 Budget to incorporate the changes enumerated in Exhibit A and does hereby authorize the City Manager to execute the Amendment.

The above and foregoing Resolution was introduced by District Board Member _____, seconded by District Board Member _____, and passed and adopted at a regular meeting of the District Board of the Fort Bragg Municipal Improvement District No. 1 held on the 8th day of April 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

BERNIE NORVELL
Chair

ATTEST:

Diana Sanchez
District Clerk

BUDGET AMENDMENT

Exhibit A

Budget Adjustment #: 2023/24-12

Budget FY: FY 2023/24

Account Description	Account #			FY 22/23 Current Budget	Increase (+) Budget Amt	Decrease (-) Budget Amt	Revised Total Budget Amt	Description
Expenditures								
Sewer force main Pudding Creek Bridge	716	7005	0731	\$ 400,000	\$ -		\$ 400,000	Caltrans requires the City to move the sewer force main to allow bridge expansion - Pudding Creek Bridge
Roll over from 2022/2023 FY budget								
Total Expenditures				\$ 400,000	\$ -	\$ -	\$ 400,000	
Revenue								
Total Revenue				\$ -	\$ -	\$ -	\$ -	

Reason for Amendment:	RESOLUTION # : XXXX-2024		
	Roll over budgeted amount from previous fiscal year		
Authorization:	Signature:	Date:	
Requested By: Diane O'Connor	<i>Diane O'Connor</i>	03/29/24	
Approval: Isaac Whippy	_____	_____	
Finance Use: _____	_____	_____	
<i>Attach copies of Resolution or other documentation</i>			



City of Fort Bragg

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

Text File

File Number: 24-688

Agenda Date: 4/8/2024

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Consent Calendar

Adopt Resolution of the Fort Bragg City Council Approving Submittal of an Application to the California Department of Housing and Community Development for funding under the HOME Investment Partnerships Program; and if selected, the execution of any related documents necessary to participate in the HOME Investment Partnerships Program

RESOLUTION NO. _____-2024

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE HOME INVESTMENT PARTNERSHIPS PROGRAM; AND IF SELECTED, THE EXECUTION OF ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE HOME INVESTMENT PARTNERSHIPS PROGRAM

WHEREAS, the California Department of Housing and Community Development (the “Department”) is authorized to allocate HOME Investment Partnerships Program (“HOME”) funds made available from the U.S. Department of Housing and Urban Development (“HUD”). HOME funds are to be used for the purposes set forth in Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, in federal implementing regulations set forth in Title 24 of the Code of Federal Regulations, part 92, and in Title 25 of the California Code of Regulations commencing with section 8200; and

WHEREAS, on January 19, 2024, the Department issued a Notice of Funding Availability announcing the availability of funds under the HOME program (the “NOFA”); and

WHEREAS, in response to that HOME NOFA, City of Fort Bragg, a municipal corporation (the “Applicant”), wishes to apply to the Department for, and receive an allocation of, HOME funds; and

NOW, THEREFORE, BE IT RESOLVED that, in response to the above-referenced HOME NOFA, the Applicant shall submit an application to the Department to participate in the HOME program and for an allocation of funds not to exceed One Million, Five Hundred Thousand Dollars (\$1,500,000) for a Tenant-Based Rental Assistance (TBRA) Program to be located in City of Fort Bragg.

BE IT FURTHER RESOLVED that, if the application for funding is approved, then the Applicant hereby agrees to use the HOME funds for eligible activities in the manner presented in its application as approved by the Department in accordance with the statutes and regulations cited above. The Applicant will also execute a Standard Agreement, any amendments thereto, and any and all other documents or instruments necessary or required by the Department or HUD for participation in the HOME program (collectively, the required documents).

BE IT FURTHER RESOLVED that the Applicant authorizes Mayor or their designee(s) to execute, in the name of the Applicant, the HOME Standard Agreement.

BE IT FURTHER RESOLVED that the Applicant authorizes City Manager or their designee(s) to execute, in the name of the Applicant, all other required documents.

The above and foregoing Resolution was introduced by _____ seconded by _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 8th day of April, 2024, by the following vote:

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

RECUSED:

BERNIE NORVELL
Mayor

ATTEST:

Diana Sanchez
City Clerk

HOME NOFA Application

Governing Board Resolution Instructions

A Resolution granting authority to make an application to the HOME Program, duly executed by the governing board of the local jurisdiction, CHDO or Native American Entity, is required for submission of the application. An executed resolution must be included with every application submitted to the Department no later than the application deadline. The resolution must authorize:

- submittal of the application and the execution of the HOME Standard Agreement;
- the activity being proposed in the application;
- the amount of HOME funds being requested; and
- signature authority for HOME documents.

A sample resolution is included with this application form, on the following page. The Department highly encourages Applicants to use this resolution or, at a minimum, incorporate all elements of the sample into the Applicant's own resolution and put on organization letterhead. The resolution should be dated after the issuance date of the NOFA. **Please note that this resolution specifically includes the requested HOME Award amount in dollars, which is a mandatory element of the resolution.** The resolution also identifies the position(s) that will be authorized to sign reports and drawdown requests. The person attesting to the validity of the resolution cannot be the same individual as the one granted the authority in the resolution. If the Applicant Certification and Commitment of Responsibility form is submitted unsigned or is signed by someone not in a position authorized in the resolution, the Department may, in its sole discretion, reject the application.

This is intended to be a sample resolution authorizing submittal of an application to the Department and execution of various required documents. An Applicant may use another format if it contains the dollar amount of the application and all the authorizations contained in this sample.

City Jurisdiction applicants:

Pursuant to California Government Code sections 40601 and 40602, City Jurisdiction applicants must have the Mayor or Mayor pro tempore sign any written contracts and conveyances made or entered into by the city, unless the city has an ordinance in effect that specifically allows or designates contracts to be signed by an officer other than the mayor or mayor pro tempore.

Accordingly, if the city does not have a city ordinance described above, then the Department requires that the Mayor or Mayor pro tempore sign the HOME Standard Agreement as the authorized signer for the city and provide to the Department a resolution from the City Council authorizing the Mayor to sign the Agreement and related documents on behalf of the city. The mayor or mayor pro tempore may not delegate to a third party his or her authority to sign documents.

If the city does have an ordinance as described above, the Department requires the city to provide a copy of such ordinance, as well as a resolution that indicates the name and title of the city official(s) authorized to sign the Agreement and related documents. All required resolutions must be in form and content acceptable to the Department.

CHDO, Developer, and Native American Entities applying as a developer applicants:

CHDO Applicants and Developer applicants, including Native American Entities applying as a developer, must name the **title and current occupant** in the resolution. If the person occupying the position changes, the applicant must submit meeting notes or some other official documentation evidencing the change in persons occupying the authorized position. The additional documentation evidencing the name and title of authorized signatories need not be HOME-specific but may provide general authority evidencing the name and title of individuals authorized to legally bind the governing body.

Note: Resolution sample is on next page.

(SAMPLE) GOVERNING BOARD RESOLUTION

RESOLUTION NO. _____

THE GOVERNING BOARD OF

[Name of Applicant]

HEREBY AUTHORIZES: Submittal of an application to the California Department of Housing and Community Development for funding under the HOME Investment Partnerships Program; and if selected, the execution of a Standard Agreement, any amendments thereto, and of any related documents necessary to participate in the HOME Investment Partnerships Program.

WHEREAS:

- A. The California Department of Housing and Community Development (the "Department") is authorized to allocate HOME Investment Partnerships Program ("HOME") funds made available from the U.S. Department of Housing and Urban Development ("HUD"). HOME funds are to be used for the purposes set forth in Title II of the Cranston-Gonzalez National Affordable Housing Act of 1990, in federal implementing regulations set forth in Title 24 of the Code of Federal Regulations, part 92, and in Title 25 of the California Code of Regulations commencing with section 8200.
- B. On [date on HOME NOFA header], the Department issued a Notice of Funding Availability announcing the availability of funds under the HOME program (the "NOFA").
- C. In response to that HOME NOFA, _____ [insert name of Applicant] a _____ [insert the legal form of entity, e.g., municipal corporation, subdivision of the State of California, nonprofit corporation] (the "Applicant"), wishes to apply to the Department for, and receive an allocation of, HOME funds.

IT IS NOW THEREFORE RESOLVED THAT:

- 1. In response to the above-referenced HOME NOFA, the Applicant shall submit an application to the Department to participate in the HOME program and for an allocation of funds not to exceed _____ Dollars (\$_____) for the following activities and/or programs:

[Briefly describe the proposed activities and/or programs here]

to be located in _____ [activity/program location(s)].

- 2. If the application for funding is approved, then the Applicant hereby agrees to use the HOME funds for eligible activities in the manner presented in its application

as approved by the Department in accordance with the statutes and regulations cited above. The Applicant will also execute a Standard Agreement, any amendments thereto, and any and all other documents or instruments necessary or required by the Department or HUD for participation in the HOME program (collectively, the required documents).

3. The Applicant authorizes _____ [position title(s) of person(s) authorized, **separated by "or", not by "and" or "and/or"**] or their designee(s) to execute, in the name of the Applicant, the HOME Standard Agreement. ^{1, 2, 3}

4. The Applicant authorizes _____ [position title(s) of person(s) authorized, **separated by "or", not by "and" or "and/or"**] or their designee(s) to execute, in the name of the Applicant, all other required documents. ^{2, 3, 4}

Footnotes:

1. For cities, this must be the Mayor or Mayor pro tempore unless there's a city ordinance authorizing/designating a different officer to sign contracts on behalf of the city.
2. For counties, cities, and Native American Entities applying for Program Activities, the Department recommends that only titles, without names, be inserted in Sections 3 and 4 above, to avoid the need for an additional authorizing resolution whenever a personnel change occurs.
3. For CHDOs, developers, and Native American Entities applying for Project Activities as a developer, both a title and name must be included. CHDOs must also provide both for Program Activities.
4. Section 4 above is for all applicants who desire that a different, or additional signatories, be authorized to sign documents other than the HOME Standard Agreement.

PASSED AND ADOPTED THIS _____ DAY OF _____ 20__, BY THE FOLLOWING VOTE:

AYES: _____ **NAYS:** _____ **ABSTAIN:** _____ **ABSENT:** _____

The undersigned _____ [title of officer] of the Applicant does hereby attest and certify that the foregoing is a true and full copy of a resolution of the governing board of the Applicant passed and adopted at a duly convened meeting on the date set forth above, and said resolution has not been altered, amended, or repealed.
¹

Footnote ¹: An official cannot attest and certify, if listed as an authorized signer in Sections 3 or 4 above.

Name	Signature	Date
------	-----------	------



City of Fort Bragg

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

Text File

File Number: 24-684

Agenda Date: 4/8/2024

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Receive and File Minutes of the Finance and Administration Committee of February 14, 2024.



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, February 14, 2024

4:00 PM Town Hall, 363 N. Main Street and Via Video Conference

AMENDED

MEETING CALLED TO ORDER

Chair Rafanan called the meeting to order at 4:06 PM.

ROLL CALL

Staff Present: City Manager- Isaac Whippy, Human Resource Manager- Juli Mortensen, Finance Technician II- Adriana Moreno Ramos, Administrative Assistant- Amber Weaver.

Present: 2- Marcia Rafanan and Tess Albin-Smith

1. APPROVAL OF MINUTES

1A. Approve Minutes of November 8, 2023

The minutes were approved by the Committee as presented.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public Comments were made by Jay Rosenquist.

3. CONDUCT OF BUSINESS

3A. Receive Report from the City's Sales Tax Consultant- Thomas Adams of Avenue Insights & Analytics on Quarter 4 2023 Sales Tax and Business Activity

There was an oral update from Thomas Adams of Avenue Insights & Analytics. Sales Tax and Business. Mr. Adams provided a detailed presentation and analysis and reported on the sales and tax results for Quarter 4, 2023.

Public Comment: None.

Discussion: There was discussion about the City's sales tax, transportation sales tax, and how it has impacted the local economy.

3B. Receive Report from Matrix Consultant on the Results of the City of Fort Bragg Full Cost Allocation Plan Review and Establishing an Indirect Cost Rate

The Committee received a presentation and reviewed the report regarding the results of the City of Fort Bragg Full Cost Allocation Plan Review prepared by Khushboo Ingole, Vice President, of

Matrix Consulting Group. Ingle stated there is nothing significantly wrong with the City of Fort Bragg's process, but did make some recommendations.

Public Comments: Jacob Patterson.

Discussion: The Committee discussed the report and Whippy predominantly agreed with the recommendations and said he does plan to incorporate some the elements into the budgeting plan. Whippy also stressed the importance of third party oversight in pursuit of best practice in assessing, monitoring, and minimizing risks.

3C. Receive Oral Update from Staff on Departmental Activities - Finance and Administration

Finance Technician II, Adriana Moreno Ramos, presented the oral update on Departmental Activities. Ramos announced that payments may now be made online or in person with a credit card at a 2.5% surcharge. In addition, Ramos said she is actively seeking current modernization of business licensing and budgeting software.

Human Resources Manager, Juli Mortensen, announced the City of Fort Bragg is declared an approved Blue Zones Worksite. NeoGov software is currently being implemented and is streamlining some of the employee hiring and tracking processes and Personnel Action Forms can now be signed electronically, expediting the continual process of noting changes to employee status, pay, and other changes.

Public Comment: Paul Clark.

Discussion: None.

4. MATTERS FROM COMMITTEE / STAFF

ADJOURNMENT

Chair Rafanan adjourned the meeting at 5:17 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: 24-685

Agenda Date: 4/8/2024

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Agenda Number:

Receive and File Minutes of the Finance and Administration of March 28, 2024.



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

Thursday, March 28, 2024

4:00 PM

Town Hall, 363 N. Main Street

SPECIAL MEETING

MEETING CALLED TO ORDER

Chair Rafanan called the meeting to order at 4:05 PM

ROLL CALL

Present: 2 - Tess Albin-Smith and Marcia Rafanan

1. APPROVAL OF MINUTES

1A. Approve Minutes of February 14, 2024

Minutes were approved for Council review.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public comment was made by Jay Rosenquist.

3. CONDUCT OF BUSINESS

3A. 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 reports prepared by the Finance Department staff for this item. The reports were presented by City Manager, Isaac Whippy.

Public Comment: Jacob Patterson and Jay Rosenquist.

Discussion: The Committee and staff discussed various items including the Youth Opioid Grant associated with Project Right Now, which ends in June, 2024. Chairperson Rafanan questioned some of the diesel service costs and recommended the City of Fort Bragg consider investing in its own code reader.

4. MATTERS FROM COMMITTEE / STAFF

ADJOURNMENT

Chair Rafanan adjourned the meeting at 4:35 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: 24-537

Agenda Date: 4/8/2024

Version: 1

Status: Public Hearing

In Control: City Council

File Type: Staff Report

Agenda Number:

Conduct Public Hearing and (1) Consider Adoption of a Resolution Approving the Mitigated Negative Declaration and the Mitigation and Monitoring and Reporting Plan; (2) Introduce, by Title Only, and Waive Further Reading of Ordinance XXX-2024 Amending Chapter 18.42.165 - *Restaurants* of Division 18 of the Fort Bragg Municipal Code to Establish Regulations and Standards for Outdoor Dining; and (3) Adopt a Resolution that the City Council Submit a Local Coastal Plan Amendment Application (LCP 3-23) to the Coastal Commission, to Amend Chapter 17.42.190 - *Restaurants* of Division 17 of the Fort Bragg Municipal Code to Establish Regulations and Standards for Outdoor Dining.



Photo from Mendocino Voice

Outdoor Dining

Receive Report and Consider Adopting Zoning Amendments to ILUDC (ILUDC 3-23) & CLUDC (LCP 3-23) Regarding Outdoor Dining.

Marie Jones Consulting, 4-8-2024



AGENCY:	City Council
MEETING DATE:	April 8, 2024
DEPARTMENT:	Community Development
PRESENTED BY:	Marie Jones Consulting

AGENDA ITEM SUMMARY

TITLE: Receive Report, Hold a Public Hearing, and Consider:

1. Adoption of Resolution XXX-2024 Approving the Mitigated Negative Declaration and the Mitigation and Monitoring and Reporting Plan for the Zoning Amendments to the Inland Land Use and Development Code to Regulate: Outdoor Dining (ILUDC 3-23), Tiny Homes (ILUDC 4-23), Tiny Home Communities (ILUDC 5-23), and Changes to Planned Development Permit (ILUDC 6-23) Requirements; and
2. Introduction, by Title Only, and Waiving Further Reading of Ordinance XXX-2024 Amending Division 18 to the Fort Bragg Municipal Code to Amend Chapter 18.42.165 “Restaurants”, to Establish Regulations and Standards for Outdoor Dining; and
3. Adoption of Resolution XXX-2024 Submitting LCP Amendment 3-23 Amending Division 17 to the Fort Bragg Municipal Code to Amend Chapter 18.42.165 “Restaurants”, to Establish Regulations and Standards for Outdoor Dining.

APPLICATION #: ILUDC Amendments 3-23 (ILUDC 3-23) and LCP Amendment 3-23 (LCP 3-23)

APPLICANT: City of Fort Bragg

PROJECT: Receive Report, Hold a Public Hearing, and Consider Introduction, By Title Only, and Waive Further Reading of Ordinance XXX-2024 Amending Division 18 to the Fort Bragg Municipal Code to Amend Chapter 18.42.165 “Restaurants”, to Establish Regulations and Standards for Outdoor Dining.

Consider Adoption of Resolution XXX-2024 Submitting LCP Amendment 3-23 Amending Division 17 to the Fort Bragg Municipal Code to Amend Chapter 18.42.165 “Restaurants”, to Establish Regulations and Standards for Outdoor Dining.

LOCATION: Commercial Zoning Districts in the Coastal Zone and the Inland Area.

APN: Various

LOT SIZE:	Various
ZONING:	CN (Neighborhood Commercial), CG (General Commercial), CO (Office Commercial), CH (Highway and Visitor Commercial), CBD (Central Business District), RL (Low Density Residential), RM (Medium Density Residential), RH (High Density Residential); RVH (Very High Density Residential).
ENVIRONMENTAL DETERMINATION:	A Mitigated Negative Declaration (MND) has been prepared for the amendments to the Inland Land Use and Development Code. The proposed amendment to the Coastal Land Use and Development Code is part of the City's Local Coastal Program and will be submitted to the California Coastal Commission for certification. The CLUDC Amendment is statutorily exempt from further environmental review under CEQA Guidelines 15265 Adoption of Coastal Plans and Programs.

BACKGROUND

The Mendocino County Health Officer, Dr. Noemi Doohan, declared a local health emergency on March 4, 2020, and the Community embarked on a strategy to reduce transmission and hospitalizations over the following three-year period. During COVID, many Fort Bragg businesses made significant operational adaptations to reduce risk to people from the COVID-19 Pandemic. One of those adaptations has proven to be a benefit to businesses and the community, namely open-air dining. Specifically, with state authorization for special temporary relaxation of land use regulations, the City allowed a number of restaurants to move tables outdoors and set up outdoor tents. The City also waived parking requirements and capacity fee charges. Outdoor dining allowed all diners to reduce their exposure risk to COVID-19, and many also found it a pleasant experience. While the fight against the COVID Pandemic has largely been won through vaccines and public health measures, a small but important component of our community are elderly or have underlying conditions that continue to make them vulnerable to COVID-19 infections and complications.

In May 2020, enabled by a statewide health order, the City adopted an amendment to the Municipal Code which gave the Director of Emergency Services (City Manager), the power: *“To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of the federal, state, or county government, to the extent that such waivers would not result in an increase in general intensity of use beyond what is otherwise allowed, as applicable to zoning district.”*

The City no longer has this authority because related public health orders have been lifted at the federal, state and county level.

- On February 28, 2023, Governor Gavin Newsom announced that the COVID-19 State of Emergency ended.
- On April 11, 2023, President Joe Biden signed a bipartisan congressional resolution to bring the U.S. national emergency to respond to the COVID-19 pandemic to a close.
- On May 10, 2023, Mendocino County released a notice of the expiration of the County's COVID-19 Urgency Ordinance 4472 which allowed many temporary business modifications in response to the Pandemic.

As there is no longer a public health emergency, the City cannot apply the emergency ordinance, or rely on this authority, to waive zoning requirements for outdoor dining.

On May 17, 2023, the Community Development Committee met and discussed this issue and asked the City to bring the issue forward to the City Council for discussion and policy direction. The City secured the services of Marie Jones Consulting (MJC) to undertake this project in June of 2023. On June 26, 2023, the City Council met and discussed this issue and provided the following direction to MJC regarding outdoor dining regulations.

1. **Location.** The City Council directed to not limit outdoor dining to any specific location on a parcel, but that all outdoor dining in pavilions and tents must comply with setback requirements.
2. **Zoning Districts, Minor Use Permits and Size.** The City Council directed that outdoor dining be allowed by right in all zoning districts where indoor dining is currently allowed by right, namely: RL, RM, RH, RVH and all commercial zoning districts. Further, the City Council indicated that a Minor Use Permit should be required for any outdoor dining facilities of more than 1,300 SF in size.
3. **Design Review.** The City Council directed that pavilions and outdoor tents should meet minimum design criteria, much like a sign, with over-the-counter objective review criteria.
4. **Parking.** The City Council recommended that additional parking should not be required for outdoor dining.
5. **Capacity Fees.** Each new restaurant pays one-time sewer and water capacity fees to cover their fair share of future capital costs for sewer and water infrastructure. The City Council recommended that no capacity fees be charged for outdoor dining, as existing restaurants have already paid this fee.
6. **Outdoor Dining on Public Property.** The City Council recommended that outdoor dining be allowed on sidewalks through the encroachment permit process.
7. **Public Safety.** The City Council directed staff to work with the County to identify an effective building permit process for outdoor dining facilities in pavilions with lights and/or heaters.

City Council direction to exempt all outdoor dining facilities from permitting resulted in a number of challenges while preparing the MND and the General Plan Consistency analysis. A building permit is not required to put up a pavilion or tent because it is a temporary structure. Absent the need to obtain a building permit or any planning permit, the only method to ensure that a proposed project complies with the ordinance is through code enforcement, which may cause problems if someone installed a pavilion only to find out after the fact that it does not comply with the ordinance. There are three potential permits that could be required for outdoor dining.

- **Limited Term Permit.** A limited term permit (LTP) is obtained for a short period (less than a year) and would have to be reapplied for each year. An LTP is not

suitable for outdoor dining facilities where a restaurateur may want to establish outdoor dining on a permanent basis.

- **Minor Use Permit.** This would be a good permit to require if one wants to determine the compatibility of the facility with other uses. However, this is likely not useful for outdoor dining because it would be part of a restaurant which has been deemed to be compatible.
- **Administrative Design Review.** This is the best permitting choice because most issues with a tent will likely relate to design and visual impacts.

On January 10, 2024, and again on January 31, 2024 the Planning Commission held a public hearing and discussed this item at length. New language was added to the draft ordinance based on the following the Planning Commission recommendations:

1. **Permits.** The Planning Commission recommends that a Minor Use Permit and Administrative Design review be required for all outdoor dining facilities located within a pavilion or other tent structure. This is a relatively simple and inexpensive permitting process which would allow residents and businesses located within 300 feet of the outdoor dining pavilion to raise issues if they have them regarding noise, parking, safety, etc. It would also allow the City to place special conditions on the permits to minimize negative impacts to neighboring businesses and residents. Additionally, the administrative design review process would allow City staff to address how the pavilion or tent structure affects the views to the property and ensure that the pavilions are compatible with the neighborhood or commercial district.
 - The Planning Commission recommended that the City Council consider providing a permit fee waiver for the Minor Use Permit if a restaurant applied for a permit within a limited amnesty period (2 months to a year). This would encourage restaurants to legalize their outdoor dining operations quickly.
 - The Planning Commission also recommended that all restaurants with existing tents be exempted from applying for a Design Review Permit, as the existing outdoor dining structures don't present a design review problem.
2. **Capacity Fees.** The Planning Commission recommended that the City Council not eliminate capacity fees for outdoor restaurants, as to do so is not equitable to the businesses who have already paid capacity fees for their indoor dining establishments but either cannot or do not want to offer outdoor dining. The Planning Commission noted that by not charging a capacity fee for outdoor dining, the City would give a competitive disadvantage to the many restaurants who have already paid capacity fees. The unfairness is compounded for businesses that have already paid capacity fees for outdoor dining facilities established prior to the pandemic. Instead, the Planning Commission recommended a data driven mechanism to determine the correct proportional share of capacity fees that should be paid for outdoor dining facilities. The Planning Commission directed MJC to prepare an analysis that includes a rational basis for charging capacity fees for outdoor dining.

MJC analyzed water unit data from the City of Fort Bragg. The analysis first examined net change in restaurant water use/year from 2018 through 2023 to determine a baseline water use trendline, as the pandemic resulted in significant economic

disruption across all restaurants (Table 1). Next using Google Earth, MJC determined the years that tents were utilized at each restaurant with outdoor dining. Then MJC determined the water use change for those restaurants with outdoor dining for each year relative to 2019 (Table 1).

Overall, restaurants with outdoor dining generally use more water than indoor restaurants. The average water use for a restaurant with outdoor dining was 407 units in 2021, while the average water use for indoor-only restaurants was 180 units of water/year. This differential existed prior to the pandemic and outdoor dining: in 2019, restaurants that would later have outdoor dining (once the pandemic started) used an average of 338 units of water/year while indoor-only restaurants used an average of 225 units of water use. Restaurants with high initial water use were more likely to embrace outdoor dining.

However, not one restaurant’s water use has recovered to the pre-pandemic level of water use. One can infer from this that either all of Fort Bragg’s restaurants continue to struggle economically in the covid/post-covid age or they are much more water efficient (which is unlikely). As illustrated in Table 1, restaurants with outdoor dining have used less water in every year compared with the base year of 2019.

Table 1: Water Use in Units/Year for Restaurants with Outdoor Dining (green shaded)

Restaurant Name	Year w/ Outdoor Dining	Total Change						
		2018	2019	2020	2021	2022	2023	from 2019
Dennys	2021	106	799	401	404	419	428	-46%
Café 1	2021	171	145	106	131	117	126.85	-13%
Brewery	2021-2023	1,297	1,232	648	746	561	577	-53%
Mayan Fusion	2021-2023	317	392	317	346	291	258.23	-34%
Cucina Verona	2021-2023	331	242	182	252	246.83	144	-40%
Noyo River Lodge	2021-2022	800	832	665	926	837	803.7	-3%
Homestyle Café	2021-2022	198	185	145	150	124.72	134	-28%
Cliff House / Noyo River Grill	2021	468	23	158	189	closed	344	NA
Laurel St. Restaurant	2022	204	203	139	173	165.62	146	-28%
	Total	3892	4053	2761	3317	2762.17	2961.78	-27%
Restaurants with outdoor dining	% change		4%	-32%	-18%	-32%	-27%	

Currently the evidence shows that all restaurants, regardless of whether they have outdoor dining or not, are using less water now than they were in 2019, and therefore no increase in capacity fees is justified for outdoor dining. However, this may change in the future.

- Parking.** The Planning Commission expressed concern about the potential impact of outdoor dining on parking availability and recommends that new outdoor dining facilities not be permitted where they occupy more than 10% of parking spaces that are required to serve the existing indoor restaurant. The Planning Commission expressed concern that outdoor dining that consumes existing parking spaces will impact parking availability for adjacent businesses and residents, especially as this new ordinance does not require additional parking for the new outdoor dining area. Therefore, the Planning Commission recommended that outdoor dining facilities not result in the removal of more than 10% of the minimum required parking for the indoor

dining facility.

4. **Inspection.** Pavilions and tents are temporary structures, and are typically not subject to building codes. As they are likely to deteriorate in salt air and potentially result in unsafe or unsightly structures, the Planning Commission recommended that an inspection be undertaken by the Fire Marshal every five years to ensure that the facilities are safe.
5. **Coordinate with County Environmental Health Requirements.** The Planning Commission recommended that the City coordinate with the County Division of Environmental Health to determine if they have any requirements or limitations which should be included in the ordinance. Manuel Ramirez of Mendocino County Division of Environmental Health was contacted, and he noted that all food preparation and service in an outdoor dining pavilion must meet the California Retail Food Code.
6. **Definition of Outdoor Dining Facility.** The Planning Commission recommended three edits to the outdoor dining definition for specificity.

The attached draft ILUDC ordinance (Attachment 2) and CLUDC resolution (Attachment 3) have been revised to reflect the Planning Commission's recommendations.

MND Mitigations. Additional changes were made to the ordinance based on required Mitigation Measures from the MND (Attachment 7). The MND includes the following five Mitigation Measures to ensure that outdoor dining would have a less than significant impact on the environment.

Mitigation Measure Aesthetics-1. The following additional requirements shall be added to the regulations for outdoor dining to reduce the potential impact on aesthetics to less than significant.

Setbacks & Height Limits. Outdoor dining pavilions and tents shall comply with all relevant setbacks and height limits of the zoning district in which they are located. Pavilions can be ~~in front of~~, behind or to the side of the associated restaurant. Outdoor dining that is not located within a pavilion may be in front of the building. Where the front of the building is the facade facing the primary street.

Mitigation Measure Aesthetics-2. The following additional requirements shall be added to the regulations for outdoor dining to reduce the potential impact on aesthetics to less than significant.

Objective Design & Safety Criteria.

All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.

Mitigation Measure Bio-1. The following requirements shall be added to the regulations for outdoor dining to reduce the potential impact on biological resources to less than significant.

Location, Setbacks, and Height Limits. Outdoor dining pavilions and tents shall comply with all relevant setbacks and height limits of the zoning district in which they are located. Outdoor Dining Facilities shall be located on previously developed areas (such as a parking lot, sidewalk, or landscaped area) or

located a minimum of 50 feet from any Environmentally Sensitive area, wetland, or rare plant community.

The Planning Commission recommended that the language of the ordinance be revised to clarify that outdoor dining would be permissible within an environmentally sensitive habitat area if it is located on an already developed area that was developed through Permit authorization. The ordinance has been revised to reflect this recommendation.

Mitigation Measure Trans-1: Revise the proposed zoning ordinance as follows: Objective Design & Safety Criteria. Outdoor dining pavilions and tents shall comply with the following objective criteria:
Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.

Mitigation Measure Trans-2: Revise the proposed zoning ordinance as follows: Objective Design & Safety Criteria. Outdoor dining pavilions and tents shall comply with the following objective criteria:
Outdoor Dining facilities shall not conflict with emergency access as determined by the Fire Marshal.

These mitigation measures have been incorporated into the attached ILUDC ordinance and CLUDC LCP resolution.

General Plan Consistency. The consistency analysis identified many inconsistencies between the proposed amendment and various policies of the Coastal General Plan, the General Plan, the CLUDC and the ILUDC. It also identifies various approaches that can be used to revise the ordinances so that the inconsistencies and conflicts are eliminated (Attachment 6). To avoid inconsistencies with the code, the amendment was modified per the following recommendations:

Recommended Modification	Conflicts which are resolved
Coastal Amendment	
Require Coastal Development Permit for outdoor dining.	Construction of a pavilion is considered development in the Coastal Act, and all development is required to obtain a CDP. Additionally, there are many policies of the Coastal General Plan that would conflict with an ordinance that does not require a CDP, especially policies and regulations regarding impacts to views, Environmentally Sensitive Habitat Area, and stormwater.
Both Amendments	
Revise ordinance to prohibit pavilions in front of buildings along the primary building frontage.	This change is necessitated due to conflicts with General Plan requirements to protect the character of the downtown.
Amend Table 3-7 to indicate “no parking required” for outdoor dining.	This change is required to ensure no conflict between the draft ordinance and Table 3-7.

Require that pavilions only be located on a parking lot, sidewalk, or developed hardscape area.	This change eliminates conflicts with regulations and policies regarding stormwater and Environmentally Sensitive Areas.
Require that outdoor dining facilities be located a minimum of 50 feet from any environmentally sensitive area, wetland, or rare plant community.	This change eliminates conflicts with sensitive biological resources policies and regulations.
Outdoor dining pavilions and tents shall be sited so that they do not add to stormwater runoff volume or peak runoff rates.	This change eliminates conflicts with regulations regarding stormwater.
Outdoor dining pavilions and tents shall not be in an area that would impact scenic views or resources as seen from a public right of way.	This change eliminates conflicts with policies protecting scenic resources.
Consider requiring administrative design review for pavilions.	This change eliminates conflicts with Design Review regulations which require design review for commercial structures greater than 250 square feet.
Require that all lighting located within or outside of outdoor dining pavilions be downward facing and night sky compliant.	This change eliminates conflicts with policies regarding scenic resources and design review.
Require that outdoor dining facilities don't interfere with bicycle access and parking	This change eliminates conflicts with circulation policies in the General Plan.
Require that pavilion and tent colors be white or a color which is compatible with the colors of the restaurant building.	If administrative design review is not required, this minimal requirement could reduce potential design conflicts between a pavilion and its associated building.
Remove Capacity fee exemption.	The proposed exemption from paying capacity fees may conflict with the General Plan policy, if it can be shown that outdoor dining increase the amount of water use, once restaurants recover to pre-pandemic performance.

RECOMMENDED ACTION:

1. Hold a Public Hearing and Consider:
2. Adoption of Resolution of the Fort Bragg City Council Approving the Mitigated Negative Declaration and the Mitigation and Monitoring and Reporting Plan for the Zoning Amendments to the Inland Land Use And Development Code to Regulate: Outdoor Dining (ILUDC 3-23), Tiny Homes (ILUDC 4-23), Tiny Home Communities (ILUDC 5-23), and Changes to Planned Development Permit (ILUDC 6-23) Requirements; and
3. Introduction, by Title Only, and Waive Further Reading of Ordinance XXX-2024 Amending Division 18 to the Fort Bragg Municipal Code to Amend Chapter 18.42.165 "Restaurants", to Establish Regulations and Standards for Outdoor Dining; and
4. Adoption of Resolution XXX-2024 Submitting LCP Amendment 3-23 Amending Division 17 to the Fort Bragg Municipal Code to Amend Chapter 18.42.165 "Restaurants", to Establish Regulations and Standards for Outdoor Dining.

ALTERNATIVE ACTION(S):

Provide direction to engage in complaint-driven code enforcement and require all outdoor dining facilities to comply with existing code requirements.

ENVIRONMENTAL ANALYSIS:

On December 7, 2023, a Notice of Intent to Adopt a Mitigated Negative Declaration was published. Beginning December 7 through December 27, 2023, a draft Mitigated Negative Declaration was available for review and comment (Attachment 7). No comments have been received.

Please note that the City Council will adopt the entire MND by resolution, even though only two ordinances are under consideration at this hearing. Adoption of the MND does not commit the City Council to adopt any of the proposed amendments. The MND must be adopted, or not, in its entirety.

FISCAL IMPACT:

The fiscal impact will depend on the policy direction. Some considerations include:

- Reducing parking requirements could result in a more parking constrained downtown which could result in pressure on the City to purchase and develop land for public parking.
- Additional outdoor dining may eventually result in increased sales tax revenues.
- Waiving the Capacity Fee for outdoor dining may result in the City investing more funds from other sources in capital improvements related to sewer and water infrastructure.

GREENHOUSE GAS EMISSIONS IMPACT:

Greenhouse gas emissions are higher for outdoor dining due to heating and lighting the outdoors and/or the pavilion, which are not required to conform to Title 24 energy requirements.

CONSISTENCY:

The consistency of the proposed ILUDC ordinance and LCP Amendment have been analyzed for consistency with the General Plan and Coastal General Plan (Attachment 6.)

IMPLEMENTATION/TIMEFRAMES:

January – Recommendation from Planning Commission.
April – First reading of the ordinance by City Council.
April – Second reading of the ordinance and adoption by City Council.
May – Ordinance goes into effect.

ATTACHMENTS:

1. Resolution of the Fort Bragg City Council Approving the Mitigated Negative Declaration and the Mitigation and Monitoring and Reporting Plan for the Zoning Amendments to the Inland Land Use And Development Code to Regulate: Outdoor Dining (ILUDC 3-23), Tiny Homes (ILUDC 4-23), Tiny Home Communities (ILUDC 5-23), and Changes

- to Planned Development Permit (ILUDC 6-23) Requirements
2. Ordinance XXX-2024 Amending Division 18 to the Fort Bragg Municipal Code to Amend Chapter 18.42.165 “Restaurants”, to Establish Regulations and Standards for Outdoor Dining and
 3. Resolution of the Fort Bragg City Council XXX-2024 Submitting LCP Amendment 3-2023 Amending Division 17 to the Fort Bragg Municipal Code to Amend Chapter 18.42.165 “Restaurants”, to Establish Regulations and Standards for Outdoor Dining.
 4. Resolution of the Fort Bragg Planning Commission Recommending that the City Council Amend Chapter 18.42.165 – Restaurants of Division 18 of the Fort Bragg Municipal Code to Establish Regulations and Standards for Outdoor Dining.
 5. Resolution of the Fort Bragg Planning Commission Recommending that the City Council Submit an LCP Amendment Application to the Coastal Commission to Amend Chapter 17.42.190 – Restaurants of Division 17 of the Fort Bragg Municipal Code to Establish Regulations and Standards for Outdoor Dining
 6. General Plan and Zoning Ordinance Consistency Analysis
 7. Mitigated Negative Declaration for ILUDC Amendments
 8. Mitigation Monitoring & Reporting Plan (MMRP) for MND

NOTIFICATION:

1. “Notify Me” subscriber lists: Fort Bragg Downtown Businesses; and Economic Development Planning.
2. Restaurants with outdoor dining: Craving Grill, Cucina Verona, KW SaltWater Grill, Mayan Fusion, North Coast Brewery, Noyo Harbor Inn, Overtime Brewery, Piaci’s Pub & Pizzeria

RESOLUTION NO. -2024

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
APPROVING THE MITIGATED NEGATIVE DECLARATION AND THE MITIGATION
AND MONITORING AND REPORTING PLAN
FOR THE ZONING AMENDMENTS TO THE INLAND LAND USE AND
DEVELOPMENT CODE TO REGULATE: OUTDOOR DINING (ILUDC 3-23), TINY
HOMES (ILUDC 4-23), TINY HOME COMMUNITIES (ILUDC 5-23), AND CHANGES
TO PLANNED DEVELOPMENT PERMIT (ILUDC 6-23) REQUIREMENTS**

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS, the City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits and its sphere of influence; and

WHEREAS, the City adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

WHEREAS, the City adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new State planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 10, 2024, and January 31, 2024, to consider the Zoning Code Amendment (ILUDC 3-23), accept public testimony, and adopt a resolution recommending that City Council adopt a zoning amendment to establish regulations for outdoor dining; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 10, 2024, to consider the Zoning Code Amendment (ILUDC 6-23), accept public testimony, and adopt a resolution recommending that the City Council adopt a zoning amendment to modify regulations for Planned Unit Developments; and

WHEREAS, the City Council held a duly noticed public hearing on April 8, 2024, to consider the Zoning Code Amendments (ILUDC 3-23 and ILUDC 6-23), and accept public testimony regarding the zoning amendments to establish regulations for Outdoor Dining and to modify regulations for Planned Unit Developments; and

WHEREAS, the California Environmental Quality Act (CEQA), together with State guidelines and City environmental regulations, require that certain projects be reviewed for environmental impacts and that environmental documents be prepared; and

WHEREAS, the City prepared an Initial Study for the zoning amendment consistent with CEQA Guidelines 15162 and 15163 and determined that a Mitigated Negative Declaration was required; and

WHEREAS, the City prepared an MND, pursuant to Section 15074 of the CEQA Guidelines, for the zoning amendment contained in the attached **Exhibit A**; and

WHEREAS, a Mitigation and Monitoring Program, as required by CEQA, is contained in the attached **Exhibit B**; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg City Council, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project applications; all site plans, and all reports and public testimony submitted as part of the City Council meeting of March 25, 2024, and City Council deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the City Council of the City of Fort Bragg does hereby make the following findings and determinations:

1. For the purposes of the California Environmental Quality Act (CEQA), a Mitigated Negative Declaration (MND) was prepared for the project, circulated for public review, and presented to the public and City Council prior to taking action on the Zoning Amendments to the Inland Land Use and Development Code to regulate: Outdoor Dining, Tiny Homes, Tiny Home Communities, and changes to Planned Development Permit requirements. The conclusion of the Mitigated Negative Declaration is that there are no potentially significant impacts that cannot be mitigated.

Environmental review for the proposed project included preparation of an Initial Study and Mitigated Negative Declaration (IS/MND) pursuant to the California Environmental Quality Act (CEQA) statute (Public Resources Code 21000 - 21189) and Guidelines (California Code of Regulations Title 14, Division 6, Chapter 3, Sections 15000 -15387). The IS/MND was circulated from December 7, 2023, to December 27, 2023, at the State Clearinghouse. The Initial Study and Mitigated Negative Declaration included mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan, which is being adopted as a part of the project.

2. The following impacts have been found to be less than significant and mitigation is not required to reduce project-related impacts: Agriculture and Forestry, Air Quality, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Mineral Resources, Noise, Population and Housing, Recreation, Transportation, Tribal Cultural Resources, Utilities/Service Systems and Wildfire, Utilities and Services, and Wildfire.

There is no evidence of an impact on any of the above-referenced potential impact areas based on the project as proposed at this location. Initial Study/Mitigated Negative Declaration dated November 20, 2023, and circulated for public review from December 7, 2023, to December 27, 2023.

3. The Initial Study identified potentially significant impacts on Aesthetics, Biological Resources, Cultural Resources, Energy, Hydrology and Water Quality, Land Use Planning, and Public Services that could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less-than-significant level. These Mitigation Measures are incorporated by reference in the project ISMND and the Mitigation Monitoring and Reporting Program.
4. No Agency or public comments have been received about the project and the Mitigated Negative Declaration.

BE IT FURTHER RESOLVED, the MND adequately describes the Project, impacts, and mitigation measures, and hereby makes the following environmental determinations regarding Zoning Amendments to the Inland Land Use and Development Code to regulate Outdoor Dining, Tiny Homes, Tiny Home Communities, and changes to Planned Development Permit requirements:

1. A Mitigated Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
2. Mitigation measures have been made a condition of the approval of the project.
3. A mitigation reporting and monitoring plan was prepared for this project.

NOW, THEREFORE, BE IT RESOLVED, that the Fort Bragg City Council adopts the MND as set forth in **Exhibit A** and adopts the Mitigation and Monitoring and Report Plan for Zoning Amendments to the Inland Land Use and Development Code to regulate: Outdoor Dining, Tiny Homes, Tiny Home Communities, and changes to Planned Development Permit requirements, subject to the mitigations included herein as outlined in the MND and the MMRP.

NOW, THEREFORE, BE IT RESOLVED, that the Fort Bragg City Council adopts the MND as set forth in **Exhibit A** and adopts the Mitigation and Monitoring Report Plan included herein as **Exhibit B**. This Resolution shall become effective immediately upon its passage and adoption.

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

BERNIE NORVELL
Mayor

ATTEST:

Diana Sanchez
City Clerk

**BEFORE THE CITY COUNCIL OF THE CITY OF FORT
BRAGG**

**AN ORDINANCE AMENDING CHAPTER
18.42.165 – “RESTAURANTS” of DIVISION
18 OF THE FORT BRAGG MUNICIPAL CODE
(ILUDC 3-23) TO ESTABLISH REGULATIONS
AND STANDARDS FOR OUTDOOR DINING**

ORDINANCE NO. XXX-2024

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS, the City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits and its sphere of influence; and

WHEREAS, the City adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

WHEREAS, the City adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new State planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

WHEREAS, in May 2020, due to the COVID-19 Pandemic the City adopted an amendment to the Municipal Code which gave the City Manager, as the Director of Emergency Services, the power: “To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of the federal, state, or county government, to the extent that such waivers would not result in an increase in general intensity of use beyond what is otherwise allowed, as applicable to zoning district;” and

WHEREAS, the City relaxed standards so that outdoor dining could be established during the pandemic and a number of restaurants erected outdoor dining facilities which have proven to be very popular; and

WHEREAS, On February 26, 2023, Governor Gavin Newsom announced that the COVID-19 State of Emergency ended; and

WHEREAS, On April 11, 2023, President Joe Biden signed a bipartisan congressional resolution to bring the U.S. national emergency to respond to the COVID-19 Pandemic to a close; and

WHEREAS, on May 10, 2023, the Mendocino County Building Department released a notice of the expiration of the County’s COVID-19 Urgency Ordinance 4472 which allowed many temporary business modifications in response to COVID-19; and the notice provided businesses with an opportunity to apply for the appropriate permits to retain any temporary modifications to their structures or facilities; and

WHEREAS, the City desires to ensure that outdoor dining can continue in Fort Bragg in a safe and enjoyable manner; and

WHEREAS, the Community Development Committee held a duly noticed special meeting on May 17, 2023, to discuss recommending regulations to establish a method for outdoor dining to continue even as State regulations allowing outdoor dining during the COVID-19 Pandemic were set to expire; and

WHEREAS, on June 26, 2023, City Council received a report and provided direction to staff regarding future zoning modification to allow outdoor dining; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”) pursuant to Section 15074 of the CEQA Guidelines, a Mitigated Native Declaration (MND) was prepared and circulated for public comment for the zoning code amendment; and

WHEREAS, a Notice of Intent to Adopt an MND was published on December 7, 2023, and the twenty-day review period was from December 7 through December 27, 2023; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 10, 2024 and January 31, 2024 to consider the Zoning Code Amendment, accept public testimony and adopted a resolution recommending that City Council adopt a zoning amendment to establish regulations for outdoor dining; and

WHEREAS, the City Council held a duly noticed public hearing on April 8, 2024 to consider the Zoning Code Amendment, and accept public testimony regarding a zoning amendment to establish regulations for outdoor dining; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg City Council, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the City Council meeting of April 8, 2024 and City Council deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the City Council does hereby make the following findings and determinations:

SECTION 1: LEGISLATIVE FINDINGS

1. The foregoing recitals are true and correct and made a part of this Ordinance.
2. On January 10 and January 31, 2024, the Planning Commission held a properly noticed public hearing to consider recommending the proposed minor amendment to the Inland Land Use and Development Code to the Fort Bragg City Council for adoption and adopted a resolution in support of the City Council's adoption of the amendment to the ILUDC pursuant to Gov. Code Section 65355; and
3. On April 8, 2024 the City Council held a properly noticed public hearing to consider adoption of the minor amendment to the Inland Land Use and Development Code; and
4. The proposed amendment is consistent with the General Plan and any applicable specific plan; and
 - i. The proposed project is consistent with the land use designations of the Land Use Element of the Inland General Plan (CGP) because the amendment would allow outdoor dining in the same land use designations as restaurants.
 - ii. The proposed amendment is consistent with the following applicable General Plan policies: Policy LU-3.1, Policy PF-1.2, Policy PF-2.1, Policy OS-1.2, Policy OS-5.2, Policy OS-6.3, Policy C-1.2, Policy CD-1.1, Policy CD-1.3, Policy CD-2.2, Policy CD-2.3, Policy CD-2.4, Policy CD-5.3, Policy SF-4.1.
5. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
 - i. As revised, and recommended by the Planning Commission, the proposed amendment includes sufficient safeguards to protect the health and safety of diners and of outdoor dining facilities. Outdoor dining will improve convenience by increasing dining options and providing for outdoor dining for people with immune issues where indoor dining may be unsafe due to COVID-19 and other communicable illness. The amendment furthers the public interest and welfare as indicated by the continued popularity of outdoor dining.
6. The proposed amendment is internally consistent with other applicable provisions of this Development Code.
 - i. The Proposed Zoning Code Amendment is consistent with ILUDC standards as amended and as analyzed in the consistency analysis.
7. The project is subject to CEQA, and a properly noticed MND was prepared for the project and circulated for public review. No public comments were received regarding the MND in the public comment period. The MND was adopted by resolution by the City Council on April 8, 2024
8. The documents and other material constituting the record for these proceedings are located at the Community Development Department, and

SECTION 2. Based on the foregoing, the City Council does hereby:

Amend 18.21.030 - Allowed Land Uses and Permit Requirements for Residential Zoning Districts, Table 2-1 as follows (amendment shown in red text):

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	RR	RS	RL	RM	RH	RVH		
	LAND USE (1)							
	P	Permitted use, Zoning Clearance required						
	MUP	Minor Use Permit required (see § 18.71.060)						
	UP	Use Permit required (see § 18.71.060)						
	S	Permit requirement set by Specific Use Regulations						
	—	Use not allowed						
Restaurant, Café, Coffee Shop	-	-	UP	UP	UP	UP	18.42.165	
Outdoor Dining	-	-	MUP	MUP	MUP	MUP	18.42.165	

Amend 18.22.030- Allowed Land Uses and Permit Requirements for Commercial Zoning Districts, Table 2-1 as follows (amendment shown in red text):

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
	LAND USE (1)					
	P	Permitted use, Zoning Clearance required				
	MUP	Minor Use Permit required (see § 18.71.060)				
	UP	Use Permit required (see § 18.71.060)				
	S	Permit requirement set by Specific Use Regulations				
	—	Use not allowed				
Restaurant, café, coffee shop	UP	P	P	P	P	18.42.165
Second hand store	—	—	—	P	P	
Service station	—	—	—	UP	UP	18.42.180
Shopping center	—	—	—	UP	UP	
Outdoor Dining	MUP	MUP	MUP	MUP	MUP	18.42.165

Amend 18.36.040 - Number of Parking Spaces Required, Table 3-7 as follows (amendment shown in red text):

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Retail Trade	Vehicle Spaces Required	
	Minimum	Maximum
All "Retail Trade" and general retail uses listed in § 18.22.030 , Table 2-6, except for the following:	1 space for each 400 sf of floor area, plus 1 space for each 600 sf of outdoor sales area.	1 space for each 200 sf of floor area, plus 1 space for each 400 sf of outdoor sales area.
Restaurant, cafe, coffee shop	1 space for each 100 sf of dining area.	1 space for each 40 sf of dining area.
Outdoor Dining	No parking required	No parking required

SECTION 3. 18.42.165 – Restaurants & Outdoor Dining

Chapter 18.42.165 – Restaurants is hereby amended as follows (amendment shown in red text):

18.42.165 – Restaurants & Outdoor Dining

A. Grease and Oils. The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment:

1. Operating standards. Restaurants shall comply with the following operating standards:
 - a. Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City’s Food Service Establishment Wastewater Discharge Permit and the City’s Municipal Code section regarding fats, oil and grease control.
 - b. Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer.

B. Outdoor Dining. The following standards are for outdoor dining facilities and are intended to regulate for the safe and compatible operation of outdoor dining facilities. Outdoor Dining Facility may consist of tables and chairs for dining with or without a pavilion, tents and/or umbrellas.

1. **Allowed as part of Indoor Dining.** These regulations apply only to restaurants that have an indoor dining component. Entirely outdoor restaurants are not permitted.
2. **Location, Setbacks & Height Limits.**

- a. Outdoor dining pavilions and tents shall comply with all relevant setback and height limits of the zoning district.
 - b. Pavilions and tents may be located behind or to the side of the associated restaurant. Outdoor dining that is not in a pavilion or tent may be in front of the building, where the front of the associated restaurant, where the front of the building is the façade facing the primary street.
 - c. Outdoor dining facilities shall be located on previously developed areas such as a parking lot, sidewalk, or hardscape area. Outdoor dining may not result in a net loss of more than 10% of parking spaces unless otherwise allowed by this development code.
 - d. Outdoor dining must be located a minimum of 50 feet from any environmentally sensitive area, wetland or rare plant community, unless it is located in an already developed area that was developed with authorization through a Development Permit.
 - e. Outdoor dining pavilions and tents shall be sited so that they do not add to stormwater runoff volume or peak runoff rates.
 - f. Outdoor dining pavilions and tents shall not be located in an area that would impact scenic views or resources as seen from a public right of way.
 - g. Outdoor dining is permissible on the City's sidewalks with Encroachment Permit approval.
3. **Size Limits.** Outdoor dining facilities of more than 1,300 SF may be approved with a Use Permit.
4. **Objective Design & Safety Criteria.** Outdoor dining pavilions and tents are subject to Administrative Design Review and shall comply with the following criteria:
- a. Outdoor dining facilities shall be confined to the area shown on the approved site plan.
 - b. Where umbrellas, tents or pavilions are proposed, a vertical clearance of at least 7 feet must be maintained.
 - c. Utilities, Heating & Lighting
 - I. The use of heating devices and electrical extension cords and lighting are subject to review and approval by the Community Development Director and the Fire Marshal.
 - II. Portable Heaters/Space Heaters are permitted if approved for outdoor use, located in accordance with the manufacturer's recommendations, and located at least two feet from the edge or roof of any umbrella canvas, tent, pavilion, foliage, or any other flammable object or material.
 - III. All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.
 - d. Outdoor Dining shall not interfere with building ingress/egress.
 - 1. ADA Accessibility. The outdoor dining area shall be designed, constructed and/or conform to the applicable provisions, rules, regulations and guidelines of the California Building Code and Americans with Disabilities Act.

- 2. Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.
 - e. Moveable barriers shall be of solid, durable materials. Preferred barriers include removable fences, freestanding fences, hedges, planters, trees, removable columns, and pavilion or tent structures. Fabric inserts, chain link fencing, plastic, vinyl, chicken wire and cyclone fencing are not permitted.
 - f. Pavilion and tent colors should either be white or a color which is compatible with the colors of the restaurant building.
5. **Operating Standards.** Outdoor dining shall comply with the following operating standards:
- a. No amplified music after 9:00 pm.
 - b. No new service after 9:00 pm.
 - c. Hours of operation shall not begin prior to 7:00 am or extend later than 10:00 pm.
 - d. Smoking is prohibited in outdoor dining areas.
 - e. Outdoor dining, food preparation and cooking is only permissible in compliance with the California Retail Food Code and with the approval of the Mendocino County Division of Environmental Health.
 - f. Pavilions must be inspected by the Fire Marshal who shall submit a letter to the City that pavilion and associated equipment and furnishings are safe and in good repair at least once every five years or as determined by the Community Development Director.
 - g. Establishments that serve alcoholic beverages in the outdoor dining area shall meet all requirements of the Alcoholic Beverage Control Board and have a permit for such service as well as any other federal, state, or local laws and regulations governing the sale and consumption of alcoholic beverages.

SECTION 4. 18.100 Definitions Amendments

Chapter 18.100 is hereby amended to include the following definitions:

Outdoor Dining Facility. Outdoor dining may consist of a defined area with tables and chairs for dining with or without a temporary pavilion, tent and/or umbrellas, and adjacent to and on the same parcel and serviced by a restaurant with an indoor dining component. If a facility requires a building permit for the structure, it is not considered outdoor dining. Outdoor bars are not outdoor dining facilities.

Section 6. 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 7. 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 April 8, 2024, and adopted at a regular meeting of the City of Fort Bragg held on _____, 2024, by the following vote:

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

Bernie Norvell
Mayor

ATTEST:

Diana Sanchez
City Clerk

PUBLISH: March 28, 2024 and _____, 2024 (by summary).
EFFECTIVE DATE: _____, 2024.

RESOLUTION NO. PC -2024

RESOLUTION OF THE FORT BRAGG CITY COUNCIL SUBMITTING AN LCP AMENDMENT APPLICATION (LCP-3-23) TO THE COASTAL COMMISSION TO AMEND CHAPTER 17.42.190– RESTAURANTS OF DIVISION 17 OF THE FORT BRAGG MUNICIPAL CODE TO ESTABLISH REGULATIONS AND STANDARDS FOR OUTDOOR DINING

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS, the City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits and its sphere of influence; and

WHEREAS, the City adopted a Coastal General Plan (“Coastal GP”) as the Land Use Plan portion of the Local Coastal Program on May 12, 2008 which established policies for all land within the Fort Bragg Coastal Zone; and

WHEREAS, in August 2008 the California Coastal Commission certified the City’s Local Coastal Program (LCP) which includes the Coastal GP as the Land Use Plan; and

WHEREAS, the City Council adopted Resolution 3162-2008 on May 12, 2008, adopting the Coastal General Plan; and

WHEREAS, the City adopted a Coastal Land Use and Development Code in 2008 as the implementing portion of the Local Coastal Program on May 12, 2008, which established all land use regulations for the Coastal Zone; and

WHEREAS, the Coastal General Plan includes policies to: (1) advance the orderly growth and development of the City’s Coastal areas; (2) protect coastal resources; (3) incorporate sustainability into the development process so that Fort Bragg’s coastal resources and amenities are preserved for future generations; (4) respond to current environmental and infrastructure constraints; (5) protect the public health, safety and welfare; and (6) promote fiscally responsible development; and

WHEREAS, in May of 2020, due to the COVID-19 Pandemic the City adopted an amendment to the Municipal Code which gave the City Manager, as the Director of Emergency Services, the power: “To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of the federal, state, or county government, to the extent that such waivers would not result in an increase in general intensity of use beyond what is otherwise allowed, as applicable to zoning district;” and

WHEREAS, the City of Fort Bragg relaxed standards so that outdoor dining could be established during the pandemic and a number of restaurants erected outdoor dining facilities which have proven to be very popular; and

WHEREAS, on February 26, 2023, Governor Gavin Newsom announced that the COVID-19 State of Emergency ended; and

WHEREAS, on April 11, 2023, President Joe Biden signed a bipartisan congressional resolution to bring the U.S. national emergency to respond to the COVID-19 pandemic to a close; and

WHEREAS, on May 10, 2023, the Mendocino County Building Department released a notice of the expiration of the County's COVID-19 Urgency Ordinance 4472 which allowed many temporary business modifications in response to COVID-19. The notice provided businesses with an opportunity to apply for the appropriate permits to retain any temporary modifications to their structures or facilities; and

WHEREAS, the City desires to ensure that outdoor dining can continue in Fort Bragg in a safe and enjoyable manner; and

WHEREAS, the Community Development Committee held a duly noticed public hearing on May 17, 2023, to discuss recommending regulations to establish a method for outdoor dining to continue even as state regulations allowing outdoor dining during the COVID-19 Pandemic were set to expire; and

WHEREAS, on June 26, 2023, City Council received a report and provided direction to staff regarding future zoning modifications to allow outdoor dining; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 10, 2024 and January 31, 2024 to consider the Zoning Code Amendment, accept public testimony and adopted a resolution recommending that City Council adopt a zoning amendment to establish regulations for outdoor dining; and

WHEREAS, the City Council held a duly noticed public hearing on April 8, 2024 to consider the Zoning Code Amendment, and accept public testimony regarding the zoning amendment to establish regulations for outdoor dining; and

WHEREAS, the "activities and approvals by a local government necessary for the preparation and adoption of a local coastal program or long range development plan" pursuant to the California Coastal Act are statutorily exempt from compliance with CEQA, and this statutory exemption "shifts the burden of CEQA compliance from the local agency to the California Coastal Commission" (CEQA Guidelines § 15265 (c)); and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg City Council, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Coastal General Plan; the Fort Bragg Coastal Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the City Council meeting of April 8, 2024 and City Council deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the City Council of the City of Fort Bragg does hereby make the following findings and determinations:

SECTION 1: GENERAL LEGISLATIVE FINDINGS

1. The foregoing recitals are true and correct and made a part of this Ordinance.
2. On January 10 and January 31, 2024, the Planning Commission held a properly noticed public hearing to consider recommending the proposed minor amendment to the Inland Land Use and Development Code to the Fort Bragg City Council for adoption and adopted a resolution in support of the City Council's adoption of the amendment to the ILUDC pursuant to Gov. Code Section 65355; and
3. On April 8, 2024, the City Council held a properly noticed public hearing to consider adoption of the minor amendment to the Inland Land Use and Development Code; and
4. The documents and other material constituting the record for these proceedings are located in the Community Development Department.

SECTION 2: COASTAL LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 17.94.060, the City Council makes the following findings for adoption of the proposed amendments to the Fort Bragg Coastal Land Use and Development Code:

- a. The proposed amendment is consistent with the Coastal General Plan and any applicable specific plan; and
 1. The proposed project is consistent with the land use designations of the Land Use Element of the Coastal General Plan (CGP) because the amendment would allow outdoor dining in the same land use designations as restaurants.
 2. The proposed amendment is consistent with the following applicable General Plan policies: Policy LU-3.1, Policy LU-5.7, Policy LU-10.2, Policy LU-10.4, Policy PF-1.2, Policy PF-2.1, Policy CD-1.1, Policy CD-2.1, Policy CD-2.5, Policy CD-3.2, Policy CD-3.3, Policy CD-3.4, Policy CD-1.9, Policy SF-5.1.
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
 1. As revised, the proposed amendment includes sufficient safeguards to protect the health and safety of diners and of outdoor dining facilities. Outdoor dining will improve convenience by increasing dining options and providing for outdoor dining for people with immune issues where indoor dining may be unsafe due to COVID-19 and other communicable illness. The amendment furthers the public interest and welfare as indicated by the continued popularity of outdoor dining.
- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.
 1. The Proposed Amendment is consistent with CLUDC standards as amended as analyzed in the consistency analysis.

BE IT FURTHER RESOLVED that City Council does hereby submit an LCP Amendment Application to the Coastal Commission to amend Division 17 to the Fort Bragg Municipal Code to Amend Chapter 17.42.190 – *Restaurants* to establish regulations and standards for outdoor dining, as delineated in below:

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

SECTION 3. Based on the foregoing, the City Council does hereby Submit an LCP Amendment to the Coastal Commission to:

Amend 17.21.030 - Allowed Land Uses and Permit Requirements for Residential Zoning Districts, Table 2-1 as follows (amendment shown in red text):

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	P	Permitted Use, Zoning Clearance required						
	MUP	Minor Use Permit required (see Section 17.71.060)						
	UP	Use Permit required (see Section 17.71.060)						
	S	Permit requirement set by Specific Use Regulations						
	—	Use not allowed						
LAND USE (1)	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations	
	RR	RS	RL	RM	RH	RVH		
Restaurant, Café, Coffee Shop	-	-	UP	UP	UP	UP	17.42.165	
Outdoor Dining	-	-	MUP	MUP	MUP	MUP	17.42.165	

Amend 17.22.030- Allowed Land Uses and Permit Requirements for Commercial Zoning Districts, Table 2-1 as follows (amendment shown in red text):

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted Use, Zoning Clearance required					
	MUP	Minor Use Permit required (see Section 17.71.060)					
	UP	Use Permit required (see Section 17.71.060)					
	S	Permit requirement set by Specific Use Regulations					
	—	Use not allowed					
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations	
	CN	CO	CBD	CG	CH		
Outdoor Dining	MUP	MUP	MUP	MUP	MUP	18.42.165	

Amend 17.36.040 - Number of Parking Spaces Required, Table 3-7 as follows (amendment shown in red text):

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Retail Trade	Vehicle Spaces Required
All "Retail Trade" and general retail uses listed in § 17.22.030 , Table 2-6, except for the following:	1 space for each 400 sf of floor area, plus 1 space for each 600 sf of outdoor sales area.
Restaurant, cafe, coffee shop	1 space for each 4 seats; or 1 space for each 200 sf of floor area, whichever would yield more spaces.
Outdoor Dining	No parking required.

Amend 17.42.190 of the CLUDC as follows (amendment shown in red text):

17.42.190 – Restaurants & Outdoor Dining

A. Grease and Oils. The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment:

1. Operating standards. Restaurants shall comply with the following operating standards:
 - a. Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City’s Food Service Establishment Wastewater Discharge Permit and the City’s Municipal Code section regarding fats, oil and grease control.
 - b. Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer.

B. Outdoor Dining. The following standards are for outdoor dining facilities and are intended to regulate for the safe and compatible operation of outdoor dining facilities. Outdoor Dining Facility may consist of tables and chairs for dining with or without a pavilion, tents and/or umbrellas.

1. **Coastal Development Permit.** A Coastal Development Permit is required for an Outdoor Dining Facility that includes development (as defined by this zoning code).

2. **Allowed as part of Indoor Dining.** These regulations apply only restaurants that have an indoor dining component. Entirely outdoor restaurants are not permitted.
3. **Location, Setbacks & Height Limits.**
 - a. Outdoor dining pavilions and tents shall comply with all relevant setback and height limits of the zoning district.
 - b. Pavilions and tents may be located behind or to the side of the associated restaurant. Outdoor dining that is not in a pavilion or tent may be in front of the associated restaurant, where the front of the building is the facade facing the primary street.
 - c. Outdoor dining facilities shall be located on previously developed areas such as a parking lot, sidewalk, or hardscape area. Outdoor dining may not result in a net loss of more than 10% of parking spaces unless otherwise allowed by this development code.
 - d. Outdoor dining must be located a minimum of 50 feet from any environmentally sensitive area, wetland or rare plant community, unless it is located on an already developed area that was developed with authorization through a Coastal Development Permit.
 - e. Outdoor dining pavilions and tents shall be sited so that they do not add to stormwater runoff volume or peak runoff rates.
 - f. Outdoor dining pavilions and tents shall not be located in an area that would impact scenic views or resources as seen from a public right of way.
 - g. Outdoor dining is permissible on the City's sidewalks with Encroachment Permit approval.
4. **Size Limits.** Outdoor dining facilities of more than 1,300 SF, may be approved with a Use Permit.
5. **Objective Design & Safety Criteria.** Outdoor dining pavilions and tents are subject to Administrative Design Review and shall comply with the following criteria:
 - a. Outdoor dining facilities shall be confined to the area shown on the approved site plan.
 - b. Where umbrellas, tents or pavilions are proposed, a vertical clearance of at least 7 feet must be maintained.
 - c. Utilities, Heating & Lighting
 - I. The use of heating devices and electrical extension cords and lighting are subject to review and approval by the Community Development Director and the Fire Marshal.
 - II. Portable Heaters/Space Heaters are permitted if approved for outdoor use, located in accordance with the manufacturer's recommendations, and located at least two feet from the edge or roof of any umbrella canvas, tent, pavilion, foliage, or any other flammable object or material.
 - III. All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.
 - d. Outdoor Dining shall not interfere with building ingress/egress.

1. ADA Accessibility. The outdoor dining area shall be designed, constructed and/or conform to the applicable provisions, rules, regulations and guidelines of the California Building Code and Americans with Disabilities Act.
 2. Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.
 - e. Moveable barriers shall be of solid, durable materials. Preferred barriers include removable fences, freestanding fences, hedges, planters, trees, removable columns, and pavilion or tent structures. Fabric inserts, chain link fencing, plastic, vinyl, chicken wire and cyclone fencing are not permitted.
 - f. Pavilion and tent colors should either be white or a color which is compatible with the colors of the restaurant building.
6. **Operating Standards.** Outdoor dining shall comply with the following operating standards:
- a. No amplified music after 9:00 pm.
 - b. No new service after 9:00 pm.
 - c. Hours of operation shall not begin prior to 7:00 am or extend later than 10:00 pm.
 - d. Smoking is prohibited in outdoor dining areas.
 - e. Outdoor dining, food preparation and cooking is only permissible in compliance with the California Retail Food Code and with the approval of the Mendocino County Division of Environmental Health.
 - f. Pavilions must be inspected by the Fire Marshal who shall submit a letter to the City that pavilion and associated equipment and furnishings are safe and in good repair at least once every five years or as determined by the Community Development Director.
 - g. Establishments that serve alcoholic beverages in the outdoor dining area must meet all requirements of the Alcoholic Beverage Control Board and any other federal, state, or local laws and regulations governing the sale and consumption of alcoholic beverages.

18.100 Definitions Amendments

In order to support the required code updates, the following addition to the definitions in ILUDC Section 18.100.020 are recommended:

Outdoor Dining Facility. Outdoor dining may consist of a defined area with tables and chairs for dining with or without a temporary pavilion, tent and/or umbrellas, and adjacent to and on the same parcel and serviced by a restaurant with an indoor dining component. If a facility requires a building permit for the structure, it is not considered outdoor dining. Outdoor bars are not outdoor dining facilities.

The foregoing resolution was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on April 8,

2024, and adopted at a regular meeting of the City of Fort Bragg held on _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Bernie Norvell
Mayor

ATTEST:

Diana Sanchez
City Clerk

RESOLUTION NO. PC 04-2024

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE TO AMEND CHAPTER 18.42.165 – RESTAURANTS OF DIVISION 18 OF THE FORT BRAGG MUNICIPAL CODE TO ESTABLISH REGULATIONS AND STANDARDS FOR OUTDOOR DINING

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS, the City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits and its sphere of influence; and

WHEREAS, the City adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

WHEREAS, the City adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new State planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

WHEREAS, in May 2020, due to the COVID-19 Pandemic the City adopted an amendment to the Municipal Code which gave the City Manager, as the Director of Emergency Services, the power: “To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of the federal, state, or county government, to the extent that such waivers would not result in an increase in general intensity of use beyond what is otherwise allowed, as applicable to zoning district;” and

WHEREAS, the City relaxed standards so that outdoor dining could be established during the pandemic and a number of restaurants erected outdoor dining facilities which have proven to be very popular; and

WHEREAS, On February 28, 2023, Governor Gavin Newsom announced that the COVID-19 State of Emergency ended; and

WHEREAS, On April 11, 2023, President Joe Biden signed a bipartisan congressional resolution to bring the U.S. national emergency to respond to the COVID-19 Pandemic to a close; and

WHEREAS, on May 10, 2023, the Mendocino County Building Department released a notice of the expiration of the County’s COVID-19 Urgency Ordinance 4472 which allowed many temporary business modifications in response to COVID-19; and the

notice provided businesses with an opportunity to apply for the appropriate permits to retain any temporary modifications to their structures or facilities; and

WHEREAS, the City desires to ensure that outdoor dining can continue in Fort Bragg in a safe and enjoyable manner; and

WHEREAS, the Community Development Committee held a duly noticed special meeting on May 17, 2023, to discuss recommending regulations to establish a method for outdoor dining to continue even as State regulations allowing outdoor dining during the COVID-19 Pandemic were set to expire; and

WHEREAS, on June 26, 2023, City Council received a report and provided direction to staff regarding future zoning modification to allow outdoor dining; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”) pursuant to Section 15074 of the CEQA Guidelines, a Mitigated Native Declaration (MND) was prepared and circulated for public comment for the zoning code amendment; and

WHEREAS, a Notice of Intent to Adopt an MND was published on December 7, 2023, and the twenty-day review period was from December 7 through December 27, 2023; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 10, 2024, to consider the Zoning Code Amendment, accept public testimony; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the Planning Commission meeting of January 10, 2024 and January 31, 2024 and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby make the following findings and determinations:

SECTION 1: INLAND LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 18.94.060, the Planning Commission recommends that the City Council make the following findings for adoption of the proposed amendments to the Fort Bragg Inland Land Use and Development Code:

- a. The proposed amendment is consistent with the General Plan and any applicable specific plan; and
 1. The proposed project is consistent with the land use designations of the Land Use Element of the Inland General Plan (CGP) because the amendment would allow outdoor dining in the same land use designations as restaurants.
 2. The proposed amendment is consistent with the following applicable General Plan policies: Policy LU-3.1, Policy PF-1.2, Policy PF-2.1, Policy OS-1.2,

Policy OS-5.2, Policy OS-6.3, Policy C-1.2, Policy CD-1.1, Policy CD-1.3, Policy CD-2.2, Policy CD-2.3, Policy CD-2.4, Policy CD-5.3, Policy SF-4.1.

- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
 - 1. As revised, and recommended by the Planning Commission, the proposed amendment includes sufficient safeguards to protect the health and safety of diners and of outdoor dining facilities. Outdoor dining will improve convenience by increasing dining options and providing for outdoor dining for people with immune issues where indoor dining may be unsafe due to COVID-19 and other communicable illness. The amendment furthers the public interest and welfare as indicated by the continued popularity of outdoor dining.
- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.
 - 1. The Proposed Zoning Code Amendment is consistent with ILUDC standards as amended and as analyzed in the consistency analysis.

SECTION 2: GENERAL FINDINGS:

- a. The foregoing recitals are true and correct and made a part of this Resolution; and
- b. The documents and other material constituting the record for these proceedings are located in the Community Development Department.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby recommend that the City Council amend Division 18 to the Fort Bragg Municipal Code to Amend Chapter 18.42.165 – *Restaurants* to establish regulations and standards for outdoor dining, as delineated in Attachment A.

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

The above and foregoing Resolution was introduced by Commissioner Deitz seconded by Commissioner Stavely, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 31st day of January 2024, by the following vote:

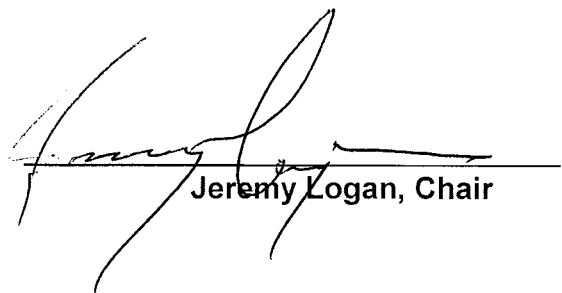
AYES: Deitz, Neils, Stavely, Jensen, Logan

NOES:

ABSENT:

ABSTAIN:

RECUSE:



Jeremy Logan, Chair

ATTEST:

Maria Flynn

Maria Flynn, Administrative Assistant
Community Development Department

Planning Commission Resolution Attachment A: ILUDC 3-23 “Outdoor Dining” Zoning Code Amendments

Draft Ordinance: ILUDC Outdoor Dining

Amend 18.21.030 - Allowed Land Uses and Permit Requirements for Residential Zoning Districts, Table 2-1 as follows (amendment shown in red text):

LAND USE (1)	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	RR	RS	RL	RM	RH	RVH	
Restaurant, Café, Coffee Shop	-	-	UP	UP	UP	UP	18.42.165
Outdoor Dining	-	-	MUP	MUP	MUP	MUP	18.42.165

Amend 18.22.030- Allowed Land Uses and Permit Requirements for Commercial Zoning Districts, Table 2-1 as follows (amendment shown in red text):

LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
Restaurant, café, coffee shop	UP	P	P	P	P	18.42.165
Second hand store	—	—	—	P	P	
Service station	—	—	—	UP	UP	18.42.180
Shopping center	—	—	—	UP	UP	
Outdoor Dining	MUP	MUP	MUP	MUP	MUP	18.42.165

Amend 18.36.040 - Number of Parking Spaces Required, Table 3-7 as follows (amendment shown in red text):

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Retail Trade	Vehicle Spaces Required	
	Minimum	Maximum
All "Retail Trade" and general retail uses listed in § 18.22.030, Table 2-6, except for the following:	1 space for each 400 sf of floor area, plus 1 space for each 600 sf of outdoor sales area.	1 space for each 200 sf of floor area, plus 1 space for each 400 sf of outdoor sales area.
Restaurant, cafe, coffee shop	1 space for each 100 sf of dining area.	1 space for each 40 sf of dining area.
Outdoor Dining	No parking required	No parking required

Amend 18.42.165 of the ILUDC as follows (amendment shown in red text):

18.42.165 – Restaurants & Outdoor Dining

A. Grease and Oils. The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment:

1. Operating standards. Restaurants shall comply with the following operating standards:
 - a. Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City's Food Service Establishment Wastewater Discharge Permit and the City's Municipal Code section regarding fats, oil and grease control.
 - b. Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer.

B. Outdoor Dining. The following standards are for outdoor dining facilities and are intended to regulate for the safe and compatible operation of outdoor dining facilities. Outdoor Dining Facility may consist of tables and chairs for dining with or without a pavilion, tents and/or umbrellas.

1. **Allowed as part of Indoor Dining.** These regulations apply only to restaurants that have an indoor dining component. Entirely outdoor restaurants are not permitted.
2. **Location, Setbacks & Height Limits.**
 - a. Outdoor dining pavilions and tents shall comply with all relevant setback

- and height limits of the zoning district in which they are located.
- b. Pavilions can be behind or to the side of the associated restaurant. Outdoor dining that is not located within a pavilion may be in front of the building, where the front of the building is the facade facing the primary street.
 - c. Outdoor dining facilities shall be located on previously developed areas such as a parking lot, sidewalk, or hardscape area. Outdoor dining may not result in a net loss of more than 10% of parking spaces unless otherwise allowed by this development code.
 - d. Outdoor dining must be located a minimum of 50 feet from any environmentally sensitive area, wetland or rare plant community, unless it is located in an area that has been developed with authorization through a Coastal Development Permit.
 - e. Outdoor dining pavilions and tents shall be sited so that they do not add to stormwater runoff volume or peak runoff rates.
 - f. Outdoor dining pavilions and tents shall not be located in an area that would impact scenic views or resources as seen from a public right of way.
 - g. Outdoor dining is permissible on the City's sidewalks with Encroachment Permit approval.
3. **Size Limits.** Outdoor dining facilities shall be limited to 1,300 SF. A larger size may be approved with a Minor Use Permit.
 4. **Design Review & Safety.** Outdoor dining pavilions and tents are subject to Administrative Design Review and shall comply with the following criteria:
 - a. Outdoor dining facilities shall be confined to the area shown on the approved site plan.
 - b. Where umbrellas, tents or pavilions are proposed, a vertical clearance of at least 7 feet must be maintained.
 - c. Utilities, Heating & Lighting
 - I. The use of heating devices and electrical extension cords and lighting are subject to review and approval by the Community Development Director and the Fire Marshal.
 - II. Portable Heaters/Space Heaters are permitted if approved for outdoor use, located in accordance with the manufacturer's recommendations, and located at least two feet from the edge or roof of any umbrella canvas, tent, pavilion, foliage, or any other flammable object or material.
 - III. All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.
 - d. Outdoor Dining shall not interfere with building ingress/egress.
 1. ADA Accessibility. The outdoor dining area shall be designed, constructed and/or conform to the applicable provisions, rules, regulations and guidelines of the California Building Code and Americans with Disabilities Act.
 2. Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.
 - e. Moveable barriers shall be of solid, durable materials. Preferred

barriers include removable fences, freestanding fences, hedges, planters, trees, removable columns, and pavilion or tent structures. Fabric inserts, chain link fencing, plastic, vinyl, chicken wire and cyclone fencing are not permitted.

- f. Pavilion and tent colors should either be white or a color which is compatible with the colors of the restaurant building.

5. **Operating Standards.** Outdoor dining shall comply with the following operating standards:

- a. No amplified music after 9:00 pm.
- b. No new service after 9:00 pm.
- c. Hours of operation shall not begin prior to 7:00 am or extend later than 10:00 pm.
- d. Smoking is prohibited in outdoor dining areas.
- e. Outdoor dining, food preparation and cooking is only permissible in compliance with the California Retail Food Code and with the approval of the Mendocino County Division of Environmental Health.
- f. Pavilions must be inspected by the Fire Marshal who shall submit a letter to the City that pavilion and associated equipment and furnishings are safe and in good repair at least once every five years or as determined by the Community Development Director.
- g. Establishments that serve alcoholic beverages in the outdoor dining area shall meet all requirements of the Alcoholic Beverage Control Board and have a permit for such service as well as any other federal, state, or local laws and regulations governing the sale and consumption of alcoholic beverages.

18.100 Definitions Amendments

In order to support the required code updates, the following addition to the definitions in ILUDC Section 18.100.020 are recommended:

Outdoor Dining Facility. Outdoor dining may consist of a defined area with tables and chairs for dining with or without a temporary pavilion, tent and/or umbrellas, and adjacent to and on the same parcel and serviced by a restaurant with an indoor dining component. Outdoor bars are not outdoor dining facilities.

RESOLUTION NO. PC 05-2024

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL SUBMIT AN LCP AMENDMENT APPLICATION TO THE COASTAL COMMISSION TO AMEND CHAPTER 17.42.190– RESTAURANTS OF DIVISION 17 OF THE FORT BRAGG MUNICIPAL CODE TO ESTABLISH REGULATIONS AND STANDARDS FOR OUTDOOR DINING

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS, the City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits and its sphere of influence; and

WHEREAS, the City adopted a Coastal General Plan (“Coastal GP”) as the Land Use Plan portion of the Local Coastal Program on May 12, 2008 which established policies for all land within the Fort Bragg Coastal Zone; and

WHEREAS, in August 2008 the California Coastal Commission certified the City’s Local Coastal Program (LCP) which includes the Coastal GP as the Land Use Plan; and

WHEREAS, the City Council adopted Resolution 3162-2008 on May 12, 2008, adopting the Coastal General Plan; and

WHEREAS, the City adopted a Coastal Land Use and Development Code in 2008 as the implementing portion of the Local Coastal Program on May 12, 2008, which established all land use regulations for the Coastal Zone; and

WHEREAS, the Coastal General Plan includes policies to: (1) advance the orderly growth and development of the City’s Coastal areas; (2) protect coastal resources; (3) incorporate sustainability into the development process so that Fort Bragg’s coastal resources and amenities are preserved for future generations; (4) respond to current environmental and infrastructure constraints; (5) protect the public health, safety and welfare; and (6) promote fiscally responsible development; and

WHEREAS, in May of 2020, due to the COVID-19 Pandemic the City adopted an amendment to the Municipal Code which gave the City Manager, as the Director of Emergency Services, the power: “To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of the federal, state, or county government, to the extent that such waivers would not result in an increase in general intensity of use beyond what is otherwise allowed, as applicable to zoning district;” and

WHEREAS, the City of Fort Bragg relaxed standards so that outdoor dining could be established during the pandemic and a number of restaurants erected outdoor dining facilities which have proven to be very popular; and

WHEREAS, on February 28, 2023, Governor Gavin Newsom announced that the COVID-19 State of Emergency ended; and

WHEREAS, on April 11, 2023, President Joe Biden signed a bipartisan congressional resolution to bring the U.S. national emergency to respond to the COVID-19 pandemic to a close; and

WHEREAS, on May 10, 2023, the Mendocino County Building Department released a notice of the expiration of the County's COVID-19 Urgency Ordinance 4472 which allowed many temporary business modifications in response to COVID-19. The notice provided businesses with an opportunity to apply for the appropriate permits to retain any temporary modifications to their structures or facilities; and

WHEREAS, the City desires to ensure that outdoor dining can continue in Fort Bragg in a safe and enjoyable manner; and

WHEREAS, the Community Development Committee held a duly noticed public hearing on May 17, 2023, to discuss recommending regulations to establish a method for outdoor dining to continue even as state regulations allowing outdoor dining during the COVID-19 Pandemic were set to expire; and

WHEREAS, on June 26, 2023, City Council received a report and provided direction to staff regarding future zoning modifications to allow outdoor dining; and

WHEREAS, the "activities and approvals by a local government necessary for the preparation and adoption of a local coastal program or long range development plan" pursuant to the California Coastal Act are statutorily exempt from compliance with CEQA, and this statutory exemption "shifts the burden of CEQA compliance from the local agency to the California Coastal Commission" (CEQA Guidelines § 15265 (c)); and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 10, 2024, to consider the Zoning Code Amendment, accept public testimony and continued consideration of the recommended amendments to January 31, 2024; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Coastal General Plan; the Fort Bragg Coastal Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the Planning Commission meeting of January 10, 2024 and January 31, 2024, and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby make the following findings and determinations:

SECTION 1: COASTAL LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 17.94.060, the Planning Commission recommends that the City Council make the following findings for adoption of the proposed amendments to the Fort Bragg Coastal Land Use and Development Code:

- a. The proposed amendment is consistent with the Coastal General Plan and any applicable specific plan; and
 - 1. The proposed project is consistent with the land use designations of the Land Use Element of the Coastal General Plan (CGP) because the amendment would allow outdoor dining in the same land use designations as restaurants.
 - 2. The proposed amendment is consistent with the following applicable General Plan policies: Policy LU-3.1, Policy LU-5.7, Policy LU-10.2, Policy LU-10.4, Policy PF-1.2, Policy PF-2.1, Policy CD-1.1, Policy CD-2.1, Policy CD-2.5, Policy CD-3.2, Policy CD-3.3, Policy CD-3.4, Policy CD-1.9, Policy SF-5.1.
- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
 - 1. As revised, the proposed amendment includes sufficient safeguards to protect the health and safety of diners and of outdoor dining facilities. Outdoor dining will improve convenience by increasing dining options and providing for outdoor dining for people with immune issues where indoor dining may be unsafe due to COVID-19 and other communicable illness. The amendment furthers the public interest and welfare as indicated by the continued popularity of outdoor dining.
- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.
 - 1. The Proposed Amendment is consistent with CLUDC standards as amended as analyzed in the consistency analysis.

SECTION 2: GENERAL FINDINGS:

- a. The foregoing recitals are true and correct and made a part of this Resolution; and
- b. The documents and other material constituting the record for these proceedings are located in the Community Development Department.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby recommend that the City Council submit and LCP Amendment Application to the Coastal Commission to amend Division 17 to the Fort Bragg Municipal Code to Amend Chapter 17.42.190 – *Restaurants* to establish regulations and standards for outdoor dining, as delineated in Attachment A.

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

The above and foregoing Resolution was introduced by Commissioner Deitz seconded by Commissioner Neils, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 31st day of January 2024, by the following vote:

AYES: Deitz, Neils, Stavely, Jensen, Logan

NOES:

ABSENT:

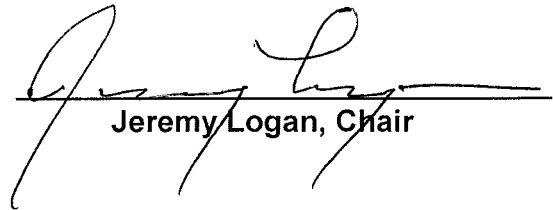
ABSTAIN:

RECUSE:

ATTEST:

Maria Flynn

Maria Flynn, Administrative Assistant
Community Development Department



Jeremy Logan, Chair

Planning Commission Resolution Attachment A: LCP 3-23 “Outdoor Dining” Zoning Code Amendments

Draft Ordinance: CLUDC Outdoor Dining

Amend 17.21.030 - Allowed Land Uses and Permit Requirements for Residential Zoning Districts, Table 2-1 as follows (amendment shown in red text):

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	P	Permitted Use, Zoning Clearance required					
	MUP	Minor Use Permit required (see Section 17.71.060)					
	UP	Use Permit required (see Section 17.71.060)					
	S	Permit requirement set by Specific Use Regulations					
	—	Use not allowed					
LAND USE (1)	PERMIT REQUIRED BY DISTRICT						Specific Use Regulations
	RR	RS	RL	RM	RH	RVH	
Restaurant, Café, Coffee Shop	-	-	UP	UP	UP	UP	17.42.165
Outdoor Dining	-	-	MUP	MUP	MUP	MUP	17.42.165

Amend 17.22.030- Allowed Land Uses and Permit Requirements for Commercial Zoning Districts, Table 2-1 as follows (amendment shown in red text):

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P	Permitted Use, Zoning Clearance required				
	MUP	Minor Use Permit required (see Section 17.71.060)				
	UP	Use Permit required (see Section 17.71.060)				
	S	Permit requirement set by Specific Use Regulations				
	—	Use not allowed				
LAND USE (1)	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
Outdoor Dining	MUP	MUP	MUP	MUP	MUP	18.42.165

Amend 17.36.040 - Number of Parking Spaces Required, Table 3-7 as follows (amendment shown in red text):

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Retail Trade	Vehicle Spaces Required
All "Retail Trade" and general retail uses listed in § 17.22.030, Table 2-6, except for the following:	1 space for each 400 sf of floor area, plus 1 space for each 600 sf of outdoor sales area.
Restaurant, cafe, coffee shop	1 space for each 4 seats; or 1 space for each 200 sf of floor area, whichever would yield more spaces.
Outdoor Dining	No parking required

Amend 17.42.190 of the CLUDC as follows (amendment shown in red text):

17.42.190 – Restaurants & Outdoor Dining

A. Grease and Oils. The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment:

1. Operating standards. Restaurants shall comply with the following operating standards:
 - a. Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City’s Food Service Establishment Wastewater Discharge Permit and the City’s Municipal Code section regarding fats, oil and grease control.
 - b. Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer.

B. Outdoor Dining. The following standards are for outdoor dining facilities and are intended to regulate for the safe and compatible operation of outdoor dining facilities. Outdoor Dining Facility may consist of tables and chairs for dining with or without a pavilion, tents and/or umbrellas.

1. **Coastal Development Permit.** A Coastal Development Permit is required for an Outdoor Dining Facility that includes the erection of a pavilion or tent.
2. **Allowed as part of Indoor Dining.** These regulations apply only to

restaurants that have an indoor dining component. Entirely outdoor restaurants are not permitted.

3. Location, Setbacks & Height Limits.

- a. Outdoor dining pavilions and tents shall comply with all relevant setback and height limits of the zoning district.
- b. Pavilions and tents may be located behind or to the side of the associated restaurant. Outdoor dining that is not in a pavilion or tent may be in front of the associated restaurant, where the front of the building is the facade facing the primary street.
- c. Outdoor dining facilities shall be located on previously developed areas such as a parking lot, sidewalk, or hardscape area. Outdoor dining may not result in a net loss of more than 10% of parking spaces unless otherwise allowed by this development code.
- d. Outdoor dining must be located a minimum of 50 feet from any environmentally sensitive area, wetland or rare plant community, unless it is located in an area that has been developed with authorization through a Coastal Development Permit.
- e. Outdoor dining pavilions and tents shall be sited so that they do not add to stormwater runoff volume or peak runoff rates.
- f. Outdoor dining pavilions and tents shall not be located in an area that would impact scenic views or resources as seen from a public right of way.
- g. Outdoor dining is permissible on the City's sidewalks with Encroachment Permit approval.

4. Size Limits. Outdoor dining facilities shall be limited to 1,300 SF. A larger size may be approved with a Minor Use Permit.

5. Objective Design & Safety Criteria. Outdoor dining pavilions and tents are subject to Administrative Design Review and shall comply with the following criteria:

- a. Outdoor dining facilities shall be confined to the area shown on the approved site plan.
- b. Where umbrellas, tents or pavilions are proposed, a vertical clearance of at least 7 feet must be maintained.
- c. Utilities, Heating & Lighting
 - I. The use of heating devices and electrical extension cords and lighting are subject to review and approval by the Community Development Director and the Fire Marshal.
 - II. Portable Heaters/Space Heaters are permitted if approved for outdoor use, located in accordance with the manufacturer's recommendations, and located at least two feet from the edge or roof of any umbrella canvas, tent, pavilion, foliage, or any other flammable object or material.
 - III. All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.
- d. Outdoor Dining shall not interfere with building ingress/egress.
 - 1. ADA Accessibility. The outdoor dining area shall be designed,

- constructed and/or conform to the applicable provisions, rules, regulations and guidelines of the California Building Code and Americans with Disabilities Act.
 - 2. Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.
 - e. Moveable barriers shall be of solid, durable materials. Preferred barriers include removable fences, freestanding fences, hedges, planters, trees, removable columns, and pavilion or tent structures. Fabric inserts, chain link fencing, plastic, vinyl, chicken wire and cyclone fencing are not permitted.
 - f. Pavilion and tent colors should either be white or a color which is compatible with the colors of the restaurant building.
6. **Operating Standards.** Outdoor dining shall comply with the following operating standards:
- a. No amplified music after 9:00 pm.
 - b. No new service after 9:00 pm.
 - c. Hours of operation shall not begin prior to 7:00 am or extend later than 10:00 pm.
 - d. Smoking is prohibited in outdoor dining areas.
 - e. Outdoor dining, food preparation and cooking is only permissible in compliance with the California Retail Food Code and with the approval of the Mendocino County Division of Environmental Health.
 - f. Pavilions must be inspected by the Fire Marshal who shall submit a letter to the City that pavilion and associated equipment and furnishings are safe and in good repair at least once every five years or as determined by the Community Development Director.
 - g. Establishments that serve alcoholic beverages in the outdoor dining area must meet all requirements of the Alcoholic Beverage Control Board and any other federal, state, or local laws and regulations governing the sale and consumption of alcoholic beverages.

18.100 Definitions Amendments

In order to support the required code updates, the following addition to the definitions in ILUDC Section 18.100.020 are recommended:

Outdoor Dining Facility. Outdoor dining may consist of a defined area with tables and chairs for dining with or without a temporary pavilion, tent and/or umbrellas, and adjacent to and on the same parcel and serviced by a restaurant with an indoor dining component. Outdoor bars are not outdoor dining facilities.

ATTACHMENT 3: GENERAL PLAN/LUDC - CONSISTENCY ANALYSIS

This attachment analyzes both the ILUDC and CLUDC amendments consistent with the respective Inland and Coastal General Plans and the ILUDC and CLUDC.

1. Coastal General Plan & CLUDC Consistency Analysis

Required Findings

The CLUDC 17.95.060(B) requires that the following findings be made for the amendments to the Coastal Land Use and Development Code:

1. The proposed amendment is consistent with the Coastal General Plan and any applicable specific plan.
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
3. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The amendment is consistent with relevant policies of the City's Coastal General Plan as analyzed below.

Land Use Element

The proposed amendment to the CLUDC is **consistent** with the following Coastal General Plan Policies in the Land Use Element.

Policy	Analysis
Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).	The proposed outdoor dining amendment would enhance the pedestrian friendly aspect of the CBD. However, large pavilions could conflict with the historic character of the Central Business District, therefore MJC recommends that the City Council consider regulatory limitations that help to preserve the historic character of the downtown. For example, pavilion color should be subject to administrative design review much like color choices for all commercial buildings. Recommended addition: B4k) Pavilion and tent colors should either be white or a color which is compatible with the colors of the restaurant building.
Policy LU-5.7: Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible. Existing	The proposed amendment does not comply with this policy, and the following language would help ensure compliance:

<p>parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.</p>	<p>B2c. Outdoor Dining Facilities shall be located on previously developed areas such as a parking lot, sidewalk, or landscaped area. However, if outdoor dining is proposed for a parking lot, it may not result in a net loss of parking spaces. unless otherwise allowed by this development code. Outdoor dining must be located a minimum of 50 feet from any environmentally sensitive area, wetland or rare plant community.</p>
<p>Policy LU-10.2: Locating New Development. New residential, commercial, or industrial development, except as otherwise provided in the LCP, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources.</p>	<p>The proposed ordinance complies with this policy because outdoor dining would be required to be adjacent to an existing restaurant.</p>
<p>Policy LU-10.4: Ensure Adequate Services and Infrastructure for New Development. Development shall only be approved when it has been demonstrated that the development will be served with adequate water and wastewater treatment. Lack of adequate services to serve the proposed development shall be grounds for denial of the development.</p>	<p>The City recently upgraded its Sewer Treatment Facility and has acquired property to develop additional water storage which together will ensure adequate sewer and water services throughout Fort Bragg. While restaurants have a significant impact of water and sewer capacity, the City has adequate capacity of both to serve new and existing outdoor dining activities.</p>

There are no other applicable policies in the land use element.

Public Facilities Element

The proposed amendment to the CLUDC is consistent with the following Coastal General Plan Policies in the Public Facilities Element.

Policy	Analysis
<p>Policy PF-1.1: All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.</p>	<p>The proposed zoning amendment would allow a dining pavilion facility of up to 1,300 SF as a permitted use by right, without charging water or sewer capacity fees for the additional service use. Restaurants are one of more intense water and sewer capacity uses. However, the City currently has the existing capacity to serve the water and sewage needs of all existing development and any new outdoor dining facilities.</p>
<p>Policy PF-2.1 Development Pays Its Share: Require that new development pay its share</p>	<p>The ordinance does not require restaurants with outdoor dining areas to pay capacity fees</p>

<p>of capital improvements and the cost of public services to maintain adequate levels of service.</p>	<p>for the square footage of the outdoor dining. The ordinance does contradict the plain language of Policy PF-2.1. Therefore, the City should consider striking the language regarding exempting outdoor dining from payment of capacity fees or include outdoor dining in Table 3-7 and indicate that no parking is required.</p> <p>6. Parking Requirements & Capacity fees Exemption. Outdoor dining facilities are exempt from parking requirements and payment of sewer and water capacity fees.</p>
--	--

Conservation, Open Space, Energy, and Parks Element

The proposed amendment would be consistent with the policies of the Conservation Element as a CDP is required if the project is located in an area that has the potential to have Environmentally Sensitive Habitat, Wetlands, visual resources or on other Coastal Act resources as illustrated in the Maps of the Coastal General Plan.

Circulation Element

The proposed amendment is consistent the policies of this element and does not conflict with anything in the element.

Community Design, Safety, and Noise Elements

The proposed amendment is consistent with the policies of this element and does not conflict with anything in the element.

Policy	Analysis
<p>Policy CD-1.1: Visual Resources: Permitted development shall be designed and sited to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance scenic views in visually degraded areas.</p>	<p>As amended, new development would be required to apply for a CDP which would necessitate a visual analysis if visual resources would be impacted by a proposed project.</p>
<p>Policy CD-2.1 Design Review: All development that has the potential to affect visual resources shall be subject to Design Review, unless otherwise exempt from Design Review pursuant to Coastal Land Use & Development Code Section 17.71.050. Design Review approval requirements shall</p>	<p>Policy CD-2.1 applies to pavilions as they are development under the Coastal Act. However, the Citywide Design Guidelines do not include any regulations specific to Pavilions. Furthermore, the City Council has decided to exempt pavilions from the need to obtain a Design Review permit and instead require</p>

<p>not replace, supersede or otherwise modify the independent requirement for a coastal development permit approved pursuant to the applicable policies and standards of the certified LCP. Ensure that development is constructed in a manner consistent with the Citywide Design Guidelines.</p>	<p>compliance with the objective design requirements located within the ordinance. For conformance with this criteria, City Council should either exempt Outdoor Pavilions from Design Review or consider requiring at least administrative design review for pavilions. The following additional language is recommended.</p> <p>B4) Objective Design & Safety Criteria. Outdoor dining pavilions and tents are subject to Administrative Design Review and shall comply with the following additional criteria:</p>
<p>Policy CD-2.5 Scenic Views and Resource Areas: Ensure that development does not adversely impact scenic views and resources as seen from a road and other public rights-of-way.</p>	<p>As proposed the ordinance does not include any regulations that would protect scenic resources. However, a CDP would be required for a pavilion, which would require this analysis.</p>
<p>Policy CD-3.2 Pedestrian Activity: Encourage increased pedestrian movement and activity in the Central Business District.</p>	<p>Outdoor dining improves pedestrian oriented activity in the Central Business District.</p>
<p>Policy CD-3.3 Economic Vitality: Continue to support the economic diversity and vitality of downtown businesses.</p>	<p>Outdoor dining will increase the vitality of downtown restaurants.</p>
<p>Policy CD-3.4 Parking: Improve the availability of public parking facilities in the Central Business District and other commercial areas.</p>	<p>The proposed ordinance has the potential to remove private parking spaces, which would otherwise be required to park existing restaurants. However, these are not public parking facilities so there is no conflict with this policy.</p>
<p>Policy CD-1.9: Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, and shielded so that no light shines beyond the boundary of the property.</p>	<p>As mitigated the ordinance requires that all lighting (in and outside) related to outdoor dining be shielded and downward facing.</p>

Safety Element

The proposed amendment to the CLUDC is **consistent** with the Safety Element, including the following relevant policies:

Policy	Analysis
<p>Policy SF-5.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.</p>	<p>The proposed zoning code amendment requires review and approval by the Fire Marshall who will implement this Policy as part of his review.</p>

CONSISTENCY WITH CLUDC SITE PLANNING AND PROJECT DESIGN STANDARDS

Parking. The proposed ordinance conflicts with the parking ordinance because it: 1) allows applicants to eliminate parking spaces in order to accommodate an outdoor dining area and 2) it does not require parking for the outdoor dining area itself. In order to eliminate this conflict, the following amendment would need to be added to the ordinance.

Furthermore, the following change can be made to the proposed ordinance to ensure that otherwise required parking spaces are not eliminated:

B2c) Outdoor Dining Facilities shall be located on previously developed areas such as a parking lot, sidewalk, or landscaped area. *However, if outdoor dining is proposed for a parking lot, it may not result in the loss of parking spaces for the indoor dining area unless otherwise allowed by this development code.* Outdoor dining must be located a minimum of 50 feet from any environmentally sensitive area, wetland or rare plant community.

COASTAL RESOURCES ANALYSIS

Outdoor dining facilities would be required to obtain an Administrative Coastal Development Permit and make specific findings that Coastal Act resources will not be impacted.

2. Inland General Plan & ILUDC Consistency Analysis

Required Findings

The ILUDC 18.95.060(B) requires that the following findings be made for the amendments to the Inland Land Use and Development Code:

4. The proposed amendment is consistent with the Inland General Plan and any applicable specific plan.
5. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.
6. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The amendment is consistent with relevant policies of the City’s General Plan and the ILUDC as mitigated and analyzed below.

Land Use Element

The proposed amendment to the ILUDC is **consistent** with the General Plan Policies in the Land Use Element, with the following possible exception:

Policy	Analysis
<p>Policy LU-3.1 Central Business District: Retain and enhance the small-scale, pedestrian friendly, and historic character of the Central Business District (CBD).</p>	<p>The proposed outdoor dining amendment would enhance the pedestrian friendly aspect of the CBD. However, large pavilions could conflict with the historic character of the Central Business District, therefore MJC recommends that the City Council consider regulatory limitations that help to preserve the historic character of the downtown. For example, pavilion color should be subject to administrative design review much like color choices for all commercial buildings.</p> <p>Recommended addition: B4k) Pavilion and tent colors should either be white or a color which is compatible with the colors of the restaurant building.</p>

Public Facilities Element

The proposed amendment to the CLUDC is consistent with the Coastal General Plan Policies in the Public Facilities Element with the following potential exceptions:

Policy	Analysis
<p>Policy PF-1.2: All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing</p>	<p>The proposed zoning amendment would allow a dining pavilion facility of up to 1,300 SF as a permitted use by right, without charging water or sewer capacity fees for the additional service use. Restaurants are one of</p>

the services provided to existing residents and businesses.	more intense water and sewer capacity uses. However, the City currently has the existing capacity to serve the water and sewage needs of all existing development and any new outdoor dining facilities.
Policy PF-2.1 Development Pays Its Share: Require that new development pay its share of capital improvements and the cost of public services to maintain adequate levels of service.	The ordinance does not require restaurants with outdoor dining areas to pay capacity fees for the square footage of the outdoor dining. The ordinance does contradict the plain language of Policy PF-2.1. Therefore, the City should consider striking the language regarding exempting outdoor dining from payment of capacity fees or include outdoor dining in Table 3-7 and indicate that no parking is required. 7. Parking Requirements & Capacity fees Exemption. Outdoor dining facilities are exempt from parking requirements and payment of sewer and water capacity fees.

There are no other policies that are applicable to the proposed CLUDC updates.

Conservation, Open Space, Energy, and Parks Element

The proposed amendment would be consistent with the policies of the Conservation Element.

Policy	Analysis
Policy OS-1.2 Preserve Natural Resources: Require that sensitive natural resources in Special Review Areas be preserved and protected to the maximum degree feasible.	As mitigated the proposed amendment would require that outdoor dining take place on previously developed areas and at least 50 feet from an environmentally sensitive area.
Policy OS-5.2 Riparian Habitat: Prevent development from destroying riparian habitat to the maximum feasible extent. Preserve, enhance, and restore existing riparian habitat in new development unless the preservation will prevent the establishment of all permitted uses on the property.	
Policy OS-6.3 Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.	The erection of an outdoor dining pavilion is exempt from the requirement to get a building permit. Furthermore, the ordinance would not require any other permitting for pavilions of less than 1,300 SF. This limits the ability of the City to regulate stormwater and to ensure that the requirements of Policy OS6.3 are met. Therefore, the City Council should consider

	<p>adding the following language to the ordinance.</p> <p>B2d) Outdoor dining pavilions and tents shall be sited so that they do not add to stormwater runoff volume or peak runoff rates.</p>
--	---

Circulation Element

The proposed amendment is consistent with the policies of this element and does not conflict with anything in the element.

Policy	Analysis
Policy C-1.2: Walking and bicycling shall be considered an essential and integral part of the city's circulation network.	As mitigated, the proposed amendment would require that outdoor dining not interfere with bicycle parking or egress.

Community Design, Safety, and Noise Elements

The proposed amendment is consistent with the policies of this element and does not conflict with anything in the element.

Policy	Analysis
Policy CD-1.1 Citywide Design Guidelines: Ensure that new development and remodels are constructed in a manner consistent with the Citywide Design Guidelines.	The ILUDC defines development as follows: <i>On land grading, removing, dredging, mining, or extraction of any materials; subdivision pursuant to the Subdivision Map Act, construction, reconstruction, demolition, or alteration of any structure.</i> According to this definition, Policy CD1.1 would apply to pavilions as they are a structure. However, the Citywide Design Guidelines do not include any regulations specific to Pavilions. Further the City Council has decided to exempt pavilions from the need to obtain a Design Review permit and instead require compliance with the objective design requirements located within the ordinance.
Policy CD-1.3 Scenic Views and Resource Areas: Ensure that development does not adversely impact scenic views and resources as seen from public rights-of-way.	As proposed the ordinance does not include any regulations that would protect scenic resources. Therefore, the following additional language is recommended: B2e) Outdoor dining pavilions and tents shall not be located in an area that would impact scenic views or resources as seen from a public right of way.

Policy CD-2.2 Pedestrian Activity: Encourage increased pedestrian movement and activity in the Central Business District.	Outdoor dining improves pedestrian oriented activity in the Central Business District.
Policy CD-2.3 Economic Vitality: Continue to support the economic diversity and vitality of downtown businesses.	Outdoor dining will increase the vitality of downtown restaurants.
Policy CD-2.4 Parking: Improve the availability of public parking facilities in the Central Business District and other commercial areas.	The proposed ordinance has the potential to remove private parking spaces, which would otherwise be required to park existing restaurants. However, these are not public parking facilities so there is no conflict with this policy.
Policy CD-5.3: Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be minimized, restricted to low intensity fixtures, and shielded so that no light shines beyond the boundary of the property.	As mitigated the ordinance requires that all lighting (in and outside) related to outdoor dining be shielded and downward facing.

Safety Element

The proposed amendments to the ILUDC **are consistent** with the Safety Element, including the following relevant policies:

Policy	Analysis
Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.	The proposed zoning code amendment requires review and approval by the Fire Marshall who will implement this Policy as part of his review.

Consistency with CLUDC Site Planning and Project Design Standards

The Proposed Amendment is consistent with ILUDC standards with the following exceptions.

Parking. The proposed ordinance conflicts with the parking ordinance because it: 1) allows applicants to eliminate parking spaces in order to accommodate an outdoor dining area and 2) it does not require parking for the outdoor dining area itself. In order to eliminate this conflict, the following amendment would need to be added to the ordinance.

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Retail Trade	Vehicle Spaces Required	
	Minimum	Maximum
All "Retail Trade" and general retail uses listed in § 18.22.030 , Table 2-6, except for the following:	1 space for each 400 sf of floor area, plus 1 space for each 600 sf of outdoor sales area.	1 space for each 200 sf of floor area, plus 1 space for each 400 sf of outdoor sales area.

Restaurant, cafe, coffee shop	1 space for each 100 sf of dining area.	1 space for each 40 sf of dining area.
Outdoor Dining	No parking required	No parking required

Furthermore, the following change can be made to the proposed ordinance to ensure that otherwise required parking spaces are not eliminated:

B2c) Outdoor Dining Facilities shall be located on previously developed areas such as a parking lot, sidewalk, or landscaped area. **However, if outdoor dining is proposed for a parking lot, it may not result in the loss of parking spaces for the indoor dining area unless otherwise allowed by this development code.** Outdoor dining must be located a minimum of 50 feet from any environmentally sensitive area, wetland or rare plant community.



**Initial Study/
Mitigated Negative
Declaration for**

Inland Land Use and
Development Code

Amendments to regulate:

Outdoor Dining, Tiny Homes,
Tiny Home Communities, and

Changes to Planned
Development Permit

Requirements.

12-7-2023

Marie Jones Consulting Fort Bragg, CA



Inland Land Use and Development Code Amendments to Regulate: Outdoor Dining, Tiny Homes, Tiny Home Communities, and Changes to Planned Development Permit Requirements.

Initial Study/Mitigated Negative Declaration

Prepared for:

City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

Prepared by:

Marie Jones Consulting
Fort Bragg, CA

December 2023

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1.0 INITIAL STUDY	4
1.1. INITIAL STUDY INFORMATION SHEET	4
1.2. INTRODUCTION	4
1.3. PROJECT BACKGROUND	5
1.4. PROJECT LOCATION	5
1.5. PROJECT SETTING AND SURROUNDING LAND USES	6
1.6. PROJECT DESCRIPTION.....	6
I. Tiny Home Ordinance Amendment	6
II. Tiny Home Communities Ordinance Amendment.....	8
III. Planned Development Permit Amendment	12
IV. Outdoor Dining Ordinance Amendment.....	12
V. 18.100 Definitions Amendment	14
VI. Vicinity Map- City of Fort Bragg, CA.....	16
VII. City of Fort Bragg Zoning Map	17
1.7. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED	18
1.8. DETERMINATION.....	19
2.0 ENVIRONMENTAL INITIAL STUDY CHECKLIST	20
VIII. AESTHETICS	21
IX. AGRICULTURE AND FORESTRY RESOURCES	23
X. AIR QUALITY	25
XI. BIOLOGICAL RESOURCES	26
XII. CULTURAL RESOURCES	30
XIII. ENERGY	33
XIV. GEOLOGY AND SOILS	34
XV. GREENHOUSE GAS EMISSIONS	38
XVI. HAZARDS AND HAZARDOUS MATERIALS	39
XVII. HYDROLOGY AND WATER QUALITY	41
XVIII. LAND USE AND PLANNING.....	46
XIX. MINERAL RESOURCES	46
XX. NOISE	47
XXI. POPULATION AND HOUSING.....	49
XXII. PUBLIC SERVICES.....	50

XXIII. RECREATION	52
XXIV. TRANSPORTATION.....	53
XXV. TRIBAL CULTURAL RESOURCES	56
XXVI. UTILITIES AND SERVICE SYSTEMS.....	58
XXVII. WILDFIRE	61
XXVIII. MANDATORY FINDINGS OF SIGNIFICANCE.....	63
3.0 REFERENCES	64
4.0 PREPARERS.....	64

ACRONYMS AND ABBREVIATIONS

BERD – Built Environment Resources Directory
BLM – Bureau of Land Management
BMP – Best Management Practices for Stormwater
CBC – California Building Code
CDC – California Department of Conservation
CEQA – California Environmental Quality Act
City – City of Fort Bragg
County – Mendocino County
CRHR – California Registry of Historic Places
EIR – Environmental Impact Report
EPA – Environmental Protection Agency
FBUSD – Fort Bragg Unified School District
Ft – foot
GHG- Greenhouse Gas
GLO – General Land Office
ILUDC – Inland Land Use and Development Code
IS – Initial Study
NAHC – Native American Heritage Commission
NRCS – Natural Resources Conservation Service
NWIC – Northwest Information Center
OSHA – Operational Safety and Health Agency
PG&E – Pacific Gas and Electric
RWS – Redwood Waste Solutions
SF – Square foot
SWPPP – Storm Water Pollution Prevention Plan
SWRCB – State Water Resources Control Board
TCR – Tribal Cultural Resources
WWTP– Waste Water Treatment Plant

1.0 INITIAL STUDY

1.1. INITIAL STUDY INFORMATION SHEET

1. Project title: LAND USE AND DEVELOPMENT CODE AMENDMENTS TO REVISE THE TINY HOMES ORDINANCE, REPEAL AND REPLACE THE MOBILE HOMES ORDINANCE WITH A TINY HOME COMMUNITIES ORDINANCE, MAKE MINOR CHANGES TO THE PLANNED DEVELOPMENT ORDINANCE, AND ESTABLISH REGULATIONS TO ALLOW OUTDOOR DINING.
2. Lead agency name and address: City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437
3. Contact person and phone number: Juliana Cherry
707-961-2823
4. Project location: City of Fort Bragg
5. Zoning: Coastal and Inland: Low Density (RL), Medium Density (RM), High Density (RH) and Very High-Density (RVH) Residential Zoning Districts, General Commercial (CG), Highway Visitor Commercial (CH), and Neighborhood Commercial (CN).

1.2. INTRODUCTION

The proposed project is subject to the requirements of the California Environmental Quality Act (CEQA). The Lead Agency is the City of Fort Bragg. This MND satisfies the requirements of CEQA (Public Resources Code, Div. 13, Sec. 21000-21177) and the State CEQA Guidelines (California Code of Regulations, Title 14, Sec 15000-15387).

CEQA encourages lead agencies and applicants to modify their projects to avoid significant adverse impacts (CEQA Section 20180(c) (2) and State CEQA Guidelines Section 15070(b) (2)). Section 15063(d) of the State CEQA Guidelines states that an IS shall contain the following information in brief form:

- A description of the project including the project location
- Identification of the environmental setting
- Identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to provide evidence to support the entries
- Discussion of means to mitigate significant effects identified, if any
- Examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls

- The name of the person or persons who prepared and/or participated in the Initial Study

1.3. PROJECT BACKGROUND

Tiny Home Communities. In 2019, the City of Fort Bragg amended the Housing Element of the General Plan for conformance with State Housing Law. That Housing Element Amendment included many new policies and programs including the following non-mandatory program regarding Tiny Home Communities.

Program H-1.7.10: Tiny Home Community. Consider adopting new zoning regulations to allow for small home subdivisions, with small individual parcel ownership, in all residential zoning districts. Consider changing the minimum lot size and minimum parcel dimensions of the LUDC to accommodate tiny home communities as part of a planned development.

The proposed zoning amendments would partially implement this program. The City currently has a Mobile Home Park ordinance which is outdated and limiting in that it requires a parcel of 3+ acres. Additionally, mobile homes themselves have changed significantly as Park Model RVs and Tiny Homes are very similar in look and design, hence it does not make sense to have two separate ordinances to address these similar mobile living units. The proposed ordinance change would allow Tiny Homes and Park Model RVs in Tiny Home Communities.

Tiny Homes. In 2019, the City of Fort Bragg amended the Housing Element of the General Plan for conformance with State Housing Law. That Housing Element Amendment included many new policies and programs including the following non-mandatory programs regarding Tiny Homes.

Program H-1.3.5: Allow Tiny Homes as Second Units. Consider revising the zoning ordinance so that people can park mobile residences (residences built under the vehicle code) as a second unit, so long as the residence looks like a house (e.g., external siding that is compatible with the residential neighborhood, skirted if the wheels would otherwise be visible from the public right of way, etc.).

The proposed attached zoning amendment would implement this program. Additionally, the City currently has regulations related to mobile homes that should be updated and incorporated into this ordinance. The proposed ordinance would regulate both Tiny Homes and Park Model RVs as equivalent housing types subject to the same requirements.

Planned Development. City staff has suggested making a change to this flexible permitting process to make it more usable for housing development projects by reducing the minimum lot size from 5 acres to 1 acre.

Outdoor Dining. In 2020 the City adopted an emergency ordinance to permit the construction of outdoor dining pavilions as part of the response to the Covid Pandemic. On May 17, 2023, the Community Development Committee met and discussed this issue and asked the City to bring the issue forward to the City Council for discussion and policy direction. On June 26, 2023, the City Council met and discussed this issue and provided direction to establish Outdoor Dining Regulations.

1.4. PROJECT LOCATION

The project site includes the City of Fort Bragg (City), in western Mendocino County, California for the Tiny Home Communities, Tiny Home and Planned Development Amendments.

1.5. PROJECT SETTING AND SURROUNDING LAND USES

The project site includes residential and commercial zoning districts within the City of Fort Bragg.

1.6. PROJECT DESCRIPTION

The proposed project includes four amendments to the Inland Land Use and Development Code as follows:

I. Tiny Home Ordinance Amendment

Amends Title 18.21.030 & 18.21.050 Land Use Tables as follows:

Amends 18.21.030(B) Table 2-1 Allowable Land Uses and Permit Requirements for Residential Zoning Districts:

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	RR	RS	RL	RM	RH	RVH		
RESIDENTIAL USES								
Tiny Home	P	P	P	P	P	P	18.42.175	

Amends 18.22.030(C) Table 2-6 Allowable Land Uses and Permit Requirements for Commercial Zoning Districts:

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
RESIDENTIAL USES						
Primary Residential Unit	P(3)	--	P(4)	P(4)	—	
Tiny Home	P(6)			P(6)		18.42.175

(6) Use permitted only on parcels with existing single residential unit or existing/proposed multifamily development, and only in compliance with § 18.42.175.

The proposed amendment to establish new regulation for Tiny Homes would include the repeal of 18.42.175 Tiny Homes and its replacement with 18.42.175 Tiny Homes and Model Park RVs (see below).

18.42.175 – Tiny Homes & Model Park RVs

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses), Tiny Homes, Park Model RVs shall comply with the standards of this section.

B. **Definitions.**

Park Model RV. Must comply with the ANSI Standard 119.5 and all of the following requirements, as defined in Health and Safety Code Section 18009.3:

- i. Contain 400 SF or less of gross floor area, excluding loft area space if that loft area space meets the requirements of subdivision (b) and Section 18033.
- ii. May not exceed 14 feet in width at the maximum horizontal projection.
- iii. Built upon a single chassis.
- iv. May only be transported upon public highways with a permit issued pursuant to Section 35780 of the Vehicle Code. Park Model RVs shall be licensed and registered with the California Department of Motor Vehicles.
- v. Is not a self-propelled recreational vehicle.

Tiny Home. A tiny home is a small towable residential unit that meets the design and construction criteria listed in 18.42.175. Tiny Homes shall meet the provisions of ANSI 119.5 or Appendix Q of the UBC (or a comparable updated standard). It shall be the burden of the applicant to show compliance with one of these standards. Tiny Homes shall be licensed and registered with the California Department of Motor Vehicles.

C. **Tiny Home and Park Model RV Standards.** Tiny Homes and Park Model RVs shall be subject to all of the following additional criteria:

1. **Limitation on Location.**

- a. Tiny homes and Park Model RV are allowed as an accessory use to a Primary Unit in residentially zoning districts (RS, RR, RM, RH, and/or RVH).

2. **Development Standards.** A Tiny Homes and Park Model RVs (Unit) shall conform with the following requirements:

- a. **Height.** The Unit shall have a maximum height of 13' 6" to comply with Department of Motor Vehicles (DMV) towing requirements.
- b. **Location.** A Unit shall be located toward the side or rear of the property and maintain 4-foot side and rear setbacks, unless otherwise listed herein.
- c. **Size.** The minimum square footage of a Unit shall be 150 SF to comply with the California Health & Safety Code. The maximum size shall be 400 SF.
- d. **Number of Units Allowed.** Units are allowed on a parcel in the following configurations:
 - i. On a parcel with an existing primary unit, a maximum of one Tiny home or Park Model RV unit is permitted. Neither is permitted if there is a detached ADU on the property.
 - ii. Tiny Homes or Park Model RVs are permitted in Tiny Home Communities, and the maximum allowed is determined by Section 18.42.110.
- e. **Foundation.** Tiny Homes shall not be placed on a temporary or permanent foundation unless they are constructed in compliance with the Appendix Q Tiny Houses of the UBC and if they are permitted in compliance with section 18.42.170 as an ADU. Park Model RVs may be placed on a permanent foundation.

3. **Design Standards.** A Tiny Home or Park Model RV shall maintain a residential appearance through the following design standards.
 - a. **Skirting.** The undercarriage (wheels, axles, tongue and hitch) shall be hidden from view with a solid wood, metal or concrete apron when parked.
 - b. **Roof Pitch.** Roofs shall have a minimum of a 3:12 for greater than 50% of the roof area.
 - c. **Foundation or Pad.** A paved parking pad shall be required and include bumper guards, curbs, or other installations adequate to prevent movement of the unit. Alternative paving methods may be permitted at the discretion of the Community Development Director.
 - d. **Mechanical Equipment.** Mechanical equipment shall be incorporated into the structure and not be located on the roof (except for solar panels). Generators are not allowed except for use during emergencies.
 - e. **Materials.** Materials for the exterior walls shall include wood, hardiepanel or equivalent material as determined by the Community Development Director.
 - f. **Windows.** Windows shall be double pane glass or better, labeled for building use, and be trimmed out.
 - g. **Utility Connections.** The home shall be connected to City water and sewer utilities through dedicated pipes, and it may use on or off-grid electricity.

4. **Ownership.** Ownership of the Tiny Home or Park Model RV is not required.

5. **Short Term Rentals.** Tiny Homes and Park Model RV shall not be used as short-term rentals of less than 30 days.

D. Parking Requirements. No parking is required for a Tiny Home or Park Model RV.

II. Tiny Home Communities Ordinance Amendment

Amends 18.21.030(B) Table 2-1 Allowable Land Uses and Permit Requirements for Residential Zoning Districts:

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	Permitted use, Zoning Clearance P required Minor Use Permit required (see MUP § 18.71.060) UP Use Permit required (see § 18.71.060) S Use Regulations — Use not allowed							Specific Use Regulations
	PERMIT REQUIRED BY DISTRICT							
LAND USE (1)	RR	RS	RL	RM	RH	RVH		
RESIDENTIAL USES								
Mobile Home Park	UP	UP	UP	UP	UP	UP	18.42.110	
Tiny Home Community	-	-	UP	UP	UP	UP	18.42.110	

Amends 18.22.030(C) Table 2-6 Allowable Land Uses and Permit Requirements for Commercial Zoning Districts:

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P Permitted use, Zoning Clearance required MUP Minor Use Permit required (see § 18.71.060) UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations — Use not allowed					
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	Regulations

Residential Uses

Tiny Home Community	UP	UP	-	UP	UP	18.42.110
---------------------	----	----	---	----	----	-----------

The proposed amendment to establish regulation for Tiny Home Communities would include the repeal of 18.42.110 Mobile Home Parks and its replacement with 18.42.110 Tiny Home Communities.

18.42.110 - Tiny Home Communities

This Section provides requirements and development standards for the development of Tiny Home Communities and Park Model RV Communities. The City intends that these communities be designed and landscaped to be compatible with adjacent residential and other uses. These standards are intended to provide a means of achieving a stable community in character with the surrounding area.

Definitions.

Tiny Home Lot Space. The space dedicated to each individual Tiny Home unit and its associated storage space, open space and internal setbacks. This area is rented to a Tiny Home tenant; it is not a separate legal space under the subdivision map act.

Park Model RV. Must comply with the ANSI Standard 119.5 and all of the following requirements, as defined in Health and Safety Code Section 18009.3:

1. Contain 400 SF or less of gross floor area, excluding loft area space if that loft area space meets the requirements of subdivision (b) and Section 18033.
2. May not exceed 14 feet in width at the maximum horizontal projection.
3. Built upon a single chassis.
4. May only be transported upon public highways with a permit issued pursuant to Section 35780 of the Vehicle Code. Park Model RVs shall be licensed and registered with the California Department of Motor Vehicles.
5. Is not a self-propelled recreational vehicle.

Tiny Home. A tiny home is a small towable residential unit that meets the design and construction criteria listed in 18.42.175. Tiny homes shall meet the provisions of ANSI 119.5 or Appendix Q of the UBC (or a comparable updated standard). It shall be the burden of the applicant to show compliance with one of these standards. Tiny homes shall be licensed and registered with the California Department of Motor Vehicles.

Tiny Home Community. Is any area or tract of land where two or more lots are rented or leased or held out for rent or lease to accommodate Tiny Homes, Park Model RVs and up to 25% of units as Small Manufactured Homes.

Small Manufactured Home. A small, manufactured home that complies with Title 24, Code of Federal Regulations, Chapter XX, Part 3280 that is between 350 and 600 SF and is a self-contained residential living unit, built off-site and placed on a permanent foundation.

A. Tiny Home and Park Model RV Community Standards. Each community shall comply with the following requirements:

1. Permit Requirements. Each Community shall be subject to Design Review in addition to the Use Permit approval required by § [18.21.030](#) (Residential Zoning District Allowable Land Uses and Permit Requirements). **A Coastal Development Permit is required for all Tiny Home Communities located within the Coastal Zone.**

2. Allowable Uses.

- a. **Unit Type.** Tiny Home Communities may be composed of any mix of Tiny Homes and Park Model RVs and may include up to 25% of the units as Small Manufactured Homes. A management office/residence is required.
- b. **Accessory Uses.** Use Permit approval for a Tiny Home Community may authorize accessory uses that are incidental to the planned residential use, exist for the sole purpose of service to the residents, are typically found in multifamily developments, and do not alter the character of the residential use.
 1. Residential accessory uses are limited to awnings, fences, garages (maximum size 400 SF), and storage sheds (maximum size 120 SF).
 2. Laundry facility, community room, community kitchen, recreational facilities, common open space, playground, clubhouse, and similar uses.
 3. A Tiny Home Community may contain accessory retail and service uses for park residents as authorized by Use Permit approval, and in compliance with §18.42.020 (Accessory Retail and Service Uses).

3. Standards. This section identifies standards for Tiny Home Community development, recognizing the dual need for moderately priced housing, and standards that will adequately protect residents of the communities and the City as a whole.

- a. **Phased Development.** Development may be in phases, so long as each phase complies with the minimum standards of this Section, and all “lots/spaces” in a phase are developed/ improved and authorized by a permit for occupancy in compliance with Health and Safety Code Section 18505.
- b. **Project Size.** Tiny Home Communities shall be located on a parcel that is at least 0.25 acres in size and not more than 5 acres in size.
- c. **Density.** Individual spaces shall comply with the maximum density permissible under the Land Use Code but no more than one unit per 1,800 SF of the total parcel size.

4. Tiny Home Community Layout and Design. The “Site Planning – New Multi Family Developments” section of the Citywide Design Guidelines shall be utilized for site layout and design for a Tiny Home Community. Additionally, a Tiny Home shall comply following additional requirements:

- a. **Orientation.** Tiny Homes that are adjacent to a street shall be oriented so that their front door faces the Street. Other units should be oriented around a central courtyard, promenade, or community garden.
- b. **Street Setbacks & Landscaping.** All street side setback areas shall be landscaped and continually maintained, in compliance with Chapter [18.34](#) (Landscaping Standards).
- c. **Individual Unit “Lot Space” Size.** The individual “lot space” for each unit within the Tiny Home Community shall include adequate space for the unit, internal setbacks, open space, and accessory storage as follows:
 - I. **Unit.** Between 150 and 400 SF of dedicated space depending on the size of the Tiny Home unit.
 - II. **Dedicated Open Space.** Each Tiny Home shall have at least 100 SF of dedicated open space in the form of a patio, lawn or landscaped area.
 - III. **Required Accessory Structures.** Each Tiny Home will be provided with 100 SF of storage space, which may be consolidated into one or more central storage buildings or located at individual tiny home sites.
 - IV. **Internal Setbacks.** Each Tiny Home shall maintain a minimum setback of 10 feet from other units.
- d. **Recommended Community Facilities.** Tiny Home Communities that include one or more of the following: shared open space, a community center, laundry facility, or a shared community garden are preferred.
- e. **Landscaping and Paths.** Each Tiny Homes Community shall include a network of landscaped walking paths that connect units to each other and to parking areas and sidewalks; and landscaping shall be provided in compliance with Chapter 18.34 (Landscaping Standards).
- f. **Parking.** Parking shall be provided at the rate of one parking space for each Tiny Home or Park Model RV. Parking should be consolidated in parking lots at the rear or side of the property, where feasible. Additionally, street parking may be utilized to meet up to 25% of the parking requirement through Minor Use Permit approval.
- g. **Internal Streets.** Internal streets are discouraged but shall comply with City street standards where provided, except where superseded by a standard required by state law.
- h. **Solid Waste.** Adequate solid waste and recyclable materials storage enclosures shall be provided in compliance with § 18.30.110.
- i. **Utilities.** All utility distribution facilities (including cable television, communication and electric lines and boxes) within a Tiny Home Community shall be placed underground. The developer is responsible for complying with the requirements of this Subsection and shall make the necessary arrangements with the utility companies for the installation of the required facilities. Each Tiny Home shall have a separate water meter.
- j. **Fencing.** A fence, solid masonry wall, or other decorative landscape screening is required to hide utilities (propane tanks, trash enclosures, etc.) from public view from a public right of way. Other fencing may be required by the review authority as part of the Design Review and Use Permit approval for the facility.
- k. **Signs.** A Tiny Home Community may have up to two externally illuminated identification signs not exceeding 6 feet in height or 24 square feet in area. The signs shall be integrated into the Tiny Home Community landscaping, at a location specified in the Use Permit approval.

B. Standards for Individual Units.

1. **Tiny Home Standards.** Individual Tiny Homes located within a Tiny Home Community shall comply with the standards for Tiny Homes enumerated in 18.42.175 of this development code.

2. **Park Model RV Standards.** Park Model RVs shall comply with the individual standards enumerated in 18.42.175 of this development code.
3. **Travel Trailers.** A self-propelled travel trailer, camper, motor coach, motor home, trailer coach, or any similar vehicle not certified under the National Mobile Home Construction Safety Standards Act of 1974 ([42](#) USC Section [4401](#) et seq.) shall not be allowed within a mobile home park.

III. Planned Development Permit Amendment

The proposed amendment to the Planned Development regulations includes revising the minimum project size from 5 acres to 1 acre as illustrated below.

18.71.090 - Planned Development Permit

A. Purpose. The Planned Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each planned development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. Applicability. A Planned Development Permit application may be filed and processed only under the following circumstances:

1. **Minimum Site Area.** A Planned Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site larger than ~~5~~ **1** acres.
2. **Timing of Permit.** No Building or Grading Permit shall be issued on a site for which a Planned Development Permit is proposed until the Planned Development Permit has been approved in compliance with this Section.
3. **Scope of Approval.**
 - a. Planned Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.); provided, that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article [2](#).
 - b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter [18.31](#) (Density Bonuses and Affordable Housing Incentives).

IV. Outdoor Dining Ordinance Amendment

Amend 18.36.040 - Number of Parking Spaces Required, Table 3-7 as follows (amendment shown in red text):

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Retail Trade	Vehicle Spaces Required	
	Minimum	Maximum
All "Retail Trade" and general retail uses listed in § 18.22.030, Table 2-6, except for the following:	1 space for each 400 sf of floor area, plus 1 space for each 600 sf of outdoor sales area.	1 space for each 200 sf of floor area, plus 1 space for each 400 sf of outdoor sales area.
Restaurant, cafe, coffee shop	1 space for each 100 sf of dining area.	1 space for each 40 sf of dining area.
Outdoor Dining	No parking required	No parking required

Amend 18.42.165 as follows:

18.42.165 – Restaurants & Outdoor Dining

A. Grease and Oils. The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment:

1. **Operating Standards.** Restaurants shall comply with the following operating standards:
 - a. Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City’s Food Service Establishment Wastewater Discharge Permit and the City’s Municipal Code section regarding fats, oil and grease control.
 - b. Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer.

B. Outdoor Dining. The following standards are for outdoor dining facilities and are intended to regulate for the safe and compatible operation of outdoor dining facilities. Outdoor Dining Facility may consist of tables and chairs for dining with or without a pavilion, tents and/or umbrellas.

1. **Allowed as part of Indoor Dining.** These regulations apply only to restaurants that have an indoor dining component. Entirely outdoor restaurants are not permitted.
2. **Location, Setbacks & Height Limits.**
 - a. Outdoor dining pavilions and tents shall comply with all relevant setback and height limits of the zoning district in which they are located.
 - b. Pavilions and tents may be located behind or to the side of the associated restaurant. Outdoor dining that is not in a pavilion or tent may be in front of the associated restaurant. Where the front of the building is the facade facing the primary street.
 - c. Outdoor dining facilities shall be located on previously developed areas such as a parking lot, sidewalk, or hardscape area. Outdoor dining may not result in a net loss of parking spaces unless otherwise allowed by this development code.
 - d. Outdoor dining must be located a minimum of 50 feet from any environmentally sensitive area, wetland or rare plant community.
 - e. Outdoor dining pavilions and tents shall be sited so that they do not add to stormwater runoff volume or peak runoff rates.
 - f. Outdoor dining pavilions and tents shall not be located in an area that would

- g. Outdoor dining is permissible on the City's sidewalks with Encroachment Permit approval.
- 3. **Size Limits.** Outdoor dining facilities shall be limited to 1,300 SF. A larger size may be approved with a Minor Use Permit.
- 4. **Objective Design & Safety Criteria.** Outdoor dining pavilions and tents are subject to (or exempt from) administrative design review and shall comply with the following additional criteria:
 - a. Outdoor dining facilities shall be confined to the area shown on the approved site plan.
 - b. Where umbrellas, tents or pavilions are proposed, a vertical clearance of at least 7' must be maintained.
 - c. Utilities, Heating & Lighting
 - I. The use of heating devices and electrical extension cords and lighting are subject to review and approval by the Chief Building Official and the Fire Marshal.
 - II. Portable Heaters/Space Heaters are permitted if approved for outdoor use, located in accordance with the manufacturer's recommendations, and located at least two feet from the edge or roof of any umbrella canvas, tent, pavilion, foliage, or any other flammable object or material.
 - III. All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.
 - d. Outdoor Dining shall not interfere with building ingress/egress.
 - 1. ADA Accessibility. The outdoor dining area shall be designed, constructed and/or conform to the applicable provisions, rules, regulations and guidelines of the California Building Code and Americans with Disabilities Act.
 - 2. Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.
 - e. Moveable barriers shall be of solid, durable materials. Preferred barriers include removable fences, freestanding fences, hedges, planters, trees, removable columns, and pavilion or tent structures. Fabric inserts, chain link fencing, plastic, vinyl, chicken wire and cyclone fencing are not permitted.
 - f. Pavilion and tent colors should either be white or a color which is compatible with the colors of the restaurant building.
- 5. **Operating Standards.** Outdoor dining shall comply with the following operating standards:
 - B. No amplified music after 9:00pm
 - C. No new service after 9:00pm
 - D. Hours of operation shall not begin prior to 7:00AM or extend later than 10:00PM.
 - E. Smoking is prohibited in outdoor dining areas.
 - F. Outdoor food preparation and cooking are not permitted.
 - G. Establishments that serve alcoholic beverages in the outdoor dining area shall be required to meet all requirements of the Alcoholic Beverage Control Board and any other federal, state, or local laws and regulations governing the sale and consumption of alcoholic beverages.

V. 18.100 Definitions Amendment

In order to support the required code updates, the following addition to the definitions in ILUDC Section 18.100.020 would be added:

Outdoor Dining Facility. Outdoor dining may consist of tables and chairs for dining with or without a pavilion, tents and/or umbrellas adjacent to and on the same parcel as a restaurant located within a building.

Tiny Home Lot Space. The space dedicated to each individual tiny home unit and its associated storage space, open space and internal setbacks. This area is rented to a Tiny Home tenant; it is not a separate legal space under the subdivision map act.

Park Model RV. Must comply with the ANSI Standard 119.5 and all of the following requirements, as defined in Health and Safety Code Section 18009.3:

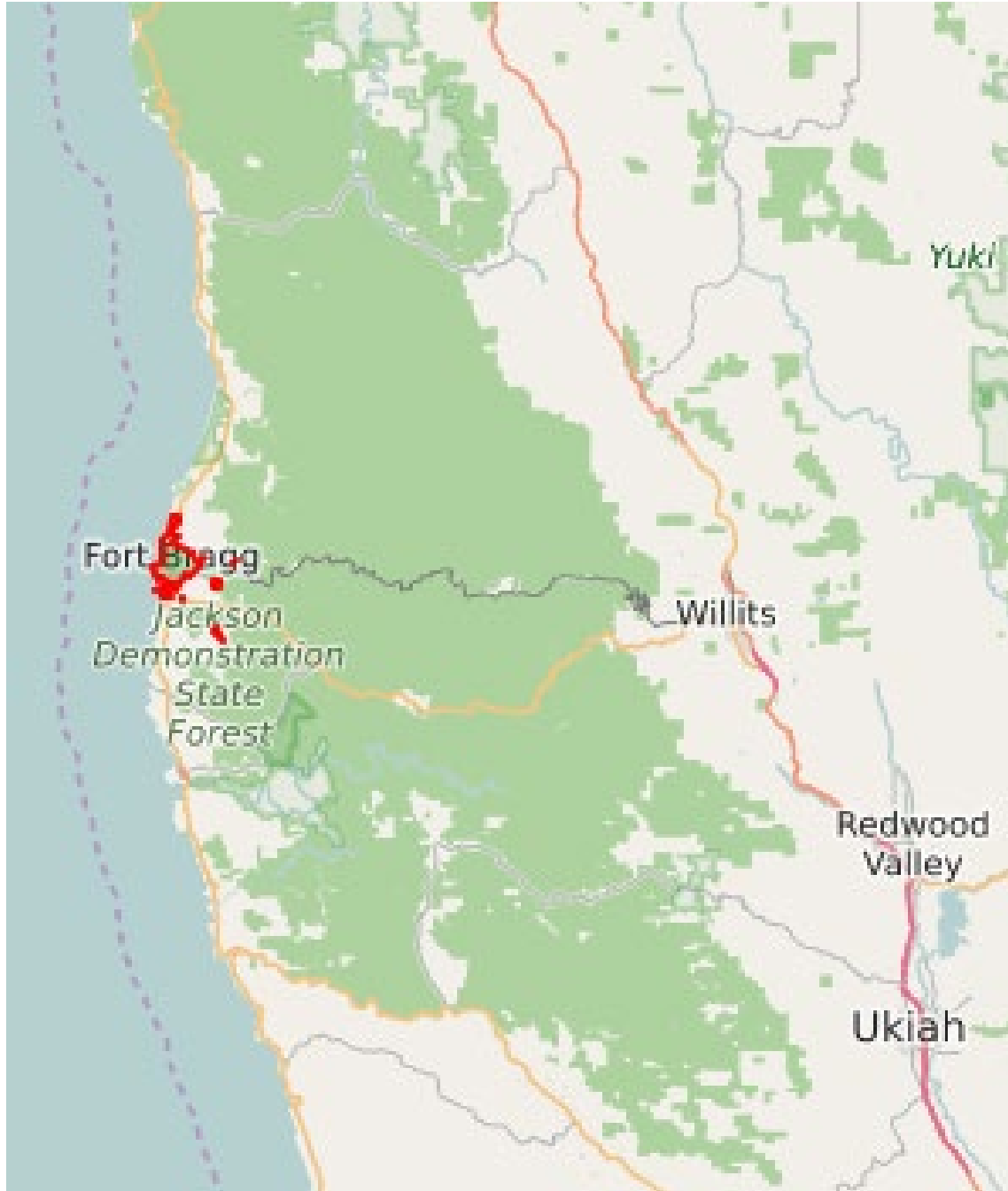
- i. Contain 400 SF or less of gross floor area, excluding loft area space if that loft area space meets the requirements of subdivision (b) and Section 18033.
- ii. May not exceed 14 feet in width at the maximum horizontal projection.
- iii. Built upon a single chassis.
- iv. May only be transported upon public highways with a permit issued pursuant to Section 35780 of the Vehicle Code. Park Model RVs shall be licensed and registered with the California Department of Motor Vehicles.
- v. Is not a self-propelled recreational vehicle.

Tiny Home. A tiny home is a small towable residential unit that meets the design and construction criteria listed in 18.42.175. Tiny homes shall meet the provisions of ANSI 119.5 or Appendix Q of the UBC (or a comparable updated standard). It shall be the burden of the applicant to show compliance with one of these standards. Tiny homes shall be licensed and registered with the California Department of Motor Vehicles.

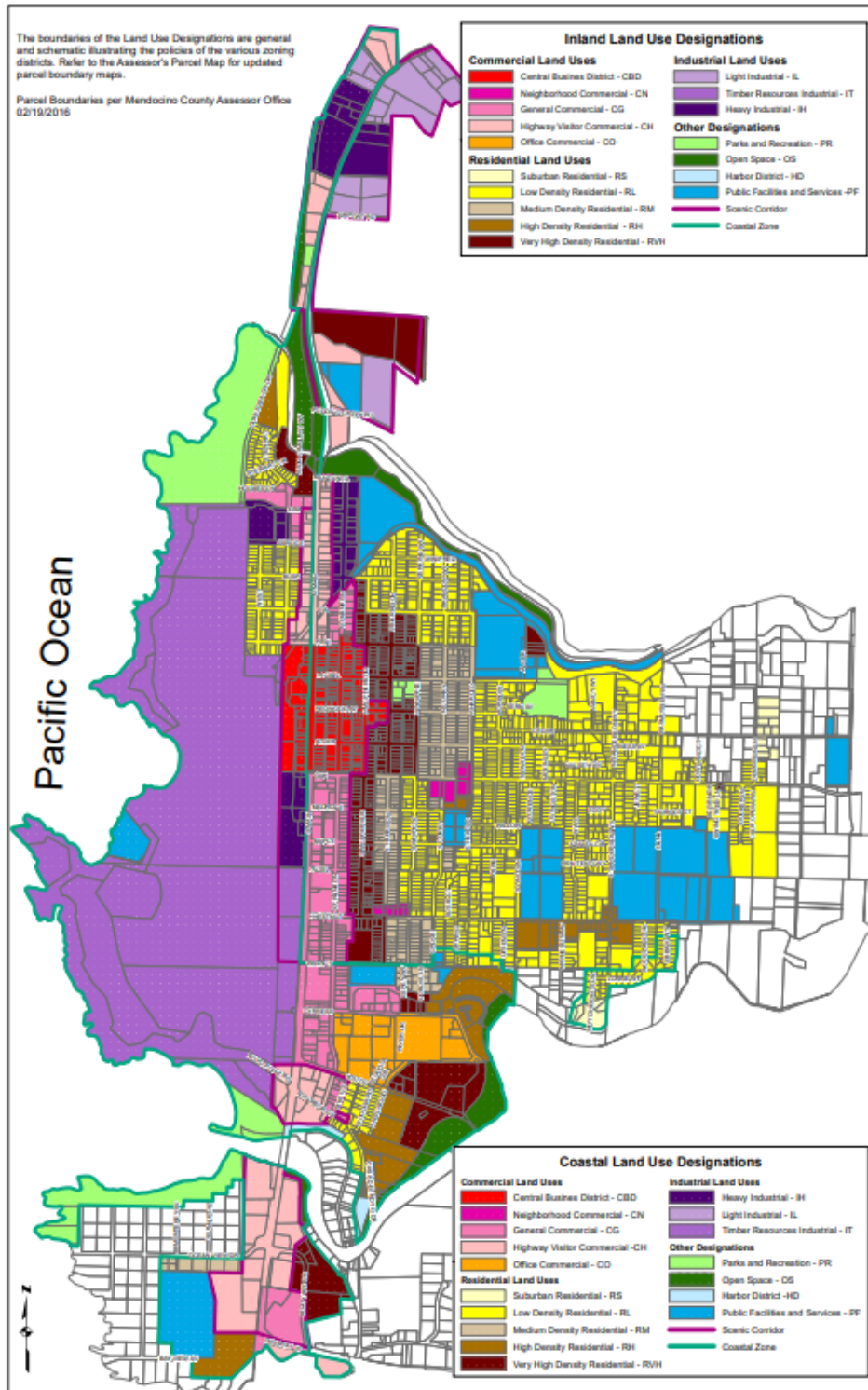
Tiny Home Community. Is any area or tract of land where two or more lots are rented or leased or held out for rent or lease to accommodate Tiny Homes, Park Model RVs and up to 25% of units as Small Manufactured Homes.

Small Manufactured Home. A small, manufactured home that complies with Title 24, Code of Federal Regulations, Chapter XX, Part 3280 that is between 350 and 600 SF and is a self-contained residential living unit, built off-site and placed on a permanent foundation.

VI. Vicinity Map- City of Fort Bragg, CA



VII. City of Fort Bragg Zoning Map



1.7. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” or “Less than Significant with Mitigation Incorporated” as indicated by the checklist on the following pages.

<input checked="" type="checkbox"/> Aesthetics	<input type="checkbox"/> Agriculture and Forestry Resources	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Cultural Resources	<input checked="" type="checkbox"/> Energy
<input type="checkbox"/> Geology and Soils	<input type="checkbox"/> Greenhouse Gas Emissions	<input type="checkbox"/> Hazards and Hazardous Materials
<input checked="" type="checkbox"/> Hydrology and Water Quality	<input checked="" type="checkbox"/> Land Use and Planning	<input type="checkbox"/> Mineral Resources
<input type="checkbox"/> Noise	<input type="checkbox"/> Population and Housing	<input checked="" type="checkbox"/> Public Services
<input type="checkbox"/> Recreation	<input type="checkbox"/> Transportation	<input type="checkbox"/> Tribal Cultural Resources
<input checked="" type="checkbox"/> Utilities and Service Systems	<input type="checkbox"/> Wildfire	<input type="checkbox"/> Mandatory Findings of Significance

1.8. DETERMINATION

On the basis of this initial evaluation:

<input type="checkbox"/>	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
<input checked="" type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
<input type="checkbox"/>	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
<input type="checkbox"/>	I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
<input type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



JULIANA VON HACHT CHERRY

November 30, 2023

Date

2.0 ENVIRONMENTAL INITIAL STUDY CHECKLIST

The lead agency has defined the column headings in the environmental checklist as follows:

- A. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- B. “Less Than Significant with Mitigation Incorporated” applies where the inclusion of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” All mitigation measures are described, including a brief explanation of how the measures reduce the effect to a less than significant level. Mitigation measures from earlier analyses may be cross-referenced.
- C. “Less Than Significant Impact” applies where the project does not create an impact that exceeds a stated significance threshold.
- D. “No Impact” applies where a project does not create an impact in that category. “No Impact” answers do not require an explanation if they are adequately supported by the information sources cited by the lead agency which show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project would not expose sensitive receptors to pollutants, based on a project specific screening analysis).

The explanation of each issue identifies the significance criteria or threshold used to evaluate each question; and the mitigation measure identified, if any, to reduce the impact to less than significance. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration [CEQA Guidelines Section 15063(c)(3)(D)]. Where appropriate, the discussion identifies the following:

- a) Earlier Analyses Used. Identifies where earlier analyses are available for review.
- b) Impacts Adequately Addressed. Identifies which effects from the checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and states whether such effects were addressed by mitigation measures based on the earlier analysis.
- c) Mitigation Measures. For effects that are “Less Than Significant with Mitigation Incorporated,” describes the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

VIII. AESTHETICS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting

The project site includes the Inland Area of the City of Fort Bragg (City), in western Mendocino County, California. The City of Fort Bragg is largely developed with the inland portion of the City lying east of Highway 1 and north of Chestnut Street. As such the project site does not block views to the Ocean from Highway 1.

Discussion

a) Have a substantial adverse effect on a scenic vista?

No Impact. The proposed zoning amendments would affect only development patterns east of Highway 1 and north of Chestnut Street. The project would not therefore obstruct a view of the Pacific Ocean. Proposed development approved as a consequence of the ILUDC amendments would be surrounded by similar development and would be consistent with the existing development patterns in the vicinity. As development approved as a consequence of the proposed amendment would not obstruct views of the Pacific Ocean and would be consistent with the existing surrounding uses, impacts relating to scenic vistas would be less than significant and no mitigation would be required.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No Impact. The project is regulated by the City’s Inland General Plan and ILUDC. The City’s Inland General Plan includes the following Policy:

Policy CD-1.3: Scenic Views and Resource Areas: Ensure that development does not adversely impact scenic views and resources as seen from public rights-of-way.

The proposed amendment would comply with this policy. Per Caltrans Scenic Highway System Lists, State Highway 1 is an eligible state scenic highway, although it has not been designated as scenic (Caltrans 2019). As the project is not located within a state scenic highway, it would have no impact on scenic resources and no mitigation is required.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

- **Tiny Homes. Less than Significant Impact.** Tiny homes would be located behind the primary structure and limited to 16 feet in height, therefore the impact to visual resources would be less than significant.
- **Tiny Home Communities and Planned Development. Less than Significant Impact.** Tiny Home Communities and Planned Development projects would be required to comply with Design Review and a Use Permit, which require finding that a proposed project is compatible with the visual character and the City's design guidelines.
- **Outdoor Dining. Less than Significant Impact with Mitigation.** As proposed the Outdoor Dining ordinance could have a significant impact on the quality of public views of a site and/or its surroundings. The ordinance as proposed does not require design review of outdoor dining pavilions even though Design Review is required for other commercial structures in Fort Bragg. Additionally, the City has not established standards for the review of pavilions which might go through a design review process if such a review was required. Therefore, Mitigation Measure Aesthetics-1 is recommended to address this issue.

Mitigation Measure Aesthetics-1. The following additional requirements shall be added to the regulations for outdoor dining to reduce the potential impact on aesthetics to less than significant.

B. Setbacks & Height Limits. Outdoor dining pavilions and tents shall comply with all relevant setbacks and height limits of the zoning district in which they are located.

Pavilions can be located ~~in front of,~~ behind or to the side of the associated restaurant.

Outdoor dining that is not located within a pavilion may be in front of the building. Where the front of the building is the facade facing the primary street.

d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

- **Tiny Homes. Less than Significant Impact.** Tiny homes would be located behind the primary structure and limited to 16 feet in height, they would not result in substantial light, glare or affect day or nighttime views.
- **Tiny Home Communities and Planned Development. Less than Significant Impact.** Both Tiny Home Communities and Planned Development projects are required to comply with Design Review which includes potential impacts of light, glare and views. Additionally, any exterior lighting is required to be downcast, and shielded in compliance with regulations set by the International Dark-Sky Association and the performance standards of ILUDC

18.30.070 Outdoor Lighting. As a result, the potential for new sources of significant light or glare within a Tiny Home Community, which would adversely affect day or nighttime views in the area, would be less than significant.

- **Outdoor Dining. Less than Significant Impact with Mitigation.** As proposed the Outdoor Dining ordinance could have a significant impact on nighttime glare as canvas tents which are illuminated from the interior do emit a significant amount of light into the dark sky. Therefore, Mitigation Measure Aesthetics-2 is recommended to address this issue.

Mitigation Measure Aesthetics-2. The following additional requirements shall be added to the regulations for outdoor dining to reduce the potential impact on aesthetics to less than significant.

D. Objective Design & Safety Criteria.

8. All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.

IX. AGRICULTURE AND FORESTRY RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg does not contain any forest lands or timberland production zones. While agriculture is allowed in all zoned areas of the City of Fort Bragg, no lands are designated as “Prime

Farmland”, and none are currently under agricultural uses. There are no sites in the City of Fort Bragg that are covered under the Williamson Act.

The California Important Farmlands Map prepared for Mendocino County by the California Department of Conservation classifies the project site as Grazing Land and Urban/Built-Up Land (California Department of Conservation [CDC] 2022a).

Discussion

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No impact. The proposed zoning amendments would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use, conflict with existing zoning for agricultural use, or a Williamson Act contract. As noted above, the City is designated as “Urban and Built-Up Land” under the FMMP of the CDC (CDC 2022a). No impact would occur.

- c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?
- d) Result in the loss of forest land or conversion of forest land to non-forest use?

No impact. The City of Fort Bragg is neither designated nor zoned as forest land or timberland and there is no forest land located within City limits. No impact would occur.

- e) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

No impact. The proposed zoning code amendment would not conflict with existing zoning, nor does it include rezoning. Additionally, there is no timberlands, forest land or timber zoned timberland Production located within the inland portion of the City of Fort Bragg, where the proposed regulations would be applied.

X. AIR QUALITY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) Conflict with or obstruct implementation of the applicable air quality plan?

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard?

a) and b) No Impact. The proposed project would have no impact on the implementation of the Mendocino County air quality requirements which are focused on PM-2.5 and PM-10. The addition of Tiny Homes, Tiny Home Communities and Planned Development of 1 acre or less will likely result in lower levels of PM-2.5 and PM-10, as any new development approved through these regulations would result in increased densities within Fort Bragg which would reduce commuting and thereby improve air quality. The proposed amendment to allow outdoor dining prohibits outdoor cooking, the only likely source of additional PM 2.5 and PM 10 pollution, and therefore this project will not conflict with air quality goals for Mendocino County.

c) Expose sensitive receptors to substantial pollutant concentrations?

No Impact. As noted above the proposed project would not result in substantial pollution, and there would be no impact on sensitive receptors.

d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

No Impact. The proposed project would result in additional residential development and outdoor dining. Neither of these activities will result in emissions and odors that would adversely affect a substantial number of people.

XI. BIOLOGICAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

Biological resources are protected through the City’s General Plan Conservation, Open Space, and Parks Element includes the following relevant policies:

Goal OS-1 Preserve areas with important biotic resources.

Policy OS-1.1 Special Review Areas: Areas in the City containing watercourses, wetlands, sensitive plant and wildlife habitat, and forested land shall be designated as Special Review Areas.

Sensitive plant and wildlife habitat include: all species that appear on Federal lists of endangered, threatened, rare, and candidate species and plant and animal species

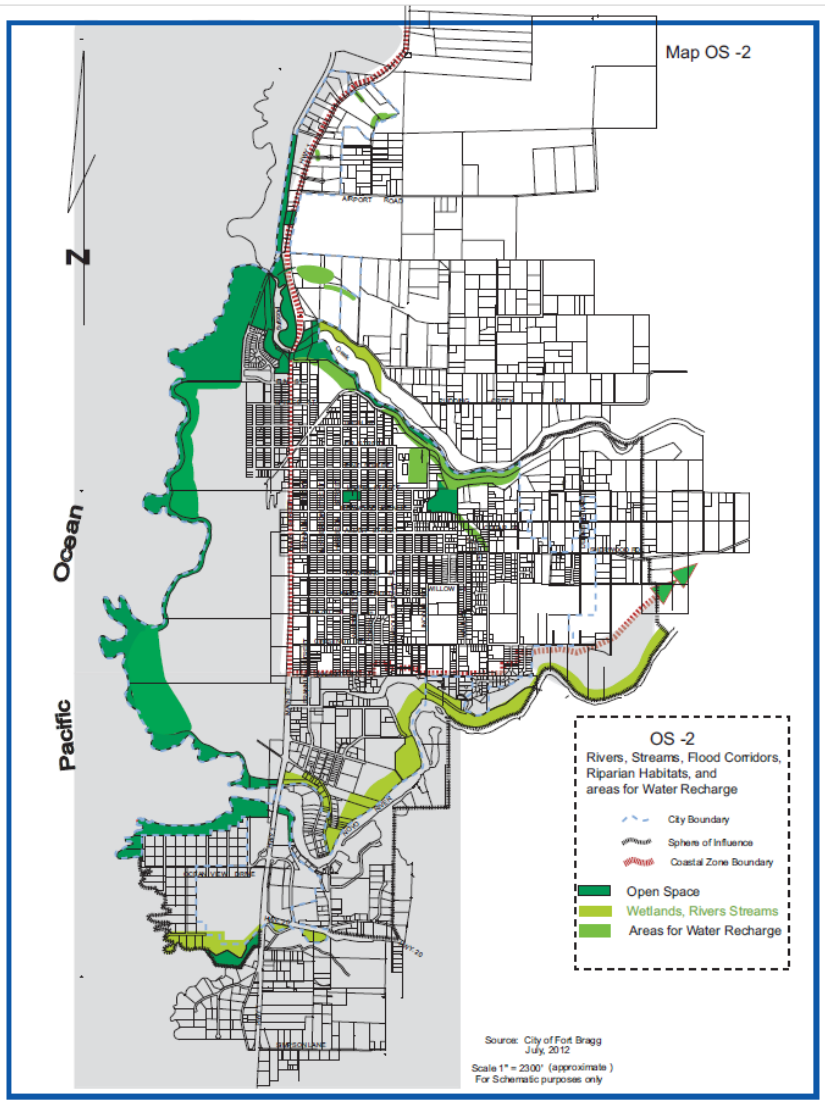
designated by the California Department of Fish and Wildlife as species of special concern or their current equivalent (G1, G2, S1 and S2 listed plants).

Policy OS-1.2 Preserve Natural Resources: Require that sensitive natural resources in Special Review Areas be preserved and protected to the maximum degree feasible.

Program OS-1.2.1: Review projects requesting discretionary approvals to determine whether the project is located in an area with potentially sensitive natural resources.

Policy OS-1.3 Biological Report Required for Special Review Areas: Permit applications for development within or adjacent to Special Review Areas which have the possibility of containing sensitive habitat shall include a biological report prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of CEQA, the Department of Fish and Wildlife, and the City of Fort Bragg's *Inland General Plan* are fully met. The required content of the biological report is specified in the *Inland Land Use and Development Code*.

The map below illustrates locations with the City of Fort Bragg for which a biological analysis is required.



Discussion

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

- **Tiny Homes. Less than Significant Impact.** A Tiny home would be permissible only as an accessory use to an already built Primary Residential Unit. Development of accessory residential uses are exempt from CEQA review in recognition that the impacts are less than significant.
- **Tiny Home Communities and Planned Development. Less than Significant Impact.** As both Tiny Home Communities and Planned Development projects must obtain a Use Permit per the proposed zoning amendment, any potential impacts to special status

species would be analyzed at the time of application through the required CEQA review and would be mitigated to a less than significant impact.

- **Outdoor Dining. Less than Significant with Mitigation.** The proposed outdoor dining regulations could potentially impact special status species, because the regulation does not require a use permit and thus are permitted by right. Consequently, potential impacts should be mitigated in the regulations themselves. Mitigation Measure Bio-1 would reduce potential impacts to less than significant.

Mitigation Measure Bio-1. The following requirements shall be added to the regulations for outdoor dining to reduce the potential impact on biological resources to less than significant.

B. Location, Setbacks and height limits

Outdoor dining pavilions and tents shall comply with all relevant setbacks and height limits of the zoning district in which they are located. **Outdoor Dining Facilities shall be located on previously developed areas (such as a parking lot, sidewalk or landscaped area) or located a minimum of 50 feet from any Environmentally Sensitive area, wetland or rare plant community.**

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

- **Tiny Homes. Less than significant impact.** A Tiny Home would be permissible only as an accessory use to an already built Primary Residential Unit. Development of accessory residential uses are exempt from CEQA review in recognition that the impacts are less than significant.
- **Tiny Home Communities and Planned Development. Less than Significant Impact.** As both Tiny Home Communities and Planned Development projects must obtain a Use Permit, any potential impacts to special status species would be analyzed at the time of application through the required CEQA review and would be mitigated to a less than significant impact.
- **Outdoor Dining. Less than Significant with Mitigation.** The proposed outdoor dining regulations could potentially impact riparian habitat or sensitive natural communities, because they are permitted by right. Consequently, potential impacts should be mitigated in the regulations themselves. Mitigation Measure Bio-1 would reduce potential impacts to less than significant.

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. See a and b above.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No Impact. See a and b above.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

No Impact. See a and b above.

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No Impact. No Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan is applicable to the inland area of the City of Fort Bragg. Therefore, no impacts to an existing adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan would occur.

XII. CULTURAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Setting & Background

Prehistory

Over half a century of archaeological investigations in the North Coast Ranges has revealed a record of hunter-gatherer occupation spanning over 10,000 years. The cultural chronology of the project site is best described as part of the overall cultural chronology for the central North Coast Ranges. In his 1974 doctoral dissertation David A. Fredrickson proposed five chronological periods and related cultural patterns. The Paleo-Indian Period (10,000 to 6000 BC) is represented as a hunting adaptation characterized by large fluted projectile points. The Lower Archaic Period (6000 to 2000 BC) is distinguished by an emphasis on plant exploitation as evidenced by high frequencies of milling tools. The Middle Archaic (3000-1000 BC) is characterized by the introduction of mortar and pestle technology and the assumed exploitation of acorns. The Upper Archaic Period (1000 BC to AD 100) is represented growing social complexity marked by status differentiation, complex trade networks, and the development of “group oriented religious activities” (Fredrickson 1974:48). The Emergent Period (AD 500 to Historic times) is marked by the use/introduction of bow and arrow technology, expansion of exchange relations, and the establishment of clearly defined territorial systems.

A number of cultural chronologies have been developed for this region (cf. Basgall 1982; Fredrickson and White 1988; Hildebrandt and Hayes 1984; Jones and Hayes 1993; Layton 1990; Meighan 1955; White and King 1993; White et al. 2002). White et al. (2002) provides the most synthetic summary of relevant research themes and the current state of knowledge concerning prehistoric hunter-gatherer studies in the North Coast Ranges. Archaeologists and linguists believe that Yukian peoples were the original inhabitants of the Mendocino coast and were displaced by Pomo speakers. Yukian assemblages are affiliated with the Gunther Pattern of northwestern California and generally lack obsidian. When obsidian is present, it is most often derived from northeastern California sources such as the Medicine Lake Highlands and Grasshopper Flat. Pomoan assemblages are affiliated with the Augustine Pattern and show influences from Central California including strong access to obsidian from the Clear Lake basin. Layton's (1990) work at sites on Albion Head, Night Bird's retreat, and Three Chop village represent one of the most synthetic attempts devoted to detecting the expansion of Pomoan populations across the North Coast Ranges.

Significant archaeological research conducted within MacKerricher State Park during the late 1980s included excavation of 11 prehistoric Native American shell mound sites within the park, outlined a three-phase cultural chronology for the area, identified several research problems that form the basis of much subsequent work and was a major step toward understanding local archaeology on the Mendocino Coast (White 1989: Figure 1). Significant archaeological research was completed on the former GP mill Site in 2004, which identified significant archaeological sites and concluded that the Mill Site could qualify as a historic landmark.

Ethnography

The City of Fort Bragg is within the ancestral territory of the Coast Yuki (Barrett 1908, Kroeber 1925), though the land is near a territorial border between the Coast Yuki and the Northern Pomo to the south (White 1989:14). Stewart (1943) assigned this area as part of North Pomo territory extending north to the South Fork Ten Mile River. The Coast Yuki, who inhabited this region prior to European-American intrusion, are one of three linguistically related groups that spoke the Yuki language: Coast Yuki, Yuki and Huchnom. The Yuki language has been grouped with Wappo in the Yukian language family (Miller 1978:249). The following ethnographic summary is not intended as a thorough description of Coast Yuki culture, but instead is meant to provide a background to the present cultural resource investigation with specific references to the project area. In this section, the past tense is sometimes used when referring to native peoples, as this is an historical study. This convention is not intended to suggest that Yuki people only existed in the past. To the contrary, the Yuki people have a strong cultural and social identity today.

The Coast Yuki occupied a portion of what is now the northern Mendocino Coast, in the area from Cleone to north of Rockport, along the coast and for several miles inland (Barrett 1908:360). The Coast Yuki lived in small groups and moved seasonally, harvesting at beach camps during the summer, and moving inland for the winter (Miller 1978:254). Each Coast Yuki Group had a headman and controlled a strip of land from the coast inland to the eastern boundary of Coast Yuki territory. In spite of territorial divisions, many groups would come together to gather a particularly plentiful resource, such as mussels in Westport. The Coast Yuki primarily subsisted off of shellfish, seals, salmon, acorns and root plants. Some deer and elk were also consumed. Trade networks were maintained with the Cahto and Northern Pomo to obtain obsidian, tobacco, and clamshell disk beads, trading ocean products in return (Miller 1978:255).

History

Anglo Settlement and Native American Reservations

Permanent non-indigenous settlement along the Mendocino Coast did not take place until the mid-1840s. Problems quickly developed between settlers and local Native Americans involving a struggle over territory and competition over food between livestock and people. Campaigns of genocide led by local settlers decimated the population of Coast Yuki peoples, decreasing the population from 750 in 1850 to 50 in 1864 (Miller 1978:250). In 1855, two Indian reservations were established in Mendocino County for the purpose of “collecting, removing and subsisting” local tribes (Winn 1986).

The Mendocino Reservation was established on the coast near Fort Bragg, north of the mouth of the Noyo River. Indians were rounded up and brought to the reservation, where they were mandated to stay, inadequately rationed and often physically abused (Winn 1986:22-24). In 1857 Lt. Horatio Gibson established the military encampment of Fort Bragg to manage the Mendocino Reservation (Palmer 1880:423-428). By the summer 1857, the reservation included a population of 3,450 Indians from many different tribal groups, 350 acres of planted land, and 24 houses for Indians (Winn 1986:17). An additional 1,500 Indians were absent by permission subject to good behavior enforced by the U.S. Army military. Native Americans were rounded up, mandated to stay on the reservation, inadequately rationed, and physically abused (Winn 1986:22-24). Thomas J. Henley, Superintendent of Indian Affairs in California in the mid 1850’s, was accused of stealing reservation funds and fraud (Winn 1986:21-22). Henley was removed from office in June 1859, but never charged for his alleged crimes. The Mendocino Reservation was deemed a failure and closed in 1867 (Winn 1986). After the closing of the Mendocino Reservation in 1867, Coast Yuki people were moved to the Round Valley Reservation (Miller 1978:249). By 1970, it was believed that no speakers of the Coast Yuki language remained (Kroeber and Heizer 1970:3).

Discussion

- a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

- **Tiny Homes & Outside Dining. Less than Significant.** There is always the possibility that the erection of a pavilion and or the subsurface construction activities associated with the development of a concrete pad for a Tiny home, such as trenching and grading, could potentially damage or destroy previously undiscovered cultural resources. However, if cultural resources are discovered, the City’s permitting process includes a standard condition (see below) that defines the required practice to mitigate any such discovery to a less than significant impact.

Standard Condition 6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.

- **Tiny Home Communities and Planned Development. Less than Significant Impact.** As both Tiny Home communities and Planned Development projects must

obtain a Use Permit per the proposed zoning amendment, any potential impacts to cultural or historic resources would be analyzed at the time of application through the required CEQA review and would be mitigated to a less than significant impact.

- c) Disturb any human remains, including those interred outside of dedicated cemeteries?

Less than Significant. There is always the possibility that subsurface construction activities associated with the proposed project, such as trenching and grading, could potentially damage or destroy previously undiscovered human remains. However, if human remains are discovered, the City’s permitting process includes a standard condition that defines the required practice to mitigate any such discovery to a less than significant impact.

Standard Condition 6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.

XIII. ENERGY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

- **Tiny Homes, Tiny Home Communities & Planned Development. No Impact.** The proposed project would consist of zoning amendments to allow residential construction. All residential construction must comply with Title 24 which limits energy use to a less than significant level. Additionally increasing density in Fort Bragg would reduce the use of energy for transportation.
- **Outdoor Dining. Less than Significant Impact.** Proposed outdoor dining pavilions do not have to comply with Title 24, nevertheless they do use propane heaters to heat the outdoors. The use of outdoor propane heaters is not regulated from an energy

perspective. However, due to the small size of these facilities they will not have a significant impact on energy use.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

No Impact. The proposed project will not conflict with any local or state plan for renewable energy or energy efficiency.

XIV. GEOLOGY AND SOILS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg is located in the Coastal Range geomorphic province of California in an area of relatively steep and mountainous topography. The City itself is built on uplifted marine terrace deposits. There are no mines nor identified mineral resources within the City of Fort Bragg limits (CDC 2022d).

Regionally, the University of California Museum of Paleontology (UCMP) database lists 513 fossil localities within Mendocino County (UCMP 2020). Of the known fossil localities, 63 are from the Cretaceous period and 2 are from the Jurassic Period. A review of the Mendocino County fossil record indicates that 10 early Cretaceous fossils have been discovered within the County and no late Jurassic fossils have been discovered (UCMP 2020).

Seismically, the City is located between two major fault systems, the Mayacamas Fault is 20 miles east of the City and runs north-south roughly along Highway 101. The San Andreas Fault network runs approximately 5 miles offshore from the City. According to the Department of Conservation’s Earthquake Hazards Zone Application (CDC EQ Zapp), the City of Fort Bragg does not contain any Alquist Priolo fault traces or zones (CDC 2022b). The Department of Conservation’s “Earthquake Shaking Potential for California” shows the relative intensity of ground shaking anticipated from future earthquakes. The City of Fort Bragg is shown as moderate level of intensity for 1.0 second earthquake shaking (CDC 2022c).

The City also has some areas that have potential for landslides. There are areas along the Noyo River and Pudding Creek that may present a higher risk for landslides due to steep slopes.

At the local level, the Inland General Plan policies and programs also address geology and soils, as outlined in Table 1 below.

Table 1: Inland General Plan Policies and Programs- Geology and Soils

Safety Goal SF-1 Policy SF-1.1 Minimize Hazards: New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs
Program SF-1.1.1 Continue to comply with the provisions of the State Alquist-Priolo Act.
Program SF-1.1.2 Require professional inspection of foundations and excavations, earthwork, and other geotechnical aspects of site development during construction on those sites specified in soils, geologic, and geotechnical studies as being prone to moderate or high levels of seismic hazard.
Program SF-1.1.3 Monitor and review existing critical, high priority buildings to ensure structural compliance with seismic safety standards.
Program SF-1.1.7 Continue to comply with state law regarding reinforcement of unreinforced masonry structures.

<p>Policy SF-1.2 Geotechnical Report Required: Applications for development located in or near an area subject to geologic hazards, including but not limited to areas of geologic hazard shown on Map SF-1, shall be required to submit a geologic/soils/geotechnical study that identifies all potential geologic hazards affecting the proposed project site, all necessary mitigation measures, and demonstrates that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such study shall be conducted by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE). Refer to Map SF-1: Geologic Hazards. Refer to the General Plan Glossary for definitions of these terms.</p>
<p>Policy SF-1.4 Identify Potential Hazards: Identify potential hazards relating to geologic and soils conditions during review of development applications.</p>
<p>Policy SF-1.4 Program SF-1.4.1 Evaluate slopes over 15 percent, unstable land, and areas susceptible to liquefaction, settlement, and/or soil expansion for safety hazards prior to issuance of any discretionary approvals and require appropriate measures to reduce any identified hazards.</p>
<p>Program SF-1.4.2 Require that development in areas with identified slope stability constraints as shown on Map SF-1 or other areas where City staff determines there is potential slope stability issues be supervised and certified by a geologist, geotechnical engineer, or engineering geologist.</p>
<p>Program SF-1.4.3 Require repair, stabilization, or avoidance of active or potentially active landslides, areas of soil creep, or areas with possible debris flow as a condition of project approval.</p>

The ILUDC Chapter 18.62 provides standards for grading, erosion, and sediment control. A proposed project that creates ground disturbance would have to be in compliance with any applicable section of this chapter including §18.62.030 Erosion and Sediment Control, §18.62.070 Revegetation and Slope Surface Stabilization, §18.62.090 Setbacks for Cut and Fill Slopes, and any other section that regulates erosion.

Discussion

- a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
 - i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?

Less than Significant Impact. According to the CDC Earthquake Hazards Zone Application (EQ Zapp) Map, there are no known active faults crossing the City of Fort Bragg. Therefore, ground rupture is unlikely, and impacts would be less than significant.

- ii. Strong seismic ground shaking?

Less than significant impact. The City of Fort Bragg is in a seismically active region where large earthquakes may be expected to occur during the economic lifespan (50 years) of structures due to the seismic activity of the northern section of the San Andreas fault. The nearest potentially

active fault is the north coast section of the San Andreas fault zone, which is located approximately 7 miles west of the project site in the Pacific Ocean. The next nearest fault is the Mayacamas Fault Zone, located approximately 22 miles east of the Site.

However, any proposed projects that would result from the zoning amendment would be constructed in accordance with standards imposed by the City of Fort Bragg through the ILUDC Chapter 18.62, standards for grading, erosion, and sediment control, and in compliance with the 2023 California Building Code (CBC). Potential impacts would be reduced to levels considered acceptable in the City of Fort Bragg. As a result, the proposed amendments would not expose people or structures to substantial adverse effects of seismic events. This would have a less than significant impact and no mitigation would be required.

- i. Seismic-related ground failure, including liquefaction?
- ii. Landslides?

Less than Significant Impact. The City of Fort Bragg is a relatively flat with elevations ranging from 0 feet to 200+ feet. Additionally, the City is not located within an Earthquake Fault Zone, as mentioned in i.), and is not located within a liquefaction zone (CDC 2022b). As previously noted, the City can require soil studies and mitigation as necessary for Tiny Homes, Tiny Home Communities and Planned Development projects through the Use Permit and building permit process. Outdoor dining pavilions are not required to be constructed to UBC standards however they must comply with ANSI ES1.19-2020 which include safety standards for special event structures such as pavilion tents.

- b) Result in substantial soil erosion or the loss of topsoil?
- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Less than Significant Impact. The 2019 CBC and the City’s standards for grading, erosion, and sediment control (ILUDC Chapter 18.62), contain requirements to minimize or avoid potential effects from erosion hazards. As a condition of approval, prior to the issuance of a grading or building permit, the City would require any applicant to prepare a detailed grading plan and an erosion control plan by a qualified and licensed engineer if necessary. The soils report would identify soil hazards, including potential impacts from erosion. The City would be required to review and approve the erosion control plan based on the California Department of Conservation’s “Erosion and Control Handbook.” The erosion control plan would identify protective measures to be implemented during excavation, temporary stockpiling, disposal, and revegetation activities. Implementation of BMPs, as well as compliance with the City’s regulations and the California Building Code requirements, would reduce potential impacts related to soil erosion to less than significant and no mitigation would be required for Tiny Homes, Tiny Home Communities, Outdoor Dining Facilities and Planning Development Projects.

- d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Less than Significant Impact. Expansive soils tend to undergo volume changes (shrink or swell) with changes in moisture content. They generally consist of cohesive fine-grained clay soils and represent a significant structural hazard to structures founded on them. Where necessary the City’s ILUDC includes requirements for soil analysis and mitigation as needed. Additionally, all proposed projects would be designed to meet seismic safety requirements specified in the California Building Code, including standards to minimize impacts from expansive soils. Therefore, impacts related to the potential hazards of construction on expansive soils would be less than significant, and no mitigation would be required.

- e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No Impact. Septic tanks are not permitted within the City of Fort Bragg, all projects approved under the zoning amendment would have to connect to the Municipal Sewer System.

- f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

No Impact. No previous surveys conducted within City Limits have identified a site as sensitive for paleontological resources or other geologically sensitive resources.

XV. GREENHOUSE GAS EMISSIONS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?

No impact. The proposed project would reduce the amount of greenhouse gases released into the atmosphere by reducing vehicle miles traveled, through the development of housing within an urbanized area.

- b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

No impact. The City of Fort Bragg Climate Action Plan was not formally adopted by the City Council, therefore the project will not conflict with a plan for the purpose of reducing GHG emissions.

XVI. HAZARDS AND HAZARDOUS MATERIALS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

At the local level, the following policies and programs from the Inland General Plan address hazards and hazardous waste:

Table 2: Inland General Plan Policies and Programs- Hazards and Hazardous Waste

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1 Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-7 Policy SF-7.1 Protection from Hazardous Waste and Materials: Provide measures to protect the public health from the hazards associated with the transportation, storage, and disposal of hazardous wastes (TSD Facilities).
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.1 Continue to ensure that use, transportation, and disposal of hazardous materials are in accordance with the local, state, and federal safety standards.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.2 Continue to support and participate in Mendocino County's Hazardous Materials Business Plan which requires all businesses using hazardous materials to list the types, quantities, and locations of hazardous materials with the County's Department of Environmental Health.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.3 Require, as a condition of City approvals of non-residential projects, that the Fire Protection Authority be notified of all hazardous substances that are transported, stored, treated, or could be released accidentally into the environment.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.4 Require that applications for discretionary development projects that will generate hazardous waste or utilize hazardous materials include detailed information on hazardous waste reduction, recycling, transportation, and storage, and prepare a plan for emergency response to a release or threatened release of a hazardous material.

Discussion

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less than Significant Impact. The proposed zoning amendment is to allow new residential development and outdoor dining facilities. During construction, some common hazardous materials such as gasoline, diesel fuel, hydraulic fluids, oils, lubricants, and cleaning solvents would be anticipated to be utilized. However, the types and amounts of hazardous materials that might be used during construction do not pose a significant risk to the public and/or environment.

- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less than Significant Impact. See discussion for a) above.

- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Less than Significant Impact. See discussion for a) above.

- d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Less than Significant Impact. Residential development that might occur as a consequence of the adoption of the zoning amendment would take place on area with residential zoning within the City of Fort Bragg, and these areas have generally not been the location for hazardous materials uses. Likewise outdoor dining facilities would be located on parcels with existing restaurants and so would not result in new exposure to hazardous materials.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

No Impact. The north portion of the City of Fort Bragg is located approximately 2 miles south of the private Fort Bragg Airport. However, this facility does not have an airport land use plan.

- f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Less than Significant Impact. Within the City of Fort Bragg, the generally recognized “safe elevation level” with regard to tsunami events is approximately 60 feet above mean sea level. All areas of the City of Fort Bragg located within the Inland zoning area are located at or above 60 feet of sea level. Therefore, impact or inundation from a tsunami event has a relatively low risk. The City’s Tsunami Contingency Plan provides guidelines to alert and evacuate the public from tsunami risk areas within the City.

- g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

Less than Significant Impact. The City of Fort Bragg Fire Department provides fire protection services and is located at 141 North Main Street. The City is considered an urbanized area and is not subject to regulations regarding wildland fires.

XVII. HYDROLOGY AND WATER QUALITY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i. Result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off- site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional resources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg is located in California’s north coast region, within Mendocino County, California. The City of Fort Bragg lies within the Coastal Franciscan Ecological Subsection of California (Miles and Goudey, 1997). This subsection is a steep, mountainous area of the northern California Coast Ranges, near the coast, south from Humboldt Bay to the Russian River. There is substantial oceanic influence on climate, including summer fog. The subsection is particularly mountainous, with rounded ridges, steep and moderately steep sides, and narrow canyons. The mean annual precipitation in this subsection is about 43 inches, with mostly rain at lower elevations. Runoff is rapid and many of the smaller streams are dry by the end of summer. Natural lakes are absent from the Coastal Franciscan Ecological Subsection (Miles and Goudey, 1997).

The National Pollutant Discharge Elimination System (NPDES) permit program of the U.S. Environmental Protection Agency (EPA) addresses water pollution by regulating point sources that discharge pollutants to waters of the United States. Created in 1972 by the Clean Water Act, the NPDES permit program grants authority to state governments to perform many permitting, administrative, and enforcement aspects of the program. Within California, the NPDES permit program is administered by the State Water Resources Control Board (SWRCB) and the Regional Water Quality Control Boards (North Coast Regional Water Quality Control Board). Construction projects that would disturb more than one acre of land would be subject to the requirements of

General Construction Activity Stormwater Permit (Construction General Permit Order 2009-0009-DWQ, also known as the CGP), which requires operators of such construction sites to implement stormwater controls and develop a Stormwater Pollution Prevention Plan (SWPPP) identifying specific BMPs to be implemented to minimize the amount of sediment and other pollutants associated with construction sites from being discharged in stormwater runoff. Discharges of stormwater and non-stormwater from the Municipal Separate Storm Sewer System (MS4) within the jurisdictional boundary of the City of Fort Bragg are subject to Water Quality Order No. 2013-0001-DWQ, NPDES General Permit No. CAS00004, Waste Discharge Requirements for Storm Water Discharges from MS4s (Phase II MS4 Permit). The Phase II MS4 Permit authorizes the City to discharge stormwater runoff and certain non-stormwater discharges from its MS4 to waters of the United States and provides a framework and requirements for the implementation of the City MS4 Program.

The City’s Inland General Plan Open Space Element contains the following relevant policies:

Table 3: Inland General Plan Policies and Programs- Hydrology and Water Quality

Open Space Goal OS-6 Policy OS-6.3 Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.
Open Space Goal OS-6 Policy OS-6.3 Program OS-6.3.1: Develop and implement Low Impact Development requirements in the Inland Land Use and Development Code. Remove regulatory barriers to Low Impact Development from the Inland LUDC where feasible.
Open Space Goal OS-6 Policy OS-6.4 Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.
Open Space Goal OS-6 Policy OS-6.5 Municipal Activities to Protect and Restore Water Quality: The City shall promote both the protection and restoration of water quality. Water quality degradation can result from a variety of factors, including but not limited to the introduction of pollutants, increases in runoff volume and rate, generation of non-stormwater runoff, and alteration of physical, chemical, or biological features of the landscape.
Open Space Goal OS-6 Policy OS-6.5 Program OS-6.5.2 BMPS for Municipal Maintenance Activities. The City shall ensure that municipal maintenance activities and other public projects integrate appropriate BMPs to protect water quality.
Safety Goal SF-2 Policy SF-2.1 Flood Hazards: Ensure adequate standards for development in the 100-year floodplain.
Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.1 Maintain and update as necessary the zoning and building code standards and restrictions for development in identified floodplains and areas subject to inundation by a 100-year flood. Use the Federal Emergency Management Agency's Flood Insurance Rate Map (FIRM) in the review of development proposals
Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.2 Ensure all development in flood prone areas meet federal, state, and local requirements.
Safety Goal SF-2 Policy SF-2.2 Storm Drainage: Continue to maintain effective flood drainage systems and regulate construction to minimize flood hazards.

Safety Goal SF-2 Policy SF-2.2 Program SF-2.2.1 Continue to update the City’s Storm Drain Master Plan.
Safety Goal SF-2 Policy SF-2.3 Require development to pay for the costs of drainage facilities needed to drain project-generated runoff.
Safety Goal SF-2 Policy SF-2.3 Program SF-2.3.1 Update and utilize the City’s Drainage Development Impact Fees to ensure that development pays for its proportional share of drainage facilities.
Safety Goal SF-2 Policy SF-2.4 Require, where necessary, the construction of siltation/detention basins to be incorporated into the design of development projects.
Safety Goal SF-2 Policy SF-2.5 Require, as determined by City staff, analysis of the cumulative effects of development upon runoff, discharge into natural watercourses, and increased volumes and velocities in watercourses and their impacts on downstream properties. Include clear and comprehensive mitigation measures as part of project approvals to ensure that new development does not cause downstream flooding of other properties.
Safety Goal SF-2 Policy SF-2.6 Analyze the impacts of and potential flooding issues resulting from Climate Change and rising sea levels on proposed projects located within the 100-year Sea-Level Rise Inundation Area (see Map SF-4).

Discussion

- a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Less than Significant Impact. The proposed zoning amendment may result in development projects that have the potential to impact water quality standards, however all such projects must comply with the City’s General Plan, MS4 Permit, and ILUDC Chapter 18.62 Grading, Erosion, And Sediment Control Standards and Chapter 18.64 Urban Runoff Pollution Control, which will reduce any potential impacts to a less than significant level.

- b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

No Impact. Water for potential projects would be supplied by the City of Fort Bragg water treatment system. The City obtains all its water supply from surface sources and the project will not have an impact on groundwater systems. Additionally, all new development must comply with the City’s ILUDC and Inland General Plan which require groundwater recharge for larger projects.

- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

- i. Result in substantial erosion or siltation on- or off-site?
- ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off- site?

Less than Significant Impact. Any potential project that requires grading would require a City grading permit per Fort Bragg Municipal Code Section 18.60 (Grading Permit Requirements and Procedures). All grading would have to be performed in compliance with Fort Bragg Municipal Code Chapter 18.62 (Grading, Erosion, and Sediment Control Standards). As such the City can and would require Erosion and sediment control BMPs for projects that have the potential to result in erosion or siltation. In granting a grading permit for a discretionary grading project, the Director of Public Works may impose any condition determined to be necessary to protect public health, safety and welfare, to prevent the creation of hazards to property, improve the quality of stormwater runoff by incorporating Low Impact Development design strategies, and to ensure proper completion of grading.

- iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional resources of polluted runoff?

Less than Significant Impact. Through the review process for a grading permit, City staff can require an examination of rainwater runoff and potential impacts on the City's storm drain system.

- iv. Impede or redirect flood flows?

Less than significant impact. Again, through the review process for a grading permit City staff can require an examination of rainwater runoff and potential impacts on stormwater flows and make appropriate requirements to mitigate any potential impacts of such future projects.

- c) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

Less than Significant Impact. The California Emergency Management Agency, the California Geologic Survey, and the University of Southern California partnered to create the California Official Tsunami Inundation Maps and the Inland Area of the City of Fort Bragg is not within the inundation zone, according to the Fort Bragg quadrant (State of California 2021). The City of Fort Bragg is in the generally recognized "safe elevation level" with regard to a tsunami event and is approximately 60 feet above mean sea level. Therefore, impacts related to release of pollutants due to project inundation would be less than significant.

- d) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Less than Significant Impact. Any development that is proposed as a consequence of the proposed zoning amendment would be required to comply with all City water quality requirements.

XVIII. LAND USE AND PLANNING

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a) Physically divide an established community?

No Impact. The proposed zoning amendment would result in the approval of changes to existing already regulated residential development types (Tiny Homes, Tiny Home Communities and Planned Development Projects) in residential districts. As such they would be a residential component of an existing residential community. They would not divide a community. Likewise outdoor dining facilities are a relatively small part of the fabric of the commercial zoning districts in which they would be located and would likewise not divide a community.

b) Cause significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No Impact. Any proposed project that could be approved as a consequence of the proposed zoning amendment would have to comply with the City’s Inland General Plan and Land Use and Development Code.

XIX. MINERAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The California Division of Mines and Geology has not identified any significant mineral resources in the City of Fort Bragg (City) or City’s Sphere of Influence (CDC 2022d). Historically, various

parties have taken small amounts of aggregate from area streams, but this is no longer the case (City of Fort Bragg 2002).

The most predominant of the minerals found in Mendocino County are aggregate resource minerals, primarily sand and gravel, found along many rivers and streams. Aggregate hard rock quarry mines are also found throughout the County. Three sources of aggregate materials are present in Mendocino County: quarries, instream gravel, and terrace gravel deposits. The viability of different sources for any use depends on the property of the rock itself and the processing required to prepare the rock. According to the Mendocino County General Plan Environmental Impact Report (2008), there are no mineral resources within the City of Fort Bragg. The closest mineral resource is located north of the City of Fort Bragg and is labeled as sand and gravel (Mendocino County 2009).

Discussion

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?
- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No Impact. The proposed City of Fort Bragg does not contain mineral resources that are of value locally, to the region, or to residents of the City, County, or State. No impact would occur.

XX. NOISE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Generation of excessive ground borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

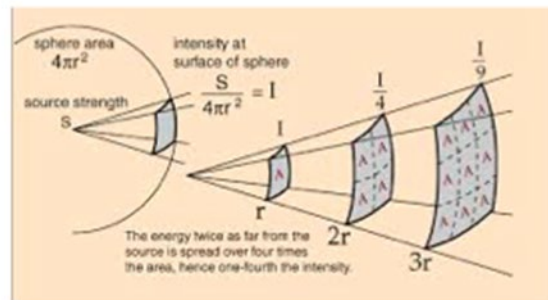
Background

Noise Measurements. Acousticians define sound as a sensation in the ear created by pressure variations or vibrations in the air. What qualifies as noise, or unwanted sound, tends to be

subjective. That is, sound that one person perceives as music may be noise to someone else. Sound is composed of many frequencies, some of which may affect one person more than another. Because engineers measure sound in decibels (dB) on a logarithmic scale, when two sources of sound, each measuring 70 dB(A), are added together, the resulting sound level is not 140 dB(A) but 73 dB(A). The (A) refers to a weighting scale that approximates the manner in which humans hear higher frequencies better than lower frequencies.

Noise Attenuation. The area of a surface around a point sound source increases with the square of the distance from the source. This means that the same sound energy from the source is distributed over a larger area and the energy intensity reduces with the square of the distance from the source (Inverse Square Law). For every doubling of distance, the sound level reduces by 6 decibels (dB), (e.g., moving from 10 to 20 meters away from a sound source). But the next 6dB reduction means moving from 20 to 40 meters, then from 40 to 80 meters for a further 6dB reduction.

Distance		Level c/w 10 metres
From source	c/w 10 m	
5	½	+6
10	1	0
20	2	-6
30	3	-10
40	4	-12
50	5	-14
60	6	-16
70	7	
80	8	-18
90	9	
100	10	-20



City Noise Regulations

The City regulates noise via the City’s Municipal Code 9.44.020 SPECIAL RESTRICTIONS - RESIDENTIAL AREAS, which notes the following restrictions:

A. Between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day, it is unlawful for any person within a residential zone, or within a radius of 500 feet therefrom, to create cause to be created or maintain sources of noise which cause annoyance or discomfort to a reasonable person of normal sensitiveness in the neighborhood.

The sources include, but are not limited to, the following:

1. Excessively loud noises caused by the use or operation of radios, musical instruments and drums, phonographs, television sets, or other machines or devices for the production, reproduction or amplification of sound;
2. Operation of equipment or performance of any outside construction or repair work on buildings, structures, or projects or operation of construction-type devices;
3. Excessively loud sounds, cries, or behavioral noise caused by the keeping or maintenance of animals or fowl;
4. Excessively loud noise caused by the operation of any machinery, chain saw, equipment, device, pump, fan compressor, air conditioning apparatus, or similar mechanical device;
5. Operation of chimes, bells, or other devices for the purpose of advertising or inviting the patronage of any person or persons to any business enterprise; and

6. Repairing, rebuilding, or testing of motor vehicles or operating of any motor-driven vehicle off public streets or highways.

Discussion

- a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Less than Significant Impact. The proposed Zoning Ordinance amendments could result in slight increases in residential development which would be compatible in terms of noise generation with other residential uses within the residential zoning districts. The City’s noise ordinance would reduce impacts of construction noise to a less than significant impact. Likewise, outdoor dining would produce low volume noise levels associated with talking and eating and would be compatible with the noise levels in the districts where outdoor dining is permissible.

- b) Generation of excessive ground borne vibration or ground borne noise levels?

No Impact. None of the proposed zoning amendments have the potential to result in development projects that would themselves result in ground borne vibrations.

- c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. There nearest airport is located 2 miles away; there is no airport located within two miles of residential and commercial zoning districts within the City of Fort Bragg.

XXI. POPULATION AND HOUSING

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

Based on the U.S. Census Bureau, Fort Bragg city, a census-designated place had a population of approximately 6,907 persons as of 2022. There were an estimated 2,925 households, with 2.35 persons per household. The City’s population declined compared to 2019, when the City had

7,291 residents. But the City’s number of households went up from 2,775 households while the average number of residents per household fell from 2.56 people per household. This illustrates that while the City has added housing units they have been for smaller households.

Discussion

- a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Less than Significant Impact. The propped zoning amendments will not induce substantial unplanned population growth. The City, like much of California, struggles with a housing crisis, in which there are more people looking for units than there are housing units available. The proposed zoning amendments would likely increase the number of available units by a fraction of the needed units and as such would not result in substantial population growth. The City anticipates less than five (5) tiny home approvals per year, one tiny home community approval every ten years or so, and one or two Planned Development projects over a 20-year period. This is based on past development trends.

- b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

No Impact. The proposed project would not displace any residents or housing, as the zoning amendments are to facilitate new development of housing on vacant parcels (Tiny Home Communities and Planned Development Projects) and the facilitation of one Tiny Home per primary residential unit on a parcel. Likewise, outdoor dining would happen on lots with established restaurants and so would not displace people.

XXII. PUBLIC SERVICES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Setting

Public services provided by the City of Fort Bragg include fire, police, school, library, and park services.

Discussion

a) Fire protection?

Less than Significant Impact. The project site is located within a Local Responsibility Area (LRA) (CAL FIRE 2022) and is served by the City of Fort Bragg Fire Department. The Fort Bragg Fire Department is a volunteer fire department with 36 firefighters and four (4) auxiliary members. Currently, there are four (4) paid positions in the department: a full-time Fire Chief, an Office Manager, a Maintenance Engineer, and a Fire Prevention Officer. As the proposed zoning amendment would not result in a significant population increase and all subsequent residential building permits would be routed to the Fire Department to identify any fire service-related issues. Additionally, the proposed outdoor dining regulations include sufficient fire safety requirements to reduce potential impact to a less than significant impact. The Fire Marshal was asked to comment on the proposed regulations and indicated that he would review all pavilions for fire and safety issues prior to issuing an approval.

b) Police protection?

Less than Significant Impact. The Fort Bragg PD is located at 250 Cypress Street, in Fort Bragg, California. The zoning amendment would allow new residential units and outdoor dining facilities, however these new developments are not anticipated to be sufficiently large or disruptive to increase police utilization.

c) Schools?

Less than Significant Impact. The City is served by the Fort Bragg Unified School District (FBUSD), Montessori Del Mar Community School, Three Rivers Charter School and Mendocino College.

The proposed zoning amendment could result in the limited development of new residential units as discussed in the Housing and Population analysis of the MND. As a result, the proposed project would not result in substantial population growth or a significant increase in the student population. It is anticipated that any new students could be adequately accommodated by the existing schools within the FBUSD, and a less than significant impact would occur.

d) Parks?

Less than Significant Impact. In total the City has 172 acres of parks and open space which is well above the threshold of 3 acres of park space per 1,000 residents. The City has seven thousand residents and has 24.4 acres of parks for every 1,000 residents. Therefore, a less than significant impact would occur.

e) Other public facilities?

Less than Significant Impact. There are no elements of the proposed project that would impact other public facilities, such as regional hospitals.

XXIII. RECREATION

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

In total the City has 172 acres of parks and open space which is well above the threshold which is 3 acres of neighborhood and community park space per 1,000 residents. The City has seven thousand residents and has 24.4 acres of parks for every 1,000 residents. City parks include:

- Otis Johnson Park, a 6-acre riparian park with hiking trails.
- Bainbridge Park, a 2-acre park in the City with an 11,000 square foot playground, basketball court, and tennis court.
- CV Starr Center, an aquatic facility with a leisure pool and competition lap pool and fitness rooms.
- The 5.5-mile Coastal Trail stretches from Glass Beach to Noyo Harbor on 104 acres of land.
- Noyo Beach and Pomo Bluffs Park.

Discussion

- a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

a and b) No Impact. The proposed zoning amendments may result in the subsequent construction of a fractional increase in the number of residential units in Fort Bragg. As a result, a small population increase is anticipated, and use of the existing park and recreational facilities are more than adequate to meet any future recreation needs that are facilitated by adoption of the zoning ordinance.

XXIV. TRANSPORTATION

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

Some of the applicable goals, policies, and programs in the Circulation Element of the Inland General Plan include:

Table 4: Inland General Plan Policies and Programs- Transportation

Circulation Goal C-1 Policy C-1.3 Complete Streets: New development, that includes new streets or street segments, shall build multi-modal “complete streets” that are designed for the safety and comfort of cyclists and pedestrians, including children, the elderly, and people with disabilities, consistent with US Department of Transportation complete streets guidelines
Circulation Goal C-1 Policy C-1.3 Program C1.3.2 Through the Capital Improvement Plan and related impact fees, the City shall ensure that adequate funds are provided to maintain the existing circulation network, and where feasible upgrade it to “complete street” design.
Circulation Goal C-2 Policy C-2.2 Coordinate Land Use and Transportation: Ensure that the amount and phasing of development can be adequately served by transportation facilities.
Circulation Goal C-2 Policy C-2.3 Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met: a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or b) Funding of pro rata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain the established Level of Service is included as a condition or development standard of project approval.

Circulation Goal C-3 Policy C-3.4 Program C-3.4.1 Review site plans for new development to facilitate the continuation of streets to improve local circulation. Where streets are not feasible, priority shall be given to providing pedestrian and bicycle trails that establish bicycle and pedestrian connections to streets wherever possible.

Circulation Goal C-3 Policy C-3.5 Right-of-Way Acquisition: Require right-of-way dedications for new development to meet the City’s roadway width standards

Discussion

a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

- **Tiny Homes. Less than Significant Impact.** The proposed zoning amendment includes changes that would allow subsequent development of a small number of new Tiny Homes; however the Tiny Homes would be dispersed throughout the City and would not result in any conflicts with the City’s circulation system, including transit, roadway, bicycle and pedestrian facilities.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit for these types of development and if a CEQA analysis is required and all potential conflicts with the circulation system, including transit, roadway, bicycle and pedestrian facilities would be analyzed at that time.
- **Outdoor Dining. Less than Significant with Mitigation.** Outdoor dining facilities have the potential to interfere with access to entryways and bicycle parking. Therefore, the following mitigation is proposed.

Mitigation Measure Trans -1: Revise the proposed zoning ordinance as follows:

D. Objective Design & Safety Criteria. Outdoor dining pavilions and tents shall comply with the following objective criteria:

8. Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.

b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

Less than Significant Impact. SB 743, passed in 2013, required OPR to develop new CEQA Guidelines that address traffic metrics under CEQA. As stated in the legislation (and Section 21099[b][2] of CEQA), upon adoption of the new CEQA guidelines, “automobile delay, as described solely by LOS or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to this division, except in locations specifically identified in the CEQA guidelines, if any.” The Office of Administrative Law approved the updated CEQA Guidelines on December 28, 2018, and the changes are reflected in new CEQA Guidelines (Section 15064.3). CEQA Guidelines Section 15064.3 was added December 28, 2018, to address the determination of significance for transportation impacts. Pursuant to the new CEQA Guidelines, VMT replaced congestion as the metric for determining transportation impacts.

The Vehicle Miles Traveled (VMT) associated with a project is the primary basis for determining traffic impacts under CEQA. Like many other jurisdictions in California, the City of Fort Bragg has not yet adopted policies or thresholds of significance regarding VMT. Therefore, the project was analyzed based on the guidance provided in the Technical Advisory on Evaluating Transportation Impacts in CEQA (2018) by the state’s Office of Planning and Research (OPR), as well as the Senate Bill 743. A significance threshold equal to the sub region average total VMT per service population for the “Fort Bragg Adjacent” region was developed. Based on the Mendocino Council of Governments (MCOG) SB 743 VMT Screening Tool by Fehr & Peers, the sub regional average VMT per service population is 22.0. The City is located in the traffic analysis zone (TAZ) 474, which has an average of 19.0 VMT per service population. The proposed zoning amendment would result in additional housing and restaurant services close to schools, jobs and retail opportunities in the City which has an average VMT of 19.0 VMT which would be below the sub regional average and would have a less-than-significant impact on VMT.

c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

- **Tiny Homes. No Impact.** The proposed zoning amendment includes changes that would allow for a small number of new Tiny Homes dispersed throughout the City on existing residential lots and would not result in any conflicts or increase hazards due to geometric design or incompatible uses.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit for these types of development and if a CEQA analysis is required all potential conflicts and hazards due to geometric design or incompatible uses would be analyzed at that time.
- **Outdoor Dining. Less than Significant Impact.** Outdoor dining facilities are compatible with indoor dining, but they have the potential to block vehicle visibility at corners. However, required compliance with setback requirements should reduce this to a less than significant impact.

d) Result in inadequate emergency access?

- **Tiny Homes. No Impact.** The proposed zoning amendment includes changes that would allow for a small number of new Tiny Homes located on the back of residential parcels and as such they will not block emergency access.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit and Building Permit for these types of development and the review of adequate emergency access is a critical component of these reviews.
- **Outdoor Dining. Less than Significant with Mitigation.** Outdoor dining facilities would be located on sites which already include a restaurant for which emergency access has already been analyzed. Outdoor dining pavilions have the potential to interfere with emergency access, therefore the Mitigation Measure included below is recommended to ensure a less than significant impact.

Mitigation Measure Trans -2: Revise the proposed zoning ordinance as follows:

D. Objective Design & Safety Criteria. Outdoor dining pavilions and tents shall comply with the following objective criteria:

9. Outdoor Dining facilities shall not conflict with emergency access as determined by the Fire Marshal.

XXV. TRIBAL CULTURAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

CEQA, as amended by Assembly Bill 52 (AB 52), requires that the City of Fort Bragg provide notice to any California Native American tribes that have requested notice of projects subject to CEQA review and consult with tribes that responded to the notice within 30 days of receipt with a request for consultation.

- Sherwood Valley Rancheria
- Coyote Valley Band of Pomo Indians
- Manchester Band of Pomo Indians
- Cahto Tribe
- Guidiville Indian Rancheria
- Pinoleville Pomo Nation
- Hopland Band of Pomo Indians
- Potter Valley Tribe

The purpose of consultation is to identify Tribal Cultural Resources (TCRs) that may be significantly impacted by the proposed project, and to allow the City to avoid or mitigate significant impacts prior to project approval and implementation. Section 21074(a) of the PRC defines TCRs for the purpose of CEQA as:

- (1) *Sites, features, places, cultural landscapes (geographically defined in terms of the size and scope), sacred places, and objects with cultural value to a California Native American tribe that are either of the following:*
 - (A) *Included or determined to be eligible for inclusion in the California Register of Historical Resources; and/or*
 - (B) *Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1; and/or,*
- (2) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.*

Because the first two criteria also meet the definition of a Historical Resource under CEQA, a TCR may also require additional consideration as a Historical Resource. TCRs may or may not exhibit archaeological, cultural, or physical indicators and can only be identified by a culturally affiliated tribe, which has been determined under State law to be the subject matter expert for TCRs.

CEQA requires that the City initiate consultation with tribes at the commencement of the CEQA process to identify TCRs. Furthermore, because a significant effect on a TCR is considered a significant impact on the environment under CEQA, consultation is required to develop appropriate avoidance, impact minimization, and mitigation measures. Therefore, in accordance with the requirements summarized above, the City carried out, or attempted to carry out, tribal consultation for the project.

To date only one TCR has been identified within the City of Fort Bragg and that TCR is not located within the inland zoning area.

Discussion

- a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?
 - ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision

(c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

- **Tiny Homes, Tiny Home Communities, Outdoor Dining and Planned Development projects. Less than Significant Impact.** There are no known TCR located within the residential or commercial areas of Fort Bragg, so the proposed zoning ordinance amendments will have a less than significant impact on TCR.

XXVI. UTILITIES AND SERVICE SYSTEMS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Background

The Public Facilities Element of the Inland General Plan has goals, policies and programs to manage the impacts of growth on the City's infrastructure. These can be found on Page 3-3 through 3-6 of the Public Facilities Element of the City's General Plan. Included in these policies are:

Table 5: Inland General Plan Policies and Programs- Utilities and Service Systems

Public Facilities Goal PF-1 Ensure that new development is served by adequate public services and infrastructure.
Public Facilities Goal PF-1 Policy PF-1.1 Ensure Adequate Services and Infrastructure for New Development: Review new development proposals to ensure that the development can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal.
Public Facilities Goal PF-1 Policy PF-1.2 All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.
Public Facilities Goal PF-1 Policy PF-1.2 Program PF-1.2.1 New development shall be responsible for any improvements or extensions of infrastructure or the service capacity necessary to serve the development.

Discussion

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

- **Tiny Homes. No Impact.** The proposed zoning amendment includes changes that would allow for a small number of new Tiny Homes located on the back of residential parcels and as such they will not result in in the relocation or construction of new or expanded utilities.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit and Building Permit for these types of development and the review of adequate public services is a critical component of these reviews.
- **Outdoor Dining. Less than Significant Impact.** Outdoor dining facilities would be located on sites which already include a restaurant for which service capacity has already been analyzed. Further the regulations limit the potential size of the new outdoor dining facilities such that they would have a less than significant impact on the need to relocate or expand service infrastructure.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

Less than Significant Impact. According to the City’s most recent Municipal Service Review (adopted December 2017), on a daily basis, the City currently produces about 50 gallons/resident and 78 gallons/1,000 square feet (SF) of commercial/industrial space of treated water. The City currently has sufficient water supply and storage to meet a 20% increase in water demand during a 50-year drought. The City can accommodate the additional growth in the Inland Area that might occur as a consequence of the zoning amendment without developing additional water storage.

- c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Less than Significant Impact. The Wastewater Treatment Plant (WWTP) has a facility design flow capacity of 1.0 mgd (average dry weather treatment capacity), 4.9 mgd (peak daily wet weather treatment capacity), 2.2 mgd (average monthly wet weather treatment capacity). The upgraded capacity of the WWTP is sufficient to meet the wastewater service demands through buildout of the General Plan and is a significant improvement to the City's ability to handle/manage overflows. Implementation of the proposed zoning amendments would have a less than significant impact relative to this topic.

- d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?
- e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Less than Significant Impact. Redwood Waste Solutions provides weekly curbside residential and commercial garbage, recycling, and green waste collection within the City of Fort Bragg. Waste collected by Redwood Waste Solutions is taken to a transfer station in Ukiah for processing and transport. The waste is then disposed of at the Potrero Hills Landfill. According to the California Department of Resources Recycling and Recovery (CalRecycle), in 2020, Fort Bragg disposed of approximately 4,121 tons of solid waste. CalRecycle provides an average per capita solid waste disposal rate for residents and businesses. In Fort Bragg, CalRecycle identified solid waste disposal rates of 5.1/lbs. per resident/day which is below the State target (CalRecycle Jurisdiction Diversion/Disposal Rate Summary, 2021). Redwood Waste Solutions Inc. also provides recycling services to city residents and businesses. Redwood Waste Solutions Inc. provides curbside residential collection of recyclable materials. Acceptable materials include glass containers, all plastics, tin and aluminum cans, plastic milk cartons, newsprint, boxboard, corrugated cardboard, bond paper and magazines. Residents may also recycle some materials at buy-back centers. Special recycling programs include medical waste disposal, fluorescent light and mercury recycling, and organic farming and mulch recycling programs.

The proposed zoning amendment and subsequent potential development is not anticipated to be a significant generator of solid waste as it would permit Tiny Homes and Outdoor Dining facilities by right, but the per capita contribution to solid waste for the uses anticipated will be at or below existing per capita waste generation rates, because the residential units would be much smaller than the typical house in Fort Bragg. Tiny Home Communities and Planned Development Projects would have to go through a Use Permit and CEQA process and so the potential solid waste impacts of this potential development will be determined at the time of Use Permit consideration.

XXVII. WILDFIRE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Setting

The project site is located in a Local Responsibility Area, and it is not in a Very High Fire Hazard Severity Zone. However, the project site is bordered to the southeast by a State Responsibility Area (CAL FIRE 2021). The City is also part of the Fort Bragg Fire Protection Authority.

The Inland General Plan Safety Element has specific policies and programs to reduce fire hazards:

Table 6: Inland General Plan Policies and Programs- Wildfire

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1: Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-4 Policy SF-4.2 Maintain a High Level of Fire Protection: Work with the Fire Protection Authority to ensure a continued high level of fire protection.

Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.1: Increase water main sizes or loop existing water mains where necessary to provide adequate flows for fire protection. The standard for water flow for fire protection purposes in commercial uses should be a minimum of 1,000 gallons per minute for 2 hours with 20 pounds per square inch residual pressure.

Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.3 Work with the Fort Bragg Fire Protection Authority to establish a regular schedule for periodic inspections of commercial and industrial premises by the Fire Prevention Officer.

Discussion

- a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

Less than Significant Impact. Within the City of Fort Bragg, the generally recognized “safe elevation level” with regard to tsunami events is approximately 85 feet above mean sea level. Therefore, impact or inundation from a severe storm surge or tsunami event must be considered a risk for the City, albeit a relatively low risk. The City’s Tsunami Contingency Plan provides guidelines to alert and evacuate the public from tsunami risk areas within the City.

- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?
- c) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Less than Significant Impact. The City is relatively flat with elevations ranging from 45 feet to 200 feet and would not expose any structures or persons to risks related to slopes either during or after the occurrence of a wildfire. According to the NRCS Web Soil Survey, typical slopes in the inland area range from 0 to 15 percent, minimizing the potential for landslides.

- d) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

- **Tiny Homes. No Impact.** The proposed zoning amendment includes changes that would allow for a small number of new Tiny Homes located on the back of residential parcels and as such they will not require the installation or maintenance of associated infrastructure that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit and Building Permit for these types of development and the review of adequate infrastructure is a component of these reviews.
- **Outdoor Dining. Less than Significant Impact.** Outdoor dining facilities would be located on sites which already include a restaurant for which service capacity has already been analyzed. Further the proposed regulations limit the potential size of the new outdoor dining facilities such that they would not necessitate infrastructure that may exacerbate fire risk or result in temporary or ongoing impacts to the environment.

XXVIII. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of past, present and probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less than Significant Impact. As mitigated, the proposed project will not have a substantial impact on habitat or fish species, wildlife species or a plant or animal community.

b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of past, present and probable future projects)?

Less than Significant Impact. The proposed zoning amendment will have a less than significant impact on vehicle miles traveled, traffic safety and level of service and thus will not result in a cumulatively considerable impact. Likewise, all other potential impacts have been analyzed in the MND and reduced to a level of less than significant with mitigation.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

No Impact. The project does not have any substantial adverse effects on human beings either directly or indirectly.

3.0 REFERENCES

California Department of Conservation (CDC). 2022a. California Important Farmland Finder. Retrieved from: <https://maps.conservation.ca.gov/DLRP/CIFF/>

2022b. EQ Zapp. Retrieved from: <https://maps.conservation.ca.gov/cgs/EQZApp/app/>

2022c. Alquist-Priolo Earthquake Fault Zones. Retrieved from: <https://www.conservation.ca.gov/cgs/alquist-priolo>

2022d. California's Mineral Resources. Retrieved from California Department of Conservation: <https://www.conservation.ca.gov/cgs/minerals>

City of Fort Bragg. 2006. City of Fort Bragg Tsunami Contingency Plan. April 19, 2006. Available at:

<https://www.city.fortbragg.com/home/showpublisheddocument/940/63771083881153000>

0

2002. Fort Bragg General Plan Revision Draft Environmental Impact Report. Prepared by Leonard Charles and Associates.

2021. Fort Bragg Inland Land Use and Development Code. September 13, 2021. Retrieved from: <https://www.codepublishing.com/CA/FortBragg/#!/LUC18/FortBraggNT.html>

2022. Fort Bragg Municipal Code. March 14, 2022: Retrieved from: <https://www.codepublishing.com/CA/FortBragg/#!/FortBraggNT.html>

Federal Emergency Management Agency (FEMA). 2012. FEMA Flood Map. Accessed on April 29, 2022

from: <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd>

Miles and Goudey. 1997. Ecological Sub regions of California. Available at:

<https://web.archive.org/web/20080304224853/http://www.fs.fed.us/r5/projects/ecoregions/>

Natural Resources Conservation Service (NRCS). 2022. Web Soil Survey. Accessed April 22, 2022 at <http://websoilsurvey.nrcs.usda.gov>.

University of California Museum of Paleontology. Mendocino County. Available at: <https://ucmp.berkeley.edu/>

4.0 PREPARERS

Marie Jones
Principal
Marie Jones Consulting

Inland Land Use and Development Code Amendments to regulate: Outdoor Dining, Tiny Homes, Tiny Home Communities, and changes to Planned Development Permit requirements.

MITIGATION AND MONITORING REPORTING PROGRAM

MMRP Statements:

1. **Applicant Responsibilities.** The City of Fort Bragg is responsible for ensuring the attached MMRP is implemented.
2. **Professional Expertise.** The following professional expertise is required for completion or evaluation of any part of the program: none.
3. **Civil Remedies and Criminal Penalties.** The following civil remedies and criminal penalties are permitted by Title 18.04.050 of CEQA for noncompliance with this adopted mitigation monitoring and reporting program.

18.04.120 Civil and administrative remedies.

In addition to the penalties set forth in subsection [18.04.100](#), the city may carry out or seek other remedies as permitted by law, including, but not limited to the following:

- A. Injunctive relief;
- B. A stop order subject to the following:
 1. Whenever the environmental coordinator finds that there is noncompliance with an adopted program and that this noncompliance

presents a serious and immediate threat to the public health, safety and welfare, the environmental coordinator shall issue a stop work order which shall prohibit further work on the project that is the subject of the adopted program.

2. In the event the environmental coordinator issues a stop work order, notice of this order shall be served on the applicant and/or project supervisor and/or contractor and posted on site. The notice shall contain the following:

- a. The findings justifying the stop work order;
- b. The time and date when the stop work order commence;
- c. The time, date, and place at which the applicant may appear to respond to the findings in the notice, which shall not be later than twenty-four (24) hours following the time and date when the stop work order commences.

3. Authority to recommence work on the project that is the subject of an adopted program after issuance of a stop work order may be granted by the environmental coordinator upon the establishment of such terms, conditions and requirements as are reasonably necessary to protect the public health, safety, and welfare and as are consistent with the terms, conditions, and requirements of the adopted program. (Ord. 97-03 § 2 (part): prior code § 8-1.6015(L))

Mitigation Monitoring and Reporting Program

Mitigation Measure	Mitigation Monitoring			Reporting	
	Schedule	Responsibility	Procedure	Comments	Date/Initial
AESTHETICS					
<p>Mitigation Measure Aesthetics-1. The following additional requirements shall be added to the regulations for outdoor dining to reduce the potential impact on aesthetics to less than significant.</p> <p>Setbacks & Height Limits. Outdoor dining pavilions and tents shall comply with all relevant setbacks and height limits of the zoning district in which they are located. Pavilions can be in front of, behind or to the side of the associated restaurant. Outdoor dining that is not located within a pavilion may be in front of the building. Where the front of the building is the facade facing the primary street.</p>	Implemented upon ordinance adoption	City of Fort Bragg City Council	Implement mitigation.		
<p>Mitigation Measure Aesthetics-2. The following additional requirements shall be added to the regulations for outdoor dining to reduce the potential impact on aesthetics to less than significant.</p> <p>Objective Design & Safety Criteria. All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.</p>	Implemented upon ordinance adoption	City of Fort Bragg City Council	Implement mitigation.		

Mitigation Measure	Mitigation Monitoring			Reporting	
	Schedule	Responsibility	Procedure	Comments	Date/Initial
BIOLOGY					
<p>Mitigation Measure Bio-1. The following requirements shall be added to the regulations for outdoor dining to reduce the potential impact on biological resources to less than significant. Location, Setbacks, and Height Limits. Outdoor dining pavilions and tents shall comply with all relevant setbacks and height limits of the zoning district in which they are located. Outdoor Dining Facilities shall be located on previously developed areas (such as a parking lot, sidewalk, or landscaped area) or located a minimum of 50 feet from any Environmentally Sensitive area, wetland, or rare plant community.</p>	Implemented upon ordinance adoption	City of Fort Bragg City Council	Implement mitigation.		
Mitigation Measure	Mitigation Monitoring			Reporting	
Mitigation Measure	Schedule	Responsibility	Procedure	Comments	Date/Initial
Transportation					
<p>Mitigation Measure Trans-1: Revise the proposed zoning ordinance as follows: Objective Design & Safety Criteria. Outdoor dining pavilions and tents shall comply with the following objective criteria: Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.</p>	Implemented upon ordinance adoption	City of Fort Bragg City Council	Implement mitigation.		
<p>Mitigation Measure Trans-2: Revise the proposed zoning ordinance as follows: Objective Design & Safety Criteria. Outdoor dining pavilions and tents shall comply with the following objective criteria: Outdoor Dining facilities shall not conflict with emergency access as determined by the Fire Marshal.</p>	Implemented upon ordinance adoption	City of Fort Bragg City Council	Implement mitigation.		



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 conduct a public hearing at a regular meeting to be held at 6:00 p.m., or as soon thereafter as the matter may be heard, on Monday, April 8, 2024 at Town Hall, southwest corner of Main and Laurel Streets (363 N. Main Street), Fort Bragg, California 95437. The public hearing will concern the following item:

- (1) Introduce, by title only, and waive further reading of Ordinance XXX-2024 Amending Chapter 18.42.165- Restaurants of Division 18 of the Fort Bragg Municipal Code to Establish Regulations and Standards for Outdoor Dining; and (2) Consider the Planning Commission’s Recommendation that the City Council submit a Local Coastal Plan Amendment Application (LCP 3-23) to the Coastal Commission, to Amend Chapter 17.42.190- Restaurants of Division 17 of the Fort Bragg Municipal Code to Establish Regulations and Standards for Outdoor Dining.

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 dsanchez@fortbragg.com, and received no later than the meeting date.

The Agenda Item Summary and supporting documents that will be considered by the Councilmembers will be available for review at Fort Bragg City Hall and on the City’s website: <https://city.fortbragg.com/> on or after March 28, 2024. At the conclusion of the public hearing, the City Council will consider a decision on the matter.

DATED: March 28, 2024

Diana Sanchez
City Clerk

PUBLISH: March 28, 2024

STATE OF CALIFORNIA)
) ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg in the Administrative Services Department; and that I posted this Notice in the City Hall Notice case on March 28, 2024

Diana Sanchez
City Clerk



City of Fort Bragg

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

Text File

File Number: 24-538

Agenda Date: 4/8/2024

Version: 1

Status: Public Hearing

In Control: City Council

File Type: Staff Report

Agenda Number:

Conduct Public Hearing and (1) Introduce, by Title Only, and Waive Further Reading of Ordinance xxx-2024 Amending Chapter 18.71.090 - *Planned Development Permit* of Division 18 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of One Acre or More, Subject to Previously Approved Mitigated Negative Declaration; and (2) Adopt Resolution xxx-2024 approving a Local Coastal Plan Amendment Application (LCP 6-23) to the Coastal Commission to Amend Chapter 17.71.090 - *Planned Development Permit* of Division 17 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of One Acre or More, Statutorily Exempt 15265.



Planned Development Permit

Amendments to the CLUDC and
ILUDC, City of Fort Bragg

Marie Jones Consulting April 8, 2024



AGENCY:	City Council
MEETING DATE:	April 8, 2024
DEPARTMENT:	Community Development
PRESENTED BY:	Marie Jones Consulting

AGENDA ITEM SUMMARY

TITLE: Receive Report, Hold a Public Hearing, and Consider:

1. Introduction, by Title Only, and Waive Further Reading of an Ordinance Amending 18.71.090 - Planned Development Permit of Division 18 of the Fort Bragg Municipal Code to Allow Planned Development Permits on Parcels of 1 Acre or More, Subject to Previously Approved Mitigated Negative Declaration; and
2. Adoption of a Resolution of the Fort Bragg City Council submitting an LCP Amendment to the Coastal Commission to Amend 17.71.090 - Planned Unit Development Permit of Division 17 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of 1 Acre or More, Statutory Exemption 15265.

APPLICATION #: ILUDC Amendment (ILUDC 6-23) and LCP Amendment (LCP 6-23) Planned Development Permit

APPLICANT: City of Fort Bragg

PROJECT: Proposed Amendment to the Inland and Coastal Land Use and Development Codes to 1) Amend the Planned Development Permit Ordinance to Allow Planned Development Projects on parcels of 1 acre or less; and 2) Prepare an LCP amendment for the Local Coastal Program to Amend the Planned Development Permit Ordinance to Allow Planned Development Projects on parcels of 1 acre or less.

LOCATION: Various

APN: Various

LOT SIZE: Greater than 1 acre

ZONING: Coastal and Inland: Low Density (RL), Medium Density (RM), High Density (RH) and Very High-Density (RVH) Residential Zoning Districts, and possibly, General Commercial (CG), Highway Visitor Commercial (CH), Neighborhood Commercial (CN), and Commercial Office (CO) Zoning Districts.

ENVIRONMENTAL DETERMINATION: A Mitigated Negative Declaration (MND) has been prepared for the amendments to the Inland Land Use and Development Code concurrently proposed for approval in agenda item 24-537.

The proposed amendment to the Coastal Land Use and Development Code is part of the City's Local Coastal Program and will be submitted to the California Coastal Commission for certification. The CLUDC Amendment is statutorily exempt from further environmental review under CEQA Guidelines 15265 Adoption of Coastal Plans and Programs.

BACKGROUND

Planned Development Permit. A Planned Development Permit provides enhanced flexibility in the application of Development Code standards to proposed development projects under very limited and unique circumstances. They allow the Planning Commission to consider innovative site planning and exceptional project design that effectively responds to specific site features, uses on adjoining properties, and reduces environmental impacts than the Development Code standards would produce without adjustment. Each project must be of obvious and significantly higher quality than would be achieved through conventional design practices and standards.

Currently a Planned Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site larger than 5 acres.

The Planned Development Permit scope of approval, allows an applicant to obtain the following zoning code modifications:

- a. Planned Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.); provided, that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article 2.
- b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter 18.31 (Density Bonuses and Affordable Housing Incentives).

This permit process provides the City with the scope to allow significant exceptions, adjustments, modifications to the zoning standards in exchange for innovative, exceptional project features.

Many communities throughout California allow Planned Development Permits, although most call them Planned Unit Development (PUD) permits. All include extra requirements and findings for permit approval. Some also limit PUDs to overlay zones within a community or specific types of development.

PROJECT DESCRIPTION

This section summarizes various changes to the CLUDC and the ILUDC for the City Council's consideration. These amendments are voluntary as they are not required by the State. The State does not offer specific regulatory requirements for how to regulate PUD development

projects, which means that the extent of the regulations is entirely at the discretion of the City Council.

This section describes the primary City Council policy decisions re PUDs.

Policy Considerations

1. **Change the Permit Name.** MJC recommends changing the name of this permit to a Planned Unit Development (PUD) which is the common planning term for this type of development permit. This will make for a more transparent and clear permitting process. The Planning Commission concurred with this recommendation.
2. **Minimum Parcel Size.** Currently the minimum parcel size is 5 acres. There are eight vacant parcels in Fort Bragg that are more than 5 acres, five vacant parcels between 3 and 5 acres, and four vacant parcels between 1 and 3 acres. Two of these vacant parcels are not developable while some are significantly constrained in development due to existing botanical, archaeological and visual resources. Therefore,
 - i. Changing the minimum parcel size to one acre or more will result in at most nine additional vacant parcels becoming eligible for a PUD.
 - ii. Changing the minimum parcel size to three acres or more will result in at most five additional vacant parcels becoming eligible for a PUD.The Planning Commission recommended a minimum parcel size of 1 acre.
3. **PUDs on the GP Mill Site.** The Mill Site is the largest vacant parcel within City limits. However, the PUD process does not allow the City to make exceptions to allowable uses within a specific zoning district. Therefore, as the Mill Site is currently zoned Timber Resources Industrial, a PUD would not allow residential or commercial uses with the site's current industrial zoning. However, should the site be rezoned through an LCP amendment process to residential and commercial zoning districts, the Mill Site offers the greatest potential for PUD project proposals. Please keep this in mind as you contemplate the minimum parcel size for a PUD. It may make sense to keep the size limit at 5 acres on the Mill Site, as the Mill Site is very large and carving it up into many 1-acre PUDS with a variety of developers could be problematic for overall zoning and design cohesiveness. Therefore, MJC recommends the following additional language:

1. **Minimum site area.** A Planned Unit Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site larger than 5 1 acre, with the exception that all PUDs on the former Georgia Pacific Mill Site must be at least 5 acres or more.

The Planning Commission concurred with this recommendation.

RECOMMENDED ACTIONS:

The proposed action consists of two actions:

- Introduce, by Title Only, and Waive Further Reading of an Ordinance Amending 18.71.090 - Planned Development Permit of Division 18 of the Fort Bragg Municipal Code to Allow Planned Development Permits on Parcels of 1 Acre or More; and
- Adopt a resolution of the Fort Bragg City Council submitting an LCP Amendment to the Coastal Commission to Amend 17.71.090 - Planned Unit Development Permit of Division 17 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of 1 Acre or More.

ALTERNATIVE ACTION(S):

- Make no change to the zoning code and continue to require a minimum parcel size of 5 acres for PUDs.
- Provide other direction.

ENVIRONMENTAL ANALYSIS:

- **ILUDC Amendment.** The proposed project is subject to CEQA and an MND for this project was prepared and the City Council adopted the MND on March 25, 2024.
- **CLUDC Amendment.** The proposed amendment to the Coastal Land Use and Development Code is part of the City’s Local Coastal Program and will be submitted to the California Coastal Commission for certification. Therefore, the proposed project is statutorily exempt from further environmental review under CEQA Guidelines 15265 Adoption of Coastal Plans and Programs.

FISCAL IMPACT:

No impact.

GREENHOUSE GAS EMISSIONS IMPACT:

Greenhouse gas emissions would be reduced as mixed use development and higher residential density development both reduce the vehicle miles traveled for residents to access services, jobs, and community activities.

CONSISTENCY:

The existing ordinance is consistent with both General Plans and both zoning ordinances. The reduction in the allowable parcel size from 5 acres to 1 acre would not change this consistency. There are no policies in the General Plan or the Coastal General Plan that only apply to parcels of 5 acres or more, and all policies in both General Plans apply equally to all parcels regardless of size. Additionally, all PUD permit approvals must make the following finding: “The project is consistent with the General Plan and any applicable specific plan and allowed within the applicable zoning district.”

Furthermore, the proposed amendment is internally consistent with the applicable provisions of both Development Codes. The proposed amendment would not change the ordinance’s existing consistency with the Development Code, indeed the goal of the PUD permitting process is to allow the City to carve out exceptions to the code so long as all permit findings can be made. All PUD permit approvals would be required to make the following finding: “The project complies with

all applicable provisions of this Development Code other than those modified by the Planned Unit Development Permit.”

IMPLEMENTATION/TIMEFRAMES:

This effort includes two amendments, which are processed differently as the CLUDC amendment will be a Local Coastal Program application to the Coastal Commission which will be approved by the Coastal Commission, while the ILUDC amendment will be approved as an ordinance by the City Council. While the two amendments are similar, they are not identical, as PUDs in the Coastal Zone would be subject to the Coastal Development Permit process.

Inland LUDC Zoning Code Amendment	Potential Timeline
Planning Commission Public Hearing and Recommendation to City Council	January 2024
City Council – Public Hearing	April 2024
Ordinance become effective	April 2024

Coastal LUDC Zoning Code Amendment	Potential Timeline
Planning Commission Public Hearing and Recommendation to City Council	January 2024
City Council – Public Hearing and Adoption of Resolution Transmitting Zoning Amendment to Coastal Commission	April 2024
Coastal Commission Review and Friendly Modifications Due	June 2024
City Council acceptance of Friendly Modifications	July 2024

NOTIFICATION

1. “Notify Me” subscriber lists: Fort Bragg Downtown Businesses; and Economic Development Planning.

ATTACHMENTS

1. Ordinance Amending 18.71.090 - Planned Development Permit of Division 18 of the Fort Bragg Municipal Code to Allow Planned Development Permits on Parcels of 1 Acre or More; and
2. Resolution of the Fort Bragg City Council submitting an LCP Amendment to the Coastal Commission to Amend 17.71.090 - Planned Unit Development Permit of Division 17 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of 1 Acre or More.
3. Resolution of the Fort Bragg Planning Commission Recommending that the City Council approve an LCP Amendment to the Coastal Commission to Amend 17.71.090 - Planned

Unit Development Permit of Division 17 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of 1 Acre or More.

4. Resolution of the Fort Bragg Planning Commission Recommending that the City Council Amend 18.71.090 - Planned Development Permit of Division 18 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of 1 Acre or More.

**BEFORE THE CITY COUNCIL OF THE CITY OF FORT
BRAGG**

**AN ORDINANCE AMENDING 18.71.090 -
PLANNED DEVELOPMENT PERMIT OF
DIVISION 18 OF THE FORT BRAGG
MUNICIPAL CODE TO ALLOW PLANNED
DEVELOPMENT PERMITS ON PARCELS OF
1 ACRE OR MORE SUBJECT TO
PREVIOUSLY APPROVED MITIGATED
NEGATIVE DECLARATION**

ORDINANCE NO. XXX-2024

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS, the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS, the City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits and its sphere of influence; and

WHEREAS, the City adopted an Inland General Plan and certified an Environmental Impact Report Addendum (“EIR Addendum”) for the General Plan on December 2, 2012; and

WHEREAS, the City adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new State planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

WHEREAS, pursuant to the California Environmental Quality Act (“CEQA”) pursuant to Section 15074 of the CEQA Guidelines, a Mitigated Native Declaration (MND) was prepared and circulated for public comment for the zoning code amendment; and

WHEREAS, a Notice of Intent to Adopt an MND was published on December 7, 2023, and the twenty-day review period was from December 7 through December 27, 2023; and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 10, 2024 to consider the Zoning Code Amendment, accept public testimony and adopted a resolution recommending that City Council adopt a zoning amendment to modify the City’s PUD regulations; and

WHEREAS, the City Council held a duly noticed public hearing on April 8, 2024 to consider the Zoning Code Amendment, and accept public testimony regarding a zoning amendment to modify the City’s Planned Development (18.71.090) regulations; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg City Council, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the City Council meeting of April 8, 2024 and City Council deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the City Council does hereby make the following findings and determinations:

SECTION 1: LEGISLATIVE FINDINGS

1. The foregoing recitals are true and correct and made a part of this Ordinance.
2. On January 10, 2024, the Planning Commission held a properly noticed public hearing to consider recommending the proposed minor amendment to the Inland Land Use and Development Code to the Fort Bragg City Council for adoption and adopted a resolution in support of the City Council’s adoption of the amendment to the ILUDC pursuant to Gov. Code Section 65355; and
3. On April 8, 2024, the City Council held a properly noticed public hearing to consider adoption of the minor amendment to the Inland Land Use and Development Code; and

SECTION 2: INLAND LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 18.94.060, the City Council makes the following findings for adoption of the proposed amendments to the Fort Bragg Inland Land Use and Development Code:

- a. The proposed amendment is consistent with the General Plan and any applicable specific plan; and

The proposed amendment is consistent with the General Plan, as the amendments would result only in a change in the minimum parcel size for a Planned Development and the existing ordinance complies with the General Plan. There are no policies in the General Plan that only apply to parcels of 5 acres or more, and all policies in the General Plan apply equally to all parcels regardless of size. Additionally, all Planned Development permit approvals must make the following finding: *“The project is consistent with the General Plan and any applicable specific plan, and allowed within the applicable zoning district.”*

- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed amendment would retain permit requirements that: *“The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the*

proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.”

- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The proposed amendment would not change the ordinance’s existing consistency with the Development Code, indeed the goal of the PUD permitting process is to allow the City to carve out exceptions to the code so long as all permit findings can be made. All Planned Development permit approvals would be required to make the following finding: “The project complies with all applicable provisions of this Development Code other than those modified by the Planned Unit Development Permit.”

- 4. The project is subject to CEQA, and a properly noticed MND was prepared for the project and circulated for public review and adopted on April 8, 2024 immediately prior to the consideration of this Ordinance. This project is a necessarily included element of the project considered as part of Resolution XXX-2024 approved as part of Agenda Item 24-537. The Mitigated Negative Declaration adequately addressed the effects of the proposed project. No substantial changes have been made in the project, no substantial changes have occurred in the circumstances under which the project is being undertaken, and no new information of substantial importance to the project which was not known or could not have been known when the Mitigated Negative Declaration was adopted; therefore no further environmental review is required.
- 5. The documents and other material constituting the record for these proceedings are located at the Community Development Department, and

SECTION 3. *Based on the foregoing, the City Council does hereby Amend chapter 18.71.090 Planned Development as follows:*

18.71.090 - Planned Unit Development Permit (PUD)

A. Purpose. The Planned Unit Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each Planned Unit Development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. Applicability. A Planned Unit Development Permit application may be filed and processed only under the following circumstances:

- 1. **Minimum site area.** A Planned Unit Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site ~~larger than 5~~ of one acre or more.

2. Timing of permit. No Building or Grading Permit shall be issued on a site for which a Planned **Unit** Development Permit is proposed until the Planned **Unit** Development Permit has been approved in compliance with this Section.

3. Scope of approval.

a. Planned **Unit** Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.); provided, that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article [2](#).

b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter [18.31](#) (Density Bonuses and Affordable Housing Incentives).

C. Application filing and processing. An application shall be filed in compliance with Chapter [18.70](#) (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Planned **Unit** Development Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection (F) of this Section (Commission action).

D. Review authority. A Planned **Unit** Development Permit may be granted by the Commission.

E. Project review, notice, and hearing.

1. Application review. Each Planned **Unit** Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration.

2. Public hearing. The Commission shall conduct a public hearing on an application for a Planned **Unit** Development Permit before the approval or disapproval of the permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter [18.96](#) (Public Hearings).

F. Commission action. Following a public hearing, the Commission may approve or disapprove a Planned **Unit** Development Permit, and shall record the decision and the findings upon which the decision is based.

1. Required findings. The Commission may approve a Planned **Unit** Development Permit only after first finding that:

a. The project is consistent with the General Plan and any applicable specific plan, and allowed within the applicable zoning district;

b. The project complies with all applicable provisions of this Development Code other than those modified by the Planned **Unit** Development Permit;

c. The approved modifications to the development standards of this Development Code are necessary and appropriate to accommodate the superior design of the proposed project, its compatibility with adjacent land uses, and its successful mitigation of any identified environmental impacts;

d. The development authorized by the Planned **Unit** Development Permit approval will be of significantly higher quality, more energy efficient, more conserving of resources, and will produce fewer and less serious

environmental impacts than development that could otherwise occur in compliance with the requirements of this Development Code without adjustment;

- e. The project complies with all applicable provisions of the City's Design Guidelines;
- f. The project can be adequately, conveniently, and reasonably served by public facilities, services, and utilities;
- g. The planning concepts and design features of the project are reasonably suited to the characteristics of the site and the surrounding neighborhood;
- h. The location, size, planning concepts, design features, and operating characteristics of the project are and will be compatible with the character of the site, and the land uses and development intended for the surrounding neighborhood by the General Plan;
- i. The site is adequate for the project in terms of size, shape, topography, and circumstances; and
- j. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2. Conditions of approval. In approving a Planned **Unit** Development Permit, the Commission may impose any conditions deemed reasonable and necessary to ensure that the project will comply with the findings required by Subsection (F)(1) of this Section.

G. Time limit and expiration.

- 1. A Planned **Unit** Development Permit may specify a development completion period acceptable to the review authority.
- 2. If a time limit is not specified in the permit, the completion period shall not exceed 2 years.
- 3. If project construction has not commenced within the required time limit, the Planned **Unit** Development Permit shall automatically be terminated and deemed void, with no further action required by the City.

H. Planned **Unit Development Permit amendment.**

- 1. Commission action on requested changes.** Any requested change in the Planned **Unit** Development Permit, other than those allowed by Subsection (H)(3) of this Section shall be submitted to the review authority that originally approved the permit for review and approval following the same review notice and hearing procedures as for the original approval.
- 2. Added conditions.** The review authority may, as a condition of approval, impose added changes or conditions on the Planned **Unit** Development Permit amendment as it deems reasonable and necessary to carry out the purpose and intent of the original Planned **Unit** Development Permit and this Section.
- 3. Minor changes by Director.** Minor changes in the Planned **Unit** Development Permit which do not involve an increase in building area, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with § [18.76.080](#) (Changes to an Approved Project).

I. **Post approval procedures.** The procedures and requirements in Chapter [18.76](#) (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article [9](#) (Land Use and Development Code Administration), shall apply following a decision on an application for Planned **Unit** Development Permit approval.

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 April 8, 2024, and adopted at a regular meeting of the City of Fort Bragg held on _____, 2024, by the following vote:

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

Bernie Norvell
Mayor

ATTEST:

Diana Sanchez
City Clerk

PUBLISH: March 28, 2024 and _____, 2024 (by summary).
EFFECTIVE DATE: _____, 2024.

RESOLUTION NO. CC -2024

Resolution of the Fort Bragg City Council approving a Local Coastal Plan Amendment Application (LCP 6-23) to the Coastal Commission to Amend 17.71.090 - Planned Unit Development Permit of Division 17 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of 1 Acre or More, Statutory Exemption 15265.

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the “City”) to enact local planning and land use regulations; and

WHEREAS the authority to adopt and enforce zoning regulations is an exercise of the City’s police power to protect the public health, safety, and welfare; and

WHEREAS the City of Fort Bragg (“City”) adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits; and

WHEREAS, the City adopted a Coastal General Plan (“Coastal GP”) as the Land Use Plan portion of the Local Coastal Program on May 12, 2008 which established policies for all land within the Fort Bragg Coastal Zone; and

WHEREAS, in August 2008 the California Coastal Commission certified the City’s Local Coastal Program (LCP) which includes the Coastal GP as the Land Use Plan; and

WHEREAS, The City Council adopted Resolution 3162-2008 on May 12, 2008 adopting the Coastal General Plan; and

WHEREAS, the City adopted a Coastal Land Use and Development Code in 2008 as the implementing portion of the Local Coastal Program on May 12, 2008, which established all land use regulations for the Coastal Zone; and

WHEREAS, the Coastal General Plan includes policies to: (1) advance the orderly growth and development of the City’s Coastal Zone; (2) protect coastal resources; (3) incorporate sustainability into the development process so that Fort Bragg’s coastal resources and amenities are preserved for future generations; (4) respond to current environmental and infrastructure constraints; (5) protect the public health, safety and welfare; and (6) promote fiscally responsible development; and

WHEREAS, the “activities and approvals by a local government necessary for the preparation and adoption of a local coastal program or long range development plan” pursuant to the California Coastal Act are statutorily exempt from compliance with CEQA, and this statutory exemption “shifts the burden of CEQA compliance from the local agency to the California Coastal Commission” (CEQA Guidelines § 15265 (c)); and

WHEREAS, the Planning Commission held a duly noticed public hearing on January 10, 2024 to consider the Zoning Code Amendment, accept public testimony and adopted a resolution recommending that City Council adopt a zoning amendment to modify the City’s Planned Development regulations; and

WHEREAS, the City Council held a duly noticed public hearing on April 8, 2024 to consider the Zoning Code Amendment, and accept public testimony regarding a zoning amendment to modify the City’s Planned Development (18.71.090) regulations; and

NOW, THEREFORE, BE IT RESOLVED that the Fort Bragg City Council, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the City Council meeting of April 8, 2024 and City Council deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the City Council does hereby make the following findings and determinations:

SECTION 1: GENERAL FINDINGS:

- a. The foregoing recitals are true and correct and made a part of this Resolution; and
- b. The documents and other material constituting the record for these proceedings are located in the Community Development Department; and
- c. On January 10, 2024, the Planning Commission held a properly noticed public hearing to consider recommending the proposed minor amendment to the Inland Land Use and Development Code to the Fort Bragg City Council for adoption and adopted a resolution in support of the City Council’s adoption of the amendment to the ILUDC pursuant to Gov. Code Section 65355; and
- d. On April 8, 2024, the City Council held a properly noticed public hearing to consider adoption of the minor amendment to the Inland Land Use and Development Code; and

SECTION 2: COASTAL LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 17.94.060, the City Council makes the following findings for adoption of the proposed amendments to the Fort Bragg Coastal Land Use and Development Code:

- a. The proposed amendment is consistent with the Coastal General Plan and any applicable specific plan; and

The proposed amendment is consistent with the Coastal General Plan, as the amendments would result only in a change in the minimum parcel size for a Planned Development and the existing ordinance complies with the Coastal General Plan. There are no policies in the Coastal General Plan that only apply to parcels of 5 acres or more, and all policies in the Coastal General Plan apply equally to all parcels regardless of size. Additionally, all Planned Development permit approvals must make the following finding:
“The project is consistent with the Coastal General Plan and any applicable specific plan, and allowed within the applicable zoning district.”

- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed amendment would retain permit requirements that: *“The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.”*

- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The proposed amendment would not change the ordinance’s existing consistency with the Development Code, indeed the goal of the PUD permitting process is to allow the City to carve out exceptions to the code so long as all permit findings can be made. All Planned Development permit approvals would be required to make the following finding: “The project complies with all applicable provisions of this Development Code other than those modified by the Planned Unit Development Permit.”

SECTION 3. *Based on the foregoing, the City Council does hereby Recommend that the Coastal Commission Amend chapter 18.71.090 Planned Development as follows:*

17.71.090 - Planned Unit Development Permit

A. Purpose. The Planned Unit Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each Planned Unit Development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. Applicability. A Planned Unit Development Permit application may be filed and processed only under the following circumstances. A Coastal Development Permit shall also be required.

1. Minimum site area. A Planned Unit Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site ~~larger than five of one acres or more,~~ with the exception that all PUDs on the former Georgia Pacific Mill Site must be at least 5 acres or more.

2. Timing of permit. No Building or Grading Permit shall be issued on a site for which a Planned Unit Development Permit is proposed until the Planned Unit Development Permit has been approved in compliance with this Section.

3. Scope of approval.

a. Planned Unit Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.), provided that the approval shall not authorize a

land use that is not allowed in the applicable zoning district by Article 2 and provided that the City makes all of the required findings consistent with Section [17.71.090\(F\)\(1\)](#).

b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter [17.31](#) (Density Bonuses and Affordable Housing Incentives).

4. Coastal Development Permit required. A Coastal Development Permit shall be required for all Planned Unit Developments. Procedures for obtaining a Coastal Permit identified in Section [17.71.045](#) (Coastal Development Permits).

C. Application filing and processing. An application shall be filed in compliance with Chapter [17.70](#) (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Planned Unit Development Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection F. (Commission action), below.

D. Review authority. A Planned Unit Development Permit may be granted by the Commission.

E. Project review, notice, and hearing.

1. Application review. Each Planned Unit Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration.

2. Public hearing. The Commission shall conduct a public hearing on an application for a Planned Unit Development Permit before the approval or disapproval of the permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter [17.96](#) (Public Hearings).

F. Commission action. Following a public hearing, the Commission may approve or disapprove a Planned Unit Development Permit, and shall record the decision and the findings upon which the decision is based.

1. Required findings. The Commission may approve a Planned Unit Development Permit only after first finding that:

a. The project is consistent with the Coastal General Plan and any applicable specific plan, and allowed within the applicable zoning district. In addition to any other findings and/or conditions regarding the granting of a Variance or an Administrative Variance, the City shall only grant a Planned Unit Development Permit if the City determines that the means of accommodating the Planned Unit Development Permit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Planned Unit Development Permit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Planned Unit Development Permit.

b. The project complies with all applicable provisions of this Development Code other than those modified by the Planned Unit Development Permit;

c. The approved modifications to the development standards of this Development Code are necessary and appropriate to accommodate the superior design of the proposed project, its compatibility with adjacent land uses, and its successful mitigation of any identified environmental impacts;

- d. The development authorized by the Planned **Unit** Development Permit approval will be of significantly higher quality, more energy efficient, more conserving of resources, and will produce fewer and less serious environmental impacts than development that could otherwise occur in compliance with the requirements of this Development Code without adjustment.
- e. The project complies with all applicable provisions of the City's Design Guidelines;
- f. The project can be adequately, conveniently, and reasonably served by public facilities, services, and utilities;
- g. The planning concepts and design features of the project are reasonably suited to the characteristics of the site and the surrounding neighborhood;
- h. The location, size, planning concepts, design features, and operating characteristics of the project are and will be compatible with the character of the site, and the land uses and development intended for the surrounding neighborhood by the General Plan;
- i. The site is adequate for the project in terms of size, shape, topography, and circumstances; and
- j. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2. Conditions of approval. In approving a Planned **Unit** Development Permit, the Commission may impose any conditions deemed reasonable and necessary to ensure that the project will comply with the findings required by Subsection F.1.

G. Time limit and expiration.

- 1. A Planned **Unit** Development Permit may specify a development completion period acceptable to the review authority.
- 2. If a time limit is not specified in the permit, the completion period shall not exceed two years.
- 3. If project construction has not commenced within the required time limit, the Planned **Unit** Development Permit shall automatically be terminated and deemed void, with no further action required by the City.

H. Planned **Unit Development Permit amendment.**

1. Commission action on requested changes. Any requested change in the Planned **Unit** Development Permit, other than those allowed by Subparagraph 3., below, shall be submitted to the review authority that originally approved the permit for review and approval following the same review notice and hearing procedures as for the original approval. However, an approved change to a Planned **Unit** Development Permit does not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

2. Added conditions. The review authority may, as a condition of approval, impose added changes or conditions on the Planned **Unit** Development Permit amendment as it deems reasonable and necessary to carry out the purpose and intent of the original Planned **Unit** Development Permit and this Section. However, an approved

change to a Planned **Unit** Development Permit does not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

3. Minor changes by Director. Minor changes in the Planned **Unit** Development Permit which do not involve an increase in building area, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Subparagraph 17.76.080 (Changes to an Approved Project). However, an approved change to a Planned **Unit** Development Permit does not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

I. Post approval procedures. The procedures and requirements in Chapter [17.76](#) (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article [9](#) (Coastal Land Use and Development Code Administration), shall apply following a decision on an application for Planned **Unit** Development Permit approval. However, the procedures contained in Chapter [17.98](#) of Article [9](#) are not part of the certified LCP and shall not govern the review and approval of coastal development permits.

BE IT FURTHER RESOLVED that City Council does hereby submit an LCP Amendment Application to the Coastal Commission to amend Division 17 to the Fort Bragg Municipal Code to Amend 18.71.090 Planned Development to allow PUDs on parcels of 1 acre or more as delineated in Section 3.

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

The foregoing resolution was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on April 8, 2024, and adopted at a regular meeting of the City of Fort Bragg held on _____, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

**Bernie Norvell
Mayor**

ATTEST:

**Diana Sanchez
City Clerk**

RESOLUTION NO. PC 03-2024

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL AMEND 18.71.090 - PLANNED DEVELOPMENT PERMIT OF DIVISION 18 OF THE FORT BRAGG MUNICIPAL CODE TO ALLOW PLANNED DEVELOPMENT PERMITS ON PARCELS OF 1 ACRE OR MORE.

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the "City") to enact local planning and land use regulations; and

WHEREAS the authority to adopt and enforce zoning regulations is an exercise of the City's police power to protect the public health, safety, and welfare; and

WHEREAS the City of Fort Bragg ("City") adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits; and

WHEREAS, the City of Fort Bragg ("City") adopted an Inland General Plan and certified an Environmental Impact Report Addendum ("EIR Addendum") for the Inland General Plan on December 2, 2012; and

WHEREAS, the City of Fort Bragg ("City") adopted an Inland Land Use and Development Code and Negative Declaration on February 10, 2014; and

WHEREAS, the adoption of an Inland Land Use and Development Code is necessary to: 1) provide a regulatory framework for implementation of the Inland General Plan; 2) to implement new state planning and land use requirements; and 3) update zoning regulations in accordance with City Council policy direction; and

WHEREAS, pursuant to the California Environmental Quality Act ("CEQA") pursuant to Section 15074 of the CEQA Guidelines, a Mitigated Native Declaration (MND) was prepared and circulated for public comment for the zoning amendment; and

WHEREAS, a Notice of Intent to Adopt an MND was published on December 7 and the twenty-day review period was December 7 through December 27, 2023; and

WHEREAS the Planning Commission held a duly noticed public hearing on January 10, 2024, to consider the zoning amendment, accept public testimony.

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Inland General Plan; the Fort Bragg Inland Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the Planning Commission meeting of January 10, 2024 and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby make the following findings and determinations:

SECTION 1: RECITALS INCORPORATED

All of the Recitals set forth herein are true and correct and incorporated herein as findings and determinations.

SECTION 2: MITIGATED NEGATIVE DECLARATION ADOPTED

Based upon an independent review of the record, including all written and oral evidence presented, the Planning Commission finds and determines that all environmental impacts of the Project either less than significant or can be mitigated to a level that is less than significant under the mitigation measures outlined in the MND. The planning commission finds that the MND submitted contains a complete, objective, and accurate reporting of the environmental impacts associated with the project and reflects the independent judgment of the planning commission. The Planning Commission herein approves and adopts the MND.

SECTION 3: INLAND LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 18.94.060, the Planning Commission recommends that the City Council make the following findings for adoption of the proposed amendments to the Fort Bragg Inland Land Use and Development Code:

- a. The proposed amendment is consistent with the General Plan and any applicable specific plan; and

The proposed amendment is consistent with the General Plan, as the amendments would result only in a change in the minimum parcel size for a PUD and the existing ordinance complies with the General Plan. There are no policies in the General Plan that only apply to parcels of 5 acres or more, and all policies in the General Plan apply equally to all parcels regardless of size. Additionally, all PUD permit approvals must make the following finding: *“The project is consistent with the General Plan and any applicable specific plan, and allowed within the applicable zoning district.”*

- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed amendment would retain permit requirements that: *“The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.”*

- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The proposed amendment would not change the ordinance’s existing consistency with the Development Code, indeed the goal of the PUD permitting process is to allow the City to carveout exceptions to the code so long as all permit findings can be made. All PUD permit approvals would be required to make the following finding: *“The project complies with all applicable provisions of this Development Code other than those modified by the Planned Unit Development Permit.”*

SECTION 3: GENERAL FINDINGS:

- a. The foregoing recitals are true and correct and made a part of this Resolution; and
- b. The documents and other material constituting the record for these proceedings are located in the Community Development Department.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby recommend that the City Council amend Chapter 18.71.090 - Planned Unit Development Permit, of Division 18 of the Fort Bragg Municipal Code, to allow Planned Unit Development Permits on parcels of 1 acre or more.

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

The above and foregoing Resolution was introduced by Commissioner Neils, seconded by Vice Chair Deitz, and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 10th day of January 2024, by the following vote:

AYES: Neils, Jensen, Stavely, Deitz
NOES: None
ABSENT: Logan
ABSTAIN: None
RECUSE: None



Scott Deitz, Chair Pro Tem

ATTEST:



Maria Flynn, Administrative Assistant
Community Development Committee

ILUDC Amendment

18.71.090 - Planned **Unit** Development Permit (**PUD**)

A. Purpose. The Planned **Unit** Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each Planned **Unit** Development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. Applicability. A Planned **Unit** Development Permit application may be filed and processed only under the following circumstances:

1. **Minimum site area.** A Planned **Unit** Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site **larger than five of one acres or more, with the exception that all PUDs on the former Georgia Pacific Mill Site must be at least 5 acres or more.**

2. **Timing of permit.** No Building or Grading Permit shall be issued on a site for which a Planned **Unit** Development Permit is proposed until the Planned **Unit** Development Permit has been approved in compliance with this Section.

3. **Scope of approval.**

a. Planned **Unit** Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.); provided, that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article 2.

b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter 18.31 (Density Bonuses and Affordable Housing Incentives).

C. Application filing and processing. An application shall be filed in compliance with Chapter 18.70 (Permit Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Planned **Unit** Development Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection (F) of this Section (Commission action).

D. Review authority. A Planned **Unit** Development Permit may be granted by the Commission.

E. Project review, notice, and hearing.

1. Application review. Each Planned **Unit** Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration.

2. Public hearing. The Commission shall conduct a public hearing on an application for a Planned **Unit** Development Permit before the approval or disapproval of the permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter [18.96](#) (Public Hearings).

F. Commission action. Following a public hearing, the Commission may approve or disapprove a Planned **Unit** Development Permit, and shall record the decision and the findings upon which the decision is based.

1. Required findings. The Commission may approve a Planned **Unit** Development Permit only after first finding that:

- a. The project is consistent with the General Plan and any applicable specific plan, and allowed within the applicable zoning district;
- b. The project complies with all applicable provisions of this Development Code other than those modified by the Planned **Unit** Development Permit;
- c. The approved modifications to the development standards of this Development Code are necessary and appropriate to accommodate the superior design of the proposed project, its compatibility with adjacent land uses, and its successful mitigation of any identified environmental impacts;
- d. The development authorized by the Planned **Unit** Development Permit approval will be of significantly higher quality, more energy efficient, more conserving of resources, and will produce fewer and less serious environmental impacts than development that could otherwise occur in compliance with the requirements of this Development Code without adjustment;
- e. The project complies with all applicable provisions of the City's Design Guidelines;
- f. The project can be adequately, conveniently, and reasonably served by public facilities, services, and utilities;

g. The planning concepts and design features of the project are reasonably suited to the characteristics of the site and the surrounding neighborhood;

h. The location, size, planning concepts, design features, and operating characteristics of the project are and will be compatible with the character of the site, and the land uses and development intended for the surrounding neighborhood by the General Plan;

i. The site is adequate for the project in terms of size, shape, topography, and circumstances; and

j. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2. Conditions of approval. In approving a Planned **Unit** Development Permit, the Commission may impose any conditions deemed reasonable and necessary to ensure that the project will comply with the findings required by Subsection (F)(1) of this Section.

G. Time limit and expiration.

1. A Planned **Unit** Development Permit may specify a development completion period acceptable to the review authority.

2. If a time limit is not specified in the permit, the completion period shall not exceed 2 years.

3. If project construction has not commenced within the required time limit, the Planned **Unit** Development Permit shall automatically be terminated and deemed void, with no further action required by the City.

H. Planned **Unit Development Permit amendment.**

1. Commission action on requested changes. Any requested change in the Planned **Unit** Development Permit, other than those allowed by Subsection (H)(3) of this Section shall be submitted to the review authority that originally approved the permit for review and approval following the same review notice and hearing procedures as for the original approval.

2. Added conditions. The review authority may, as a condition of approval, impose added changes or conditions on the Planned **Unit** Development Permit amendment as it deems reasonable and necessary to carry out the purpose and intent of the original Planned **Unit** Development Permit and this Section.

3. Minor changes by Director. Minor changes in the Planned **Unit** Development Permit which do not involve an increase in building area, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with § [18.76.080](#) (Changes to an Approved Project).

I. Post approval procedures. The procedures and requirements in Chapter [18.76](#) (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article [9](#) (Land Use and Development Code Administration), shall apply following a decision on an application for Planned **Unit** Development Permit approval.

RESOLUTION NO. PC 02-2024

RESOLUTION OF THE FORT BRAGG PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL APPROVE AN LCP AMENDMENT TO THE COASTAL COMMISSION TO AMEND 17.71.090 - PLANNED DEVELOPMENT PERMIT OF DIVISION 17 OF THE FORT BRAGG MUNICIPAL CODE TO ALLOW PLANNED DEVELOPMENT PERMITS ON PARCELS OF 1 ACRE OR MORE.

WHEREAS, California Constitution Article XI, Section 7, enables the City of Fort Bragg (the "City") to enact local planning and land use regulations; and

WHEREAS the authority to adopt and enforce zoning regulations is an exercise of the City's police power to protect the public health, safety, and welfare; and

WHEREAS the City of Fort Bragg ("City") adopted a General Plan in 2002 which established policies for all lands within Fort Bragg city limits; and

WHEREAS, the City adopted a Coastal General Plan ("Coastal GP") as the Land Use Plan portion of the Local Coastal Program on May 12, 2008 which established policies for all land within the Fort Bragg Coastal Zone; and

WHEREAS, in August 2008 the California Coastal Commission certified the City's Local Coastal Program (LCP) which includes the Coastal GP as the Land Use Plan; and

WHEREAS, the City Council adopted Resolution 3162-2008 on May 12, 2008 adopting the Coastal General Plan; and

WHEREAS, the City adopted a Coastal Land Use and Development Code in 2008 as the implementing portion of the Local Coastal Program on May 12, 2008, which established all land use regulations for the Coastal Zone; and

WHEREAS, the Coastal General Plan includes policies to: (1) Advance the orderly growth and development of the City's Coastal Zone; (2) Protect coastal resources; (3) Incorporate sustainability into the development process so that Fort Bragg's coastal resources and amenities are preserved for future generations; (4) Respond to current environmental and infrastructure constraints; (5) Protect the public health, safety and welfare; and (6) Promote fiscally responsible development; and

WHEREAS, CEQA compliance responsibilities are assigned to the California Coastal Commission's Local Coastal Plan review and approval process, which has been found by the Secretary of the Resources Agency to be functionally equivalent to the Environmental Impact Report process; and

WHEREAS, the "activities and approvals by a local government necessary for the preparation and adoption of a local coastal program or long range development plan" pursuant to the California Coastal Act are statutorily exempt from compliance with CEQA, and this statutory exemption "shifts the burden of CEQA compliance from the local agency to the California Coastal Commission (CEQA Guidelines § 15265 (c)); and

WHEREAS the Planning Commission held a duly noticed public hearing on January 10, 2024, to consider the zoning amendment, accept public testimony; and

NOW, THEREFORE, BE IT RESOLVED that the City of Fort Bragg Planning Commission, based on the entirety of the record before it, which includes without limitation, CEQA, Public Resources Code §21000, et seq. and the CEQA Guidelines, 14 California Code of Regulations §15000, et seq.; the Fort Bragg Coastal General Plan; the Fort Bragg Coastal Land Use and Development Code; the Project application; all reports and public testimony submitted as part of the Planning Commission meeting of January 10, 2024 and Planning Commission deliberations; and any other evidence (within the meaning of Public Resources Code §21080(e) and §21082.2), the Planning Commission of the City of Fort Bragg does hereby make the following findings and determinations:

SECTION 1: RECITALS INCORPORATED

All of the Recitals set forth herein are true and correct and incorporated herein as findings and determinations.

SECTION 2: COASTAL LAND USE AND DEVELOPMENT CODE AMENDMENT FINDINGS

Pursuant to Fort Bragg Municipal Code Section 17.94.060, the Planning Commission recommends that the City Council make the following findings for adoption of the proposed amendments to the Fort Bragg Coastal Land Use and Development Code:

- a. The proposed amendment is consistent with the Coastal General Plan and any applicable specific plan; and

The proposed amendment is consistent with the Coastal General Plan, as the amendments would result only in a change in the minimum parcel size for a PUD and the existing ordinance complies with the Coastal General Plan. There are no policies in the Coastal General Plan that only apply to parcels of 5 acres or more, and all policies in the Coastal General Plan apply equally to all parcels regardless of size. Additionally, all PUD permit approvals must make the following finding: *“The project is consistent with the Coastal General Plan and any applicable specific plan, and allowed within the applicable zoning district.”*

- b. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

The proposed amendment would retain permit requirements that: *“The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.”*

- c. The proposed amendment is internally consistent with other applicable provisions of this Development Code.

The proposed amendment would not change the ordinance's existing consistency with the Development Code, indeed the goal of the PUD permitting process is to allow the City to carve out exceptions to the code so long as all permit findings can be made. All PUD permit approvals would be required to make the following finding: "The project complies with all applicable provisions of this Development Code other than those modified by the Planned Unit Development Permit."

SECTION 3: GENERAL FINDINGS:

- a. The foregoing recitals are true and correct and made a part of this Resolution; and
- b. The documents and other material constituting the record for these proceedings are located in the Community Development Department.

BE IT FURTHER RESOLVED that the Fort Bragg Planning Commission does hereby recommend that the City Council amend Chapter 17.71.090 - Planned Unit Development Permit, of Division 17 of the Fort Bragg Municipal Code, to allow Planned Unit Development Permits on parcels of 1 acre or more.

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

The above and foregoing Resolution was introduced by Commissioner Stavely seconded by Commissioner Neils and passed and adopted at a regular meeting of the Planning Commission of the City of Fort Bragg held on the 10th day of January 2024, by the following vote:

AYES: Neils, Jensen, Stavely, Deitz
NOES: None
ABSENT: Logan
ABSTAIN: None
RECUSE: None

Scott Deitz, Chair Pro Tem

ATTEST:

Maria Flynn

**Maria Flynn, Administrative Assistant
Community Development Department**

CLUDC Amendment

17.71.090 - Planned **Unit** Development Permit

A. Purpose. The Planned **Unit** Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each Planned **Unit** Development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. Applicability. A Planned **Unit** Development Permit application may be filed and processed only under the following circumstances. A Coastal Development Permit shall also be required.

1. Minimum site area. A Planned **Unit** Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site **larger than five of one acres or more, with the exception that all PUDs on the former Georgia Pacific Mill Site must be at least 5 acres or more.**

2. Timing of permit. No Building or Grading Permit shall be issued on a site for which a Planned **Unit** Development Permit is proposed until the Planned **Unit** Development Permit has been approved in compliance with this Section.

3. Scope of approval.

a. Planned **Unit** Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.), provided that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article [2](#) and provided that the City makes all of the required findings consistent with Section [17.71.090\(F\)\(1\)](#).

b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter [17.31](#) (Density Bonuses and Affordable Housing Incentives).

4. Coastal Development Permit required. A Coastal Development Permit shall be required for all Planned **Unit** Developments. Procedures for obtaining a Coastal Permit identified in Section [17.71.045](#) (Coastal Development Permits).

C. Application filing and processing. An application shall be filed in compliance with Chapter [17.70](#) (Permit Application Filing and Processing). The application shall be

accompanied by the information identified in the Department handout for Planned **Unit** Development Permit applications. It is the responsibility of the applicant to provide evidence in support of the findings, as required by Subsection F. (Commission action), below.

D. Review authority. A Planned **Unit** Development Permit may be granted by the Commission.

E. Project review, notice, and hearing.

1. Application review. Each Planned **Unit** Development Permit application shall be analyzed by the Director to ensure that the application is consistent with the purpose and intent of this Section. The Director shall submit a staff report and recommendation to the Commission for their consideration.

2. Public hearing. The Commission shall conduct a public hearing on an application for a Planned **Unit** Development Permit before the approval or disapproval of the permit. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter [17.96](#) (Public Hearings).

F. Commission action. Following a public hearing, the Commission may approve or disapprove a Planned **Unit** Development Permit, and shall record the decision and the findings upon which the decision is based.

1. Required findings. The Commission may approve a Planned **Unit** Development Permit only after first finding that:

a. The project is consistent with the **Coastal** General Plan and any applicable specific plan, and allowed within the applicable zoning district. In addition to any other findings and/or conditions regarding the granting of a Variance or an Administrative Variance, the City shall only grant a Planned **Unit** Development Permit if the City determines that the means of accommodating the Planned **Unit** Development Permit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Planned **Unit** Development Permit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Planned **Unit** Development Permit.

b. The project complies with all applicable provisions of this Development Code other than those modified by the Planned **Unit** Development Permit;

c. The approved modifications to the development standards of this Development Code are necessary and appropriate to accommodate the

superior design of the proposed project, its compatibility with adjacent land uses, and its successful mitigation of any identified environmental impacts;

d. The development authorized by the Planned **Unit** Development Permit approval will be of significantly higher quality, more energy efficient, more conserving of resources, and will produce fewer and less serious environmental impacts than development that could otherwise occur in compliance with the requirements of this Development Code without adjustment.

e. The project complies with all applicable provisions of the City's Design Guidelines;

f. The project can be adequately, conveniently, and reasonably served by public facilities, services, and utilities;

g. The planning concepts and design features of the project are reasonably suited to the characteristics of the site and the surrounding neighborhood;

h. The location, size, planning concepts, design features, and operating characteristics of the project are and will be compatible with the character of the site, and the land uses and development intended for the surrounding neighborhood by the General Plan;

i. The site is adequate for the project in terms of size, shape, topography, and circumstances; and

j. The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, or detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

2. Conditions of approval. In approving a Planned **Unit** Development Permit, the Commission may impose any conditions deemed reasonable and necessary to ensure that the project will comply with the findings required by Subsection F.1.

G. Time limit and expiration.

1. A Planned **Unit** Development Permit may specify a development completion period acceptable to the review authority.

2. If a time limit is not specified in the permit, the completion period shall not exceed two years.

3. If project construction has not commenced within the required time limit, the Planned **Unit** Development Permit shall automatically be terminated and deemed void, with no further action required by the City.

H. Planned **Unit Development Permit amendment.**

1. Commission action on requested changes. Any requested change in the Planned **Unit** Development Permit, other than those allowed by Subparagraph 3., below, shall be submitted to the review authority that originally approved the permit for review and approval following the same review notice and hearing procedures as for the original approval. However, an approved change to a Planned **Unit** Development Permit does not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

2. Added conditions. The review authority may, as a condition of approval, impose added changes or conditions on the Planned **Unit** Development Permit amendment as it deems reasonable and necessary to carry out the purpose and intent of the original Planned **Unit** Development Permit and this Section. However, an approved change to a Planned **Unit** Development Permit does not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

3. Minor changes by Director. Minor changes in the Planned **Unit** Development Permit which do not involve an increase in building area, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Subparagraph 17.76.080 (Changes to an Approved Project). However, an approved change to a Planned **Unit** Development Permit does not replace, supersede or modify the independent requirement for a CDP approved pursuant to the otherwise applicable policies and standards of the certified LCP.

I. Post approval procedures. The procedures and requirements in Chapter [17.76](#) (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article [9](#) (Coastal Land Use and Development Code Administration), shall apply following a decision on an application for Planned **Unit** Development Permit approval. However, the procedures contained in Chapter [17.98](#) of Article [9](#) are not part of the certified LCP and shall not govern the review and approval of coastal development permits.



**Initial Study/
Mitigated Negative
Declaration for**

Inland Land Use and
Development Code

Amendments to regulate:

Outdoor Dining, Tiny Homes,
Tiny Home Communities, and

Changes to Planned
Development Permit

Requirements.

12-7-2023

Marie Jones Consulting Fort Bragg, CA



Inland Land Use and Development Code Amendments to Regulate: Outdoor Dining, Tiny Homes, Tiny Home Communities, and Changes to Planned Development Permit Requirements.

Initial Study/Mitigated Negative Declaration

Prepared for:

City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

Prepared by:

Marie Jones Consulting
Fort Bragg, CA

December 2023

TABLE OF CONTENTS

<u>Section</u>	<u>Page</u>
1.0 INITIAL STUDY	4
1.1. INITIAL STUDY INFORMATION SHEET	4
1.2. INTRODUCTION	4
1.3. PROJECT BACKGROUND	5
1.4. PROJECT LOCATION	5
1.5. PROJECT SETTING AND SURROUNDING LAND USES	6
1.6. PROJECT DESCRIPTION.....	6
I. Tiny Home Ordinance Amendment	6
II. Tiny Home Communities Ordinance Amendment.....	8
III. Planned Development Permit Amendment	12
IV. Outdoor Dining Ordinance Amendment.....	12
V. 18.100 Definitions Amendment	14
VI. Vicinity Map- City of Fort Bragg, CA.....	16
VII. City of Fort Bragg Zoning Map	17
1.7. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED	18
1.8. DETERMINATION.....	19
2.0 ENVIRONMENTAL INITIAL STUDY CHECKLIST	20
VIII. AESTHETICS	21
IX. AGRICULTURE AND FORESTRY RESOURCES	23
X. AIR QUALITY	25
XI. BIOLOGICAL RESOURCES	26
XII. CULTURAL RESOURCES	30
XIII. ENERGY	33
XIV. GEOLOGY AND SOILS	34
XV. GREENHOUSE GAS EMISSIONS	38
XVI. HAZARDS AND HAZARDOUS MATERIALS	39
XVII. HYDROLOGY AND WATER QUALITY	41
XVIII. LAND USE AND PLANNING.....	46
XIX. MINERAL RESOURCES	46
XX. NOISE	47
XXI. POPULATION AND HOUSING.....	49
XXII. PUBLIC SERVICES.....	50

XXIII. RECREATION 52

XXIV. TRANSPORTATION..... 53

XXV. TRIBAL CULTURAL RESOURCES 56

XXVI. UTILITIES AND SERVICE SYSTEMS..... 58

XXVII. WILDFIRE 61

XXVIII. MANDATORY FINDINGS OF SIGNIFICANCE..... 63

3.0 REFERENCES 64

4.0 PREPARERS..... 64

ACRONYMS AND ABBREVIATIONS

BERD – Built Environment Resources Directory
 BLM – Bureau of Land Management
 BMP – Best Management Practices for Stormwater
 CBC – California Building Code
 CDC – California Department of Conservation
 CEQA – California Environmental Quality Act
 City – City of Fort Bragg
 County – Mendocino County
 CRHR – California Registry of Historic Places
 EIR – Environmental Impact Report
 EPA – Environmental Protection Agency
 FBUSD – Fort Bragg Unified School District
 Ft – foot
 GHG- Greenhouse Gas
 GLO – General Land Office
 ILUDC – Inland Land Use and Development Code
 IS – Initial Study
 NAHC – Native American Heritage Commission
 NRCS – Natural Resources Conservation Service
 NWIC – Northwest Information Center
 OSHA – Operational Safety and Health Agency
 PG&E – Pacific Gas and Electric
 RWS – Redwood Waste Solutions
 SF – Square foot
 SWPPP – Storm Water Pollution Prevention Plan
 SWRCB – State Water Resources Control Board
 TCR – Tribal Cultural Resources
 WWTP– Waste Water Treatment Plant

1.0 INITIAL STUDY

1.1. INITIAL STUDY INFORMATION SHEET

1. Project title: LAND USE AND DEVELOPMENT CODE AMENDMENTS TO REVISE THE TINY HOMES ORDINANCE, REPEAL AND REPLACE THE MOBILE HOMES ORDINANCE WITH A TINY HOME COMMUNITIES ORDINANCE, MAKE MINOR CHANGES TO THE PLANNED DEVELOPMENT ORDINANCE, AND ESTABLISH REGULATIONS TO ALLOW OUTDOOR DINING.
2. Lead agency name and address: City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437
3. Contact person and phone number: Juliana Cherry
707-961-2823
4. Project location: City of Fort Bragg
5. Zoning: Coastal and Inland: Low Density (RL), Medium Density (RM), High Density (RH) and Very High-Density (RVH) Residential Zoning Districts, General Commercial (CG), Highway Visitor Commercial (CH), and Neighborhood Commercial (CN).

1.2. INTRODUCTION

The proposed project is subject to the requirements of the California Environmental Quality Act (CEQA). The Lead Agency is the City of Fort Bragg. This MND satisfies the requirements of CEQA (Public Resources Code, Div. 13, Sec. 21000-21177) and the State CEQA Guidelines (California Code of Regulations, Title 14, Sec 15000-15387).

CEQA encourages lead agencies and applicants to modify their projects to avoid significant adverse impacts (CEQA Section 20180(c) (2) and State CEQA Guidelines Section 15070(b) (2)). Section 15063(d) of the State CEQA Guidelines states that an IS shall contain the following information in brief form:

- A description of the project including the project location
- Identification of the environmental setting
- Identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to provide evidence to support the entries
- Discussion of means to mitigate significant effects identified, if any
- Examination of whether the project would be consistent with existing zoning, plans, and other applicable land use controls

- The name of the person or persons who prepared and/or participated in the Initial Study

1.3. PROJECT BACKGROUND

Tiny Home Communities. In 2019, the City of Fort Bragg amended the Housing Element of the General Plan for conformance with State Housing Law. That Housing Element Amendment included many new policies and programs including the following non-mandatory program regarding Tiny Home Communities.

Program H-1.7.10: Tiny Home Community. Consider adopting new zoning regulations to allow for small home subdivisions, with small individual parcel ownership, in all residential zoning districts. Consider changing the minimum lot size and minimum parcel dimensions of the LUDC to accommodate tiny home communities as part of a planned development.

The proposed zoning amendments would partially implement this program. The City currently has a Mobile Home Park ordinance which is outdated and limiting in that it requires a parcel of 3+ acres. Additionally, mobile homes themselves have changed significantly as Park Model RVs and Tiny Homes are very similar in look and design, hence it does not make sense to have two separate ordinances to address these similar mobile living units. The proposed ordinance change would allow Tiny Homes and Park Model RVs in Tiny Home Communities.

Tiny Homes. In 2019, the City of Fort Bragg amended the Housing Element of the General Plan for conformance with State Housing Law. That Housing Element Amendment included many new policies and programs including the following non-mandatory programs regarding Tiny Homes.

Program H-1.3.5: Allow Tiny Homes as Second Units. Consider revising the zoning ordinance so that people can park mobile residences (residences built under the vehicle code) as a second unit, so long as the residence looks like a house (e.g., external siding that is compatible with the residential neighborhood, skirted if the wheels would otherwise be visible from the public right of way, etc.).

The proposed attached zoning amendment would implement this program. Additionally, the City currently has regulations related to mobile homes that should be updated and incorporated into this ordinance. The proposed ordinance would regulate both Tiny Homes and Park Model RVs as equivalent housing types subject to the same requirements.

Planned Development. City staff has suggested making a change to this flexible permitting process to make it more usable for housing development projects by reducing the minimum lot size from 5 acres to 1 acre.

Outdoor Dining. In 2020 the City adopted an emergency ordinance to permit the construction of outdoor dining pavilions as part of the response to the Covid Pandemic. On May 17, 2023, the Community Development Committee met and discussed this issue and asked the City to bring the issue forward to the City Council for discussion and policy direction. On June 26, 2023, the City Council met and discussed this issue and provided direction to establish Outdoor Dining Regulations.

1.4. PROJECT LOCATION

The project site includes the City of Fort Bragg (City), in western Mendocino County, California for the Tiny Home Communities, Tiny Home and Planned Development Amendments.

1.5. PROJECT SETTING AND SURROUNDING LAND USES

The project site includes residential and commercial zoning districts within the City of Fort Bragg.

1.6. PROJECT DESCRIPTION

The proposed project includes four amendments to the Inland Land Use and Development Code as follows:

I. Tiny Home Ordinance Amendment

Amends Title 18.21.030 & 18.21.050 Land Use Tables as follows:

Amends 18.21.030(B) Table 2-1 Allowable Land Uses and Permit Requirements for Residential Zoning Districts:

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
	RR	RS	RL	RM	RH	RVH		
RESIDENTIAL USES								
Tiny Home	P	P	P	P	P	P	P	18.42.175

Amends 18.22.030(C) Table 2-6 Allowable Land Uses and Permit Requirements for Commercial Zoning Districts:

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
	CN	CO	CBD	CG	CH	
RESIDENTIAL USES						
Primary Residential Unit	P(3)	--	P(4)	P(4)	–	
Tiny Home	P(6)			P(6)		18.42.175

(6) Use permitted only on parcels with existing single residential unit or existing/proposed multifamily development, and only in compliance with § 18.42.175.

The proposed amendment to establish new regulation for Tiny Homes would include the repeal of 18.42.175 Tiny Homes and its replacement with 18.42.175 Tiny Homes and Model Park RVs (see below).

18.42.175 – Tiny Homes & Model Park RVs

A. **Applicability.** Where allowed by Article 2 (Zoning Districts and Allowable Land Uses), Tiny Homes, Park Model RVs shall comply with the standards of this section.

B. **Definitions.**

Park Model RV. Must comply with the ANSI Standard 119.5 and all of the following requirements, as defined in Health and Safety Code Section 18009.3:

- i. Contain 400 SF or less of gross floor area, excluding loft area space if that loft area space meets the requirements of subdivision (b) and Section 18033.
- ii. May not exceed 14 feet in width at the maximum horizontal projection.
- iii. Built upon a single chassis.
- iv. May only be transported upon public highways with a permit issued pursuant to Section 35780 of the Vehicle Code. Park Model RVs shall be licensed and registered with the California Department of Motor Vehicles.
- v. Is not a self-propelled recreational vehicle.

Tiny Home. A tiny home is a small towable residential unit that meets the design and construction criteria listed in 18.42.175. Tiny Homes shall meet the provisions of ANSI 119.5 or Appendix Q of the UBC (or a comparable updated standard). It shall be the burden of the applicant to show compliance with one of these standards. Tiny Homes shall be licensed and registered with the California Department of Motor Vehicles.

C. **Tiny Home and Park Model RV Standards.** Tiny Homes and Park Model RVs shall be subject to all of the following additional criteria:

1. **Limitation on Location.**

- a. Tiny homes and Park Model RV are allowed as an accessory use to a Primary Unit in residentially zoning districts (RS, RR, RM, RH, and/or RVH).

2. **Development Standards.** A Tiny Homes and Park Model RVs (Unit) shall conform with the following requirements:

- a. **Height.** The Unit shall have a maximum height of 13' 6" to comply with Department of Motor Vehicles (DMV) towing requirements.
- b. **Location.** A Unit shall be located toward the side or rear of the property and maintain 4-foot side and rear setbacks, unless otherwise listed herein.
- c. **Size.** The minimum square footage of a Unit shall be 150 SF to comply with the California Health & Safety Code. The maximum size shall be 400 SF.
- d. **Number of Units Allowed.** Units are allowed on a parcel in the following configurations:
 - i. On a parcel with an existing primary unit, a maximum of one Tiny home or Park Model RV unit is permitted. Neither is permitted if there is a detached ADU on the property.
 - ii. Tiny Homes or Park Model RVs are permitted in Tiny Home Communities, and the maximum allowed is determined by Section 18.42.110.
- e. **Foundation.** Tiny Homes shall not be placed on a temporary or permanent foundation unless they are constructed in compliance with the Appendix Q Tiny Houses of the UBC and if they are permitted in compliance with section 18.42.170 as an ADU. Park Model RVs may be placed on a permanent foundation.

3. **Design Standards.** A Tiny Home or Park Model RV shall maintain a residential appearance through the following design standards.
 - a. **Skirting.** The undercarriage (wheels, axles, tongue and hitch) shall be hidden from view with a solid wood, metal or concrete apron when parked.
 - b. **Roof Pitch.** Roofs shall have a minimum of a 3:12 for greater than 50% of the roof area.
 - c. **Foundation or Pad.** A paved parking pad shall be required and include bumper guards, curbs, or other installations adequate to prevent movement of the unit. Alternative paving methods may be permitted at the discretion of the Community Development Director.
 - d. **Mechanical Equipment.** Mechanical equipment shall be incorporated into the structure and not be located on the roof (except for solar panels). Generators are not allowed except for use during emergencies.
 - e. **Materials.** Materials for the exterior walls shall include wood, hardiepanel or equivalent material as determined by the Community Development Director.
 - f. **Windows.** Windows shall be double pane glass or better, labeled for building use, and be trimmed out.
 - g. **Utility Connections.** The home shall be connected to City water and sewer utilities through dedicated pipes, and it may use on or off-grid electricity.

4. **Ownership.** Ownership of the Tiny Home or Park Model RV is not required.

5. **Short Term Rentals.** Tiny Homes and Park Model RV shall not be used as short-term rentals of less than 30 days.

D. Parking Requirements. No parking is required for a Tiny Home or Park Model RV.

II. Tiny Home Communities Ordinance Amendment

Amends 18.21.030(B) Table 2-1 Allowable Land Uses and Permit Requirements for Residential Zoning Districts:

TABLE 2-1 Allowed Land Uses and Permit Requirements for Residential Zoning Districts	Permitted use, Zoning Clearance P required Minor Use Permit required (see MUP § 18.71.060) UP Use Permit required (see § 18.71.060) S Use Regulations — Use not allowed							Specific Use Regulations
	PERMIT REQUIRED BY DISTRICT							
LAND USE (1)	RR	RS	RL	RM	RH	RVH		
RESIDENTIAL USES								
Mobile Home Park	UP	UP	UP	UP	UP	UP	18.42.110	
Tiny Home Community	-	-	UP	UP	UP	UP	18.42.110	

Amends 18.22.030(C) Table 2-6 Allowable Land Uses and Permit Requirements for Commercial Zoning Districts:

TABLE 2-6 Allowed Land Uses and Permit Requirements for Commercial Zoning Districts	P Permitted use, Zoning Clearance required MUP Minor Use Permit required (see § 18.71.060) UP Use Permit required (see § 18.71.060) S Permit requirement set by Specific Use Regulations — Use not allowed					
	PERMIT REQUIRED BY DISTRICT					Specific Use Regulations
LAND USE (1)	CN	CO	CBD	CG	CH	Regulations

Residential Uses

Tiny Home Community	UP	UP	-	UP	UP	18.42.110
---------------------	----	----	---	----	----	-----------

The proposed amendment to establish regulation for Tiny Home Communities would include the repeal of 18.42.110 Mobile Home Parks and its replacement with 18.42.110 Tiny Home Communities.

18.42.110 - Tiny Home Communities

This Section provides requirements and development standards for the development of Tiny Home Communities and Park Model RV Communities. The City intends that these communities be designed and landscaped to be compatible with adjacent residential and other uses. These standards are intended to provide a means of achieving a stable community in character with the surrounding area.

Definitions.

Tiny Home Lot Space. The space dedicated to each individual Tiny Home unit and its associated storage space, open space and internal setbacks. This area is rented to a Tiny Home tenant; it is not a separate legal space under the subdivision map act.

Park Model RV. Must comply with the ANSI Standard 119.5 and all of the following requirements, as defined in Health and Safety Code Section 18009.3:

1. Contain 400 SF or less of gross floor area, excluding loft area space if that loft area space meets the requirements of subdivision (b) and Section 18033.
2. May not exceed 14 feet in width at the maximum horizontal projection.
3. Built upon a single chassis.
4. May only be transported upon public highways with a permit issued pursuant to Section 35780 of the Vehicle Code. Park Model RVs shall be licensed and registered with the California Department of Motor Vehicles.
5. Is not a self-propelled recreational vehicle.

Tiny Home. A tiny home is a small towable residential unit that meets the design and construction criteria listed in 18.42.175. Tiny homes shall meet the provisions of ANSI 119.5 or Appendix Q of the UBC (or a comparable updated standard). It shall be the burden of the applicant to show compliance with one of these standards. Tiny homes shall be licensed and registered with the California Department of Motor Vehicles.

Tiny Home Community. Is any area or tract of land where two or more lots are rented or leased or held out for rent or lease to accommodate Tiny Homes, Park Model RVs and up to 25% of units as Small Manufactured Homes.

Small Manufactured Home. A small, manufactured home that complies with Title 24, Code of Federal Regulations, Chapter XX, Part 3280 that is between 350 and 600 SF and is a self-contained residential living unit, built off-site and placed on a permanent foundation.

A. Tiny Home and Park Model RV Community Standards. Each community shall comply with the following requirements:

1. Permit Requirements. Each Community shall be subject to Design Review in addition to the Use Permit approval required by § [18.21.030](#) (Residential Zoning District Allowable Land Uses and Permit Requirements). **A Coastal Development Permit is required for all Tiny Home Communities located within the Coastal Zone.**

2. Allowable Uses.

- a. **Unit Type.** Tiny Home Communities may be composed of any mix of Tiny Homes and Park Model RVs and may include up to 25% of the units as Small Manufactured Homes. A management office/residence is required.
- b. **Accessory Uses.** Use Permit approval for a Tiny Home Community may authorize accessory uses that are incidental to the planned residential use, exist for the sole purpose of service to the residents, are typically found in multifamily developments, and do not alter the character of the residential use.
 1. Residential accessory uses are limited to awnings, fences, garages (maximum size 400 SF), and storage sheds (maximum size 120 SF).
 2. Laundry facility, community room, community kitchen, recreational facilities, common open space, playground, clubhouse, and similar uses.
 3. A Tiny Home Community may contain accessory retail and service uses for park residents as authorized by Use Permit approval, and in compliance with §18.42.020 (Accessory Retail and Service Uses).

3. Standards. This section identifies standards for Tiny Home Community development, recognizing the dual need for moderately priced housing, and standards that will adequately protect residents of the communities and the City as a whole.

- a. **Phased Development.** Development may be in phases, so long as each phase complies with the minimum standards of this Section, and all “lots/spaces” in a phase are developed/ improved and authorized by a permit for occupancy in compliance with Health and Safety Code Section 18505.
- b. **Project Size.** Tiny Home Communities shall be located on a parcel that is at least 0.25 acres in size and not more than 5 acres in size.
- c. **Density.** Individual spaces shall comply with the maximum density permissible under the Land Use Code but no more than one unit per 1,800 SF of the total parcel size.

4. Tiny Home Community Layout and Design. The “Site Planning – New Multi Family Developments” section of the Citywide Design Guidelines shall be utilized for site layout and design for a Tiny Home Community. Additionally, a Tiny Home shall comply following additional requirements:

- a. **Orientation.** Tiny Homes that are adjacent to a street shall be oriented so that their front door faces the Street. Other units should be oriented around a central courtyard, promenade, or community garden.
- b. **Street Setbacks & Landscaping.** All street side setback areas shall be landscaped and continually maintained, in compliance with Chapter [18.34](#) (Landscaping Standards).
- c. **Individual Unit “Lot Space” Size.** The individual “lot space” for each unit within the Tiny Home Community shall include adequate space for the unit, internal setbacks, open space, and accessory storage as follows:
 - I. **Unit.** Between 150 and 400 SF of dedicated space depending on the size of the Tiny Home unit.
 - II. **Dedicated Open Space.** Each Tiny Home shall have at least 100 SF of dedicated open space in the form of a patio, lawn or landscaped area.
 - III. **Required Accessory Structures.** Each Tiny Home will be provided with 100 SF of storage space, which may be consolidated into one or more central storage buildings or located at individual tiny home sites.
 - IV. **Internal Setbacks.** Each Tiny Home shall maintain a minimum setback of 10 feet from other units.
- d. **Recommended Community Facilities.** Tiny Home Communities that include one or more of the following: shared open space, a community center, laundry facility, or a shared community garden are preferred.
- e. **Landscaping and Paths.** Each Tiny Homes Community shall include a network of landscaped walking paths that connect units to each other and to parking areas and sidewalks; and landscaping shall be provided in compliance with Chapter 18.34 (Landscaping Standards).
- f. **Parking.** Parking shall be provided at the rate of one parking space for each Tiny Home or Park Model RV. Parking should be consolidated in parking lots at the rear or side of the property, where feasible. Additionally, street parking may be utilized to meet up to 25% of the parking requirement through Minor Use Permit approval.
- g. **Internal Streets.** Internal streets are discouraged but shall comply with City street standards where provided, except where superseded by a standard required by state law.
- h. **Solid Waste.** Adequate solid waste and recyclable materials storage enclosures shall be provided in compliance with § 18.30.110.
- i. **Utilities.** All utility distribution facilities (including cable television, communication and electric lines and boxes) within a Tiny Home Community shall be placed underground. The developer is responsible for complying with the requirements of this Subsection and shall make the necessary arrangements with the utility companies for the installation of the required facilities. Each Tiny Home shall have a separate water meter.
- j. **Fencing.** A fence, solid masonry wall, or other decorative landscape screening is required to hide utilities (propane tanks, trash enclosures, etc.) from public view from a public right of way. Other fencing may be required by the review authority as part of the Design Review and Use Permit approval for the facility.
- k. **Signs.** A Tiny Home Community may have up to two externally illuminated identification signs not exceeding 6 feet in height or 24 square feet in area. The signs shall be integrated into the Tiny Home Community landscaping, at a location specified in the Use Permit approval.

B. Standards for Individual Units.

1. **Tiny Home Standards.** Individual Tiny Homes located within a Tiny Home Community shall comply with the standards for Tiny Homes enumerated in 18.42.175 of this development code.

2. **Park Model RV Standards.** Park Model RVs shall comply with the individual standards enumerated in 18.42.175 of this development code.
3. **Travel Trailers.** A self-propelled travel trailer, camper, motor coach, motor home, trailer coach, or any similar vehicle not certified under the National Mobile Home Construction Safety Standards Act of 1974 ([42](#) USC Section [4401](#) et seq.) shall not be allowed within a mobile home park.

III. Planned Development Permit Amendment

The proposed amendment to the Planned Development regulations includes revising the minimum project size from 5 acres to 1 acre as illustrated below.

18.71.090 - Planned Development Permit

A. Purpose. The Planned Development Permit is intended to provide for flexibility in the application of Development Code standards to proposed development under limited and unique circumstances. The purpose is to allow consideration of innovation in site planning and other aspects of project design, and more effective design responses to site features, uses on adjoining properties, and environmental impacts than the Development Code standards would produce without adjustment. The City expects each planned development project to be of obvious, significantly higher quality than would be achieved through conventional design practices and standards.

B. Applicability. A Planned Development Permit application may be filed and processed only under the following circumstances:

1. **Minimum Site Area.** A Planned Development Permit may be requested for a residential, commercial, industrial, or mixed-use development on a site larger than ~~5~~ **1** acres.
2. **Timing of Permit.** No Building or Grading Permit shall be issued on a site for which a Planned Development Permit is proposed until the Planned Development Permit has been approved in compliance with this Section.
3. **Scope of Approval.**
 - a. Planned Development Permit approval may adjust or modify, where determined by the review authority to be necessary and justifiable, any applicable development standard of this Development Code (e.g., building height, setbacks, parking, street layout, etc.); provided, that the approval shall not authorize a land use that is not allowed in the applicable zoning district by Article [2](#).
 - b. A project proposing increased residential density may only be approved by the Council in compliance with Chapter [18.31](#) (Density Bonuses and Affordable Housing Incentives).

IV. Outdoor Dining Ordinance Amendment

Amend 18.36.040 - Number of Parking Spaces Required, Table 3-7 as follows (amendment shown in red text):

TABLE 3-7 - PARKING REQUIREMENTS BY LAND USE (Continued)

Land Use Type: Retail Trade	Vehicle Spaces Required	
	Minimum	Maximum
All "Retail Trade" and general retail uses listed in § 18.22.030, Table 2-6, except for the following:	1 space for each 400 sf of floor area, plus 1 space for each 600 sf of outdoor sales area.	1 space for each 200 sf of floor area, plus 1 space for each 400 sf of outdoor sales area.
Restaurant, cafe, coffee shop	1 space for each 100 sf of dining area.	1 space for each 40 sf of dining area.
Outdoor Dining	No parking required	No parking required

Amend 18.42.165 as follows:

18.42.165 – Restaurants & Outdoor Dining

A. Grease and Oils. The following standards for restaurants are intended to regulate the disposal of grease and oils for the protection of the City of Fort Bragg sewage treatment plant and the environment:

1. **Operating Standards.** Restaurants shall comply with the following operating standards:
 - a. Installation and maintenance of grease trap/interceptor. Grease interceptor installation and maintenance must comply with the City’s Food Service Establishment Wastewater Discharge Permit and the City’s Municipal Code section regarding fats, oil and grease control.
 - b. Washing of restaurant floor mats, exhaust filters. Restaurant floor mats and exhaust filters shall be washed in a sink or wash area that drains to the sanitary sewer, or collected wastewater from such washing shall be discharged to the sanitary sewer.

B. Outdoor Dining. The following standards are for outdoor dining facilities and are intended to regulate for the safe and compatible operation of outdoor dining facilities. Outdoor Dining Facility may consist of tables and chairs for dining with or without a pavilion, tents and/or umbrellas.

1. **Allowed as part of Indoor Dining.** These regulations apply only to restaurants that have an indoor dining component. Entirely outdoor restaurants are not permitted.
2. **Location, Setbacks & Height Limits.**
 - a. Outdoor dining pavilions and tents shall comply with all relevant setback and height limits of the zoning district in which they are located.
 - b. Pavilions and tents may be located behind or to the side of the associated restaurant. Outdoor dining that is not in a pavilion or tent may be in front of the associated restaurant. Where the front of the building is the facade facing the primary street.
 - c. Outdoor dining facilities shall be located on previously developed areas such as a parking lot, sidewalk, or hardscape area. Outdoor dining may not result in a net loss of parking spaces unless otherwise allowed by this development code.
 - d. Outdoor dining must be located a minimum of 50 feet from any environmentally sensitive area, wetland or rare plant community.
 - e. Outdoor dining pavilions and tents shall be sited so that they do not add to stormwater runoff volume or peak runoff rates.
 - f. Outdoor dining pavilions and tents shall not be located in an area that would

- impact scenic views or resources as seen from a public right of way.
- g. Outdoor dining is permissible on the City's sidewalks with Encroachment Permit approval.
3. **Size Limits.** Outdoor dining facilities shall be limited to 1,300 SF. A larger size may be approved with a Minor Use Permit.
4. **Objective Design & Safety Criteria.** Outdoor dining pavilions and tents are subject to (or exempt from) administrative design review and shall comply with the following additional criteria:
- a. Outdoor dining facilities shall be confined to the area shown on the approved site plan.
 - b. Where umbrellas, tents or pavilions are proposed, a vertical clearance of at least 7' must be maintained.
 - c. Utilities, Heating & Lighting
 - I. The use of heating devices and electrical extension cords and lighting are subject to review and approval by the Chief Building Official and the Fire Marshal.
 - II. Portable Heaters/Space Heaters are permitted if approved for outdoor use, located in accordance with the manufacturer's recommendations, and located at least two feet from the edge or roof of any umbrella canvas, tent, pavilion, foliage, or any other flammable object or material.
 - III. All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.
 - d. Outdoor Dining shall not interfere with building ingress/egress.
 - 1. ADA Accessibility. The outdoor dining area shall be designed, constructed and/or conform to the applicable provisions, rules, regulations and guidelines of the California Building Code and Americans with Disabilities Act.
 - 2. Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.
 - e. Moveable barriers shall be of solid, durable materials. Preferred barriers include removable fences, freestanding fences, hedges, planters, trees, removable columns, and pavilion or tent structures. Fabric inserts, chain link fencing, plastic, vinyl, chicken wire and cyclone fencing are not permitted.
 - f. Pavilion and tent colors should either be white or a color which is compatible with the colors of the restaurant building.
5. **Operating Standards.** Outdoor dining shall comply with the following operating standards:
- B. No amplified music after 9:00pm
 - C. No new service after 9:00pm
 - D. Hours of operation shall not begin prior to 7:00AM or extend later than 10:00PM.
 - E. Smoking is prohibited in outdoor dining areas.
 - F. Outdoor food preparation and cooking are not permitted.
 - G. Establishments that serve alcoholic beverages in the outdoor dining area shall be required to meet all requirements of the Alcoholic Beverage Control Board and any other federal, state, or local laws and regulations governing the sale and consumption of alcoholic beverages.

V. 18.100 Definitions Amendment

In order to support the required code updates, the following addition to the definitions in ILUDC Section 18.100.020 would be added:

Outdoor Dining Facility. Outdoor dining may consist of tables and chairs for dining with or without a pavilion, tents and/or umbrellas adjacent to and on the same parcel as a restaurant located within a building.

Tiny Home Lot Space. The space dedicated to each individual tiny home unit and its associated storage space, open space and internal setbacks. This area is rented to a Tiny Home tenant; it is not a separate legal space under the subdivision map act.

Park Model RV. Must comply with the ANSI Standard 119.5 and all of the following requirements, as defined in Health and Safety Code Section 18009.3:

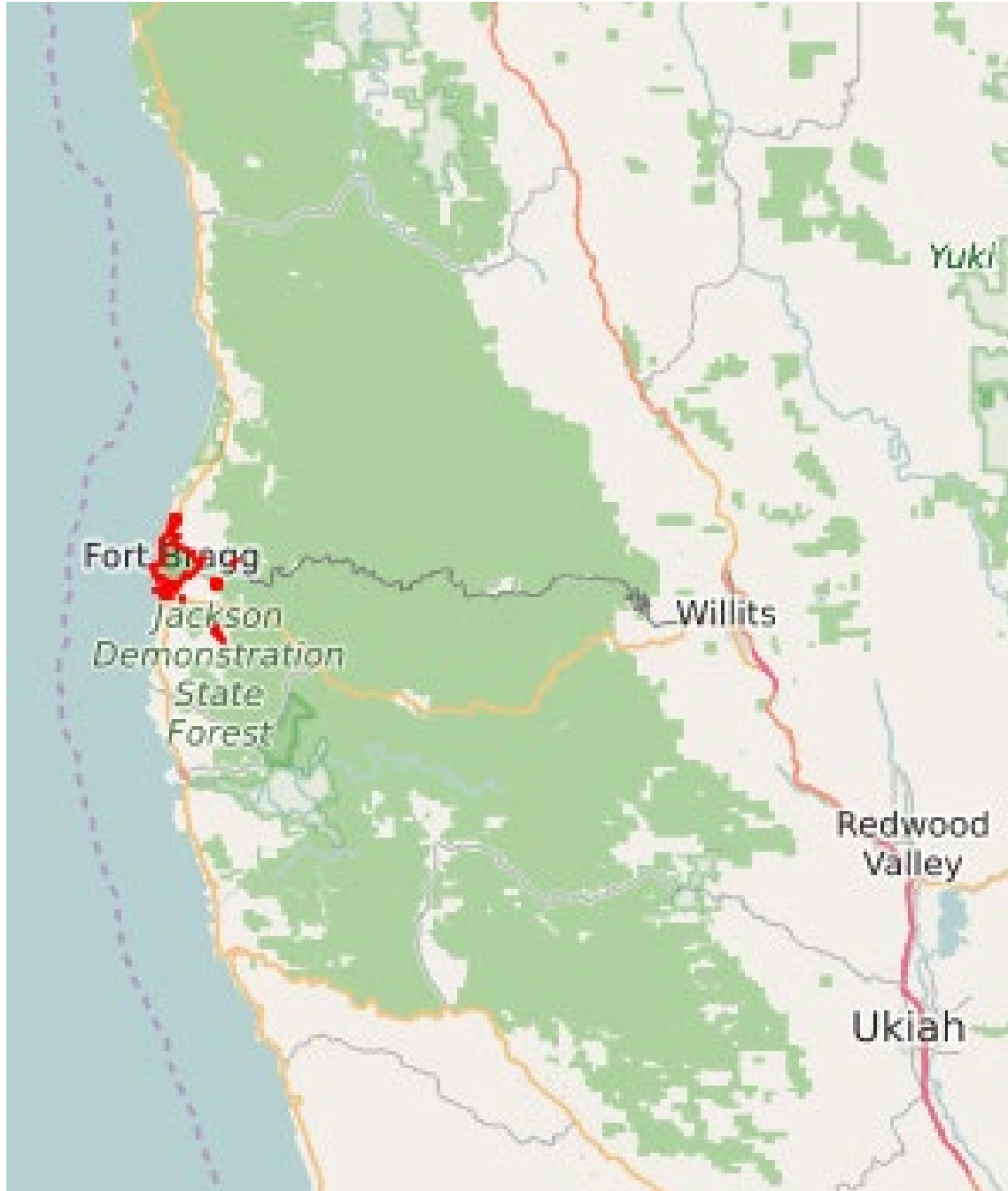
- i. Contain 400 SF or less of gross floor area, excluding loft area space if that loft area space meets the requirements of subdivision (b) and Section 18033.
- ii. May not exceed 14 feet in width at the maximum horizontal projection.
- iii. Built upon a single chassis.
- iv. May only be transported upon public highways with a permit issued pursuant to Section 35780 of the Vehicle Code. Park Model RVs shall be licensed and registered with the California Department of Motor Vehicles.
- v. Is not a self-propelled recreational vehicle.

Tiny Home. A tiny home is a small towable residential unit that meets the design and construction criteria listed in 18.42.175. Tiny homes shall meet the provisions of ANSI 119.5 or Appendix Q of the UBC (or a comparable updated standard). It shall be the burden of the applicant to show compliance with one of these standards. Tiny homes shall be licensed and registered with the California Department of Motor Vehicles.

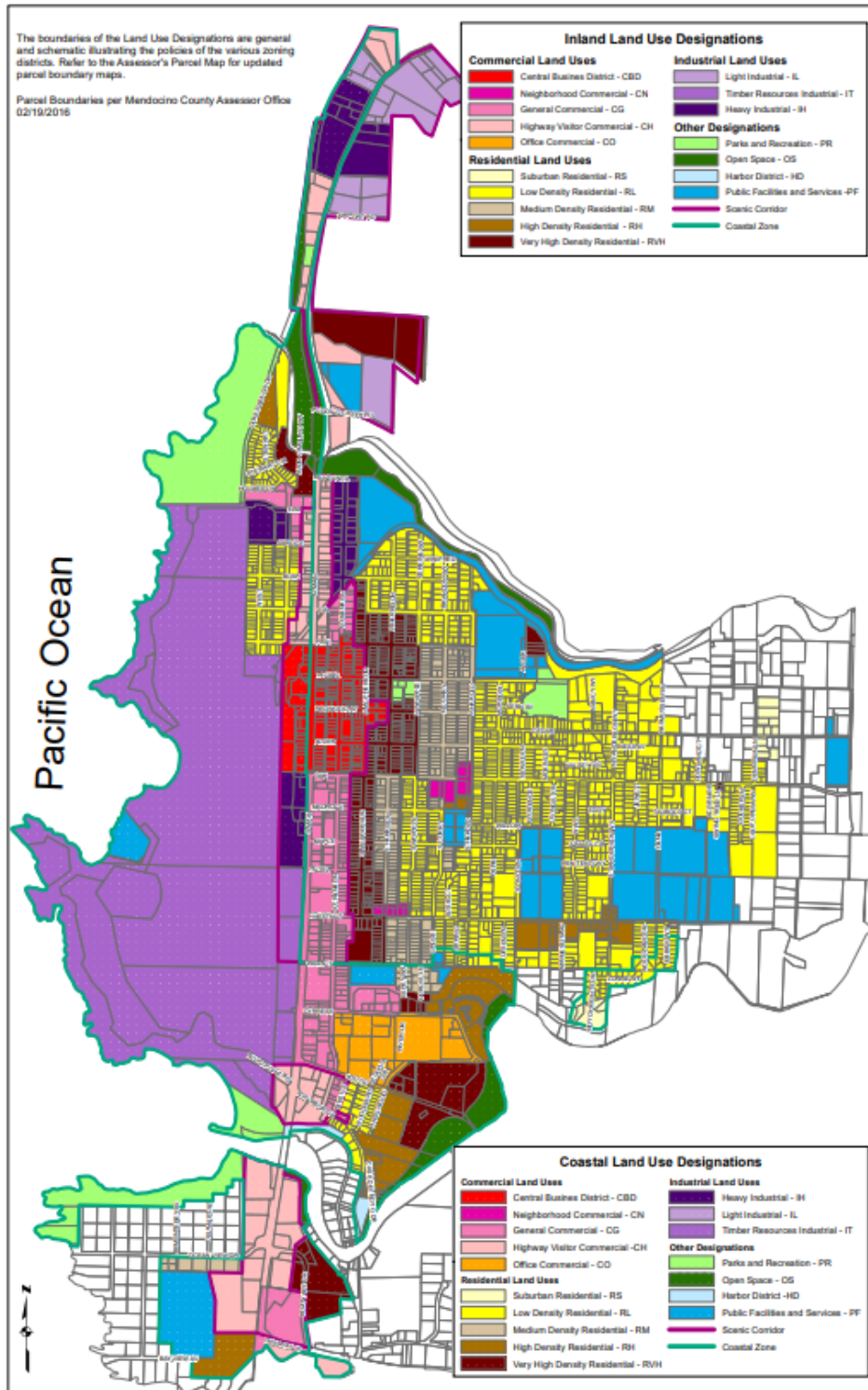
Tiny Home Community. Is any area or tract of land where two or more lots are rented or leased or held out for rent or lease to accommodate Tiny Homes, Park Model RVs and up to 25% of units as Small Manufactured Homes.

Small Manufactured Home. A small, manufactured home that complies with Title 24, Code of Federal Regulations, Chapter XX, Part 3280 that is between 350 and 600 SF and is a self-contained residential living unit, built off-site and placed on a permanent foundation.

VI. Vicinity Map- City of Fort Bragg, CA



VII. City of Fort Bragg Zoning Map



1.7. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a “Potentially Significant Impact” or “Less than Significant with Mitigation Incorporated” as indicated by the checklist on the following pages.

<input checked="" type="checkbox"/> Aesthetics	<input type="checkbox"/> Agriculture and Forestry Resources	<input type="checkbox"/> Air Quality
<input type="checkbox"/> Biological Resources	<input type="checkbox"/> Cultural Resources	<input checked="" type="checkbox"/> Energy
<input type="checkbox"/> Geology and Soils	<input type="checkbox"/> Greenhouse Gas Emissions	<input type="checkbox"/> Hazards and Hazardous Materials
<input checked="" type="checkbox"/> Hydrology and Water Quality	<input checked="" type="checkbox"/> Land Use and Planning	<input type="checkbox"/> Mineral Resources
<input type="checkbox"/> Noise	<input type="checkbox"/> Population and Housing	<input checked="" type="checkbox"/> Public Services
<input type="checkbox"/> Recreation	<input type="checkbox"/> Transportation	<input type="checkbox"/> Tribal Cultural Resources
<input checked="" type="checkbox"/> Utilities and Service Systems	<input type="checkbox"/> Wildfire	<input type="checkbox"/> Mandatory Findings of Significance

1.8. DETERMINATION

On the basis of this initial evaluation:

<input type="checkbox"/>	I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
<input checked="" type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
<input type="checkbox"/>	I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
<input type="checkbox"/>	I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
<input type="checkbox"/>	I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.



JULIANA VON HACHT CHERRY

November 30, 2023

Date

2.0 ENVIRONMENTAL INITIAL STUDY CHECKLIST

The lead agency has defined the column headings in the environmental checklist as follows:

- A. “Potentially Significant Impact” is appropriate if there is substantial evidence that an effect may be significant. If there are one or more “Potentially Significant Impact” entries when the determination is made, an EIR is required.
- B. “Less Than Significant with Mitigation Incorporated” applies where the inclusion of mitigation measures has reduced an effect from “Potentially Significant Impact” to a “Less Than Significant Impact.” All mitigation measures are described, including a brief explanation of how the measures reduce the effect to a less than significant level. Mitigation measures from earlier analyses may be cross-referenced.
- C. “Less Than Significant Impact” applies where the project does not create an impact that exceeds a stated significance threshold.
- D. “No Impact” applies where a project does not create an impact in that category. “No Impact” answers do not require an explanation if they are adequately supported by the information sources cited by the lead agency which show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project would not expose sensitive receptors to pollutants, based on a project specific screening analysis).

The explanation of each issue identifies the significance criteria or threshold used to evaluate each question; and the mitigation measure identified, if any, to reduce the impact to less than significance. Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration [CEQA Guidelines Section 15063(c)(3)(D)]. Where appropriate, the discussion identifies the following:

- a) Earlier Analyses Used. Identifies where earlier analyses are available for review.
- b) Impacts Adequately Addressed. Identifies which effects from the checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and states whether such effects were addressed by mitigation measures based on the earlier analysis.
- c) Mitigation Measures. For effects that are “Less Than Significant with Mitigation Incorporated,” describes the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

VIII. AESTHETICS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Setting

The project site includes the Inland Area of the City of Fort Bragg (City), in western Mendocino County, California. The City of Fort Bragg is largely developed with the inland portion of the City lying east of Highway 1 and north of Chestnut Street. As such the project site does not block views to the Ocean from Highway 1.

Discussion

a) Have a substantial adverse effect on a scenic vista?

No Impact. The proposed zoning amendments would affect only development patterns east of Highway 1 and north of Chestnut Street. The project would not therefore obstruct a view of the Pacific Ocean. Proposed development approved as a consequence of the ILUDC amendments would be surrounded by similar development and would be consistent with the existing development patterns in the vicinity. As development approved as a consequence of the proposed amendment would not obstruct views of the Pacific Ocean and would be consistent with the existing surrounding uses, impacts relating to scenic vistas would be less than significant and no mitigation would be required.

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

No Impact. The project is regulated by the City’s Inland General Plan and ILUDC. The City’s Inland General Plan includes the following Policy:

Policy CD-1.3: Scenic Views and Resource Areas: Ensure that development does not adversely impact scenic views and resources as seen from public rights-of-way.

The proposed amendment would comply with this policy. Per Caltrans Scenic Highway System Lists, State Highway 1 is an eligible state scenic highway, although it has not been designated as scenic (Caltrans 2019). As the project is not located within a state scenic highway, it would have no impact on scenic resources and no mitigation is required.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

- **Tiny Homes. Less than Significant Impact.** Tiny homes would be located behind the primary structure and limited to 16 feet in height, therefore the impact to visual resources would be less than significant.
- **Tiny Home Communities and Planned Development. Less than Significant Impact.** Tiny Home Communities and Planned Development projects would be required to comply with Design Review and a Use Permit, which require finding that a proposed project is compatible with the visual character and the City's design guidelines.
- **Outdoor Dining. Less than Significant Impact with Mitigation.** As proposed the Outdoor Dining ordinance could have a significant impact on the quality of public views of a site and/or its surroundings. The ordinance as proposed does not require design review of outdoor dining pavilions even though Design Review is required for other commercial structures in Fort Bragg. Additionally, the City has not established standards for the review of pavilions which might go through a design review process if such a review was required. Therefore, Mitigation Measure Aesthetics-1 is recommended to address this issue.

Mitigation Measure Aesthetics-1. The following additional requirements shall be added to the regulations for outdoor dining to reduce the potential impact on aesthetics to less than significant.

B. Setbacks & Height Limits. Outdoor dining pavilions and tents shall comply with all relevant setbacks and height limits of the zoning district in which they are located.

Pavilions can be located ~~in front of,~~ behind or to the side of the associated restaurant.

Outdoor dining that is not located within a pavilion may be in front of the building. Where the front of the building is the facade facing the primary street.

d) Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?

- **Tiny Homes. Less than Significant Impact.** Tiny homes would be located behind the primary structure and limited to 16 feet in height, they would not result in substantial light, glare or affect day or nighttime views.
- **Tiny Home Communities and Planned Development. Less than Significant Impact.** Both Tiny Home Communities and Planned Development projects are required to comply with Design Review which includes potential impacts of light, glare and views. Additionally, any exterior lighting is required to be downcast, and shielded in compliance with regulations set by the International Dark-Sky Association and the performance standards of ILUDC

18.30.070 Outdoor Lighting. As a result, the potential for new sources of significant light or glare within a Tiny Home Community, which would adversely affect day or nighttime views in the area, would be less than significant.

- **Outdoor Dining. Less than Significant Impact with Mitigation.** As proposed the Outdoor Dining ordinance could have a significant impact on nighttime glare as canvas tents which are illuminated from the interior do emit a significant amount of light into the dark sky. Therefore, Mitigation Measure Aesthetics-2 is recommended to address this issue.

Mitigation Measure Aesthetics-2. The following additional requirements shall be added to the regulations for outdoor dining to reduce the potential impact on aesthetics to less than significant.

D. Objective Design & Safety Criteria.

8. All lighting located within or outside of outdoor dining pavilions shall be downward facing and night sky compliant.

IX. AGRICULTURE AND FORESTRY RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg does not contain any forest lands or timberland production zones. While agriculture is allowed in all zoned areas of the City of Fort Bragg, no lands are designated as “Prime

Farmland”, and none are currently under agricultural uses. There are no sites in the City of Fort Bragg that are covered under the Williamson Act.

The California Important Farmlands Map prepared for Mendocino County by the California Department of Conservation classifies the project site as Grazing Land and Urban/Built-Up Land (California Department of Conservation [CDC] 2022a).

Discussion

- a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?
- b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

No impact. The proposed zoning amendments would not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance to non-agricultural use, conflict with existing zoning for agricultural use, or a Williamson Act contract. As noted above, the City is designated as “Urban and Built-Up Land” under the FMMP of the CDC (CDC 2022a). No impact would occur.

- c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?
- d) Result in the loss of forest land or conversion of forest land to non-forest use?

No impact. The City of Fort Bragg is neither designated nor zoned as forest land or timberland and there is no forest land located within City limits. No impact would occur.

- e) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?

No impact. The proposed zoning code amendment would not conflict with existing zoning, nor does it include rezoning. Additionally, there is no timberlands, forest land or timber zoned timberland Production located within the inland portion of the City of Fort Bragg, where the proposed regulations would be applied.

X. AIR QUALITY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) Conflict with or obstruct implementation of the applicable air quality plan?

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non- attainment under an applicable federal or state ambient air quality standard?

a) and b) No Impact. The proposed project would have no impact on the implementation of the Mendocino County air quality requirements which are focused on PM-2.5 and PM-10. The addition of Tiny Homes, Tiny Home Communities and Planned Development of 1 acre or less will likely result in lower levels of PM-2.5 and PM-10, as any new development approved through these regulations would result in increased densities within Fort Bragg which would reduce commuting and thereby improve air quality. The proposed amendment to allow outdoor dining prohibits outdoor cooking, the only likely source of additional PM 2.5 and PM 10 pollution, and therefore this project will not conflict with air quality goals for Mendocino County.

c) Expose sensitive receptors to substantial pollutant concentrations?

No Impact. As noted above the proposed project would not result in substantial pollution, and there would be no impact on sensitive receptors.

d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?

No Impact. The proposed project would result in additional residential development and outdoor dining. Neither of these activities will result in emissions and odors that would adversely affect a substantial number of people.

XI. BIOLOGICAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

Biological resources are protected through the City’s General Plan Conservation, Open Space, and Parks Element includes the following relevant policies:

Goal OS-1 Preserve areas with important biotic resources.

Policy OS-1.1 Special Review Areas: Areas in the City containing watercourses, wetlands, sensitive plant and wildlife habitat, and forested land shall be designated as Special Review Areas.

Sensitive plant and wildlife habitat include: all species that appear on Federal lists of endangered, threatened, rare, and candidate species and plant and animal species

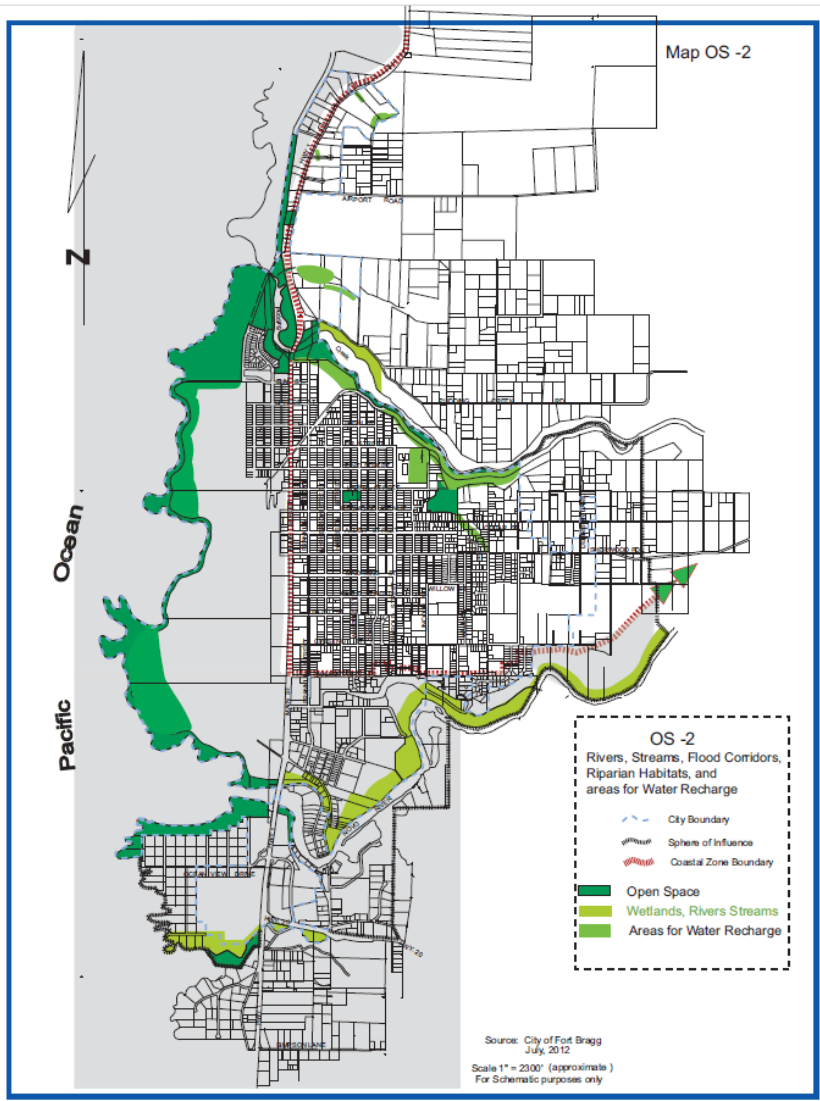
designated by the California Department of Fish and Wildlife as species of special concern or their current equivalent (G1, G2, S1 and S2 listed plants).

Policy OS-1.2 Preserve Natural Resources: Require that sensitive natural resources in Special Review Areas be preserved and protected to the maximum degree feasible.

Program OS-1.2.1: Review projects requesting discretionary approvals to determine whether the project is located in an area with potentially sensitive natural resources.

Policy OS-1.3 Biological Report Required for Special Review Areas: Permit applications for development within or adjacent to Special Review Areas which have the possibility of containing sensitive habitat shall include a biological report prepared by a qualified biologist which identifies the resources and provides recommended measures to ensure that the requirements of CEQA, the Department of Fish and Wildlife, and the City of Fort Bragg's *Inland General Plan* are fully met. The required content of the biological report is specified in the *Inland Land Use and Development Code*.

The map below illustrates locations with the City of Fort Bragg for which a biological analysis is required.



Discussion

a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

- **Tiny Homes. Less than Significant Impact.** A Tiny home would be permissible only as an accessory use to an already built Primary Residential Unit. Development of accessory residential uses are exempt from CEQA review in recognition that the impacts are less than significant.
- **Tiny Home Communities and Planned Development. Less than Significant Impact.** As both Tiny Home Communities and Planned Development projects must obtain a Use Permit per the proposed zoning amendment, any potential impacts to special status

species would be analyzed at the time of application through the required CEQA review and would be mitigated to a less than significant impact.

- **Outdoor Dining. Less than Significant with Mitigation.** The proposed outdoor dining regulations could potentially impact special status species, because the regulation does not require a use permit and thus are permitted by right. Consequently, potential impacts should be mitigated in the regulations themselves. Mitigation Measure Bio-1 would reduce potential impacts to less than significant.

Mitigation Measure Bio-1. The following requirements shall be added to the regulations for outdoor dining to reduce the potential impact on biological resources to less than significant.

B. Location, Setbacks and height limits

Outdoor dining pavilions and tents shall comply with all relevant setbacks and height limits of the zoning district in which they are located. **Outdoor Dining Facilities shall be located on previously developed areas (such as a parking lot, sidewalk or landscaped area) or located a minimum of 50 feet from any Environmentally Sensitive area, wetland or rare plant community.**

b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

- **Tiny Homes. Less than significant impact.** A Tiny Home would be permissible only as an accessory use to an already built Primary Residential Unit. Development of accessory residential uses are exempt from CEQA review in recognition that the impacts are less than significant.
- **Tiny Home Communities and Planned Development. Less than Significant Impact.** As both Tiny Home Communities and Planned Development projects must obtain a Use Permit, any potential impacts to special status species would be analyzed at the time of application through the required CEQA review and would be mitigated to a less than significant impact.
- **Outdoor Dining. Less than Significant with Mitigation.** The proposed outdoor dining regulations could potentially impact riparian habitat or sensitive natural communities, because they are permitted by right. Consequently, potential impacts should be mitigated in the regulations themselves. Mitigation Measure Bio-1 would reduce potential impacts to less than significant.

c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?

No Impact. See a and b above.

d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?

No Impact. See a and b above.

- e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?

No Impact. See a and b above.

- f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?

No Impact. No Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan is applicable to the inland area of the City of Fort Bragg. Therefore, no impacts to an existing adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan would occur.

XII. CULTURAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Setting & Background

Prehistory

Over half a century of archaeological investigations in the North Coast Ranges has revealed a record of hunter-gatherer occupation spanning over 10,000 years. The cultural chronology of the project site is best described as part of the overall cultural chronology for the central North Coast Ranges. In his 1974 doctoral dissertation David A. Fredrickson proposed five chronological periods and related cultural patterns. The Paleo-Indian Period (10,000 to 6000 BC) is represented as a hunting adaptation characterized by large fluted projectile points. The Lower Archaic Period (6000 to 2000 BC) is distinguished by an emphasis on plant exploitation as evidenced by high frequencies of milling tools. The Middle Archaic (3000-1000 BC) is characterized by the introduction of mortar and pestle technology and the assumed exploitation of acorns. The Upper Archaic Period (1000 BC to AD 100) is represented growing social complexity marked by status differentiation, complex trade networks, and the development of “group oriented religious activities” (Fredrickson 1974:48). The Emergent Period (AD 500 to Historic times) is marked by the use/introduction of bow and arrow technology, expansion of exchange relations, and the establishment of clearly defined territorial systems.

A number of cultural chronologies have been developed for this region (cf. Basgall 1982; Fredrickson and White 1988; Hildebrandt and Hayes 1984; Jones and Hayes 1993; Layton 1990; Meighan 1955; White and King 1993; White et al. 2002). White et al. (2002) provides the most synthetic summary of relevant research themes and the current state of knowledge concerning prehistoric hunter-gatherer studies in the North Coast Ranges. Archaeologists and linguists believe that Yukian peoples were the original inhabitants of the Mendocino coast and were displaced by Pomo speakers. Yukian assemblages are affiliated with the Gunther Pattern of northwestern California and generally lack obsidian. When obsidian is present, it is most often derived from northeastern California sources such as the Medicine Lake Highlands and Grasshopper Flat. Pomoan assemblages are affiliated with the Augustine Pattern and show influences from Central California including strong access to obsidian from the Clear Lake basin. Layton's (1990) work at sites on Albion Head, Night Bird's retreat, and Three Chop village represent one of the most synthetic attempts devoted to detecting the expansion of Pomoan populations across the North Coast Ranges.

Significant archaeological research conducted within MacKerricher State Park during the late 1980s included excavation of 11 prehistoric Native American shell mound sites within the park, outlined a three-phase cultural chronology for the area, identified several research problems that form the basis of much subsequent work and was a major step toward understanding local archaeology on the Mendocino Coast (White 1989: Figure 1). Significant archaeological research was completed on the former GP mill Site in 2004, which identified significant archaeological sites and concluded that the Mill Site could qualify as a historic landmark.

Ethnography

The City of Fort Bragg is within the ancestral territory of the Coast Yuki (Barrett 1908, Kroeber 1925), though the land is near a territorial border between the Coast Yuki and the Northern Pomo to the south (White 1989:14). Stewart (1943) assigned this area as part of North Pomo territory extending north to the South Fork Ten Mile River. The Coast Yuki, who inhabited this region prior to European-American intrusion, are one of three linguistically related groups that spoke the Yuki language: Coast Yuki, Yuki and Huchnom. The Yuki language has been grouped with Wappo in the Yukian language family (Miller 1978:249). The following ethnographic summary is not intended as a thorough description of Coast Yuki culture, but instead is meant to provide a background to the present cultural resource investigation with specific references to the project area. In this section, the past tense is sometimes used when referring to native peoples, as this is an historical study. This convention is not intended to suggest that Yuki people only existed in the past. To the contrary, the Yuki people have a strong cultural and social identity today.

The Coast Yuki occupied a portion of what is now the northern Mendocino Coast, in the area from Cleone to north of Rockport, along the coast and for several miles inland (Barrett 1908:360). The Coast Yuki lived in small groups and moved seasonally, harvesting at beach camps during the summer, and moving inland for the winter (Miller 1978:254). Each Coast Yuki Group had a headman and controlled a strip of land from the coast inland to the eastern boundary of Coast Yuki territory. In spite of territorial divisions, many groups would come together to gather a particularly plentiful resource, such as mussels in Westport. The Coast Yuki primarily subsisted off of shellfish, seals, salmon, acorns and root plants. Some deer and elk were also consumed. Trade networks were maintained with the Cahto and Northern Pomo to obtain obsidian, tobacco, and clamshell disk beads, trading ocean products in return (Miller 1978:255).

History

Anglo Settlement and Native American Reservations

Permanent non-indigenous settlement along the Mendocino Coast did not take place until the mid-1840s. Problems quickly developed between settlers and local Native Americans involving a struggle over territory and competition over food between livestock and people. Campaigns of genocide led by local settlers decimated the population of Coast Yuki peoples, decreasing the population from 750 in 1850 to 50 in 1864 (Miller 1978:250). In 1855, two Indian reservations were established in Mendocino County for the purpose of “collecting, removing and subsisting” local tribes (Winn 1986).

The Mendocino Reservation was established on the coast near Fort Bragg, north of the mouth of the Noyo River. Indians were rounded up and brought to the reservation, where they were mandated to stay, inadequately rationed and often physically abused (Winn 1986:22-24). In 1857 Lt. Horatio Gibson established the military encampment of Fort Bragg to manage the Mendocino Reservation (Palmer 1880:423-428). By the summer 1857, the reservation included a population of 3,450 Indians from many different tribal groups, 350 acres of planted land, and 24 houses for Indians (Winn 1986:17). An additional 1,500 Indians were absent by permission subject to good behavior enforced by the U.S. Army military. Native Americans were rounded up, mandated to stay on the reservation, inadequately rationed, and physically abused (Winn 1986:22-24). Thomas J. Henley, Superintendent of Indian Affairs in California in the mid 1850’s, was accused of stealing reservation funds and fraud (Winn 1986:21-22). Henley was removed from office in June 1859, but never charged for his alleged crimes. The Mendocino Reservation was deemed a failure and closed in 1867 (Winn 1986). After the closing of the Mendocino Reservation in 1867, Coast Yuki people were moved to the Round Valley Reservation (Miller 1978:249). By 1970, it was believed that no speakers of the Coast Yuki language remained (Kroeber and Heizer 1970:3).

Discussion

- a) Cause a substantial adverse change in the significance of a historical resource pursuant to §15064.5?
- b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

- **Tiny Homes & Outside Dining. Less than Significant.** There is always the possibility that the erection of a pavilion and or the subsurface construction activities associated with the development of a concrete pad for a Tiny home, such as trenching and grading, could potentially damage or destroy previously undiscovered cultural resources. However, if cultural resources are discovered, the City’s permitting process includes a standard condition (see below) that defines the required practice to mitigate any such discovery to a less than significant impact.

Standard Condition 6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.

- **Tiny Home Communities and Planned Development. Less than Significant Impact.** As both Tiny Home communities and Planned Development projects must

obtain a Use Permit per the proposed zoning amendment, any potential impacts to cultural or historic resources would be analyzed at the time of application through the required CEQA review and would be mitigated to a less than significant impact.

- c) Disturb any human remains, including those interred outside of dedicated cemeteries?

Less than Significant. There is always the possibility that subsurface construction activities associated with the proposed project, such as trenching and grading, could potentially damage or destroy previously undiscovered human remains. However, if human remains are discovered, the City’s permitting process includes a standard condition that defines the required practice to mitigate any such discovery to a less than significant impact.

Standard Condition 6. If any person excavating or otherwise disturbing the earth discovers any archaeological site during project construction, the following actions shall be taken: 1) cease and desist from all further excavation and disturbances within 25 feet of the discovery; 2) notify the Fort Bragg Community Development Department within 24 hours of the discovery; and 3) retain a professional archaeologist to determine appropriate action in consultation with stakeholders such as Native American groups that have ties to the area.

XIII. ENERGY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

- **Tiny Homes, Tiny Home Communities & Planned Development. No Impact.** The proposed project would consist of zoning amendments to allow residential construction. All residential construction must comply with Title 24 which limits energy use to a less than significant level. Additionally increasing density in Fort Bragg would reduce the use of energy for transportation.
- **Outdoor Dining. Less than Significant Impact.** Proposed outdoor dining pavilions do not have to comply with Title 24, nevertheless they do use propane heaters to heat the outdoors. The use of outdoor propane heaters is not regulated from an energy

perspective. However, due to the small size of these facilities they will not have a significant impact on energy use.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

No Impact. The proposed project will not conflict with any local or state plan for renewable energy or energy efficiency.

XIV. GEOLOGY AND SOILS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg is located in the Coastal Range geomorphic province of California in an area of relatively steep and mountainous topography. The City itself is built on uplifted marine terrace deposits. There are no mines nor identified mineral resources within the City of Fort Bragg limits (CDC 2022d).

Regionally, the University of California Museum of Paleontology (UCMP) database lists 513 fossil localities within Mendocino County (UCMP 2020). Of the known fossil localities, 63 are from the Cretaceous period and 2 are from the Jurassic Period. A review of the Mendocino County fossil record indicates that 10 early Cretaceous fossils have been discovered within the County and no late Jurassic fossils have been discovered (UCMP 2020).

Seismically, the City is located between two major fault systems, the Mayacamas Fault is 20 miles east of the City and runs north-south roughly along Highway 101. The San Andreas Fault network runs approximately 5 miles offshore from the City. According to the Department of Conservation’s Earthquake Hazards Zone Application (CDC EQ Zapp), the City of Fort Bragg does not contain any Alquist Priolo fault traces or zones (CDC 2022b). The Department of Conservation’s “Earthquake Shaking Potential for California” shows the relative intensity of ground shaking anticipated from future earthquakes. The City of Fort Bragg is shown as moderate level of intensity for 1.0 second earthquake shaking (CDC 2022c).

The City also has some areas that have potential for landslides. There are areas along the Noyo River and Pudding Creek that may present a higher risk for landslides due to steep slopes.

At the local level, the Inland General Plan policies and programs also address geology and soils, as outlined in Table 1 below.

Table 1: Inland General Plan Policies and Programs- Geology and Soils

Safety Goal SF-1 Policy SF-1.1 Minimize Hazards: New development shall: (a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard; and (b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs
Program SF-1.1.1 Continue to comply with the provisions of the State Alquist-Priolo Act.
Program SF-1.1.2 Require professional inspection of foundations and excavations, earthwork, and other geotechnical aspects of site development during construction on those sites specified in soils, geologic, and geotechnical studies as being prone to moderate or high levels of seismic hazard.
Program SF-1.1.3 Monitor and review existing critical, high priority buildings to ensure structural compliance with seismic safety standards.
Program SF-1.1.7 Continue to comply with state law regarding reinforcement of unreinforced masonry structures.

<p>Policy SF-1.2 Geotechnical Report Required: Applications for development located in or near an area subject to geologic hazards, including but not limited to areas of geologic hazard shown on Map SF-1, shall be required to submit a geologic/soils/geotechnical study that identifies all potential geologic hazards affecting the proposed project site, all necessary mitigation measures, and demonstrates that the project site is suitable for the proposed development and that the development will be safe from geologic hazard. Such study shall be conducted by a licensed Certified Engineering Geologist (CEG) or Geotechnical Engineer (GE). Refer to Map SF-1: Geologic Hazards. Refer to the General Plan Glossary for definitions of these terms.</p>
<p>Policy SF-1.4 Identify Potential Hazards: Identify potential hazards relating to geologic and soils conditions during review of development applications.</p>
<p>Policy SF-1.4 Program SF-1.4.1 Evaluate slopes over 15 percent, unstable land, and areas susceptible to liquefaction, settlement, and/or soil expansion for safety hazards prior to issuance of any discretionary approvals and require appropriate measures to reduce any identified hazards.</p>
<p>Program SF-1.4.2 Require that development in areas with identified slope stability constraints as shown on Map SF-1 or other areas where City staff determines there is potential slope stability issues be supervised and certified by a geologist, geotechnical engineer, or engineering geologist.</p>
<p>Program SF-1.4.3 Require repair, stabilization, or avoidance of active or potentially active landslides, areas of soil creep, or areas with possible debris flow as a condition of project approval.</p>

The ILUDC Chapter 18.62 provides standards for grading, erosion, and sediment control. A proposed project that creates ground disturbance would have to be in compliance with any applicable section of this chapter including §18.62.030 Erosion and Sediment Control, §18.62.070 Revegetation and Slope Surface Stabilization, §18.62.090 Setbacks for Cut and Fill Slopes, and any other section that regulates erosion.

Discussion

- a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:
 - i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42?

Less than Significant Impact. According to the CDC Earthquake Hazards Zone Application (EQ Zapp) Map, there are no known active faults crossing the City of Fort Bragg. Therefore, ground rupture is unlikely, and impacts would be less than significant.

- ii. Strong seismic ground shaking?

Less than significant impact. The City of Fort Bragg is in a seismically active region where large earthquakes may be expected to occur during the economic lifespan (50 years) of structures due to the seismic activity of the northern section of the San Andreas fault. The nearest potentially

active fault is the north coast section of the San Andreas fault zone, which is located approximately 7 miles west of the project site in the Pacific Ocean. The next nearest fault is the Mayacamas Fault Zone, located approximately 22 miles east of the Site.

However, any proposed projects that would result from the zoning amendment would be constructed in accordance with standards imposed by the City of Fort Bragg through the ILUDC Chapter 18.62, standards for grading, erosion, and sediment control, and in compliance with the 2023 California Building Code (CBC). Potential impacts would be reduced to levels considered acceptable in the City of Fort Bragg. As a result, the proposed amendments would not expose people or structures to substantial adverse effects of seismic events. This would have a less than significant impact and no mitigation would be required.

- i. Seismic-related ground failure, including liquefaction?
- ii. Landslides?

Less than Significant Impact. The City of Fort Bragg is a relatively flat with elevations ranging from 0 feet to 200+ feet. Additionally, the City is not located within an Earthquake Fault Zone, as mentioned in i.), and is not located within a liquefaction zone (CDC 2022b). As previously noted, the City can require soil studies and mitigation as necessary for Tiny Homes, Tiny Home Communities and Planned Development projects through the Use Permit and building permit process. Outdoor dining pavilions are not required to be constructed to UBC standards however they must comply with ANSI ES1.19-2020 which include safety standards for special event structures such as pavilion tents.

- b) Result in substantial soil erosion or the loss of topsoil?
- c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?

Less than Significant Impact. The 2019 CBC and the City’s standards for grading, erosion, and sediment control (ILUDC Chapter 18.62), contain requirements to minimize or avoid potential effects from erosion hazards. As a condition of approval, prior to the issuance of a grading or building permit, the City would require any applicant to prepare a detailed grading plan and an erosion control plan by a qualified and licensed engineer if necessary. The soils report would identify soil hazards, including potential impacts from erosion. The City would be required to review and approve the erosion control plan based on the California Department of Conservation’s “Erosion and Control Handbook.” The erosion control plan would identify protective measures to be implemented during excavation, temporary stockpiling, disposal, and revegetation activities. Implementation of BMPs, as well as compliance with the City’s regulations and the California Building Code requirements, would reduce potential impacts related to soil erosion to less than significant and no mitigation would be required for Tiny Homes, Tiny Home Communities, Outdoor Dining Facilities and Planning Development Projects.

- d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Less than Significant Impact. Expansive soils tend to undergo volume changes (shrink or swell) with changes in moisture content. They generally consist of cohesive fine-grained clay soils and represent a significant structural hazard to structures founded on them. Where necessary the City’s ILUDC includes requirements for soil analysis and mitigation as needed. Additionally, all proposed projects would be designed to meet seismic safety requirements specified in the California Building Code, including standards to minimize impacts from expansive soils. Therefore, impacts related to the potential hazards of construction on expansive soils would be less than significant, and no mitigation would be required.

- e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

No Impact. Septic tanks are not permitted within the City of Fort Bragg, all projects approved under the zoning amendment would have to connect to the Municipal Sewer System.

- f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

No Impact. No previous surveys conducted within City Limits have identified a site as sensitive for paleontological resources or other geologically sensitive resources.

XV. GREENHOUSE GAS EMISSIONS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- a) Generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment?

No impact. The proposed project would reduce the amount of greenhouse gases released into the atmosphere by reducing vehicle miles traveled, through the development of housing within an urbanized area.

- b) Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases.

No impact. The City of Fort Bragg Climate Action Plan was not formally adopted by the City Council, therefore the project will not conflict with a plan for the purpose of reducing GHG emissions.

XVI. HAZARDS AND HAZARDOUS MATERIALS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

At the local level, the following policies and programs from the Inland General Plan address hazards and hazardous waste:

Table 2: Inland General Plan Policies and Programs- Hazards and Hazardous Waste

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1 Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-7 Policy SF-7.1 Protection from Hazardous Waste and Materials: Provide measures to protect the public health from the hazards associated with the transportation, storage, and disposal of hazardous wastes (TSD Facilities).
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.1 Continue to ensure that use, transportation, and disposal of hazardous materials are in accordance with the local, state, and federal safety standards.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.2 Continue to support and participate in Mendocino County's Hazardous Materials Business Plan which requires all businesses using hazardous materials to list the types, quantities, and locations of hazardous materials with the County's Department of Environmental Health.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.3 Require, as a condition of City approvals of non-residential projects, that the Fire Protection Authority be notified of all hazardous substances that are transported, stored, treated, or could be released accidentally into the environment.
Safety Goal SF-7 Policy SF-7.1 Program SF-7.1.4 Require that applications for discretionary development projects that will generate hazardous waste or utilize hazardous materials include detailed information on hazardous waste reduction, recycling, transportation, and storage, and prepare a plan for emergency response to a release or threatened release of a hazardous material.

Discussion

- a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

Less than Significant Impact. The proposed zoning amendment is to allow new residential development and outdoor dining facilities. During construction, some common hazardous materials such as gasoline, diesel fuel, hydraulic fluids, oils, lubricants, and cleaning solvents would be anticipated to be utilized. However, the types and amounts of hazardous materials that might be used during construction do not pose a significant risk to the public and/or environment.

- b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Less than Significant Impact. See discussion for a) above.

- c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

Less than Significant Impact. See discussion for a) above.

- d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?

Less than Significant Impact. Residential development that might occur as a consequence of the adoption of the zoning amendment would take place on area with residential zoning within the City of Fort Bragg, and these areas have generally not been the location for hazardous materials uses. Likewise outdoor dining facilities would be located on parcels with existing restaurants and so would not result in new exposure to hazardous materials.

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?

No Impact. The north portion of the City of Fort Bragg is located approximately 2 miles south of the private Fort Bragg Airport. However, this facility does not have an airport land use plan.

- f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?

Less than Significant Impact. Within the City of Fort Bragg, the generally recognized “safe elevation level” with regard to tsunami events is approximately 60 feet above mean sea level. All areas of the City of Fort Bragg located within the Inland zoning area are located at or above 60 feet of sea level. Therefore, impact or inundation from a tsunami event has a relatively low risk. The City’s Tsunami Contingency Plan provides guidelines to alert and evacuate the public from tsunami risk areas within the City.

- g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?

Less than Significant Impact. The City of Fort Bragg Fire Department provides fire protection services and is located at 141 North Main Street. The City is considered an urbanized area and is not subject to regulations regarding wildland fires.

XVII. HYDROLOGY AND WATER QUALITY

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i. Result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off- site?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional resources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iv. Impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The City of Fort Bragg is located in California’s north coast region, within Mendocino County, California. The City of Fort Bragg lies within the Coastal Franciscan Ecological Subsection of California (Miles and Goudey, 1997). This subsection is a steep, mountainous area of the northern California Coast Ranges, near the coast, south from Humboldt Bay to the Russian River. There is substantial oceanic influence on climate, including summer fog. The subsection is particularly mountainous, with rounded ridges, steep and moderately steep sides, and narrow canyons. The mean annual precipitation in this subsection is about 43 inches, with mostly rain at lower elevations. Runoff is rapid and many of the smaller streams are dry by the end of summer. Natural lakes are absent from the Coastal Franciscan Ecological Subsection (Miles and Goudey, 1997).

The National Pollutant Discharge Elimination System (NPDES) permit program of the U.S. Environmental Protection Agency (EPA) addresses water pollution by regulating point sources that discharge pollutants to waters of the United States. Created in 1972 by the Clean Water Act, the NPDES permit program grants authority to state governments to perform many permitting, administrative, and enforcement aspects of the program. Within California, the NPDES permit program is administered by the State Water Resources Control Board (SWRCB) and the Regional Water Quality Control Boards (North Coast Regional Water Quality Control Board). Construction projects that would disturb more than one acre of land would be subject to the requirements of

General Construction Activity Stormwater Permit (Construction General Permit Order 2009-0009-DWQ, also known as the CGP), which requires operators of such construction sites to implement stormwater controls and develop a Stormwater Pollution Prevention Plan (SWPPP) identifying specific BMPs to be implemented to minimize the amount of sediment and other pollutants associated with construction sites from being discharged in stormwater runoff. Discharges of stormwater and non-stormwater from the Municipal Separate Storm Sewer System (MS4) within the jurisdictional boundary of the City of Fort Bragg are subject to Water Quality Order No. 2013-0001-DWQ, NPDES General Permit No. CAS00004, Waste Discharge Requirements for Storm Water Discharges from MS4s (Phase II MS4 Permit). The Phase II MS4 Permit authorizes the City to discharge stormwater runoff and certain non-stormwater discharges from its MS4 to waters of the United States and provides a framework and requirements for the implementation of the City MS4 Program.

The City’s Inland General Plan Open Space Element contains the following relevant policies:

Table 3: Inland General Plan Policies and Programs- Hydrology and Water Quality

Open Space Goal OS-6 Policy OS-6.3 Minimize Increases in Stormwater Runoff: Development shall be designed and managed to minimize post project increases in stormwater runoff volume and peak runoff rate, to the extent feasible.
Open Space Goal OS-6 Policy OS-6.3 Program OS-6.3.1: Develop and implement Low Impact Development requirements in the Inland Land Use and Development Code. Remove regulatory barriers to Low Impact Development from the Inland LUDC where feasible.
Open Space Goal OS-6 Policy OS-6.4 Maintain and Restore Biological Productivity and Water Quality: Development shall maintain and, where feasible, restore the biological productivity and the quality of streams and wetlands to maintain optimum populations of aquatic organisms and for the protection of human health.
Open Space Goal OS-6 Policy OS-6.5 Municipal Activities to Protect and Restore Water Quality: The City shall promote both the protection and restoration of water quality. Water quality degradation can result from a variety of factors, including but not limited to the introduction of pollutants, increases in runoff volume and rate, generation of non-stormwater runoff, and alteration of physical, chemical, or biological features of the landscape.
Open Space Goal OS-6 Policy OS-6.5 Program OS-6.5.2 BMPS for Municipal Maintenance Activities. The City shall ensure that municipal maintenance activities and other public projects integrate appropriate BMPs to protect water quality.
Safety Goal SF-2 Policy SF-2.1 Flood Hazards: Ensure adequate standards for development in the 100-year floodplain.
Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.1 Maintain and update as necessary the zoning and building code standards and restrictions for development in identified floodplains and areas subject to inundation by a 100-year flood. Use the Federal Emergency Management Agency's Flood Insurance Rate Map (FIRM) in the review of development proposals
Safety Goal SF-2 Policy SF-2.1 Program SF-2.1.2 Ensure all development in flood prone areas meet federal, state, and local requirements.
Safety Goal SF-2 Policy SF-2.2 Storm Drainage: Continue to maintain effective flood drainage systems and regulate construction to minimize flood hazards.

Safety Goal SF-2 Policy SF-2.2 Program SF-2.2.1 Continue to update the City’s Storm Drain Master Plan.
Safety Goal SF-2 Policy SF-2.3 Require development to pay for the costs of drainage facilities needed to drain project-generated runoff.
Safety Goal SF-2 Policy SF-2.3 Program SF-2.3.1 Update and utilize the City’s Drainage Development Impact Fees to ensure that development pays for its proportional share of drainage facilities.
Safety Goal SF-2 Policy SF-2.4 Require, where necessary, the construction of siltation/detention basins to be incorporated into the design of development projects.
Safety Goal SF-2 Policy SF-2.5 Require, as determined by City staff, analysis of the cumulative effects of development upon runoff, discharge into natural watercourses, and increased volumes and velocities in watercourses and their impacts on downstream properties. Include clear and comprehensive mitigation measures as part of project approvals to ensure that new development does not cause downstream flooding of other properties.
Safety Goal SF-2 Policy SF-2.6 Analyze the impacts of and potential flooding issues resulting from Climate Change and rising sea levels on proposed projects located within the 100-year Sea-Level Rise Inundation Area (see Map SF-4).

Discussion

- a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?

Less than Significant Impact. The proposed zoning amendment may result in development projects that have the potential to impact water quality standards, however all such projects must comply with the City’s General Plan, MS4 Permit, and ILUDC Chapter 18.62 Grading, Erosion, And Sediment Control Standards and Chapter 18.64 Urban Runoff Pollution Control, which will reduce any potential impacts to a less than significant level.

- b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?

No Impact. Water for potential projects would be supplied by the City of Fort Bragg water treatment system. The City obtains all its water supply from surface sources and the project will not have an impact on groundwater systems. Additionally, all new development must comply with the City’s ILUDC and Inland General Plan which require groundwater recharge for larger projects.

- c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:

- i. Result in substantial erosion or siltation on- or off-site?
- ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off- site?

Less than Significant Impact. Any potential project that requires grading would require a City grading permit per Fort Bragg Municipal Code Section 18.60 (Grading Permit Requirements and Procedures). All grading would have to be performed in compliance with Fort Bragg Municipal Code Chapter 18.62 (Grading, Erosion, and Sediment Control Standards). As such the City can and would require Erosion and sediment control BMPs for projects that have the potential to result in erosion or siltation. In granting a grading permit for a discretionary grading project, the Director of Public Works may impose any condition determined to be necessary to protect public health, safety and welfare, to prevent the creation of hazards to property, improve the quality of stormwater runoff by incorporating Low Impact Development design strategies, and to ensure proper completion of grading.

- iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional resources of polluted runoff?

Less than Significant Impact. Through the review process for a grading permit, City staff can require an examination of rainwater runoff and potential impacts on the City's storm drain system.

- iv. Impede or redirect flood flows?

Less than significant impact. Again, through the review process for a grading permit City staff can require an examination of rainwater runoff and potential impacts on stormwater flows and make appropriate requirements to mitigate any potential impacts of such future projects.

- c) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?

Less than Significant Impact. The California Emergency Management Agency, the California Geologic Survey, and the University of Southern California partnered to create the California Official Tsunami Inundation Maps and the Inland Area of the City of Fort Bragg is not within the inundation zone, according to the Fort Bragg quadrant (State of California 2021). The City of Fort Bragg is in the generally recognized "safe elevation level" with regard to a tsunami event and is approximately 60 feet above mean sea level. Therefore, impacts related to release of pollutants due to project inundation would be less than significant.

- d) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?

Less than Significant Impact. Any development that is proposed as a consequence of the proposed zoning amendment would be required to comply with all City water quality requirements.

XVIII. LAND USE AND PLANNING

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a) Physically divide an established community?

No Impact. The proposed zoning amendment would result in the approval of changes to existing already regulated residential development types (Tiny Homes, Tiny Home Communities and Planned Development Projects) in residential districts. As such they would be a residential component of an existing residential community. They would not divide a community. Likewise outdoor dining facilities are a relatively small part of the fabric of the commercial zoning districts in which they would be located and would likewise not divide a community.

b) Cause significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

No Impact. Any proposed project that could be approved as a consequence of the proposed zoning amendment would have to comply with the City’s Inland General Plan and Land Use and Development Code.

XIX. MINERAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

The California Division of Mines and Geology has not identified any significant mineral resources in the City of Fort Bragg (City) or City’s Sphere of Influence (CDC 2022d). Historically, various

parties have taken small amounts of aggregate from area streams, but this is no longer the case (City of Fort Bragg 2002).

The most predominant of the minerals found in Mendocino County are aggregate resource minerals, primarily sand and gravel, found along many rivers and streams. Aggregate hard rock quarry mines are also found throughout the County. Three sources of aggregate materials are present in Mendocino County: quarries, instream gravel, and terrace gravel deposits. The viability of different sources for any use depends on the property of the rock itself and the processing required to prepare the rock. According to the Mendocino County General Plan Environmental Impact Report (2008), there are no mineral resources within the City of Fort Bragg. The closest mineral resource is located north of the City of Fort Bragg and is labeled as sand and gravel (Mendocino County 2009).

Discussion

- a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?
- b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

No Impact. The proposed City of Fort Bragg does not contain mineral resources that are of value locally, to the region, or to residents of the City, County, or State. No impact would occur.

XX. NOISE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Generation of excessive ground borne vibration or ground borne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

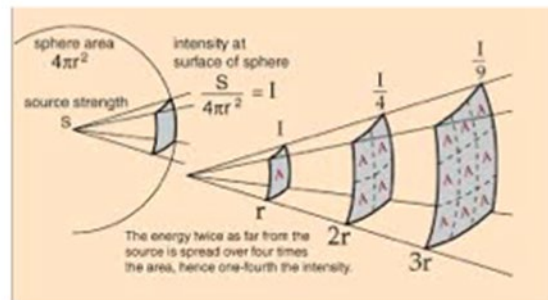
Background

Noise Measurements. Acousticians define sound as a sensation in the ear created by pressure variations or vibrations in the air. What qualifies as noise, or unwanted sound, tends to be

subjective. That is, sound that one person perceives as music may be noise to someone else. Sound is composed of many frequencies, some of which may affect one person more than another. Because engineers measure sound in decibels (dB) on a logarithmic scale, when two sources of sound, each measuring 70 dB(A), are added together, the resulting sound level is not 140 dB(A) but 73 dB(A). The (A) refers to a weighting scale that approximates the manner in which humans hear higher frequencies better than lower frequencies.

Noise Attenuation. The area of a surface around a point sound source increases with the square of the distance from the source. This means that the same sound energy from the source is distributed over a larger area and the energy intensity reduces with the square of the distance from the source (Inverse Square Law). For every doubling of distance, the sound level reduces by 6 decibels (dB), (e.g., moving from 10 to 20 meters away from a sound source). But the next 6dB reduction means moving from 20 to 40 meters, then from 40 to 80 meters for a further 6dB reduction.

Distance		Level c/w 10 metres
From source	c/w 10 m	
5	½	+6
10	1	0
20	2	-6
30	3	-10
40	4	-12
50	5	-14
60	6	-16
70	7	
80	8	-18
90	9	
100	10	-20



City Noise Regulations

The City regulates noise via the City’s Municipal Code 9.44.020 SPECIAL RESTRICTIONS - RESIDENTIAL AREAS, which notes the following restrictions:

A. Between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day, it is unlawful for any person within a residential zone, or within a radius of 500 feet therefrom, to create cause to be created or maintain sources of noise which cause annoyance or discomfort to a reasonable person of normal sensitiveness in the neighborhood.

The sources include, but are not limited to, the following:

1. Excessively loud noises caused by the use or operation of radios, musical instruments and drums, phonographs, television sets, or other machines or devices for the production, reproduction or amplification of sound;
2. Operation of equipment or performance of any outside construction or repair work on buildings, structures, or projects or operation of construction-type devices;
3. Excessively loud sounds, cries, or behavioral noise caused by the keeping or maintenance of animals or fowl;
4. Excessively loud noise caused by the operation of any machinery, chain saw, equipment, device, pump, fan compressor, air conditioning apparatus, or similar mechanical device;
5. Operation of chimes, bells, or other devices for the purpose of advertising or inviting the patronage of any person or persons to any business enterprise; and

6. Repairing, rebuilding, or testing of motor vehicles or operating of any motor-driven vehicle off public streets or highways.

Discussion

- a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

Less than Significant Impact. The proposed Zoning Ordinance amendments could result in slight increases in residential development which would be compatible in terms of noise generation with other residential uses within the residential zoning districts. The City’s noise ordinance would reduce impacts of construction noise to a less than significant impact. Likewise, outdoor dining would produce low volume noise levels associated with talking and eating and would be compatible with the noise levels in the districts where outdoor dining is permissible.

- b) Generation of excessive ground borne vibration or ground borne noise levels?

No Impact. None of the proposed zoning amendments have the potential to result in development projects that would themselves result in ground borne vibrations.

- c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

No Impact. There nearest airport is located 2 miles away; there is no airport located within two miles of residential and commercial zoning districts within the City of Fort Bragg.

XXI. POPULATION AND HOUSING

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

Based on the U.S. Census Bureau, Fort Bragg city, a census-designated place had a population of approximately 6,907 persons as of 2022. There were an estimated 2,925 households, with 2.35 persons per household. The City’s population declined compared to 2019, when the City had

7,291 residents. But the City’s number of households went up from 2,775 households while the average number of residents per household fell from 2.56 people per household. This illustrates that while the City has added housing units they have been for smaller households.

Discussion

- a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

Less than Significant Impact. The propped zoning amendments will not induce substantial unplanned population growth. The City, like much of California, struggles with a housing crisis, in which there are more people looking for units than there are housing units available. The proposed zoning amendments would likely increase the number of available units by a fraction of the needed units and as such would not result in substantial population growth. The City anticipates less than five (5) tiny home approvals per year, one tiny home community approval every ten years or so, and one or two Planned Development projects over a 20-year period. This is based on past development trends.

- b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

No Impact. The proposed project would not displace any residents or housing, as the zoning amendments are to facilitate new development of housing on vacant parcels (Tiny Home Communities and Planned Development Projects) and the facilitation of one Tiny Home per primary residential unit on a parcel. Likewise, outdoor dining would happen on lots with established restaurants and so would not displace people.

XXII. PUBLIC SERVICES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
a) Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Setting

Public services provided by the City of Fort Bragg include fire, police, school, library, and park services.

Discussion

a) Fire protection?

Less than Significant Impact. The project site is located within a Local Responsibility Area (LRA) (CAL FIRE 2022) and is served by the City of Fort Bragg Fire Department. The Fort Bragg Fire Department is a volunteer fire department with 36 firefighters and four (4) auxiliary members. Currently, there are four (4) paid positions in the department: a full-time Fire Chief, an Office Manager, a Maintenance Engineer, and a Fire Prevention Officer. As the proposed zoning amendment would not result in a significant population increase and all subsequent residential building permits would be routed to the Fire Department to identify any fire service-related issues. Additionally, the proposed outdoor dining regulations include sufficient fire safety requirements to reduce potential impact to a less than significant impact. The Fire Marshal was asked to comment on the proposed regulations and indicated that he would review all pavilions for fire and safety issues prior to issuing an approval.

b) Police protection?

Less than Significant Impact. The Fort Bragg PD is located at 250 Cypress Street, in Fort Bragg, California. The zoning amendment would allow new residential units and outdoor dining facilities, however these new developments are not anticipated to be sufficiently large or disruptive to increase police utilization.

c) Schools?

Less than Significant Impact. The City is served by the Fort Bragg Unified School District (FBUSD), Montessori Del Mar Community School, Three Rivers Charter School and Mendocino College.

The proposed zoning amendment could result in the limited development of new residential units as discussed in the Housing and Population analysis of the MND. As a result, the proposed project would not result in substantial population growth or a significant increase in the student population. It is anticipated that any new students could be adequately accommodated by the existing schools within the FBUSD, and a less than significant impact would occur.

d) Parks?

Less than Significant Impact. In total the City has 172 acres of parks and open space which is well above the threshold of 3 acres of park space per 1,000 residents. The City has seven thousand residents and has 24.4 acres of parks for every 1,000 residents. Therefore, a less than significant impact would occur.

e) Other public facilities?

Less than Significant Impact. There are no elements of the proposed project that would impact other public facilities, such as regional hospitals.

XXIII. RECREATION

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

In total the City has 172 acres of parks and open space which is well above the threshold which is 3 acres of neighborhood and community park space per 1,000 residents. The City has seven thousand residents and has 24.4 acres of parks for every 1,000 residents. City parks include:

- Otis Johnson Park, a 6-acre riparian park with hiking trails.
- Bainbridge Park, a 2-acre park in the City with an 11,000 square foot playground, basketball court, and tennis court.
- CV Starr Center, an aquatic facility with a leisure pool and competition lap pool and fitness rooms.
- The 5.5-mile Coastal Trail stretches from Glass Beach to Noyo Harbor on 104 acres of land.
- Noyo Beach and Pomo Bluffs Park.

Discussion

- a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?
- b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

a and b) No Impact. The proposed zoning amendments may result in the subsequent construction of a fractional increase in the number of residential units in Fort Bragg. As a result, a small population increase is anticipated, and use of the existing park and recreational facilities are more than adequate to meet any future recreation needs that are facilitated by adoption of the zoning ordinance.

XXIV. TRANSPORTATION

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

Some of the applicable goals, policies, and programs in the Circulation Element of the Inland General Plan include:

Table 4: Inland General Plan Policies and Programs- Transportation

Circulation Goal C-1 Policy C-1.3 Complete Streets: New development, that includes new streets or street segments, shall build multi-modal “complete streets” that are designed for the safety and comfort of cyclists and pedestrians, including children, the elderly, and people with disabilities, consistent with US Department of Transportation complete streets guidelines
Circulation Goal C-1 Policy C-1.3 Program C1.3.2 Through the Capital Improvement Plan and related impact fees, the City shall ensure that adequate funds are provided to maintain the existing circulation network, and where feasible upgrade it to “complete street” design.
Circulation Goal C-2 Policy C-2.2 Coordinate Land Use and Transportation: Ensure that the amount and phasing of development can be adequately served by transportation facilities.
Circulation Goal C-2 Policy C-2.3 Do not permit new development that would result in the exceedance of roadway and intersection Levels of Service standards unless one of the following conditions is met: a) Revisions are incorporated in the proposed development project which prevent the Level of Service from deteriorating below the adopted Level of Service standards; or b) Funding of pro rata share of the cost of circulation improvements and/or the construction of roadway improvements needed to maintain the established Level of Service is included as a condition or development standard of project approval.

Circulation Goal C-3 Policy C-3.4 Program C-3.4.1 Review site plans for new development to facilitate the continuation of streets to improve local circulation. Where streets are not feasible, priority shall be given to providing pedestrian and bicycle trails that establish bicycle and pedestrian connections to streets wherever possible.

Circulation Goal C-3 Policy C-3.5 Right-of-Way Acquisition: Require right-of-way dedications for new development to meet the City’s roadway width standards

Discussion

a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

- **Tiny Homes. Less than Significant Impact.** The proposed zoning amendment includes changes that would allow subsequent development of a small number of new Tiny Homes; however the Tiny Homes would be dispersed throughout the City and would not result in any conflicts with the City’s circulation system, including transit, roadway, bicycle and pedestrian facilities.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit for these types of development and if a CEQA analysis is required and all potential conflicts with the circulation system, including transit, roadway, bicycle and pedestrian facilities would be analyzed at that time.
- **Outdoor Dining. Less than Significant with Mitigation.** Outdoor dining facilities have the potential to interfere with access to entryways and bicycle parking. Therefore, the following mitigation is proposed.

Mitigation Measure Trans -1: Revise the proposed zoning ordinance as follows:

D. Objective Design & Safety Criteria. Outdoor dining pavilions and tents shall comply with the following objective criteria:

8. Outdoor Dining facilities shall not conflict with use of existing bicycle parking and access.

b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

Less than Significant Impact. SB 743, passed in 2013, required OPR to develop new CEQA Guidelines that address traffic metrics under CEQA. As stated in the legislation (and Section 21099[b][2] of CEQA), upon adoption of the new CEQA guidelines, “automobile delay, as described solely by LOS or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to this division, except in locations specifically identified in the CEQA guidelines, if any.” The Office of Administrative Law approved the updated CEQA Guidelines on December 28, 2018, and the changes are reflected in new CEQA Guidelines (Section 15064.3). CEQA Guidelines Section 15064.3 was added December 28, 2018, to address the determination of significance for transportation impacts. Pursuant to the new CEQA Guidelines, VMT replaced congestion as the metric for determining transportation impacts.

The Vehicle Miles Traveled (VMT) associated with a project is the primary basis for determining traffic impacts under CEQA. Like many other jurisdictions in California, the City of Fort Bragg has not yet adopted policies or thresholds of significance regarding VMT. Therefore, the project was analyzed based on the guidance provided in the Technical Advisory on Evaluating Transportation Impacts in CEQA (2018) by the state's Office of Planning and Research (OPR), as well as the Senate Bill 743. A significance threshold equal to the sub region average total VMT per service population for the "Fort Bragg Adjacent" region was developed. Based on the Mendocino Council of Governments (MCOG) SB 743 VMT Screening Tool by Fehr & Peers, the sub regional average VMT per service population is 22.0. The City is located in the traffic analysis zone (TAZ) 474, which has an average of 19.0 VMT per service population. The proposed zoning amendment would result in additional housing and restaurant services close to schools, jobs and retail opportunities in the City which has an average VMT of 19.0 VMT which would be below the sub regional average and would have a less-than-significant impact on VMT.

c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

- **Tiny Homes. No Impact.** The proposed zoning amendment includes changes that would allow for a small number of new Tiny Homes dispersed throughout the City on existing residential lots and would not result in any conflicts or increase hazards due to geometric design or incompatible uses.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit for these types of development and if a CEQA analysis is required all potential conflicts and hazards due to geometric design or incompatible uses would be analyzed at that time.
- **Outdoor Dining. Less than Significant Impact.** Outdoor dining facilities are compatible with indoor dining, but they have the potential to block vehicle visibility at corners. However, required compliance with setback requirements should reduce this to a less than significant impact.

d) Result in inadequate emergency access?

- **Tiny Homes. No Impact.** The proposed zoning amendment includes changes that would allow for a small number of new Tiny Homes located on the back of residential parcels and as such they will not block emergency access.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit and Building Permit for these types of development and the review of adequate emergency access is a critical component of these reviews.
- **Outdoor Dining. Less than Significant with Mitigation.** Outdoor dining facilities would be located on sites which already include a restaurant for which emergency access has already been analyzed. Outdoor dining pavilions have the potential to interfere with emergency access, therefore the Mitigation Measure included below is recommended to ensure a less than significant impact.

Mitigation Measure Trans -2: Revise the proposed zoning ordinance as follows:

D. Objective Design & Safety Criteria. Outdoor dining pavilions and tents shall comply with the following objective criteria:

9. Outdoor Dining facilities shall not conflict with emergency access as determined by the Fire Marshal.

XXV. TRIBAL CULTURAL RESOURCES

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Setting

CEQA, as amended by Assembly Bill 52 (AB 52), requires that the City of Fort Bragg provide notice to any California Native American tribes that have requested notice of projects subject to CEQA review and consult with tribes that responded to the notice within 30 days of receipt with a request for consultation.

- Sherwood Valley Rancheria
- Coyote Valley Band of Pomo Indians
- Manchester Band of Pomo Indians
- Cahto Tribe
- Guidiville Indian Rancheria
- Pinoleville Pomo Nation
- Hopland Band of Pomo Indians
- Potter Valley Tribe

The purpose of consultation is to identify Tribal Cultural Resources (TCRs) that may be significantly impacted by the proposed project, and to allow the City to avoid or mitigate significant impacts prior to project approval and implementation. Section 21074(a) of the PRC defines TCRs for the purpose of CEQA as:

- (1) *Sites, features, places, cultural landscapes (geographically defined in terms of the size and scope), sacred places, and objects with cultural value to a California Native American tribe that are either of the following:*
 - (A) *Included or determined to be eligible for inclusion in the California Register of Historical Resources; and/or*
 - (B) *Included in a local register of historical resources as defined in subdivision (k) of Section 5020.1; and/or,*
- (2) *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Section 5024.1. In applying the criteria set forth in subdivision (c) of Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance of the resource to a California Native American tribe.*

Because the first two criteria also meet the definition of a Historical Resource under CEQA, a TCR may also require additional consideration as a Historical Resource. TCRs may or may not exhibit archaeological, cultural, or physical indicators and can only be identified by a culturally affiliated tribe, which has been determined under State law to be the subject matter expert for TCRs.

CEQA requires that the City initiate consultation with tribes at the commencement of the CEQA process to identify TCRs. Furthermore, because a significant effect on a TCR is considered a significant impact on the environment under CEQA, consultation is required to develop appropriate avoidance, impact minimization, and mitigation measures. Therefore, in accordance with the requirements summarized above, the City carried out, or attempted to carry out, tribal consultation for the project.

To date only one TCR has been identified within the City of Fort Bragg and that TCR is not located within the inland zoning area.

Discussion

- a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:
 - i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)?
 - ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision

(c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?

- **Tiny Homes, Tiny Home Communities, Outdoor Dining and Planned Development projects. Less than Significant Impact.** There are no known TCR located within the residential or commercial areas of Fort Bragg, so the proposed zoning ordinance amendments will have a less than significant impact on TCR.

XXVI. UTILITIES AND SERVICE SYSTEMS

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Background

The Public Facilities Element of the Inland General Plan has goals, policies and programs to manage the impacts of growth on the City's infrastructure. These can be found on Page 3-3 through 3-6 of the Public Facilities Element of the City's General Plan. Included in these policies are:

Table 5: Inland General Plan Policies and Programs- Utilities and Service Systems

Public Facilities Goal PF-1 Ensure that new development is served by adequate public services and infrastructure.
Public Facilities Goal PF-1 Policy PF-1.1 Ensure Adequate Services and Infrastructure for New Development: Review new development proposals to ensure that the development can be served with adequate potable water; wastewater collection, treatment, and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal.
Public Facilities Goal PF-1 Policy PF-1.2 All new development proposals shall be reviewed and conditioned to ensure that adequate public services and infrastructure can be provided to the development without substantially reducing the services provided to existing residents and businesses.
Public Facilities Goal PF-1 Policy PF-1.2 Program PF-1.2.1 New development shall be responsible for any improvements or extensions of infrastructure or the service capacity necessary to serve the development.

Discussion

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?

- **Tiny Homes. No Impact.** The proposed zoning amendment includes changes that would allow for a small number of new Tiny Homes located on the back of residential parcels and as such they will not result in in the relocation or construction of new or expanded utilities.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit and Building Permit for these types of development and the review of adequate public services is a critical component of these reviews.
- **Outdoor Dining. Less than Significant Impact.** Outdoor dining facilities would be located on sites which already include a restaurant for which service capacity has already been analyzed. Further the regulations limit the potential size of the new outdoor dining facilities such that they would have a less than significant impact on the need to relocate or expand service infrastructure.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?

Less than Significant Impact. According to the City’s most recent Municipal Service Review (adopted December 2017), on a daily basis, the City currently produces about 50 gallons/resident and 78 gallons/1,000 square feet (SF) of commercial/industrial space of treated water. The City currently has sufficient water supply and storage to meet a 20% increase in water demand during a 50-year drought. The City can accommodate the additional growth in the Inland Area that might occur as a consequence of the zoning amendment without developing additional water storage.

- c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Less than Significant Impact. The Wastewater Treatment Plant (WWTP) has a facility design flow capacity of 1.0 mgd (average dry weather treatment capacity), 4.9 mgd (peak daily wet weather treatment capacity), 2.2 mgd (average monthly wet weather treatment capacity). The upgraded capacity of the WWTP is sufficient to meet the wastewater service demands through buildout of the General Plan and is a significant improvement to the City's ability to handle/manage overflows. Implementation of the proposed zoning amendments would have a less than significant impact relative to this topic.

- d) Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?
- e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

Less than Significant Impact. Redwood Waste Solutions provides weekly curbside residential and commercial garbage, recycling, and green waste collection within the City of Fort Bragg. Waste collected by Redwood Waste Solutions is taken to a transfer station in Ukiah for processing and transport. The waste is then disposed of at the Potrero Hills Landfill. According to the California Department of Resources Recycling and Recovery (CalRecycle), in 2020, Fort Bragg disposed of approximately 4,121 tons of solid waste. CalRecycle provides an average per capita solid waste disposal rate for residents and businesses. In Fort Bragg, CalRecycle identified solid waste disposal rates of 5.1/lbs. per resident/day which is below the State target (CalRecycle Jurisdiction Diversion/Disposal Rate Summary, 2021). Redwood Waste Solutions Inc. also provides recycling services to city residents and businesses. Redwood Waste Solutions Inc. provides curbside residential collection of recyclable materials. Acceptable materials include glass containers, all plastics, tin and aluminum cans, plastic milk cartons, newsprint, boxboard, corrugated cardboard, bond paper and magazines. Residents may also recycle some materials at buy-back centers. Special recycling programs include medical waste disposal, fluorescent light and mercury recycling, and organic farming and mulch recycling programs.

The proposed zoning amendment and subsequent potential development is not anticipated to be a significant generator of solid waste as it would permit Tiny Homes and Outdoor Dining facilities by right, but the per capita contribution to solid waste for the uses anticipated will be at or below existing per capita waste generation rates, because the residential units would be much smaller than the typical house in Fort Bragg. Tiny Home Communities and Planned Development Projects would have to go through a Use Permit and CEQA process and so the potential solid waste impacts of this potential development will be determined at the time of Use Permit consideration.

XXVII. WILDFIRE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Setting

The project site is located in a Local Responsibility Area, and it is not in a Very High Fire Hazard Severity Zone. However, the project site is bordered to the southeast by a State Responsibility Area (CAL FIRE 2021). The City is also part of the Fort Bragg Fire Protection Authority.

The Inland General Plan Safety Element has specific policies and programs to reduce fire hazards:

Table 6: Inland General Plan Policies and Programs- Wildfire

Safety Goal SF-4 Policy SF-4.1 Minimize Fire Risk in New Development: Review all development proposals for fire risk and require mitigation measures to reduce the probability of fire.
Safety Goal SF-4 Policy SF-4.1 Program SF-4.1.1: Continue to consult the Fort Bragg Fire Protection Authority in the review of development proposals to identify the projected demand for fire protection services and implement measures to maintain adequate fire protection services. Mitigation measures may include levying fire protection impact fees for capital facilities, if warranted.
Safety Goal SF-4 Policy SF-4.2 Maintain a High Level of Fire Protection: Work with the Fire Protection Authority to ensure a continued high level of fire protection.

Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.1: Increase water main sizes or loop existing water mains where necessary to provide adequate flows for fire protection. The standard for water flow for fire protection purposes in commercial uses should be a minimum of 1,000 gallons per minute for 2 hours with 20 pounds per square inch residual pressure.

Safety Goal SF-4 Policy SF-4.2 Program SF-4.2.3 Work with the Fort Bragg Fire Protection Authority to establish a regular schedule for periodic inspections of commercial and industrial premises by the Fire Prevention Officer.

Discussion

- a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

Less than Significant Impact. Within the City of Fort Bragg, the generally recognized “safe elevation level” with regard to tsunami events is approximately 85 feet above mean sea level. Therefore, impact or inundation from a severe storm surge or tsunami event must be considered a risk for the City, albeit a relatively low risk. The City’s Tsunami Contingency Plan provides guidelines to alert and evacuate the public from tsunami risk areas within the City.

- b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?
- c) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?

Less than Significant Impact. The City is relatively flat with elevations ranging from 45 feet to 200 feet and would not expose any structures or persons to risks related to slopes either during or after the occurrence of a wildfire. According to the NRCS Web Soil Survey, typical slopes in the inland area range from 0 to 15 percent, minimizing the potential for landslides.

- d) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?

- **Tiny Homes. No Impact.** The proposed zoning amendment includes changes that would allow for a small number of new Tiny Homes located on the back of residential parcels and as such they will not require the installation or maintenance of associated infrastructure that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.
- **Tiny Home Communities and Planned Development Projects. Less than Significant Impact.** The zoning amendment would require a Use Permit and Building Permit for these types of development and the review of adequate infrastructure is a component of these reviews.
- **Outdoor Dining. Less than Significant Impact.** Outdoor dining facilities would be located on sites which already include a restaurant for which service capacity has already been analyzed. Further the proposed regulations limit the potential size of the new outdoor dining facilities such that they would not necessitate infrastructure that may exacerbate fire risk or result in temporary or ongoing impacts to the environment.

XXVIII. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant with Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of past, present and probable future projects)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

a) Does the project have the potential to substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, substantially reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

Less than Significant Impact. As mitigated, the proposed project will not have a substantial impact on habitat or fish species, wildlife species or a plant or animal community.

b) Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of past, present and probable future projects)?

Less than Significant Impact. The proposed zoning amendment will have a less than significant impact on vehicle miles traveled, traffic safety and level of service and thus will not result in a cumulatively considerable impact. Likewise, all other potential impacts have been analyzed in the MND and reduced to a level of less than significant with mitigation.

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

No Impact. The project does not have any substantial adverse effects on human beings either directly or indirectly.

3.0 REFERENCES

California Department of Conservation (CDC). 2022a. California Important Farmland Finder. Retrieved from: <https://maps.conservation.ca.gov/DLRP/CIFF/>

2022b. EQ Zapp. Retrieved from: <https://maps.conservation.ca.gov/cgs/EQZApp/app/>

2022c. Alquist-Priolo Earthquake Fault Zones. Retrieved from: <https://www.conservation.ca.gov/cgs/alquist-priolo>

2022d. California's Mineral Resources. Retrieved from California Department of Conservation: <https://www.conservation.ca.gov/cgs/minerals>

City of Fort Bragg. 2006. City of Fort Bragg Tsunami Contingency Plan. April 19, 2006. Available at:

<https://www.city.fortbragg.com/home/showpublisheddocument/940/63771083881153000>

0

2002. Fort Bragg General Plan Revision Draft Environmental Impact Report. Prepared by Leonard Charles and Associates.

2021. Fort Bragg Inland Land Use and Development Code. September 13, 2021. Retrieved from: <https://www.codepublishing.com/CA/FortBragg/#!/LUC18/FortBraggNT.html>

2022. Fort Bragg Municipal Code. March 14, 2022: Retrieved from: <https://www.codepublishing.com/CA/FortBragg/#!/FortBraggNT.html>

Federal Emergency Management Agency (FEMA). 2012. FEMA Flood Map. Accessed on April 29, 2022

from: <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd>

Miles and Goudey. 1997. Ecological Sub regions of California. Available at:

<https://web.archive.org/web/20080304224853/http://www.fs.fed.us/r5/projects/ecoregions/>

Natural Resources Conservation Service (NRCS). 2022. Web Soil Survey. Accessed April 22, 2022 at <http://websoilsurvey.nrcs.usda.gov>.

University of California Museum of Paleontology. Mendocino County. Available at: <https://ucmp.berkeley.edu/>

4.0 PREPARERS

Marie Jones
Principal
Marie Jones Consulting



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 conduct a public hearing at a regular meeting to be held at 6:00 p.m., or as soon thereafter as the matter may be heard, on Monday, April 8, 2024 at Town Hall, southwest corner of Main and Laurel Streets (363 N. Main Street), Fort Bragg, California 95437. The public hearing will concern the following item:

- (1) Introduce, by title only, and waive further reading of Ordinance xxx-2024 Amending Chapter 18.71.090- Planned Development Permit of Division 18 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of One Acre or More; and (2) Consider the Planning Commission’s Recommendation that the City Council submit a Local Coastal Plan Amendment Application (LCP 6-23) to the Coastal Commission to Amend Chapter 17.71.090 - Planned Unit Development Permit of Division 17 of the Fort Bragg Municipal Code to Allow Planned Unit Development Permits on Parcels of One Acre or More.

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 dsanchez@fortbragg.com, and received no later than the meeting date.

The Agenda Item Summary and supporting documents that will be considered by the Councilmembers will be available for review at Fort Bragg City Hall and on the City’s website: <https://city.fortbragg.com/> on or after March 28, 2024. At the conclusion of the public hearing, the City Council will consider a decision on the matter.

DATED: March 28, 2024

Diana Sanchez
City Clerk

PUBLISH: March 28, 2024

STATE OF CALIFORNIA)
) ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg in the Administrative Services Department; and that I posted this Notice in the City Hall Notice case on March 28, 2024

Diana Sanchez
City Clerk



City of Fort Bragg

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

Text File

File Number: 24-665

Agenda Date: 4/8/2024

Version: 1

Status: Public Hearing

In Control: City Council

File Type: Ordinance

Agenda Number:

Conduct a Public Hearing and (1) Introduce, by Title Only, and Waive Further Reading of Ordinance (MUNI 1-2024) Repealing and Replacing Chapter 15.04 (Construction Codes - Adopted By Reference) and Chapter 15.05 (California Fire Code) of Title 15 (Buildings And Construction) of The Fort Bragg Municipal Code; Adopting and Incorporating The 2022 California Administrative Code, California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Historical Building Code, California Existing Building Code, California Green Building Standards Code, California Referenced Standards Code and California Fire Code; Adopting Local Findings; and Making Other Technical And Administrative Revisions To Title 15, and

(2) Introduce, by Title Only, and Waive Further Reading of Ordinance (MUNI 2-2024) Amending Chapter 15.06 of the Fort Bragg Municipal Code to Require Sprinkler Installation in Buildings With Building Permits with a Cumulative Valuation of \$75,000 or More, Over a Three-Year Period.



AGENCY: City Council MEETING

DATE: April 8, 2024

DEPARTMENT: Fort Bragg Fire Protection Authority

PRESENTED BY: Marie Jones Consulting

AGENDA ITEM SUMMARY

TITLE: Receive report and

1. Introduce, by Title only, and Waive further reading of Ordinance (XXX-2024) Repealing and Replacing Chapter 15.04 (Construction Codes – Adopted By Reference) and Chapter 15.05 (California Fire Code) of Title 15 (Buildings and Construction) of the Fort Bragg Municipal Code; Adopting and Incorporating the California Administrative Code, California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Historical Building Code, California Existing Building Code, California Green Building Standards Code, California Referenced Standards Code And California Fire Code; Adopting Local Findings; and Making Other Technical and Administrative Revisions To Title 15.

and

2. Introduce, by Title only, and Waive further reading of Ordinance (XXX-2024) to Amend Chapter 15.06 of the Fort Bragg Municipal Code to require sprinkler installation in buildings with building permits with a cumulative valuation of \$150,000 or more, over a three-year period.

ISSUE:

Every three years the State of California updates its Fire and building codes. The last state update was in 2022. However, the City's Municipal Code currently references the 2019 codes. This ordinance will update those references to 2022.

In 2016, when the Fort Bragg Fire Protection Authority proposed changes to the Fort Bragg Municipal Code (FBMC) Chapter 15.06, Automatic Fire Sprinkler and Alarm Systems, a section was altered that fundamentally changed the intent of this ordinance. The altered language made it easier to ignore the sprinkler requirements. If remodeling was completed in phases over time, applicants can legally bypass the intent of the City sprinkler requirements.

ANALYSIS:

The purpose of FBMC Chapter 15.06, Automatic Fire Sprinkler and Alarm Systems is to ensure that new construction and significant remodels include installation of

automatic fire sprinklers. In 2015, the ordinance read as follows:

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

In 2016, the City Council adopted language that omitted the 36-month period, which created a "loophole" that, can allow the applicants to bypass sprinkler requirements. The current ordinance § 15.06.030 B 1 now reads:

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

Fire Department Staff recommended that the City add the 36-month timeframe back into the ordinance to close the loophole at the City Council meeting on November 27, 2023. The City Council discussed this item and agreed to the following revised language.

Existing commercial and multifamily buildings which are remodeled, added to, or altered, including maintenance and repair activities, when the valuation of the cost of such work within any 36-month period exceeds \$150,000, shall have an automatic fire sprinkler system installed. The sprinkler system shall be connected with the City's water service as determined by the Director of Public Works. Roof replacement costs and the installation of solar panels (PV) will not be calculated in the \$150,000 limit. The \$150,000 valuation will be determined by the Mendocino County Planning and Building Department through their plan review process and completed on the application for any building permit.

RECOMMENDED ACTIONS:

1. Introduce, by Title only, and Waive further reading of Ordinance XXX-2024 Repealing And Replacing Chapter 15.04 (Construction Codes – Adopted By Reference) and Chapter 15.05 (California Fire Code) of Title 15 (Buildings and Construction) of The Fort Bragg Municipal Code; Adopting and Incorporating The California Administrative Code, California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Historical Building Code, California Existing Building Code, California Green Building Standards Code, California Referenced Standards Code And California Fire Code; Adopting Local Findings; and Making Other Technical and Administrative Revisions To Title 15.

2. Introduce, by Title only, and Waive further reading of Ordinance XXX-2024 to Amend Chapter 15.06 of the Fort Bragg Municipal Code to require sprinkler installation in buildings with building permits with a cumulative valuation of \$150,000 or more, over a three-year period.

ALTERNATIVE ACTION(S):

None.

ATTACHMENTS:

1. Ordinance XXX-2024 Repealing And Replacing Chapter 15.04 (Construction Codes – Adopted By Reference) and Chapter 15.05 (California Fire Code) of Title 15 (Buildings and Construction) of The Fort Bragg Municipal Code; Adopting and Incorporating The California Administrative Code, California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Historical Building Code, California Existing Building Code, California Green Building Standards Code, California Referenced Standards Code And California Fire Code; Adopting Local Findings; and Making Other Technical and Administrative Revisions To Title 15.
2. Ordinance XXX-2024 to Amend Chapter 15.06 of the Fort Bragg Municipal Code to require sprinkler installation in buildings with building permits with a cumulative valuation of \$150,000 or more, over a three-year period.

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN ORDINANCE REPEALING AND REPLACING CHAPTER 15.04 (CONSTRUCTION CODES – ADOPTED BY REFERENCE) AND CHAPTER 15.05 (CALIFORNIA FIRE CODE) OF TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE FORT BRAGG MUNICIPAL CODE; ADOPTING AND INCORPORATING THE CALIFORNIA ADMINISTRATIVE CODE, CALIFORNIA BUILDING CODE, CALIFORNIA RESIDENTIAL CODE, CALIFORNIA ELECTRICAL CODE, CALIFORNIA MECHANICAL CODE, CALIFORNIA PLUMBING CODE, CALIFORNIA ENERGY CODE, CALIFORNIA HISTORICAL BUILDING CODE, CALIFORNIA EXISTING BUILDING CODE, CALIFORNIA GREEN BUILDING STANDARDS CODE, CALIFORNIA REFERENCED STANDARDS CODE AND CALIFORNIA FIRE CODE; ADOPTING LOCAL FINDINGS; AND MAKING OTHER TECHNICAL AND ADMINISTRATIVE REVISIONS TO TITLE 15

ORDINANCE NO. XXX-2024

WHEREAS, the 2022 California Building Standards Code has been amended and adopted by the California Building Standards Commission in order to establish uniform standards for the construction and maintenance of buildings, electrical systems, plumbing systems, mechanical systems and fire and life safety systems; and

WHEREAS, the City of Fort Bragg (City) has adopted the 2016 Editions of the California Building Standards Code, California Plumbing Code, California Mechanical Code, California Uniform Housing Code, California Electric Code, California Administrative Code, and the California Energy Code; and

WHEREAS, Government Code § 50022 *et seq.* and California Health & Safety Code § 17922 authorizes cities to enact ordinances adopting any code by reference; and

WHEREAS, in accordance with Government Code § 50022.3, a properly noticed public hearing concerning adoption of the Codes referenced above has been held prior to adoption of this Ordinance; and

WHEREAS, California Health & Safety Code § 17958.5 authorizes cities and counties to modify the California Building Standards Codes by adopting more restrictive standards and modifications if such standards and modifications are accompanied by express findings that they are reasonably necessary because of local climatic, geologic and topographic conditions; and

WHEREAS, cities and counties may adopt amendments to clarify local administration of the 2022 California Building Standards Code, so long as those modifications do not change the building standards without required findings; and

WHEREAS, prior to the effective date of this Ordinance, the City Clerk shall file a copy of the Ordinance, with the California Building Standards Commission.

NOW, THEREFORE, the City Council ordains as follows:

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

1. The City of Fort Bragg’s Municipal Code Chapters 15.04 and 15.05 have undergone a review by staff to identify inconsistencies and inaccuracies as well as consistency with the 2022 California Building Standards Code.
2. The Code should represent the current state of all legislative actions taken by the City Council.
3. The Code should reflect current legislative actions of the City Council and the means by which the City is being operated and must be accurate and consistent to aid staff, residents and various other persons in making determinations on Code related issues.
4. Pursuant to §§ 17958.5 and 17958.7 of the California Health and Safety Code, the City Council makes the express finding that each of the modifications and changes to building standards set forth herein is needed and is reasonably necessary because of local climatic, geological and topographical conditions. Fort Bragg is a rural coastal city located between approximately 39 and 40 degrees latitude. It has a moderate climate. It is subject to severe rainstorms or windstorms that have and could result in localized flooding and flood hazards. The City has potentially active seismic hazards in close proximity. Its location creates some degree of isolation and some difficulty in the transportation of building materials and in obtaining skilled and expert assistance for the construction or rehabilitation of rural dwellings.
5. There is no possibility that the adoption of this ordinance will have a significant impact on the environment, and therefore, the adoption of this ordinance is exempt from the California Environmental Quality Act (“CEQA”), pursuant to Section 15061(b)(3) of the California Code of Regulations (CEQA Guidelines) by the general rule that CEQA only applies to “projects” that may have a significant effect on the environment. The proposed Ordinance would amend the Municipal Code related to building standards necessary to protect health and safety. In this case, there is no possibility that the proposed Ordinance would have a significant impact on the environment.

Section 2.

TITLE 15 – BUILDINGS AND CONSTRUCTION

Chapter 15.04 entitled **CONSTRUCTION CODES – ADOPTED BY REFERENCE** is hereby repealed in its entirety and replaced with the following:

CHAPTER 15.04: CONSTRUCTION CODES – ADOPTED BY REFERENCE

Section

- 15.04.010 Purpose
- 15.04.020 Incorporation of reference material
- 15.04.030 Definitions
- 15.04.040 Modifications to the California Building Code
- 15.04.050 Modifications to California Residential Code
- 15.04.060 Modifications to the California Electrical Code
- 15.04.070 Modifications to the California Mechanical Code
- 15.04.080 Modifications to the California Plumbing Code
- 15.04.090 Curbs and Sidewalks
- 15.04.100 Construction and Applicability
- 15.04.110 Construction Permits and Inspection Fees
- 15.04.120 Fire zone defined
- 15.04.130 Fees for permits and inspection
- 15.04.140 Penal provisions

§ 15.04.010 PURPOSE.

The purpose of this chapter is to provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling building, plumbing, heating and electrical installations of all buildings and structures within the City.

§ 15.04.020 INCORPORATION OF REFERENCE MATERIAL.

Subject to applicable sections of this title, the following primary and secondary codes are hereby adopted and incorporated into the Fort Bragg City Code by reference and as having the full legal effect as if their respective contents were set forth verbatim herein:

- A. CALIFORNIA ADMINISTRATIVE CODE, 2022 Edition, Part 1, as published by the International Code Council.
- B. CALIFORNIA BUILDING CODE, 2022 Edition, Part 2, Volumes I and II, together with Appendix C (Agricultural Buildings); Appendix G (Flood Resistant Construction); Appendix H (Signs); and Appendix I (Patio Covers) as published by the International Code Conference subject to the changes and modifications set forth in Section 15.04.040 and other provisions of this Title.
- C. CALIFORNIA RESIDENTIAL CODE, 2022 Edition, Part 2.5, together with Appendix H (Patio Covers); Appendix J (Existing Building and Structures); Appendix K (Sound Transmission); Appendix R (Light Straw-Clay Construction); Appendix S (Strawbale Construction); and Appendix V (Swimming Pool Safety Act), as published by the International Code Council, subject to the changes and modifications set forth in Section 15.04.050 and other provisions of this Title.
- D. CALIFORNIA ELECTRICAL CODE, 2022 Edition, Part 3, together with Annex H (Administration and Enforcement) as published by the National Fire Protection

Association subject to changes and modifications set forth in Section 15.04.060 and other provisions of this Title.

- E. CALIFORNIA MECHANICAL CODE, 2022 Edition, Part 4, as published by the International Association of Plumbing and Mechanical Officials subject to the changes and modifications set forth in Section 15.04.070 and other provisions of this Title.
- F. CALIFORNIA PLUMBING CODE, 2022 Edition, Part 5, together with Appendix A (Recommended Rules for Sizing the Water Supply System); Appendix B (Explanatory Notes on Combination Waste and Vent Systems); Appendix D (Sizing Storm Water Drainage Systems); Appendix I (Installation Standard); Appendix J (Combination of Indoor and Outdoor Combustion and Ventilation Opening Design), as published by the International Association of Plumbing and Mechanical Officials, subject to the changes and modifications set forth in Section 15.04.080 and other provisions of this Title.
- G. CALIFORNIA ENERGY CODE, 2022 Edition, Part 6, as published by the International Code Council.
- H. CALIFORNIA HISTORICAL BUILDING CODE, 2022 Edition, Part 8, as published by the International Code Council.
- I. CALIFORNIA EXISTING BUILDING CODE, 2022 Edition, Part 10, as published by the International Code Council.
- J. CALIFORNIA GREEN BUILDING STANDARDS CODE, 2022 Edition, Part 11, as published by International Code Council.
- K. CALIFORNIA REFERENCED STANDARDS CODE, 2022 Edition, Part 12, as published by the International Code Council.

§ 15.04.030 DEFINITIONS.

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

BUILDING OFFICIAL refers to the Community Development Director of the City or his or her contracted official or designee;

ENFORCEMENT AGENCY shall refer to the Building Inspection Department of the City or designated department or entity.

§ 15.04.040 MODIFICATIONS TO THE CALIFORNIA BUILDING CODE.

The California Building Code, 2022 Edition, as adopted in § 15.04.020 (B) is adopted with the following changes and modifications:

Section 105.3.2 shall be amended to read as follows:

Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the City Council.

Section 105.5 shall be amended to read as follows:

Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However, this provision will not apply if the permit was issued to legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will correspond with any timelines the Department has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time for periods not more than 180 days each. The extension shall be requested in writing, and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official. In order to renew action on an expired permit, the permit holder shall pay a reinstatement fee established by the City Council.

Section 109.6 shall be amended to read as follows:

Refunds.

1. The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.
2. The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.

3. The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.
4. The Building Official shall not authorize the refunding of the plan review fee paid except upon written application filed by the original permittee no later than one year after the date of fee payment.

Appendix H: Signs: Section H101.1 shall be amended to include the following as a second paragraph:

Notwithstanding any other provision of this appendix, all external lighting for signs shall be designed to be shielded or downcast in order to minimize the illumination of the nighttime sky.

Appendix H: Signs: Section H101.2 shall be amended to read as follows:

Signs exempt from permits. The following signs are exempt from the requirements to obtain a permit before erection:

1. Non-illuminated signs painted on exterior surface of existing permitted or legal nonconforming buildings or structures.
2. Temporary signs announcing the sale or rent of property.
3. Signs erected by transportation authorities.
4. Projecting signs not exceeding 2.5 square feet (0.23 m²).
5. The changing of moveable parts of an approved sign that is designed for such changes, or the repainting or repositioning of display matter shall not be deemed an alteration.
6. Temporary signs on grade that are no higher than 7 feet in height above grade and no more than 32 square feet in size.

Exemption from the permit requirements of this Section shall not be deemed to grant authorization for any work done in any manner in violation of the provisions of Titles 17 or 18 of the Fort Bragg Municipal Code, or any other laws or ordinances of this jurisdiction.

Appendix H: Signs: Section H105.3 shall be amended to read as follows:

Wind load. Signs shall be designed and constructed to withstand wind pressure as provided for in Chapter 16. Exception: The Building Official may waive the engineering design requirements for signs if he/she finds that the

signs will not create a hazard to private or public property due to the type, size, location or placement of the sign.

Appendix H: Signs: Section H105.4 shall be amended to read as follows:

Seismic load. Signs designed to withstand wind pressures shall be considered capable of withstanding earthquake loads, except as provided for in Chapter 16. Exception: The Building Official may waive the engineering design requirements for signs if he/she finds that the signs will not create a hazard to private or public property due to the type, size, location or placement of the sign.

§ 15.04.050 MODIFICATIONS TO THE CALIFORNIA RESIDENTIAL CODE.

The California Residential Code, 2022 Edition as adopted in Section 15.04.020 (C) of this Chapter, is adopted with the following changes and modifications.

Section R105.3.2 shall be amended to read as follows:

Time limitation of application. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the City Council.

Section R105.5 shall be amended to read as follows:

Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However, this provision will not apply if the permit was issued to legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will correspond with any timelines the Department has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time, for periods not more than 180 days each. The Extension shall be requested in writing, and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official. In order to renew action on an expired permit, the permit holder shall pay a reinstatement fee established by the City Council.

Section R108.5 shall be amended to read as follows:

Refunds.

1. The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.
2. The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.
3. The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.
4. The Building Official shall not authorize the refunding of the plan review fee paid except upon written application filed by the original permittee no later than one year after the date of fee payment.

§ 15.04.060 MODIFICATIONS TO THE CALIFORNIA ELECTRICAL CODE.

The California Electrical Code, 2022 Edition, as adopted in Section 15.04.020 (D) of this Chapter, is adopted with the following changes and modifications.

Annex H, Section 80.15 Electrical Board is deleted.

Annex H, Section 80.19(E) shall be amended to read as follows:

(E) Fees and Fee Refunds.

- (1) Any political subdivision that has been provided for electrical inspection in accordance with the provisions of Article 80 may establish fees that shall be paid by the applicant for a permit before the permit is issued.
- (2) The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.
- (3) The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done

under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.

- (4) The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.
- (5) The Building Official shall not authorize the refunding of the plan review fee paid except upon written application filed by the original permittee no later than one year after the date of fee payment.

Annex H, Section 80.19(H) shall be amended to include the following as a new paragraph (4):

- (4) Time limitation of application. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the City Council.

Annex H, Section 80.19(H)(7) shall be amended to include the following new paragraph (5):

- (5) Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However, this provision will not apply if the permit was issued to legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will correspond with any timelines the Department has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing, and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official. In order to renew action on an expired permit, the permit holder shall pay a reinstatement fee established by the City Council.

Annex H, Section 80.23, Notices of Violations, Penalties: Subsection (B)(3) is deleted.

Annex H, Section 80.27 Inspector Qualifications is deleted.

§ 15.04.070 MODIFICATIONS TO THE CALIFORNIA MECHANICAL CODE.

The California Mechanical Code, 2022 Edition, as adopted in Section 15.04.020 (E) of this Chapter, is adopted with the following changes and modifications.

Section 104.3.3 shall be amended to read as follows:

Section 104.3.3 Time Limitation of Application. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in any time, for periods of not more than 180 calendar days each. Each extension required payment of a fee as established by the City Council.

Section 104.4.3 shall be amended to read as follows:

Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However, this provision will not apply if the permit was issued to legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will correspond with any timelines the Department has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing, and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official.

In order to renew action on an expired permit, the permit holder shall pay a reinstatement fee established by the City Council.

Expiration of Plan Review. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the City Council.

Section 104.5, Subsection 104.5.3 Fee Refunds shall be amended to read as follows:

Fee Refunds.

1. The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.
2. The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.
3. The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.
4. The Building Official shall not authorize the refunding of the plan review fee paid except upon written application filed by the original permittee no later than one year after the date of fee payment.

§ 15.04.080 MODIFICATIONS TO THE CALIFORNIA PLUMBING CODE.

The California Plumbing Code, 2022 Edition, as adopted in Section 15.04.020 (F) of this Chapter, is adopted with the following changes and modifications:

Section 104.4.3 shall be amended to read as follows:

Expiration: Every permit issued shall become invalid if the work on the site authorized by such permit is not commenced within one (1) year (365 calendar days) after the issuance of said permit and an inspection resulting in an approval of the work has not been obtained; or if after the first inspection approval the work does not receive an inspection resulting in an approval every year (365 calendar days). However, this provision will not apply if the permit was issued to

legalize previously unpermitted construction. In those cases, the timelines for the permit to remain valid will correspond with any timelines the Department has set for compliance. Extensions may be granted as indicated in this section. The submittal of revisions to issued permits, if pursued in good faith as determined by the Building Official, shall extend the building permit 180 calendar days from the submittal of the revisions.

For permits which have not expired, the Building Official is authorized to grant one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing, and will only be granted upon demonstration of justifiable cause, as determined by the Building Official.

Permits may be renewed if they have been expired for less than five (5) years, and/or have a vested interest, as determined by the Building Official. In order to renew action on an expired permit, the permit holder shall pay a reinstatement fee established by the City Council.

Expiration of Plan Review. A permit application for any proposed work shall be deemed to have been abandoned one (1) year after the date of filing, unless such application has been pursued in good faith as determined by the Building Official. The applicant must request an extension in writing, and demonstrate justifiable cause. The Building Official may grant one or more extensions in time, for periods of not more than 180 days each. Each extension requires payment of a fee established by the City Council.

Section 104.5.3 shall be amended to read as follows:

Fee Refunds.

1. The Building Official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.
2. The Building Official may authorize the refunding of not more than 80 percent of the permit fee paid when no work had been done under a permit issued in accordance with this code provided that the request for refund is made by written application by the original permittee not later than one year after the date of issuance of the permit.
3. The Building Official may authorize the refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.
4. The Building Official shall not authorize the refunding of the plan review fee paid except upon written application filed by the original permittee no later than one year after the date of fee payment.

Section 603.5.7 shall be amended to read as follows:

Outlets with Hose Attachments. Potable water outlets with hose attachments, other than water heater drains, boiler drains, and clothes washer connections, shall be protected by a nonremovable hose bibb-type backflow preventer, a nonremovable hose bibb-type vacuum breaker, or by an atmospheric vacuum breaker installed not less than 6 inches (152 mm) above the highest point of usage located on the discharge side of the last valve. In climates where freezing temperatures occur, a listed self-draining frost-proof hose bibb with an integral backflow preventer or vacuum breaker shall be used. One exterior hose bibb supplied by potable water shall be installed on each structure containing a Group R, Division 3 or Division 1 Occupancy.

§ 15.04.090 CURBS AND SIDEWALKS.

A. Curbs and sidewalks shall be required and constructed along the frontage of any public street, upon any lot, parcel or piece of ground upon which any new construction in excess of 250 square feet of floor space is being built; or upon which any alteration or improvements are being made the cost of which exceeds 50% of the value of the existing structure prior to the construction of said alterations or improvements.

B. The construction of the sidewalk and curb shall be in conformance with the California Building Code referred to in § 15.04.020 and in conformance with the standards set forth in Chapter 12.04.

C. Curb cuts are to be utilized such that road or parking lot runoff drains to a landscaped feature.

§ 15.04.100 CONSTRUCTION AND APPLICABILITY.

The regulations and provisions contained in the body of this title shall prevail over any inconsistent provision contained in any primary or secondary code adopted hereby; provided, however, that in the case of inconsistent regulations, no regulation shall prevail which is less stringent than the regulations established by the State of California.

§ 15.04.110 CONSTRUCTION PERMITS AND INSPECTION FEES.

Except as otherwise exempted by the California Building Code and/or other City ordinances, no person, firm, or corporation shall erect, construct, enlarge, alter, repair, move, improve, occupy, remove, convert, or demolish any building or structure in the area of the City or cause the same to be done without first obtaining a separate building permit for each such building or structure as required by this title. Permits shall be issued and fees collected by the Building Official or his or her designee. The schedule of fees collected are set by resolution by the City Council as may be amended from time to time.

§ 15.04.120 FIRE ZONE DEFINED.

For the purpose of this chapter the entire City is Fire Zone Three.

§ 15.04.130 FEES FOR PERMITS AND INSPECTION.

Except as otherwise exempted by the California Building Code or City ordinance, no person, firm or corporation shall erect, construct, enlarge, alter, repair, move, improve, occupy, remove, convert or demolish any building or structure, or install, alter or repair any plumbing, heating or electrical items, without first obtaining a permit or combination of any such permits for each such building or structure. Any person filing applications for permits shall, at the time of filing an application therefore, pay to the Building Department the fee set forth by the City as the fee schedule is amended and adopted from time to time. A copy of the latest fee schedule in effect is on file with the City Clerk.

§ 15.04.140 PENAL PROVISIONS.

A. The Building Official of the City or the Acting Building Inspector as designated by the City Manager shall have the authority to issue citations for violations of the following chapters of this code:

1. Chapter 15.04 (Construction Codes – Adopted by Reference);
2. Chapter 15.08 (Building and Fire Department Permits);
3. Chapter 15.12 (House Numbering);
4. Title 17 (Chapters 17.10 through 17.98);
5. Title 18 (Chapters 18.10 through 18.98).

B. The persons designated in subsection (A) of this section (hereinafter referred to as Building Official) shall have the power to issue citations within the City pursuant to those sections of this code set forth in subsection (A) of this section. The Building Official is authorized by the ordinance codified in this section to arrest persons, without a warrant, whenever the Building Official has reasonable cause to believe that the person to be arrested has committed a misdemeanor in his or her presence which is a violation of state statute or City ordinance which the Building Official has a duty to enforce.

C. In any case in which a person is arrested pursuant to subsection (A) or (B) of this section, and the person arrested does not demand to be taken before a magistrate, the Building Official making the arrest shall prepare a written notice to appear and release the person on his or her promise to appear, as prescribed by Chapter 5C (commencing with Section 853.6) of the California State Penal Code. The provisions of such chapter (5C of the Penal Code) shall thereafter apply with reference to any proceeding based upon the issuance of a written notice to appear pursuant to this authority.

D. Violations of Chapters 15.04, 15.08, 15.12, Title 17, and Title 18 are declared to be infractions, and upon conviction thereof are punishable as provided in Chapter 1.12.

Section 3.

Chapter 15.05 entitled **CALIFORNIA FIRE CODE** is hereby repealed in its entirety and replaced with the following:

CHAPTER 15.05: CALIFORNIA FIRE CODE

Section

- 15.05.010 Edition adopted
- 15.05.020 Application of chapter
- 15.05.030 Appeals

§ 15.05.010 EDITION ADOPTED.

Subject to applicable sections of this title, the following primary and secondary codes are hereby adopted and incorporated into the Fort Bragg City Code by reference and as having the full legal effect as if their respective contents were set forth verbatim herein:

- A. The California Fire Code, California Code of Regulations, Title 24, Part 9, 2022 Edition, and its appendices, subject to amendments, changes or modifications as set forth in this chapter, or otherwise in the Fort Bragg Municipal Code. This chapter shall be known as the “Fort Bragg Fire Code” and shall be referred to in this chapter as “the code.”
- B. Where no applicable standards or requirements are set forth in the above-mentioned code, or contained within other laws, codes, regulations or ordinances adopted by the City, compliance with applicable standards of the National Fire Protection Association (NFPA) or other nationally recognized fire safety standards as are approved shall be deemed as prima facie evidence of compliance with the intent of this chapter.
- C. A copy of the code referenced above, in its latest form, is on file in the office of the Fire Chief.

§ 15.05.020 APPLICATION OF CHAPTER.

This chapter shall apply to all buildings, structures, areas, and occupancies within the City of Fort Bragg. Pursuant to Cal. Health and Safety Code §§ 13145 and 13146, the Fire Chief, or his or her authorized representative, shall enforce the provisions of this chapter and all other building standards and regulations relating to fire and panic safety that have been formally adopted by the State Fire Marshal for the prevention of fire and for the protection of life and property against fire or panic.

§ 15.05.030 APPEALS.

Whenever the Fire Chief or his or her authorized representative refuses to grant a permit applied for, or when it is claimed that certain provisions of the International Fire Code, the California Fire Code and/or Fort Bragg Municipal Code do not apply, the applicant may appeal the decisions to the Fire Appeals Board no later than 15 days of the refusal or claim. The Fire Appeals Board shall be appointed by the Fort Bragg Fire Protection Authority.

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 April 8, 2024, and adopted at a regular meeting of the City of Fort Bragg held on April ____, 2024, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:
- RECUSE:

Bernie Norvell
Mayor

ATTEST:

Diana Sanchez
City Clerk

PUBLISH: March 28, 2024 and April __, 2024 (by summary).
EFFECTIVE DATE: May __, 2024.

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

An Ordinance to Amend Chapter 15.06 of the Fort Bragg Municipal Code to require sprinkler installation in buildings with building permits with a cumulative valuation of \$150,000 or more, over a three-year period.

ORDINANCE NO. XXX-2024

WHEREAS, the 2022 California Building Standards Code has been amended and adopted by the California Building Standards Commission; and

WHEREAS, the California Fire Code, which is Part 9 of the California Building Standards Code, was part of the triennial amendment and adoption by the California Building Standards Commission; and

WHEREAS, the City of Fort Bragg (“City”) wishes to adopt building code regulations in accordance with law and to use the most updated regulations to regulate building construction within the City; and

WHEREAS, the City of Fort Bragg (“City”) wishes to adopt fire code regulations in accordance with law and to use the most updated regulations for fire protection within the City; and

WHEREAS, Government Code § 50022 *et seq.* authorizes cities to enact ordinances adopting any code by reference; and

WHEREAS, the City wishes to adopt the California Fire Code, California Code of Regulations, Title 24, Part 9, 2022 Edition, by reference into Chapter 15.05 of the Fort Bragg Municipal Code (California Fire Code) after conducting a public hearing on April 8, 2024; and

WHEREAS, because of the City’s unique climatic, geologic, and topographic conditions, the City made amendments and additions to the California Fire Code, California Code of Regulations, Title 24, Part 9, 2022 Edition; and

WHEREAS, the City of Fort Bragg (“City”) has determined that Chapter 15.06 (Automatic Fire Sprinkler and Alarm Systems) of the Fort Bragg Municipal Code (“Code”), as proposed, reflects the modifications most beneficial to the health, safety and welfare of the City and the City Council desires the same modifications to the California Fire Code, California Code of Regulations, Title 24, Part 9, 2022 Edition; and

WHEREAS, because of the City’s unique climatic, geologic, and topographic conditions, the City desires to make amendments and additions to the building and fire code regulations, as set forth in Ordinance XXX-2024; and

WHEREAS, pursuant to California Health and Safety Code § 17958, 13143.5, and 18941.5 the City Council of the City of Fort Bragg determined that a departure from the California Fire Code, Part 9 of the California Building Standards Code, 2022 Edition, is reasonably necessary because of local climatic, geologic and/or topographic conditions.

WHEREAS, the City of Fort Bragg (“City”) has determined that Chapter 15.06 (Automatic

Fire Sprinkler and Alarm Systems) of the Fort Bragg Municipal Code (“Code”), as currently written does not: 1) clearly require that the valuation of all building permits over a three year period should be summed to determine the valuation threshold; and

WHEREAS, the City of Fort Bragg, has determined that all costs, except for re-roofing, associated with rehabilitation of a building and except for solar panel (PV) installation, should be included in the valuation amount, as public health and safety are paramount concerns of local government and every reasonable opportunity should be taken to ensure that Fort Bragg’s vulnerable commercial buildings have sprinklers installed as part of any series of rehabilitation activities over a three year period of more than \$150,000 in value in order to protect life and property from the threat of fire; and

WHEREAS, amending Chapter 15.06 will assist in administering the City’s fire sprinkler and alarm systems ordinance and improve compliance with the ordinance by property owners; and

WHEREAS, pursuant to California Health and Safety Code sections 18941.5, 17958, and 13143.5 the City Council of the City of Fort Bragg hereby finds that the amendments adopted herein are reasonably necessary because of local climatic, geologic and topographic conditions; and

WHEREAS, amending Chapter 15.06 will assist in administering the City’s fire sprinkler and alarm systems ordinance and improve compliance with the ordinance by property owners; and

WHEREAS, the City Council has determined that the following changes should be made to the Chapter for consistency, accuracy and ease of use by the City’s staff and citizens.

WHEREAS, on November 27, 2023, the City Council held a City Council meeting and discussed this item and agreed that the valuation calculation should be calculated on a cumulative basis over a three-year period; and

WHEREAS, prior to the effective date of this Ordinance, the City Clerk shall file a copy of the Ordinance, with the California Building Standards Commission.

NOW, THEREFORE, the City Council ordains as follows:

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

1. The City of Fort Bragg’s Municipal Code Chapters 15.05 and 15.06 have undergone a review to identify inconsistencies and inaccuracies as well as consistency with the 2022 California Building Standards Code.
2. The Code should represent the current state of all legislative actions taken by the City Council.
3. Chapter 15.06 is used by City staff to determine when fire sprinklers and alarm systems are required as part of any project that requires a building permit.
4. Modifications and changes to the California Fire Code, as set forth in Chapter 15.05 of the Fort Bragg Municipal Code, are required in order to provide specific and greater protections to the public health, safety and welfare than are afforded by the California Building Standards Code due to local climatic, geological, and topographical conditions. The legislative findings for such modifications and changes are made pursuant to California Health and Safety Code § 17958.7 as set forth in Exhibit A of the Staff report and by this reference incorporated herein.
5. Chapter 15.06 is used by City staff to determine when fire sprinklers and alarm systems are required as part of any project that requires a building permit.
6. The Code should reflect current legislative actions of the City Council and the means by which the City is being operated and must be accurate and consistent to aid staff, residents and various

other persons in making determinations on Code-related issues.

7. Amending Chapter 15.06 in the manner described in this ordinance is in the public interest for it will ensure that sprinklers are installed as part of any cumulative major commercial building rehabilitation of more than \$150,000 in value over a three-year period and will thereby help to protect life and property from damage by structural fires.

8. Legislative Findings.

The City Council of the City of Fort Bragg finds that in order to best protect the health, safety and welfare of the citizens of the City of Fort Bragg, the standards of building within the City must conform with state law except where local climatic, geological, and topographic conditions warrant more restrictive regulations. Therefore, the City Council should adopt the current state building codes, contained in California Building Standards Code Title 24, and other uniform codes governing the construction and regulation of buildings and structures with the modifications and amendments contained herein.

Pursuant to California Health and Safety Code Section 17958.7, the City Council makes the factual findings set forth herein, and finds that the amendments made in this ordinance to the California Building Standards Code Title 24, Part 9 are reasonably necessary because of the local climatic, geological or topographical conditions.

9. Climatic Findings:

Fort Bragg has climatic conditions which are unique in character. The City is subject to year-round coastal winds including storm conditions. Winter storms with gale-force winds often cause trees to fall onto roadways used for access by emergency fire equipment and personnel. Average yearly rainfall for the district is 37 inches which occurs from October to April and results in lush vegetation growth. During summer months, the morning also spurs vegetation growth. Natural vegetation creates hazardous fuel conditions that cause grassland and brush land fires each year. Afternoon winds can move a fire quickly in any part of the City, particularly during times of high temperatures and low humidity. The City has suffered from drought conditions, which reduces available water for firefighting.

10. Geological Findings:

Fort Bragg, located on the northern California coast, has warm summer days and severe winters. The City is located in a rural setting with rugged coastline forming its western boundary and rugged mountainous areas forming its eastern boundaries. The City has potentially active seismic hazards in close proximity.

11. Topographical Findings:

The Fort Bragg Fire Protection Authority District is an all-volunteer district that covers seventy-five square miles with elevations from zero to one thousand feet above sea level. The City of Fort Bragg includes many narrow and some dead-end roads causing maneuverability restrictions for fire equipment. Surrounding fire districts are all volunteer and the request for mutual aid requires as long as 30 minutes for the first engine to respond to the scene of a fire. The permanent population in the District is dramatically increased by tourism in the summer months causing an increased burden on fire department personnel and equipment. Heavily traveled State Highway One runs the length of the City and is the only continuous North/South route along the coast.

12. There is no possibility that the adoption of this ordinance will have a significant impact on the environment, and therefore, the adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA"), pursuant to Section 15061(b)(3) of the CEQA Guidelines

(Title 14, Chapter 3 of the California Code of Regulations). Enacting minor changes to the City's Code pertaining to automatic fire sprinkler and alarm systems cannot have a significant effect on the environment. The changes to the City's Municipal Code are minor in nature and do not create substantive changes to land use or the California Fire Code. Subsequent planning and building permit applications will be subject to environmental review at that time. Thus, there is no further environmental review necessary at this time.

Section 2.

Chapter 15.06 entitled **AUTOMATIC FIRE SPRINKLER AND ALARM SYSTEMS** is hereby repealed in its entirety and replaced with the following:

CHAPTER 15.06: AUTOMATIC FIRE SPRINKLER AND ALARM SYSTEMS

Section

- 15.06.010 Purpose
- 15.06.020 Definitions in general
- 15.06.030 Automatic fire sprinkler systems required
- 15.06.050 Exemptions and waivers
- 15.06.060 Annual inspection and maintenance
- 15.06.070 *Reserved*
- 15.06.080 Fire alarm systems defined and required
- 15.06.090 Violations

§ 15.06.010 PURPOSE.

A. The California Fire Code, California Code of Regulations, Title 24, Part 9, 2022 Edition, as modified and amended from time to time, establishes certain standards for automatic fire extinguishing systems. A copy of the Code, in its latest form, is on file in the office of the Fire Chief.

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

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

§ 15.06.020 DEFINITIONS IN GENERAL.

Definitions contained in the California Fire Code, California Code of Regulations, Title 24, Part 9, 2022 Edition, shall apply to this chapter unless specifically amended. Whenever any of the following names or terms are used in any of the compilations adopted by reference by this chapter such names or terms shall have the following meanings:

APPEAL AUTHORITY. As defined in Municipal Code Chapter 1.06.

BUILDING. Any building or group of buildings that requires a sprinkler under this ordinance or the California Fire Code, California Code of Regulations, Title 24, Part 9, 2022 Edition.

BUILDING PERMIT VALUATION. The value of repairs, maintenance and remodel work as determined by the Mendocino County Planning and Building Department through their plan review

process. The Building Permit Valuation will include the total of all active building permits for the Building at the same location, excluding separate permits to install automatic fire sprinkler systems.

§ 15.06.030 AUTOMATIC FIRE SPRINKLER SYSTEMS — REQUIRED.

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

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

1. Existing commercial and multifamily buildings which are remodeled, added to, or altered, including maintenance and repair activities, when the valuation of the cost of such work within any 36-month period exceeds \$150,000, shall have an automatic fire sprinkler system installed. The sprinkler system shall be connected with the City’s water service as determined by the Director of Public Works. Roof replacement costs and installation of solar panels (PV) will not be calculated in the \$150,000 limit. The \$150,000 valuation will be determined by the Mendocino County Planning and Building Department through their plan review process and completed on the application for any building permit.

2. The Fire Marshal shall: 1) review the building permit, plans and Building Permit Valuation at the time of the building permit application submittal; and 2) review the building permit, any applicable building permit application and plans upon any change in scope of work or modification to the building permit application to determine if the Building Permit Valuation of the proposed work and all work completed on the Building for all active building permits exceeds the \$150,000 threshold.

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

§ 15.06.050 EXEMPTIONS AND WAIVERS.

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

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

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

§ 15.06.060 ANNUAL INSPECTION AND MAINTENANCE

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

§ 15.06.070

Reserved.

§ 15.06.080 FIRE ALARM SYSTEMS DEFINED AND REQUIRED.

A. **FIRE ALARM SYSTEM** means all devices, controls, and circuits, together with the energy necessary to sound the alarm, electrically supervise the system, and activate the alarm bells,

trouble bells or trouble signals.

B. Every new Building shall have installed an approved, automatically-operated fire alarm system designed to warn all occupants simultaneously. In addition, the Fire Chief may require that this system be monitored in the manager’s quarters and/or by a supervising station as defined in NFPA 72. The Fire Chief may also require the installation of a manually-operated fire alarm system.

C. All required fire alarm systems shall be installed in accordance with NFPA 72.

D. Exceptions to § 15.06.080 are all “U” occupancies. These exceptions do not apply to 1- and 2-family dwellings within a Building that otherwise requires an alarm system (i.e., commercial occupancy below a dwelling).

§ 15.06.090 VIOLATIONS.

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

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 April 8, 2024, and adopted at a regular meeting of the City of Fort Bragg held on April __, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Bernie Norvell
Mayor

ATTEST:

Diana Sanchez
City Clerk

PUBLISH: March 28, 2024 and April __, 2024 (by summary).
EFFECTIVE DATE: May __, 2024.



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 conduct a public hearing at a regular meeting to be held at 6:00 p.m., or as soon thereafter as the matter may be heard, on Monday, April 8, 2024 at Town Hall, southwest corner of Main and Laurel Streets (363 N. Main Street), Fort Bragg, California 95437. The public hearing will concern the following item:

Introduce, by Title only, and Waive further reading of Ordinance (XXX-2024) Repealing and Replacing Chapter 15.04 (Construction Codes – Adopted By Reference) and Chapter 15.05 (California Fire Code) of Title 15 (Buildings And Construction) of The Fort Bragg Municipal Code; Adopting and Incorporating The 2022 California Administrative Code, California Building Code, California Residential Code, California Electrical Code, California Mechanical Code, California Plumbing Code, California Energy Code, California Historical Building Code, California Existing Building Code, California Green Building Standards Code, California Referenced Standards Code and California Fire Code; Adopting Local Findings; and Making Other Technical And Administrative Revisions To Title 15, and

Introduce, by Title only, and Waive further reading of Ordinance (XXX-2024) Amending Chapter 15.06 of the Fort Bragg Municipal Code to require sprinkler installation in buildings with building permits with a cumulative valuation of \$75,000 or more, over a three-year period.

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 dsanchez@fortbragg.com, and received no later than the meeting date.

The Agenda Item Summary and supporting documents that will be considered by the Councilmembers will be available for review at Fort Bragg City Hall and on the City’s website: <https://city.fortbragg.com/> on or after March 28, 2024. At the conclusion of the public hearing, the City Council will consider a decision on the matter.

DATED: March 28, 2024

Diana Sanchez
City Clerk

PUBLISH: March 28, 2024

STATE OF CALIFORNIA)
) ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg in the Administrative Services Department; and that I posted this Notice in the City Hall Notice case on March 28, 2024.

Diana Sanchez
City Clerk



City of Fort Bragg

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

Text File

File Number: 24-687

Agenda Date: 4/8/2024

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number:

Receive Report and Provide Direction on Potential Tax Ballot Measure for November 2024, Authorize City Manager to Execute Contract with Lee Edwards Group (Amount not to Exceed \$38,500) and FM3 Research (Amount not to Exceed \$24,750) consistent with Attached Proposal and Subject to City Attorney Review.



AGENCY: City Council
MEETING DATE: April 8, 2024
DEPARTMENT: Finance & Administration
PRESENTED BY: Isaac Whippy
EMAIL ADDRESS: iwhippy@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Staff Direction on Potential Tax Ballot Measure for November 2024.

BACKGROUND:

Investing in critical city services and programs remains a top priority for the City of Fort Bragg, encompassing public safety, emergency response, infrastructure maintenance, parks and recreation programs, affordable housing initiatives, and workforce development. Despite the perception of adequate funding, the City often encounters financial challenges in consistently delivering these essential services to meet our residents' expectations. The quality of life in our city hinges upon our ability to provide these fundamental services and infrastructure, driving our ongoing efforts to allocate resources efficiently and effectively.

The City Council adopted the City's FY 23/24 Budget and Five-Year Capital Improvement Plan in June 2023, aiming to restore services and staffing to pre-pandemic levels, reinvest in infrastructure, and prepare for future challenges. While the current budget outlook appears stable, we face a structural deficit due to inflation, and rising costs exceeding projected revenues in the City's long-term forecast. While reserves currently cover the shortfall, long-term forecasts indicate a need for new revenue sources to avoid depletion to keep above the 30% reserve levels.

During the Mid-Year Budget review in March 2024, staff presented several revenue enhancement options for consideration by the City Council. These options aimed to address the long-term deficit, maintain reserves, and sustain essential services. Notably, the current City Council's objectives encompass various critical areas:

1. Public Safety
2. Housing
3. Infrastructure improvements
4. Beautification of downtown buildings and streets
5. Water storage and diversification of water sources

Achieving these goals necessitates a reallocation of resources, pursuit of grants, or identification of additional sustainable revenue sources in the near future. Taxes stand out as a stable revenue stream capable of funding priority projects and programs. Of particular importance to the City Council is the prioritization of increasing workforce housing opportunities in Fort Bragg. This endeavor is crucial for attracting and retaining qualified workers and fostering homeownership to build wealth within the community.

In light of these objectives, this staff report delves into potential ballot measures for November 5, 2024. These measures aim to support the identified priorities and ensure the continued well-being and prosperity of our community.

ANALYSIS:

Transient Occupancy Tax (TOT)

The current Transient Occupancy Tax (TOT), also known as the Bed or Hotel tax, in the City is 12%, with an additional 1% collected as a Business Improvement District (BID) assessment remitted to the County of Mendocino. Unlike the Tourism Business Improvement District (TBID), TOT rates are determined by City voters and are not legally capped. While the most common TOT rate for California cities is 10%, some cities like Malibu, Anaheim, and Palo Alto have rates at or above 15%.

In 2016, voters approved Measure AA, increasing the TOT rate from 10% to 12%. An advisory, Measure AB, allocated half of the 2% of revenues to enhance promotions, events, and marketing for Fort Bragg. A quarter of the revenues were designated for Coastal Trail maintenance and security, while an eighth was allocated to support the establishment of the Noyo Center for Marine Science, and another eighth for special projects.

Recent fiscal years have seen declines in TOT revenues due to factors like wet winter weather and broader economic conditions. However, at its peak in FY 2021/22, TOT generated over \$3.2 million for the City to fund general government services. Based on current revenue projections, every 1% increase in Fort Bragg's TOT would generate approximately \$400,000.

Local Transaction and Use Tax (TUT)

Sales Tax is a tax paid on the sale of certain goods and services. The current local sales tax rate in Fort Bragg, CA is 8.875%. Currently, the City receives 1% (known as the Bradley-Burns local sales tax) of the 9.5% total sales tax as approved by the State of California.

<u>District</u>	<u>Rate</u>
State of California	7.250%
Mendocino County	0.625%
Fort Bragg	1.000%
Total	8.875%

Local municipalities (Cities and County combined) are limited to 2.0% additional tax above the state's base rate of 7.25%. Currently, the State imposes a 7.25% tax on goods and services sold in California. The City of Fort Bragg rate is 1% and Mendocino County rate is 0.625%. This additional 3/8 cent would bring the total sales tax within the City limits from the current 8.875% to the cap of 9.25% generating approximately \$800,000 annually.

Sales tax revenue generated within the City limits is generated not only from City residents but also tourists and visitors, as well as regional residents living outside City limits who

regularly shop in Fort Bragg. In fact, City residents generate about 27% of the City's annual sales tax collected, whereas sales tax dollars from tourists or visitors to Fort Bragg generate approximately 40% of sales tax revenue, and regional residents generate approximately 33% of the sales tax.

To secure tax revenue directly benefiting Fort Bragg residents and prevent its dilution across the county, it's prudent for the City to propose a voter ballot initiative utilizing the remaining 0.38% capacity under the 9.25% cap. Failing to pursue this measure may prompt the County to do so in future elections, closing the gap for potential revenue enhancements.

The upcoming general election on November 5, 2024, provides the City Council with the opportunity to place either a general tax or a special tax measure on the ballot. General tax measures may only be placed on the ballot during a regularly scheduled general election of the City Council. This means a general tax would need to be scheduled for November 5, 2024, or it would need to wait until November 3, 2026. A "general tax" is not legally restricted to any specific purpose and only requires a simple majority or 50% plus one for voter approval. A "special tax", as opposed to a "general tax", is legally restricted for a specific use and requires a supermajority or two-thirds voter approval to pass. The difference in votes required between the simple majority and super majority is often the reason municipalities place general tax measures instead of special tax measures on the ballot.

If the City Council directs staff to pursue either measure, Staff will return with appropriate resolutions and/or ordinances containing the specific wording per the election calendar to ensure timely submittal to the County.

RECOMMENDED ACTION(S):

1. Authorize staff to proceed with a public engagement process to present and discuss the merits of a potential sales tax ballot measure for 0.375% for the November 2024 general election, to the city residents, the business community, and other organizations; and
2. Authorize the City Manager to enter into an agreement with Lee Edwards Group for public outreach services and ballot measure preparation; and
3. Authorize the City Manager to contract with FM3 Research to complete and present the results of a public poll; and
4. Instruct the City Attorney, the City Clerk and the City Manager to draft language for the ballot for future Council consideration, in a timely for the November 2024 election timeline;

ALTERNATIVE ACTION(S):

1. Request for more information.
2. No action.

FISCAL IMPACT:

The estimated costs for preparing the Transaction and Use Tax Measure for the consolidated general statewide election, including staff and attorney's fees, are projected to be under \$10,000. Additionally, polling expenses are anticipated to amount to approximately \$30,000, with consultant fees estimated at around \$37,400. The costs could potentially be covered by salary savings from the vacant Finance Director position.

In terms of potential revenue, the proposed 3/8 of a cent sales tax is expected to yield an additional \$800,000 annually. Similarly, a projected 2% increase in Transient Occupancy Tax (TOT) is estimated to generate an additional \$400,000 in revenues per year.

GREENHOUSE GAS EMISSIONS IMPACT:

N/A

CONSISTENCY:

Creating a new funding source to maintain Public Safety, Streets, and address the lack of safe, decent, and affordable housing opportunities aligns with the Council Goals and Priorities.

IMPLEMENTATION/TIMEFRAMES:

The deadline for transmitting a ballot measure to the County Elections Office is August 12, 2024. The deadline for arguments for or against the ballot measure is August 18, 2024. The last day for submission of rebuttal arguments for or against the ballot measure is August 29, 2024. Election Day is November 5, 2024. The City Elections Official will certify the results of the election to the City Council no later than the next regularly scheduled Council meeting following the presentation of the 28-day canvass of the returns by the County Elections Official, currently scheduled for December 12, 2024.

ATTACHMENTS:

1. Lee Edwards Group proposal
2. FM3 Proposal
3. Election Calendar for the November 5, 2024 election
4. Professional Service Contract
5. Long-Term Financial Plan

CITY OF FORT BRAGG CALENDAR FOR THE NOVEMBER 5, 2024, ELECTION

DAYS PRIOR TO ELECTION	OFFICIAL DATE	COUNCIL MEETING DATE	ACTION TAKEN	CODE SECTION
180	May 9, 2024		Suggested Last day to file initiative petitions	EC § 9208
141	June 17, 2024	June 5, 2024	Suggested last day for Council to adopt resolutions (including call for election and measures; however, official last day is August 9th to submit the request to the Board of Supervisors for consolidation of services with County and Ballot Measures)	EC §10403
Call for Election + 14 days (if call is on 6/5/24)	June 19, 2024	June 19, 2024	Suggested last day to post notice of Deadline for filing arguments and impartial analyses	EC §9286
127	July 1, 2024		Election Official to publish Notice of Election	EC §12101
113	July 15, 2024			
Call for Election + 14 days)	June 19, 2024	June 5 + 14 days = June 19 (Next regular meeting)	Suggested last day to file arguments and impartial analyses/ recommended to be 7-14 days after Council calls Election	EC §9286
10 days after arguments are due (if election is called on June 5, and arguments are filed on June 19, then 10 days = June 28)			Last day to file rebuttal arguments/10 days after arguments	EC §9285
97	July 31, 2024		Semi Annual Campaign Statements due (1/1/24-6/30/24)	GC §81000-81015
113	July 15, 2024		FILING PERIOD - CANDIDATE NOMINATION PAPERS	EC §10220; 10224; 10407
88	August 9, 2024			
88	August 9, 2024	BOS has no scheduled meetings for August, so would have to deliver by 7/23/24 (Elections office prefers to get in June)	Deadline to deliver resolution calling ballot measure election to County Elections Officer and request election consolidation.	EC §10403;10002, 12001, 1405, 9241; 9400-9401
88	September 6, 2024 August 7, 2024		First day that campaign signs may be erected Coastal Zone Inland Zone	17.38.040(C)(4) 18.38.040(C)(4)
87	August 10, 2024		Candidate filing period extended if an incumbent eligible for re-election does not file nomination documents by the August 9 deadline. Incumbents are not eligible to file during the extended period. EC 10225	EC §10225
83	August 14, 2024			
82	August 15, 2024		Secretary of State to conduct Random Alpha Draw for candidate name order on ballot	EC §13113; 13112
5 days of the close of Candidate filing	August 14, 2024		Last day to cancel election - insufficient candidates	County date - not yet sent
57	September 9, 2024		Filing Period - Candidate Nomination Papers for Write-in Candidates.	EC §8601
14	October 22, 2024			
40	September 26, 2024		First Pre-Election Campaign Statement due	GC §81000-81015
29	October 7, 2024		Period to obtain Vote-by-Mail ballots. Ballots may be obtained at the County Registrar's office	EC §3001
7	October 29, 2024			
15	October 21, 2024		Last Day to Register to Vote	EC §2102; 2107
12	October 24, 2024		Second Pre-Election Campaign Statement due	GC §81000-81015
3rd Business Day before 1:00 pm	October 31, 2024		Third Pre-Election Campaign Statement due	UCC §2082
0	November 5, 2024		ELECTION DAY	EC §1000
10	November 15, 2024 November 10, 2024		Deadline for political signs to be removed Coastal Zone Inland Zone	17.38.040 (C)(4) 18.38.040 (C)(4)
30	December 5, 2024		Last day for County to certify election results to city. EC §15372	EC §15372
35	December 10, 2024	December 18, 2024	Council to adopt and certify election results <i>(* County is not required to give election results until 12/5/24; therefore, unless the County produces election results before the 1st, the results will have to be certified on 12/15/22)</i>	EC §10263-10265
Fixed Date	December 18, 2024		Taking office date for newly elected officials	
Fixed Date	30 days after assuming office (1/17/25 if election results are given at the 12/18/24 meeting)		Filing of Statement of Economic Interest - assuming office	GC §87314
Fixed Date	January 15, 2025		\$50 fee due to Secretary of State for open campaign committees	
Fixed Date	January 31, 2025		Semi-Annual Campaign Statement due.	
EC = Election Code GC = Government Code UCC = Ukiah City Code				



*Proposal to Provide Consulting Services
for the City of Fort Bragg's
Potential Local Funding Measure*

April 2, 2024



City Manager Isaac Whippy
City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

Dear City Manager Whippy:

Thank you for reaching out to The Lew Edwards Group (LEG) to potentially partner with the City on its fiscal sustainability needs. A collaboration with LEG provides the City of Fort Bragg with the following:

- ✓ A **nationally recognized, award-winning firm** in public agency engagement and communications;
- ✓ A California leader in revenue ballot measures, having **enacted over \$42 Billion with a 95% enactment rate** for local governments and other public agencies, including **157 enacted sales tax measures**; and
- ✓ A firm **with extensive experience in successful approaches for small-sized communities** such as the cities of Arvin, Belmont, Emeryville, Exeter, Ceres, Chowchilla, Colma, Cotati, East Palo Alto, Lakeport, Los Gatos, Monte Sereno, Saratoga, St. Helena, Taft, Tehachapi, Wheatland, Willows, and Windsor, to name a few.

LEG welcomes a potential collaboration that is consistent with our organization's Best Practices.

Warmly,

A handwritten signature in blue ink, appearing to read "Catherine Lew". The signature is fluid and cursive, with a long horizontal stroke at the end.

Co-Founder & Principal Consultant
510-594-0224 x 261
catherine@lewedwardsgroup.com

ABOUT THE LEW EDWARDS GROUP

The Lew Edwards Group (LEG) is a California leader in providing strategic communications and revenue generation services to local governments throughout California. Our firm is celebrating its 27th year as a company. Local government or public agency representation constitutes more than two-thirds of our practice.

Experts from LEG are frequently sought after trainers and speakers for the **League of California Cities, California Municipal Treasurers Association, California Society of Municipal Finance Officers, Local Government Commission, Institute for Local Governments, Municipal Management Association, California Police Chiefs Association**, and others. LEG's direct mail products have been recognized on multiple occasions in the prestigious national Pollie Awards.

LEG's 2024 sales tax summary and recent cycle sheets are in the Appendix of this document. LEG closed 2022 with 66 enactments and wins. During the last Presidential Election year in 2020, LEG tied its internal 2016 record of 68 enactments and wins. For a comprehensive list of clients, visit www.lewedwardsgroup.com.

A list of LEG's sales tax enactments is contained within the Appendix to this proposal. For a comprehensive list of clients, visit www.lewedwardsgroup.com

KEY CONSIDERATIONS IN THE CURRENT ENVIRONMENT

Taxpayer Protection Act: As the City is aware, the Business Roundtable/Howard Jarvis TPA leaders have qualified the Taxpayer Accountability Act which, if on the ballot and enacted would foreclose the option of simple majority requirement revenue measures. The Act includes a "grandfather clause," a dynamic that needs to be monitored and accounted for in your planning. As you know, the placement of this initiative on the ballot is currently pending a legal challenge.

Cost of Living Issues: We will likely continue to see *pocketbook issues and voter concern* over the economy into the fall. If the cost of living continues to affect basic groceries and gas, the environment may shift downward.

Competition on the Ballot: As it is a Presidential Year, beyond the potential Business Roundtable initiative, *additional statewide and regional items on the ballot* should be anticipated. Any State or regional measures that also ask for money may affect your planning, something to watch for between now and the summer. Currently a State climate change bond and a State education bond are expected on the November state ballot.

SCOPE OF SERVICES OPTIONS

There are two different scopes of work the City can choose from, as described below and on the subsequent pages.

Option 1: Full Scope

Ongoing Lead Project Management

LEG can provide ongoing, hands on Lead Project Management to its cities and prides itself on a decisive, team building approach. Our experts typically facilitate/coordinate all team planning for effective deployment on all benchmarks during the planning process.

LEG would schedule consistent bi-weekly planning teleconference or video sessions with the City. With the input of all participants, LEG will develop meeting agendas, facilitate sessions, and coordinate the timely deployment of all tasks and assignments. Our planning efforts throughout the process are designed to use the City's time efficiently and well, while providing important Lead Project Management leadership and support to ensure that all timetables and benchmarks are met within the necessary timeframe during these extraordinary times when staff are stretched thin.

Most of our clients utilize this model because they are not as experienced with ballot measure work, wish to have additional support addressing challenging local dynamics, and/or have concerns about viability.

LEG approaches its partnership with personal dedication, enthusiasm, and a commitment to excellent service, recognizing that our ultimate consumer is not only the City of Fort Bragg, but also most importantly, the constituents the City represents.

Public Information

LEG will develop and recommend a Public Information Plan to the City and recommend methods to deliver and saturate an effective informational message during this polarized and busy communications environment, such as drafting word copy content for utility stuffers, City website, online public outreach, and more. LEG will provide first drafts of all materials for the review and approval of the City, and – while the City itself has experience with past sales tax and other ballot measures -- train the appropriate city messengers on the message for the 2024 environment.

Development of Educational Messages: The Public Information Program is a critical method of educating the public and raising awareness of the City's needs. "Message discipline" and a clear, concise focus are critical to our informational effort. LEG will draft and/or refine talking points for City staff and Council use.

Direct Mail/Social Media: LEG recommends its cities invest in an informational direct mail program. The number of mailings the City should implement is contingent upon LEG's discussions with your City Attorney and the City's budget parameters for this project. All of our other sales tax cities will be implementing at least 4 mailings in 2024 due to the all-mail ballot structure and the challenging economic and communications environment.

Other communications vehicles include your City website, social media (such as Facebook, Twitter, Instagram, and other platforms) and a (virtual) Speakers' Bureau program. LEG assists in drafting information for social media as part of our multi-disciplinary public outreach effort and advises our municipal clients on how to navigate independent or third party sites such as local blogs or Nextdoor.

Press Coverage: LEG will review earned (non-paid) media press opportunities with City staff. Balanced or positive press coverage will build additional constituent awareness throughout the process, which is critical to informing your public about your ballot measure policy vision. While LEG does not function as a spokesperson, our experts can develop collaterals such as press releases, media backgrounders, talking and response points for the appropriate City messengers.

Rapid Response: LEG will redirect message points and materials to assist in rapid response to challenging media or citizen inquiries, as necessary. LEG experts are available to craft appropriate rapid responses as necessary to address changing external nuances.

Option 2: Short Scope

Alternatively, if limited budget is an issue to the City's availability to execute consistent with the Best Practices LEG advises, LEG can offer an alternative scope. Provided that the City commits to conducting a public opinion poll—which is strongly advised by LEG in this environment--the City can choose LEG's short scope of services instead. The difference between the two is that there is no ongoing strategic support. In this model, LEG would:

- Develop a Communications Toolkit of informational materials (website copy, online text, FAQs, talking points, power point presentation, and a schedule and word copy content for 3-4 mailings).
- Participate in up to two video or teleconferences with City Staff to review the recommended messaging materials.
- Make one round of revisions to messaging materials and transmit to City.
- Provide Message Training to City Staff.

City to design/print/mail at its own expense in both models, utilizing its own vendors.

PROPOSED COSTS

Without exception, LEG does not bill on an hourly or time and materials basis.

Option 1 (Full Scope under a Professional Services Agreement format)

Professional Fees (April 15th-Nov 15th): \$38,500*

(Eight month retainer at our discounted small-city rate of \$5,500/month. The months of April and November respectively, are prorated to half the month.)

OR, alternatively, Option 2 (Short Scope under Purchase Order format only. No contract to review or edit, no insurance requirements.)

Flat Professional Short Scope Fee \$25,000*

(Please note that LEG is offering this scope contingent on the City conducting polling by a professional entity, which our organization considers a critical Best Practice.)

Again, under either scope the City is designing/printing/mailing using its own vendors and those costs need to be budgeted for by the City, outside of LEG's agreement.

(An Appendix of additional qualifications and samples is on the following pages)

LEW EDWARDS GROUP SALES TAX ENACTMENTS — 157

City of Alhambra	General Purpose Sales Tax
City of Arvin	General Purpose Sales Tax
City of Arcadia	General Purpose Sales Tax
City of Antioch	General Purpose Sales Tax
City of Atwater	Public Safety Sales Tax Renewal
City of Azusa	General Purpose Sales Tax
City of Bakersfield	General Purpose Sales Tax
City of Bellflower	General Purpose Sales Tax
City of Belmont	General Purpose Sales Tax
City of Benicia	General Purpose Sales Tax
City of Burlingame	General Purpose Sales Tax
City of Campbell	General Purpose Sales Tax
City of Cathedral City	General Purpose Sales Tax, then Renewal (2 Measures)
City of Ceres	Public Safety Sales Tax
City Chowchilla	Public Safety Sales Tax
City of Clovis	Public Safety Sales Tax
City of Concord	General Purpose Sales Tax Enactment, Renewals, Increase (3)
City of Corona	General Purpose Sales Tax
City of Cotati	General Purpose Sales Tax Enactment, Increase, Renewals (3)
City of Daly City	General Purpose Sales Tax
City of Dinuba	Public Safety Sales Tax
City of East Palo Alto	General Purpose Sales Tax
City of El Cerrito	Streets/Roads Sales Tax
	General Purpose Sales Tax Enactment, Increase, Renewal (3)
City of Elk Grove	General Purpose Sales Tax
City of Eureka	General Purpose Sales Tax
City of Exeter	General Purpose Sales Tax
City of Fairfield	General Purpose Sales Tax
City of Fountain Valley	General Purpose Sales Tax
County of Fresno	Zoo Sales Tax Enactment, then Renewal (2 Measures)
	County Library Sales Tax Renewal
City of Galt	Public Safety and General Purpose Sales Taxes (2 Measures)
City of Garden Grove	General Purpose Sales Tax
City of Gardena	General Purpose Sales Tax
City of Grover Beach	General Purpose Sales Tax
City of Hercules	General Purpose Sales Tax, then Renewal (2 Measures)
City of Hollister	General Purpose Sales Tax Renewal
County of Humboldt	General Purpose Sales Tax Enactment, then Renewal (2 Measures)
City of Imperial Beach	General Purpose Sales Tax
County of Imperial	Streets/Roads Sales Tax
City of Indio	General Purpose Sales Taxes (2 Measures)
City of Inglewood	General Purpose Sales Tax



County of Kern	General Purpose Sales Tax
City of La Habra	General Purpose Sales Tax
City of La Mesa	General Purpose Sales Tax
City of La Mirada	General Purpose Sales Tax
City of La Palma	General Purpose Sales Tax
City of Lake Elsinore	General Purpose Sales Tax
City of Lakeport	General Purpose Sales Tax
City of Lakewood	General Purpose Sales Tax
City of Larkspur	General Purpose Sales Tax Enactment
	General Purpose Sales Tax Increases and Renewals (3 Measures)
City of Lathrop	General Purpose Sales Tax
City of Lawndale	General Purpose Sales Tax
City of Los Banos	Public Safety and General Purpose Sales Taxes (2 Measures)
	Public Safety Measure Renewals (2 Measures)
City of Manteca	Public Safety Sales Tax
City of Marina	General Purpose Sales Tax Renewal
City of Martinez	General Purpose Sales Tax
City of Menifee	General Purpose Sales Tax
Town of Moraga	General Purpose Sales Tax
City of Moreno Valley	General Purpose Sales Tax
City of Morro Bay	General Purpose Sales Taxes (2 Measures)
City of National City	General Purpose Sales Tax Renewal
County of Nevada	Library Sales Tax Renewal
City of Novato	General Purpose Sales Tax, then Renewal (2 Measures)
City of Oxnard	General Purpose Sales Tax
City of Pacifica	General Purpose Sales Tax
City of Palm Springs	General Purpose Sales Tax
City of Pasadena	General Purpose Sales Tax
City of Petaluma	General Purpose Sales Tax
City of Pinole	General Purpose Sales Tax
City of Paso Robles	General Purpose Sales Tax
City of Placentia	General Purpose Sales Tax
City of Pleasant Hill	General Purpose Sales Tax
City of Port Hueneme	General Purpose Sales Tax
City of Porterville	Public Safety and General Purpose Sales Taxes (2 Measures)
City of Rancho Cordova	General Purpose Sales Taxes (2 Measures)
City of Reedley	Public Safety Sales Tax
City of Ridgecrest	General Purpose Sales Tax Enactments (2 measures)
	General Purpose Sales Tax Increase, then Renewal
City of Rohnert Park	General Purpose Sales Tax Increase, then Renewal (2 Measures)
City of Roseville	General Purpose Sales Tax
City of San Bruno	General Purpose Sales Tax
City of San Jose	General Purpose Sales Tax

City of San Leandro	General Purpose Sales Tax Enactment and Increase/Renewal (2)
City of San Luis Obispo	General Purpose Sales Taxes (2 Measures)
City of San Mateo	General Purpose Sales Tax Renewal
City of Sanger	Public Safety Sales Tax, then Renewal (2 Measures)
County of Santa Cruz	Library Sales Tax Renewal
City of Santa Maria	General Purpose Sales Tax Enactment, then Increase/Renewal (2)
City of Santa Rosa	General Purpose Sales Tax Renewal
City of Sausalito	General Purpose Sales Tax
City of Seaside	General Purpose Sales Tax, then Increase/Renewal (2 Measures)
City of Selma	Public Safety Sales Tax
City of St. Helena	General Purpose Sales Tax
County of Sonoma	Library Sales Tax
City of Signal Hill	General Purpose Sales Tax
City of Solana Beach	General Purpose Sales Tax
City of Solvang	General Purpose Sales Tax
City of South Gate	General Purpose Sales Tax
City of South Lake Tahoe	General Purpose Sales Tax
City of South San Francisco	General Purpose Sales Tax
City of Stanton	General Purpose Sales Tax
City of Stockton	Public Safety and Library Sales Taxes (2 Measures)
City of Suisun City	General Purpose Sales Tax
City of Taft	General Purpose Sales Tax
City of Tehachapi	General Purpose Sales Tax
City of Temecula	General Purpose Sales Tax
City of Tracy	General Purpose Sales Taxes (2 Measures)
County of Tulare	Streets/Roads Sales Tax
City of Turlock	General Purpose Sales Tax
City of Union City	General Purpose Sales Tax Renewal
City of Vallejo	General Purpose Sales Taxes (2 Measures)
City of Visalia	Public Safety and General Purpose Sales Taxes (2 Measures)
City of Vista	General Purpose Sales Tax
City of Wasco	General Purpose Sales Tax
City of West Hollywood	General Purpose Sales Tax
City of Westminster	General Purpose Sales Tax, then Renewal (2 Measures)
City of Wheatland	General Purpose Sales Tax
City of Wildomar	General Purpose Sales Tax
County of Yuba	General Purpose Sales Tax
Town of Yucca Valley	General Purpose and Special Purpose Sales Taxes (2 Measures)

(Communications Sample on the following page)



City of Lakeport
223 Park Street
Lakeport, CA 95453

Dear Neighbor:

I am writing to inform you of **Measure Z** on our November 8, 2016 ballot. Lakeport is proud to be the heart of our community, with excellent quality of life services that draw 30,000 people to our city every day. However, the City is currently unable to provide services at the level our residents want. Over the last five years the State has taken nearly one million dollars from Lakeport, impacting the City's ability to provide the services local residents want. **Measure Z** was placed on the ballot to protect services that are important to our community, including:

- Paving and repairing streets and roads
- Repairing potholes on neighborhood streets
- Maintaining police responses to violent crimes
- Maintaining police responses to property crimes, such as burglaries
- Attracting and retaining quality police officers
- Retaining existing companies and businesses in the City
- Build on existing road projects improved by Measure I

If enacted, **Measure Z** will keep local funds for local uses. By law, **Measure Z** funds cannot be taken by the State.

Measure Z will be the only local measure on the November 8, 2016 election. If you are not yet registered to vote, you may register online at registertovote.ca.gov. The deadline to register is October 24. To find your polling place, or to request an absentee ballot, please call the Lake County elections office at (707) 263-2372. The deadline to request an absentee ballot is November 1.

For more information, please visit the City's website at www.cityoflakeport.com

Sincerely,

Margaret Silveira
City Manager

This information does not constitute a position for or against Measure Z

Frequently Asked Questions About Measure Z

Q: What is Measure Z?
A: **Measure Z** is a local funding measure that would provide locally-controlled funds for local priorities. **Measure Z** is a 1 cent local sales tax that will be paid primarily by tourists and out-of-town visitors to Lakeport.

Q: Why was Measure Z placed on the ballot?
A: Due to budget cuts, Lakeport is currently unable to fully staff our police force. Over the last four years, the State has taken nearly one million dollars from Lakeport. Additional funding is needed to help hire, attract, and retain qualified officers to reduce emergency response times, improve neighborhood patrols, and keep our communities safe.

Q: How do we know Measure Z funds will be spent as promised?
A: If enacted, **Measure Z** includes strict accountability provisions including a financial oversight committee and annual independent financial audits to ensure that funds are spent properly and used locally for Lakeport's benefit only. Measure funds are required by law to stay local and cannot be taken by the State.

Q: Where can I register to vote in the November election?
A: Lakeport voters may register online at registertovote.ca.gov. The deadline to register is October 24, 2016.

Q: When will ballots be mailed for the November election?
A: Lake County will begin mailing absentee ballots on October 10th. If you are not currently an absentee voter and would like to become one, you may register by calling the Lake County Elections Office at (707) 263-2372 during regular business hours. The deadline to request is November 1.

For More Information about **Measure Z**,
Please Call 707-263-5615 ext. 30 or visit
www.cityoflakeport.com



FOR IMMEDIATE RELEASE
December 30, 2022

CONTACT: Catherine Lew, Esq.
Co-Founder (510) 594-0224 x 261

LEW EDWARDS GROUP CLOSES 2022 with 66 WINS & ENACTMENTS (List Highlights)

Cerritos College General Obligation Bond Yes on CC \$425 Million	SUCCESSFUL	Rialto Unified School District General Obligation Bond Yes on A \$340 Million	SUCCESSFUL
Oakland Education Association OUSD Trustee Valarie Bachelor OUSD Trustee Jennifer Brouhard	ELECTED ELECTED	United Educators of San Francisco Commissioner Lisa Ward Commissioner Alida Fisher	ELECTED ELECTED
Liz Ortega California Assembly	ELECTED	Diane Papan California Assembly	ELECTED
Melissa Hernandez Mayor of Dublin	RE-ELECTED	Richard Valle Alameda County Supervisor	RE-ELECTED
Kern County 1 Cent Sales Tax (unincorporated only) Raises \$54 Million annually	ENACTED	Humboldt County Transient Occupancy Tax Abandoned Vehicle Tax	ENACTED ENACTED
City of Palo Alto New Business License Tax Utilities Transfer/General Fund Raises/protects \$7 Million annually	ENACTED ENACTED	City of Santa Clara Business License Tax Update Utilities Transfer/General Fund Raises/protects \$39 Million annually	ENACTED ENACTED
Placer County Transient Occupancy Tax Renewal Protects \$4 Million Annually	ENACTED	City of Elk Grove/Cosumnes CSD 1 cent sales tax Raises \$21.3 Million annually	ENACTED
Nikki Fortunato Bas Oakland City Council President	RE-ELECTED	Julia Mates Mayor of Belmont	ELECTED
Hank Levy Alameda County Treasurer	RE-ELECTED	Lisa Diaz Nash San Mateo City Council	ELECTED

Ed Hernandez Eden Healthcare District	ELECTED	California Teachers Association Contra Costa County Board of Education Trustee Sarah Butler	RE-ELECTED
Alameda Firefighters Mayor Marilyn Ezzy-Ashcraft Councilmember Tracy Jensen	RE-ELECTED ELECTED	Napa – Solano Labor/Working Families PAC Various County & Local Officials	ELECTED
Oakland Unified School District Yes on H Renews College Career for All Parcel Tax Protects \$11.5 Million annually	SUCCESSFUL	Sac Kids First Coalition Yes on L Establishes Children’s Fund (GF Set-Aside) Dedicates \$10+ Million annually	SUCCESSFUL
City of Atwater Public Safety Sales Tax Renewal Protects \$4 Million annually	ENACTED	City of Pacifica ½ cent Local Sales Tax Raises \$2.6 Million annually	ENACTED
Little Lake City School District General Obligation Bond \$36 Million	ENACTED	City of Solana Beach 1 cent Local Sales Tax Raises \$3 Million annually	ENACTED
City of Solvang 1 Cent Local Sales Tax Raises \$1.6 Million annually	ENACTED	City of Belmont Transient Occupancy Tax Increase Raises \$600,000 annually	ENACTED
City of Ridgecrest 1 Cent Local Sales Tax Raises \$5.9 Million annually	ENACTED	City of Galt 1 Cent Local Sales Tax Raises \$3.6 Million annually	ENACTED
City of Tulare Cannabis Tax	ENACTED	City of Imperial Beach Transient Occupancy Tax Increase Raises \$400,000 annually	ENACTED
City of South Lake Tahoe Cannabis Tax Measure Raises \$950,000 annually	ENACTED	City of Hermosa Beach Cannabis Industry Initiative Cannabis Tax	DEFEATED ENACTED
City of Hercules Utility Users Tax Renewal Protects \$3.6 Million/year	ENACTED	City of Yucca Valley Transient Occupancy Tax Increase Raises \$1.3 Million annually	ENACTED
City of Larkspur Additional 1/4 Cent Local Sales Tax Raises \$700,000 annually	ENACTED	City of Millbrae Transient Occupancy Tax Increase Raises \$1.5 Million annually	ENACTED
City of Tehachapi 1 Cent Local Sales Tax Raises \$4 Million annually	ENACTED	City of Roseville Transient Occupancy Tax Increase Raises \$3 Million annually	ENACTED

City of Tracy
Business License Tax Modernization
Raises \$3.2 Million annually **ENACTED**

City of Vallejo
7/8 Cent Local Sales Tax
Raises \$18 Million annually **ENACTED**

**SELECTED 2021
WINS & ENACTMENTS**

Mialisa Bonta **ELECTED**
California Assembly Special Elections

City of Cathedral City
Short-Term Vacation Rental Ord. **ENACTED**

City of Eastvale
Gann Limit Measure **ENACTED**

City of Indio
1 Cent Local Sales Tax Renewal
Raises \$26 Million annually **ENACTED**

City of Moreno Valley
1 Cent Local Sales Tax
Raises \$20 Million annually **ENACTED**

City of Riverside
Affirmation of Utilities/General Fund Transfer
Protects \$40 Million annually **ENACTED**

City of Taft
1 Cent Local Sales Tax
Raises \$1.6 Million annually **ENACTED**



FOR IMMEDIATE RELEASE
November 24, 2020

CONTACT: Catherine Lew, Esq.
Co-Founder (510) 594-0224 x 261

**IN PANDEMIC YEAR, LEW EDWARDS GROUP
CLOSES 2020 WITH 68 WINS, TYING 2016 RECORD
(List Highlights)**

Foothill – De Anza Community College Dist.
General Obligation Bond Yes on G
\$898 Million **SUCCESSFUL**

Citrus College
General Obligation Bond Yes on Y
\$298 Million **SUCCESSFUL**

Oakland Education Association
OUSD Trustee Sam Davis **ELECTED**
OUSD Trustee VanCedric Williams **ELECTED**
OUSD Trustee Mike Hutchinson **ELECTED**

California Teachers Association
Multiple winning County and local School Board races
and school parcel tax measures **SUCCESSFUL**

Lily Mei **RE- ELECTED**
Mayor of Fremont

Wendy Root Askew **ELECTED**
Monterey County Supervisor

Melissa Hernandez **ELECTED**
Mayor of Dublin

City of San Luis Obispo
Tripled Local Sales Tax to 1.5 cents
Raises \$21.6 Million annually **SUCCESSFUL**

Emery Unified School District
Additional 12 cents/sq.ft Parcel Tax
Raises \$1.8 Million annually **SUCCESSFUL**

City of Oxnard
Additional 1.5 Cent Local Sales Tax
Raises \$40 Million annually **SUCCESSFUL**

City of Newark
Utility Users Tax Renewal
Protects \$2.75 Million annually **SUCCESSFUL**

City of San Bruno
Transient Occupancy Tax **SUCCESSFUL**
Cannabis Business Tax Update **SUCCESSFUL**

Alameda County Fire Department
General Obligation Bond
\$90 Million **SUCCESSFUL**

City of Concord
Doubled Local Sales Tax to one cent
Raises \$27 Million annually **SUCCESSFUL**

Diane Papan San Mateo City Council as first place finisher	RE-ELECTED	Gina Papan Millbrae City Council as first place finisher	RE-ELECTED
Alameda Firefighters PAC Councilmember Malia Vella	RE-ELECTED	Leslie Reckler West Contra Costa Unified School Board	ELECTED
Kelly Welsh Vacaville Unified School Board	ELECTED	Lisa Petrides San Mateo County Community College Board	ELECTED
Edralin Maduli Chabot-Las Positas Community College Board	RE-ELECTED	Sylvia Hacaj Kensington Police & Fire Protection District	RE-ELECTED
City of West Hollywood ¾ Cent Local Sales Tax Raises \$11 Million annually	SUCCESSFUL	City of Lakewood ¾ Cent Local Sales Tax Raises \$10 Million annually	SUCCESSFUL
City of Chino Hills Transient Occupancy Tax Raises \$260,000 annually	SUCCESSFUL	City of Exeter One cent Local Sales Tax Raises \$800,000 annually	SUCCESSFUL
Eureka City Schools General Obligation Bond \$18 Million	SUCCESSFUL	City of Eureka Increased Local Sales Tax to 1.25 cents Raises \$9.6 Million annually	SUCCESSFUL
City of Cotati Local Sales Tax Renewal Protects \$1 Million annually	SUCCESSFUL	City of Azusa ¾ Cent Local Sales Tax Raises \$4.5 Million annually	SUCCESSFUL
City of La Habra Cannabis Tax Measure Raises \$2 Million annually	SUCCESSFUL	City of Bellflower ¾ Cent Local Sales Tax Raises \$4.5 Million annually	SUCCESSFUL
City of Turlock ¾ Cent Local Sales Tax Raises \$11 Million annually	SUCCESSFUL	City of Imperial Beach 1 Cent Local Sales Tax Raises \$1.3 Million annually	SUCCESSFUL
City of South Lake Tahoe 1 Cent Local Sales Tax Raises \$5.4 annually	SUCCESSFUL	City of Lake Elsinore 1 Cent Local Sales Tax Raises \$10 Million annually	SUCCESSFUL
City of Menifee Defeated attempted repeal Protects \$11 Million/year	SUCCESSFUL	City of Paso Robles 1 Cent Local Sales Tax Raises \$10 Million annually	SUCCESSFUL
City of Morro Bay Additional 1 Cent Local Sales Tax Raises \$2 Million annually	SUCCESSFUL	City of Milpitas ¼ Cent Local Sales Tax Raises \$6.5 Million annually	SUCCESSFUL

City of Gardena**¾ Cent Local Sales Tax**

Raises \$7.4 Million annually **SUCCESSFUL**

City of Santa Clara**Transient Occupancy Tax Increase**

Raises \$7 Million annually **SUCCESSFUL**

City of Petaluma**1 Cent Local Sales Tax**

Raises \$13.5 Million annually **SUCCESSFUL**

City of Half Moon Bay**Transient Occupancy Tax increase**

Raises \$1.5 Million annually **SUCCESSFUL**

City of Daly City**½ Cent Local Sales Tax**

Raises \$6 Million annually **SUCCESSFUL**

City of Novato**Transient Occupancy Tax Increase**

Raises \$400,000 annually **SUCCESSFUL**

City of Corona**1 Cent Local Sales Tax**

Raises \$30 Million annually **SUCCESSFUL**

City of Alhambra**¾ Cent Local Sales Tax**

Raises \$8.1 Million annually **SUCCESSFUL**

City of Signal Hill**¾ Cent Local Sales Tax**

Raises \$5 Million annually **SUCCESSFUL**

City of Wheatland**½ Cent Local Sales Tax**

Raises \$330,000 annually **SUCCESSFUL**

City of Rancho Cordova**Additional ½ Cent Local Sales Tax**

Raises \$8 Million annually **SUCCESSFUL**

City of Sausalito

Prop. 218 Sewer Rate Increase **SUCCESSFUL**

SELECTED 2019 ENACTMENTS**City of Arcadia****¾ Cent Local Sales Tax**

Raises \$8.6 Million annually **SUCCESSFUL**

City of Hermosa Beach**Transient Occupancy Tax**

Raises \$550,000 annually **SUCCESSFUL**

City of Manhattan Beach**Transient Occupancy Tax**

Raises \$1 Million annually **SUCCESSFUL**

City of San Bruno**½ cent Local Sales Tax**

Raises \$4 Million annually **SUCCESSFUL**



TO Isaac Whippy
City of Fort Bragg

FROM Curt Below & Dave Metz
FM3 Research

RE: Scope and Estimated Costs to Conduct 2024 Voter Survey

DATE April 2, 2024

Fairbank, Maslin, Maullin, Metz & Associates (FM3) is pleased to submit this short scope of work to conduct research assessing the viability of a potential November 2024 ballot measure.

Research Population & Sample The City of Fort Bragg has roughly 3,000 total voters, and in communities of this size, we recommend including all voters in the potential sample universe. We will still have the ability to filter the results by those likely to participate in the November 2024 election, but casting this broader net will increase the number of completed interviews.

While it is difficult to predict in smaller communities, given our experience, we anticipate completing around 200-300 interviews if we conduct a standard dual-mode voter survey. (Though probably closer to 200.) This means conducting telephone and online interviews, sending email and text invitations to portions of the sample asking them to take the survey online while calling other voters.

One way to increase the number of interviews is to send out postcard invitations to all voters with unique IDs and a link to the online. After those postcard invitations are sent out, we would then proceed with our standard dual-mode approach of telephone interviews and email/online invitations. This will likely push the total number of completes closer to 300.

Research Methodology Dual-mode voter survey

Data Collection Mode Telephone and online/mobile interviews

Respondent Contact Method Telephone calls, email invitations, and text invitations (optional postcard invitations)

Margin of Sampling Error* ±6.9% for a sample of 200 interviews
 ±5.7% for a sample of 300 interviews

*At the 95% confidence level (i.e., in 95 out of 100 cases)

Questionnaire Surveys of this nature typically run 20 minutes long.

Language With approximately 16% of your local voters Latino—and 3% having requested ballot materials from the County in Spanish—we think you may wish to consider offering telephone interviews in Spanish. We will provide that as a cost option.

Deliverables Following the completion of the survey, we will provide:

- A complete analysis of survey results in PowerPoint
- A presentation of the survey results

FM3 will also be available for ongoing consultation and any further analysis of the research.

Cost Figure 1 contains the total estimated—and discounted—costs for this research, assuming English-only and no post cards. These prices are comprehensive and include all costs for questionnaire design; sample acquisition and preparation; programming; email and text invitations; survey hosting; telephone interviewing; data entry and analysis; and reporting. While we would strive for 300 interviews, we have included costs for 200 interviews, and the costs would scale proportionately.

Figure 1: Estimated Dual-mode Survey Costs

Survey Length	Number of Interviews	
	200	300
20 minutes	\$22,250	\$26,000

- Offering telephone interviews in Spanish would cost an additional \$2,500
- Sending out postcard invitations to all voters as an additional contact method would cost an additional \$4,000.

So, if we conduct this research with Spanish telephone interviews as an option, send postcard invitations to all voters, and complete 300 interviews, the total cost would be \$32,500.

We would welcome the opportunity to work with you on this research, and if you have any questions or if there is any further information we can provide, please do not hesitate to contact us. Thank you for your consideration and you may reach us as follows:

Curt Below

Fairbank, Maslin, Maullin, Metz & Associates (FM3)
1999 Harrison Street, Suite 2020
Oakland, CA 94612
(510) 451-9521 (Office)
Curt@FM3Research.com

Dave Metz

Fairbank, Maslin, Maullin, Metz & Associates (FM3)
1999 Harrison Street, Suite 2020
Oakland, CA 94612
(510) 451-9521 (Office)
Dave@FM3Research.com

LONG-TERM FINANCIAL PLANNING

Long-term financial planning is an important tool used to help maintain ongoing financial sustainability and helps governments provide a consistent level of services to their citizens. The General Fund Financial forecast is intended to be a tool that provides a rational forecast of where the City's financial position will be in five years. Staff annually updates a five-year General Fund financial forecast to evaluate the City's financial condition and help develop the City's Budget.

Economic Trends

It caps off a year in which the economy defied expectations that it would plunge into recession. The economic outlook for the United States through 2024 suggests that the actions of the Federal Reserve will play a crucial role in shaping the pace of economic growth. The substantial growth in real GDP during the last quarter of 2023, which increased by 4.9%, highlights a robust period of economic expansion, significantly outpacing the annual growth rate of 2.9%. This surge is attributed mainly to an uptick in consumer spending, asset investments, and government expenditures, indicating a strong demand-side boost to the economy.

Despite this optimistic growth, the economic landscape is clouded by persistent uncertainties around inflation, which, although reduced from 6.5% in the previous year to 3.3% year-over-year by the end of December 2023, remains a concern for policymakers and economists. The reduction in inflation suggests that previous measures might be starting to bear fruit, yet the current rate still exceeds the Federal Reserve's long-term target of 2%, keeping the debate around further monetary tightening or policy adjustments alive.

Interest rates, which are a primary tool for the Federal Reserve in managing economic stability and inflation, are said to be moderating. However, the lack of clarity regarding potential major revisions to these rates adds another layer of uncertainty. The Federal Reserve's future decisions will likely hinge on balancing the need to control inflation without stifling economic growth, especially in a context where consumer spending and investment are driving expansion.

On the employment front, the increase in the state unemployment rate to 5.1% in December 2023 from 4.1% in the previous year indicates a slight softening in the labor market. This change might reflect various factors, including adjustments in the economy post-pandemic, shifts in workforce participation, or sectors' differing paces of recovery. While higher than in 2022, the unemployment rate is notably lower than the 7.7% seen in December 2021, suggesting a significant recovery from the pandemic's peak impacts.

In summary, the U.S. economy is at a critical juncture as it enters 2024. The Federal Reserve's policy decisions will be instrumental in steering the economy toward sustained growth while managing inflationary pressures. The interplay between continued consumer spending, investment, government expenditures, and the evolving monetary policy landscape will define the economic trajectory in the coming months. The ultimate challenge for policymakers will be to navigate these dynamics effectively, ensuring that growth is not only preserved but also inclusive, laying a solid foundation for long-term economic stability.

Based on the latest sales tax forecast ending September 30, 2023, statewide taxable sales down by 3.2% overall compared with the previous year and the County-wide recording declines of 6.4%, with the City gaining 0.7%. Revenue of Autos & Transportation sales tax revenue is up 2.7% year-over-year, and nearly 10% in the last quarter alone. Fuel & Service Stations are up 1.9% from prior year though overall fuel prices have been steadily coming down. Therefore, the conservative approach taken in this forecast has limited growth in the near term to 2% with steady incremental increases over the five-year forecast horizon.

Long-term forecast

Sales tax revenues have decreased slightly in recent months, but this is inevitable in the face of declining inflation. Ultimately, such declines are often mitigated by the increases in other revenue sources. For instance, property taxes are counter-cyclical to a high inflation environment, so when high inflation abates, interest rates will also fall creating higher value to homeowners and greater tax revenues to the City as well as relieving pressure on those unwilling to refinance in a high-rate environment. This means more revenue through property development and existing home sales.

Although the City still faces significant needs for services and capital improvements, it remains in a strong financial position with reserves over the Council's 25% goal to meet unforeseen needs. Also, it is important to note that the pension cost calculated in this forecast uses the latest actuarial report issued in June 2023 and through June 30, 2022, which reflects -6.1% investment loss that was reported by CalPERS for the fiscal year ending June 20, 2022. Such losses are driving significant increases to the City's unfunded accrued liability (UAL) determined by CalPERS. Pension costs have been projected to increase in 24/25 and thereafter as a result of new Unfunded liability (UAL) added by the -7.5% return recorded by CALPERS and almost 0% return projected for 2023.

This is an estimated 1% higher than prior CalPERS estimates to factor in the yet unknown impact of CalPERS not reaching the target earnings rate for the last two years. The target earnings rate is 6.8% but the investment return for FY 2018-19 was 6.7% FY 2019-20, just 4.7% and a very strong performance of 21.3% for FY 2020/21. Over a 20-year period, the overall CalPERS fund performance has averaged just 5.5%. The unfunded pension liability for the fiscal year that ended June 30, 2023, is \$6.4 million.

Like most cities in California, Fort Bragg will see increases in its unfunded liability in 2024/25 payments with little or no reduction in the overall unfunded liability helped by the City adopting a Pension Policy and issued \$11.4 million in taxable Lease Revenue Bonds in 2021 to restructure the UAL Debt with CALPERS. Proceeds of \$7.5 million were used to reduce the City's unfunded pension liability, with an additional \$3.5 million set aside for City projects which were later returned to reduce the City's debt. The record positive CalPERS investment return mentioned above, the \$7.5 million liability payment, and the setting up of a Section 115 Trust with PARS placed the City in a better position to manage pension obligations. However, recent negative returns by CALPERS in June 2022 have caused UAL to increase.

The table on the following page includes three years of audited results for context as well as projected results for six additional years into the future. Four "what-if" scenarios are provided, showing possible long-term results if certain revenue enhancements were enacted.

In Fiscal Year 2018-19, the citizens of Fort Bragg voted on a ballot initiative entitled Measure H. Measure H was a proposed general sales tax aimed at closing the budget gap caused by skyrocketing pension costs. With additional revenue, the City planned to enter into a shorter amortization schedule with CalPERS for payment of unfunded liabilities. Although this would have resulted in a higher annual payment, it would have saved the City nearly \$4 million of interest cost over 15 years. Measure H was not successful.

With the defeat of Measure H, the City took steps to close the budget gap on the expenditure side. The Administrative Services department eliminated the position of Administrative Services Director and the Police Lieutenant. Additionally, in FY 2019-20, the Community Development Director terminated employment with the City, this position was replaced with a lower-cost Planner position.

The City's General Fund operated at a record surplus for FY 2020/21, and the fund balance improved by nearly \$1.5 million. The Surplus was the result of deep budget cuts early in the Pandemic, which reduced Staff and services and the previously discussed increases in TOT and sales tax revenue as tourism rebounded. In May, 2020, the City laid off four full-time employees, froze two positions in the Police Department, and furloughed

another twelve employees, 50% to 75% of their regular hours. The furloughed Staff was returned to full-time status in August 2020, but several of the laid-off positions remain vacant. In addition, the City did not replace two positions (Finance Director and Assistant City Engineer) that became open in late June. As the reliance and demand for City services continue to grow, one of the challenges the City faces is the same as many other employers – recruiting and retaining qualified Staff.

The City adopted a balanced General Fund budget for FY 2022 and projected a small surplus of \$47k and \$175k in FY 22/23. While the Surplus was small, the budget included \$150k to pay down pension obligations, a budget for the Police Chief position, and a new City Manager position with relatively modest revenue projections.

The long-term forecast indicates that in the next year or two, the City will likely be able to fill budgeted or realized deficits with appropriated fund balance. Revenue enhancements and/or additional cost-cutting measures will likely be necessary within two years. The long-term forecast includes four "what-if" scenarios showing the effect of a variety of different **hypothetical** revenue generators and cost reductions. Staff recommends that the City Council pursue a general sales tax measure again at the next opportunity or identify new sources of revenues.

In addition to pursuing a general sales tax measure, the City could leverage accumulated funds from the internal service funds, enterprise funds, debt borrowings, and other expense reductions or revenue-generating opportunities.

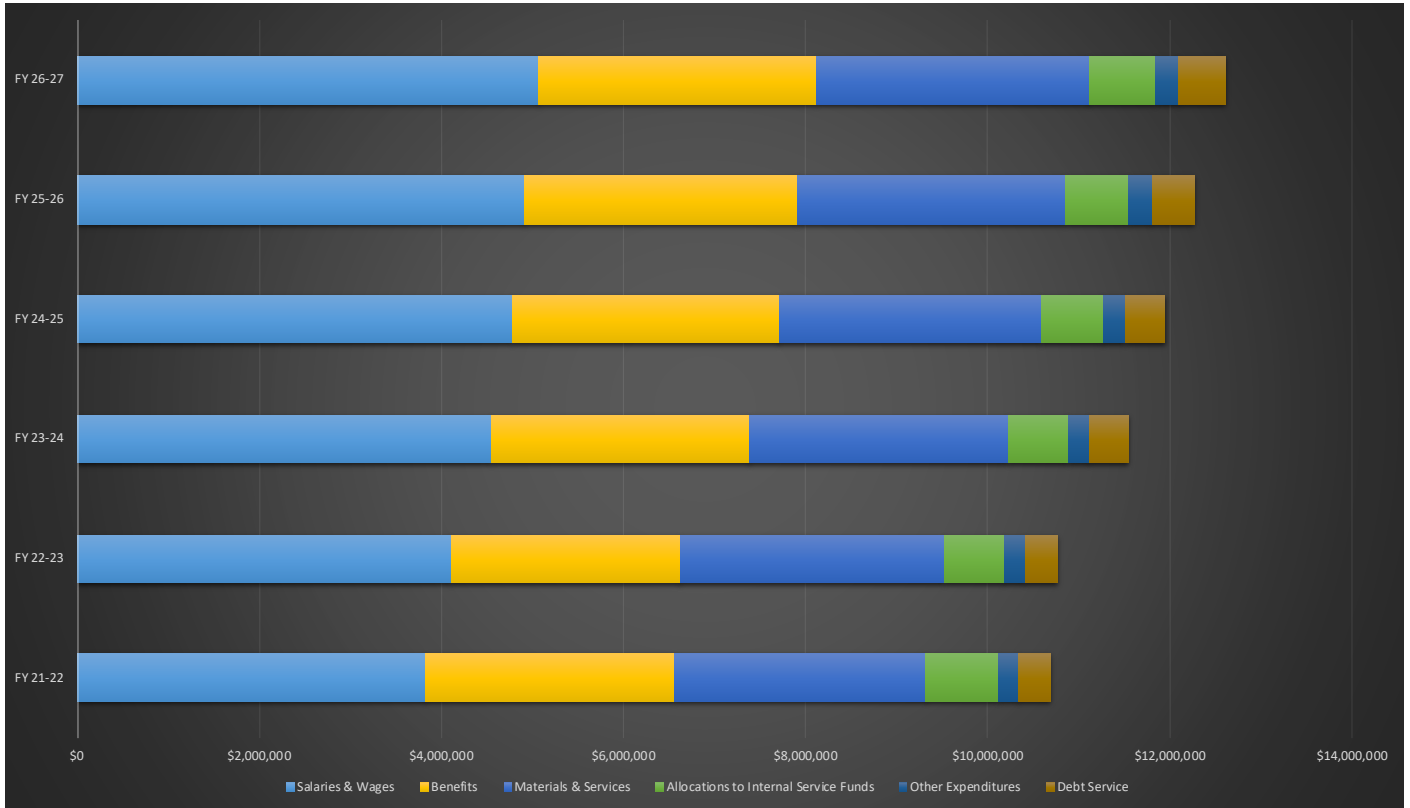
The General Fund's main revenue source of transient occupancy taxes and sales tax are exceeding initial expectations, however recently there has been a slowdown in property sales and higher property valuations. Sales taxes increase but at a lower level than in previous years. Uncertainties that may impact future operating positions are listed in the following table with actions to manage these uncertainties.

Uncertainty	Actions to Manage/Mitigate this Uncertainty
Inflation	Seek other revenue sources or adjust service fees to offset increases in costs
Economic Downturn/Recession	Maintain a General Fund Emergency & Operating Reserves at 25%
Future Police Association Contract Costs 2024	Maintain a positive operating position to absorb larger cost increases in the future
Future SEIU Contract Costs 2025	Maintain a positive operating position to absorb larger cost increases in the future
Service Changes/Council Priorities: -Housing -Infrastructure -Broadband -Pension Unfunded Liability	Seek other revenue sources or adjust service fees or levels to offset increases

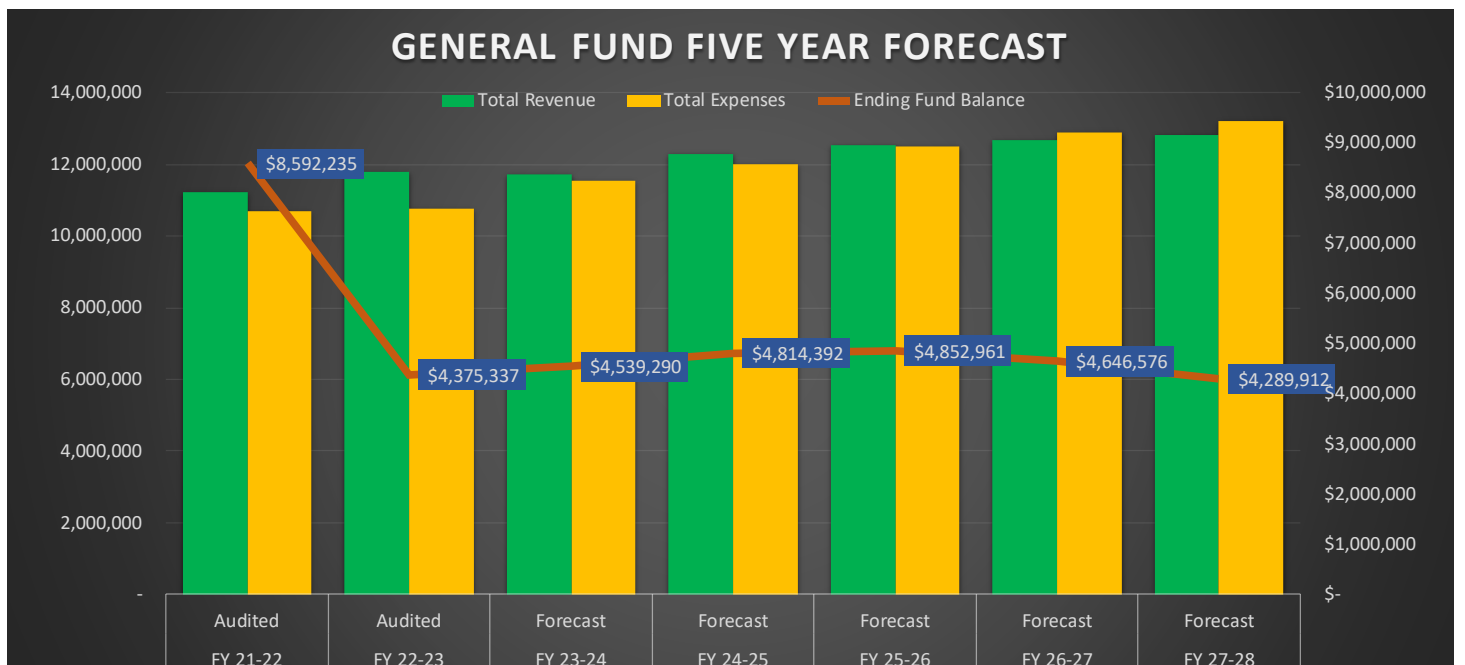
These uncertainties could create annual impacts on the General Fund and its operating position. The Long Term Financial Plan is to be informational and act as a guide to Council, management, and citizens as decisions are made.

The Long Range Financial Forecast sets the stage for the upcoming budget process, facilitating the City Council to consider strategic priorities and allocate resources appropriately. This Long Range Financial Forecast is not intended as a budget nor as a proposed plan. The forecast is based on current service levels, doesn't factor in future development, and uses general assumptions that may be different than actual amounts.

The following charts depict the General Fund expenditure categories.



City of Fort Bragg General Fund Five Year Forecast								
		FY 21-22	FY 22-23	FY 23-24	FY 24-25	FY 25-26	FY 26-27	FY 27-28
		Audited	Audited	Forecast	Forecast	Forecast	Forecast	Forecast
Revenue:	Sales Tax	\$ 2,215,161	\$ 2,146,975	1,959,500	1,979,095	2,048,363	2,120,056	2,194,258
	Property Tax	1,150,352	1,136,219	1,150,257	1,150,257	1,161,760	1,173,377	1,185,111
	Transient Occupancy Tax	3,444,990	3,192,486	3,242,118	3,258,329	3,421,245	3,455,457	3,490,012
	Reimbursements	3,333,187	3,278,393	3,341,622	3,341,622	3,341,622	3,341,622	3,341,622
	All Other Revenue Sources	1,071,911	2,037,151	2,550,689	2,550,689	2,576,196	2,601,958	2,627,977
	Total Revenue	11,215,601	11,791,224	11,720,423	12,279,992	12,549,186	12,692,471	12,838,980
Expenditures:	Salaries & Wages	3,831,953	4,114,364	4,550,423	4,777,944	5,016,841	5,167,347	5,270,694
	Benefits	2,728,147	2,508,092	2,843,131	2,985,288	3,134,552	3,228,588	3,293,160
	Materials & Services	2,762,347	2,903,529	2,832,433	2,889,082	2,946,863	3,005,801	3,065,917
	Allocations to Internal Service Funds	789,396	649,295	656,999	676,709	697,010	717,921	739,458
	Other Expenditures	216,637	230,533	230,971	242,520	249,795	257,289	265,008
	Debt Service	358,337	364,131	442,513	433,348	465,555	521,910	561,409
	Total Expenses	10,686,817	10,769,944	11,556,470	12,004,890	12,510,617	12,898,855	13,195,645
Net Transfers:			-	-	-		-	
Net Increase (Decrease) to Fund Balance		528,784	1,021,280	163,953	275,102	38,569	(206,385)	(356,665)
Other restricted funds		3,879,236	(5,238,178)	-	-	-	-	-
Beginning Fund Balance		4,184,215	8,592,235	4,375,337	4,539,290	4,814,392	4,852,961	4,646,576
Ending Fund Balance		\$ 8,592,235	\$ 4,375,337	\$ 4,539,290	\$ 4,814,392	\$ 4,852,961	\$ 4,646,576	\$ 4,289,912
Storm Drain Enterprise \$190k annually		718,784	1,211,280	353,953	465,102	228,569	(16,385)	(166,665)
		\$ 4,902,999	\$ 6,114,279	\$ 6,468,232	\$ 6,933,334	\$ 7,161,903	\$ 6,916,949	\$ 6,995,238
Parcel Tax \$430k/yr.		958,784	1,451,280	593,953	705,102	468,569	223,615	73,335
		\$ 5,142,999	\$ 6,594,279	\$ 7,188,232	\$ 7,893,334	\$ 8,361,903	\$ 8,116,949	\$ 8,435,238
1% TOT Tax \$310k/yr.		667,232	1,340,529	653,828	769,875	550,660	305,706	173,349
		\$ 4,851,447	\$ 6,191,976	\$ 6,845,804	\$ 7,615,679	\$ 8,166,339	\$ 7,921,385	\$ 8,339,688
3/8 cent General Sales Tax \$800k/yr.		736,455	1,826,396	898,766	1,017,262	806,705	588,636	466,182
		\$ 4,920,671	\$ 6,747,066	\$ 7,645,832	\$ 8,663,094	\$ 9,469,799	\$ 10,058,436	\$ 10,524,618



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

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

WITNESSETH:

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

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

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

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

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

[Delete whichever Paragraph E doesn’t apply]

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

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

1.0. SERVICES PROVIDED BY CONSULTANT

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

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

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

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

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

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

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

Consultant shall, in all solicitations and advertisements for employees placed by, or on behalf of Consultant, state that all qualified applicants will receive

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

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

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

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

2.0. COMPENSATION, BILLING AND PREVAILING WAGES

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

[Delete whichever paragraph 2.1 does not apply.]

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

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of work specified in the Consultant's Proposal or which is inconsistent with or in violation of the provisions of this Agreement unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable. Should the City request in writing additional services that increase the hereinabove described "Scope of Work," an additional fee based upon the Consultant's standard hourly rates shall be paid to the Consultant for

such additional services. The City Manager may approve contract change orders not exceeding a total of 10% of the approved contract or up to the contingency amount whichever amount is less for any one project.

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

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

3.0. TIME OF PERFORMANCE

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

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

4.0. TERM AND TERMINATION

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

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing at least

ten (10) days prior written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. If the City suspends, terminates or abandons a portion of this Agreement, such suspension, termination or abandonment shall not make void or invalidate the remainder of this Agreement.

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

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

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

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

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

5.0. INSURANCE

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

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

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

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

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

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

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

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

- (a) Additional insureds: "The City of Fort Bragg and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant."
- (b) Notice: "Consultant shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, Consultant shall

forthwith obtain and submit proof of substitute insurance. Should Consultant fail to immediately procure other insurance, as specified, to substitute for any canceled policy, the City may procure such insurance at Consultant's sole cost and expense."

- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Fort Bragg, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Fort Bragg shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Fort Bragg, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

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

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

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

6.0. GENERAL PROVISIONS

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

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

except as otherwise expressly provided in this Agreement.

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

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

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

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

IF TO CONSULTANT:

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

IF TO CITY:

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

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

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the

parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Mendocino County, California. Consultant agrees to submit to the personal jurisdiction of such court in the event of such action.

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

6.8. Indemnification and Hold Harmless.

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

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

indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

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

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

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

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

6.12. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, preliminary notes, working documents, files and tapes furnished or prepared by Consultant or any of its

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

6.13. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 7920.000 *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 7924.510, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

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

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

participate in any meeting required with regard to the correction.

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

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

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

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

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

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

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

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

6.24. Severability. If any provision of this Agreement is determined by a court of

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

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

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

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

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

CITY

CONSULTANT

By: _____
Isaac Whippy
Its: City Manager

By: _____

Its: _____

ATTEST:

By: _____
Diana Sanchez
City Clerk

APPROVED AS TO FORM:

By: _____
Baron J. Bettenhausen
City Attorney

EXHIBIT A

CONSULTANT'S PROPOSAL

(Scope of Work, Fee Schedule and Time Table)

EXHIBIT B
CERTIFICATES OF INSURANCE AND ENDORSEMENTS