



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, January 11, 2021

6:00 PM

Via Video Conference

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PLEASE TAKE NOTICE

DUE TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20 WHICH SUSPEND CERTAIN REQUIREMENTS OF THE BROWN ACT, AND THE ORDER OF THE HEALTH OFFICER OF THE COUNTY OF MENDOCINO TO SHELTER IN PLACE TO MINIMIZE THE SPREAD OF COVID-19, CITY COUNCIL MEMBERS AND STAFF WILL BE PARTICIPATING BY VIDEO CONFERENCE IN THE CITY COUNCIL MEETING OF MONDAY, JANUARY 11, 2021.

In compliance with the Shelter-in-Place Orders of the County and State, the Town Hall Council Chamber will be closed to the public. The meeting will be live-streamed on the City's website at <https://city.fortbragg.com/> and on Channel 3. Public Comment regarding matters on the agenda may be made in any of the following ways: (1) By joining the Zoom video conference and using the Raise Hand feature during Public Comment, (2) Through the City's online eComment agenda feature, (3) By emailing comments to City Clerk June Lemos, jlemos@fortbragg.com, (4) By delivering written comments through the drop-box for utility payments to the right of the front door at City Hall, 416 N. Franklin Street, or (5) By leaving a voice mail comment at (707) 961-1694 by 5:00 PM on the day of the meeting.

Comments can be made at any time prior to the meeting, in real-time while the item is being considered by the Council and up to 12:00 PM on Tuesday, January 12, 2021. The Clerk will read aloud all eComments or emails received before or during the meeting that have not been published with the agenda packet. Public comments are restricted to three minutes. Written comments on agenda items and those exceeding three minutes will be included in the public record as part of the agenda packet the next business day after the meeting.

We appreciate your patience and willingness to protect the health and wellness of our community and staff. If you have any questions regarding this meeting, please contact the City Clerk at (707) 961-1694 or jlemos@fortbragg.com.

ZOOM WEBINAR INVITATION

*You are invited to a Zoom webinar.
When: Jan 11, 2021 06:00 PM Pacific Time (US and Canada)
Topic: City Council Meeting*

Please click the link below to join the webinar:

<https://zoom.us/j/98531909046>

Or iPhone one-tap :

US: +16699009128,,98531909046# or +12532158782,,98531909046#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 301 715 8592 or +1 312 626 6799
or +1 646 558 8656

Webinar ID: 985 3190 9046

International numbers available: <https://zoom.us/u/acjiQxE1ux>

TO SPEAK DURING PUBLIC COMMENT PORTIONS OF THE AGENDA VIA ZOOM, PLEASE JOIN THE MEETING AND USE THE RAISE HAND FEATURE WHEN THE MAYOR OR ACTING MAYOR CALLS FOR PUBLIC COMMENT ON THE ITEM YOU WISH TO ADDRESS.

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

1A. [20-966](#) 2020 Mayor's Well Done Awards

Attachments: [Proclamation](#)

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.

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

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

3. STAFF COMMENTS

4. MATTERS FROM COUNCILMEMBERS

5. CONSENT CALENDAR

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

5A. [20-975](#) Accept Development Impact Fee Report, Utility Capacity Fee Reports and

General Plan Maintenance Fee Report for Fiscal Year Ending June 30, 2020

Attachments: [Parking In Lieu Fees 19-20](#)
[Wastewater Capacity Fees 19-20](#)
[Water Capacity Fees 19-20](#)
[General Plan Maintenance Fees 19-20](#)
[Public Comment 5A](#)

- 5B. [20-977](#) Adopt City Council Resolution Approving Updates to the City of Fort Bragg Personnel Rules and Regulations

Attachments: [RESO Personnel Policy Updates](#)
[Ex A - Personnel Rules - 2021 Update](#)
[Personnel Rules - Track Changes](#)
[Public Comment 5B](#)

- 5C. [20-982](#) Adopt Resolution of the Fort Bragg Redevelopment Successor Agency Approving Recognized Obligation Payment Schedule (ROPS) 21-22 (FY 21/22; July 1, 2021 - June 30, 2022) Pursuant to Health and Safety Code Section 34177(l)

Attachments: [RS RESO2020- ROPS 20-21](#)
[ROPS FY 21-22](#)

- 5D. [21-002](#) Adopt City Council/Municipal Improvement District Resolution Accepting the Certificate of Completion for the Highway 1 Sewer Repair Project, City Project No. WWP-00022, and Directing City Clerk to File Notice of Completion

Attachments: [RESO Wahlund Sewer Line Repair NOC](#)
[Notice of Completion - Wahlund](#)
[Certificate of Completion - Wahlund](#)

- 5E. [21-001](#) Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg

Attachments: [RESO Declaring Continuing Local Emergency](#)

- 5F. [20-985](#) Approve Minutes of December 14, 2020

Attachments: [CCM2020-12-14](#)

- 5G. [20-987](#) Approve Minutes of Special Closed Session of December 16, 2020

Attachments: [CCM2020-12-16_Special_Closed](#)

- 5H. [20-986](#) Approve Minutes of Special Meeting of December 22, 2020

Attachments: [CCM2020-12-22_Special](#)

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.

8. CONDUCT OF BUSINESS

- 8A. [20-974](#)** Receive Report and Provide Direction to Staff on Preferred Location for the Winter Shelter from February 15, 2021 to March 31, 2021

Attachments: [01112021 Winter Shelter](#)
[Att 1 - MCHC Press Release, November 23, 2020](#)
[Att 2 - 2019-20 WS Permit](#)
[Att 3 - 2020-21 Temporary Waiver & Conditions](#)
[Att 4 - WS Cleaning and Sanitizing](#)
[Att 5 - MCHC COVID Outbreak Response](#)
[Att 6 - WS Comments Rec'd by CM](#)
[Public Comment 8A](#)
[Presentation - Preferred Location for Winter Shelter](#)

- 8B. [20-979](#)** Receive Report and Consider Adoption of City Council Resolution Approving Contract Amendment with LACO Associates, Inc. (LACO) for Consulting Planning Services for the Grocery Outlet Project and Authorizing City Manager to Execute Contract Amendment (Amount Not to Exceed \$38,044; Account No. 119-0000-2668)

Attachments: [01112021 LACO Contract Amendment](#)
[Att 1 - Initial Contract Proposal](#)
[Att 2 - Contract Amendment Request](#)
[Att 3 - RESO for LACO Contract Amendment](#)
[Att 4 - LACO Contract 8-4-2020](#)
[Att 5 - LACO Contract 1st Amend 11-23-2020](#)
[Att 6 - LACO Grocery Outlet 2nd Amd](#)
[Public Comment 8B](#)

- 8C. [20-951](#)** Receive Report and Discuss Local Coastal Program Update Process and Process for Reuse of the Former Georgia Pacific Mill Site

- Attachments:** [01112021 Coastal Zone Staff Report](#)
[Att 1 - October 2019 Mill Site North Proposal](#)
[Att 2 - DTSC Update May 2018](#)
[Att 3 - DTSC Update December 2020](#)
[Att 4 - DTSC Letter December 8, 2020](#)
[Public Comment 8C](#)
[PPPresentation LCP Amendment](#)

8D. [21-003](#) Receive Report and Consider Adoption of Urgency Ordinance No. 963-2021 Waiving Certain Zoning Requirements and/or Standards to Facilitate Business Operations Affected by Public Health Orders Designed to Slow Transmission of COVID-19

- Attachments:** [01112021 ORD 963-2021 Staff Report](#)
[Att 1 - Staff Report, May 2020](#)
[Att 2 - Urgency Ordinance 962-2020](#)
[Att 3 - Urgency Ordinance 963-2021](#)

8E. [20-976](#) Receive Report and Consider Adoption of City Council Resolution Approving Amendment No. 6 to the Franchise Agreement with Waste Management

- Attachments:** [01112021 WM Amendment No. 6](#)
[Att. 1 - RESO WM Amendment No. 6](#)
[Att. 2 - Ex. A WM Amendment 6](#)

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, JANUARY 25, 2021**

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 January 6, 2021.

June Lemos, CMC
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

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Text File

File Number: 20-966

Agenda Date: 1/11/2021

Version: 1

Status: Mayor's Office

In Control: City Council

File Type: Proclamation

Agenda Number: 1A.

2020 Mayor's Well Done Awards

Each year the Mayor presents awards to acknowledge achievements throughout the year... a "best of" list. Awards often include the best window display or best new sign, or maybe the best new commercial or residential development. It goes without saying that 2020 has been different and required the "best of" all of us. Together, each of us continue to do our part to slow the spread of COVID-19 to help keep our community healthy.

It is with this spirit that the 2020 Mayor's Well Done Awards extends a heartfelt proclamation to recognize first responders, critical infrastructure workers, and community service providers - our healthcare workers, grocery store clerks, delivery drivers, mail carriers, food service workers, trades people, among others, who show up each day to make our community better. Thank you.

P R O C L A M A T I O N

RECOGNIZING COMMUNITY SERVICE PROVIDERS, FIRST RESPONDERS, AND CRITICAL INFRASTRUCTURE WORKERS CONTINUING TO PROVIDE FORT BRAGG WITH ESSENTIAL SERVICES THROUGHOUT THE COVID-19 PANDEMIC

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

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

WHEREAS, as a small, coastal community we depend on each other for basic needs; and

WHEREAS, our health workers continue to provide essential health care services throughout the pandemic and conduct surveillance testing to keep us informed – thank you Mendocino Coast Clinics, Adventist Health, Mendocino County Public Health and Sherwood Oaks; and

WHEREAS, our community support providers continue to provide essential services of all kinds to our community’s most vulnerable populations – thank you Mendocino Coast Children’s Fund, Redwood Coast Seniors, Project Sanctuary, Parents & Friends, Mendocino Coast Clinics, Coast Street Medicine and Mendocino Coast Hospitality Center; and

WHEREAS, our educators continue to provide our youth tools to connect to and understand the world we live in – thank you to all the Fort Bragg Unified School District campuses, childcare centers, private schools and charter schools; and

WHEREAS, our grocers continue to safely provide our community food by adjusting business hours to allow seniors and other high-risk customers to shop at a reduced capacity, and implemented various protocols to help maintain a sanitary and safe environment – thank you Purity Market, Fort Bragg Food Bank, Down Home Foods, El Yuca, Colombi’s, B&C Grocery, Harvest Market, Safeway, and Fort Bragg Farmer’s Market; and

WHEREAS, our postal workers and delivery drivers continue to distribute packages directly to our homes and businesses so those in the high-risk category don’t have to venture into public spaces to shop - thank you United States Postal Service, FedEx, UPS, Food Runners and others; and

WHEREAS, our first responders continue to do what they always do, run toward danger rather than away from it – thank you dispatchers, EMTs, emergency room personnel, air ambulance pilots, fire fighters, law enforcement, and others; and

WHEREAS, our restaurants, churches, pharmacies, MTA drivers, construction workers, beauticians, therapists, all our business owners that collectively met the moment by changing hours and operations to adhere to the latest health orders. Together, as a community, we continue to regularly wash our hands, practice social distancing, and wear masks when it’s not possible to social distance or when we’re inside a public building – thank you to each and every person, for doing your part to help keep our community safe and healthy.

NOW, THEREFORE, I, Bernie Norvell, Mayor of the City of Fort Bragg, on behalf of the entire City Council, do hereby proclaim with humility and gratitude, a sincere thank you to the First Responders, Essential Workers and Community Service Providers continuing to serve Fort Bragg throughout the COVID-19 pandemic.

SIGNED this 11th day of January, 2021

BERNIE NORVELL, Mayor

ATTEST:

June Lemos, CMC, City Clerk

No. 01-2021



City of Fort Bragg

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

File Number: 20-975

Agenda Date: 1/11/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Report

Agenda Number: 5A.

Accept Development Impact Fee Report, Utility Capacity Fee Reports and General Plan Maintenance Fee Report for Fiscal Year Ending June 30, 2020

City of Fort Bragg, California

Development Impact Fees Report Parking In-Lieu Fees Fiscal Year Ended June 30, 2020



Prepared by City of Fort Bragg
Tabatha Miller

City of Fort Bragg, California
Development Impact Fees Report
Parking-In-Lieu Fees
Fiscal Year Ended June 30, 2020

For purpose of compliance with California Government Code Subsection 66006(b)(1), the following information regarding AB 1600 fees is presented in connection with the City’s Parking I-Lieu fund:

(A) A brief description of the type of fee in the account or fund.

Parking In-Lieu Fee – The Parking In-Lieu Fee was established to provide flexibility for property owners in the Central Business District. Property owners can pay the fee instead of developing on-site parking which would otherwise use a significant amount of land and have a high cost to build. The Parking In-Lieu Fees allow for shared parking, better urban design, more flexible and effective land use, historic building reuse and economic development.

(B) The amount of the fee.

The Parking In-Lieu fee was temporarily waived effective October 22, 2012. The waiver has been extended annually since that time and continues in effect.

(C) The beginning and ending balance of the account or fund. See statement below.

(D) The amount of the fees collected and the interest earned. See statement below.

Statement of Revenues, Expenditures, and Changes in Fund Balance

	<u>FY 19-20</u>
Revenues	
Parking Fees	\$ -
Interest Income	582
Total Revenues	\$ 582
Expenses	
Total Expenses	\$ -
Other Financing Sources (Uses)	
Transfers in	8,931
Transfers out	
Total Other Financing Sources & Uses	\$ 8,931
Revenues Over (Under) Expenses	\$ 9,513
Beginning Fund Balance as of 07/01/2019	\$ 24,689
Ending Fund Balance as of 06/30/2020	\$ 34,202

City of Fort Bragg, California
Development Impact Fees Report
Parking-In-Lieu Fees
Fiscal Year Ended June 30, 2020

(E) An identification of each public improvement on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

There were no expenditures in FY 2019-20.

(F) An identification of an approximate date by which the construction of the public improvement will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public improvement, as identified in paragraph (2) of subdivision (a) of Section 66001, and the public improvement remains incomplete.

Currently, there are no plans for the use of the balance of funds in the parking fund.

(G) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

In 2012 the balance of the parking-in-lieu fees was transferred to a fund called "parking". Annually the amount of the parking lot lease is transferred from the "parking" fund to the "parking-in-lieu" fund. The parking lot lease is paid from the "parking-in-lieu" fund. In FY 2019, \$8,300 was transferred to the parking-in-lieu fund for the parking lot lease payment. This transfer was made in error since the parking lot lease expired in FY 2018. \$8,300 plus \$646 of accumulated interest was transferred from the parking-in-lieu fund back to the parking fund in FY 2020 to account for the error.

(H) The amount of the refunds made pursuant to subdivision (e) of Section 66001 and any allocation pursuant to subdivision (f) of Section 66001.

No refunds were made during the fiscal year.

City of Fort Bragg, California

Wastewater Capacity Fees Report Fiscal Year Ended June 30, 2020



Prepared by City of Fort Bragg
Tabatha Miller

City of Fort Bragg, California
Wastewater Capacity Fees
Fiscal Year Ended June 30, 2020

For the purpose of compliance with California Government Code Subsection 66013(d), the following information regarding Capacity Charges is presented in connection with the City's Sewer Capacity Charge Fund:

- (1) A description of the charges deposited in the fund.

Capacity Fees - Capacity charges collected are used for the planning, design, construction, or support activities of facilities in existence at the time the charge is imposed or for new facilities to be constructed in the future that are of reasonable benefit to the person(s) being charged.

SEWER CAPACITY CHARGE	\$ 3,640
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FY 2019/20:

- (2) The fund's beginning and ending balance and the interest earned from the investment of money in the fund. **See the statement below.**

- (3) The amount of charges collected in that fiscal year. **See the statement below.**

Statement of Revenues, Expenditures, and Changes in Fund Balance

	<u>FY 19-20</u>
Revenues	
Capacity Fees	\$ 26,295
Interest Income	7,464
Total Revenues	\$ 33,759
Expenses	
Total Expenses	\$ -
Other Financing Sources (Uses)	
Transfers in	
Transfers out	
Total Other Financing Sources & Uses	\$ -
Revenues Over (Under) Expenses	\$ 33,759
Beginning Fund Balance as of 07/01/2019	\$ 349,329
Ending Fund Balance as of 06/30/2020	\$ 383,088

City of Fort Bragg, California
Wastewater Capacity Fees
Fiscal Year Ended June 30, 2020

(4) An identification of all of the following:

- (A) Each public improvement on which charges were expended and the amount of the expenditure for each improvement, including the percentage of the total cost of the public improvement that was funded with those charges if more than one source of funding was used.
- (B) Each public improvement on which charges were expended that was completed during that fiscal year.

No fees were expended in the fiscal year ended June 30, 2020.

- (C) Each public improvement that is anticipated to be undertaken in the following fiscal year.

Sewer Collection System Condition Assessment (in current CIP)

- This is a planning document that assesses future sewer improvements system-wide.
- The estimated cost is \$300,000 and is scheduled to be undertaken in FY 20/21.

(5) A description of each interfund transfer or loan made from the capital facilities fund. In the case of an interfund transfer, the information provided shall identify the public improvements on which the transferred money are, or will be, expended. In the case of an interfund loan, the information shall include the date on which the loan will be repaid and the rate of interest that the fund will receive on the loan.

No interfund transfers or loans were made during the fiscal year utilizing these funds.

City of Fort Bragg, California

Water Capacity Fees Report Fiscal Year Ended June 30, 2020



Prepared by City of Fort Bragg
Tabatha Miller

City of Fort Bragg, California
Water Capacity Fees
Fiscal Year Ended June 30, 2020

For the purpose of compliance with California Government Code Subsection 66013(d), the following information regarding Capacity Charges is presented in connection with the City's Water Capacity Charge fund:

- (1) A description of the charges deposited in the fund.

Capacity Fees - Capacity charges collected are used for the planning, design, construction, or support activities of facilities in existence at the time the charge is imposed or for new facilities to be constructed in the future that are of reasonable benefit to the person(s) being charged.

FY 2019/20:

WATER CAPACITY CHARGE	\$ 4,631
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- (2) The fund's beginning and ending balance and the interest earned from investment of money in the fund. **See the statement below.**
- (3) The amount of charges collected in that fiscal year. **See the statement below.**

Statement of Revenues, Expenditures, and Changes in Fund Balance

	<u>FY 19-20</u>
Revenues	
Capacity Fees	\$ 30,043
Interest Income	4,457
Total Revenues	\$ 34,500
Expenses	
Total Expenses	\$ -
Other Financing Sources (Uses)	
Transfers in	
Transfers out	
Total Other Financing Sources & Uses	\$ -
Revenues Over (Under) Expenses	\$ 34,500
Beginning Fund Balance as of 07/01/2019	\$ 198,085
Ending Fund Balance as of 06/30/2020	\$ 232,585

City of Fort Bragg, California
Water Capacity Fees
Fiscal Year Ended June 30, 2020

(4) An identification of all of the following:

- (A) Each public improvement on which charges were expended and the amount of the expenditure for each improvement, including the percentage of the total cost of the public improvement that was funded with those charges if more than one source of funding was used.
- (B) Each public improvement on which charges were expended that was completed during that fiscal year.

There were no expenditures of Water Capacity fees in the fiscal year 2019/20.

- (A) Each public improvement is anticipated to be undertaken in the following fiscal year.

Water Treatment Plant Overhaul (in current CIP)

- Overhaul the City's Water Treatment Plant to replace filters and clarifiers originally installed in 1998 and 2006. The overhaul would also include increasing the filter to waste pipe size, replacing filter media, filter underdrain, filter wash system, clarifier media, manifold, water inlet headers, sandblasting, and painting the units.
- The estimated cost is \$1,900,000 and is scheduled for design in FY 20/21 and construction in FY21-22.
- Accumulated revenue of \$200,000 would be contributed towards funding the project. Accumulated Water Enterprise funds collected from water use rates for capital funding and other sources will provide \$1,700,000 will be used to complete the project.

(B) A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid and the rate of interest that the account or fund will receive on the loan.

(5) A description of each interfund transfer or loan made from the capital facilities fund. The information provided, in the case of an interfund transfer, shall identify the public improvements on which the transferred money are, or will be, expended. In the case of an interfund loan, the information shall include the date on which the loan will be repaid and the rate of interest that the fund will receive on the loan.

No interfund transfers or loans were made during the fiscal year utilizing these funds.

City of Fort Bragg, California

General Plan Maintenance Fees Report Fiscal Year Ended June 30, 2020



Prepared by City of Fort Bragg
Tabatha Miller

City of Fort Bragg, California
General Plan Maintenance Fund
Fiscal Year Ended June 30, 2020

For informational purposes the following information is presented in connection with the City's General Plan Maintenance fund:

A brief description of the type of fee in the account or fund:

General Plan Maintenance Fee – The purpose of the General Plan Maintenance fee is to cover the costs reasonably necessary to prepare and revise the plans and policies that the City is required to adopt before it can make any necessary findings and determinations.

The amount of the fee:

FY 2019/20:

General Plan Maintenance Fee:		
NOTE: Fee is not assessed for reroof permits and certain utility permits.		
*	Construction Permits	1.5% of total permit valuation
*	Residential Mobile Homes	1.5% of assigned valuation based on gross floor area of mobile home times \$51 per sq. ft.
*	Affordable housing units (as defined by Fort Bragg Municipal Code Title 18)	The City Council may grant exemptions upon written request

City of Fort Bragg, California
General Plan Maintenance Fund
Fiscal Year Ended June 30, 2020

Statement of Revenues, Expenditures, and Changes in Fund Balance

	<u>FY 19-20</u>
Revenues	
General Plan Maintenance Fees	\$ 16,304
Interest Income	4,952
Total Revenues	\$ 21,256
Expenses	13,377
Total Expenses	\$ 13,377
Other Financing Sources (Uses)	
Transfers in	\$ -
Transfers out	\$ (24,990)
Total Other Financing Sources & Uses	\$ (24,990)
Revenues Over (Under) Expenses	\$ (17,111)
Beginning Fund Balance as of 07/01/2019	\$ 254,812
Ending Fund Balance as of 06/30/2020	\$ 237,701

The Fees were expended to pay staff time spent developing, reviewing, and revising the Inland General Plan, the Local Coastal Program Amendment, updates to the Inland Land Use and Development Code (Title 18 of the Municipal Code), and other related ordinance of the Municipal Code.

An interfund transfer in the amount of \$24,990 was made to provide Traffic Engineering Services funds pursuant to an agreement with TJKM Transportation to partially fund the Mill Site Reuse Plan Traffic Study. The study is expected to be complete in the first part of the calendar year 2021.

For the fiscal year 2019/2020, updates to the City’s General Plans and other City plans and policies included the following:

General Plan Amendments

- LCP Amendment for Mill Site Reuse Plan initiated with series of City Council and Planning Commission meetings including development of many background studies, a draft land use plan, and numerous policy language revisions to the Coastal General Plan.
- The City’s Housing Element was updated and adopted for the 6th Cycle Housing Element with added actions, including removing regulatory and fiscal barriers to forming deeper

collaborations with community partners to expand the housing inventory available in the City of Fort Bragg.

MUNI Code Amendments

- **ORDINANCE 952-2019:** The ordinance amended Article 2 (Zoning Districts and Allowable Land Uses), Article 4 (Standards for Specific Land Uses), and Article 10 (Definitions) of Title 18 [Inland Land Use and Development Code (ILUDC)] of the Fort Bragg Municipal Code relating to cannabis businesses. These amendments would apply to retail cannabis businesses (dispensaries), delivery-only cannabis retail businesses, and industrial cannabis businesses. Changes to the land use tables of ILUDC Article 2 specify where retail cannabis businesses are allowed. Article 2 was amended to remove cannabis manufacturing as a use type, as such uses would be regulated under existing policies for manufacturing/processing use types. The ordinance also rescinded the specific use regulations for cannabis manufacturing in Article 4, added specific use regulations for cannabis retail uses and updated definitions in Article 10.
- **ORDINANCE 953-2019:** The ordinance repealed Chapters 9.30 (Medical Marijuana Dispensaries), 9.32 (Marijuana Cultivation) and 9.33 (Cannabis Manufacturing), and replaced those with Chapter 9.30 (Cannabis Businesses) of Title 9 (Public Peace, Safety and Morals) of the Fort Bragg Municipal Code. Updating these chapters ensures that cannabis businesses are effectively regulated and will not be detrimental to the public interest, health, safety, convenience or welfare of the City.
- **ORDINANCE 956-2019:** The ordinance repealed and replaced 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. In its place, the ordinance adopted the Building Code with amendments and other codes related to the construction and maintenance of buildings, including 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 the California Fire Code.
- **ORDINANCE 957-2019:** The ordinance repealed and replaced Chapter 15.06 (Automatic Fire Sprinkler and Alarm Systems) of Title 15 (Buildings and Construction) of the Fort Bragg Municipal Code. The ordinance satisfied the requirements of state law applying to local Building Code amendments, updating the City’s Automatic Fire Sprinkler and Alarm

City of Fort Bragg, California
General Plan Maintenance Fund
Fiscal Year Ended June 30, 2020

Systems requirements to reflect a reference to the 2019 edition of the Fire Code instead of the 2016 edition.

- ORDINANCE 959-2020: The ordinance amended Sections 18.21.030, 18.22.050, 18.22.030 and 18.22.050 of Article 2 (Zoning Districts and Allowable Land Uses); repealed and replaced Section 18.42.170 of Article 4 (Standards for Specific Land Uses); repealed and replaced Sections 18.90.030 and 18.90.040 of Article 9 (Inland Land Use and Development Administration); and amends Article 10 (Definitions) of the Fort Bragg Municipal Code relating to second units. As adopted, the ordinance brings the City into compliance with recently enacted California state law regarding Accessory Dwelling Units (ADU) and Junior Accessory Dwelling Units (JADU).

No loans or refunds were made during the fiscal year utilizing these funds.

From: noreply@granicusideas.com
To: [Lemos, June](#)
Subject: New eComment for City Council via Video Conference
Date: Monday, January 11, 2021 5:30:05 PM

[SpeakUp](#)

New eComment for City Council via Video Conference

Jacob Patterson submitted a new eComment.

Meeting: City Council via Video Conference

Item: 5A. 20-975 Accept Development Impact Fee Report, Utility Capacity Fee Reports and General Plan Maintenance Fee Report for Fiscal Year Ending June 30, 2020

eComment: The General Plan Maintenance Fee report lacks adequate detail. The report doesn't include an accounting of what the particular expenses were, only the sum total of transfers out of the fund. Prior reports have included significantly more detail. The lack of detail is objectionable in that the City Council and the public deserve to see the more detailed information in all development impact fee reports.

[View and Analyze eComments](#)

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City of Fort Bragg

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

File Number: 20-977

Agenda Date: 1/11/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5B.

Adopt City Council Resolution Approving Updates to the City of Fort Bragg Personnel Rules and Regulations

On December 14, 2020, the City Council adopted Resolution No. 4336-2020 approving updates to the City's Personnel Rules and Regulations. At that meeting, the Council instructed staff to further revise the Personnel Rules to effect a global change of pronouns to reflect gender neutrality throughout the document. This Resolution will adopt the attached revised Personnel Rules and Regulations. A redline version is also attached to show the changes made.

RESOLUTION NO. _____-2021

RESOLUTION OF THE FORT BRAGG CITY COUNCIL REVISING THE CITY'S PERSONNEL RULES AND REGULATIONS

WHEREAS, the Fort Bragg Municipal Code provides that the City Manager shall "prescribe such rules, regulations, and policies, as he/she deems necessary or expedient for the conduct of administrative services;" and

WHEREAS, on December 14, 2020, the City Council adopted Resolution No. 4336-2020 approving updates to the City's Personnel Rules and Regulations; and

WHEREAS, at the meeting of December 14, 2020, the City Council instructed staff to further revise the Personnel Rules to effect a global change of pronouns to reflect gender neutrality throughout the document;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby adopt the updates to the City of Fort Bragg Personnel Rules and Regulations as presented in Exhibit A.

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 11th day of January, 2021, by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

CITY OF FORT BRAGG

Personnel Rules and Regulations



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Section 1. INTRODUCTION

- 1.1. These Personnel Rules and Regulations (hereafter “Rules”) generally describe the employment relationship between the City of Fort Bragg and its employees. These Rules apply to all City employees, except where otherwise indicated in these Rules or where an applicable memorandum of understanding (“MOU”) specifically conflicts with a Rule, in which case the MOU provision shall govern. As specified herein, some Rules apply only to employees in the “Classified Service.” The “Classified Service” consists of all full-time employees of the City, but does not include elected officials, Council appointees, the City Manager, members of the executive management group, appointive officers serving without compensation, or part-time, temporary, provisional, seasonal or emergency employees.
- 1.2. These Rules were established to conform and be complementary to the City’s Municipal Code. In cases where there is deemed to be a conflict between a Rule and the Municipal Code, the Municipal Code shall prevail.
- 1.3. Department managers may issue additional rules or policies as deemed necessary for the efficient administration of the department. However, such departmental rules or policies shall not conflict with these Rules. In cases where there is deemed to be a conflict between a department rule and these Rules, these Rules shall prevail.
- 1.4. These Rules may be amended from time to time. However, in order to be effective, the amendment must be in writing and approved by City Council. Whenever such amendments affect the wages, hours or other terms or conditions of employment, they shall be subject to the meet and confer process as established by State law and the City’s Employer-Employee Organization Relations Resolution.
- 1.5. Each employee will be given a copy of these Rules and is responsible for reading and complying with these Rules.

Section 2. EMPLOYER/EMPLOYEE RELATIONS

- 2.1. The City’s labor relations policies are governed by the Meyers-Milias-Brown Act (MMBA), Government Code section 3500 et seq. The City has in place an Employer-Employee Organization Relations Resolution which specifies the City’s local rules, rights and obligations regarding labor relations.
- 2.2. Under the City’s Employer-Employee Organization Relations Resolution and the MMBA, the City recognizes certain employee organizations as the exclusive representative for purposes of labor negotiations. For represented employees, the City meets and confers with employee labor representatives regarding wages, hours and others terms and conditions of employment, and provides advance notice of certain matters as specified by the City’s labor relations resolution. Employee pay schedules and various benefits are set forth in memoranda of understanding (known as “MOUs”) agreed upon by the City and the recognized labor representatives.

- 2.3. Employees having questions concerning matters included in their MOUs may contact their labor representative or the City's Human Resources Department directly.

Section 3. POSITION CLASSIFICATION

- 3.1. The City Manager or their designee shall prepare a Position Classification Plan which sets forth all the positions in the classified service of the City including position title and a general description of the duties and responsibilities of each position. The Position Classification Plan shall also group all positions in the classified service into classes. Positions within the same class will be approximately of equal difficulty and responsibility, require the same general qualifications, and can be equitably compensated within the same range of pay under comparable working conditions.
- 3.2. The classification or position descriptions may be abolished or amended from time to time by the City Manager as deemed in the best interest of the City service. In addition, new classification or position descriptions may be added to the City's Position Classification Plan. If new positions are added to the City service, such positions shall be allocated to an appropriate class by the City Manager or their designee.
- 3.3. If employees believe they are performing work outside the scope of the classification description covering their position, they should report the information, in writing, immediately to the City Manager. If deemed appropriate by the City Manager, a review of the employee's duties will be conducted, in consultation with the employee and the employee's department manager. The City Manager or their designee will notify the employee and department manager of the final determination. If appropriate, the employee's position may be reallocated to a different classification. The City Manager, in their discretion, may require the employee to successfully complete a promotional examination before being reallocated to a higher classification, and shall may require the employee to serve a probationary period in the new classification. Request of such a classification review shall be limited to once per calendar year.
- 3.4. Promotion without Examination. If the scope of duties which a regular employee is performing is determined to be in a higher classification, the City Manager or their designee may approve the employee's reclassification to the higher classification without examination; provided, however, that all of the following conditions are met:
- (1) The employee has been performing such higher duties for a period of not less than six (6) months prior to the date the position was reviewed;
 - (2) The higher duties have been assigned to the employee as part of the natural growth of the position within the department involved and there appears to be no evidence of evasion of the compensation plan relating to promotions;

- (3) The employee so promoted shall serve a probationary period in the higher classification for the time as specified in Section 5.2.2 of these Rules;
- (4) Said employee shall receive the salary assigned to the higher position from the date of probationary appointment to the higher position.

Section 4. RECRUITMENT, SELECTION AND APPOINTMENT FOR CLASSIFIED EMPLOYEES.

4.1. Recruitment.

4.1.1. The City may utilize any legitimate recruitment procedure for attracting qualified applicants. Recruitments may be “open” or may be limited to City employees, depending on the City’s needs. While it is the City’s policy to recruit the best qualified applicants for City positions, the City will make efforts to promote persons already employed by the City.

4.1.2. The City will give reasonable notice to all of its employees concerning the City’s employment opportunities. Announcements of promotional selection processes shall be supplied to City employees via email and/or posting on the City’s website. Department managers may call such announcements to the attention of employees in the department who might be interested.

4.2. Applications for Employment.

4.2.1. Each candidate for City employment shall complete those applications forms designated by the City. An applicant’s failure to provide complete and accurate information on all application materials shall be grounds for immediate disqualification in the application process, and may result in dismissal from employment. Once submitted to the City, applications shall not be returned.

4.2.2. The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act. If an applicant desires a reasonable accommodation in order to participate in the application or selection process, the applicant should submit a written request to the Human Resources office

4.2.3. Applicants must submit applications on or before the filing deadline stated in the job announcement. However, the Human Resources Department may permit a letter, resume or other indication of interest to be accepted, pending timely receipt of a properly completed application.

4.2.4. When necessary to meet continued requirements for filling positions due to non-availability of applicants for a class or position, or due to a high turnover rate, the closing date for any selection process may be indefinite and applicants may be tested continuously in such manner and at such times and places as may be provided by the City. Applicants who fail to achieve a passing score in such an open continuous examination may not compete again until the lapse of ninety (90) days between the first and second testing and one hundred and twenty

(120) days between the second and third such testing, unless stipulated to the contrary on the job announcement. The City may exclude such applicants from further testing at its discretion.

4.2.5. As part of the pre-employment procedure, applicants may be required to supply references, and submit to a thorough background check by the City. In addition, all employees must be physically and mentally capable of performing the essential functions of their jobs with or without reasonable accommodation. The City shall have the right to conduct a complete and exhaustive background investigation on all applicants seeking employment in the City of Fort Bragg, including a criminal background check, where applicable, and a medical and/or psychological examination by City-retained medical practitioners, where deemed appropriate by the City. Any medical or psychological examination shall be conducted only after a conditional job offer has been made and, in accordance with applicable law.

4.2.6. If an applicant is disqualified from appointment to a position for failing to meet the medical and psychological standards for the job class, the applicant may file a written request to review the disqualification. Such request must be submitted to the Human Resources Office no later than five (5) working days after the postmarked date of the notification of disqualification. The applicant may submit medical evidence supporting their claim that they should not have been disqualified. The City Manager will review submitted documents and make a final determination. If the disqualification is upheld, the applicant has no further right to appeal.

4.3. **Disqualification or Rejection of Application.**

4.3.1. The City may reject or disqualify the application of any person for admission to a selection process, or decline to examine an applicant, or withhold a person from the eligible list for certification for any legitimate reason. An applicant who is not already employed by the City has no right to grieve or appeal any such actions by the City.

4.4. **Selection and Examination/Assessment Process.**

4.4.1. All hiring, including promotions, to positions in the classified service shall be made according to merit and fitness. The City may utilize any legitimate objective method to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, panel interviews assessment centers and oral interviews. The City may rate the candidates and list successful applicants on a "list of eligibles."

4.4.2. If candidates fail to qualify as eligibles for the class for which the selection process was instituted, those candidates may, with the approval of the Human Resources Office, be rated with reference to their eligibility for a lower position class for which a selection process is in progress, in case any of the candidates have indicated willingness to accept appointment to positions in any such lower class.

- 4.4.3. Candidates shall be given written notice of whether they passed or failed the examination/assessment process. Within five (5) working days of the postmarked date of this notice, candidates may inspect their examination papers and request to have ratings reviewed and corrected if the candidate believes any error in the testing has occurred. Such corrections so made will be evaluated by the Human Resources Office and appropriate action taken. To make an inspection of examinations papers, the candidate must schedule an appointment during regular business hours in the Human Resources Department. Candidates may be prohibited from inspecting examination papers if review of such materials is prohibited by the consulting agency that prepared the examination. Candidates cannot have access to the rating sheets of the individual raters, but may have access to a composite description of the rating sheets, upon request.
- 4.4.4. Candidates who fail the examination/assessment process may not reapply for the same position for 12 months from the date of initial application. Such candidates are not barred from applying for any other City position during the 12-month waiting period.
- 4.4.5. When deemed appropriate by the City Manager or their designee, vacancies within the classified service may be filled by promotion of employees. Such promotion shall be based on an internal competitive selection process, taking into consideration the employees' performance evaluations and past City service and other legitimate criteria as determined by the City Manager or their designee.
- 4.4.6. The City Manager or their designee may authorize a noncompetitive promotional selection process to establish eligibility for appointment to a higher class as a result of a reclassification or creation of a new classification.
- 4.5. **Eligible Lists.**
- 4.5.1. An eligible list shall be prepared indicating the names of those candidates qualifying for appointment, ranked based on the selection process. New names may be added to the list from time to time upon obtaining additional qualified candidates pursuant to the selection process. Names of eligibles accepting other than regular full-time appointment shall remain on the eligible list during the life of said list, unless removed for other reasons.
- 4.5.2. The eligible list shall be maintained for the duration specified by the Human Resources Office.
- 4.5.3. The Human Resources Office may remove or withhold from certification the name of an eligible on an eligible list for any legitimate reason. Whenever the name of an eligible on a list is removed or withheld from certification, the person whose name is removed shall be informed of the action and the reasons therefore, via letter forwarded to the last address of record.
- 4.5.4. When vacancies in the classified service occur, the department manager may submit a request for a list of eligibles to fill the vacancy. Upon receipt of this request, the Human Resources Office shall certify in writing the names of eligibles on the appropriate eligible list who are willing to accept the position for which certification is requested. Eligibles may be required to submit to additional

objective methods to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, panel interviews, assessment center and oral interviews.

- 4.5.5. Whenever an eligible list contains fewer than three (3) qualified candidates, the department manager may request that a new eligible list be prepared. The City may in its discretion cause a new list of eligibles to be generated in the event the City believes the circumstances warrant a new list. Such circumstances include but are not limited to: the age of the eligible list, an inadequate number of candidates, and changing job requirements.

4.6. **Appointment.**

- 4.6.1. The City Manager is the only City employee authorized to hire. All candidates recommended for appointment by a department head may be interviewed by the City Manager or their designee prior to appointment. This includes part-time, temporary, seasonal and promotional appointments.

- 4.6.2. The City Manager may appoint any qualified applicant from the list of eligibles to a regular position in the classification for which the applicant is qualified. Positions may be full-time or part-time, depending on the needs of the City. In the absence of a list of eligibles, the City Manager may make temporary appointments pending development of a new list.

4.7. **Oath of Office.**

Every employee of the City, before entering upon their duties shall take the constitutional oath, with said oath to be filed with the Human Resources Department.

4.8 **Police Officer Recruitment Bonus.**

Any member of the Police Department (PD) staff, excluding the Police Chief, is eligible to receive a Recruitment Bonus, if they successfully recruit an applicant who is offered and accepts employment with the City of Fort Bragg, as a Police Officer. The recruiting PD staff member seeking the bonus must submit an acknowledgment of recruitment efforts and a letter of recommendation for the Police Officer applicant on or before the last day the position is open or if the recruitment is continuous, prior to any contact by Human Resource or PD staff for an interview. If more than one PD staff member submits a timely acknowledgement-recommendation letter for a successful recruit, the employees will split the bonus amount equally. PD staff who attend job fairs or other recruitment events representing the City of Fort Bragg are not eligible for the recruitment bonus for any applicant who attended the same event.

The bonus will be paid in two payments. The first payment of \$2,000 will be paid to the PD employee after the successful recruit has signed the final offer letter. A second payment of \$2,000 will be paid upon successful completion of the Field Training program by the recruit. Both payments will be subject to payroll withholding taxes, including FICA, Medicare, and State and Federal Income Tax.

This bonus program may be rescinded by City Administration, if and when it is determined unnecessary based on market conditions for hiring police officers.

4.9 **Police Officer Hiring Bonus**

Candidates for Police Officer are eligible for a hiring bonus upon signing a final offer of employment from the City. Successful Candidates will receive the bonus in their first paycheck, subject to repayment of 50% or half the total bonus if the new hire does not successfully complete the 18-month probationary period. For lateral candidates, those with experience and a Basic POST certificate, the bonus is \$6,000. For recruit candidates, those without experience and/or no POST certificate, the bonus is \$5,000. The bonus will be subject payroll withholding taxes, including FICA, Medicare, and State and Federal Income Tax.

This bonus program may be rescinded by City Administration, if and when it is determined unnecessary based on market conditions for hiring police officers.

Section 5. PROBATIONARY PERIOD

5.1. **Purpose.**

The probationary period shall be an integral part of the examination process and shall be utilized as an opportunity to observe the employee's work, to provide special training, to assist the employee in adjusting to the new position, and reject any employee whose work performance, adaptation or personal conduct fails to meet required standards. A probationary employee shall have no rights of tenure and may be terminated without cause, without notice, and without any right of appeal. Probationary periods do not apply to "at-will" employment, which can be terminated at any time with or without cause.

5.2. **Duration.**

5.2.1. Initial Probationary Period. All regular employee initial appointments to regular full-time positions in the classified service shall be subject to a 12-month probationary period. All Police Department employee (sworn and nonsworn) initial appointments to regular full-time positions in the classified service shall be subject to an 18-month probationary period.

5.2.2. Promotional Probationary Period. All regular employee promotional appointments a new classification of employment shall be subject to a six-month probationary period. All Police Department employee (sworn and nonsworn) promotional appointments a new classification of employment shall be subject to a 12-month probationary period.

5.3. **Extension.**

An employee's probationary period may be extended for a period of up to six (6) months by the department manager upon approval by the Human Resources Office to allow further observation of an employee's work performance or as otherwise appropriate. Upon such extension, the employee shall be notified in writing. Periods of time during unpaid absences shall automatically extend the

probationary period by the number of days of the absence. Further, periods of time on paid leave exceeding ten (10) working days shall automatically extend the probationary period by the number of days that the employee is on leave.

5.4. **Promotional Probationary Period.**

When a regular employee is promoted, a promotional probationary period shall begin on the effective date of the promotion. During the probationary period of a promoted employee, the department manager may recommend that the employee be demoted to the former position, range and salary if the employee's performance and/or conduct do not meet the standards set for the position to which the employee was promoted. Such recommendation shall be made in writing and shall be approved by the Human Resources Office. An employee on promotional probation shall have no rights of tenure in the promotional position and may be returned to their former position without cause, without notice and without any right of appeal.

5.5. **Probationary Period after Demotion.**

If an employee has not attained regular status in the class to which demoted, the employee shall then be required to complete the normal probationary period, less any service previously accrued in such lower class.

5.6. **Action at End of Probationary Period.**

Prior to the end of the employee's probationary period the department manager shall take any one of the following recommendations to the City Manager:

- (1) Affirm in writing that the services and conduct of the employee have been found to be satisfactory and recommend that the employee be given regular status.
- (2) Recommend termination of the services of the employee serving an initial probationary period.
- (3) Recommend demotion and/or transfer of a promoted employee. Demotion shall be made to the employee's former class and pay step.
- (4) Recommend an extension of the employee's probationary period, as provided herein.

Section 6. NON-CLASSIFIED APPOINTMENTS

6.1. The City may make appointments which are provisional, seasonal, temporary, or emergency or on a transitional basis whenever it has a legitimate need to do so. Such appointments shall not attain regular status. Such positions shall be deemed "at will."

6.2. At will positions are not subject to the job protections described in these Rules, including process and rules for recruitment, discipline, termination, probationary periods, testing and appointment from eligible lists. The employment of at will

personnel may be terminated at any time, for any legal reasons, and without any requirement of demonstrating “good cause.” At will employees have no right to appeal any discipline or termination.

Section 7. MANAGEMENT AND CONFIDENTIAL APPOINTMENTS

- 7.1. Appointments to management and confidential positions reporting directly to the City Council or City Manager are not subject to the Rules regarding recruitment, selection, testing and eligible lists.
- 7.2. Confidential positions are those positions which are privy to information that affects employee relations.
- 7.3. Management positions may be designated as “at will” (consistent with the Municipal Code).

Section 8. TRANSFERS, REASSIGNMENTS AND REALLOCATIONS

- 8.1. Whenever it is found necessary to transfer or reassign an employee from a position in one class to a position in another class, such transfer or reassignment may be made provided both positions are of the same rank, there is no increase or decrease in compensation, and the employee has demonstrated that they possess the skills and aptitudes required for the position to which they are to be reassigned. Such transfers or reassignments may be initiated by an employee’s request, department manager’s request or by City management. Such transfer or reassignment may be made only when approved or recommended by both department managers involved (if more than one is involved), reviewed by the Human Resources Office and approved by the City Manager. The employee requesting a transfer must meet the minimum qualifications for the position.
- 8.2. In the event of a reallocation of a part-time position to a full-time position, the City Manager may reclassify the incumbent part-time employee to full-time or utilize the selection process to fill the reallocated position.
- 8.3. Depending on the circumstances, transferring an employee to another vacant position may be a reasonable accommodation, as defined by applicable laws.

Section 9. REINSTATEMENT AFTER RESIGNATION

- 9.1. An employee who has resigned in good standing from City employment may be eligible for reinstatement to a former position or a position of the same class in another department without reexamination. To be eligible for reinstatement, the employee must make a request for reinstatement. The City, in its discretion, may refuse a request for reinstatement for any reason. Such reinstatement and the conditions of reinstatement must be approved by the City Manager.
- 9.2. Probationary Period. A reinstated employee shall be required to complete a full probationary period after reinstatement.

Section 10. PERFORMANCE EVALUATION PROGRAM

- 10.1. The City may require employees to undergo performance evaluations every 12 months after the probationary evaluation, throughout their employment. This policy is to be used as a guideline, and failure to receive performance evaluations at 12-month intervals does not create a right of appeal. The City shall prescribe appropriate forms for completing performance evaluations. The City's performance evaluation program includes an opportunity for employees to discuss their concerns with department managers, upon request.
- 10.2. Where appropriate, performance evaluations may include an evaluation of the employees which addresses the criteria for merit salary advancements as set forth in Section 12.4.1.
- 10.3. Probationary Evaluation. Upon completion of six months' probation (whether initial or promotional) the department manager shall report in writing an evaluation of the employee's work performance and conduct. The probationary employee shall be advised by the appropriate supervisor of that evaluation.
- 10.4. Performance evaluations shall be maintained in employee personnel files. Employees may submit rebuttals to their performance evaluations, and the rebuttals shall also be maintained in the personnel files with the performance evaluations.

Section 11. FITNESS FOR DUTY EVALUATIONS

- 11.1. The City, at its expense, may require an employee to undergo a fitness for duty evaluation for any reasonable cause.

Section 12. COMPENSATION

- 12.1. The City has prepared a Merit Salary and Compensation Plan, approved by the City Council. In accordance with the City's Municipal Code, the City Manager administers and maintains this Plan and may request appropriate revisions to the Plan as often as necessary to assure that the Plan provides uniform and equitable compensation rates and policies.
- 12.2. The official wage rates for all employees shall be calculated on the basis of the biweekly rates applicable and comparable to the salary range established for each class in the Merit Salary and Compensation Plan.
- 12.3. A newly hired employee shall be compensated at the base or minimum rate on the salary range to which the employee's class is allocated. If exceptional recruitment difficulties are encountered, or exceptional qualifications of a candidate for employment indicate that a higher hiring rate would be in the City's best interest, appointment at a higher rate in the salary range may be authorized by the City Manager.
- 12.4. Merit Salary Advancements. Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class, in providing employees incentive, in rewarding

employees for meritorious service, and in meeting emergency conditions requiring pay adjustments.

12.4.1. Merit salary advancements shall be made in accordance with the provisions of this section and in accordance with the following criteria:

- (1) Unsatisfactory Performance means that on an overall basis, the employee has, during the review period, performed in a manner significantly below the level to be expected considering the employee's previous experience, tenure in the class and the employee's duties and responsibilities, and that it appears to be reasonably certain that the employee is either unwilling or unable to perform satisfactorily. Employee requires excessive supervisory guidance and direction.
- (2) Needs Improvement means that over significant periods of time during the review period, the employee has not performed up to the level to be expected, considering the employee's tenure in the class and job duties and responsibilities and that the employee has failed to meet certain job requirements standards. The employee's potential for satisfactory performance appears to be good.
- (3) Satisfactory Performance means that the employee's overall performance during the review period has been at the level expected considering the employee's previous experience, tenure in the class and job duties and responsibilities. The employee is generally meeting position standards in a steady and reliable manner.
- (4) Above Satisfactory Performance means that the employees overall performance, during the review period, consistently met all minimum standards and often exceeded expected levels of performance considering the employee's previous experience, tenure in the class and job duties and responsibilities.
- (5) Exceptional Performance means that an employee's overall performance during the review period has consistently exceeded expected levels of performance considering the employee's previous experience, tenure in the class, and job duties and responsibilities.

12.4.2. Salary advancements within an established range shall not be automatic, but shall be based upon satisfactory job performance as determined, and supported in writing, by the employee's supervisor, the recommendation of the department manager, review by the Human Resources Office and approval of the City Manager.

12.4.3. Merit salary advancements shall occur in accordance with the following procedures:

- (1) Initial Probationary Employees. Probationary (both initial and promotional) employees shall be eligible for merit salary advancement upon the completion of six (6) months of service within that class. Such employees shall be eligible for subsequent merit salary advancements

upon the completion of subsequent twelve 12 month service intervals, except as otherwise provided in these Rules.

- (2) Single Step Increments. Merit salary advancements shall be granted in single step increments within the salary range for a particular class based upon performance. An employee may receive a merit salary adjustment in excess of one step, a maximum of one (1) time during such employee's tenure in a given class in recognition of outstanding service.
- (3) Reduction Increments. An employee who is being paid at a salary rate higher than the base rate established for the class may be reduced in increments of two and one-half percent (2-1/2%) upon the recommendation of the department manager and approval of the City Manager. Such action shall cause the employee to receive a new merit review date. The new date shall be based upon the effective date of his reduction. Such salary reduction shall be consistent with the Rules pertaining to disciplinary actions contained herein.

12.5. These Rules do not preclude the creation of separate management pay plans which, if adopted by the City Council, must be administered as separate compensation plans in accordance with the procedures adopted for such plan(s) by the City Council.

12.6. Salary on Promotion. An employee who is promoted to a position in a class allocated to a higher salary range than the class to which the employee was formerly assigned shall receive the nearest higher monthly salary in the higher salary range. The employee shall be given a new merit review date for future merit salary advancement purposes. The new date shall be based upon the effective date of the promotion.

12.7. Salary on Transfer. An employee who is transferred from one position to another in the same class or to another position in a class having the same salary range shall be compensated at the same step in the salary range as previously received. The employee's merit review and anniversary date shall not change.

12.8. Salary on Suspension without Pay. Any employee who has been suspended for disciplinary reasons shall not receive pay for the duration of the suspension; nor shall any benefits which are calculated based on hours worked be credited to the employee, including, but not limited to, sick leave, vacation, retirement, or disability insurance, during the period of suspension. Should such suspension be later modified or revoked, the employee shall be entitled to receive payment to compensate for loss of income and benefits during the period of suspension.

12.9. Salary on Demotion.

12.9.1. Involuntary. An employee who is involuntarily demoted shall receive a salary adjustment as determined by the Human Resources Office. The employee shall be assigned a new merit review date based upon the effective date of the demotion.

- 12.9.2. Voluntary. An employee who is demoted upon personal request shall receive a salary reduction to the nearest lower monthly salary in the salary range for the class to which demoted if the maximum salary for the class to which demoted is less than the employee's current salary rate; or shall continue to earn the current rate of pay if the current rate is the same or less than the maximum rate of the class to which demoted. The employee shall retain the merit review date applicable to the higher position.
- 12.10. Salary on Position Reclassification. When a regular or probationary employee's position is reclassified and the employee is appointed to the new position, the salary rate shall be determined as follows:
- 12.10.1. Higher Range. If the position is reclassified to a class with a higher salary range than the previous class, the salary and merit review date shall be set in the same manner as if the employee had been promoted.
- 12.10.2. Equal or Lower Range. If the salary of the employee is the same or less than the maximum of the new class, the salary and merit increase eligibility date of the employee shall not change. If the salary of the employee is more than the maximum of the new class, the salary of the employee shall not change, and the compensation rate shall be frozen until such time as the maximum rate for the classification exceeds the salary of the employee.
- 12.11. Salary for Portion of Pay Period. A non-exempt employee serving on a full-time basis who works less than a full pay period, except when on authorized leave of absence with pay, shall receive as compensation for such period an amount equal to the number of hours worked times the employee's hourly rate. For exempt employees absent from work for a period of less than one day duration, the amount of compensation paid to said employee shall not be subject to a deduction even though the absence cannot be covered or paid through accumulated vacation, sick leave or compensatory time off (unless it is determined in accordance with law that such deduction will not result in the loss of exempt status of the employee).
- 12.12. Adjustment Effective Date. Salary adjustments specified above shall be given at the beginning of the payroll period immediately following the employee's merit review date.
- 12.13. Travel and Other Business Expenses. Prescribed rates of pay do not include allowances for official travel or other expenses incurred on City business, or allowances made to employees for the official use of personally owned automotive equipment. Employees shall be reimbursed for such expenses as approved by the City in such amounts as designated by City Council policy regarding reimbursement of such expenses.
- 12.14. Pay for Part-Time Work. Employees who work on less than a full-time basis shall be paid on an hourly basis at an hourly rate prescribed in the Compensation Plan.
- 12.15. Temporary Assignment. If an employee is temporarily required to perform the duties of a higher-paid position for a period in excess of four (4) work days, said

employee shall receive additional compensation equal to five percent (5%) of their current salary or the salary of the employee so replaced, whichever is less, for the entire period of such assignment. The Human Resources Office shall be notified in writing by the department head prior to each such temporary assignment. The Human Resources Office will prepare a Personnel Action Form for approval by the Department Head and City Manager.

Section 13. WAGE AND HOUR BENEFITS / OVERTIME

- 13.1. The City is committed to observing all of its obligations under the Fair Labor Standards Act (“FLSA”). These rules, as well as all applicable provisions in the Memoranda of Understanding and all City pay practices, shall comport with, and shall be interpreted to ensure the minimum requirements of the FLSA.
- 13.2. The City designates as “FLSA Exempt” those employees who work in professional, executive or administrative capacities and who are therefore not entitled to overtime compensation under the FLSA. Except when necessary to address an emergency or special circumstances, employees who are entitled to overtime compensation under the law may not work outside of regularly scheduled working hours, or during unpaid meal periods, without the prior authorization of a supervisor. In any event, employees shall report overtime work as soon as possible after the work is performed. Violations of this Rule may result in discipline, up to and including termination of employment.

Section 14. ATTENDANCE / MEAL PERIODS / REST PERIODS

- 14.1. Workweek.
 - 14.1.1. The basic workweek for full time employees shall be forty (40) hours per week, in a seven-day period. The workweek commences at 12:01 a.m. every Sunday a.m., and is a regularly recurring seven (7) day period ending at 12 Midnight every Saturday p.m.
 - 14.1.2. The City shall establish and may modify regular working hours for its employees. The City may require employees to work overtime and to perform standby responsibilities. Employees shall be responsible for reporting to work on time, and observing the work schedule established for their department.
- 14.2. Meal Periods. Unless otherwise established for a department or particular employees, employees shall receive a thirty (30) to sixty (60) minute meal period that shall not be compensated. During the meal period, the employee shall be completely relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. Meal periods may not be used to shorten the workday unless the employee obtains express prior approval from their supervisor.
- 14.3. Rest Periods. Unless otherwise established for a department or particular employees, employees shall have a fifteen (15) minute rest period for each half of their shift, as scheduled by the department director. The rest period may be interrupted or cancelled if necessary to complete work and shall be compensated

time. The rest periods may not be combined or used to shorten the workday – e.g., by taking a break at the beginning or end of the workday.

Section 15. LEAVES

15.1. General Provisions

- 15.1.1. Employees are expected to be at work at scheduled times. To ensure public accountability and the integrity of public service, all employees are expected to account for their absences from work. Unless otherwise specified, leave time is chargeable in increments of one-fourth (.25) hours.
- 15.1.2. Leaves shall be subject to approval by the Department Head (or designee), and scheduled in advance whenever possible, with due regard for the City's service needs.
- 15.1.3. The City may employ any reasonable measure to ensure employees are properly accounting for leaves, including requiring reasonable proof that the basis for the leave is legitimate. Employees may be required to submit a medical certification of sickness supporting a request for sick leave. The City may require a fitness for duty certification from any employee returning from medical leave. Abuse of leave privileges, including working for a secondary employer while on sick leave, may subject an employee to disciplinary action, up to and including termination of employment.
- 15.1.4. Leave benefits are available only to regular, or probationary, employees, but are not available to seasonal, temporary or emergency employees. Regular part-time employees working more than 21 hours per week on average are eligible for the same leave benefits as regular full-time employees based on a proration of average hours worked (in accordance with Section 22).
- 15.1.5. Employees eligible for leave shall accumulate leave from the date of the employee's initial appointment to a full-time, regular or probationary position.

15.2. Available Leave Categories

The City provides the following leave categories: (a) sick leave with pay; (b) sick leave without pay; (c) jury duty leave; (d) administrative leave with pay; (e) personal leave without pay; (f) bereavement leave; (g) vacation leave; (h) holiday; (i) compensatory time off; (j) family medical leave; (k) pregnancy disability leave/parental leave; (l) service-connected injury or illness leave;(m) military leave; and (n) school activity leave.

- 15.2.1. Sick Leave with pay: Full time employees generally accrue sick leave at the rate of eight (8) hours monthly/ninety-six (96) hours annually. An employee shall begin to accrue sick leave on the date of commencement of employment, and shall be eligible to use leave ninety (90) days after the commencement of employment.
- 15.2.2. Sick leave may only be used in cases of actual sickness or disability, unless otherwise provided below. Employees unable to report to work must notify their

immediate supervisors not later than one hour before work is scheduled to begin, if possible, or by whatever method is established by the supervisor.

- 15.2.3. An employee may use a maximum of forty-eight (48) hours of sick leave per calendar year to attend to an illness of a child, parent, sibling, spouse or domestic partner, grandparent or grandchild of the employee. An employee who is a victim of domestic violence, sexual assault, or stalking may use a maximum of twenty-four (24) hours of sick leave per calendar year to tend to any related issues, including leave and court appearances.
- 15.2.3.1. Integration of Benefits. If an employee is on sick leave and is receiving SDI payments, the employee may continue to receive full pay from the City by requesting that the maximum weekly disability benefits be supplemented by the use of sick leave benefits. Under this option, the employee would tender their SDI payments to the City and the City would then continue to issue paychecks and deduct the value difference between the SDI payments and the employee's regular pay from the employee's sick leave allotment.
- 15.2.3.2. If an employee is determined to be eligible for disability retirement, the employee shall not be permitted to exhaust paid sick leave balances prior to retiring.
- 15.2.3.3. Sick Leave with pay for employees other than full-time employees: Employees other than full-time employees (e.g. part-time, seasonal, and/ or temporary workers) shall accrue and be able to use sick leave consistent with the requirements of the Healthy Families Act of 2014 (California Government Code Sections 245-249.) These employees shall begin to accrue sick leave on the date of commencement of employment, and shall accrue one hour for every thirty (30) hours worked. Employees shall be eligible to use paid sick leave no sooner than ninety (90) days after commencement of employment. Employees may use a maximum of three (3) sick leave days in one calendar year. These employees shall be able to use paid sick leave for the same reasons for which full time employees shall be able to use paid sick leave.
- 15.2.3.4. Employees may carry over up to six (6) days of sick leave to the following calendar year. If an employee is subject to a memorandum of understanding (MOU) provision or resolution provision that is more generous than this provision, the MOU or resolution will govern.
- 15.2.3.5. Sick leave shall not be paid out upon an employee's separation from the City. If an employee is subject to a MOU or resolution provision that is more generous than this provision, the MOU or resolution will govern.
- 15.2.4. Sick Leave without Pay. In the event paid balances are exhausted, and at the employee's request and the City's discretion, employees may be placed on sick leave without pay. Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay (unless the leave qualifies for Family and Medical Leave as set forth in these Rules). When the employee seeks to return to work from such leave, the City may require that the employee provide medical certification of their fitness to perform their duties. The City may require the employee to undergo a fitness for

duty examination before returning to work. If the employee is not fit to perform their duties, the City may consider placing the employee in another position, if available or separate the employee in accordance with applicable law.

- 15.2.5. Jury Duty. Employees summoned by state or federal court to jury duty shall be entitled to full pay during the period of jury service. Employees must keep their supervisors informed of their jury service schedule, and shall provide proof of jury service to the City upon request. Employees may retain such payment as may be allowed for travel, lodging and meal expenses. The employee is not required to submit to the City compensation received from the court for jury duty.
- 15.2.6. Administrative Leave with Pay: The City in its discretion may place an employee on administrative leave with pay. Employees on such leave shall be subject to the City's instructions during the employee's normal working hours.
- 15.2.7. Personal Leave without Pay. The City in its discretion may permit employees to be on personal leave without pay for a maximum of ninety (90) working days. Permission for such leave must be obtained in writing. Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay. Employees shall be entitled to take personal leave without pay when required by applicable law.
- 15.2.8. Bereavement Leave. The City shall grant leaves of absence with pay up to three (3) days when a member of the employee's or employee's spouse or domestic partner's immediate family dies. "Immediate family" means parent, current spouse or domestic partner, child, stepchild, grandparent, grandchild, brother, sister, step-siblings, current mother-in-law or current father-in-law, current son-in-law, daughter-in-law, sister-in-law or brother-in-law. The City, in its discretion, may require some proof that a death in the family has occurred. Bereavement leave is available only within seven (7) days of the death or funeral, unless the employee has made arrangements with the City regarding its use at a later date. In the event of unusual travel requirements, the City Manager may approve a total of five (5) total working days leave.
- 15.2.9. Vacation Leave.
- 15.2.9.1. Earned and accrued vacation leave may be taken as it accrues.
- 15.2.9.2. Employees accrue vacation at the following rates:
- (1) 3.39 hours per pay period for less than three consecutive years of service i.e. 0-36 months;
 - (2) 4.62 hours per pay period for three or more consecutive years of service and less than 10 years of service i.e. 37-120 months;
 - (3) 6.16 hours per pay period for 10 or more consecutive years of service i.e. more than 120 months.

- 15.2.9.3. Scheduling of vacations must be made in consideration of departmental workload.
- 15.2.9.4. Employees who separate from service shall be cashed out of their accrued but unused vacation at the employee's hourly rate at the time of separation from City service.
- 15.2.10. Holidays.
- 15.2.10.1. The City observes the following legal holidays, which are available to those employed at least thirty (30) days prior to the date of the holiday:
- (1) New Year's Day
 - (2) Martin Luther King Jr. Birthday
 - (3) President's Day
 - (4) Memorial Day
 - (5) Independence Day
 - (6) Labor Day
 - (7) Indigenous Peoples' Day
 - (8) Veteran's Day
 - (9) Thanksgiving Day
 - (10) Day After Thanksgiving
 - (11) Day before Christmas
 - (12) Christmas
- 15.2.10.2. Legal holidays falling on a Saturday are observed on Friday. Legal holidays falling on a Sunday are observed on Monday. To qualify for holiday pay, employees must have completed thirty (30) days of service, be on paid status on the regularly scheduled workday before and after the legal holiday, unless the absence is with the written permission of the City, or due to illness. Holidays occurring during an employee's vacation will be treated as a paid holiday. In recognition of differing work scheduled for safety and non-safety shift work employees, holidays may be specified to occur on the actual legal date.
- 15.2.10.3. Employees working on a holiday with City approval will be entitled to an "in lieu" holiday that may be taken on another date, within the fiscal year, subject to supervisory approval. In lieu holidays may not be carried over to another fiscal year, and are lost unless used prior to the end of the fiscal year.
- 15.2.10.4. Management employees who are required to work an established holiday may take equivalent time off on a subsequent regular work day with the approval of the department manager or City Manager.
- 15.2.11. Compensatory Time Off. Represented employees with agreements between the City and labor associations may be entitled to compensatory time off (CTO). Employees should consult their MOU, or contact the Human Resources Office regarding CTO.
- 15.2.12. Family and Medical Leave. The City will provide family and medical care leave for eligible employees in accordance with the requirements of the Family and

Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA"). The City's policy on Family and Medical Leave is set forth in Section 16.

- 15.2.13. Pregnancy Disability Leave/Parental Leave.
- 15.2.13.1. Pregnancy Disability Leave. The City shall provide pregnancy disability leave to eligible employees in accordance with applicable law. An employee who is disabled by pregnancy may take a maximum of four months off work for pregnancy disability, childbirth or related medical conditions. The employee also may be eligible for intermittent leave or a reduced work schedule during her pregnancy if medically necessary. Employees must notify their immediate supervisor of any medical restrictions caused by the pregnancy. The City may require that the employee provide a medical certification indicating there is a medical need for the employee to take the time off or receive accommodation while continuing to work. Pregnancy disability leave qualifies for leave under the FMLA but not under CFRA. During pregnancy disability leave, employees are entitled to FMLA benefits in accordance with the Family and Medical Leave policy.
- 15.2.13.2. Parental Leave. After the employee's pregnancy disability ends, the employee is eligible for CFRA leave, in accordance with the Family and Medical Care Leave policy, to care for a newborn. The City may require that the employee provide a medical certification indicating when the pregnancy disability ended. In addition, employees may request leave without pay to care for the newborn. Such requests may be granted within the discretion of the Human Resources Office in consultation with the employee and department manager.
- 15.2.14. Service-Connected Injury or Illness Leave. Employees suffering injuries in the course and scope of their work may be entitled to workers' compensation benefits in accordance with state law. Employees having questions should contact the Human Resources Office.
- 15.2.14.1. Integration of Benefits. If an employee is on leave and is receiving workers' compensation payments, the employee may continue to receive full pay from the City by requesting that the maximum weekly disability benefits be supplemented by the use of sick leave benefits. Under this option, the employee would tender their workers' compensation payments to the City and the City would then continue to issue paychecks and deduct the value difference between the workers' compensation payments and the employee's regular pay from the employee's sick leave allotment.
- 15.2.14.2. Fitness for Duty. When an employee seeks to return to work after being on injury or illness leave, the employee must provide medical certification that they are physically able to perform the duties of their position. The City may require the employee to undergo a fitness for duty examination before returning to work. If the employee is not fit to perform their duties, the City may consider placing the employee in another position, seek the employee's retirement or separate the employee in accordance with applicable law.

- 15.2.14.3. **Work Week.** When on service-connected injury or illness leave, the employee's work week shall automatically become Monday through Friday, 8:00 a.m. to 5:00 p.m.
- 15.2.15. **Military Leave.** Military leave shall be granted in accordance with applicable state and federal law. In accordance with Military & Veterans Code section 395.02, employees may be eligible to receive their salary for the first 30 days of military leave. The City may adopt a policy providing pay beyond this 30-day limit. Employees on military leave shall accrue sick leave, vacation leave, holiday privileges and seniority for the first 180 days of military duty, in accordance with state law. After the first 180 days of military duty, employees shall not continue to accrue such benefits unless otherwise expressly provided by City policy.
- 15.2.16. **School Activity Leave.** Employees who are parents, guardians or grandparents of a child in kindergarten through grade 12 may take up to forty (40) hours per year, not exceeding eight (8) hours in a month, to participate in the child's school activities. The employee must use accrued vacation, floating holiday or compensatory time for this leave. Prior notice of the need for this leave must be given to the immediate supervisor.
- 15.2.17. **Voting Time.** Time off with pay to vote in any general, direct primary or presidential primary election shall be granted as provided by state law. Employees must give prior notice to their immediate supervisors of their need to take such time off.
- 15.2.18. **Other Authorized Leaves With Pay.** The City Manager or department manager may authorize employees to take leave with pay for training, conferences or meetings connected with City business. Authorized members of employee organizations may take leave with pay to meet and confer or consult with City representatives, and perform necessary representational functions at times prearranged and approved by their department managers.
- 15.2.19. **Unauthorized Leave of Absence.** Any unauthorized leave of absence by an employee from duty shall be grounds for disciplinary action and/or discharge. When an unauthorized leave of absence is caused by extenuating circumstances, such absence may be approved by the City Manager by a subsequent grant of leave, with or without pay. The subsequent approval is within the discretion of the City Manager. The employee must submit a written request for the retroactive grant of leave and include an adequate explanation of the reason for the leave.

15.3. **Accommodation For Employees With Disabilities**

The City provides employment related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and housing Act and the Americans with Disabilities Act.

- 15.3.1 If an employee believes they have a disability, the employee may request a reasonable accommodation for that disability. Such requests should be submitted to the employee's department manager or Human Resources Office.

- 15.3.2 After receipt of reasonable documentation of disability and/or fitness for duty, the City will arrange for a discussion, in person or via telephone, with the applicant or employee, and their representative, if any. The purpose of the discussion is to work in good faith to fully consider all potential reasonable accommodations.
- 15.3.3 The City determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of accommodations(s) to provide. The City will not provide accommodations(s) that would pose an undue hardship upon City finances or operations, or that would endanger the health or safety of the employee or others. The City will inform the employee of its decision as to reasonable accommodations(s) in writing.

Section 16. FAMILY AND MEDICAL LEAVE

16.1. Purpose.

The City will provide unpaid family and medical care leave for eligible employees in accordance with the requirements of state and federal law. Rights and obligations which are not specifically set forth below are set forth in the regulations implementing the Family and Medical Leave Act ("FMLA") and the California Family Rights Act ("CFRA"). Unless otherwise provided in this article, "Leave" under this article shall mean leave pursuant to FMLA and CFRA.

16.2. Eligibility.

In order to qualify for Family and Medical Leave, the employee must meet the following conditions:

- (1) The employee must have been employed by the City for twelve (12) months.
- (2) The employee must have actually worked at least 1,250 hours during the twelve (12) month period immediately before the date when the leave begins. Any time spent on leave during the 12 month period shall not count towards the 1,250 hours.

16.3. Type of Leave Covered.

Family and Medical Leave is permitted for the following reasons:

- (1) The birth of a child or to care for a newborn, or for placement of a child with an employee in connection with the adoption or foster care of a child.
- (2) Leave to care for a spouse, domestic partner, child or parent who has a serious health condition, or
- (3) Leave due to a serious health condition that makes the employee unable to perform the functions of the employee's position.

- (4) Leave for a “qualifying exigency” may be taken arising out of the fact that an employee’s spouse, son, daughter, or parent is on covered active duty or call to active duty status; or
- (5) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA).

16.4. **Definitions for purposes of this policy:**

- (1) "12-Month Period" means a rolling twelve (12)-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- (2) Single means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.
- (3) The definition of “Child” as it applies to the applicable leave regulation are outlined below.
 - a. FMLA defines a child as under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological or adopted or foster or step-child.
 - b. FMLA provides a child is "incapable of self-care" if they require active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living-such as, caring for grooming and hygiene and bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, and/or using telephones and directories.
 - c. CFRA defines a child as an employee's child for whom the employee has actual day-to-day responsibility for care and includes a biological or adopted or foster or stepchild. CFRA does not differentiate between over/age 18 or in terms of being capable/incapable of self-care because of mental or self-care. The child does not need to reside in the same household as the employee.
- (4) “Grandchild” means a child of the employee’s child in CFRA.

- (5) “Parent” means a biological parent of an employee or an individual who stood in *loco parentis* (in place of the parent) to an employee when the employee was a child. This term does not include parents-in-law.
- (6) “Grandparent” means a parent of the employee’s parent in CFRA.
- (7) “Sibling” means a person related to another person by blood, adoption, or affinity through a common legal or biological parent in CFRA.
- (8) “Spouse” means a husband or wife as defined or recognized under California State law for purposes of marriage.
- (9) “Domestic partner” means domestic partner as defined under California Family Code section 297 and 299.2, shall have the same meaning as “Spouse” for purposes of CFRA leave.
- (10) “Serious health condition” means an illness, injury or impairment, or physical or mental condition that involves:
 - a. Inpatient care (i.e., overnight stay) in the hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved or recovery therefrom); or
 - b. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one of or more of the following:
 - i. A period of incapacity (i.e., inability to work, or perform other regular daily activities due to serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition), that also involves:
 - 1. Treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by, a health care provider. The first in-person treatment visit must take place within seven days of the first day of incapacity; or
 - 2. Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regime of continuing treatment.

- c. Any period of incapacity due to pregnancy or for prenatal care. This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled due to pregnancy is entitled to pregnancy disability leave up to a maximum of four months. After the birth of the baby, the employee is entitled to additional CFRA bonding leave up to a maximum of twelve (12) weeks. However, regardless of the length of time an employee takes leave for pregnancy disability and newborn care, under the FMLA and CFRA, the City's obligation to pay for health insurance, as explained below, is limited to a maximum of twelve (12) weeks over a twelve-(12) month period.)
 - d. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse or physician assistant under direct supervision of a health care provider;
 - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
 - e. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider.
 - f. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- (11) "Health Care Provider" means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California; an individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon who directly treats or supervises treatment of a serious health condition; podiatrist, dentist, clinical psychologists, optometrists, and chiropractors, (limited to treatment consisting of manual manipulation of the spine to correct a subluxation. as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law; nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law; Christian Science practitioners listed with the First Church of Christ, Scientist in Boston and Massachusetts; and any health care provider from whom an employer or group health plan's benefits manager will accept

certification of the existence of a serious health condition to substantiate a claim of benefits

- (12) “Covered active duty” means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with Armed Forces to a foreign country, or (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of a member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
- (13) “Covered Service member” means (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- (14) “Outpatient Status” means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- (15) “Next of Kin of a Covered Service member” means the nearest blood relative other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under the FMLA.
- (16) “Serious Injury or Illness” (1) in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

16.5. **Amount of Leave**

16.5.1. Eligible employees are entitled to a total of twelve (12) workweeks (or 26 weeks to care for a covered service member) of leave during a twelve (12) month period. Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health conditions, the leave will be designated as military caregiver leave first. Twelve (12) weeks means the equivalent of twelve (12) of the employee's normally scheduled work weeks. For eligible employees who work more or less than five (5) days a week or who work alternative work schedules, the number of working days that constitute twelve (12) weeks is calculated on a pro rata or proportional basis.

16.5.2. Minimum Duration of Leave. If leave is requested for the birth, adoption or foster care placement of a child of the employee, basic leave must be concluded within the first year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, sibling, parent, spouse, domestic partner, grandchild, grandparent or the employee with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

16.5.3. Spouses Both Employed by the City. In any case in which a connubial couple are both employed by the City and are both entitled to leave, each employee is entitled to twelve (12) workweeks during a twelve (12) month period if leave is taken for the birth or placement for adoption or foster care of the employee's child (i.e., bonding leave.) This limitation does not apply to any other type of leave under this policy.

In any case in which a connubial couple both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered service member.

16.6. **Intermittent Leave or Leave on a Reduced Work Schedule**

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The leave may not exceed a total of twelve (12) weeks over a twelve (12) month period.

16.7. **Substitution of Paid Accrued Leaves**

16.7.1. Leave under this policy is unpaid. If an employee is on an unpaid FMLA/CFRA leave, they are required to use their accrued sick leave or vacation leave concurrently with FMLA/CFRA leave. Employees must use accrued sick leave

concurrently with the leave if the leave is for Pregnancy Disability or the employee's own serious health condition.

16.7.2. If an employee is on a paid leave such as Workers Compensation, disability, Paid Family Leave, etc., employees may elect to use vacation, accrued sick leave and/or accumulated compensatory time to substitute for all or part of the otherwise unpaid leave under this policy. However, the City shall not require peace officers or firefighters to use Labor Code section 4850 leave concurrently with Family and Medical Leave.

16.7.3. If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the City may designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement, provided the City will notify the employee at the time of the designation, and the designation will not be made retroactively except as provided by law.

16.8. **Payment of Health Insurance Premiums While on Leave**

16.8.1. While an employee is on Family and Medical Leave and Pregnancy Disability Leave, the City shall maintain the employee's health insurance coverage on the same conditions as if the employee has been continuously employed during the entire leave period. If the employee's FMLA leave is unpaid, the City shall maintain the employee's health coverage for a maximum of twelve (12) weeks in a twelve-month period. If the employee's PDL is unpaid, the City shall maintain the employee's health coverage for a maximum of four months over the course of a 12 month period, beginning on the date of pregnancy disability leave begins.

16.8.2. In the event the an employee is disabled by pregnancy and also uses leave under the CFRA, the City will maintain the employee's health benefits while the employee is disabled by pregnancy (up to four months or 17 weeks) and during the employee's CFRA leave (up to 12 weeks).

16.8.3. If the employee would normally pay health insurance premiums, the City shall require payment from the employee while the employee is on leave.

16.8.4. Employees will not continue to be covered under the City's long-term disability and other non-health benefit plans unless employees make the appropriate contributions for continued coverage and said continued coverage is permitted by the particular plan(s).

16.8.5. An employee must return to work for a continuous period of at least one (1) month, otherwise they will not be classified as having returned to work. The City may recover its share of the health care premiums paid on behalf of the employee while the employee was on the leave. See Section 16.17

16.9. **Medical Certification**

16.9.1. Employees who request leave for their own serious health condition, or to care for a child, parent, or spouse or domestic partner who has a serious health condition, must provide written certification from a health care provider of the individual requiring care.

16.9.2. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of their position. In cases where employees request intermittent leave, employees must submit medical certification which states that such intermittent leave is needed due to the employee's serious health condition.

16.9.3. Employees who request leave to care for a covered service member who is a child, spouse, parent, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's serious injury or illness. The first time an employee requests leave because of a qualifying exigency, the City may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member.

16.10. **Time to Provide a Certification.**

16.10.1. When an employee's leave is foreseeable, the employee must provide the medical certification within thirty (30) days before the leave begins. When this is not possible, the employee must provide the requested certification within the time frame requested by the City.

16.10.2. Consequences for Failure to Provide an Adequate or Timely Certification. If an employee fails to provide a medical certification with the timeframe established in 16.10.1, the City may delay the taking of FMLA/CFRA leave until the required certification is provided. If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency. If the City does not receive a adequately completed medical certification in a timely manner, the City may deny the request for FMLA

16.10.3. **Second and Third Medical Opinions**

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

16.11. **Recertification**

16.11.1. If the City has reason to doubt the validity of a medical certification provided by an employee, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by

the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is recertification.

16.11.2. Recertification may be requested under the following conditions:

- (1) When the basis for FMLA request has changed;
- (2) When the employee requests an extension of leave; or
- (3) At reasonable intervals requested by the City, but not to be more than every thirty (30) days, unless one of the aforementioned criteria also applies.

16.12. **Procedures for Requesting Leave.**

All employees requesting leave under this policy must submit proper Family and Medical Leave forms to the Human Resources Office. Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days' notice is required. In addition, if any employee knows that they will need a leave in the future, but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform their supervisor as soon as possible that such leave is needed. Such notice must be submitted in writing. If the City determines the notice of the employee is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

16.13. **Accrual of Benefits While on Leave.**

Employees will not accrue benefits while in an unpaid leave status, including seniority rights, vacation and sick leave accrual.

16.14. **Reinstatement Upon Return From Leave**

16.14.1. Right to Reinstatement. Upon the expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the Family and Medical Leave period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of their readiness to return.

16.15. **Employee's Obligation to Periodically Report on Their Condition**

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays in reinstatement when the employee is ready to return.

16.16. **Fitness for Duty Certification**

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform their job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification may result in denial of reinstatement.

16.17. **Failure to Return From Leave.**

If an employee uses Family and Medical Leave and fails to return to work for the City, for a continuous period of at least one (1) month, the City may recover its share of health care premiums paid on behalf of the employee while the employee was on leave. The City reserves the right to seek reimbursement from the employee by any legal means.

16.18. **Reinstatement of "Key Employees"**

The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. This applies to FMLA only.

Section 17. PAID FAMILY LEAVE

17.1. **Eligibility.**

17.1.1. Employees who are covered by State Disability Insurance (SDI) are eligible for Family Temporary Disability Insurance (FTDI) benefits while taking care of family member(s). These benefits are paid by the State Employment Development Department. There is no requirement that the employee have worked for the City any particular length of time before being entitled to this leave. However, no employee can receive more FTDI benefits than they earned in wages during the base period for calculating benefits. Employees are not eligible if they are receiving State Disability Insurance (SDI), workers' compensation or private insurance payments in lieu of such payments.

17.1.2. Employees are eligible for this leave under the following circumstances:

- (1) For the birth and care of a newborn child, or the placement and initial care of an adopted or foster care child, or

- (2) To care for an employee's spouse, child, parent or registered domestic partner with a serious health condition. However, an employee is not eligible to receive FTDI benefits for any day that another family member is able and available for the same period of time that the employee is providing care.

17.1.3. Definitions of all applicable terms will be in accordance with state law relating to Family Temporary Disability Insurance (California Unemployment Insurance Code section 3300 et seq.).

17.2. **Request for Leave**

Requests for paid family leave must be approved in advance by the employee's supervisor and Human Resources Office. Since the need for the family leave is included within the need for Family Care and Medical Leave, the same procedures for making requests for Family Care and Medical Leave and scheduling of leave shall apply to requests for Paid Family Leave. As with Family Care and Medical Leave, the employee must submit medical certification to the City to justify the request for such leave.

17.3. **Duration of Paid Family Leave**

According to law, employees are entitled to a maximum of six (6) weeks paid family leave in a twelve-(12) month period. Such leave runs concurrently with Family and Medical Leave. An employee is not entitled to more than a maximum of twelve (12) weeks leave in a twelve (12) month period to care for a family member.

17.4. **Compensation During Leave**

According to law, employees are entitled to be paid FTDI benefits while on family leave, replacing approximately fifty-five percent (55%) of an employee's wages. Payment for these benefits is funded through employee contributions to SDI. The employee is solely responsible to apply for this compensation from the State Employment Development Department (EDD). The City has no obligation to ensure that employees receive FTDI payments.

17.5. **Integration of Benefits**

If an employee is on Paid Family Leave and is receiving FTDI benefits, the employee may continue to receive full pay from the City by requesting that the maximum weekly FTDI benefits be supplemented by the use of accrued paid leave benefits. Under this option, the employee would tender their FTDI payments to the City and the City would then continue to issue paychecks and deduct the value difference between the FTDI payments and the employee's regular pay from the employee's sick leave allotment.

17.6. **Waiting Period and Use of Vacation**

The law requires that there be a seven (7) day "waiting period" before an employee on family leave may begin receiving FTDI payments. If available,

employees must use two (2) weeks of earned and unused vacation before receiving FTDI benefits. The first week of vacation shall count as the “waiting period” before the employee may begin receiving FTDI payments.

Section 18. CATASTROPHIC LEAVE PROGRAM

18.1. Policy

This policy is designed to assist regular employees who have exhausted all forms of paid leave due to a serious, catastrophic illness or injury. The Catastrophic Leave Program allows other City employees to voluntarily donate sick leave to an employee who meets the eligibility requirements so that the recipient will be able to remain on a paid status for a longer period of time, or until the employee is receiving short or long term disability.

Donation and use of catastrophic leave is at the discretion and requires the approval of the City Manager or their designee.

18.2. Eligibility for Personal Catastrophic Leave

18.2.1. The employee must meet the following requirements to be eligible for leave under this policy:

- (1) The employee must have passed probation, be in a regular position with the City for at least eighteen (18) full months, and be considered actively employed by the City.
- (2) The employee must have a verifiable serious or catastrophic illness or injury which requires an extended period of treatment or recuperation. Serious or catastrophic illness or injury is one in which the employee is incapacitated and unable to work as certified by their physician for at least four (4) full workweeks. In addition, the employee must provide medical certification that includes a reasonable expectation that, with proper care and rehabilitation, the employee will be able to return to full duty within six (6) months of the absence from work.
- (3) The employee must have exhausted all paid leave balances.
- (4) The employee may not be concurrently receiving short or long-term disability or similar benefit.

18.3. Conditions for Donating Leave.

18.3.1. The following are the conditions for donating leave:

- (1) To be eligible to donate leave, an employee must have passed probation and be in a regular position with the City for at least eighteen (18) full months.
- (2) All donations of leave are voluntary. No employee shall be required to donate leave.

- (3) Accrued sick leave is the only type of leave allowed for donation and shall be donated on the basis of 1 hour received for each hour donated. If an employee wishes to donate sick leave, the employee must retain a minimum balance of eighty (80) sick leave hours after donating.
- (4) Employees must donate a minimum of four (4) hours and a maximum of ten (10) hours per pay period.
- (5) A donating employee may donate a maximum of 80 hours total to a recipient employee per catastrophic event. Recipient employees may receive a maximum of 160 donated hours per catastrophic event.
- (6) Donated leave will be credited to the receiving employee's sick leave balance on an hour-for-hour basis and shall be paid at the rate of pay of the receiving employee.
- (7) Once the leave is donated and posted to the receiving employee, the employee donating such leave shall irrevocably lose all rights and privileges to the donated leave hours.

18.4. **Procedures For Donating and Receiving Leave**

18.4.1. For donating employees:

- (1) A donating employee shall complete the donation form and submit it to the Human Resources Office.
- (2) The Human Resources Office will review the request and forward to the City Manager for approval.
- (3) After approval by the City Manager, the Human Resources Office will submit the donation request to payroll for processing.
- (4) Donated leave will be used only as needed.
- (5) Donated leave will be credited to the receiving employee from the donating employee in chronological order by the date approved by the City Manager.

18.4.2. For receiving employees:

- (1) Once the receiving employee's own paid leave balances have been exhausted consistent with this policy, the employee may collect donated leave.
- (2) The receiving employee must be eligible for leave (meeting the requirements of Section 18.2.1 above) and willing to receive the donated leave.

- (3) The medical reasons for the need for the donated leave will only be disclosed to City employees if the employee agrees to such disclosure, either verbally or in writing.
- (4) The receiving employee will continue to be provided City-provided health and welfare benefits consistent with the City's Family and Medical Leave Policy.
- (5) All donated hours must be used on a continuous and uninterrupted basis until the earliest of the following occurs:
 - a. All donated leave balances are exhausted; or
 - b. The employee returns to work; or
 - c. The employee begins receiving long-term disability benefits; or
 - d. The employee's employment terminates.

Section 19. LAYOFF AND RECALL POLICY

- 19.1. Whenever, in the sole judgment of the City Council, it becomes necessary to abolish any position due to a reorganization, lack of work or funds, or abandonment of activities, the employee holding said position may be laid off or demoted without the right of appeal. Whenever possible, employees will be given at least thirty (30) days' notice of any layoff or demotion.
- 19.2. Order of Layoff.
 - 19.2.1. When a position has been abolished, any seasonal, emergency, probationary or temporary employee in that position classification shall be laid off first.
 - 19.2.2. The order of layoff of full-time regular employees shall be determined based on seniority and the employee's overall performance as a City employee. Any full-time regular employee who holds a position which will be abolished shall first be considered for reassignment to an existing vacancy in a lower or equal class, provided the employee is qualified for the vacant position and such vacancy exists. If reassignment is not feasible, and the layoff involves a position classification held by more than one person, layoffs will be made based on the following criteria. Selection for retention shall be based equally upon performance as determined and supported in writing by each supervisory level involved and upon seniority of service. Therefore, this policy does not preclude the retention of employees who have less seniority in the position classification which is the subject of reduction in force action. Seniority will be determined by including all periods of full time regular service at or above the classification level where the layoff is to occur.
 - 19.2.3. The following criteria shall be considered in evaluating performance:
 - (1) The employee's last four (4) written performance evaluations, if in existence.

- (2) The history of an employee's written disciplinary actions during the last three (3) years.
- (3) The employee's written record of attendance including patterns of sick leave usage, tardiness and unexcused absences during the last three (3) years.
- (4) If there are no performance evaluations, dated within the last year, the employee's current and past supervisors' evaluation of the employee's performance.

19.3. Re-employment List. Full-time regular employees who are laid off will have their names kept on a re-employment list for one (1) year from the date of layoff. Names shall be placed on the re-employment list in order of date of layoff. The re-employment list will be used by the City when a vacancy arises in the same or lower classification of position in the department where the layoff originally occurred. The City shall use this list before any other eligible list and before seeking general applications from others. The City, in its discretion, may extend the active period of the re-employment list.

19.4. This policy does not apply to at-will employees.

Section 20. DISCIPLINE / GENERAL RULES OF CONDUCT

20.1. **General Rules of Conduct**

It is expected that all employees shall render the best possible service and reflect credit on the City. Therefore, the highest standards of professional conduct are essential and expected of all employees.

20.2. **Disciplinary Actions**

20.2.1. The City may invoke the following types of disciplinary actions:

- (1) Oral Reprimand;
- (2) Written Reprimand;
- (3) Suspension Without Pay;
- (4) Reduction in Pay;
- (5) Demotion;
- (6) Disciplinary Probation; and
- (7) Discharge/Termination

20.2.2. Employees who are FLSA-exempt shall not be subject to disciplinary action that results in loss of pay unless the discipline reduces the salary in full work-week increments only.

20.2.3. Removal of a Written Reprimand from Personnel Records: At the request of the employee, records of written reprimand shall be removed from the employee's personnel file two (2) years after the date of the written reprimand, provided that the employee has received a satisfactory performance review for the subsequent two (2) years period from the date of the written reprimand and no further discipline (related or unrelated to the reprimand) has been initiated

20.3. **Grounds for Discipline**

20.3.1. Any employee holding a regular appointment in the Classified Service may be disciplined for good cause. City employees who are employed "at-will," or who are seasonal, temporary or probationary, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals. Such employees may be disciplined without reference to these provisions.

20.3.2. Good cause exists, not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the City, affects the employee's ability to perform their duties, causes other employees not to be able to perform their duties, or involves any improper use of their position for personal advantage or the advantage of others. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

- (1) Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the City;
- (2) Furnishing knowingly false information in the course of the employee's duties and responsibilities;
- (3) Inefficiency, incompetence, carelessness or negligence in the performance of duties;
- (4) Violation of safety rules;
- (5) Violation of any of the provisions of these personnel rules and regulations, department rules and regulations, City policies, ordinances or resolutions;
- (6) Inattention to duty;
- (7) Tardiness or overstaying lunch periods;
- (8) Excessive use of sick leave or use of sick leave that indicates an abuse of leave time (i.e. consistent use of leave on a Monday and Friday);
- (9) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on City property;

- (10) Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor;
- (11) Any violation of the City's Nondiscrimination Policy;
- (12) Unauthorized soliciting on City property;
- (13) Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work;
- (14) Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the employee's ability to effectively perform their job or brings discredit to the City. (For purposes of this section, a misdemeanor conviction does not include a conviction based on a plea of *nolo contendere*);
- (15) Discourteous or offensive treatment of the public or other employees;
- (16) Falsifying any City document or record;
- (17) Misuse of City property; improper or unauthorized use of City equipment or supplies; damage to or negligence in the care and handling of City property;
- (18) Fighting, assault and/or battery;
- (19) Theft or sabotage of City property;
- (20) Sleeping on the job, except as specifically authorized for twenty-four (24) hour duty personnel;
- (21) Accepting bribes or kickbacks;
- (22) Engaging in outside employment which conflicts with an employee's responsibilities;
- (23) Intimidation or interference with the rights of any employee;
- (24) Outside work or any other activity or conduct which creates a conflict of interest with City work, which causes discredit to the City, negatively impacts the effective performance of City functions or is not compatible with good public service or interests of the City service;
- (25) Abusive or intemperate language toward or in the presence of others in the workplace;
- (26) Failure to obtain and/or maintain minimum qualifications for a position, including required licenses or certificates;

- (27) Any other conduct of equal gravity to the reasons enumerated above as determined by the City.

20.4. **Authority to Discipline**

Any authorized supervisory employee may institute disciplinary action for cause against an employee under their supervision in accordance with the procedures outlined in these Rules.

20.5. **Procedures for Disciplinary Actions**

In the absence of a process in a MOU, employees covered by this policy shall be governed by the following provisions:

20.5.1. Oral and Written Reprimand

- 20.5.1.1. In the case oral or written reprimand, the employee may respond by submitting a written rebuttal to be filed in the employee's personnel file. No oral response or appeal shall be permitted.

20.5.2. Notice of Intent to Discipline

- 20.5.2.1. For discipline greater in severity than an oral or written reprimand, the responsible Department Manager shall issue a written Notice of Intent to Discipline, describing the intended discipline, the basis for the discipline, and attaching any documents upon which the discipline is based. The Notice of Intent to Discipline shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed.

20.5.3. Discipline in Severity of Five Working Days or Less

- 20.5.3.1. The responsible Department Manager shall set the pre-discipline meeting approximately one (1) week from the date of the Notice of Intent to Discipline, unless a different time and date is set by mutual agreement. The employee shall be entitled to a representative of their choice; provided, however, that the inability of a particular representative to attend the meeting shall not be a cause requiring a postponement of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the Department Manager. Following the informal meeting, the responsible Department Manager shall provide the City Manager with a report of the pre-disciplinary meeting including a recommendation of discipline.
- 20.5.3.2. At some reasonable time after the employee has been provided an opportunity to respond to the charges, the City Manager shall issue a final notice of discipline. The notice shall include the final disposition, the effective date of the discipline and the facts upon which the discipline is based. No further appeal shall be permitted.
- 20.5.3.3. If the employee chooses to respond in writing rather than attend the pre-discipline meeting, the written response shall be reviewed and filed in the employee's personnel file. No further appeal shall be permitted.

20.5.4. Discipline in Severity of More than Five Working Days

20.5.4.1. For discipline that is greater in severity than a suspension of five (5) working days, a reduction in pay of five (5) working days or other more severe form of discipline as enumerated in Section 20.2.1, the City shall issue a Notice of Intent to Discipline, describing the intended discipline, the basis for the discipline and attaching any documents upon which the discipline is based. The Notice of Intent to Discipline shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed. The City shall set the pre-discipline meeting approximately one (1) week from the date of the notice, unless a different time and date is set by mutual agreement.

20.5.4.2. For discipline that is greater in severity than a suspension of five (5) working days, the City Manager shall designate a City official who is uninvolved in the matter who shall convene a meeting to review the employee's response and position before imposing discipline. The employee shall be entitled to a representative of their choice; provided, however, that the inability of a particular representative to attend the meeting shall not be a cause requiring a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the City.

20.5.4.3. At some reasonable time after the employee has been provided an opportunity to respond to the charges, the City shall issue a final notice of discipline. The notice shall include the final decision, the effective date of the discipline and the facts upon which the discipline is based.

20.6. **Appeal of Disciplinary Action**

20.6.1. For a suspension in severity of more than five (5) working days, a reduction in pay of five (5) working days or other more severe form of discipline as enumerated in Section 20.2.1, employees shall have the right to appeal from the final notice of discipline. The notice of appeal must be received within seven (7) calendar days from the date of the final notice of discipline, or the right to proceed to the next appeal level under these Rules shall be forfeited and the discipline shall become final.

20.6.2. The appeal shall be heard by an independent hearing officer to be selected by the City.

20.6.3. The costs of the hearing officer shall be borne by the City. Either party may request that the matter be transcribed, and the requesting party shall bear the expense of the transcript and court reporter's fees. If the transcript is jointly requested by both parties, both parties will share equally in the expense of the transcript and court reporter's fees.

20.6.4. The hearing officer shall have the authority to convene the hearing, receive evidence through testimony and documents and to make findings of fact and conclusions about the discipline. Within two (2) months of the close of the hearing, the hearing officer shall serve a recommended decision on the City Manager and the employee. The hearing officer's decisions must contain

detailed findings of fact relating to the disciplinary charges. The decision may include a recommendation regarding outcome, but the final decision regarding discipline rests with the City Manager. After consideration of the hearing officer's recommended decision, the City Manager shall issue a final decision in writing. The City Manager's decision is reviewable by administrative writ of mandamus within the timeframes established by law.

Section 21. APPEAL PROCEDURE FOR NON-DISCIPLINARY GRIEVANCES

- 21.1. This appeal procedure is intended to provide an avenue only for redress of complaints that the City has violated these Rules. Exhaustion of this appeal procedure is intended to provide an informal avenue for redress of complaints relating to these Rules, and to give the City an opportunity to investigate the complaint and correct any problems before they become more serious. However, this appeal procedure may not be used for any of the following: to appeal discipline, change wages, hours or working conditions; to challenge the content of employee evaluations; or to challenge a reclassification, layoff, transfer, denial of reinstatement or denial of salary increase.
- 21.2. Only regular employees in the Classified Service who have completed probation have access to this entire appeal procedure. At will and provisional employees do not have access to this procedure. Part time, seasonal and temporary employees may utilize this procedure up to the Human Resources Director/City Manager level only. The Human Resources Director/City Manager's decision regarding the grievance shall be final and binding.
- 21.3. Every effort should be made to resolve a grievance regarding these Rules at the point the grievance arises, through informal discussion between the grievant and their supervisor.
- 21.4. If the grievant is not satisfied with resolution of the matter after speaking with their supervisor, the grievant may present a formal written grievance to the Human Resources Office. The written grievance must be presented within fifteen (15) calendar days of the facts giving rise to the appeal. However, this time limit may be waived if agreed to by the City. The Human Resources Director/City Manager may, in their discretion, submit the grievance for response as the first step to a directly involved supervisor or other department representative.
- 21.5. Grievance appeals must be in writing, signed by the affected employee(s) and allege that the City has violated a specific provision of these Rules. Appeals must contain the specific facts upon which they are based. Appeals that fail to include these elements may be rejected on that basis.
- 21.6. The City Manager, or designee, will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appeal.
- 21.7. If the appellant is dissatisfied with the City's first response, the appellant may submit a written appeal to the City Manager. The appeal must be received by the City Manager within fifteen (15) calendar days of the Human Resource Office's response.

- 21.8. The City Manager, or the Manager's designee, will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appeal. The City Manager's decision shall be final.
- 21.9. No other grievance or appeal procedure may be used for matters within the scope of this appeal procedure.
- 21.10. The City shall not take any adverse employment action against an employee because the employee filed a grievance regarding alleged violation of these Rules.

Section 22. PART TIME SEASONAL AND TEMPORARY EMPLOYEES

- 22.1. Part-time, seasonal and temporary employees are employed on an at-will basis and may be terminated at any time with or without cause and without right of appeal.
- 22.2. All part time, seasonal and temporary employees shall be compensated on a straight hourly basis for the actual number of hours worked. The rate of pay shall be determined by the City Manager within the salary range then in effect, specified for the position occupied by the employee.
- 22.3. No seasonal or temporary employee shall be eligible for participation in any benefit program established by the City, except as required by state and/or federal law. Part time employees who do not work for the City on a temporary basis and who work more than twenty-one (21) hours per week on average shall be entitled to the same benefits enjoyed by regular full time employees based upon a proration of average hours worked. EXAMPLE: An employee who works an average of thirty (30) hours per week shall receive holiday compensation in an amount equal to three (3)-quarters of the benefit provided to regular full time employees. Holiday, vacation, sick leave, city payment of health premiums and other similar benefits shall be prorated on this same basis.
- 22.4. Part time, seasonal and temporary employees shall work on a schedule determined by the City. Part time, seasonal and temporary positions may be abolished and/or replaced with full time positions as determined by the City.
- 22.5. No part time, seasonal or temporary employee shall be eligible for a salary adjustment except as approved by the City Manager upon the recommendation of the department manager, based on the employee's performance evaluation. Performance evaluations of such employees may be completed in accordance with the procedure set forth for full time employees, except for seasonal employees who may be presented with a performance appraisal report shortly after the completion of the season for which they are appointed. In general, no part time, seasonal or temporary employee shall be eligible for a salary adjustment except upon the satisfactory completion of one of the following conditions: (a) Completion of one thousand (1,000) hours of service from date of appointment or previous review and a minimum of one (1) year service; or (b) completion of a minimum of three hundred (300) hours of continuous service on a seasonal basis and the elapse of one (1) year from the date of appointment or

previous review. However, the City may make salary adjustments at an earlier date if circumstances warrant such adjustment.

- 22.6. An employee serving in a temporary or seasonal appointment shall serve the City only for such time-limited period as is determined by the City. However, if an employee serving in such appointment works more time or is retained in excess of this time period, the employee does not acquire regular status.

Section 23. PERSONNEL FILES

- 23.1. The City shall maintain an official personnel file for each of its employees. Personnel files contain such personnel records as may be deemed necessary for the administration of human resources in the City.
- 23.2. Personnel files shall be made available for inspection by employees within a reasonable time after an employee's written request and without loss of pay, provided that employees must make arrangements with their supervisor if the inspection occurs on duty. Upon written request, employees may obtain copies of the materials subject to inspection at the employee's expense. The City may preclude inspection of certain information in accordance with the law, such as background and other pre-employment information, and materials relating to confidential investigations.
- 23.3. The City maintains injury reports and confidential medical records in separate files.
- 23.4. The City shall designate the area used for the inspection and shall have an official monitor the employee's inspection of the employee's personnel file while it is being reviewed. Under no circumstances shall the employee remove the personnel file or any of its contents from the area designated for the inspection.

Section 24. RESIGNATIONS AND EXIT INTERVIEWS

- 24.1. Employees are free to resign from their employment, but are encouraged to give at least two (2) weeks' notice. A resignation becomes effective upon the City's receipt of a written notice of resignation. If no written resignation is tendered, but a resignation is indicated orally, a resignation becomes effective upon the City's notice of acceptance of the resignation. Once a resignation becomes effective, it is irrevocable except that the City Manager may, in their discretion, permit a resignation to be rescinded.
- 24.2. Automatic Resignation. Employees are deemed to have resigned when absent from work for three (3) consecutive workdays without prior authorization. The City shall give notice of such automatic resignation. Except for at-will or probationary employees, regular employees who are separated from the City's service by automatic resignation may utilize the appeal procedure in Section 21 of these Rules.
- 24.3. Exit Interviews. The City may, in its discretion, require employees separating from City employment to undergo an exit interview with the Human Resources Office.

- 24.4. The purpose of this policy is:
- (1) To reaffirm the City's commitment to prohibit and prevent unlawful discrimination, harassment, and retaliation in employment;
 - (2) To define discrimination and harassment prohibited under this policy;
 - (3) To set forth a procedure for resolving complaints of prohibited discrimination and harassment.
- 24.5. This policy shall not be construed to create a private or independent right of action. Although this policy is intended to prohibit discrimination consistently with Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the California Fair Employment and Housing Act and California Labor Code Section 1102.1, the City reserves the right to interpret and apply this policy to provide greater protection than what is afforded under those laws.
- 24.6. **Statement of Policy.** The City is committed to providing an environment that is free from harassment and discrimination of any kind, including sexual harassment and harassment based on race, color, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy and breastfeeding), national origin, ancestry, citizenship status, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other basis protected by law. The City will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. Employees, applicants, officers, officials or contractors who believe that they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedures provided in Section 25.8 of these Personnel Rules and Regulations. Therefore, it is important that the City maintain an atmosphere characterized by mutual respect in order to assure fair, courteous treatment for employees and the public.
- 24.7. The City strongly disapproves of and will not tolerate any conduct that violates this policy. Conduct need not arise to the level of violation of law to violate this policy. Harassment or discrimination against employees, unpaid interns, volunteers or applicants by elected or appointed officials, coworkers, members of the public, or contractors on the basis of a protected classification will not be tolerated..
- 24.8. Employees who violate this policy and engage in acts of sexual harassment or illegal discrimination of any type, for any duration, shall be subject to severe disciplinary action, up to and including termination.
- 24.9. Retaliation against individuals who complain of sexual harassment or any type of prohibited discrimination or who participate in an investigation into sexual harassment or discrimination shall not be tolerated. Employees who engage in such acts of retaliation shall be subject to serious disciplinary action, up to and including termination.

24.10. Definitions

(1) **Protected Classification:** This policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race, color, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy and breastfeeding), national origin, ancestry, citizenship status, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other basis protected by law.

(2) Harassment may include, but is not limited to the following types of behavior that is taken because of a person's protected classification.

Speech: Such as epithets, derogatory comments or slurs, and lewd propositions on the basis of protected classification. This includes, without limitation, comments regarding an individual's appearance, including dress or physical features, or dress consistent with gender identification, , or race or ethnicity-oriented stories and jokes.

Physical Acts: Such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied threats or promises in return for submission to physical acts.

Visual Insult: Such as derogatory pictures, posters, cartoons, or drawings related to a protected classification. This includes, without limitation, sending inappropriate emails to employees, or viewing pornography either in magazines or on the internet in view of other employees, displaying pictures or objects depicting nude or scantily-clad or suggestively posed men or women; circulating derogatory or obscene notes, letters, emails or other literature.

(3) Unwanted sexual advances: Requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

24.10.1. Harassment on the basis of a protected classification is prohibited. Verbal or physical conduct relating to these categories constitutes harassment when it:

- (1) Has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- (2) Has the purpose or effect of unreasonably interfering with an individual's work performance; or

(3) Otherwise adversely affects an individual's employment opportunities.

24.10.2. Retaliation: Any adverse conduct taken because an applicant, employee, or contractor has reported harassment or discrimination, or has participated in the complaint and investigation process described herein, is prohibited. Adverse conduct includes but is not limited to: taking sides because an individual has reported harassment or discrimination, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination, or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process.

24.11. Reporting Unlawful Harassment or Discrimination.

24.11.1. Any employee, job applicant, or contractor who believes they have been unlawfully harassed or discriminated against should promptly report it orally or in writing to: the employee's supervisor, the Human Resources Office or the City Manager. There is no need to follow the chain of command.

24.11.2. Any supervisor or manager who receives a complaint, or who observes or otherwise learns about harassing conduct, as defined by this policy, is required to notify the Human Resources Office immediately. Failure to do so may result in disciplinary action.

24.12. Remedial Action

24.12.1. Upon receiving complaints of discrimination or harassment, the City will take immediate and appropriate corrective action, which may include an investigation of the complaints. Any investigation and investigation report prepared relating to the complaint shall be kept confidential except as required by law. If harassment or discrimination is found to have occurred in violation of this policy, the City shall report a summary of the determination as to whether harassment occurred to appropriate persons, including the complainant, the alleged harasser, the supervisor and or department head. If discipline is imposed the level of discipline will not be disclosed to the complainant.

24.12.2. If conduct in violation of this policy occurred, take action or recommend to the City Manager prompt and effective remedial action.

24.12.3. Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation..

24.12.4. Employees found to have engaged in discrimination or harassment covered by this policy may be subject to disciplinary action up to and including termination of employment. First-time violations of this policy, depending on the severity of the conduct, may lead to termination.

- 24.12.5. Employees found to have been dishonest or uncooperative during an investigation into allegations of unlawful harassment may be subject to disciplinary action up to and including termination of employment.
- 24.13. No Retaliation. Employees should feel free to report claims of unlawful harassment without fear of retaliation of any kind.
- 24.14. Dissemination of Policy. Copies of the City's Nondiscrimination Policy, and of these complaint procedures, shall be provided to all employees of the City, and to all new employees at the time of hiring. From time to time, the City may also conduct training for its employees to assist them in learning how to recognize, avoid and correct discriminatory behavior.
- 24.15. Confidentiality
- Every possible effort will be made to assure the confidentiality of complaints made under this policy. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a department manager or the Human Resources Director. Any individual who discusses the content of an investigatory interview may be subject to discipline or other appropriate sanction. The employer will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order
- 24.16. Responsibilities of Management and Employees
- 24.16.1. Managers and Supervisors are responsible for being familiar with the City's policy on harassment, discrimination and retaliation, modeling appropriate behavior, treating all employees and contractors with respect and consideration, taking all steps necessary to prevent harassment, discrimination, or retaliation from occurring; receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints, reporting incidents of discrimination in a timely fashion; cooperating in any investigation concerning allegations of discrimination; and to the extent possible maintaining confidentiality concerning any investigation that is conducted.
- 24.16.2. Employees are responsible for being familiar with the City's policy on harassment, discrimination and retaliation; modeling appropriate behavior, treating all employees and contractors with respect and consideration, refraining from discriminatory behavior, including harassment; reporting incidents of discrimination in a timely fashion; cooperating in any investigation concerning allegations of discrimination; *and* maintaining confidentiality concerning any investigation that is conducted.

Section 25. All employees are also encouraged to communicate with one another to assist co-employees to avoid harassing, discriminatory, or otherwise offensive behavior. **EMPLOYEE SAFETY / VIOLENCE IN THE WORKPLACE POLICY**

25.1. **General Safety Rules**

25.1.1. Safety is everyone's responsibility. All employees must use safe work practices and report any unsafe conditions that may occur. The City also recognizes its responsibility to maintain safe workplaces.

25.1.2. All work-related injuries must be reported to the responsible supervisor. If there is any question regarding the appropriate supervisor, the report should be made immediately to the Human Resources Office.

25.1.3. If a reported work-related injury may result in lost work time, the employee should be provided with a workers' compensation claim form within one (1) working day of the injury.

25.1.4. Individual departments may adopt specific safety rules applicable to their operations.

25.2. **Violence in the Workplace Policy**

25.2.1. Acts of violence, whether threatened, gestured, or carried out will not be tolerated in any City workplace. Anyone witnessing or becoming the subject or victim of such behavior shall immediately report it to the proper authorities for investigation. Minimizing the threat of violence is a duty of all employees to ensure a safe workplace.

25.2.2. It is the responsibility of all employees to notify a supervisor, the Human Resources Office, or the City Manager immediately of any violent act or a threat, or if a violent act or threat against themselves or any other City employee occurs in the workplace or is directly associated with their employment with the City. Notification may be made to any of these persons as appropriate and shall be as soon as practicable. Retaliation or the threat of retaliation against a person who reports such an incident is unlawful and shall not be tolerated.

25.2.3. City employees shall not possess the following instruments at a City worksite or on City property, including City parking lots, unless there is a work-related purpose and written approval has been obtained from the employee's department manager:

- (1) Firearms;
- (2) Explosives or ammunition;
- (3) Fixed blade knives;
- (4) Folding knives with blades over 3.5 inches;

- (5) Illegal weapons such as defined in Section 12020 of the California Penal Code.

25.2.4. The City shall take appropriate disciplinary action, up to and including termination of employment, against employees who violate this policy.

25.2.5. On a case by case basis, or as needed, the City will offer incident-related counseling services through the City's Employee Assistance Program (EAP), or any other resource or program made available by the City, to employees who are the victims of violence or are subjects of threats of violence or intimidation at the workplace. The City administration will work with public safety, the courts and other authorities necessary to assure employee safety.

25.3. **Procedures - Imminent or Actual Violent Acts**

25.3.1. Employee Responsibilities. An employee who is in immediate apparent danger of a violent act, or another employee who witnesses a violent act or the threat of a violent act shall, whenever possible:

- (1) Place themselves in a safe location.
- (2) Call 911 and request the immediate response of a police officer. Be prepared to inform the police dispatcher of the circumstances and exact location of where an officer is needed.
- (3) Inform a supervisor or manager of the circumstances.
- (4) Refer media inquiries to the City Manager's Office.
- (5) Cooperate fully in any administrative or criminal investigation which shall be conducted within this policy and the laws.

25.3.2. Supervisor/Manager Responsibilities:

- (1) Place themselves in a safe location.
- (2) A supervisor or manager who is informed of a violent act or the threat of a violent act shall whenever possible ensure the immediate safety of employees and the worksite by calling 911, and notify the department manager and Human Resources Office.
- (3) If feasible, the supervisor/manager shall have the involved individuals wait in separate rooms or locations until the police take control or remove them from the premises.
- (4) In consultation with the City Manager, determine if it is appropriate to obtain a restraining order or other appropriate injunctive and/or other legal and/or equitable relief.
- (5) Reassign/relocate personnel or job duties, if required.
- (6) Terminate any business relationship.

- (7) Any other action deemed by the City to be necessary or required under the circumstances.
- (8) Supervisors shall obtain basic information from the employee and provide this to responding police personnel.
- (9) Refer media inquiries to the City Manager's Office.

25.3.3. Procedures – Future Violence:

- (1) Employees who have reason to believe they, or another City employee, may be victimized by a violent act sometime in the future, at the workplace or as a direct result of their employment with the City, shall inform their supervisor immediately so appropriate action may be taken. The supervisor shall inform their department manager.
- (2) Employees who have signed and filed a restraining order, temporary or regular, against an individual due to a potential act of violence, who would be in violation of the order by coming near them at work, shall immediately supply a copy of the signed order to their supervisor and the Human Resources Office.

25.3.4. Post-Incident Review:

- (1) The City Manager's Office, the Human Resources Office and the affected department may conduct a post-incident review and use the review to evaluate this policy and procedure.
- (2) The City may determine what continuing support systems are needed and oversee post-incident activities.

Section 26. OUTSIDE EMPLOYMENT

- 26.1. City employees may not engage in any outside employment, enterprise or activity that the City determines is in conflict with or impairs the employee's ability to perform their duties and responsibilities, or any aspect of City operations. All outside employment must be authorized by the City Manager.
- 26.2. During the workday, employees are expected to devote their full time in the performance of their assigned duties as City employees. Any outside work, part time job, hobbies or personal business must be performed during off duty hours. Off duty hours include unpaid lunch break periods, but do not include other rest or break periods during which the employee continues to receive pay.
- 26.3. Employee shall not perform work for compensation outside of their City employment where any part of their efforts will be subject to approval by any officer, employee, board or commission of the City, unless the employee obtains the approval of their department head.

Section 27. VOLUNTEERS

- 27.1. The City may utilize volunteers for the delivery of City services. The use of volunteers shall be subject to approval by the City Manager.
- 27.2. Volunteers shall not be eligible for salaries, benefits or other compensation unless specifically provided for by the City. Subject to approval by the City Manager, necessary equipment or uniforms and reimbursement for approved actual expenses and mileage may be provided.
- 27.3. Employee Volunteers. Subject to approval by the City Manager, employees may volunteer to provide services to the City outside of their normal duties, provided they are not performing the same or similar duties for which they or any other City employee are normally compensated and the responsibilities are occasional and sporadic. Employees engaging in such volunteer assignments shall not be entitled to compensation.

Section 28. DRUG AND ALCOHOL FREE WORKPLACE

- 28.1. The City's workplace shall be drug and alcohol-free. The City has established a Drug Free Awareness Program to inform employees about City policy with respect to drug abuse in the workplace.
- 28.2. No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations during work hours or in any City designated workplace. Alcoholic beverages may only be served on City property at events expressly approved by the City Manager.
- 28.3. Upon reasonable suspicion of an employee being under the influence while on duty, the City may require the employee to submit to drug and alcohol testing, at the City's expense. Employees who decline to submit to such testing may be subject to discipline, up to and including termination of employment.
- 28.4. The City shall distribute at initial appointment and periodically thereafter the following Notice to employees.

NOTICE TO EMPLOYEES

YOU ARE HEREBY NOTIFIED that it is a violation of City policy for any employee at a City work site to unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations.

City work site is defined as any place where City work is performed, including a City owned building or other premises and any City owned or approved vehicle used in the conduct of City business.

As a condition of your continued employment with the City, you will comply with the City's policy on Drug and Alcohol-Free Workplace and will, any time you are convicted of any

criminal drug or alcohol statute violation occurring in the workplace, notify your supervisor of this conviction no later than five days after such conviction.

The following drug and alcohol counseling, rehabilitation, and/or employee assistance programs are available locally:

CIGNA Behavioral Health Plan, California – Telephone toll-free 1-888-371-1125

(Employee Signature)

(Date)

Section 29. NEPOTISM POLICY

- 29.1. No employee, prospective employee, or applicant shall be improperly denied employment or benefits of employment on the basis of marital status with another employee or official of the City.
- 29.2. Notwithstanding the above, the City retains the right to take appropriate steps to avoid inappropriate working relationships among relatives, including married persons. For administrative purposes, a relative shall be defined as a spouse or domestic partner, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, cousin, niece, nephew, parent-in-law, brother-in-law, sister-in-law or any other individual related by blood or marriage. The City retains its rights to:
- (1) Refuse to place one party to a relationship under the direct or indirect supervision of the other party of a relationship.
 - (2) Refuse to place both parties to a relationship in the same department, division, or facility when such action has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.
 - (3) Disqualify one party to a relationship for a position privy to confidential personnel matters who has a relative already in the City's employment when the relationship may compromise confidential information.
 - (4) Effect a transfer in the event the City learns of circumstances described above.

Section 30. GIFTS AND GRATUITIES

- 30.1. No officer or employee of the City shall solicit or accept, for self or family, favors, benefits, gifts or gratuities under circumstances which might be construed as influencing the performance of the employee's governmental duties.

Section 31. USE OF INFORMATION AND ELECTRONIC SYSTEMS

- 31.1. General. For purposes of this policy, electronic systems are defined as all hardware, software, and other electronic communication or data processing devices owned, leased, or contracted for by the City and available for official use, by the City's employees. This use includes, but is not limited to, electronic mail, voice mail, calendaring, and systems such as the internet. The City's Administrative Regulation: Mobile Computing Devices is incorporated by reference.
- 31.2. Public Disclosure. Employees who use electronic systems and/or tools provided by the City cannot be guaranteed privacy. Under the Public Records Act, e-mail messages and information stored in computers and other electronic systems of the City are public records subject to disclosure to the public or may be subpoenaed. In addition, the City reserves the right to review, audit, and disclose

all matters sent over and/or stored in the City's electronic system or on a City issued device at any time without advance notice. The City Manager, or their designee, retain the right to enter and/or retrieve an employee's electronic communication system, data files, logs and programs used on City owned electronic systems. Security features provided by the electronic communication system, such as, passwords, access codes, or delete functions, shall not prevent authorized City personnel from accessing stored electronic communications. Deletion of e-mail messages or files may not fully eliminate the message from the system.

- 31.3. Serial Meetings. In accordance with the Brown Act (Govt. Code Section 54950 et seq.), City employees must take care to ensure that electronic systems are not used to transmit, either all-at-once or serially, City legislative officials' positions on matters of City business to a majority of any City body of elected officials.
- 31.4. Use During Normal Business Hours. The City's electronic systems are provided for the purposes of conducting business. Except for brief, occasional, necessary or emergency use, the City's electronic systems shall not be used for personal use during normal business hours. Use of non-City business software including games or entertainment software is considered an improper use of these electronic systems. Employees shall not conduct personal or private business, including purchase of goods or services via the City's internet connection. Such uses are prohibited at all times during normal business hours or outside normal business hours.
- 31.5. Account Access. Employees shall not attempt to gain access to another City employees' personal file of electronic mail messages without the latter's express written permission or permission from the City Manager or designee.
- 31.6. Prohibited Use.
 - 31.6.1. The electronic mail and other electronic systems of the City shall not be used in a way that may be disruptive, offensive to others, harmful to morale or violate City policies and procedures or laws. These electronic systems shall not be used to solicit or proselytize others for commercial venture, religious or political causes, outside organizations, or other non-job-related solicitations. Improper use includes any display or messages that are derogatory, defamatory, obscene, violent, or offensive to employees or the public and/or any messages that are of a sexual or discriminatory nature, including, but not limited to, slurs, offensive jokes, or other offensive language of disparagement of others based on their race, national origin, sex, sexual orientation, age, disability, or religious beliefs.
 - 31.6.2. Employees are required to comply with all operational guidelines developed by the City. Such guidelines will address operational standards such as: message retention, schedule, copyright issues, use of passwords, system availability, back-up procedures, etc.
 - 31.6.3. Incidental and occasional personal use of electronic mail is permitted within the City, but the messages will be treated no differently from other messages and will remain the property of the City as to review and auditing techniques. All

personal use shall be done outside of normal working hours and not during provided morning and afternoon breaks or lunch periods.

31.6.4. Occasional personal access to the internet may be permitted. However, such personal use shall only be permitted if it does not interfere with or delay the employee's work or interfere with regular City business and shall comply with all provisions herein. All use of the internet may be periodically reviewed by the City Manager or designee.

31.6.5. In addition to other prohibited uses, employees shall not: Install programs on the City computer system (including but not limited to virus checking and screen savers) without the prior written consent of the Department Head or Human Resources Office, or each of their designees; copy City Programs for personal use; disclose an account password or otherwise make the account available to others; or infringe on others' access and use of the City's computers, including but not limited to:

- (1) The sending of excessive messages, either locally or offsite;
- (2) Unauthorized modification of system facilities, operating systems or disk partitions;
- (3) Attempting to crash or tie up a City computer or network;
- (4) Damaging or vandalizing City computing facilities, equipment, software, or computer files;
- (5) Intentionally developing or using programs which disrupt other computer users or which access private or restriction portions of the system and/or damage the software or hardware components of the system;
- (6) Installing or using a modem on City owned or leased computers without the prior written consent of the Department Head or Human Resources Office, or each of their designees;
- (7) Forwarding or reproducing communications marked attorney-client privileged or confidential without the prior consent of the City Manager and/or City Attorney; or violating any federal, state or local law in the use of City information systems.

31.7. Public Records.

31.7.1. All City records, including those stored on paper and electronic media, may be governed by the mandatory public disclosure requirements of the Public Records Act (Government Code section 6250 et seq.), and the limited exceptions thereto. If a draft record is retained, it may become a public record subject to disclosure unless it is subject to an exception under the Public Records Act.

31.7.2. All records, whether stored on paper or electronic media, shall not be destroyed unless prior written authorization is obtained pursuant to Government Code Section 34090 or applicable City resolution.

- 31.7.3. Public Records requests shall be handled in accordance with Government Code section 6250 et seq.
- 31.7.4. The City reserves the right for any reason to access and disclose all messages and other information sent or received by electronic means or stored on electronic media.
- 31.7.5. The City has the right to delete or retain any or all messages or other information sent or received by electronic means or stored on electronic media by a City employee who is no longer employed by the City.
- 31.8. Intellectual Property Rights. No employee shall violate any copyright or license to software or other online information (including, but not limited to, text images, icons, programs, etc.) whether created by the City or any other person or entity.
- 31.9. Failure to Comply. City employees who fail to comply with the terms and conditions of this policy shall be subject to disciplinary procedures that may be informal and/or formal actions depending upon the severity of the offense. Discipline may result in termination of employment with the City.

Section 32. DRESS CODE

- 32.1. Employees of the City are required to dress appropriately for the jobs they are performing. Therefore, the dress regulations contained in this section shall be followed.
- (1) Prescribed uniforms and safety equipment must be worn where applicable. City uniforms shall be worn in a professional manner.
 - (2) Footwear must be appropriate for the work environment and functions being performed.
 - (3) Jewelry is acceptable except in areas where it constitutes a health or safety hazard.
 - (4) Employees shall be mindful of other employees' sensitivity to perfume and other fragrances, and employees shall refrain from wearing fragrances that are offensive or harmful to others.

Section 33. USE OF CITY EQUIPMENT / AUTOMOBILE USE

- 33.1. No City owned equipment, autos, trucks, instruments, tools, supplies, machines, or any other item that is the property of the City shall be used by an employee other than for City business, unless the City Manager approves in advance. No employee shall allow any unauthorized person to rent, borrow, or use any City property, except upon prior approval of the City Manager.
- 33.2. Automobile Use. City owned vehicles are to be used for travel on City business by City employees. City employees who utilize City-owned vehicles or their own personal vehicle in the performance of their duties must maintain a valid California driver's license at all times. In those instances where a City vehicle is

not available for use and the employee is required to use their private vehicle on City business, employee shall be compensated for such use as provided in the relevant Wage and Compensation Plan or Memorandum of Understanding as adopted by Council resolution. Prior to using a private vehicle on City business, employee must obtain and provide City with a Certificate of Insurance on the form provided by the City which evidences that employee has comprehensive automobile liability insurance or business automobile liability insurance in an amount of at least \$300,000.

- 33.3. Use of Vehicle Safety Belts. Motor vehicles purchased by the City for use by city personnel are equipped with safety belts. All city personnel who drive city vehicles shall use and ensure that all passengers use available safety belts in the vehicles being operated. The police department may adopt rules and regulations which supersede this provision which will govern the use of seat belts by police officers and persons taken into custody. Employees will inspect the serviceability of the safety belts at the start of each work day. Passengers shall ride only in those positions of a city vehicle designed for the carrying of passengers.
- 33.4. The City will verify with the DMV the validity of each employees' driver license on an as needed basis. City DMV Program:
- 33.5. The City complies with the drug and alcohol testing regulations of the Department of Transportation (DOT) (49 CFR part 40) and the Federal Aviation Administration (FAA) (14 CFR part 120). All persons performing any of the following safety-sensitive functions are subject to the DOT/FAA drug and alcohol testing program:

Maintenance Worker II

Maintenance Worker III

Maintenance Worker IV

Maintenance Worker Lead

For more information relating to the DOT program, visit the following website:
<http://www.dot.gov/ost/dapc/>

Section 34. TRAVEL AND TRAINING POLICY

- 34.1. The City is committed to ensuring that its employees receive adequate training to perform their jobs. Training and travel are subject to department approval. Training opportunities that occur outside normal work hours require approval by the Department Head. Overnight travel also requires approval by the Department Head.
- 34.2. The City generally requires that training, and attendant travel, be scheduled in a way that will minimize the City's overtime liability

- 34.3. City business travel shall be carried out in an efficient, cost-effective manner resulting in the best value to the City. Telecommunications instead of travel should be considered when possible. The City will pay or reimburse all business travel related expenses based on reasonableness and on the actual amount of expense incurred by the employee. Receipts when available are required for all travel expenses. Reimbursement of personal expenses and alcoholic beverages shall not be authorized for payment at any time. Department directors are responsible for determining the necessity, the available resources, and the justification for the method of employee business travel.

Section 35. GARNISHMENT FEES

- 35.1. City will to deduct the maximum allowed by state law from the employee's earnings for each payment made under a wage garnishment or earnings withholding order to reimburse the City for administrative costs.

Section 36. MISCELLANEOUS

- 36.1. These rules and regulations shall only become effective when they are adopted by the City Council. Upon adoption they shall supersede any and all City-wide and/or departmental personnel management policies, rules, regulations, and procedures previously adopted, except those adopted by order of a department manager which are not in conflict with these Rules.
- 36.2. Any and all provisions contained in a Memorandum of Understanding (MOU) in effect at the time of adoption of these Rules, and which may be in conflict with the provisions of these Rules, shall remain in effect and supersede these Rules until such time as the conflicting provisions of the MOU may be modified, through the meet and confer process, to conform to these Rules. No existing MOU shall be modified, and no new MOU shall be entered into, which would establish provisions which would be in conflict with these Rules unless expressly identified by the City Manager and recommended to the City Council for review and approval.
- 36.3. No Contract. These policies do not create a "contract" of employment between the City and any employee. Public employment is statutory, not contractual.
- 36.4. Severability. If any part of these Rules is determined to be unconstitutional or illegal, such part shall be severed from these rules and the remaining Rules shall be given full force and effect.
- 36.5. Word Usage. The term "City" as used in these rules refers to the City of Fort Bragg. Responsibilities and rights of the City under these rules are exercised by the City Manager, and may be delegated by the Manager in their discretion.

Section 37. DEFINITION OF TERMS

Allocation	Assignment of a position to a class on the basis of the kind, difficulty and responsibility of work of the position.
Anniversary Date	Date an employee is appointed, promoted, demoted, or reinstated to a position within the classified service.
Applicant	Any person submitting a formal, completed application for employment with the City.
Appointing Authority	City Manager.
Appointment	Placement of a certified candidate from an eligible list to a position within the classified service. For employees rehired after a resignation or reinstatement from layoff, the appointment date is the re-hire or reinstatement date.
At-Will	At-will employees serve at the pleasure of the City Manager, who retains the authority to terminate any such employee at any time with or without notice or cause.
City	As used in these rules refers to the City of Fort Bragg. Responsibilities and rights of the City under these rules are exercised by the City Manager, and may be delegated by the Manager in their discretion.
Class	A position or group of allocated positions sufficiently similar in duties performed, degree of supervision exercised or required, desirable requirements of training, and other qualifications such that each position allocated to the class may have the same descriptive title, tests of fitness to determine qualified employees, schedule of compensation, or same basic desirable qualification requirements.
Classified Service	All full-time employees of the City of Fort Bragg, except elected officials, Council appointees, the City Manager, appointive officers serving without compensation, and all temporary, provisional seasonal, transitional, emergency and part-time employees as defined herein.
Class Specification	The written description of a class, including the title; a statement of the nature of the work, examples of duties and responsibilities, and the requirements that are desirable for the satisfactory performance of the duties of the class.
Class Title	The title assigned to any particular class and used for reference to that class.
Compensation	Salary, wages, fees, benefits, allowances, or monies paid to, or on behalf of, an employee for personal services.

Compensatory Time Off	Time off in lieu of pay for overtime worked.
Continuous Examination	An open competitive examination which is administered periodically, resulting in the placement of names on an employment eligible list.
Continuous Service	Employment without interruption. Includes approved leaves of absence to serve in the armed forces of the United States, as provided by Section 395 of the Military and Veterans Code, as amended.
Demotion	The involuntary movement of an employee from a position in one class to a position in another class having a lower maximum salary rate than the employee's class.
Discharge	Dismissal and/or involuntary separation of an employee for cause from the classified service.
Eligible	A person whose name is on an active reemployment, promotional, or initial appointment list and who may, under these rules, be certified for consideration of appointment to a position in the classified service.
Emergency Employee	An individual appointed to a classified or non-classified position for a period not to exceed thirty (30) days.
Employee	An individual appropriately appointed to a position within the classified service.
Employment Date	For retirement, sick leave, and other benefit purposes, the effective date of an employee's initial appointment to a full-time or regular part-time position within the classified service.
Grievance	A statement by a grievant that a controversy, dispute, or disagreement of any kind or character exists arising out of, or in any way involving, interpretation or application of the terms of these Rules or of any existing (City and/or department) rule, policy, MOU, or practice, or that an employee has been treated unfairly or inequitably, or that there exists a condition which jeopardizes employee health and safety, which is beyond the control of the grievant. Grievances must relate specifically to actions or conduct affecting the employee filing the grievance.
Grievance Procedure	The systematic means by which an employee may obtain consideration of a grievance.
Grievant	An employee or group of employees or the recognized employee organization filing a grievance.

Initial Appointment The appointment of a person to a position in the classified service. Initial appointment does not include employees who are present probationary or regular employees of the City or persons who are being reinstated or reemployed from a reemployment list.

Layoff The separation of an employee from the classified service made necessary by lack of work, appropriation of monies, or other reasons not related to the fault, delinquency, or misconduct of the employee.

Management The management group is comprised of the following full time, at-will appointments (positions may be vacant and/or currently unauthorized for budgetary purposes):

- Director of Public Works
- Director of Finance
- Director of Community Development
- Chief of Police
- City Clerk/Assistant to the City Manager
- City Engineer
- Assistant City Manager

Such employees are so distinguished as they: 1) have as their primary duty the management of an enterprise or recognized department or subdivision; 2) have authority to hire and fire, or to render suggestions as to those decisions; 3) customarily and regularly exercise discretionary powers; 4) have as their primary duty the function as a manager, and 5) do not devote more than 20 percent of their weekly work time to non-management activities.

Meet and Confer Process The procedures established by Section 3500, et seq., of the California Government Code, as amended.

Merit and Salary Advancement A salary increase from one salary step to a higher salary step in the same pay range.

Mid-Management The mid-management group is comprised of the following full-time, regular classifications (positions may be vacant and/or currently unauthorized for budgetary purposes):

- Assistant Finance Director
- Associate City Engineer
- Engineering Technician
- Human Resources Analyst
- Planner
- Police Lieutenant
- Public Works Supervisor
- Treatment Plant Superintendent

Miscellaneous Employee An employee of the classified service other than a sworn safety officer or management employee.

Non-Classified Employee	All officers and employees of the City not within the classified service as defined above.
Open Competitive Examination	An examination open to qualified applicants either within or outside the classified service.
Part-Time Position	A budgeted position of less than forty (40) hours per week during each year.
Pay Range	The range of salary rates or steps for a position class.
Position	Group of current duties and responsibilities assigned or delegated by competent authority and requiring full or part-time services of one (1) employee.
Probationary Employee	An individual in a regular classified position who has been appointed or promoted from any eligible list, but who has not yet completed the probationary period.
Probationary Period	A designated period of employment in a regular classified position following appointment from an appropriate eligible list. The appointment may be original or promotional.
Promotion	The movement of an employee from a position of one class to a position of another class having a higher maximum salary rate with an increase in duties and responsibilities over the employee's present class.
Provisional Appointment	The appointment of a person possessing the minimum qualifications last established for a particular class other than eligibility by examination and who has been appointed to a position in that class in the absence of available eligibles.
Provisional Employee	An employee appointed to fill a full time position vacancy for a maximum six (6) month period of time when no valid employment eligible list exists.
Reallocation	The official determination that a position be assigned to a class different from the one to which it was previously assigned.
Recognized Employee Organization	An employee organization which has been formally acknowledged by the City as the employee organization that represents the employees in an appropriate representation unit pursuant to Article I(J) of the Employer-Employee Resolution of the City of Fort Bragg.

Reemployment List	List of former probationary or regular classified employees of particular class who were separated due to reduction in force and are entitled to have their names certified for appointment to vacant position in that class.
Regular Employee	An employee having satisfactorily completed the required probationary period.
Regular Full-Time Position	A classified position requiring a minimum of forty hours of work per week.
Rehire Date	Date of reinstatement.
Reinstatement	Reappointment without examination after a break in service to a specified regular classified position.
Resignation	Voluntary termination of employment by an employee.
Safety Employee	A fire or police employee, as defined by California Public Employees' Retirement System statutes.
Seasonal Employee	An individual appointed to a position established on a recurring basis of forty (40) hours per week, or less, for a specified season of six (6) consecutive months or less.
Selection Process	The process of testing, evaluating, investigating, and determining the fitness and qualification of applicants.
Seniority	Status, priority or precedence based on total amount of actual continuous service in the classified service or a specific class, excluding approved leaves of absence without pay in excess of thirty (30) days, but including leaves of absence for service in the armed forces of the United States.
Separation	Leaving the classified service for any reason.
Suspension	The temporary removal of the employee from their duties, with or without pay, for disciplinary or pre-disciplinary investigation purposes.
Temporary Employee	Those employees who work an average of less than twenty (20) hours per week or 1,000 hours per year over a fifty-two (52) week period.
Termination	The separation from City service with the action initiated by the employee voluntarily or by the City within the provisions of these Rules which state the causes and procedures for such action.
Transfer	The movement of an employee within a department or between departments from one position to another position in the same class or

another class having the same maximum salary, involving the performance of similar duties and requiring substantially the same basic qualifications.

Transitional Employee

A person appointed to a position within an existing or new class which is created for a specific purpose and/or program which will terminate within a given period of time established for the program, and for which special rules and procedures concerning working conditions, compensation, selection and appointment may be established as needed by the City Manager and/or City Council.

Vacancy

A duly created position which is not occupied and for which monies have been appropriated.

Y-Rating

An action to freeze an employee's salary at the current salary until such time that the top step of the salary range for such position equals or exceeds the employee's salary at the time of the Y-Rating action.

CITY OF FORT BRAGG

Personnel Rules and Regulations



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Section 1. INTRODUCTION

- 1.1. These Personnel Rules and Regulations (hereafter “Rules”) generally describe the employment relationship between the City of Fort Bragg and its employees. These Rules apply to all City employees, except where otherwise indicated in these Rules or where an applicable memorandum of understanding (“MOU”) specifically conflicts with a Rule, in which case the MOU provision shall govern. As specified herein, some Rules apply only to employees in the “Classified Service.” The “Classified Service” consists of all full-time employees of the City, but does not include elected officials, Council appointees, the City Manager, members of the executive management group, appointive officers serving without compensation, or part-time, temporary, provisional, seasonal or emergency employees.
- 1.2. These Rules were established to conform and be complementary to the City’s Municipal Code. In cases where there is deemed to be a conflict between a Rule and the Municipal Code, the Municipal Code shall prevail.
- 1.3. Department managers may issue additional rules or policies as deemed necessary for the efficient administration of the department. However, such departmental rules or policies shall not conflict with these Rules. In cases where there is deemed to be a conflict between a department rule and these Rules, these Rules shall prevail.
- 1.4. These Rules may be amended from time to time. However, in order to be effective, the amendment must be in writing and approved by City Council. Whenever such amendments affect the wages, hours or other terms or conditions of employment, they shall be subject to the meet and confer process as established by State law and the City’s Employer-Employee Organization Relations Resolution.
- 1.5. Each employee will be given a copy of these Rules and is responsible for reading and complying with these Rules.

Section 2. EMPLOYER/EMPLOYEE RELATIONS

- 2.1. The City’s labor relations policies are governed by the Meyers-Milias-Brown Act (MMBA), Government Code section 3500 et seq. The City has in place an Employer-Employee Organization Relations Resolution which specifies the City’s local rules, rights and obligations regarding labor relations.
- 2.2. Under the City’s Employer-Employee Organization Relations Resolution and the MMBA, the City recognizes certain employee organizations as the exclusive representative for purposes of labor negotiations. For represented employees, the City meets and confers with employee labor representatives regarding wages, hours and others terms and conditions of employment, and provides advance notice of certain matters as specified by the City’s labor relations resolution. Employee pay schedules and various benefits are set forth in memoranda of understanding (known as “MOUs”) agreed upon by the City and the recognized labor representatives.

- 2.3. Employees having questions concerning matters included in their MOUs may contact their labor representative or the City's Human Resources Department directly.

Section 3. POSITION CLASSIFICATION

- 3.1. The City Manager or [his/her/their](#) designee shall prepare a Position Classification Plan which sets forth all the positions in the classified service of the City including position title and a general description of the duties and responsibilities of each position. The Position Classification Plan shall also group all positions in the classified service into classes. Positions within the same class will be approximately of equal difficulty and responsibility, require the same general qualifications, and can be equitably compensated within the same range of pay under comparable working conditions.
- 3.2. The classification or position descriptions may be abolished or amended from time to time by the City Manager as deemed in the best interest of the City service. In addition, new classification or position descriptions may be added to the City's Position Classification Plan. If new positions are added to the City service, such positions shall be allocated to an appropriate class by the City Manager or [his/her/their](#) designee.
- 3.3. If employees believe they are performing work outside the scope of the classification description covering their position, they should report the information, in writing, immediately to the City Manager. If deemed appropriate by the City Manager, a review of the employee's duties will be conducted, in consultation with the employee and the employee's department manager. The City Manager or [his/her/their](#) designee will notify the employee and department manager of the final determination. If appropriate, the employee's position may be reallocated to a different classification. The City Manager, in [his/her/their](#) discretion, may require the employee to successfully complete a promotional examination before being reallocated to a higher classification, and shall may require the employee to serve a probationary period in the new classification. Request of such a classification review shall be limited to once per calendar year.
- 3.4. Promotion without Examination. If the scope of duties which a regular employee is performing is determined to be in a higher classification, the City Manager or [his/her/their](#) designee may approve the employee's reclassification to the higher classification without examination; provided, however, that all of the following conditions are met:
- (1) The employee has been performing such higher duties for a period of not less than six (6) months prior to the date the position was reviewed;
 - (2) The higher duties have been assigned to the employee as part of the natural growth of the position within the department involved and there appears to be no evidence of evasion of the compensation plan relating to promotions;

- (3) The employee so promoted shall serve a probationary period in the higher classification for the time as specified in Section 5.2.2 of these Rules;
- (4) Said employee shall receive the salary assigned to the higher position from the date of probationary appointment to the higher position.

Section 4. RECRUITMENT, SELECTION AND APPOINTMENT FOR CLASSIFIED EMPLOYEES.

4.1. Recruitment.

- 4.1.1. The City may utilize any legitimate recruitment procedure for attracting qualified applicants. Recruitments may be “open” or may be limited to City employees, depending on the City’s needs. While it is the City’s policy to recruit the best qualified applicants for City positions, the City will make efforts to promote persons already employed by the City.
- 4.1.2. The City will give reasonable notice to all of its employees concerning the City’s employment opportunities. Announcements of promotional selection processes shall be supplied to City employees via email and/or posting on the City’s website. Department managers may call such announcements to the attention of employees in the department who might be interested.

4.2. Applications for Employment.

- 4.2.1. Each candidate for City employment shall complete those applications forms designated by the City. An applicant’s failure to provide complete and accurate information on all application materials shall be grounds for immediate disqualification in the application process, and may result in dismissal from employment. Once submitted to the City, applications shall not be returned.
- 4.2.2. The City provides employment-related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and Housing Act and the Americans with Disabilities Act. If an applicant desires a reasonable accommodation in order to participate in the application or selection process, the applicant should submit a written request to the Human Resources office
- 4.2.3. Applicants must submit applications on or before the filing deadline stated in the job announcement. However, the Human Resources Department may permit a letter, resume or other indication of interest to be accepted, pending timely receipt of a properly completed application.
- 4.2.4. When necessary to meet continued requirements for filling positions due to non-availability of applicants for a class or position, or due to a high turnover rate, the closing date for any selection process may be indefinite and applicants may be tested continuously in such manner and at such times and places as may be provided by the City. Applicants who fail to achieve a passing score in such an open continuous examination may not compete again until the lapse of ninety (90) days between the first and second testing and one hundred and twenty

(120) days between the second and third such testing, unless stipulated to the contrary on the job announcement. The City may exclude such applicants from further testing at its discretion.

4.2.5. As part of the pre-employment procedure, applicants may be required to supply references, and submit to a thorough background check by the City. In addition, all employees must be physically and mentally capable of performing the essential functions of their jobs with or without reasonable accommodation. The City shall have the right to conduct a complete and exhaustive background investigation on all applicants seeking employment in the City of Fort Bragg, including a criminal background check, where applicable, and a medical and/or psychological examination by City-retained medical practitioners, where deemed appropriate by the City. Any medical or psychological examination shall be conducted only after a conditional job offer has been made and, in accordance with applicable law.

4.2.6. If an applicant is disqualified from appointment to a position for failing to meet the medical and psychological standards for the job class, the applicant may file a written request to review the disqualification. Such request must be submitted to the Human Resources Office no later than five (5) working days after the postmarked date of the notification of disqualification. The applicant may submit medical evidence supporting his/her/their claim that he/she-they should not have been disqualified. The City Manager will review submitted documents and make a final determination. If the disqualification is upheld, the applicant has no further right to appeal.

4.3. **Disqualification or Rejection of Application.**

4.3.1. The City may reject or disqualify the application of any person for admission to a selection process, or decline to examine an applicant, or withhold a person from the eligible list for certification for any legitimate reason. An applicant who is not already employed by the City has no right to grieve or appeal any such actions by the City.

4.4. **Selection and Examination/Assessment Process.**

4.4.1. All hiring, including promotions, to positions in the classified service shall be made according to merit and fitness. The City may utilize any legitimate objective method to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, panel interviews assessment centers and oral interviews. The City may rate the candidates and list successful applicants on a "list of eligibles."

4.4.2. If candidates fail to qualify as eligibles for the class for which the selection process was instituted, those candidates may, with the approval of the Human Resources Office, be rated with reference to their eligibility for a lower position class for which a selection process is in progress, in case any of the candidates have indicated willingness to accept appointment to positions in any such lower class.

- 4.4.3. Candidates shall be given written notice of whether they passed or failed the examination/assessment process. Within five (5) working days of the postmarked date of this notice, candidates may inspect their examination papers and request to have ratings reviewed and corrected if the candidate believes any error in the testing has occurred. Such corrections so made will be evaluated by the Human Resources Office and appropriate action taken. To make an inspection of examinations papers, the candidate must schedule an appointment during regular business hours in the Human Resources Department. Candidates may be prohibited from inspecting examination papers if review of such materials is prohibited by the consulting agency that prepared the examination. Candidates cannot have access to the rating sheets of the individual raters, but may have access to a composite description of the rating sheets, upon request.
- 4.4.4. Candidates who fail the examination/assessment process may not reapply for the same position for 12 months from the date of initial application. Such candidates are not barred from applying for any other City position during the 12-month waiting period.
- 4.4.5. When deemed appropriate by the City Manager or [his/her/their](#) designee, vacancies within the classified service may be filled by promotion of employees. Such promotion shall be based on an internal competitive selection process, taking into consideration the employees' performance evaluations and past City service and other legitimate criteria as determined by the City Manager or [his/her/their](#) designee.
- 4.4.6. The City Manager or [his/her/their](#) designee may authorize a noncompetitive promotional selection process to establish eligibility for appointment to a higher class as a result of a reclassification or creation of a new classification.
- 4.5. **Eligible Lists.**
- 4.5.1. An eligible list shall be prepared indicating the names of those candidates qualifying for appointment, ranked based on the selection process. New names may be added to the list from time to time upon obtaining additional qualified candidates pursuant to the selection process. Names of eligibles accepting other than regular full-time appointment shall remain on the eligible list during the life of said list, unless removed for other reasons.
- 4.5.2. The eligible list shall be maintained for the duration specified by the Human Resources Office.
- 4.5.3. The Human Resources Office may remove or withhold from certification the name of an eligible on an eligible list for any legitimate reason. Whenever the name of an eligible on a list is removed or withheld from certification, the person whose name is removed shall be informed of the action and the reasons therefore, via letter forwarded to the last address of record.
- 4.5.4. When vacancies in the classified service occur, the department manager may submit a request for a list of eligibles to fill the vacancy. Upon receipt of this request, the Human Resources Office shall certify in writing the names of eligibles on the appropriate eligible list who are willing to accept the position for

which certification is requested. Eligibles may be required to submit to additional objective methods to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, panel interviews, assessment center and oral interviews.

- 4.5.5. Whenever an eligible list contains fewer than three (3) qualified candidates, the department manager may request that a new eligible list be prepared. The City may in its discretion cause a new list of eligibles to be generated in the event the City believes the circumstances warrant a new list. Such circumstances include but are not limited to: the age of the eligible list, an inadequate number of candidates, and changing job requirements.

4.6. **Appointment.**

- 4.6.1. The City Manager is the only City employee authorized to hire. All candidates recommended for appointment by a department head may be interviewed by the City Manager or [his/her/their](#) designee prior to appointment. This includes part-time, temporary, seasonal and promotional appointments.

- 4.6.2. The City Manager may appoint any qualified applicant from the list of eligibles to a regular position in the classification for which the applicant is qualified. Positions may be full-time or part-time, depending on the needs of the City. In the absence of a list of eligibles, the City Manager may make temporary appointments pending development of a new list.

4.7. **Oath of Office.**

Every employee of the City, before entering upon [his/her/their](#) duties shall take the constitutional oath, with said oath to be filed with the Human Resources Department.

4.8 **Police Officer Recruitment Bonus.**

Any member of the Police Department (PD) staff, excluding the Police Chief, is eligible to receive a Recruitment Bonus, if [he or she/they](#) successfully recruits an applicant who is offered and accepts employment with the City of Fort Bragg, as a Police Officer. The recruiting PD staff member seeking the bonus must submit an acknowledgment of recruitment efforts and a letter of recommendation for the Police Officer applicant on or before the last day the position is open or if the recruitment is continuous, prior to any contact by Human Resource or PD staff for an interview. If more than one PD staff member submits a timely acknowledgement-recommendation letter for a successful recruit, the employees will split the bonus amount equally. PD staff who attend job fairs or other recruitment events representing the City of Fort Bragg are not eligible for the recruitment bonus for any applicant who attended the same event.

The bonus will be paid in two payments. The first payment of \$2,000 will be paid to the PD employee after the successful recruit has signed the final offer letter. A second payment of \$2,000 will be paid upon successful completion of the Field Training program by the recruit. Both payments will be subject to payroll withholding taxes, including FICA, Medicare, and State and Federal Income Tax.

This bonus program may be rescinded by City Administration, if and when it is determined unnecessary based on market conditions for hiring police officers.

4.9 **Police Officer Hiring Bonus**

Candidates for Police Officer are eligible for a hiring bonus upon signing a final offer of employment from the City. Successful Candidates will receive the bonus in their first paycheck, subject to repayment of 50% or half the total bonus if the new hire does not successfully complete the 18-month probationary period. For lateral candidates, those with experience and a Basic POST certificate, the bonus is \$6,000. For recruit candidates, those without experience and/or no POST certificate, the bonus is \$5,000. The bonus will be subject payroll withholding taxes, including FICA, Medicare, and State and Federal Income Tax.

This bonus program may be rescinded by City Administration, if and when it is determined unnecessary based on market conditions for hiring police officers.

Section 5. PROBATIONARY PERIOD

5.1. **Purpose.**

The probationary period shall be an integral part of the examination process and shall be utilized as an opportunity to observe the employee's work, to provide special training, to assist the employee in adjusting to the new position, and reject any employee whose work performance, adaptation or personal conduct fails to meet required standards. A probationary employee shall have no rights of tenure and may be terminated without cause, without notice, and without any right of appeal. Probationary periods do not apply to "at-will" employment, which can be terminated at any time with or without cause.

5.2. **Duration.**

5.2.1. Initial Probationary Period. All regular employee initial appointments to regular full-time positions in the classified service shall be subject to a 12-month probationary period. All Police Department employee (sworn and nonsworn) initial appointments to regular full-time positions in the classified service shall be subject to an 18-month probationary period.

5.2.2. Promotional Probationary Period. All regular employee promotional appointments a new classification of employment shall be subject to a six-month probationary period. All Police Department employee (sworn and nonsworn) promotional appointments a new classification of employment shall be subject to a 12-month probationary period.

5.3. **Extension.**

An employee's probationary period may be extended for a period of up to six (6) months by the department manager upon approval by the Human Resources Office to allow further observation of an employee's work performance or as otherwise appropriate. Upon such extension, the employee shall be notified in writing. Periods of time during unpaid absences shall automatically extend the

probationary period by the number of days of the absence. Further, periods of time on paid leave exceeding ten (10) working days shall automatically extend the probationary period by the number of days that the employee is on leave.

5.4. **Promotional Probationary Period.**

When a regular employee is promoted, a promotional probationary period shall begin on the effective date of the promotion. During the probationary period of a promoted employee, the department manager may recommend that the employee be demoted to the former position, range and salary if the employee's performance and/or conduct do not meet the standards set for the position to which the employee was promoted. Such recommendation shall be made in writing and shall be approved by the Human Resources Office. An employee on promotional probation shall have no rights of tenure in the promotional position and may be returned to [his/her/their](#) former position without cause, without notice and without any right of appeal.

5.5. **Probationary Period after Demotion.**

If an employee has not attained regular status in the class to which demoted, the employee shall then be required to complete the normal probationary period, less any service previously accrued in such lower class.

5.6. **Action at End of Probationary Period.**

Prior to the end of the employee's probationary period the department manager shall take any one of the following recommendations to the City Manager:

- (1) Affirm in writing that the services and conduct of the employee have been found to be satisfactory and recommend that the employee be given regular status.
- (2) Recommend termination of the services of the employee serving an initial probationary period.
- (3) Recommend demotion and/or transfer of a promoted employee. Demotion shall be made to the employee's former class and pay step.
- (4) Recommend an extension of the employee's probationary period, as provided herein.

Section 6. NON-CLASSIFIED APPOINTMENTS

6.1. The City may make appointments which are provisional, seasonal, temporary, or emergency or on a transitional basis whenever it has a legitimate need to do so. Such appointments shall not attain regular status. Such positions shall be deemed "at will."

6.2. At will positions are not subject to the job protections described in these Rules, including process and rules for recruitment, discipline, termination, probationary periods, testing and appointment from eligible lists. The employment of at will

personnel may be terminated at any time, for any legal reasons, and without any requirement of demonstrating “good cause.” At will employees have no right to appeal any discipline or termination.

Section 7. MANAGEMENT AND CONFIDENTIAL APPOINTMENTS

- 7.1. Appointments to management and confidential positions reporting directly to the City Council or City Manager are not subject to the Rules regarding recruitment, selection, testing and eligible lists.
- 7.2. Confidential positions are those positions which are privy to information that affects employee relations.
- 7.3. Management positions may be designated as “at will” (consistent with the Municipal Code).

Section 8. TRANSFERS, REASSIGNMENTS AND REALLOCATIONS

- 8.1. Whenever it is found necessary to transfer or reassign an employee from a position in one class to a position in another class, such transfer or reassignment may be made provided both positions are of the same rank, there is no increase or decrease in compensation, and the employee has demonstrated that ~~he or she~~they possesses the skills and aptitudes required for the position to which ~~he or she~~they is-are to be reassigned. Such transfers or reassignments may be initiated by an employee’s request, department manager’s request or by City management. Such transfer or reassignment may be made only when approved or recommended by both department managers involved (if more than one is involved), reviewed by the Human Resources Office and approved by the City Manager. The employee requesting a transfer must meet the minimum qualifications for the position.
- 8.2. In the event of a reallocation of a part-time position to a full-time position, the City Manager may reclassify the incumbent part-time employee to full-time or utilize the selection process to fill the reallocated position.
- 8.3. Depending on the circumstances, transferring an employee to another vacant position may be a reasonable accommodation, as defined by applicable laws.

Section 9. REINSTATEMENT AFTER RESIGNATION

- 9.1. An employee who has resigned in good standing from City employment may be eligible for reinstatement to a former position or a position of the same class in another department without reexamination. To be eligible for reinstatement, the employee must make a request for reinstatement. The City, in its discretion, may refuse a request for reinstatement for any reason. Such reinstatement and the conditions of reinstatement must be approved by the City Manager.
- 9.2. Probationary Period. A reinstated employee shall be required to complete a full probationary period after reinstatement.

Section 10. PERFORMANCE EVALUATION PROGRAM

- 10.1. The City may require employees to undergo performance evaluations every 12 months after the probationary evaluation, throughout their employment. This policy is to be used as a guideline, and failure to receive performance evaluations at 12-month intervals does not create a right of appeal. The City shall prescribe appropriate forms for completing performance evaluations. The City's performance evaluation program includes an opportunity for employees to discuss their concerns with department managers, upon request.
- 10.2. Where appropriate, performance evaluations may include an evaluation of the employees which addresses the criteria for merit salary advancements as set forth in Section 12.4.1.
- 10.3. Probationary Evaluation. Upon completion of six months' probation (whether initial or promotional) the department manager shall report in writing an evaluation of the employee's work performance and conduct. The probationary employee shall be advised by the appropriate supervisor of that evaluation.
- 10.4. Performance evaluations shall be maintained in employee personnel files. Employees may submit rebuttals to their performance evaluations, and the rebuttals shall also be maintained in the personnel files with the performance evaluations.

Section 11. FITNESS FOR DUTY EVALUATIONS

- 11.1. The City, at its expense, may require an employee to undergo a fitness for duty evaluation for any reasonable cause.

Section 12. COMPENSATION

- 12.1. The City has prepared a Merit Salary and Compensation Plan, approved by the City Council. In accordance with the City's Municipal Code, the City Manager administers and maintains this Plan and may request appropriate revisions to the Plan as often as necessary to assure that the Plan provides uniform and equitable compensation rates and policies.
- 12.2. The official wage rates for all employees shall be calculated on the basis of the biweekly rates applicable and comparable to the salary range established for each class in the Merit Salary and Compensation Plan.
- 12.3. A newly hired employee shall be compensated at the base or minimum rate on the salary range to which the employee's class is allocated. If exceptional recruitment difficulties are encountered, or exceptional qualifications of a candidate for employment indicate that a higher hiring rate would be in the City's best interest, appointment at a higher rate in the salary range may be authorized by the City Manager.
- 12.4. Merit Salary Advancements. Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class, in providing employees incentive, in rewarding

employees for meritorious service, and in meeting emergency conditions requiring pay adjustments.

12.4.1. Merit salary advancements shall be made in accordance with the provisions of this section and in accordance with the following criteria:

- (1) Unsatisfactory Performance means that on an overall basis, the employee has, during the review period, performed in a manner significantly below the level to be expected considering the employee's previous experience, tenure in the class and the employee's duties and responsibilities, and that it appears to be reasonably certain that the employee is either unwilling or unable to perform satisfactorily. Employee requires excessive supervisory guidance and direction.
- (2) Needs Improvement means that over significant periods of time during the review period, the employee has not performed up to the level to be expected, considering the employee's tenure in the class and job duties and responsibilities and that the employee has failed to meet certain job requirements standards. The employee's potential for satisfactory performance appears to be good.
- (3) Satisfactory Performance means that the employee's overall performance during the review period has been at the level expected considering the employee's previous experience, tenure in the class and job duties and responsibilities. The employee is generally meeting position standards in a steady and reliable manner.
- (4) Above Satisfactory Performance means that the employees overall performance, during the review period, consistently met all minimum standards and often exceeded expected levels of performance considering the employee's previous experience, tenure in the class and job duties and responsibilities.
- (5) Exceptional Performance means that an employee's overall performance during the review period has consistently exceeded expected levels of performance considering the employee's previous experience, tenure in the class, and job duties and responsibilities.

12.4.2. Salary advancements within an established range shall not be automatic, but shall be based upon satisfactory job performance as determined, and supported in writing, by the employee's supervisor, the recommendation of the department manager, review by the Human Resources Office and approval of the City Manager.

12.4.3. Merit salary advancements shall occur in accordance with the following procedures:

- (1) Initial Probationary Employees. Probationary (both initial and promotional) employees shall be eligible for merit salary advancement upon the completion of six (6) months of service within that class. Such employees shall be eligible for subsequent merit salary advancements

upon the completion of subsequent twelve 12 month service intervals, except as otherwise provided in these Rules.

- (2) Single Step Increments. Merit salary advancements shall be granted in single step increments within the salary range for a particular class based upon performance. An employee may receive a merit salary adjustment in excess of one step, a maximum of one (1) time during such employee's tenure in a given class in recognition of outstanding service.
- (3) Reduction Increments. An employee who is being paid at a salary rate higher than the base rate established for the class may be reduced in increments of two and one-half percent (2-1/2%) upon the recommendation of the department manager and approval of the City Manager. Such action shall cause the employee to receive a new merit review date. The new date shall be based upon the effective date of his reduction. Such salary reduction shall be consistent with the Rules pertaining to disciplinary actions contained herein.

12.5. These Rules do not preclude the creation of separate management pay plans which, if adopted by the City Council, must be administered as separate compensation plans in accordance with the procedures adopted for such plan(s) by the City Council.

12.6. Salary on Promotion. An employee who is promoted to a position in a class allocated to a higher salary range than the class to which the employee was formerly assigned shall receive the nearest higher monthly salary in the higher salary range. The employee shall be given a new merit review date for future merit salary advancement purposes. The new date shall be based upon the effective date of the promotion.

12.7. Salary on Transfer. An employee who is transferred from one position to another in the same class or to another position in a class having the same salary range shall be compensated at the same step in the salary range as previously received. The employee's merit review and anniversary date shall not change.

12.8. Salary on Suspension without Pay. Any employee who has been suspended for disciplinary reasons shall not receive pay for the duration of the suspension; nor shall any benefits which are calculated based on hours worked be credited to the employee, including, but not limited to, sick leave, vacation, retirement, or disability insurance, during the period of suspension. Should such suspension be later modified or revoked, the employee shall be entitled to receive payment to compensate for loss of income and benefits during the period of suspension.

12.9. Salary on Demotion.

12.9.1. Involuntary. An employee who is involuntarily demoted shall receive a salary adjustment as determined by the Human Resources Office. The employee shall be assigned a new merit review date based upon the effective date of the demotion.

- 12.9.2. Voluntary. An employee who is demoted upon personal request shall receive a salary reduction to the nearest lower monthly salary in the salary range for the class to which demoted if the maximum salary for the class to which demoted is less than the employee's current salary rate; or shall continue to earn the current rate of pay if the current rate is the same or less than the maximum rate of the class to which demoted. The employee shall retain the merit review date applicable to the higher position.
- 12.10. Salary on Position Reclassification. When a regular or probationary employee's position is reclassified and the employee is appointed to the new position, the salary rate shall be determined as follows:
- 12.10.1. Higher Range. If the position is reclassified to a class with a higher salary range than the previous class, the salary and merit review date shall be set in the same manner as if the employee had been promoted.
- 12.10.2. Equal or Lower Range. If the salary of the employee is the same or less than the maximum of the new class, the salary and merit increase eligibility date of the employee shall not change. If the salary of the employee is more than the maximum of the new class, the salary of the employee shall not change, and the compensation rate shall be frozen until such time as the maximum rate for the classification exceeds the salary of the employee.
- 12.11. Salary for Portion of Pay Period. A non-exempt employee serving on a full-time basis who works less than a full pay period, except when on authorized leave of absence with pay, shall receive as compensation for such period an amount equal to the number of hours worked times the employee's hourly rate. For exempt employees absent from work for a period of less than one day duration, the amount of compensation paid to said employee shall not be subject to a deduction even though the absence cannot be covered or paid through accumulated vacation, sick leave or compensatory time off (unless it is determined in accordance with law that such deduction will not result in the loss of exempt status of the employee).
- 12.12. Adjustment Effective Date. Salary adjustments specified above shall be given at the beginning of the payroll period immediately following the employee's merit review date.
- 12.13. Travel and Other Business Expenses. Prescribed rates of pay do not include allowances for official travel or other expenses incurred on City business, or allowances made to employees for the official use of personally owned automotive equipment. Employees shall be reimbursed for such expenses as approved by the City in such amounts as designated by City Council policy regarding reimbursement of such expenses.
- 12.14. Pay for Part-Time Work. Employees who work on less than a full-time basis shall be paid on an hourly basis at an hourly rate prescribed in the Compensation Plan.
- 12.15. Temporary Assignment. If an employee is temporarily required to perform the duties of a higher-paid position for a period in excess of four (4) work days, said

employee shall receive additional compensation equal to five percent (5%) of [his/her/their](#) current salary or the salary of the employee so replaced, whichever is less, for the entire period of such assignment. The Human Resources Office shall be notified in writing by the department head prior to each such temporary assignment. The Human Resources Office will prepare a Personnel Action Form for approval by the Department Head and City Manager.

Section 13. WAGE AND HOUR BENEFITS / OVERTIME

- 13.1. The City is committed to observing all of its obligations under the Fair Labor Standards Act (“FLSA”). These rules, as well as all applicable provisions in the Memoranda of Understanding and all City pay practices, shall comport with, and shall be interpreted to ensure the minimum requirements of the FLSA.
- 13.2. The City designates as “FLSA Exempt” those employees who work in professional, executive or administrative capacities and who are therefore not entitled to overtime compensation under the FLSA. Except when necessary to address an emergency or special circumstances, employees who are entitled to overtime compensation under the law may not work outside of regularly scheduled working hours, or during unpaid meal periods, without the prior authorization of a supervisor. In any event, employees shall report overtime work as soon as possible after the work is performed. Violations of this Rule may result in discipline, up to and including termination of employment.

Section 14. ATTENDANCE / MEAL PERIODS / REST PERIODS

- 14.1. Workweek.
 - 14.1.1. The basic workweek for full time employees shall be forty (40) hours per week, in a seven-day period. The workweek commences at 12:01 a.m. every Sunday a.m., and is a regularly recurring seven (7) day period ending at 12 Midnight every Saturday p.m.
 - 14.1.2. The City shall establish and may modify regular working hours for its employees. The City may require employees to work overtime and to perform standby responsibilities. Employees shall be responsible for reporting to work on time, and observing the work schedule established for their department.
- 14.2. Meal Periods. Unless otherwise established for a department or particular employees, employees shall receive a thirty (30) to sixty (60) minute meal period that shall not be compensated. During the meal period, the employee shall be completely relieved of duties. If the employee is authorized in advance and performs work during the meal period, the employee shall be compensated for such time. Meal periods may not be used to shorten the workday unless the employee obtains express prior approval from [his/her/their](#) supervisor.
- 14.3. Rest Periods. Unless otherwise established for a department or particular employees, employees shall have a fifteen (15) minute rest period for each half of their shift, as scheduled by the department director. The rest period may be interrupted or cancelled if necessary to complete work and shall be compensated

time. The rest periods may not be combined or used to shorten the workday – e.g., by taking a break at the beginning or end of the workday.

Section 15. LEAVES

15.1. General Provisions

- 15.1.1. Employees are expected to be at work at scheduled times. To ensure public accountability and the integrity of public service, all employees are expected to account for their absences from work. Unless otherwise specified, leave time is chargeable in increments of one-fourth (.25) hours.
- 15.1.2. Leaves shall be subject to approval by the Department Head (or designee), and scheduled in advance whenever possible, with due regard for the City's service needs.
- 15.1.3. The City may employ any reasonable measure to ensure employees are properly accounting for leaves, including requiring reasonable proof that the basis for the leave is legitimate. Employees may be required to submit a medical certification of sickness supporting a request for sick leave. The City may require a fitness for duty certification from any employee returning from medical leave. Abuse of leave privileges, including working for a secondary employer while on sick leave, may subject an employee to disciplinary action, up to and including termination of employment.
- 15.1.4. Leave benefits are available only to regular, or probationary, employees, but are not available to seasonal, temporary or emergency employees. Regular part-time employees working more than 21 hours per week on average are eligible for the same leave benefits as regular full-time employees based on a proration of average hours worked (in accordance with Section 22).
- 15.1.5. Employees eligible for leave shall accumulate leave from the date of the employee's initial appointment to a full-time, regular or probationary position.

15.2. Available Leave Categories

The City provides the following leave categories: (a) sick leave with pay; (b) sick leave without pay; (c) jury duty leave; (d) administrative leave with pay; (e) personal leave without pay; (f) bereavement leave; (g) vacation leave; (h) holiday; (i) compensatory time off; (j) family medical leave; (k) pregnancy disability leave/parental leave; (l) service-connected injury or illness leave;(m) military leave; and (n) school activity leave.

- 15.2.1. Sick Leave with pay: Full time employees generally accrue sick leave at the rate of eight (8) hours monthly/ninety-six (96) hours annually. An employee shall begin to accrue sick leave on the date of commencement of employment, and shall be eligible to use leave ninety (90) days after the commencement of employment.
- 15.2.2. Sick leave may only be used in cases of actual sickness or disability, unless otherwise provided below. Employees unable to report to work must notify their

immediate supervisors not later than one hour before work is scheduled to begin, if possible, or by whatever method is established by the supervisor.

- 15.2.3. An employee may use a maximum of forty-eight (48) hours of sick leave per calendar year to attend to an illness of a child, parent, sibling, spouse or domestic partner, grandparent or grandchild of the employee. An employee who is a victim of domestic violence, sexual assault, or stalking may use a maximum of twenty-four (24) hours of sick leave per calendar year to tend to any related issues, including leave and court appearances.
- 15.2.3.1. Integration of Benefits. If an employee is on sick leave and is receiving SDI payments, the employee may continue to receive full pay from the City by requesting that the maximum weekly disability benefits be supplemented by the use of sick leave benefits. Under this option, the employee would tender [his/her/their](#) SDI payments to the City and the City would then continue to issue paychecks and deduct the value difference between the SDI payments and the employee's regular pay from the employee's sick leave allotment.
- 15.2.3.2. If an employee is determined to be eligible for disability retirement, the employee shall not be permitted to exhaust paid sick leave balances prior to retiring.
- 15.2.3.3. Sick Leave with pay for employees other than full-time employees: Employees other than full-time employees (e.g. part-time, seasonal, and/ or temporary workers) shall accrue and be able to use sick leave consistent with the requirements of the Healthy Families Act of 2014 (California Government Code Sections 245-249.) These employees shall begin to accrue sick leave on the date of commencement of employment, and shall accrue one hour for every thirty (30) hours worked. Employees shall be eligible to use paid sick leave no sooner than ninety (90) days after commencement of employment. Employees may use a maximum of three (3) sick leave days in one calendar year. These employees shall be able to use paid sick leave for the same reasons for which full time employees shall be able to use paid sick leave.
- 15.2.3.4. Employees may carry over up to six (6) days of sick leave to the following calendar year. If an employee is subject to a memorandum of understanding (MOU) provision or resolution provision that is more generous than this provision, the MOU or resolution will govern.
- 15.2.3.5. Sick leave shall not be paid out upon an employee's separation from the City. If an employee is subject to a MOU or resolution provision that is more generous than this provision, the MOU or resolution will govern.
- 15.2.4. Sick Leave without Pay. In the event paid balances are exhausted, and at the employee's request and the City's discretion, employees may be placed on sick leave without pay. Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay (unless the leave qualifies for Family and Medical Leave as set forth in these Rules). When the employee seeks to return to work from such leave, the City may require that the employee provide medical certification of [his/her/their](#) fitness to perform [his/her/their](#) duties. The City may require the employee to undergo a

fitness for duty examination before returning to work. If the employee is not fit to perform his/her/their duties, the City may consider placing the employee in another position, if available or separate the employee in accordance with applicable law.

- 15.2.5. Jury Duty. Employees summoned by state or federal court to jury duty shall be entitled to full pay during the period of jury service. Employees must keep their supervisors informed of their jury service schedule, and shall provide proof of jury service to the City upon request. Employees may retain such payment as may be allowed for travel, lodging and meal expenses. The employee is not required to submit to the City compensation received from the court for jury duty.
- 15.2.6. Administrative Leave with Pay. The City in its discretion may place an employee on administrative leave with pay. Employees on such leave shall be subject to the City's instructions during the employee's normal working hours.
- 15.2.7. Personal Leave without Pay. The City in its discretion may permit employees to be on personal leave without pay for a maximum of ninety (90) working days. Permission for such leave must be obtained in writing. Employees in such status do not accrue vacation or other benefits, or receive service credit and may be required to pay for all fringe benefits, such as health plan premiums, during the period of their leave without pay. Employees shall be entitled to take personal leave without pay when required by applicable law.
- 15.2.8. Bereavement Leave. The City shall grant leaves of absence with pay up to three (3) days when a member of the employee's or employee's spouse or domestic partner's immediate family dies. "Immediate family" means parent, current spouse or domestic partner, child, stepchild, grandparent, grandchild, brother, sister, step-siblings, current mother-in-law or current father-in-law, current son-in-law, daughter-in-law, sister-in-law or brother-in-law. The City, in its discretion, may require some proof that a death in the family has occurred. Bereavement leave is available only within seven (7) days of the death or funeral, unless the employee has made arrangements with the City regarding its use at a later date. In the event of unusual travel requirements, the City Manager may approve a total of five (5) total working days leave.
- 15.2.9. Vacation Leave.
 - 15.2.9.1. Earned and accrued vacation leave may be taken as it accrues.
 - 15.2.9.2. Employees accrue vacation at the following rates:
 - (1) 3.39 hours per pay period for less than three consecutive years of service i.e. 0-36 months;
 - (2) 4.62 hours per pay period for three or more consecutive years of service and less than 10 years of service i.e. 37-120 months;
 - (3) 6.16 hours per pay period for 10 or more consecutive years of service i.e. more than 120 months.

- 15.2.9.3. Scheduling of vacations must be made in consideration of departmental workload.
- 15.2.9.4. Employees who separate from service shall be cashed out of their accrued but unused vacation at the employee's hourly rate at the time of separation from City service.
- 15.2.10. Holidays.
- 15.2.10.1. The City observes the following legal holidays, which are available to those employed at least thirty (30) days prior to the date of the holiday:
- (1) New Year's Day
 - (2) Martin Luther King Jr. Birthday
 - (3) President's Day
 - (4) Memorial Day
 - (5) Independence Day
 - (6) Labor Day
 - (7) Indigenous Peoples' Day
 - (8) Veteran's Day
 - (9) Thanksgiving Day
 - (10) Day After Thanksgiving
 - (11) Day before Christmas
 - (12) Christmas
- 15.2.10.2. Legal holidays falling on a Saturday are observed on Friday. Legal holidays falling on a Sunday are observed on Monday. To qualify for holiday pay, employees must have completed thirty (30) days of service, be on paid status on the regularly scheduled workday before and after the legal holiday, unless the absence is with the written permission of the City, or due to illness. Holidays occurring during an employee's vacation will be treated as a paid holiday. In recognition of differing work scheduled for safety and non-safety shift work employees, holidays may be specified to occur on the actual legal date.
- 15.2.10.3. Employees working on a holiday with City approval will be entitled to an "in lieu" holiday that may be taken on another date, within the fiscal year, subject to supervisory approval. In lieu holidays may not be carried over to another fiscal year, and are lost unless used prior to the end of the fiscal year.
- 15.2.10.4. Management employees who are required to work an established holiday may take equivalent time off on a subsequent regular work day with the approval of the department manager or City Manager.
- 15.2.11. Compensatory Time Off. Represented employees with agreements between the City and labor associations may be entitled to compensatory time off (CTO). Employees should consult their MOU, or contact the Human Resources Office regarding CTO.
- 15.2.12. Family and Medical Leave. The City will provide family and medical care leave for eligible employees in accordance with the requirements of the Family and

Medical Leave Act ("FMLA"), and the California Family Rights Act ("CFRA"). The City's policy on Family and Medical Leave is set forth in Section 16.

- 15.2.13. Pregnancy Disability Leave/Parental Leave.
- 15.2.13.1. Pregnancy Disability Leave. The City shall provide pregnancy disability leave to eligible employees in accordance with applicable law. An employee who is disabled by pregnancy may take a maximum of four months off work for pregnancy disability, childbirth or related medical conditions. The employee also may be eligible for intermittent leave or a reduced work schedule during her pregnancy if medically necessary. Employees must notify their immediate supervisor of any medical restrictions caused by the pregnancy. The City may require that the employee provide a medical certification indicating there is a medical need for the employee to take the time off or receive accommodation while continuing to work. Pregnancy disability leave qualifies for leave under the FMLA but not under CFRA. During pregnancy disability leave, employees are entitled to FMLA benefits in accordance with the Family and Medical Leave policy.
- 15.2.13.2. Parental Leave. After the employee's pregnancy disability ends, the employee is eligible for CFRA leave, in accordance with the Family and Medical Care Leave policy, to care for a newborn. The City may require that the employee provide a medical certification indicating when the pregnancy disability ended. In addition, employees may request leave without pay to care for the newborn. Such requests may be granted within the discretion of the Human Resources Office in consultation with the employee and department manager.
- 15.2.14. Service-Connected Injury or Illness Leave. Employees suffering injuries in the course and scope of their work may be entitled to workers' compensation benefits in accordance with state law. Employees having questions should contact the Human Resources Office.
- 15.2.14.1. Integration of Benefits. If an employee is on leave and is receiving workers' compensation payments, the employee may continue to receive full pay from the City by requesting that the maximum weekly disability benefits be supplemented by the use of sick leave benefits. Under this option, the employee would tender [his/her/their](#) workers' compensation payments to the City and the City would then continue to issue paychecks and deduct the value difference between the workers' compensation payments and the employee's regular pay from the employee's sick leave allotment.
- 15.2.14.2. Fitness for Duty. When an employee seeks to return to work after being on injury or illness leave, the employee must provide medical certification that ~~he/she/they~~ [are](#) physically able to perform the duties of [his/her/their](#) position. The City may require the employee to undergo a fitness for duty examination before returning to work. If the employee is not fit to perform [his/her/their](#) duties, the City may consider placing the employee in another position, seek the employee's retirement or separate the employee in accordance with applicable law.

- 15.2.14.3. **Work Week.** When on service-connected injury or illness leave, the employee's work week shall automatically become Monday through Friday, 8:00 a.m. to 5:00 p.m.
- 15.2.15. **Military Leave.** Military leave shall be granted in accordance with applicable state and federal law. In accordance with Military & Veterans Code section 395.02, employees may be eligible to receive their salary for the first 30 days of military leave. The City may adopt a policy providing pay beyond this 30-day limit. Employees on military leave shall accrue sick leave, vacation leave, holiday privileges and seniority for the first 180 days of military duty, in accordance with state law. After the first 180 days of military duty, employees shall not continue to accrue such benefits unless otherwise expressly provided by City policy.
- 15.2.16. **School Activity Leave.** Employees who are parents, guardians or grandparents of a child in kindergarten through grade 12 may take up to forty (40) hours per year, not exceeding eight (8) hours in a month, to participate in the child's school activities. The employee must use accrued vacation, floating holiday or compensatory time for this leave. Prior notice of the need for this leave must be given to the immediate supervisor.
- 15.2.17. **Voting Time.** Time off with pay to vote in any general, direct primary or presidential primary election shall be granted as provided by state law. Employees must give prior notice to their immediate supervisors of their need to take such time off.
- 15.2.18. **Other Authorized Leaves With Pay.** The City Manager or department manager may authorize employees to take leave with pay for training, conferences or meetings connected with City business. Authorized members of employee organizations may take leave with pay to meet and confer or consult with City representatives, and perform necessary representational functions at times prearranged and approved by their department managers.
- 15.2.19. **Unauthorized Leave of Absence.** Any unauthorized leave of absence by an employee from duty shall be grounds for disciplinary action and/or discharge. When an unauthorized leave of absence is caused by extenuating circumstances, such absence may be approved by the City Manager by a subsequent grant of leave, with or without pay. The subsequent approval is within the discretion of the City Manager. The employee must submit a written request for the retroactive grant of leave and include an adequate explanation of the reason for the leave.

15.3. **Accommodation For Employees With Disabilities**

The City provides employment related reasonable accommodations to qualified individuals with disabilities within the meaning of the California Fair Employment and housing Act and the Americans with Disabilities Act.

- 15.3.1 If an employee believes ~~he or she~~they ~~has~~have a disability, the employee may request a reasonable accommodation for that disability. Such requests should

be submitted to the employee's department manager or Human Resources Office.

15.3.2 After receipt of reasonable documentation of disability and/or fitness for duty, the City will arrange for a discussion, in person or via telephone, with the applicant or employee, and ~~his or her~~their representative, if any. The purpose of the discussion is to work in good faith to fully consider all potential reasonable accommodations.

15.3.3 The City determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of accommodations(s) to provide. The City will not provide accommodations(s) that would pose an undue hardship upon City finances or operations, or that would endanger the health or safety of the employee or others. The City will inform the employee of its decision as to reasonable accommodations(s) in writing.

Section 16. FAMILY AND MEDICAL LEAVE

16.1. Purpose.

The City will provide unpaid family and medical care leave for eligible employees in accordance with the requirements of state and federal law. Rights and obligations which are not specifically set forth below are set forth in the regulations implementing the Family and Medical Leave Act ("FMLA") and the California Family Rights Act ("CFRA"). Unless otherwise provided in this article, "Leave" under this article shall mean leave pursuant to FMLA and CFRA.

16.2. Eligibility.

In order to qualify for Family and Medical Leave, the employee must meet the following conditions:

- (1) The employee must have been employed by the City for twelve (12) months.
- (2) The employee must have actually worked at least 1,250 hours during the twelve (12) month period immediately before the date when the leave begins. Any time spent on leave during the 12 month period shall not count towards the 1,250 hours.

16.3. Type of Leave Covered.

Family and Medical Leave is permitted for the following reasons:

- (1) The birth of a child or to care for a newborn, or for placement of a child with an employee in connection with the adoption or foster care of a child.
- (2) Leave to care for a spouse, domestic partner, child or parent who has a serious health condition, or

- (3) Leave due to a serious health condition that makes the employee unable to perform the functions of the employee's position.
- (4) Leave for a "qualifying exigency" may be taken arising out of the fact that an employee's spouse, son, daughter, or parent is on covered active duty or call to active duty status; or
- (5) Leave to care for a spouse, son, daughter, parent, or "next of kin" who is a covered service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces (this leave can run up to 26 weeks of unpaid leave during a single 12-month period) (under the FMLA only, not the CFRA).

16.4. **Definitions for purposes of this policy:**

- (1) "12-Month Period" means a rolling twelve (12)-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- (2) Single means a 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.
- (3) The definition of "Child" as it applies to the applicable leave regulation are outlined below.
 - a. FMLA defines a child as under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological or adopted or foster or step-child.
 - b. FMLA provides a child is "incapable of self-care" if ~~he/she~~ they requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living-such as, caring for grooming and hygiene and bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, and/or using telephones and directories.
 - c. CFRA defines a child as an employee's child for whom the employee has actual day-to-day responsibility for care and includes a biological or adopted or foster or stepchild. CFRA does not differentiate between over/age 18 or in terms of being capable/incapable of self-care because of mental or self-care. The child does not need to reside in the same household as the employee.
- (4) "Grandchild" means a child of the employee's child in CFRA.

- (5) “Parent” means a biological parent of an employee or an individual who stood in *loco parentis* (in place of the parent) to an employee when the employee was a child. This term does not include parents-in-law.
- (6) “Grandparent” means a parent of the employee’s parent in CFRA.
- (7) “Sibling” means a person related to another person by blood, adoption, or affinity through a common legal or biological parent in CFRA.
- (8) “Spouse” means a husband or wife as defined or recognized under California State law for purposes of marriage.
- (9) “Domestic partner” means domestic partner as defined under California Family Code section 297 and 299.2, shall have the same meaning as “Spouse” for purposes of CFRA leave.
- (10) “Serious health condition” means an illness, injury or impairment, or physical or mental condition that involves:
 - a. Inpatient care (i.e., overnight stay) in the hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved or recovery therefrom); or
 - b. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one of or more of the following:
 - i. A period of incapacity (i.e., inability to work, or perform other regular daily activities due to serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition), that also involves:
 - 1. Treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by, a health care provider. The first in-person treatment visit must take place within seven days of the first day of incapacity; or
 - 2. Treatment by a health care provider on at least one occasion which must take place within seven days of the first day of incapacity and results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regime of continuing treatment.

- c. Any period of incapacity due to pregnancy or for prenatal care. This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled due to pregnancy is entitled to pregnancy disability leave up to a maximum of four months. After the birth of the baby, the employee is entitled to additional CFRA bonding leave up to a maximum of twelve (12) weeks. However, regardless of the length of time an employee takes leave for pregnancy disability and newborn care, under the FMLA and CFRA, the City's obligation to pay for health insurance, as explained below, is limited to a maximum of twelve (12) weeks over a twelve-(12) month period.)
 - d. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - i. Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse or physician assistant under direct supervision of a health care provider;
 - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - iii. May cause episodic rather than continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
 - e. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider.
 - f. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.
- (11) "Health Care Provider" means a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California; an individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon who directly treats or supervises treatment of a serious health condition; podiatrist, dentist, clinical psychologists, optometrists, and chiropractors, (limited to treatment consisting of manual manipulation of the spine to correct a subluxation. as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law; nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law; Christian Science practitioners listed with the First Church of Christ, Scientist in Boston and Massachusetts; and any health care provider from whom an employer or group health plan's benefits manager will accept

certification of the existence of a serious health condition to substantiate a claim of benefits

- (12) “Covered active duty” means: (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with Armed Forces to a foreign country, or (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of a member of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.
- (13) “Covered Service member” means (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- (14) “Outpatient Status” means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- (15) “Next of Kin of a Covered Service member” means the nearest blood relative other than the covered service member’s spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as ~~his or her~~their nearest blood relative for purposes of military caregiver leave under the FMLA.
- (16) “Serious Injury or Illness” (1) in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

16.5. **Amount of Leave**

16.5.1. Eligible employees are entitled to a total of twelve (12) workweeks (or 26 weeks to care for a covered service member) of leave during a twelve (12) month period. Where FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health conditions, the leave will be designated as military caregiver leave first. Twelve (12) weeks means the equivalent of twelve (12) of the employee's normally scheduled work weeks. For eligible employees who work more or less than five (5) days a week or who work alternative work schedules, the number of working days that constitute twelve (12) weeks is calculated on a pro rata or proportional basis.

16.5.2. Minimum Duration of Leave. If leave is requested for the birth, adoption or foster care placement of a child of the employee, basic leave must be concluded within the first year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, sibling, parent, spouse, domestic partner, grandchild, grandparent or the employee [him/herself](#) with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

16.5.3. Spouses Both Employed by the City. In any case in which a [connubial couple husband and wife](#) are both employed by the City and are both entitled to leave, each employee is entitled to twelve (12) workweeks during a twelve (12) month period if leave is taken for the birth or placement for adoption or foster care of the employee's child (i.e., bonding leave.) This limitation does not apply to any other type of leave under this policy.

In any case in which a [connubial couple husband and wife](#) both employed by the City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for a covered service member.

16.6. **Intermittent Leave or Leave on a Reduced Work Schedule**

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The leave may not exceed a total of twelve (12) weeks over a twelve (12) month period.

16.7. **Substitution of Paid Accrued Leaves**

16.7.1. Leave under this policy is unpaid. If an employee is on an unpaid FMLA/CFRA leave, [he or she/they are/is](#) required to use [his or her/their](#) accrued sick leave or

vacation leave concurrently with FMLA/CFRA leave. Employees must use accrued sick leave concurrently with the leave if the leave is for Pregnancy Disability or the employee's own serious health condition.→

16.7.2. If an employee is on a paid leave such as Workers Compensation, disability, Paid Family Leave, etc., employees may elect to use vacation, accrued sick leave and/or accumulated compensatory time to substitute for all or part of the otherwise unpaid leave under this policy. However, the City shall not require peace officers or firefighters to use Labor Code section 4850 leave concurrently with Family and Medical Leave.

16.7.3. If an employee takes a leave of absence for any reason which is FMLA/CFRA qualifying, the City may designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement, provided the City will notify the employee at the time of the designation, and the designation will not be made retroactively except as provided by law.

16.8. **Payment of Health Insurance Premiums While on Leave**

16.8.1. While an employee is on Family and Medical Leave and Pregnancy Disability Leave, the City shall maintain the employee's health insurance coverage on the same conditions as if the employee has been continuously employed during the entire leave period. If the employee's FMLA leave is unpaid, the City shall maintain the employee's health coverage for a maximum of twelve (12) weeks in a twelve-month period. If the employee's PDL is unpaid, the City shall maintain the employee's health coverage for a maximum of four months over the course of a 12 month period, beginning on the date of pregnancy disability leave begins.

16.8.2. In the event the an employee is disabled by pregnancy and also uses leave under the CFRA, the City will maintain the employee's health benefits while the employee is disabled by pregnancy (up to four months or 17 weeks) and during the employee's CFRA leave (up to 12 weeks).

16.8.3. If the employee would normally pay health insurance premiums, the City shall require payment from the employee while the employee is on leave.

16.8.4. Employees will not continue to be covered under the City's long-term disability and other non-health benefit plans unless employees make the appropriate contributions for continued coverage and said continued coverage is permitted by the particular plan(s).

16.8.5. An employee must return to work for a continuous period of at least one (1) month, otherwise they will not be classified as having returned to work. The City may recover its share of the health care premiums paid on behalf of the employee while the employee was on the leave. See Section 16.17

16.9. **Medical Certification**

16.9.1. Employees who request leave for their own serious health condition, or to care for a child, parent, or spouse or domestic partner who has a serious health

condition, must provide written certification from a health care provider of the individual requiring care.

16.9.2. If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her/their position. In cases where employees request intermittent leave, employees must submit medical certification which states that such intermittent leave is needed due to the employee's serious health condition.

16.9.3. Employees who request leave to care for a covered service member who is a child, spouse, parent, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's serious injury or illness. The first time an employee requests leave because of a qualifying exigency, the City may require the employee to provide a copy of the covered military member's active duty orders or other documentation issued by the military which indicates that the covered military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service. A copy of new active duty orders or similar documentation shall be provided to the City if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different covered military member.

16.10. **Time to Provide a Certification.**

16.10.1. When an employee's leave is foreseeable, the employee must provide the medical certification within thirty (30) days before the leave begins. When this is not possible, the employee must provide the requested certification within the time frame requested by the City.

16.10.2. Consequences for Failure to Provide an Adequate or Timely Certification. If an employee fails to provide a medical certification with the timeframe established in 16.10.1, the City may delay the taking of FMLA/CFRA leave until the required certification is provided. If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency. If the City does not receive a adequately completed medical certification in a timely manner, the City may deny the request for FMLA

16.10.3. Second and Third Medical Opinions

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

16.11. **Recertification**

16.11.1. If the City has reason to doubt the validity of a medical certification provided by an employee, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is recertification.

16.11.2. Recertification may be requested under the following conditions:

- (1) When the basis for FMLA request has changed;
- (2) When the employee requests an extension of leave; or
- (3) At reasonable intervals requested by the City, but not to be more than every thirty (30) days, unless one of the aforementioned criteria also applies.

16.12. **Procedures for Requesting Leave.**

All employees requesting leave under this policy must submit proper Family and Medical Leave forms to the Human Resources Office. Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days' notice is required. In addition, if any employee knows that he/she/they will need a leave in the future, but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her/their supervisor as soon as possible that such leave is needed. Such notice must be submitted in writing. If the City determines the notice of the employee is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

16.13. **Accrual of Benefits While on Leave.**

Employees will not accrue benefits while in an unpaid leave status, including seniority rights, vacation and sick leave accrual.

16.14. **Reinstatement Upon Return From Leave**

16.14.1. Right to Reinstatement. Upon the expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the Family and Medical Leave period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of [his/her/their](#) readiness to return.

16.15. **Employee's Obligation to Periodically Report on [His/Her/Their](#) Condition**

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays in reinstatement when the employee is ready to return.

16.16. **Fitness for Duty Certification**

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform [his/her/their](#) job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification may result in denial of reinstatement.

16.17. **Failure to Return From Leave.**

If an employee uses Family and Medical Leave and fails to return to work for the City, for a continuous period of at least one (1) month, the City may recover its share of health care premiums paid on behalf of the employee while the employee was on leave. The City reserves the right to seek reimbursement from the employee by any legal means.

16.18. **Reinstatement of "Key Employees"**

The City may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City, and the employee is notified of the City intent to deny reinstatement on such basis at the time the employer determines that such injury would occur. This applies to FMLA only.

Section 17. PAID FAMILY LEAVE

17.1. **Eligibility.**

17.1.1. Employees who are covered by State Disability Insurance (SDI) are eligible for Family Temporary Disability Insurance (FTDI) benefits while taking care of family member(s). These benefits are paid by the State Employment Development Department. There is no requirement that the employee have worked for the City any particular length of time before being entitled to this leave. However, no employee can receive more FTDI benefits than ~~he or she~~[they](#) earned in wages during the base period for calculating benefits. Employees are not eligible if they are receiving State Disability Insurance (SDI), workers' compensation or private insurance payments in lieu of such payments.

- 17.1.2. Employees are eligible for this leave under the following circumstances:
- (1) For the birth and care of a newborn child, or the placement and initial care of an adopted or foster care child, or
 - (2) To care for an employee's spouse, child, parent or registered domestic partner with a serious health condition. However, an employee is not eligible to receive FTDI benefits for any day that another family member is able and available for the same period of time that the employee is providing care.

17.1.3. Definitions of all applicable terms will be in accordance with state law relating to Family Temporary Disability Insurance (California Unemployment Insurance Code section 3300 et seq.).

17.2. **Request for Leave**

Requests for paid family leave must be approved in advance by the employee's supervisor and Human Resources Office. Since the need for the family leave is included within the need for Family Care and Medical Leave, the same procedures for making requests for Family Care and Medical Leave and scheduling of leave shall apply to requests for Paid Family Leave. As with Family Care and Medical Leave, the employee must submit medical certification to the City to justify the request for such leave.

17.3. **Duration of Paid Family Leave**

According to law, employees are entitled to a maximum of six (6) weeks paid family leave in a twelve-(12) month period. Such leave runs concurrently with Family and Medical Leave. An employee is not entitled to more than a maximum of twelve (12) weeks leave in a twelve (12) month period to care for a family member.

17.4. **Compensation During Leave**

According to law, employees are entitled to be paid FTDI benefits while on family leave, replacing approximately fifty-five percent (55%) of an employee's wages. Payment for these benefits is funded through employee contributions to SDI. The employee is solely responsible to apply for this compensation from the State Employment Development Department (EDD). The City has no obligation to ensure that employees receive FTDI payments.

17.5. **Integration of Benefits**

If an employee is on Paid Family Leave and is receiving FTDI benefits, the employee may continue to receive full pay from the City by requesting that the maximum weekly FTDI benefits be supplemented by the use of accrued paid leave benefits. Under this option, the employee would tender [his/her/their](#) FTDI payments to the City and the City would then continue to issue paychecks and deduct the value difference between the FTDI payments and the employee's regular pay from the employee's sick leave allotment.

17.6. **Waiting Period and Use of Vacation**

The law requires that there be a seven (7) day “waiting period” before an employee on family leave may begin receiving FTDI payments. If available, employees must use two (2) weeks of earned and unused vacation before receiving FTDI benefits. The first week of vacation shall count as the “waiting period” before the employee may begin receiving FTDI payments.

Section 18. CATASTROPHIC LEAVE PROGRAM

18.1. **Policy**

This policy is designed to assist regular employees who have exhausted all forms of paid leave due to a serious, catastrophic illness or injury. The Catastrophic Leave Program allows other City employees to voluntarily donate sick leave to an employee who meets the eligibility requirements so that the recipient will be able to remain on a paid status for a longer period of time, or until the employee is receiving short or long term disability.

Donation and use of catastrophic leave is at the discretion and requires the approval of the City Manager or ~~his or her~~[their](#) designee.

18.2. **Eligibility for Personal Catastrophic Leave**

18.2.1. The employee must meet the following requirements to be eligible for leave under this policy:

- (1) The employee must have passed probation, be in a regular position with the City for at least eighteen (18) full months, and be considered actively employed by the City.
- (2) The employee must have a verifiable serious or catastrophic illness or injury which requires an extended period of treatment or recuperation. Serious or catastrophic illness or injury is one in which the employee is incapacitated and unable to work as certified by ~~his/her~~[their](#) physician for at least four (4) full workweeks. In addition, the employee must provide medical certification that includes a reasonable expectation that, with proper care and rehabilitation, the employee will be able to return to full duty within six (6) months of the absence from work.
- (3) The employee must have exhausted all paid leave balances.
- (4) The employee may not be concurrently receiving short or long-term disability or similar benefit.

18.3. **Conditions for Donating Leave.**

18.3.1. The following are the conditions for donating leave:

- (1) To be eligible to donate leave, an employee must have passed probation and be in a regular position with the City for at least eighteen (18) full months.
- (2) All donations of leave are voluntary. No employee shall be required to donate leave.
- (3) Accrued sick leave is the only type of leave allowed for donation and shall be donated on the basis of 1 hour received for each hour donated. If an employee wishes to donate sick leave, the employee must retain a minimum balance of eighty (80) sick leave hours after donating.
- (4) Employees must donate a minimum of four (4) hours and a maximum of ten (10) hours per pay period.
- (5) A donating employee may donate a maximum of 80 hours total to a recipient employee per catastrophic event. Recipient employees may receive a maximum of 160 donated hours per catastrophic event.
- (6) Donated leave will be credited to the receiving employee's sick leave balance on an hour-for-hour basis and shall be paid at the rate of pay of the receiving employee.
- (7) Once the leave is donated and posted to the receiving employee, the employee donating such leave shall irrevocably lose all rights and privileges to the donated leave hours.

18.4. **Procedures For Donating and Receiving Leave**

18.4.1. For donating employees:

- (1) A donating employee shall complete the donation form and submit it to the Human Resources Office.
- (2) The Human Resources Office will review the request and forward to the City Manager for approval.
- (3) After approval by the City Manager, the Human Resources Office will submit the donation request to payroll for processing.
- (4) Donated leave will be used only as needed.
- (5) Donated leave will be credited to the receiving employee from the donating employee in chronological order by the date approved by the City Manager.

18.4.2. For receiving employees:

- (1) Once the receiving employee's own paid leave balances have been exhausted consistent with this policy, the employee may collect donated leave.

- (2) The receiving employee must be eligible for leave (meeting the requirements of Section 18.2.1 above) and willing to receive the donated leave.
- (3) The medical reasons for the need for the donated leave will only be disclosed to City employees if the employee agrees to such disclosure, either verbally or in writing.
- (4) The receiving employee will continue to be provided City-provided health and welfare benefits consistent with the City's Family and Medical Leave Policy.
- (5) All donated hours must be used on a continuous and uninterrupted basis until the earliest of the following occurs:
 - a. All donated leave balances are exhausted; or
 - b. The employee returns to work; or
 - c. The employee begins receiving long-term disability benefits; or
 - d. The employee's employment terminates.

Section 19. LAYOFF AND RECALL POLICY

- 19.1. Whenever, in the sole judgment of the City Council, it becomes necessary to abolish any position due to a reorganization, lack of work or funds, or abandonment of activities, the employee holding said position may be laid off or demoted without the right of appeal. Whenever possible, employees will be given at least thirty (30) days' notice of any layoff or demotion.
- 19.2. Order of Layoff.
 - 19.2.1. When a position has been abolished, any seasonal, emergency, probationary or temporary employee in that position classification shall be laid off first.
 - 19.2.2. The order of layoff of full-time regular employees shall be determined based on seniority and the employee's overall performance as a City employee. Any full-time regular employee who holds a position which will be abolished shall first be considered for reassignment to an existing vacancy in a lower or equal class, provided the employee is qualified for the vacant position and such vacancy exists. If reassignment is not feasible, and the layoff involves a position classification held by more than one person, layoffs will be made based on the following criteria. Selection for retention shall be based equally upon performance as determined and supported in writing by each supervisory level involved and upon seniority of service. Therefore, this policy does not preclude the retention of employees who have less seniority in the position classification which is the subject of reduction in force action. Seniority will be determined by including all periods of full time regular service at or above the classification level where the layoff is to occur.

- 19.2.3. The following criteria shall be considered in evaluating performance:
- (1) The employee's last four (4) written performance evaluations, if in existence.
 - (2) The history of an employee's written disciplinary actions during the last three (3) years.
 - (3) The employee's written record of attendance including patterns of sick leave usage, tardiness and unexcused absences during the last three (3) years.
 - (4) If there are no performance evaluations, dated within the last year, the employee's current and past supervisors' evaluation of the employee's performance.

19.3. Re-employment List. Full-time regular employees who are laid off will have their names kept on a re-employment list for one (1) year from the date of layoff. Names shall be placed on the re-employment list in order of date of layoff. The re-employment list will be used by the City when a vacancy arises in the same or lower classification of position in the department where the layoff originally occurred. The City shall use this list before any other eligible list and before seeking general applications from others. The City, in its discretion, may extend the active period of the re-employment list.

19.4. This policy does not apply to at-will employees.

Section 20. DISCIPLINE / GENERAL RULES OF CONDUCT

20.1. General Rules of Conduct

It is expected that all employees shall render the best possible service and reflect credit on the City. Therefore, the highest standards of professional conduct are essential and expected of all employees.

20.2. Disciplinary Actions

20.2.1. The City may invoke the following types of disciplinary actions:

- (1) Oral Reprimand;
- (2) Written Reprimand;
- (3) Suspension Without Pay;
- (4) Reduction in Pay;
- (5) Demotion;
- (6) Disciplinary Probation; and
- (7) Discharge/Termination

20.2.2. Employees who are FLSA-exempt shall not be subject to disciplinary action that results in loss of pay unless the discipline reduces the salary in full work-week increments only.

20.2.3. Removal of a Written Reprimand from Personnel Records: At the request of the employee, records of written reprimand shall be removed from the employee's personnel file two (2) years after the date of the written reprimand, provided that the employee has received a satisfactory performance review for the subsequent two (2) years period from the date of the written reprimand and no further discipline (related or unrelated to the reprimand) has been initiated

20.3. **Grounds for Discipline**

20.3.1. Any employee holding a regular appointment in the Classified Service may be disciplined for good cause. City employees who are employed "at-will," or who are seasonal, temporary or probationary, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals. Such employees may be disciplined without reference to these provisions.

20.3.2. Good cause exists, not only when there has been an improper act or omission by an employee in the employee's official capacity, but when any conduct by an employee brings discredit to the City, affects the employee's ability to perform ~~his or her~~their duties, causes other employees not to be able to perform their duties, or involves any improper use of their position for personal advantage or the advantage of others. The type of disciplinary action shall depend on the seriousness of the offense and the relevant employment history of the employee. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

- (1) Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the City;
- (2) Furnishing knowingly false information in the course of the employee's duties and responsibilities;
- (3) Inefficiency, incompetence, carelessness or negligence in the performance of duties;
- (4) Violation of safety rules;
- (5) Violation of any of the provisions of these personnel rules and regulations, department rules and regulations, City policies, ordinances or resolutions;
- (6) Inattention to duty;
- (7) Tardiness or overstaying lunch periods;
- (8) Excessive use of sick leave or use of sick leave that indicates an abuse of leave time (i.e. consistent use of leave on a Monday and Friday);

- (9) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on City property;
- (10) Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor;
- (11) Any violation of the City's Nondiscrimination Policy;
- (12) Unauthorized soliciting on City property;
- (13) Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work;
- (14) Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the employee's ability to effectively perform [his/hers/their](#) job or brings discredit to the City. (For purposes of this section, a misdemeanor conviction does not include a conviction based on a plea of *nolo contendere*);
- (15) Discourteous or offensive treatment of the public or other employees;
- (16) Falsifying any City document or record;
- (17) Misuse of City property; improper or unauthorized use of City equipment or supplies; damage to or negligence in the care and handling of City property;
- (18) Fighting, assault and/or battery;
- (19) Theft or sabotage of City property;
- (20) Sleeping on the job, except as specifically authorized for twenty-four (24) hour duty personnel;
- (21) Accepting bribes or kickbacks;
- (22) Engaging in outside employment which conflicts with an employee's responsibilities;
- (23) Intimidation or interference with the rights of any employee;
- (24) Outside work or any other activity or conduct which creates a conflict of interest with City work, which causes discredit to the City, negatively impacts the effective performance of City functions or is not compatible with good public service or interests of the City service;
- (25) Abusive or intemperate language toward or in the presence of others in the workplace;

- (26) Failure to obtain and/or maintain minimum qualifications for a position, including required licenses or certificates;
- (27) Any other conduct of equal gravity to the reasons enumerated above as determined by the City.

20.4. **Authority to Discipline**

Any authorized supervisory employee may institute disciplinary action for cause against an employee under [his/her/their](#) supervision in accordance with the procedures outlined in these Rules.

20.5. **Procedures for Disciplinary Actions**

In the absence of a process in a MOU, employees covered by this policy shall be governed by the following provisions:

20.5.1. Oral and Written Reprimand

20.5.1.1. In the case oral or written reprimand, the employee may respond by submitting a written rebuttal to be filed in the employee's personnel file. No oral response or appeal shall be permitted.

20.5.2. Notice of Intent to Discipline

20.5.2.1. For discipline greater in severity than an oral or written reprimand, the responsible Department Manager shall issue a written Notice of Intent to Discipline, describing the intended discipline, the basis for the discipline, and attaching any documents upon which the discipline is based. The Notice of Intent to Discipline shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed.

20.5.3. Discipline in Severity of Five Working Days or Less

20.5.3.1. The responsible Department Manager shall set the pre-discipline meeting approximately one (1) week from the date of the Notice of Intent to Discipline, unless a different time and date is set by mutual agreement. The employee shall be entitled to a representative of [his/her/their](#) choice; provided, however, that the inability of a particular representative to attend the meeting shall not be a cause requiring a postponement of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the Department Manager. Following the informal meeting, the responsible Department Manager shall provide the City Manager with a report of the pre-disciplinary meeting including a recommendation of discipline.

20.5.3.2. At some reasonable time after the employee has been provided an opportunity to respond to the charges, the City Manager shall issue a final notice of discipline. The notice shall include the final disposition, the effective date of the discipline and the facts upon which the discipline is based. No further appeal shall be permitted.

20.5.3.3. If the employee chooses to respond in writing rather than attend the pre-discipline meeting, the written response shall be reviewed and filed in the employee's personnel file. No further appeal shall be permitted.

20.5.4. Discipline in Severity of More than Five Working Days

20.5.4.1. For discipline that is greater in severity than a suspension of five (5) working days, a reduction in pay of five (5) working days or other more severe form of discipline as enumerated in Section 20.2.1, the City shall issue a Notice of Intent to Discipline, describing the intended discipline, the basis for the discipline and attaching any documents upon which the discipline is based. The Notice of Intent to Discipline shall state that the employee has a right to respond, either orally or in writing, before discipline is imposed. The City shall set the pre-discipline meeting approximately one (1) week from the date of the notice, unless a different time and date is set by mutual agreement.

20.5.4.2. For discipline that is greater in severity than a suspension of five (5) working days, the City Manager shall designate a City official who is uninvolved in the matter who shall convene a meeting to review the employee's response and position before imposing discipline. The employee shall be entitled to a representative of [his/her/their](#) choice; provided, however, that the inability of a particular representative to attend the meeting shall not be a cause requiring a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the City.

20.5.4.3. At some reasonable time after the employee has been provided an opportunity to respond to the charges, the City shall issue a final notice of discipline. The notice shall include the final decision, the effective date of the discipline and the facts upon which the discipline is based.

20.6. **Appeal of Disciplinary Action**

20.6.1. For a suspension in severity of more than five (5) working days, a reduction in pay of five (5) working days or other more severe form of discipline as enumerated in Section 20.2.1, employees shall have the right to appeal from the final notice of discipline. The notice of appeal must be received within seven (7) calendar days from the date of the final notice of discipline, or the right to proceed to the next appeal level under these Rules shall be forfeited and the discipline shall become final.

20.6.2. The appeal shall be heard by an independent hearing officer to be selected by the City.

20.6.3. The costs of the hearing officer shall be borne by the City. Either party may request that the matter be transcribed, and the requesting party shall bear the expense of the transcript and court reporter's fees. If the transcript is jointly requested by both parties, both parties will share equally in the expense of the transcript and court reporter's fees.

- 20.6.4. The hearing officer shall have the authority to convene the hearing, receive evidence through testimony and documents and to make findings of fact and conclusions about the discipline. Within two (2) months of the close of the hearing, the hearing officer shall serve a recommended decision on the City Manager and the employee. The hearing officer's decisions must contain detailed findings of fact relating to the disciplinary charges. The decision may include a recommendation regarding outcome, but the final decision regarding discipline rests with the City Manager. After consideration of the hearing officer's recommended decision, the City Manager shall issue a final decision in writing. The City Manager's decision is reviewable by administrative writ of mandamus within the timeframes established by law.

Section 21. APPEAL PROCEDURE FOR NON-DISCIPLINARY GRIEVANCES

- 21.1. This appeal procedure is intended to provide an avenue only for redress of complaints that the City has violated these Rules. Exhaustion of this appeal procedure is intended to provide an informal avenue for redress of complaints relating to these Rules, and to give the City an opportunity to investigate the complaint and correct any problems before they become more serious. However, this appeal procedure may not be used for any of the following: to appeal discipline, change wages, hours or working conditions; to challenge the content of employee evaluations; or to challenge a reclassification, layoff, transfer, denial of reinstatement or denial of salary increase.
- 21.2. Only regular employees in the Classified Service who have completed probation have access to this entire appeal procedure. At will and provisional employees do not have access to this procedure. Part time, seasonal and temporary employees may utilize this procedure up to the Human Resources Director/City Manager level only. The Human Resources Director/City Manager's decision regarding the grievance shall be final and binding.
- 21.3. Every effort should be made to resolve a grievance regarding these Rules at the point the grievance arises, through informal discussion between the grievant and [his/her/their](#) supervisor.
- 21.4. If the grievant is not satisfied with resolution of the matter after speaking with [his/her/their](#) supervisor, the grievant may present a formal written grievance to the Human Resources Office. The written grievance must be presented within fifteen (15) calendar days of the facts giving rise to the appeal. However, this time limit may be waived if agreed to by the City. The Human Resources Director/City Manager may, in [his or her/their](#) discretion, submit the grievance for response as the first step to a directly involved supervisor or other department representative.
- 21.5. Grievance appeals must be in writing, signed by the affected employee(s) and allege that the City has violated a specific provision of these Rules. Appeals must contain the specific facts upon which they are based. Appeals that fail to include these elements may be rejected on that basis.
- 21.6. The City Manager, or designee, will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appeal.

- 21.7. If the appellant is dissatisfied with the City's first response, the appellant may submit a written appeal to the City Manager. The appeal must be received by the City Manager within fifteen (15) calendar days of the Human Resource Office's response.
- 21.8. The City Manager, or the Manager's designee, will review the appeal and shall serve notice of a written response within fifteen (15) calendar days of receipt of the appeal. The City Manager's decision shall be final.
- 21.9. No other grievance or appeal procedure may be used for matters within the scope of this appeal procedure.
- 21.10. The City shall not take any adverse employment action against an employee because the employee filed a grievance regarding alleged violation of these Rules.

Section 22. PART TIME SEASONAL AND TEMPORARY EMPLOYEES

- 22.1. Part-time, seasonal and temporary employees are employed on an at-will basis and may be terminated at any time with or without cause and without right of appeal.
- 22.2. All part time, seasonal and temporary employees shall be compensated on a straight hourly basis for the actual number of hours worked. The rate of pay shall be determined by the City Manager within the salary range then in effect, specified for the position occupied by the employee.
- 22.3. No seasonal or temporary employee shall be eligible for participation in any benefit program established by the City, except as required by state and/or federal law. Part time employees who do not work for the City on a temporary basis and who work more than twenty-one (21) hours per week on average shall be entitled to the same benefits enjoyed by regular full time employees based upon a proration of average hours worked. EXAMPLE: An employee who works an average of thirty (30) hours per week shall receive holiday compensation in an amount equal to three (3)-quarters of the benefit provided to regular full time employees. Holiday, vacation, sick leave, city payment of health premiums and other similar benefits shall be prorated on this same basis.
- 22.4. Part time, seasonal and temporary employees shall work on a schedule determined by the City. Part time, seasonal and temporary positions may be abolished and/or replaced with full time positions as determined by the City.
- 22.5. No part time, seasonal or temporary employee shall be eligible for a salary adjustment except as approved by the City Manager upon the recommendation of the department manager, based on the employee's performance evaluation. Performance evaluations of such employees may be completed in accordance with the procedure set forth for full time employees, except for seasonal employees who may be presented with a performance appraisal report shortly after the completion of the season for which they are appointed. In general, no part time, seasonal or temporary employee shall be eligible for a salary adjustment except upon the satisfactory completion of one of the following

conditions: (a) Completion of one thousand (1,000) hours of service from date of appointment or previous review and a minimum of one (1) year service; or (b) completion of a minimum of three hundred (300) hours of continuous service on a seasonal basis and the elapse of one (1) year from the date of appointment or previous review. However, the City may make salary adjustments at an earlier date if circumstances warrant such adjustment.

- 22.6. An employee serving in a temporary or seasonal appointment shall serve the City only for such time-limited period as is determined by the City. However, if an employee serving in such appointment works more time or is retained in excess of this time period, the employee does not acquire regular status.

Section 23. PERSONNEL FILES

- 23.1. The City shall maintain an official personnel file for each of its employees. Personnel files contain such personnel records as may be deemed necessary for the administration of human resources in the City.
- 23.2. Personnel files shall be made available for inspection by employees within a reasonable time after an employee's written request and without loss of pay, provided that employees must make arrangements with their supervisor if the inspection occurs on duty. Upon written request, employees may obtain copies of the materials subject to inspection at the employee's expense. The City may preclude inspection of certain information in accordance with the law, such as background and other pre-employment information, and materials relating to confidential investigations.
- 23.3. The City maintains injury reports and confidential medical records in separate files.
- 23.4. The City shall designate the area used for the inspection and shall have an official monitor the employee's inspection of the employee's personnel file while it is being reviewed. Under no circumstances shall the employee remove the personnel file or any of its contents from the area designated for the inspection.

Section 24. RESIGNATIONS AND EXIT INTERVIEWS

- 24.1. Employees are free to resign from their employment, but are encouraged to give at least two (2) weeks' notice. A resignation becomes effective upon the City's receipt of a written notice of resignation. If no written resignation is tendered, but a resignation is indicated orally, a resignation becomes effective upon the City's notice of acceptance of the resignation. Once a resignation becomes effective, it is irrevocable except that the City Manager may, in [his/her/their](#) discretion, permit a resignation to be rescinded.
- 24.2. Automatic Resignation. Employees are deemed to have resigned when absent from work for three (3) consecutive workdays without prior authorization. The City shall give notice of such automatic resignation. Except for at-will or probationary employees, regular employees who are separated from the City's service by automatic resignation may utilize the appeal procedure in Section 21 of these Rules.

- 24.3. Exit Interviews. The City may, in its discretion, require employees separating from City employment to undergo an exit interview with the Human Resources Office.
- 24.4. The purpose of this policy is:
- (1) To reaffirm the City's commitment to prohibit and prevent unlawful discrimination, harassment, and retaliation in employment;
 - (2) To define discrimination and harassment prohibited under this policy;
 - (3) To set forth a procedure for resolving complaints of prohibited discrimination and harassment.
- 24.5. This policy shall not be construed to create a private or independent right of action. Although this policy is intended to prohibit discrimination consistently with Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the California Fair Employment and Housing Act and California Labor Code Section 1102.1, the City reserves the right to interpret and apply this policy to provide greater protection than what is afforded under those laws.
- 24.6. Statement of Policy. The City is committed to providing an environment that is free from harassment and discrimination of any kind, including sexual harassment and harassment based on race, color, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy and breastfeeding), national origin, ancestry, citizenship status, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other basis protected by law. The City will afford equal employment opportunity to all qualified employees and applicants as to all terms and conditions of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. Employees, applicants, officers, officials or contractors who believe that they have experienced any form of employment discrimination are encouraged to report this immediately, using the complaint procedures provided in Section 25.8 of these Personnel Rules and Regulations. Therefore, it is important that the City maintain an atmosphere characterized by mutual respect in order to assure fair, courteous treatment for employees and the public.
- 24.7. The City strongly disapproves of and will not tolerate any conduct that violates this policy. Conduct need not arise to the level of violation of law to violate this policy. Harassment or discrimination against employees, unpaid interns, volunteers or applicants by elected or appointed officials, coworkers, members of the public, or contractors on the basis of a protected classification will not be tolerated..
- 24.8. Employees who violate this policy and engage in acts of sexual harassment or illegal discrimination of any type, for any duration, shall be subject to severe disciplinary action, up to and including termination.

24.9. Retaliation against individuals who complain of sexual harassment or any type of prohibited discrimination or who participate in an investigation into sexual harassment or discrimination shall not be tolerated. Employees who engage in such acts of retaliation shall be subject to serious disciplinary action, up to and including termination.

24.10. Definitions

(1) **Protected Classification:** This policy prohibits harassment or discrimination because of an individual's protected classification. "Protected Classification" includes race, color, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy and breastfeeding), national origin, ancestry, citizenship status, physical or mental disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), or any other basis protected by law.

(2) Harassment may include, but is not limited to the following types of behavior that is taken because of a person's protected classification.

Speech: Such as epithets, derogatory comments or slurs, and lewd propositions on the basis of protected classification. This includes, without limitation, comments regarding an individual's appearance, including dress or physical features, or dress consistent with gender identification, , or race or ethnicity-oriented stories and jokes.

Physical Acts: Such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, or making explicit or implied threats or promises in return for submission to physical acts.

Visual Insult: Such as derogatory pictures, posters, cartoons, or drawings related to a protected classification. This includes, without limitation, sending inappropriate emails to employees, or viewing pornography either in magazines or on the internet in view of other employees, displaying pictures or objects depicting nude or scantily-clad or suggestively posed men or women; circulating derogatory or obscene notes, letters, emails or other literature.

(3) Unwanted sexual advances: Requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

24.10.1. Harassment on the basis of a protected classification is prohibited. Verbal or physical conduct relating to these categories constitutes harassment when it:

- (1) Has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- (2) Has the purpose or effect of unreasonably interfering with an individual's work performance; or
- (3) Otherwise adversely affects an individual's employment opportunities.

24.10.2. Retaliation: Any adverse conduct taken because an applicant, employee, or contractor has reported harassment or discrimination, or has participated in the complaint and investigation process described herein, is prohibited. Adverse conduct includes but is not limited to: taking sides because an individual has reported harassment or discrimination, spreading rumors about a complaint, shunning and avoiding an individual who reports harassment or discrimination, or real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination. The following individuals are protected from retaliation: those who make good faith reports of harassment or discrimination, and those who associate with an individual who is involved in reporting harassment or discrimination or who participates in the complaint or investigation process.

24.11. Reporting Unlawful Harassment or Discrimination.

24.11.1. Any employee, job applicant, or contractor who believes ~~he or she~~ **they** ~~has~~ **have** been unlawfully harassed or discriminated against should promptly report it orally or in writing to: the employee's supervisor, the Human Resources Office or the City Manager. There is no need to follow the chain of command.

24.11.2. Any supervisor or manager who receives a complaint, or who observes or otherwise learns about harassing conduct, as defined by this policy, is required to notify the Human Resources Office immediately. Failure to do so may result in disciplinary action.

24.12. Remedial Action

24.12.1. Upon receiving complaints of discrimination or harassment, the City will take immediate and appropriate corrective action, which may include an investigation of the complaints. Any investigation and investigation report prepared relating to the complaint shall be kept confidential except as required by law. If harassment or discrimination is found to have occurred in violation of this policy, the City shall report a summary of the determination as to whether harassment occurred to appropriate persons, including the complainant, the alleged harasser, the supervisor and or department head. If discipline is imposed the level of discipline will not be disclosed to the complainant.

24.12.2. If conduct in violation of this policy occurred, take action or recommend to the City Manager prompt and effective remedial action.

24.12.3. Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation..

- 24.12.4. Employees found to have engaged in discrimination or harassment covered by this policy may be subject to disciplinary action up to and including termination of employment. First-time violations of this policy, depending on the severity of the conduct, may lead to termination.
- 24.12.5. Employees found to have been dishonest or uncooperative during an investigation into allegations of unlawful harassment may be subject to disciplinary action up to and including termination of employment.
- 24.13. No Retaliation. Employees should feel free to report claims of unlawful harassment without fear of retaliation of any kind.
- 24.14. Dissemination of Policy. Copies of the City's Nondiscrimination Policy, and of these complaint procedures, shall be provided to all employees of the City, and to all new employees at the time of hiring. From time to time, the City may also conduct training for its employees to assist them in learning how to recognize, avoid and correct discriminatory behavior.
- 24.15. Confidentiality
- Every possible effort will be made to assure the confidentiality of complaints made under this policy. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a department manager or the Human Resources Director. Any individual who discusses the content of an investigatory interview may be subject to discipline or other appropriate sanction. The employer will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order
- 24.16. Responsibilities of Management and Employees
- 24.16.1. Managers and Supervisors are responsible for being familiar with the City's policy on harassment, discrimination and retaliation, modeling appropriate behavior, treating all employees and contractors with respect and consideration, taking all steps necessary to prevent harassment, discrimination, or retaliation from occurring; receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints, reporting incidents of discrimination in a timely fashion; cooperating in any investigation concerning allegations of discrimination; and to the extent possible maintaining confidentiality concerning any investigation that is conducted.
- 24.16.2. Employees are responsible for being familiar with the City's policy on harassment, discrimination and retaliation; modeling appropriate behavior, treating all employees and contractors with respect and consideration, refraining from discriminatory behavior, including harassment; reporting incidents of discrimination in a timely fashion; cooperating in any investigation concerning allegations of discrimination; *and* maintaining confidentiality concerning any investigation that is conducted.

Section 25. All employees are also encouraged to communicate with one another to assist co-employees to avoid harassing, discriminatory, or otherwise offensive behavior. **EMPLOYEE SAFETY / VIOLENCE IN THE WORKPLACE POLICY**

25.1. **General Safety Rules**

25.1.1. Safety is everyone's responsibility. All employees must use safe work practices and report any unsafe conditions that may occur. The City also recognizes its responsibility to maintain safe workplaces.

25.1.2. All work-related injuries must be reported to the responsible supervisor. If there is any question regarding the appropriate supervisor, the report should be made immediately to the Human Resources Office.

25.1.3. If a reported work-related injury may result in lost work time, the employee should be provided with a workers' compensation claim form within one (1) working day of the injury.

25.1.4. Individual departments may adopt specific safety rules applicable to their operations.

25.2. **Violence in the Workplace Policy**

25.2.1. Acts of violence, whether threatened, gestured, or carried out will not be tolerated in any City workplace. Anyone witnessing or becoming the subject or victim of such behavior shall immediately report it to the proper authorities for investigation. Minimizing the threat of violence is a duty of all employees to ensure a safe workplace.

25.2.2. It is the responsibility of all employees to notify a supervisor, the Human Resources Office, or the City Manager immediately of any violent act or a threat, or if a violent act or threat against themselves or any other City employee occurs in the workplace or is directly associated with their employment with the City. Notification may be made to any of these persons as appropriate and shall be as soon as practicable. Retaliation or the threat of retaliation against a person who reports such an incident is unlawful and shall not be tolerated.

25.2.3. City employees shall not possess the following instruments at a City worksite or on City property, including City parking lots, unless there is a work-related purpose and written approval has been obtained from the employee's department manager:

- (1) Firearms;
- (2) Explosives or ammunition;
- (3) Fixed blade knives;
- (4) Folding knives with blades over 3.5 inches;

- (5) Illegal weapons such as defined in Section 12020 of the California Penal Code.

25.2.4. The City shall take appropriate disciplinary action, up to and including termination of employment, against employees who violate this policy.

25.2.5. On a case by case basis, or as needed, the City will offer incident-related counseling services through the City's Employee Assistance Program (EAP), or any other resource or program made available by the City, to employees who are the victims of violence or are subjects of threats of violence or intimidation at the workplace. The City administration will work with public safety, the courts and other authorities necessary to assure employee safety.

25.3. **Procedures - Imminent or Actual Violent Acts**

25.3.1. Employee Responsibilities. An employee who is in immediate apparent danger of a violent act, or another employee who witnesses a violent act or the threat of a violent act shall, whenever possible:

- (1) Place themselves in a safe location.
- (2) Call 911 and request the immediate response of a police officer. Be prepared to inform the police dispatcher of the circumstances and exact location of where an officer is needed.
- (3) Inform a supervisor or manager of the circumstances.
- (4) Refer media inquiries to the City Manager's Office.
- (5) Cooperate fully in any administrative or criminal investigation which shall be conducted within this policy and the laws.

25.3.2. Supervisor/Manager Responsibilities:

- (1) Place themselves in a safe location.
- (2) A supervisor or manager who is informed of a violent act or the threat of a violent act shall whenever possible ensure the immediate safety of employees and the worksite by calling 911, and notify the department manager and Human Resources Office.
- (3) If feasible, the supervisor/manager shall have the involved individuals wait in separate rooms or locations until the police take control or remove them from the premises.
- (4) In consultation with the City Manager, determine if it is appropriate to obtain a restraining order or other appropriate injunctive and/or other legal and/or equitable relief.
- (5) Reassign/relocate personnel or job duties, if required.
- (6) Terminate any business relationship.

- (7) Any other action deemed by the City to be necessary or required under the circumstances.
- (8) Supervisors shall obtain basic information from the employee and provide this to responding police personnel.
- (9) Refer media inquiries to the City Manager's Office.

25.3.3. Procedures – Future Violence:

- (1) Employees who have reason to believe they, or another City employee, may be victimized by a violent act sometime in the future, at the workplace or as a direct result of their employment with the City, shall inform their supervisor immediately so appropriate action may be taken. The supervisor shall inform [his/her/their](#) department manager.
- (2) Employees who have signed and filed a restraining order, temporary or regular, against an individual due to a potential act of violence, who would be in violation of the order by coming near them at work, shall immediately supply a copy of the signed order to their supervisor and the Human Resources Office.

25.3.4. Post-Incident Review:

- (1) The City Manager's Office, the Human Resources Office and the affected department may conduct a post-incident review and use the review to evaluate this policy and procedure.
- (2) The City may determine what continuing support systems are needed and oversee post-incident activities.

Section 26. OUTSIDE EMPLOYMENT

- 26.1. City employees may not engage in any outside employment, enterprise or activity that the City determines is in conflict with or impairs the employee's ability to perform their duties and responsibilities, or any aspect of City operations. All outside employment must be authorized by the City Manager.
- 26.2. During the workday, employees are expected to devote their full time in the performance of their assigned duties as City employees. Any outside work, part time job, hobbies or personal business must be performed during off duty hours. Off duty hours include unpaid lunch break periods, but do not include other rest or break periods during which the employee continues to receive pay.
- 26.3. Employee shall not perform work for compensation outside of [his/her/their](#) City employment where any part of [his/her/their](#) efforts will be subject to approval by any officer, employee, board or commission of the City, unless the employee obtains the approval of [his/her/their](#) department head.

Section 27. VOLUNTEERS

- 27.1. The City may utilize volunteers for the delivery of City services. The use of volunteers shall be subject to approval by the City Manager.
- 27.2. Volunteers shall not be eligible for salaries, benefits or other compensation unless specifically provided for by the City. Subject to approval by the City Manager, necessary equipment or uniforms and reimbursement for approved actual expenses and mileage may be provided.
- 27.3. Employee Volunteers. Subject to approval by the City Manager, employees may volunteer to provide services to the City outside of their normal duties, provided they are not performing the same or similar duties for which they or any other City employee are normally compensated and the responsibilities are occasional and sporadic. Employees engaging in such volunteer assignments shall not be entitled to compensation.

Section 28. DRUG AND ALCOHOL FREE WORKPLACE

- 28.1. The City's workplace shall be drug and alcohol-free. The City has established a Drug Free Awareness Program to inform employees about City policy with respect to drug abuse in the workplace.
- 28.2. No employee shall unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations during work hours or in any City designated workplace. Alcoholic beverages may only be served on City property at events expressly approved by the City Manager.
- 28.3. Upon reasonable suspicion of an employee being under the influence while on duty, the City may require the employee to submit to drug and alcohol testing, at the City's expense. Employees who decline to submit to such testing may be subject to discipline, up to and including termination of employment.
- 28.4. The City shall distribute at initial appointment and periodically thereafter the following Notice to employees.

NOTICE TO EMPLOYEES

YOU ARE HEREBY NOTIFIED that it is a violation of City policy for any employee at a City work site to unlawfully manufacture, distribute, dispense, possess, use or be under the influence of any alcoholic beverage, drug or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations.

City work site is defined as any place where City work is performed, including a City owned building or other premises and any City owned or approved vehicle used in the conduct of City business.

As a condition of your continued employment with the City, you will comply with the City's policy on Drug and Alcohol-Free Workplace and will, any time you are convicted of any criminal drug or alcohol statute violation occurring in the workplace, notify your supervisor of this conviction no later than five days after such conviction.

The following drug and alcohol counseling, rehabilitation, and/or employee assistance programs are available locally:

CIGNA Behavioral Health Plan, California – Telephone toll-free 1-888-371-1125

(Employee Signature)

(Date)

Section 29. NEPOTISM POLICY

- 29.1. No employee, prospective employee, or applicant shall be improperly denied employment or benefits of employment on the basis of marital status with another employee or official of the City.
- 29.2. Notwithstanding the above, the City retains the right to take appropriate steps to avoid inappropriate working relationships among relatives, including married persons. For administrative purposes, a relative shall be defined as a spouse or domestic partner, child, step-child, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, cousin, niece, nephew, parent-in-law, brother-in-law, sister-in-law or any other individual related by blood or marriage. The City retains its rights to:
- (1) Refuse to place one party to a relationship under the direct or indirect supervision of the other party of a relationship.
 - (2) Refuse to place both parties to a relationship in the same department, division, or facility when such action has the potential for creating adverse impact on supervision, safety, security, or morale, or involves potential conflicts of interest.
 - (3) Disqualify one party to a relationship for a position privy to confidential personnel matters who has a relative already in the City's employment when the relationship may compromise confidential information.
 - (4) Effect a transfer in the event the City learns of circumstances described above.

Section 30. GIFTS AND GRATUITIES

- 30.1. No officer or employee of the City shall solicit or accept, for self or family, favors, benefits, gifts or gratuities under circumstances which might be construed as influencing the performance of the employee's governmental duties.

Section 31. USE OF INFORMATION AND ELECTRONIC SYSTEMS

- 31.1. General. For purposes of this policy, electronic systems are defined as all hardware, software, and other electronic communication or data processing devices owned, leased, or contracted for by the City and available for official use, by the City's employees. This use includes, but is not limited to, electronic mail, voice mail, calendaring, and systems such as the internet. The City's Administrative Regulation: Mobile Computing Devices is incorporated by reference.
- 31.2. Public Disclosure. Employees who use electronic systems and/or tools provided by the City cannot be guaranteed privacy. Under the Public Records Act, e-mail messages and information stored in computers and other electronic systems of the City are public records subject to disclosure to the public or may be subpoenaed. In addition, the City reserves the right to review, audit, and disclose

all matters sent over and/or stored in the City's electronic system or on a City issued device at any time without advance notice. The City Manager, or ~~his/her~~their designee, retain the right to enter and/or retrieve an employee's electronic communication system, data files, logs and programs used on City owned electronic systems. Security features provided by the electronic communication system, such as, passwords, access codes, or delete functions, shall not prevent authorized City personnel from accessing stored electronic communications. Deletion of e-mail messages or files may not fully eliminate the message from the system.

- 31.3. Serial Meetings. In accordance with the Brown Act (Govt. Code Section 54950 et seq.), City employees must take care to ensure that electronic systems are not used to transmit, either all-at-once or serially, City legislative officials' positions on matters of City business to a majority of any City body of elected officials.
- 31.4. Use During Normal Business Hours. The City's electronic systems are provided for the purposes of conducting business. Except for brief, occasional, necessary or emergency use, the City's electronic systems shall not be used for personal use during normal business hours. Use of non-City business software including games or entertainment software is considered an improper use of these electronic systems. Employees shall not conduct personal or private business, including purchase of goods or services via the City's internet connection. Such uses are prohibited at all times during normal business hours or outside normal business hours.
- 31.5. Account Access. Employees shall not attempt to gain access to another City employees' personal file of electronic mail messages without the latter's express written permission or permission from the City Manager or designee.
- 31.6. Prohibited Use.
 - 31.6.1. The electronic mail and other electronic systems of the City shall not be used in a way that may be disruptive, offensive to others, harmful to morale or violate City policies and procedures or laws. These electronic systems shall not be used to solicit or proselytize others for commercial venture, religious or political causes, outside organizations, or other non-job-related solicitations. Improper use includes any display or messages that are derogatory, defamatory, obscene, violent, or offensive to employees or the public and/or any messages that are of a sexual or discriminatory nature, including, but not limited to, slurs, offensive jokes, or other offensive language of disparagement of others based on their race, national origin, sex, sexual orientation, age, disability, or religious beliefs.
 - 31.6.2. Employees are required to comply with all operational guidelines developed by the City. Such guidelines will address operational standards such as: message retention, schedule, copyright issues, use of passwords, system availability, back-up procedures, etc.
 - 31.6.3. Incidental and occasional personal use of electronic mail is permitted within the City, but the messages will be treated no differently from other messages and will remain the property of the City as to review and auditing techniques. All

personal use shall be done outside of normal working hours and not during provided morning and afternoon breaks or lunch periods.

31.6.4. Occasional personal access to the internet may be permitted. However, such personal use shall only be permitted if it does not interfere with or delay the employee's work or interfere with regular City business and shall comply with all provisions herein. All use of the internet may be periodically reviewed by the City Manager or designee.

31.6.5. In addition to other prohibited uses, employees shall not: Install programs on the City computer system (including but not limited to virus checking and screen savers) without the prior written consent of the Department Head or Human Resources Office, or each of their designees; copy City Programs for personal use; disclose an account password or otherwise make the account available to others; or infringe on others' access and use of the City's computers, including but not limited to:

- (1) The sending of excessive messages, either locally or offsite;
- (2) Unauthorized modification of system facilities, operating systems or disk partitions;
- (3) Attempting to crash or tie up a City computer or network;
- (4) Damaging or vandalizing City computing facilities, equipment, software, or computer files;
- (5) Intentionally developing or using programs which disrupt other computer users or which access private or restriction portions of the system and/or damage the software or hardware components of the system;
- (6) Installing or using a modem on City owned or leased computers without the prior written consent of the Department Head or Human Resources Office, or each of their designees;
- (7) Forwarding or reproducing communications marked attorney-client privileged or confidential without the prior consent of the City Manager and/or City Attorney; or violating any federal, state or local law in the use of City information systems.

31.7. Public Records.

31.7.1. All City records, including those stored on paper and electronic media, may be governed by the mandatory public disclosure requirements of the Public Records Act (Government Code section 6250 et seq.), and the limited exceptions thereto. If a draft record is retained, it may become a public record subject to disclosure unless it is subject to an exception under the Public Records Act.

31.7.2. All records, whether stored on paper or electronic media, shall not be destroyed unless prior written authorization is obtained pursuant to Government Code Section 34090 or applicable City resolution.

- 31.7.3. Public Records requests shall be handled in accordance with Government Code section 6250 et seq.
- 31.7.4. The City reserves the right for any reason to access and disclose all messages and other information sent or received by electronic means or stored on electronic media.
- 31.7.5. The City has the right to delete or retain any or all messages or other information sent or received by electronic means or stored on electronic media by a City employee who is no longer employed by the City.
- 31.8. Intellectual Property Rights. No employee shall violate any copyright or license to software or other online information (including, but not limited to, text images, icons, programs, etc.) whether created by the City or any other person or entity.
- 31.9. Failure to Comply. City employees who fail to comply with the terms and conditions of this policy shall be subject to disciplinary procedures that may be informal and/or formal actions depending upon the severity of the offense. Discipline may result in termination of employment with the City.

Section 32. DRESS CODE

- 32.1. Employees of the City are required to dress appropriately for the jobs they are performing. Therefore, the dress regulations contained in this section shall be followed.
- (1) Prescribed uniforms and safety equipment must be worn where applicable. City uniforms shall be worn in a professional manner.
 - (2) Footwear must be appropriate for the work environment and functions being performed.
 - (3) Jewelry is acceptable except in areas where it constitutes a health or safety hazard.
 - (4) Employees shall be mindful of other employees' sensitivity to perfume and other fragrances, and employees shall refrain from wearing fragrances that are offensive or harmful to others.

Section 33. USE OF CITY EQUIPMENT / AUTOMOBILE USE

- 33.1. No City owned equipment, autos, trucks, instruments, tools, supplies, machines, or any other item that is the property of the City shall be used by an employee other than for City business, unless the City Manager approves in advance. No employee shall allow any unauthorized person to rent, borrow, or use any City property, except upon prior approval of the City Manager.
- 33.2. Automobile Use. City owned vehicles are to be used for travel on City business by City employees. City employees who utilize City-owned vehicles or their own personal vehicle in the performance of their duties must maintain a valid California driver's license at all times. In those instances where a City vehicle is

not available for use and the employee is required to use his/hers/their private vehicle on City business, employee shall be compensated for such use as provided in the relevant Wage and Compensation Plan or Memorandum of Understanding as adopted by Council resolution. Prior to using a private vehicle on City business, employee must obtain and provide City with a Certificate of Insurance on the form provided by the City which evidences that employee has comprehensive automobile liability insurance or business automobile liability insurance in an amount of at least \$300,000.

33.3. Use of Vehicle Safety Belts. Motor vehicles purchased by the City for use by city personnel are equipped with safety belts. All city personnel who drive city vehicles shall use and ensure that all passengers use available safety belts in the vehicles being operated. The police department may adopt rules and regulations which supersede this provision which will govern the use of seat belts by police officers and persons taken into custody. Employees will inspect the serviceability of the safety belts at the start of each work day. Passengers shall ride only in those positions of a city vehicle designed for the carrying of passengers.

33.4. The City will verify with the DMV the validity of each employees' driver license on an as needed basis. City DMV Program:

33.5. The City complies with the drug and alcohol testing regulations of the Department of Transportation (DOT) (49 CFR part 40) and the Federal Aviation Administration (FAA) (14 CFR part 120). All persons performing any of the following safety-sensitive functions are subject to the DOT/FAA drug and alcohol testing program:

Maintenance Worker II

Maintenance Worker III

Maintenance Worker IV

Maintenance Worker Lead

For more information relating to the DOT program, visit the following website:
<http://www.dot.gov/ost/dapc/>

Section 34. TRAVEL AND TRAINING POLICY

34.1. The City is committed to ensuring that its employees receive adequate training to perform their jobs. Training and travel are subject to department approval. Training opportunities that occur outside normal work hours require approval by the Department Head. Overnight travel also requires approval by the Department Head.

34.2. The City generally requires that training, and attendant travel, be scheduled in a way that will minimize the City's overtime liability

- 34.3. City business travel shall be carried out in an efficient, cost-effective manner resulting in the best value to the City. Telecommunications instead of travel should be considered when possible. The City will pay or reimburse all business travel related expenses based on reasonableness and on the actual amount of expense incurred by the employee. Receipts when available are required for all travel expenses. Reimbursement of personal expenses and alcoholic beverages shall not be authorized for payment at any time. Department directors are responsible for determining the necessity, the available resources, and the justification for the method of employee business travel.

Section 35. GARNISHMENT FEES

- 35.1. City will to deduct the maximum allowed by state law from the employee's earnings for each payment made under a wage garnishment or earnings withholding order to reimburse the City for administrative costs.

Section 36. MISCELLANEOUS

- 36.1. These rules and regulations shall only become effective when they are adopted by the City Council. Upon adoption they shall supersede any and all City-wide and/or departmental personnel management policies, rules, regulations, and procedures previously adopted, except those adopted by order of a department manager which are not in conflict with these Rules.
- 36.2. Any and all provisions contained in a Memorandum of Understanding (MOU) in effect at the time of adoption of these Rules, and which may be in conflict with the provisions of these Rules, shall remain in effect and supersede these Rules until such time as the conflicting provisions of the MOU may be modified, through the meet and confer process, to conform to these Rules. No existing MOU shall be modified, and no new MOU shall be entered into, which would establish provisions which would be in conflict with these Rules unless expressly identified by the City Manager and recommended to the City Council for review and approval.
- 36.3. No Contract. These policies do not create a "contract" of employment between the City and any employee. Public employment is statutory, not contractual.
- 36.4. Severability. If any part of these Rules is determined to be unconstitutional or illegal, such part shall be severed from these rules and the remaining Rules shall be given full force and effect.
- 36.5. Word Usage. The term "City" as used in these rules refers to the City of Fort Bragg. Responsibilities and rights of the City under these rules are exercised by the City Manager, and may be delegated by the Manager in [his/her/their](#) discretion.

Section 37. DEFINITION OF TERMS

Allocation	Assignment of a position to a class on the basis of the kind, difficulty and responsibility of work of the position.
Anniversary Date	Date an employee is appointed, promoted, demoted, or reinstated to a position within the classified service.
Applicant	Any person submitting a formal, completed application for employment with the City.
Appointing Authority	City Manager.
Appointment	Placement of a certified candidate from an eligible list to a position within the classified service. For employees rehired after a resignation or reinstatement from layoff, the appointment date is the re-hire or reinstatement date.
At-Will	At-will employees serve at the pleasure of the City Manager, who retains the authority to terminate any such employee at any time with or without notice or cause.
City	As used in these rules refers to the City of Fort Bragg. Responsibilities and rights of the City under these rules are exercised by the City Manager, and may be delegated by the Manager in his/her/their discretion.
Class	A position or group of allocated positions sufficiently similar in duties performed, degree of supervision exercised or required, desirable requirements of training, and other qualifications such that each position allocated to the class may have the same descriptive title, tests of fitness to determine qualified employees, schedule of compensation, or same basic desirable qualification requirements.
Classified Service	All full-time employees of the City of Fort Bragg, except elected officials, Council appointees, the City Manager, appointive officers serving without compensation, and all temporary, provisional seasonal, transitional, emergency and part-time employees as defined herein.
Class Specification	The written description of a class, including the title; a statement of the nature of the work, examples of duties and responsibilities, and the requirements that are desirable for the satisfactory performance of the duties of the class.
Class Title	The title assigned to any particular class and used for reference to that class.
Compensation	Salary, wages, fees, benefits, allowances, or monies paid to, or on behalf of, an employee for personal services.

Compensatory Time Off	Time off in lieu of pay for overtime worked.
Continuous Examination	An open competitive examination which is administered periodically, resulting in the placement of names on an employment eligible list.
Continuous Service	Employment without interruption. Includes approved leaves of absence to serve in the armed forces of the United States, as provided by Section 395 of the Military and Veterans Code, as amended.
Demotion	The involuntary movement of an employee from a position in one class to a position in another class having a lower maximum salary rate than the employee's class.
Discharge	Dismissal and/or involuntary separation of an employee for cause from the classified service.
Eligible	A person whose name is on an active reemployment, promotional, or initial appointment list and who may, under these rules, be certified for consideration of appointment to a position in the classified service.
Emergency Employee	An individual appointed to a classified or non-classified position for a period not to exceed thirty (30) days.
Employee	An individual appropriately appointed to a position within the classified service.
Employment Date	For retirement, sick leave, and other benefit purposes, the effective date of an employee's initial appointment to a full-time or regular part-time position within the classified service.
Grievance	A statement by a grievant that a controversy, dispute, or disagreement of any kind or character exists arising out of, or in any way involving, interpretation or application of the terms of these Rules or of any existing (City and/or department) rule, policy, MOU, or practice, or that an employee has been treated unfairly or inequitably, or that there exists a condition which jeopardizes employee health and safety, which is beyond the control of the grievant. Grievances must relate specifically to actions or conduct affecting the employee filing the grievance.
Grievance Procedure	The systematic means by which an employee may obtain consideration of a grievance.
Grievant	An employee or group of employees or the recognized employee organization filing a grievance.

Initial Appointment The appointment of a person to a position in the classified service. Initial appointment does not include employees who are present probationary or regular employees of the City or persons who are being reinstated or reemployed from a reemployment list.

Layoff The separation of an employee from the classified service made necessary by lack of work, appropriation of monies, or other reasons not related to the fault, delinquency, or misconduct of the employee.

Management The management group is comprised of the following full time, at-will appointments (positions may be vacant and/or currently unauthorized for budgetary purposes):

- Director of Public Works
- Director of Finance
- Director of Community Development
- Chief of Police
- City Clerk/Assistant to the City Manager
- City Engineer
- Assistant City Manager

Such employees are so distinguished as they: 1) have as their primary duty the management of an enterprise or recognized department or subdivision; 2) have authority to hire and fire, or to render suggestions as to those decisions; 3) customarily and regularly exercise discretionary powers; 4) have as their primary duty the function as a manager, and 5) do not devote more than 20 percent of their weekly work time to non-management activities.

Meet and Confer Process The procedures established by Section 3500, et seq., of the California Government Code, as amended.

Merit and Salary Advancement A salary increase from one salary step to a higher salary step in the same pay range.

Mid-Management The mid-management group is comprised of the following full-time, regular classifications (positions may be vacant and/or currently unauthorized for budgetary purposes):

- Assistant Finance Director
- Associate City Engineer
- Engineering Technician
- Human Resources Analyst
- Planner
- Police Lieutenant
- Public Works Supervisor
- Treatment Plant Superintendent

Miscellaneous Employee An employee of the classified service other than a sworn safety officer or management employee.

Non-Classified Employee	All officers and employees of the City not within the classified service as defined above.
Open Competitive Examination	An examination open to qualified applicants either within or outside the classified service.
Part-Time Position	A budgeted position of less than forty (40) hours per week during each year.
Pay Range	The range of salary rates or steps for a position class.
Position	Group of current duties and responsibilities assigned or delegated by competent authority and requiring full or part-time services of one (1) employee.
Probationary Employee	An individual in a regular classified position who has been appointed or promoted from any eligible list, but who has not yet completed the probationary period.
Probationary Period	A designated period of employment in a regular classified position following appointment from an appropriate eligible list. The appointment may be original or promotional.
Promotion	The movement of an employee from a position of one class to a position of another class having a higher maximum salary rate with an increase in duties and responsibilities over the employee's present class.
Provisional Appointment	The appointment of a person possessing the minimum qualifications last established for a particular class other than eligibility by examination and who has been appointed to a position in that class in the absence of available eligibles.
Provisional Employee	An employee appointed to fill a full time position vacancy for a maximum six (6) month period of time when no valid employment eligible list exists.
Reallocation	The official determination that a position be assigned to a class different from the one to which it was previously assigned.
Recognized Employee Organization	An employee organization which has been formally acknowledged by the City as the employee organization that represents the employees in an appropriate representation unit pursuant to Article I(J) of the Employer-Employee Resolution of the City of Fort Bragg.

Reemployment List	List of former probationary or regular classified employees of particular class who were separated due to reduction in force and are entitled to have their names certified for appointment to vacant position in that class.
Regular Employee	An employee having satisfactorily completed the required probationary period.
Regular Full-Time Position	A classified position requiring a minimum of forty hours of work per week.
Rehire Date	Date of reinstatement.
Reinstatement	Reappointment without examination after a break in service to a specified regular classified position.
Resignation	Voluntary termination of employment by an employee.
Safety Employee	A fire or police employee, as defined by California Public Employees' Retirement System statutes.
Seasonal Employee	An individual appointed to a position established on a recurring basis of forty (40) hours per week, or less, for a specified season of six (6) consecutive months or less.
Selection Process	The process of testing, evaluating, investigating, and determining the fitness and qualification of applicants.
Seniority	Status, priority or precedence based on total amount of actual continuous service in the classified service or a specific class, excluding approved leaves of absence without pay in excess of thirty (30) days, but including leaves of absence for service in the armed forces of the United States.
Separation	Leaving the classified service for any reason.
Suspension	The temporary removal of the employee from his or her their duties, with or without pay, for disciplinary or pre-disciplinary investigation purposes.
Temporary Employee	Those employees who work an average of less than twenty (20) hours per week or 1,000 hours per year over a fifty-two (52) week period.
Termination	The separation from City service with the action initiated by the employee voluntarily or by the City within the provisions of these Rules which state the causes and procedures for such action.

Transfer	The movement of an employee within a department or between departments from one position to another position in the same class or another class having the same maximum salary, involving the performance of similar duties and requiring substantially the same basic qualifications.
Transitional Employee	A person appointed to a position within an existing or new class which is created for a specific purpose and/or program which will terminate within a given period of time established for the program, and for which special rules and procedures concerning working conditions, compensation, selection and appointment may be established as needed by the City Manager and/or City Council.
Vacancy	A duly created position which is not occupied and for which monies have been appropriated.
Y-Rating	An action to freeze an employee's salary at the current salary until such time that the top step of the salary range for such position equals or exceeds the employee's salary at the time of the Y-Rating action.

From: noreply@granicusideas.com
To: [Lemos, June](#)
Subject: New eComment for City Council via Video Conference
Date: Monday, January 11, 2021 5:33:51 PM

[SpeakUp](#)

New eComment for City Council via Video Conference

Jacob Patterson submitted a new eComment.

Meeting: City Council via Video Conference

Item: 5B. 20-977 Adopt City Council Resolution Approving Updates to the City of Fort Bragg Personnel Rules and Regulations

eComment: Thank you for making these additional revisions.

[View and Analyze eComments](#)

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City of Fort Bragg

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

Text File

File Number: 20-982

Agenda Date: 1/11/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: RS Resolution

Agenda Number: 5C.

Adopt Resolution of the Fort Bragg Redevelopment Successor Agency Approving Recognized Obligation Payment Schedule (ROPS) 21-22 (FY 21/22; July 1, 2021 - June 30, 2022) Pursuant to Health and Safety Code Section 34177(I)

RESOLUTION NO. RS ____-2021

**RESOLUTION OF THE FORT BRAGG REDEVELOPMENT SUCCESSOR AGENCY
APPROVING RECOGNIZED OBLIGATION PAYMENT SCHEDULE (ROPS) 21/22 (FY
21/22; JULY 1, 2021 – JUNE 30, 2022) PURSUANT TO HEALTH AND SAFETY CODE
SECTION 34177(I)**

WHEREAS, pursuant to Health and Safety Code section 34173(d), the Fort Bragg Redevelopment Successor Agency (“Successor Agency”) is the successor agency to the Fort Bragg Redevelopment Agency (“Agency”), acknowledged by Resolution 3559-2012 adopted on July 23, 2012; and

WHEREAS, pursuant to Health and Safety Code section 34179(a), each successor agency shall have an Oversight Board composed of seven members; and

WHEREAS, pursuant to Health and Safety Code section 34179(a), the Successor Agency maintained a local Oversight Board composed of seven members from July 23, 2012 to July 23, 2018; and

WHEREAS, pursuant to Health and Safety Code Section 34179 (j), on and after July 1, 2018 in each county where more than one oversight board was created, there shall be only one Countywide Oversight Board (Countywide OB). The Countywide OB shall be staffed by the County Auditor-Controller (CAC), by another county entity selected by the CAC, or by a city within the county that the CAC may select after consulting with the California Department of Finance (Finance); and

WHEREAS, on July 24, 2018 the Mendocino County Auditor-Controller created the Mendocino Countywide Oversight Board and designated the new countywide oversight board to be staffed by the City of Ukiah; and

WHEREAS, Health and Safety Code section 34177(l)(2), requires the Successor Agency to prepare a draft of a Recognized Obligation Payment Schedule (“ROPS”) listing outstanding obligations of the Agency to be performed by the Successor Agency; and

WHEREAS, Health and Safety Code section 34177(o) provides that each ROPS shall be forward looking to the next twelve months; and

WHEREAS, Health and Safety Code section 34177(l)(2) requires the Successor Agency to submit the draft ROPS to the Mendocino Countywide Oversight Board for approval and, upon such approval, the Successor Agency is required to submit a copy of such approved ROPS to the County of Mendocino Auditor-Controller, the California State Controller, and the State of California Department of Finance and post the approved ROPS on the Successor Agency’s website; and

WHEREAS, AB 1484 passed by the State Legislature on June 27, 2012 establishes a new schedule for submittal of a ROPS for periods subsequent to the period ending December 31, 2012; and

WHEREAS, under AB 1484 a Successor Agency is required to submit the approved ROPS for the period July 1, 2021 through June 30, 2022 to the County of Mendocino Auditor-

Controller, the California State Controller, and the State of California Department of Finance by February 1, 2021.

NOW, THEREFORE, BE IT RESOLVED that the Fort Bragg Redevelopment Successor Agency does hereby resolve as follows:

SECTION 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

SECTION 2. CEQA Compliance. The approval of the ROPS through this Resolution does not commit the Oversight Board to any action that may have a significant effect on the environment. As a result, such action does not constitute a project subject to the requirements of the California Environmental Quality Act.

SECTION 3. Approval of the ROPS. The Fort Bragg Redevelopment Successor Agency hereby approves and adopts the ROPS, in substantially the form attached to this Resolution as Exhibit A, pursuant to Health and Safety Code Section 34177, recognizing it has not been subjected to the County audit.

SECTION 4. Implementation. The Fort Bragg Redevelopment Successor Agency hereby directs City of Fort Bragg staff to submit copies of the ROPS to the Mendocino Countywide Oversight Board and upon approval to further submit copies to the County of Mendocino Auditor-Controller, the State of California Controller, and the State of California Department of Finance after the effective date of this Resolution or, if the State of California Department of Finance requests review of the ROPS prior to the effective date of this Resolution, upon approval of the ROPS by the State of California Department of Finance, and prior to February 1, 2021, and to post the ROPS on the Successor Agency's website.

SECTION 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end of the provisions of this Resolution are severable. The Oversight Board declares that the Oversight Board would have adopted Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 6. Certification. The City Clerk of the City of Fort Bragg, acting on behalf of the Successor Agency as its Secretary, shall certify to the adoption of this Resolution.

SECTION 7. Effective Date. Pursuant to Health and Safety Code section 34179(h), all actions taken by the Oversight Board may be reviewed by the State of California Department of Finance, and, therefore, this Resolution shall not be effective for three (3) business days, pending a request for review by the State of California Department of Finance.

The above and foregoing Resolution was introduced by Agency Board Member _____, seconded by Agency Board Member _____, and passed and adopted at a regular meeting of the Fort Bragg Redevelopment Successor Agency held on the 11th day of January, 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

BERNIE NORVELL
Chair

ATTEST:

June Lemos,
Successor Agency Secretary

**Recognized Obligation Payment Schedule (ROPS 21-22) - Summary
Filed for the July 1, 2021 through June 30, 2022 Period**

Successor Agency: Fort Bragg
County: Mendocino

Current Period Requested Funding for Enforceable Obligations (ROPS Detail)	21-22A Total (July - December)	21-22B Total (January - June)	ROPS 21-22 Total
A Enforceable Obligations Funded as Follows (B+C+D)	\$ -	\$ -	\$ -
B Bond Proceeds	-	-	-
C Reserve Balance	-	-	-
D Other Funds	-	-	-
E Redevelopment Property Tax Trust Fund (RPTTF) (F+G)	\$ 275,300	\$ 108,650	\$ 383,950
F RPTTF	211,600	44,950	256,550
G Administrative RPTTF	63,700	63,700	127,400
H Current Period Enforceable Obligations (A+E)	\$ 275,300	\$ 108,650	\$ 383,950

Certification of Oversight Board Chairman:

Pursuant to Section 34177 (o) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named successor agency.

Name Title

/s/ _____
Signature Date

Fort Bragg
Recognized Obligation Payment Schedule (ROPS 21-22) - ROPS Detail
July 1, 2021 through June 30, 2022

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W
Item #	Project Name	Obligation Type	Agreement Execution Date	Agreement Termination Date	Payee	Description	Project Area	Total Outstanding Obligation	Retired	ROPS 21-22 Total	ROPS 21-22A (Jul - Dec)					21-22A Total	ROPS 21-22B (Jan - Jun)					21-22B Total
											Fund Sources						Fund Sources					
											Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF		Bond Proceeds	Reserve Balance	Other Funds	RPTTF	Admin RPTTF	
								\$4,301,960		\$383,950	\$-	\$-	\$-	\$211,600	\$63,700	\$275,300	\$-	\$-	\$-	\$44,950	\$63,700	\$108,650
18	Administration & Staffing Costs	Admin Costs	12/12/1988	06/30/2037	Successor Agency	Admin & staff costs during Agency winddown	FBRA	127,400	N	\$127,400	-	-	-	-	63,700	\$63,700	-	-	-	-	63,700	\$63,700
21	2015 Tax Allocation Refunding Bonds	Bonds Issued After 12/31/10	02/19/2015	09/01/2036	U.S. Bank	Annual Debt Service Payment	FBRA	4,026,388	N	\$254,900	-	-	-	209,950	-	\$209,950	-	-	-	44,950	-	\$44,950
22	Trustee Services for Bonds	Fees	02/19/2015	09/01/2036	U.S. Bank	Financial Services Contract	FBRA	26,400	N	\$1,650	-	-	-	1,650	-	\$1,650	-	-	-	-	-	\$-
25	13-14A ROPS	RPTTF Shortfall	12/31/2012	06/30/2013	City of Fort Bragg	Payment of Obligations above available Cash	FBRA	121,772	N	\$-	-	-	-	-	-	\$-	-	-	-	-	-	\$-

Fort Bragg
Recognized Obligation Payment Schedule (ROPS 21-22) - Report of Cash Balances
July 1, 2018 through June 30, 2019
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.							
A	B	C	D	E	F	G	H
		Fund Sources					
		Bond Proceeds		Reserve Balance	Other Funds	RPTTF	
	ROPS 18-19 Cash Balances (07/01/18 - 06/30/19)	Bonds issued on or before 12/31/10	Bonds issued on or after 01/01/11	Prior ROPS RPTTF and Reserve Balances retained for future period(s)	Rent, grants, interest, etc.	Non-Admin and Admin	Comments
1	Beginning Available Cash Balance (Actual 07/01/18) RPTTF amount should exclude "A" period distribution amount.	-					
2	Revenue/Income (Actual 06/30/19) RPTTF amount should tie to the ROPS 18-19 total distribution from the County Auditor-Controller					375,278	
3	Expenditures for ROPS 18-19 Enforceable Obligations (Actual 06/30/19)					375,278	
4	Retention of Available Cash Balance (Actual 06/30/19) RPTTF amount retained should only include the amounts distributed as reserve for future period(s)						
5	ROPS 18-19 RPTTF Prior Period Adjustment RPTTF amount should tie to the Agency's ROPS 18-19 PPA form submitted to the CAC		No entry required				
6	Ending Actual Available Cash Balance (06/30/19) C to F = (1 + 2 - 3 - 4), G = (1 + 2 - 3 - 4 - 5)	\$-	\$-	\$-	\$-	\$-	

Fort Bragg
Recognized Obligation Payment Schedule (ROPS 21-22) - Notes
July 1, 2021 through June 30, 2022

Item #	Notes/Comments
18	
21	
22	
25	



City of Fort Bragg

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

Text File

File Number: 21-002

Agenda Date: 1/11/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5D.

Adopt City Council/Municipal Improvement District Resolution Accepting the Certificate of Completion for the Highway 1 Sewer Repair Project, City Project No. WWP-00022, and Directing City Clerk to File Notice of Completion

On September 28, 2020, the Fort Bragg City Council and Municipal Improvement District Board awarded a contract to Wahlund Construction, Inc. for the Highway 1 Sewer Repair Project, City Project No. WWP-00022 (Project). The project involved emergency repairs to a sewer line which was damaged as a result of a sink hole that occurred on Highway 1/Main Street in Fort Bragg. The work has been completed and Director of Public Works John Smith signed the Certificate of Completion on January 5, 2021, certifying that all work has been performed according to the plans and specifications for the project.

Following acceptance of the Certificate of Completion by the City Council, the City Clerk will file a Notice of Completion with the County Recorder.

RESOLUTION NO. ____-2021

RESOLUTION OF THE FORT BRAGG CITY COUNCIL

and

RESOLUTION NO. ID ____-2021

RESOLUTION OF THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT BOARD

**ACCEPTING THE CERTIFICATE OF COMPLETION
FOR THE HIGHWAY 1 SEWER LINE REPAIR PROJECT,
CITY PROJECT NO. WWP-00022, AND DIRECTING CITY CLERK
TO FILE NOTICE OF COMPLETION**

WHEREAS, on September 28, 2020, pursuant to Resolution 4312-2020 / ID 435-2020, the Fort Bragg City Council and Municipal Improvement District Board authorized the City Manager to contract with Wahlund Construction, Inc. for the Highway 1 Sewer Line Repair Project, City Project No. WWP-00022 (Project); and

WHEREAS, the Project involved emergency repairs to a sewer line which was damaged as a result of a sink hole that occurred on Highway 1/Main Street in Fort Bragg; and

WHEREAS, the work has been completed and Director of Public Works John Smith signed the Certificate of Completion on January 5, 2021, certifying that the work has been performed according to the plans and specifications for the Project; and

WHEREAS, a Notice of Completion is required to be recorded pursuant to Cal. Civil Code Section 8182; and

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

1. Wahlund Construction, Inc. has completed all work on the Highway 1 Sewer Line Repair Project, City Project No. WWP-00022, as specified in the Certificate of Completion attached hereto as Exhibit A.
2. The City of Fort Bragg / Municipal Improvement District No. 1 must file a Notice of Completion with the County Recorder's office.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg/District Board of the Fort Bragg Municipal Improvement District No. 1 does hereby accept the Certificate of Completion attached hereto as Exhibit A and directs the City Clerk to file Notice of Completion with the Mendocino County Recorder.

The above and foregoing Resolution was introduced by Council/Board Member _____, seconded by Council/Board Member _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg/District Board of the Fort Bragg Municipal Improvement District No. 1 held on the 11th day of January, 2020 by the following vote:

AYES:

NOES:

**ABSENT:
ABSTAIN:
RECUSED:**

**BERNIE NORVELL
Mayor/Chair**

ATTEST:

**June Lemos, CMC
City/District Clerk**

RECORDING REQUESTED BY:

City of Fort Bragg

AND WHEN RECORDED, RETURN TO:

City of Fort Bragg
416 North Franklin Street
Fort Bragg, California 95437
Attention: June Lemos, CMC, City Clerk

The City is exempt from recordation fees per Government Code §27383.

NOTICE OF COMPLETION

1. The undersigned is the duly authorized agent of the owner, City of Fort Bragg.
2. The full name of the owner is City of Fort Bragg / Fort Bragg Municipal Improvement District No. 1, a municipal corporation.
3. The nature of the interest of the owner is a fee interest.
4. This project was constructed in accordance with the Construction Services Agreement entitled **Highway 1 Sewer Line Repair Project, City Project No. WWP-00022**, dated October 7, 2020.
5. The name of the contractor of the improvement work is Wahlund Construction, Inc., 830 Hilma Drive, Eureka, California 95503. The contract was awarded to this firm on September 28, 2020, pursuant to Resolution No. 4312-2020 / ID 435-2020 by the Fort Bragg City Council / Municipal Improvement District.
6. The address of the owner is City of Fort Bragg, 416 North Franklin Street, Fort Bragg, California 95437.
7. On January 5, 2021, John Smith, Public Works Director, executed a Certificate of Completion for the above-referenced project indicating that this project was completed as of that date. See Certificate of Completion attached hereto as Exhibit A.

State of California)

County of Mendocino)

I hereby certify under penalty of perjury that the forgoing is true and correct:

City Council/MID Approval

CITY OF FORT BRAGG / MUNICIPAL
IMPROVEMENT DISTRICT NO. 1

January 11, 2021
(Date)

By: _____
June Lemos, CMC
City/District Clerk

PROOF OF SERVICE BY MAIL
(Code of Civil Procedure Sections 1013a, 2015.5)

I am over the age of 18 years, employed in the County of Mendocino, and not a party to the within action; my business address is Fort Bragg City Hall, 416 North Franklin Street, Fort Bragg, California 95437.

On January 12, 2021, I served the attached document by placing a true copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, via Certified Mail, Return Receipt Requested, in the United States mail at Fort Bragg, California addressed as follows:

SEE ATTACHED SERVICE LIST
(Insert names/addresses of contractors,
subcontractors, and those who have filed
Preliminary Notices with the City Clerk)

Executed on January 12, 2021, at Fort Bragg, Mendocino County, California.

I declare, under penalty of perjury, that the foregoing is true and correct.

ATTEST:

June Lemos, CMC
City/District Clerk



CITY OF FORT BRAGG

Incorporated August 5, 1889

416 N. Franklin Street, Fort Bragg, CA 95437

Phone: (707) 961-2823 Fax: (707) 961-2802

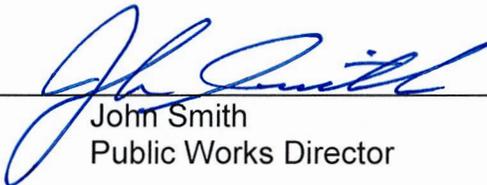
www.FortBragg.com

CERTIFICATE OF COMPLETION

All items of work and the provisions of the contract executed with WAHLUND CONSTRUCTION, INC. for labor, materials, equipment, and supervision for the Highway 1 Sewer Line Repair Project, as shown in the Plans and Specifications for the **Highway 1 Sewer Line Repair Project, City Project No. WWP-00022**, dated October 7, 2020 have been completed.

This project as described above was awarded by the City of Fort Bragg City Council/Municipal Improvement District Board by Resolution 4312-2020 / Resolution ID 435-2020, at their meeting of September 28, 2020.

It is recommended that the completed project be accepted by the City of Fort Bragg City Council / Fort Bragg Municipal Improvement District No. 1.



John Smith
Public Works Director

DATED: _____

1/5/2021

EXHIBIT "A"



City of Fort Bragg

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

Text File

File Number: 21-001

Agenda Date: 1/11/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 5E.

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

At a special meeting on March 24, 2020, the Fort Bragg City Council ratified the City Manager's Proclamation declaring a local emergency due to COVID-19 in its Resolution No. 4242-2020.

Since that date, the Council has adopted the following resolutions reconfirming the existence of a local emergency:

Date	Resolution No.
April 6, 2020	4245-2020
April 20, 2020	4247-2020
May 11, 2020	4250-2020
May 26, 2020	4253-2020
June 8, 2020	4266-2020
June 22, 2020	4270-2020
July 13, 2020	4284-2020
July 27, 2020	4289-2020
August 10, 2020	4294-2020
August 31, 2020	4300-2020
September 21, 2020	4304-2020
October 13, 2020	4317-2020
October 26, 2020	4319-2020
November 9, 2020	4323-2020
November 23, 2020	4329-2020
December 14, 2020	4333-2020
December 22, 2020	4340-2020

The City is required to reconfirm the existence of a local emergency every 21 days pursuant to Fort Bragg Municipal Code Section 2.24.040.

RESOLUTION NO. ____-2021

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of January, 2021 by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk



City of Fort Bragg

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

File Number: 20-985

Agenda Date: 1/11/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 5F.

Approve Minutes of December 14, 2020



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
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Meeting Minutes City Council

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

Monday, December 14, 2020

6:00 PM

Via Video Conference

CALL TO ORDER

Mayor Lee called the meeting to order at 6:00 PM, all Councilmembers appearing by video conference.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

Mayor Lee thanked the people for the trust they gave by voting for him in 2016, stating that it was one of the great honors of his life to serve the community of Fort Bragg.

8. CONDUCT OF BUSINESS

- 8A. [20-926](#)** 2020 City Council Reorganization
1. Adopt City Council Resolution Reciting the Fact of the Appointment of Unopposed Incumbents for City Council, the Absence of a Municipal Election on November 3, 2020, and Installing Appointed Incumbents to the City Council
 2. Administer Oaths of Office
 3. Conduct City Council Reorganization
 - a. Selection of Mayor
 - b. Selection of Vice Mayor

City Clerk Lemos summarized the staff report for this agenda item.

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

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

Enactment No: RES 4332-2020

City Clerk Lemos administered the oaths of office to Councilmembers William V. Lee and Bernie Norvell.

A motion was made by Councilmember Lee, seconded by Councilmember Morsell-Haye, to nominate Councilmember Norvell for Mayor. The motion carried by the following vote:

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

Enactment No: RES 4332-2020

Mayor Norvell thanked Councilmember Lee for his service. City Manager Miller presented a plaque to Councilmember William V. Lee recognizing his years of service on the Fort Bragg City Council.

A motion was made by Councilmember Peters to nominate Councilmember Albin-Smith for Vice Mayor. The motion failed for lack of second.

A motion was made by Mayor Norvell, seconded by Councilmember Lee, to nominate Councilmember Morsell-Haye for Vice Mayor. The motion carried by the following vote:

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

Enactment No: RES 4332-2020

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

(1) City Clerk Lemos read a public comment from Annemarie Weibel into the record. (2) None. (3) N/A.

3. STAFF COMMENTS

City Manager Miller gave updates on the Danco Project which is expected to break ground in January 2021. She reported on the arrest of a local theft suspect. Three Police Officers assisted a woman in labor and helped deliver her baby. Miller also reported on the latest COVID testing results.

4. MATTERS FROM COUNCILMEMBERS

Councilmember Peters reported on the application process for filling the vacancy of Councilmember Lee's seat on the Council. The vacancy ad hoc committee recommended a special meeting devoted to candidate interviews.

5. CONSENT CALENDAR

Vice Mayor Morsell-Haye requested that Items 5A and 5F be removed from the Consent Calendar for clarification from staff and further discussion.

Approval of the Consent Calendar

A motion was made by Councilmember Albin-Smith, seconded by Councilmember Lee, to approve the Consent Calendar with the exception of

Items 5A and 5F. The motion carried by the following vote:

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

- 5B.** [20-925](#) Approve Maddy Act Notice Providing List of Appointed Terms Expiring in 2021
The Maddy Act Notice was approved on the Consent Calendar.
- 5C.** [20-934](#) Adopt City Council Resolution Confirming the Continued Existence of a Local Emergency in the City of Fort Bragg
This Resolution was adopted on the Consent Calendar.
Enactment No: RES 4333-2020
- 5D.** [20-935](#) Adopt Joint City Council/Municipal Improvement District Resolution Approving Amendments to the Joint Powers Agreement and Bylaws of the Redwood Empire Municipal Insurance Fund (REMIF) and Approving the Joint Powers Agreement and Bylaws for California Intergovernmental Risk Authority (CIRA)
This Resolution was adopted on the Consent Calendar.
Enactment No: RES 4334-2020
- 5E.** [20-936](#) Adopt City Council Resolution Extending the Temporary Waiver of the Parking In-Lieu Fee for Changes of Use in the Central Business District
This Resolution was adopted on the Consent Calendar.
Enactment No: RES 4335-2020
- 5G.** [20-953](#) Adopt City Council/Municipal Improvement District Resolution Accepting the Certificate of Completion for the Wastewater Treatment Plant Upgrade Project, City Project No. 2018-01, and Directing City Clerk to File Notice of Completion
This Certificate of Completion was accepted on the Consent Calendar.
Enactment No: RES 4337-2020
- 5H.** [20-955](#) Receive and File Minutes of the August 12, 2020 Finance and Administration Committee Meeting
These Committee Minutes were received and filed on the Consent Calendar.
- 5I.** [20-956](#) Receive and File Minutes of the October 21, 2020 Finance and Administration Committee Meeting
These Committee Minutes were received and filed on the Consent Calendar.
- 5J.** [20-957](#) Receive and File Minutes of the March 11, 2020 Public Works and

Facilities Committee Meeting

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

5K. [20-933](#) Approve Minutes of November 23, 2020

These Minutes were approved on the Consent Calendar.

5L. [20-954](#) Approve Minutes of Special Meeting of December 7, 2020

These Minutes were approved on the Consent Calendar.

ITEMS REMOVED FROM CONSENT CALENDAR

5A. [20-924](#) Approve Scope of Work for an Economic Development Feasibility Study Focused on the Mill Site

Responding to questions regarding the scope of work for the Mill Site feasibility study, City Manager Miller said that the study will be funded by proceeds received from an Economic Development Administration grant. The study will focus on economic development activities and the best way to diversify the local economy to provide more resiliency. Miller noted that the study is not related to the Local Coastal Plan amendment or current Mill Site projects.

Public Comment: None.

A motion was made by Councilmember Peters, seconded by Councilmember Lee, that this Scope of Work be approved. The motion carried by the following vote:

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

5F. [20-950](#) Adopt City Council Resolution Approving Updates to the City of Fort Bragg Personnel Rules and Regulations

Vice Mayor Morsell-Haye requested that the Personnel Rules be amended to reflect gender neutral language throughout. City Manager Miller recommended that the Council approve the Resolution as presented and a new amended document will be submitted on a future Consent Calendar.

Public Comment from Jamie Peters was read into the record by the City Clerk.

Discussion: Council directed staff to amend the City Personnel Rules and Regulations to include gender neutral pronouns throughout the document for approval on a future Consent Calendar.

A motion was made by Vice Mayor Morsell-Haye, seconded by Councilmember Peters, that this Resolution be adopted. The motion carried by the following vote:

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

Enactment No: RES 4336-2020

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

7. PUBLIC HEARING

8. CONDUCT OF BUSINESS

- 8B.** [20-928](#) Receive Presentation by Torie Jarvis from Dynamic Planning on the Mendocino County Multi-Jurisdictional Hazard Mitigation Plan and Consider Adoption of City Council Resolution Adopting the 2020 Multi-Jurisdictional Hazard Mitigation Plan as the City of Fort Bragg's Official Plan

Public Works Director Smith introduced Torie Jarvis, planning manager for Dynamic Planning, who made a detailed presentation of the proposed hazard mitigation plan to the City Council.

Public Comment: "Andrew" made a public comment via Zoom.

Discussion: None.

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

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

Enactment No: RES 4338-2020

- 8C.** [20-949](#) Receive Report and Consider Approval of a Letter of Intent to Negotiate in Good Faith with Waste Management for a New Franchise Agreement

City Manager Miller gave the staff report on this agenda item. Steve Shamblin and Kayla Rodriguez from Waste Management were present and answered questions from Council.

Public Comment: None.

Discussion: The Council requested that they receive regular updates on the negotiations and asked for consideration of removal of retroactive charges and ways that cost-savings from higher diversion rates can be passed on to residents. Councilmember Peters noted that the letter should be revised to reflect the current date and the new Mayor and Vice Mayor.

A motion was made by Councilmember Peters, seconded by Councilmember Lee, that this Council Letter be approved as amended. The motion carried by the following vote:

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

- 8D.** [20-952](#) Receive Report and Consider Adoption of City Council Resolution Approving Professional Services Agreement with HDR Engineering, Inc. for the Water Treatment Plant Rehabilitation Project, City Project No. WTR-00017, and Authorizing City Manager to Execute Contract (Amount Not to Exceed \$426,513; from Water Enterprise Capital Reserve Fund 615)

Public Works Director Smith presented the staff report on this agenda item.

Public Comment: None.

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

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

Enactment No: RES 4339-2020

9. CLOSED SESSION

ADJOURNMENT

Mayor Norvell adjourned the meeting at 8:25 PM.

BERNIE NORVELL, MAYOR

June Lemos, CMC, City Clerk

IMAGED (_____)



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 20-987

Agenda Date: 1/11/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 5G.

Approve Minutes of Special Closed Session of December 16, 2020



City of Fort Bragg

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

Meeting Minutes Special 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*

Wednesday, December 16, 2020

5:30 PM

Via Video Conference

Special Closed Session

CALL TO ORDER

Mayor Norvell called the meeting to order at 5:34 PM.

ROLL CALL

Present: 4 - Mayor Bernie Norvell, Vice Mayor Jessica Morsell-Haye, Councilmember Tess Albin-Smith and Councilmember Lindy Peters

Absent: 1 - Councilmember Will Lee

1. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

None.

2. CLOSED SESSION

Mayor Norvell recessed the meeting at 5:35 PM; the meeting reconvened to Closed Session at 5:37 PM.

2A. [20-959](#)

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION: Significant exposure to litigation pursuant to Paragraph (2) of Subdivision (d) of California Government Code Section 54956.9: One (1) Potential Case; Claim from Jacob Patterson re discrimination, breach of contract, and other related claims

Mayor Norvell reconvened the meeting to Open Session at 7:11 PM and reported that no reportable action was taken on the Closed Session item.

ADJOURNMENT

Mayor Norvell adjourned the meeting at 7:11 PM.

BERNIE NORVELL, MAYOR

June Lemos, CMC, City Clerk

IMAGED (_____)



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 20-986

Agenda Date: 1/11/2021

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 5H.

Approve Minutes of Special Meeting of December 22, 2020



City of Fort Bragg

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

Meeting Minutes Special 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*

Tuesday, December 22, 2020

6:00 PM

Via Video Conference

Special Meeting

CALL TO ORDER

Mayor Norvell called the meeting to order at 6:00 PM, all Councilmembers appearing by video conference.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: 4 - Mayor Bernie Norvell, Vice Mayor Jessica Morsell-Haye, Councilmember Tess Albin-Smith and Councilmember Lindy Peters
Absent: 1 - Councilmember Will Lee

AGENDA REVIEW

1. PUBLIC COMMENTS ON SPECIAL AGENDA ITEMS

None.

2. CONSENT CALENDAR

Mayor Norvell requested that Item 2B be removed from the Consent Calendar for further discussion.

Approval of the Consent Calendar

A motion was made by Councilmember Peters, seconded by Councilmember Albin-Smith, to approve the Consent Calendar with the exception of Item 2B. The motion carried by the following vote:

Aye: 4 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith and Councilmember Peters
Absent: 1 - Councilmember Lee

2A. [20-962](#)

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

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 4340-2020

- 2C.** [20-965](#) Approve a Revised Letter of Intent to Negotiate in Good Faith with Waste Management for a New Franchise Agreement

This Council Letter was approved on the Consent Calendar.

ITEMS REMOVED FROM CONSENT CALENDAR

- 2B.** [20-964](#) Approve Letter Opposing Consolidation of Northern California Small Business Development Centers (SBDCs) and Potential Elimination of the SBDC in Mendocino County

Mayor Norvell requested clarification regarding the purpose of this letter. Vice Mayor Morsell-Haye explained that the Council would be asking the Northern California Small Business Development Center (NorCal SBDC) to delay their plan to realign and consolidate SBDCs in the Northern California region until after the new Biden administration has taken office.

Public Comment: None.

A motion was made by Mayor Norvell, seconded by Vice Mayor Morsell-Haye, that this Council Letter be approved. The motion carried by the following vote:

Aye: 4 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith and Councilmember Peters

Absent: 1 - Councilmember Lee

3. CONDUCT OF BUSINESS

- 3A.** [20-970](#) Nomination and Appointment of Planning Commissioners to Serve on the Fort Bragg Planning Commission

City Manager Miller summarized this agenda item.

Public Comment from Jay Rosenquist was read into the record by the City Clerk.

A motion was made by Mayor Norvell, seconded by Councilmember Peters, to reappoint Nancy Rogers to the Fort Bragg Planning Commission. The motion carried by the following vote:

Aye: 4 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith and Councilmember Peters

Absent: 1 - Councilmember Lee

A motion was made by Councilmember Albin-Smith, seconded by Councilmember Peters, that Jay Andreis be reappointed to the Fort Bragg Planning Commission. The motion carried by the following vote:

Aye: 4 - Mayor Norvell, Vice Mayor Morsell-Haye, Councilmember Albin-Smith and Councilmember Peters

Absent: 1 - Councilmember Lee

- 3B.** [20-969](#) Review City Council Appointment Materials and Provide Direction to Staff

Ad hoc committee members Peters and Albin-Smith presented the draft flyer and application form for the vacant City Council seat to the rest of the Councilmembers.

Public Comment from Jacob Patterson was read into the record by the City Clerk.

Discussion: Staff was directed to make changes to the due date for applications and to post the flyer and application form on the City website in English and Spanish.

This matter was referred to staff.

ADJOURNMENT

Mayor Norvell adjourned the meeting at 6:35 PM.

BERNIE NORVELL, MAYOR

June Lemos, CMC, City Clerk

IMAGED (_____)



City of Fort Bragg

416 N Franklin Street
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Text File

File Number: 20-974

Agenda Date: 1/11/2021

Version: 1

Status: Business

In Control: City Council

File Type: Report

Agenda Number: 8A.

Receive Report and Provide Direction to Staff on Preferred Location for the Winter Shelter from February 15, 2021 to March 31, 2021



AGENCY: City Council
MEETING DATE: January 11, 2021
DEPARTMENT: City Manager
PRESENTED BY: Tabatha Miller
EMAIL ADDRESS: tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Provide Direction to Staff on Preferred Location for the Winter Shelter from February 15, 2021 to March 31, 2021

ISSUE:

On November 23, 2020, the Mendocino Coast Hospitality Center (MCHC) issued a press release with the title "Coast faces prospect of no Winter Shelter this year" (Attachment 1). The challenges of securing adequate venues, hiring staff and complying with COVID guidance were cited as reasons MCHC may not be able to operate the Winter Shelter this year.

The Ad Hoc Homelessness Committee (Councilmember Morsell-Haye, Vice Mayor Norvell and City Manager) met on Monday, November 30th to discuss the matter and solutions to the challenges faced. At a special meeting on December 7, 2020, scheduled to discuss the Winter Shelter (WS), the Committee recommended that the City Council consider appropriating \$15,000 to supplement the normal shelter wages paid and consider leasing a portion of the C.V. Starr Community Center in February and March, to serve as the Winter Shelter venue for the final two months. The City Council approved the \$15,000 to provide hazard pay of \$4.00 per hour for Winter Shelter staff. City Council discussed but did not provide direction on the venue for the Winter Shelter from February 15 to March 31, 2021 and requested that staff provide additional information and hear more from the public on the three venues.

ANALYSIS:

The Coast Winter Shelter provides emergency overnight shelter to the local transient population during the colder winter months. Prior to last year, the shelter was only open on those nights when the temperatures reached certain low levels and/or when rainstorms were predicted. Last year, the shelter was renamed from the Emergency Winter Shelter to the Winter Shelter and offered shelter every evening from approximately December 15 through March 15. The unique circumstances of the COVID-19 pandemic extended the length the shelter operated and moved shelter residents into hotel rooms as precautions against the virus.

Typically, the Winter Shelter is hosted by faith-based organizations in Fort Bragg and the surrounding area. Each facility hosts the shelter for a two-week period under the terms set forth in a City issued Limited Term Permit (Attachment 2). By rotating the location, the participating churches and their associated neighborhoods share the burden of hosting the shelter. For the last several years, potential Winter Shelter guests were processed at the Mendocino Coast Hospitality Center during the day and if eligible placed on the "Shelter Eligibility List." Those individuals on the list would check in at the Fort Bragg Food Bank and

be transported to the hosting facility after 5:00pm. Shelter Guests were returned to the Hospitality Center no later than 8:00am the next morning.

The shutdown in March 2020 mandated that local hotels could only rent rooms to individuals providing essential services. This dropped occupancy rates locally by as much as 85-90% and provided empty rooms that could be rented to provide shelter to at-risk homeless and those who would traditionally stay in the Winter Shelter. This resolved many of the risks associated with operating congregate housing during a pandemic, where the risks are much higher for spreading COVID-19.

However, this fall the local hotels have had the opportunity to rent rooms to visitors and tourists and have remained quite full as reflected in the City's most recent Transient Occupancy Tax collection, which was up 8.4% for the 1st quarter of fiscal year 2020-21 over the prior year, up 33% for October and up 10% for November. As a result, renting hotel rooms has not been a viable option this winter.

Many of the faith-based community partners' facilities do not have the additional space needed to properly meet the additional spacing needs necessitated by COVID. The other obstacle for the faith-based partners was the need to devote the space 24-7 to a shelter to meet sanitation and hygiene guidelines.

MCHC staff was able to secure two locations that could host the Winter Shelter for December through mid-February. MCHC staff approached the City with a request to rent the gymnasium located in City Hall East for the remaining winter season. Prior to COVID, the gymnasium would host recreational programs for the C.V. Starr and Mendocino Coast Recreation and Park District, the Farmer's Market during the winter and other special events throughout the year. With the exception of hosting the Mendocino County Polling Place in November, the gymnasium has remained essentially unused since mid-March.

While the size of the space and its availability was desirable for a shelter, the location itself adds to the considerable challenges our local businesses in the Central Business District (CBD) face from some in the homeless population. A number of these folks suffer from mental illness or substance abuse and can be abusive and/or scary to locals and visitors patronizing the local shops and businesses. Trash, drug paraphernalia, excrement, used clothing and discarded belongings can be left behind. Some of these individuals receive daily meal and shower services at the Hospitality House just east of the CBD and this has been associated with increased loitering in the CBD.

At a time when we have seen many small businesses close, the burden of hosting a Winter Shelter in this district may be too much to ask of our businesses. We depend on those businesses to attract visitors and support our tax collections. This is one of the reasons that the Food Bank in the Industrial District at the north end of Franklin Street was used to check in eligible shelter guests. It was away from the CBD businesses and reduced the loitering around businesses.

The second option is to lease a portion of the C.V. Starr Community Center. That facility is currently closed and a portion could be segmented off to provide the temporary shelter. However, a skeleton staff is working in the facility during the day and a few rooms have been allocated to the Fort Bragg School District to accommodate internet rooms and Driver's Education instruction. The facility is also undergoing increased maintenance and repair activities facilitated by the reduction in use.

The C.V. Starr Center is in a residential neighborhood and located next to an elementary school. However, most of the faith-based facilities are in residential neighborhoods and with proper permit and lease conditions, interference with the neighbors is minimal. Any activity at the School and District Offices to the South would happen between 8:00am and 5:00pm. The shelter hours would be limited to 5:30pm to 7:30am and shelter guests would be transported to and from the Center. Conditions contained in prior Temporary Use Permits would be included in this permit and lease to reduce the impacts to the neighborhood.

The possibility of hosting the Winter Shelter at the C.V. Starr Center has been discussed with C.V. Starr staff, who have raised several concerns. One matter is liability insurance. The Mendocino Coast Recreation & Park District, as the Center's operator, procures insurance for the facility and its recreation-associated operations. A homeless shelter is outside of that coverage. The recommendation is to require MCHC to provide proper insurance coverage for leasing a portion of the facility and to indemnify both the City and MCRPD.

A second matter is the safety and health of C.V. Starr staff. Staff are concerned with exposure to COVID-19 from Winter Shelter guests and the responsibility for proper cleaning and sanitation of the facility. Separating the times staff are in the facility and physically segregating the Winter Shelter from staff offices along with requiring MCHC to properly clean and sanitize the designated shelter space each morning will provide protection against possible spread of the virus. Additionally, the City will require MCHC to operate the Winter Shelter in compliance with the CDPH Guidance for Homeless Shelters and follow the protocols it developed for the Winter Shelter (Attachment 4 and Attachment 5).

A third option raised during the December 7, 2020 special City Council meeting is use of the MCHC facility at 101 N. Franklin Street. A number of public comments and social media posts about the shelter, questioned why this facility could not be used as the winter shelter venue. Paul Davis, the Interim Executive Director, who attended that meeting, discussed that option with the City Council. He indicated that it might be doable, but would be subject to the City's current zoning. The City Council passed an Urgency Ordinance which allowed for temporary zoning waivers during the pandemic to allow businesses to transition operations in response to the impacts of the pandemic and Stay at Home Orders. This same waiver could be applied for by MCHC in order to temporarily operate the 101 N. Franklin St. facility as a shelter for the 2020-21 winter season.

The 101 N. Franklin Street facility is serving as the intake and case management point for the WS guests. It is also serving as the check-in facility for eligible WS guests to check in and remain on site during the afternoons prior to transporting the WS location. WS guests

may be served meals or snacks during the check-period at the 101 N. Franklin Facility. Use of this facility would eliminate the need to transport shelter guests from check-in to the shelter venue, making the shelter operations more efficient.

The location within the Central Business District, in a neighborhood impacted by the services provided at the facility, does not make this an ideal location. However, none of the locations would be considered ideal. The 101 N. Franklin site receives regular complaints about loitering and other undesirable behaviors that affect the operations of the businesses in the area. This is particularly true on weekends, when the facility is not staffed.

The last option is to not approve a location for the shelter after February 15, 2021 and leave it to MCHC to find a suitable alternative location that would be approved for use by the City.

RECOMMENDED ACTION:

Staff is seeking direction from City Council on its preferred location for the WS from approximately February 15 to March 31, 2021. Options provided include:

1. C.V. Starr Community Center
2. East City Hall Gymnasium
3. Hospitality Center, 101 N. Franklin Street
4. Alternative location as arranged for by MCHC

ALTERNATIVE ACTION(S):

1. Provide staff alternative direction regarding the Winter Shelter location.

FISCAL IMPACT:

There is no direct fiscal impact to the City, other than staff time to facilitate a location.

GREENHOUSE GAS EMISSIONS IMPACT:

The direction provided by Council by itself does not have an impact on greenhouse gas emissions. The location may have a small impact, depending on the length of trips for transporting winter shelter guests.

CONSISTENCY:

The assistance to MCHC is consistent with the following 2019-2027 Housing Element policies and programs.

Policy H-2.8 Emergency and Transitional Housing: Continue to support emergency shelters, transitional housing and supportive housing within the City.

Providing a City-owned facility to house a temporary Winter Shelter, increases the likelihood that the Winter Shelter will continue past February 2021. This may be the difference between having a Coast Winter Shelter the rest of the season.

Program H-2.8.2 Inter-Agency Cooperation: Continue to work with private, non-profit, County, and State agencies to provide transitional housing, supportive services and emergency housing for the homeless.

MCHC is a local non-profit that provides transitional housing, supportive services and emergency housing for the homeless. The City has a long history of supporting and encouraging MCHC to provide quality services and housing to our community. The Homelessness Ad Hoc Committee continues to work with MCHC to support providing quality services and housing in the community. Providing a venue to MCHC is consistent with this program.

IMPLEMENTATION/TIMEFRAMES:

A lease for use of a portion of the C.V. Starr Center or City Hall East Gymnasium would begin mid-February, but negotiations could start immediately. A final lease will be approved by the City Council at a future meeting.

ATTACHMENTS:

1. MCHC Press Release, November 23, 2020
2. Limited Term Permit WS 2019-20
3. Temporary Waiver & Special Conditions WS 2020-21
4. WS Cleaning and Sanitizing
5. MCHC COVID Outbreak Response
6. WS Comments Rec'd by CM

NOTIFICATION:

1. Carly Wells, MCRPD
2. Paul Davis, MCHC
3. Homeless, Notify Me subscriber list

Press Release: for immediate release, November 23, 2020
Contact: Paul Davis, Interim Executive Director
Mendocino Coast Hospitality Center
(707) 961-0172 admin@mendocinochc.org

Coast faces prospect of no Winter Shelter this year

In spite of months of effort, the Coast is facing the prospect of not having a Winter Shelter to house some of the most vulnerable members of our community this winter. Mendocino Coast Hospitality Center (MCHC) in coordination with local faith-community partners have provided this invaluable service for more than a decade. While each year is a struggle to secure funding and staffing, the pandemic has created unprecedented barriers to success on every level.

The many obstacles this year have included failed efforts to find an organization to replace MCHC as the service provider for the shelter, COVID-19 restrictions, unavailability of the usual faith community facilities, a dearth of adequate or willing alternative rental facilities, a county zoning conflict and now staffing shortages with a very limited candidate field. Some of these obstacles have been overcome, but others remain.

Early in the year MCHC was informed that two of the Coast's elected officials were attempting to identify another organization that would agree to operate this year's Winter Shelter. This endeavor, while welcome, was ultimately unsuccessful. Realizing this fact and in keeping with its mission, history, and duty to the people who rely on the shelter each winter, MCHC submitted a proposal to request funding.

With funding applications in the pipeline, MCHC reached out to its faith community partners. It was clear from the beginning of the pandemic that congregate living situations are at particularly high-risk for COVID-19 transmission. One of the protocols for decreasing risk in these situations involves reducing the density of people in a given space. Thus, the size of the space needed for the winter shelter is larger this year, ruling out many of the small churches that have generously welcomed the shelter in the past. In addition, the need for the space to

be totally designated to the shelter program for the duration proved unfeasible.

With the knowledge that our previous approach was not an option, plus the new requirements and restrictions, MCHC began looking for alternative locations. A search of more than 30 locations in and around Fort Bragg yielded only two locations that fit the requirements and were willing to house a homeless shelter. However, that still means only two months with a secured venue, leaving the shelter without a location for up to two additional months. MCHC has reached out to the City of Fort Bragg to request the use of the old Rec Center space at Town Hall for those two months, but no decision has been made. In addition, MCHC proposes to hold the check in and transportation spot for guests of the Winter Shelter at their main facility where all non shelter activities occur. In this way, guests and staff will be able to wait under cover where they are able to control physical distancing. Doing this at the Food Bank as they have in the past would require everyone to wait outdoors in the rain as the indoor space available is too small for safe contact.

Though it has been a time-consuming process to locate space and plan for the special needs during the pandemic, the final and potentially decisive obstacle is the ongoing search for staff, without whom the winter shelter cannot function. MCHC is currently in need of a temporary part-time coast winter shelter administrator and six overnight supervisors to support the Winter Shelter to begin in December. Interested candidates are encouraged to apply. Training is provided. Job descriptions and application information can be found at www.mendocinochc.org. Application deadlines are imminent, and a final decision will be made on November 30.

Interim Executive Director, Paul Davis, states, “While we deeply regret the circumstances leading to this result, if we are unable to operate a winter shelter, we will still continue to do our best to accommodate those in need through our ongoing programs, including our year round Hospitality House Emergency Shelter, Transitional Housing and other services.”

Please contact admin@mendocinochc.org or call (707) 961-0172 x1100 for more information.

CITY OF FORT BRAGG
COMMUNITY DEVELOPMENT DEPARTMENT
416 North Franklin Street
Fort Bragg, CA 95437
Tel: (707) 961-2827
Fax: (707) 961-2802
www.city.fortbragg.com



Hearing/decision date(s)
December 11, 2019

LIMITED TERM PERMIT ACTION NOTIFICATION

This document provides notification of the decision as indicated below. If you have any questions, please contact the Community Development Department at City Hall.

APPLICATION NO.: Limited Term Permit 33-19 (LTP 33-19)
PROPERTY OWNER: Multiple, see list below
AGENT/APPLICANT: Mendocino Coast Hospitality Center
REQUEST: **Limited Term Permit to authorize temporary Weather Shelters (WS) at five faith-based organizations in the City, with staging at 910 N. Franklin Street (Food Bank).**

**LOCATION AND
ASSESSOR'S PARCEL
NUMBER:**

Fort Bragg First Presbyterian Church
367 S. Sanderson Way
Fort Bragg
008-332-10

Trinity Lutheran Church
620 E. Redwood Avenue
Fort Bragg
008-221-01 and -02

St. Michaels Episcopal Church
210 E. Fir Street
Fort Bragg
008-082-06

Grace Community Church
1450 E. Oak Street
Fort Bragg
020-510-07

Coast Christian Center
1004 E. Chestnut Street
Fort Bragg
018-281-01

Food Bank
910 N. Franklin
Fort Bragg
008-060-02

DATE OF ACTION: December 11, 2019
ACTION BY: XX Community Development Director
ACTION TAKEN: XX Approved (See attached Findings and Conditions)
EFFECTIVE DATE OF ACTION: December 11, 2019

LOCAL APPEAL PROCESS AND FEE: Decisions of the Community Development Director shall be final unless appealed to the Planning Commission in writing within 10 days of the decision date with a filing fee of \$300 to be filed with the Community Development Department.

This project is: XX Not appealable to the Coastal Commission.
 Appealable to the Coastal Commission pursuant to Chapter 17.92.040 of the City of Fort Bragg Coastal Land Use and Development Code

NOTIFICATION MAILED TO: Mendocino Coast Hospitality Center, P.O. Box 2168, Fort Bragg, CA 95437

DATE OF MAILING: December 11, 2019

CONDITIONS OF APPROVAL: See attached findings and conditions

Community Development Department Statement: I hereby certify that all conditions which must be met prior to issuance of this permit have been met and that this permit is deemed by the City of Fort Bragg Community Development Department to be a valid permit subject to all conditions of approval.

Tabatha Miller / City Manager 12-11-2019
Community Development Director Date

Statement of Responsible Party: I am responsible for assuring the temporary event is carried out in compliance with all applicable regulatory requirements, and I hereby certify that I have reviewed the conditions of approval and the project will be carried out in conformance with the specified conditions as attached.

Chris Hurd 12-13-2019
Responsible Party Date

Notice: This permit must be signed and returned to the Community Development Department.

FINDINGS AND CONDITIONS:

LTP 33-19 has been approved based on the findings and conditions cited below:

FINDINGS

1. The proposed temporary use as described in the application and supplemental materials, as modified by any conditions of approval, is in conformity with the City of Fort Bragg's Inland Land Use and Development Code (ILUDC) and will not adversely affect the environment;
2. As conditioned, the proposed temporary use is consistent with the purposes of the zoning districts in which the sites are located;
3. The proposed temporary use is a temporary use for a limited term and is compatible with existing uses on the property;
4. For the purposes of the environmental determination, this proposed temporary use has been determined to be exempt from further environmental review pursuant to the CEQA Guidelines, Section 15304(e), minor temporary use of land; and
5. The proposed location of the temporary use and conditions under which it may operate will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

SPECIAL CONDITIONS

The following Special Conditions will be required as part of the Limited Term Permit:

1. This permit is valid for a limited term only. The temporary operation of the Winter Shelter (WS) may open no later than December 15, 2019 and remain open through April 1, 2020.
2. The WS may open daily. Daily hours of the winter shelter operation will be from 5:00pm - 8:00am the following morning.
3. The WS program shall operate in the following manner:
 - i. Housing homeless individuals at the WS designated site, or provide motel or camping vouchers as appropriate.
 - ii. Provide motel vouchers as necessary to shelter families with children under 16, the elderly or severely disabled individuals who would be prioritized for shelter, but for whom the facility is not appropriate:
 - a. Link these families and individuals to additional services, care and case-management within forty-eight hours of initial contact
 - iii. Maximize use of all existing shelter beds, as practicable.
4. Families and children will not be housed at the WS (see 3(ii) above).
5. Mendocino Coast Hospitality Center (MCHC) will comply with the Program Eligibility and engage with sheltered individuals and families as outlined in MCHC's Coast Winter Shelter contract with Mendocino County by:
 - i. Providing case management support, tracking and reporting individual's progress towards stabilization and permanent housing, etc.
 - ii. Develop a case plan to include goals of safe and stable permanent housing.
 - iii. Limiting services to individuals choosing not to actively participate in case-management to a maximum of two bed nights per season, dependent on availability.
 - iv. Coordinate with other agencies by collecting and inputting Homeless Management Information System (HMIS) by completing in-take forms

- including HMIS required components and enter into the HMIS within first 24 hours of contact with an individual; and complete the Vulnerability Index – Service Prioritization Decision Assistance Tool (VI-SPDAT)
6. MCHC staff shall input the above data for each winter shelter guests during the intake process at MCHC between 8:30am – 12:00pm or 1:00pm – 3:00pm Monday through Friday and develop a daily “Shelter Eligibility List.”
 7. Winter Shelter individuals on the “Shelter Eligibility List” are required to check in at the Food Bank at 910 N. Franklin Street between the hours of 4:30pm-5:00pm.
 - a. A restroom or portable toilet and trash receptacle shall be accessible at the Food Bank facility during 4:30pm-5:00pm
 - b. The WS operation at the Food Bank shall be managed by paid employees of MCHC at all times and will be on-site while this site is in use.
 - c. Trash and debris will be removed from the Food Bank site and public right of way in front of the Food Bank each day.
 - d. WS clients shall park their vehicles on the street; parking in off-street private parking lots shall be monitored and prohibited by the WS Administrator.
 8. Guests shall arrive at the WS, via van, no earlier than 5:00pm and shall vacate the shelter facility no later than 8:00am the following morning.
 9. Dinner will be provided to shelter guests between 5:30pm and 6:00pm at the WS each evening.
 10. WS guests shall be transported back to MCHC no later than 8:00am each morning.
 11. MCHC paid and trained employees shall be on-site for security and supervision during WS operating hours. At least one employee shall be present if there are fewer than twelve (12) guests, two employees shall be present if there are twelve (12) or more guests.
 12. WS guests must remain in the shelter overnight; guests who leave the shelter shall not be permitted to return to the shelter that night.
 13. The WS shall not be operated at a single location for more than fourteen (14) consecutive days. The shelter shall be limited to the locations listed in this Limited Term Permit. Additional locations may be requested for consideration by the Community Development Director subject to a permit amendment.
 14. MCHC and WS staff shall work with the F.B. Police Department and deny individuals banned from MCHC Ban List from the WS.
 15. Loitering by WS guests on City sidewalks or alleyways will disqualify guests from staying at the WS.
 16. The WS manager shall provide a contact phone number to surrounding residents, merchants and business owners and shall endeavor to resolve issues related to shelter guests loitering and parking on private property.
 17. MCHC shall maintain and update a ban list that is shared with the Police Department. MCHC staff shall ban people from the WS who engage in any of the following behaviors: loitering in the neighborhood prior to or after winter shelter hours, substance abuse at the winter shelter, and/or violence or verbally abusive language prior to or during the operation of the shelter.
 18. All Client pets shall be kenneled and abide by the pet rules and regulations during the shelter operating hours.
 19. Only one guest at a time shall be allowed outside of the shelter for the purposes of relieving pets, smoking, etc. Any guest outside of the shelter shall remain on the property where the shelter is being hosted.

STANDARD CONDITIONS

1. This action shall become final on the 11th day following the decision unless an appeal to the Planning Commission is filed pursuant to Chapter 18.92.030;

2. The use and occupancy of the premises shall be established and maintained in conformance with the requirements of this permit and all applicable provisions of the ILUDC;
3. The application, along with supplemental exhibits and related material, shall be considered elements of this permit, and compliance therewith is mandatory, unless an amendment has been approved by the City;
4. This permit shall be subject to the securing of all necessary permits for the proposed development from City, County, State and Federal agencies having jurisdiction. All plans submitted with required permit applications shall be consistent with this approval;
5. This permit shall be subject to revocation or modification upon a finding of any one or more of the following:
 - (a) That such permit was obtained or extended by fraud.
 - (b) That one or more of the conditions upon which such permit was granted have been violated.
 - (c) That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety or as to be a nuisance.
 - (d) A final judgment of a court of competent jurisdiction has declared one or more conditions to be void or ineffective, or has enjoined or otherwise prohibited the enforcement or operation of one or more conditions; and
6. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.



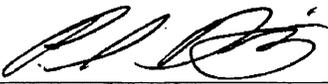
Completed applications must be submitted electronically to: smallbiz@fortbragg.com or delivered to:
 City of Fort Bragg
 Housing and Economic Development
 Fort Bragg, CA 95437
 Telephone (707) 961-2823

OFFICE USE ONLY	
Request Date	
Received By	
Review Date	

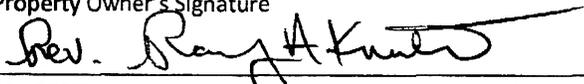
TEMPORARY WAIVER TO FACILITATE BUSINESS OPERATIONS
AFFECTED BY PUBLIC HEALTH ORDERS TO SLOW TRANSMISSION OF
COVID-19

Legal name of business Mendocino Coast Hospitality Center			
Physical (business) address 101 N Franklin Street	City Fort Bragg	State CA	Zip 95437
Business Owners Name	Phone (707) 961-0172	Email admin@mendocinochc.org	

24-HOUR CONTACT INFORMATION:

Business Contact's Name and Position (Please Print) Paul Davis	Signature 		
Date Decemebr 23, 2020	Phone (24HR) (707) 485-2543	Email paul@mendocinochc.org	

PERMISSION FROM PROPERTY OWNER (if different from applicant):

Property owner's Name Randy Knutson for Trinity Lutheran Church	Property Owner Address 620 E Redwood Ave	City/State/ZIP Fort Bragg, CA 95437	
Property Owner's Signature 	Date 12/23/2020	Phone (209) 327-1870	Email ranknut@gmail.com

PROPERTY OWNER'S AFFIDAVIT: I hereby certify under penalty of law that I am the owner of the above-referenced property and authorize the temporary business operations as described herein.

Type of Application (check all that apply):			
<input type="checkbox"/> Restaurant, Bar, Brewery	<input type="checkbox"/> Outdoor Operations	<input type="checkbox"/> Parking Area Modification	<input type="checkbox"/> Signage
<input type="checkbox"/> Retail or Commercial Business			
<input type="checkbox"/> Other:	<input type="checkbox"/> Change in Use:	<input checked="" type="checkbox"/> Other (describe): Temporary Emergency Homeless Shelter	

Site Plan Submittal Checklist

- Copy of Fort Bragg Business License
- Copy of Alcohol Beverage Control licensing and map, *if applicable.*
- Copy of Health Department Approval, *if applicable.*
- Written description of request
- Site Plan with accurate, dimensioned, scaled drawings showing the business, sidewalks, and parking area of the proposed permit area. Show and label all proposed furniture and/or accessories within proposed area. A minimum of 4-feet must be maintained on sidewalk and near doorways to accommodate ADA access.

A request is hereby made for a temporary waiver of zoning requirements and/or standards to facilitate the operation of my business due to the Public Health orders designed to slow the transmission of COVID-19. I understand this waiver will expire on November 26, 2020 unless Ordinance 962-2020 is extended by City Council. This request at the discretion of the Director of Emergency Services (City Manager) and approval is in accordance with the written guidance and best practices as defined by the Mendocino Public Health Officer. Appeals will be considered by the Community Development Committee.

Signature of Applicant 	Date 12/23/2020
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OFFICE USE ONLY

The following departments have reviewed the proposed request and recommend: Approval Denial

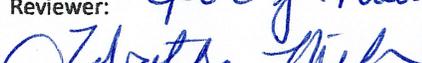
Community Development Department

Reviewer: 	Date: 12-31-20	Recommendation: <input checked="" type="checkbox"/> Approval / <input type="checkbox"/> Denial	Comments: Yes/No <i>Attached as special conditions</i>
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Public Works Department

Reviewer: 	Date: 12-31-20	Recommendation: <input checked="" type="checkbox"/> Approval / <input type="checkbox"/> Denial	Comments: Yes/No
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Police Department

Reviewer: <i>for J. Naudy</i> 	Date: 12-31-20	Recommendation: <input checked="" type="checkbox"/> Approval / <input type="checkbox"/> Denial	Comments: Yes/No
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Fire Department

Reviewer:	Date:	Recommendation: Approval/Denial	Comments: Yes/No
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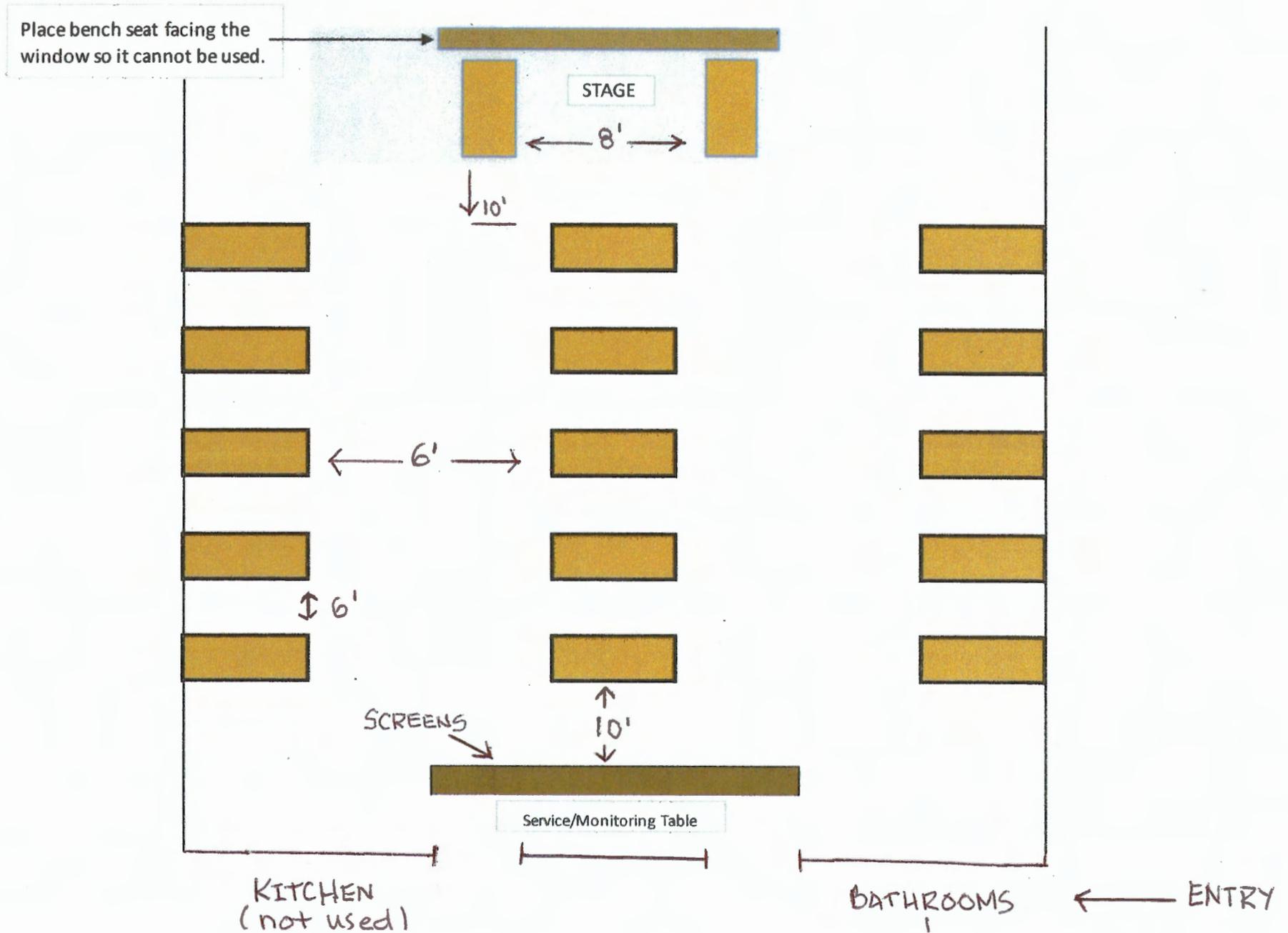
Tabatha Mill

12-31-20

Winter Shelter Set Up

January 2020 - February 14, 2021

Trinity Lutheran Church



MCHC WINTER SHELTER SPECIAL CONDITIONS

The following Special Conditions will be required as part of the Temporary Waiver of Zoning Requirements due to COVID-19:

1. This permit is valid for a limited term only. The temporary operation of the Winter Shelter (WS) may open December 1, 2020 and may remain open through April 15, 2021.
2. The WS may open daily. Daily hours of the winter shelter operation will be from 4:00pm – 8:00am the following morning. Hours may vary depending on the shelter location.
3. The WS program shall operate in the following manner:
 - i. Housing homeless individuals at the WS designated site, or provide motel or camping vouchers as appropriate.
 - ii. Provide motel vouchers as necessary to shelter families with children under 16, the elderly or severely disabled individuals who would be prioritized for shelter, but for whom the facility is not appropriate:
 - a. Link these families and individuals to additional services, care and case-management within forty-eight hours of initial contact.
4. Families and children will not be housed at the WS (see 3(ii) above).
5. Mendocino Coast Hospitality Center (MCHC) will comply with the Program Eligibility and engage with sheltered individuals and families as outlined in MCHC's Coast Winter Shelter contract with Mendocino County and/or the Mendocino County Continuum of Care.
6. MCHC staff shall conduct the intake and case management process at Mendocino Coast Hospitality Center (MCHC) at 101 N. Franklin Street between 8:30am – 12:00pm or 1:00pm – 3:00pm Monday through Friday and develop a daily "Shelter Eligibility List."
7. Winter Shelter individuals on the "Shelter Eligibility List" are required to check in at the Mendocino Coast Hospitality Center (MCHC) at 101 N. Franklin Street between the hours of 2:30pm-4:00pm.
 - a. A restroom and trash receptacle shall be accessible at the facility during 2:30pm-4:00pm or until transported to the WS location, whichever is later.
 - b. The WS operation at the Hospitality Center shall be managed by paid employees of MCHC at all times and will be on-site while this site is in use.
 - c. No individual that is on the Shelter Eligibility List is allowed to leave and return to the check-in location after 2:30pm and may not wait on the City sidewalks, alleyways or other private property surrounding the check-in location.
 - d. No individual that is on the Shelter Eligibility List shall partake of meals at the Mendocino Coast Hospitality House at 237 N. McPherson Street, on the same day as they stay in the WS.
 - e. WS clients shall park their vehicles on the street; parking in off-street private parking lots shall be monitored and prohibited by the WS Administrator.
 - f. MCHC may provide WS clients snacks and/or meals at the facility during the check-in period.
 - g. The conditions set forth in special condition 7, may be reviewed and revised by the City, at its discretion, after consultation with MCHC if they are found to problematic by either party.
8. Guests shall arrive at the Trinity Lutheran Church WS location, via van, no earlier than 4:00pm and shall transported back to MCHC no later than 8:00am each morning. Hours for arrival may be later for other WS locations. Morning drop off location may be revised by the City at its discretion, after consultation with MCHC, if found to problematic by either party.

9. MCHC paid and trained employees shall be on-site for security and supervision during WS operating hours. At least one employee shall be present if there are fewer than twelve (12) guests, two employees shall be present if there are twelve (12) or more guests.
10. WS guests must remain in the shelter overnight; guests who leave the shelter shall not be permitted to return to the shelter that night and may be removed from the Shelter Eligibility List during the 2020-21 winter season.
11. Additional WS locations may be requested by MCHC for consideration by the Public Works Director subject to a permit amendment.
12. MCHC and WS staff shall work with the Fort Bragg Police Department and deny individuals banned from MCHC Ban List from the WS.
13. Loitering by WS guests on City sidewalks or alleyways will disqualify guests from staying at the WS. City staff will provide MCHC staff with names of guests disqualified for loitering or other disruption of the peace incidents.
14. The WS manager shall provide a contact phone number to surrounding residents, merchants and business owners and shall endeavor to resolve all issues related to shelter guests loitering and parking on public and private property.
15. MCHC shall maintain and update a ban list that is shared with the Police Department.
16. WS staff should contact the Police Department at (707) 964-0200 for nonemergency matters and for emergency or medical issues call 911 immediately.
17. MCHC staff shall ban people from the WS who engage in any of the following behaviors: loitering in the neighborhood prior to or after winter shelter hours, substance abuse at the winter shelter, and/or violence or verbally abusive language prior to or during the operation of the shelter.
18. When and where allowed by the host venue, all guests' pets shall be kenneled and abide by the pet rules and regulations during the shelter operating hours.
19. Only one guest at a time shall be allowed outside of the shelter for the purposes of relieving pets, smoking, etc. Any guest outside of the shelter shall remain on the property where the shelter is being hosted in the areas designated for such use. WS guests or staff will clean up after pets and any discarded cigarettes or other trash on a daily basis.
20. MCHC shall follow health guidelines provided by the CDC, California Department of Public Health and Mendocino County Health Department for operating transitional congregate shelter housing and any related services. This includes maintaining "Social Distancing" to the maximum extent feasible: maintaining at least six feet from other individuals; washing hands with soap and water for at least 20 seconds as frequently as possible; using hand sanitizer; covering coughs or sneezes (into the elbow, not the hands); regularly cleaning high-touch surfaces; and maintaining COVID-19 screenings at check-in and check-out.
21. Prior to opening the WS, MCHC must provide the City with a cleaning protocol which is compliant with the guidance set forth in special condition 20.
22. Prior to opening the WS, MCHC must provide the City with a contingency plan which is compliant with the guidance set forth in special condition 20, in the event that a guest experiences COVID-19 symptoms and if a guest, prior guest or staff member is diagnosed with COVID-19.
23. MCHC and WS staff must at all times comply with the protocol and plan set forth in special condition 21 and 22.

Mendocino Coast Hospitality Center Winter Shelter 2021 COVID-19 Cleaning and Sanitizing

The Winter Shelter will utilize three spaces for the duration of the season. These include the staging site at the Hospitality Center located at 101 N Franklin Street, the host site located at Trinity Lutheran Church at 620 E Redwood Ave, and MCHC's company van used to transport guests between the staging area and the host site.

All three areas must be kept clean and sanitized regularly throughout the period of use.

Nitrile gloves are available and should be used during any cleaning activity. Mask must be worn always.

Protocols

MCHC staff will adhere to the following protocols for cleaning and sanitizing during Winter Shelter Activities

Staging Area

Winter Shelter activities at the staging area will utilize the lobby (east entrance), the common room, the east group room, the lobby bathroom, and the courtyard. Access to the café and kitchen area may be accessed as needed by MCHC staff only. Access to all other areas of the Hospitality Center is prohibited. Staff will use MCHC approved and provided cleaning products.

MCHC regular staff will clean and sanitize during the morning and afternoon as normal. These steps will be taken throughout the use of the space as needed and at the end of each use:

- Re-fill supplies as necessary – hand sanitizer, paper towels, masks, gloves, bathroom supplies, etc.
- Wiping all surfaces with appropriate cleaner and finished with **Hepastat**
- Sweeping/cleaning floors as needed and at the end of use using appropriate cleaner (**Bona** for hardwood)
- Cleanup of spills as needed with appropriate cleaner and finished with **Hepastat**
- Wipe down all Plexiglass divider surfaces with approved glass cleaner (**no not use Hepastat on these surfaces**)
- Bathrooms inspected and cleaned as necessary and fully at the end of day using appropriate bathroom cleaners and finish with **Hepastat**. Bathroom supplies restocked regularly, including soap, toilet tissue, and paper towels.
- Wipe down doorknobs/handles with appropriate cleaner and finish with **Hepastat**
- Empty trash receptacles as needed. At the end of day, trash receptacles that are half full or less and contain dry trash may be left as is but do spray Hepastat on the top layer of trash. The

outside of all trash receptacles should be wiped with appropriate cleaner and finished with Hepastat.

- At the end of use for the day, all **non-kitchen** area surfaces, floors (including carpeted areas), and bathrooms will be misted with **PERFORMEX RTU** using the provided electrostatic misting gun. This product/system is not appropriate for areas where food is prepared or consumed. **DO NOT** use the misting system in the kitchen or café areas at the Hospitality Center. **DO NOT** mist desks or work areas with electronic equipment.

Host Site

Winter Shelter activities at the host site will utilize the outside entry way, the inside entryway, two entryway bathrooms, the main hall, and the counterspace inside the kitchen. Access to the kitchen beyond the center island is prohibited. Access to all other areas of Trinity Lutheran Church is prohibited. Staff will use MCHC approved and provided cleaning products.

MCHC WS staff will clean and sanitize during the shift and each morning before final exit of the building. These steps will be taken throughout the use of the space as needed and at the end of each use:

These steps will be taken throughout the use of the space as needed and at the end of each use:

- Re-fill supplies as necessary – hand sanitizer, paper towels, masks, gloves, bathroom supplies, etc.
- Wiping all surfaces with appropriate cleaner and finished with **Hepastat**, including tables, counters, outdoor seating, etc.
- Sweeping/cleaning floors as needed and at the end of day (shift) using appropriate cleaner
- Cleanup of spills as needed with appropriate cleaner or BIOHAZARD CLEANUP KIT as appropriate and finished with **Hepastat**.
- Bathrooms inspected and cleaned as necessary throughout evening and fully at the end of day using appropriate bathroom cleaners and finish with **Hepastat**. Bathroom supplies restocked regularly, including soap, toilet tissue, and paper towels.
- Wipe down doorknobs/handles with appropriate cleaner and finish with **Hepastat**
- Empty trash receptacles as needed. At the end of day, trash receptacles that are half full or less and contain dry trash only may be left as is but do spray Hepastat on the top layer of trash. The outside of all trash receptacles should be wiped with appropriate cleaner and finished with Hepastat. Trash will be removed from the host site daily as needed and taken to the Hospitality House for disposal in the dumpster.
- Clean the kitchen counter area with appropriate cleaner and finish with **Hepastat**.
- Before leaving the building in the morning and after all other cleaning is finished, all **non-kitchen** area surfaces, floors (including carpeted areas), and bathrooms will be misted with **PERFORMEX RTU** using the provided electrostatic misting gun. This product/system is not appropriate for areas where food is prepared or consumed. **DO NOT** use the misting system in the kitchen at TLC. Misting should cover from the west side stage area back through the hall only to the last cot, then the bathrooms, then the entryway on the way out of the building for the day. Do not mist the staff table area, OR the kitchen.

VAN

The company van will be used to transport guests to and from the host site in the evening and the morning. There will be no more than 4 masked guests in the rear of the van spread across both bench seats. Only the approved staff driver and one other staff may ride in the front of the van.

The van will be cleaned thoroughly each day, mid-morning, by MCHC staff, cleaned as needed during use by MCHC WS staff and sterilized between each trip to and from the host site.

- The van will be “mopped”, vacuumed, and all surfaces finished with Hepastat each day mid-morning
- Between each trip to and from the host site, the two bench seats in the rear of the van will be wiped with Hepastat.

Personal Hygiene and Food for Guests and Staff

Staff will observe these protocols and enforce observation of these protocols for guests:

- **Masks** – Masks are to be worn indoors, or in the van at all times by staff and guests and worn outdoors where proper distancing cannot be observed.
- **Hand Washing** – Wash hands after using the restroom, after smoking, after eating, after engaging in any cleaning activity.
- **Hand Sanitizer** – Hand sanitizer will be made available throughout the staging area and host site and should be used frequently, especially when hand washing is not immediately practical.
- **Nitrile Gloves** – Gloves will be worn by staff and guests during any cleaning activity, any activity that involves food service, and during any activity that involves waste/trash disposal.

Mendocino Coast Hospitality Center COVID-19 Exposure and Outbreak Procedures

These procedures will be followed in the event of a reported exposure by staff or clients of MCHC or a confirmed case of COVID-19 among staff or clients.

Exposure

In the event of a reported exposure to COVID-19 by staff or client.

Staff Report

Any MCHC employee who believes that they have been exposed to directly to COVID-19 must notify their supervisor as soon as practical. If the staff member learns of the exposure while not at work, the staff member will notify their supervisor by telephone and **NOT ARRIVE TO WORK** until instructed to do so by their supervisor. Staff must contact Mendocino County Health Department and their personal physician for individual instruction, but MCHC may require that the employee not return to work for a minimum of 10-days and may only come back to work with a return-to-work order from their physician.

If the employee learns of the exposure while at work, the employee, should notify their supervisor, leave work as soon as practical, Staff must contact Mendocino County Health Department and their personal physician for individual instruction, but MCHC may require that the employee not return to work for a minimum of 10-days and may only come back to work with a negative test result.

Client Report

Any MCHC client participating in any program or service that reports an exposure to COVID-19 OR who is reasonably suspected of exposure by staff or by contact tracing personnel may need to be quarantined at the instruction of the Mendocino County Health Department and HHSA and will be asked to be tested within the appropriate timeframe before resuming any services at any MCHC facility.

Confirmed Case/Outbreak

MCHC will comply with all County Health Department protocols and participate in contact tracing efforts.

Any confirmed case of COVID-19 among MCHC staff or clients will be immediately reported to MCHC management, Mendocino County Health Department, and HHSA.

Infected employees must not return to work until instructed to do so by MCHC management and should quarantine and seek treatment from their personal physician. A previously infected employee may only return to work with a return-to-work order from their physician.

All staff, and to extent possible clients, will be notified of the possible exposure, and be required or urged to begin testing protocols within the appropriate timeframe.

All clients with suspected case of COVID-19 (client is symptomatic), will be immediately referred to the appropriate medical services (hospital/emergency room). In the event the client is found to be positive for COVID-19, MCHC will make every effort to facilitate appropriate accommodations for the client for recovery, including referring to services offered by the County Health Department and HHSA (E.G. – motel room).

Program and Service Closure

In the event of an outbreak, affected MCHC properties, including leased or rented properties, will be closed for cleaning, and sanitizing immediately if possible, or as soon as practical for residential properties. Programs and services will not resume at a closed property until MCHC has determined that it is safe.

A property will be considered safe when it has been closed for a minimum of 10-days and proper cleaning and sanitization has been conducted at the site **AND** at such time as the minimum number of staff necessary to resume operations at the site are clear to return to work.

Shelter sites requiring closure due to an outbreak of COVID-19, including the Hospitality House, Harrison Street Transitional Housing Project, Franklin Street Transitional Housing Project, and Coast Winter Shelter – will close as soon as practical when the residents have been appropriately placed in quarantine if necessary or at the direction and order of the Mendocino County Public Health Department.

Seasonal programs such as the Coast Winter Shelter, may need to close immediately depending on the needs of the property owner.

Coordination with Other Agencies/Public Notice

In the event of a confirmed case or outbreak, MCHC will coordinate its response efforts with appropriate outside agencies and will exercise transparency – keeping the public informed of the situation.

Agency Coordination

The following agencies should be notified immediately and directly of outbreaks or confirmed cases:

- Mendocino County Public Health Department
- Mendocino County HHSA
- Adventist Hospital
- Mendocino Coast Clinics
- City of Fort Bragg
- Fort Bragg Police Department
- Rented/Leased Property Owners
- Other local social service agencies

Public Notice

MCHC will release outbreak/confirmed case information to the public through the following sources:

- Press Releases – Fort Bragg Advocate/Mendocino Beacon, Ukiah Daily Journal, Mendocino Voice

- Social Media/Facebook: www.facebook.com/mendocinochc.org
- MCHC Website: www.mendocinochc.org
- Telephone/email response: (707) 961-0172 or admin@mendocinochc.org

Miller, Tabatha

From: Ang D <ang_dominguez86@yahoo.com>
Sent: Thursday, December 17, 2020 12:40 PM
To: Miller, Tabatha
Subject: Hi there!

Hi Tabatha(sp?) Angela Dominguez here and I wanted to reach out with some ideas I had for the EWS and I will forward this to Paul at CHC as well- what about the grange in Cleone to host the EWS and have a shuttle and from there in the AM/PM? Also what about assigning community service workers to hours there as staff with a supervisor employee and a couple people on a staff/team. Thanks for reading :)

-Ang

Miller, Tabatha

From: Jennifer Kreger <refinnej@mcn.org>
Sent: Monday, December 14, 2020 3:20 PM
To: Miller, Tabatha
Subject: Winter shelter idea

Hi Ms. Miller!

Thanks for all you do to keep our town going strong.

Whichever large building becomes the winter shelter, can we put individual tents inside it, one per person or per social bubble?

(some tents support themselves without the need to drive stakes into the ground.)

If people put their masks on before unzipping to leave their tent, and wore their masks until fully zipped into their tents, it would be "more OK" that they removed their masks to sleep, in terms of ability to share COVID and influenza.

I bet people would donate tents for those not bringing their own.

The FDA's having authorized a vaccine for emergency use does not, as you already know, mean we can afford to slack off with our "don't swap air" project.

Thanks for considering this.

Jennifer Kreger MD

Miller, Tabatha

From: Jackie Bazor <jdbazor@gmail.com>
Sent: Thursday, December 10, 2020 10:44 AM
To: Miller, Tabatha
Subject: CV STARR FOR HOMELESS USE!

I am writing this to ask the city to reconsider their plan for using CV Starr for a Winter Shelter. This is the only nice thing that Fort Bragg has for public use. Mr Norvell said himself "It is a tough demographic. I have seen people try to bring alcohol in. I have seen a fight. These are people who don't qualify for the Hospitality House because they don't want to follow the "rules". We do not want those people in our neighborhood. During the day and into the evenings there are a lot of children who are using the property, the skate park is always busy and they do have some kids in Kudos. I have seen and heard my family and others who have gotten yelled at and threatened by the homeless and if they are next to the skatepark with a lot of kids I am sure it will happen multiple times. My special needs son walks to work everyday at 8:00 in the morning and passes the CV Starr which would be the same time they would be leaving. HE HAS BEEN HARASSED SEVERAL TIMES ALREADY by the homeless which upsets him to the point where he is unable to work that day, also my granddaughter lives next to the Catholic Church where there is a soup kitchen and she has witnessed them fighting and has been yelled at so she doesn't leave the house alone. What if by some miracle Covid ended and we are able to open, we would not be able to use the facility in the evenings. plus if covid ended schools would open at 8:00 or before and all of the teachers and children mainly of Redwood, would have to deal with the messes or the fights. I feel that the city let MCHC purchase the Old Coast Hotel and that they should use it or better yet let them use the old Rec Center. The Old Rec Center is downtown just around the corner from MCHC so they wouldn't have to give them rides and there is nothing going on downtown at those hours. If there were fights and problems with alcohol it wouldn't disturb anyone. Plus there are bathrooms and showers for them to use. The Old Rec Center is not being used for anything right now so it would be the perfect spot and has no neighbors that would be bothered or frightened by the homeless. The neighbors that are directly behind the CV Starr are older and more vulnerable, they do not need to be exposed to this population. Our neighborhood has already seen camping in the alley behind CV Starr and there has been a fire on one of the outbuildings. If they use the CV Starr they will start hanging out there during the day and will make a mess just like under the bridges. We DO NOT need to invite more of this to the area. I feel for all those who do not choose to be homeless and follow the rules but these are the ones that do not want to follow the rules so why should we have to deal with them when we are law abiding citizens. PLEASE DO NOT USE CV STARR.

Jacqueline Bazor
443 Wall ST.

Miller, Tabatha

From: lisa norman <lisaahnnorman@hotmail.com>
Sent: Wednesday, December 09, 2020 10:41 AM
To: Miller, Tabatha
Subject: proposed homeless sheltering overnight

Hi

I'm sorry I was not at the meeting that discussed where to place the winter shelter for homeless. While I am concerned for this population it also concerns me that the use of CV Starr Center is not being restored for the people who it was built for, the entire community most especially the children. I have been a longtime member of the CV Starr Center and am disappointed that nothing is being worked out to reopen the center even with limited use due to COVID as other health center have done, nor even the usage of the pool for our local swim teams.

And then if there is an outbreak at the CV Starr Center, what of the future for the use of the center as it was intended, for health and recreation?

That said I find it more productive/a better fit to utilize the gym behind city hall as it seems to have been suggested in the report I read. That space is also closer situated to services from hospitality house besides other support services like food bank etc. and may other public services and businesses. There needs to be some improvements to that gym in my view and investing in the space now would be good for serving the current need for homeless as well as for future purposes, when MCRPD might need to use the space for its basketball programs etc.

Also, hosting a shelter in close proximity to the skatepark is less desirable for the youth who are currently using the park ever more frequently as a source of sport and recreation during this Covid time because all other athletics and social activities have virtually ended. This is their time and place to escape the worries of the world, not to be surrounded by more of the sad realities of our current time. While I appreciate the importance of serving the need of the homeless and am in full support of hosting such a venue at this time in winter (really, really, we need to do something), I also want to keep the safety of children in this residential area a constant and minimize the influence of the increasing out-of-area and local transients and homeless. Their proximity to children I don't find to be a healthy influence to the youth in our area who are already distressed by the lack of socialization with schools closed.

Thanks for allowing for input on this important matter. Should you have any questions or wish further discussion or input, please feel free to contact me.

Sincerely,
Lisa Norman
editor
357-4371

January 10, 2021

To: Fort Bragg City Council

From: Paul Davis, Interim Executive Director, Mendocino Coast Hospitality Center

CC: Tabatha Miller, MCHC Board of Directors

RE: Coast Winter Shelter Comments, FB City Council Meeting January 11, 2021

Dear Council Members,

I want to express my gratitude to the council for your efforts to assist MCHC in getting the annual Winter Shelter off the ground this year and to help ensure that it is operable through the winter.

I understand that the council will be considering possible locations for the Winter Shelter to be hosted from February 15 through March 31, 2021 and that the possibility of using the Hospitality Center at 101 N Franklin Street will be part of the discussion. I am writing today to shed some light on why this will not be possible.

This location currently houses Transitional Housing residents who are legally rent paying tenants for up to two years – this comes with certain rights under their rental agreement, including the use of our courtyard, which would be an issue if the easement from their units to the courtyard is occupied with cots and additional people. While Transitional Housing residents do use the courtyard during normal business hours when other clientele is present on the property, they have unfettered access to the space from 3:PM each day through 8:AM the following day, and the trip to the courtyard space always is safe and clear.

Additionally, the facilities that we have considered this season, and the facility we are using now are being used almost exclusively for Winter Shelter purposes and therefore we do not have to breakdown and set up fixtures like cots each day. If we were to use the Hospitality Center for hosting the Winter Shelter, we would have to move furniture and fixtures used for Hospitality Center operations each day, set up cots and other Winter Shelter fixtures, and then reverse the process each morning. Not only is this time consuming, but MCHC has limited storage capacity at the 101 N Franklin site AND it leaves a lot of room for mistakes when sanitizing both sets of furniture and fixtures for next use, which we felt to be a safety issue. It should be understood that this site has limited space that could conceivably be used for Winter Shelter sleeping purposes, and less so considering the spacing restrictions imposed by COVID-19 shelter protocols.

Staging the Winter Shelter check-in and transportation from the Hospitality Center this year has so far proven to be an acceptable emergency alternative to staging at the Fort Bragg Food Bank, mostly because we are able to provide complimentary services to Winter Shelter utilizers and because we have organized the staging in such a way that we can begin transport by 4:PM and have the Winter Shelter utilizers out and to the host site by 5: PM. Our agency is contracted to provide numerous non-shelter programs and services which happen at 101 N Franklin Street and MCHC must be able to deliver those services as normal. Having the Winter Shelter on site at the Hospitality Center approximately 18 hours/day will most certainly impede our ability to do that.

It is for these reasons that MCHC is unable to host the Winter Shelter overnight at 101 N Franklin Street and why we are and have been seeking alternative locations for the second half of the season.

Sincerely –

Paul Davis

MCHC

From: [Andy Wellspring](#)
To: [Norvell, Bernie](#); [Albin-Smith, Tess](#); [Morsell-Haye, Jessica](#); [Peters, Lindy](#); [Lemos, June](#)
Subject: Use a public building to house the homeless this winter
Date: Monday, January 11, 2021 6:20:39 AM

Dear City Council,

I recently learned that it is not yet officially determined that the winter homeless shelter is able to use a public building for its operations this year. Thank you very much for approving the funds to raise the pay and get the shelter staffed, that is so important.

Now please take the next step and approve the use of a public building, either the CV Starr Center or Old Rec Center, to complete this much needed program.

I heard there is an inaccuracy in the agenda item tonight regarding the shelter, it wrongly states that the Hospitality Center could use one of its own facilities. This makes it all the more important to use a public building. We all have to support each other, and providing shelter for the most vulnerable people in our society is such an important way to do so.

Thank you,
Andy Wellspring

From: [Sydney Grange](#)
To: [Norvell, Bernie](#); [Albin-Smith, Tess](#); [Morsell-Haye, Jessica](#); [Peters, Lindy](#)
Cc: [Lemos, June](#)
Subject: Winter Shelter
Date: Sunday, January 10, 2021 11:44:17 PM

Dear City Council,

I support providing shelter to the most vulnerable in our community through utilizing either the Rec Center or CV Starr as a temporary winter shelter. It would be a wonderful and important use for some currently unused spaces. Thanks so much for your time!

Best,
Sydney Grange
Fort Bragg Resident

From: [Bess Naima Donley](#)
To: [Norvell, Bernie](#); [Albin-Smith, Tess](#); [Morsell-Haye, Jessica](#); [Peters, Lindy](#); jlemos@fotbragg.com; [Lemos, June](#)
Subject: Homeless winter shelter
Date: Sunday, January 10, 2021 10:03:08 PM

Hello everyone,

I am writing in support of using either the Rec Center Or C.V. Starr for the Winter Shelter for our homeless population.

Please approve one of them for the temporary Winter Shelter while they are not being used. I thank each of you for your hard work and consideration.

Sincerely,

Bess Donley

From: [Will Stedden](#)
To: [Peters, Lindy](#); [Norvell, Bernie](#); [Albin-Smith, Tess](#); [Morsell-Haye, Jessica](#)
Cc: [Lemos, June](#)
Subject: Support CV Starr or the rec center for the winter shelter
Date: Sunday, January 10, 2021 9:28:34 PM

Dear Fort Bragg city council members,

I recently learned that there has been some issues finding a location for the winter shelter. I just wanted to let you all know that I support the use of either the rec center or CV Starr as a location.

Please approve one of them for the temporary shelter.

Thanks,
Will Stedden

From: [Linda Jupiter](#)
To: [Norvell, Bernie](#); [Albin-Smith, Tess](#); [Morsell-Haye, Jessica](#); [Peters, Lindy](#)
Cc: [Lemos, June](#)
Subject: Winter Shelter
Date: Sunday, January 10, 2021 5:19:34 PM

Dear City Council members,

In order to protect the most vulnerable in our community during the most strenuous weather, I support the use of either the Rec Center or C.V. Starr for the Winter Shelter. Please approve one of them for the temporary Winter Shelter while they are not being used.

Thank you,
Linda Jupiter
Fort Bragg

Uninvited dweller on Northern Pomo land

From: [Dale](#)
To: [Norvell, Bernie](#); [Albin-Smith, Tess](#); [Morsell-Haye, Jessica](#); [Peters, Lindy](#); [Lemos, June](#)
Subject: Severe Weather Shelter
Date: Sunday, January 10, 2021 11:48:38 AM

I support the use of either the Rec Center Or C.V. Starr for the Winter Shelter. It is a shame to have those buildings being empty while people have no place to get out of the cold. Please approve one of them for the temporary Winter Shelter while they are not being used.



Virus-free. www.avg.com

From: [Judy Stavely](#)
To: [Norvell, Bernie](#); [Albin-Smith, Tess](#); [Morsell-Haye, Jessica](#); [Peters, Lindy](#); [Lemos, June](#)
Subject: Winter Shelter
Date: Sunday, January 10, 2021 11:15:08 AM

Hello,

I support the use of either the Starr center or the Rec. center for the Winter Shelter. The shelter must happen. It's cold out there!

Sincerely, Judy Stavely (50 year resident of Mendocino County)

From: [Miller, Tabatha](#)
To: [Lemos, June](#)
Subject: FW: CVStarr
Date: Friday, January 8, 2021 9:20:59 AM

Public Comment on 8A.

Tabatha Miller

City Manager
City of Fort Bragg
(707) 961-2829

TMiller@FortBragg.com



From: Dawn Ferreira <dawnferreira5@gmail.com>
Sent: Thursday, January 07, 2021 10:38 PM
To: Miller, Tabatha <TMiller@fortbragg.com>
Subject: CVStarr

I think that using the CV Starr for the homeless is a horrible idea. I would prefer to see them at the old rec center or old social service building.

Thank you
Dawn Ferreira

From: [carla slaven](#)
To: [Lemos, June](#)
Subject: CV Starr/Homeless shelter concerns
Date: Thursday, January 7, 2021 7:51:34 PM

Dear June,

I would like to express my concerns about the City putting a homeless shelter at the CV Starr center. I have lived on Wall Street for 24 years and consider it a safe neighborhood. We rarely have crimes or other problems in our area and plan to keep it that way.

If the City opens it up to the homeless it is going to invite the type of people that are going to cause problems. I have witnessed what happens when the homeless are around. They have no respect for anything, trash everywhere, drug and alcohol use, vandalism, theft, they defecate wherever they feel like.

There are plenty of other options to put a shelter, such as the old Rec center on Laurel Street, right by City Hall. There is plenty of room with heat and showers.

What about the Hospitality Center on Franklin Street ? Why is this not being used as it was supposed to when the City purchased it ?

There is also the old Social Service building on South Franklin Street, plenty of room!

Safety is also a concern, with the CV Starr center being located next to schools, the skate park where many kids hang out, the dog park where people go to relax and exercise their dogs and feel safe.

I read that the homeless are only supposed to be there from 5:00 pm until 8:00 am and will be transported to the Hospitality center. Who is transporting them ? I feel like not all will be transported and they will be wandering around the nearby neighborhoods. This is a serious concern. Is there going to be security 24/7 to keep the area safe ?

Who is going to clean up after them?

I really hope that the City thinks about other options for this problem. How would you feel if this was happening in your neighborhood ?

Taxpayers paid higher taxes to help fund the CV Starr center , and when Sigrid and Harry Spath donated a very large sum to fund this nice facility, they did not do it for the homeless! It was intended to be a place for the children to have a nice safe place to swim and have fun and for the adults to exercise and enjoy the lazy river for therapeutic exercise.

Thank you for your time,

Carla Slaven

From: [Bernie Norvell](#)
To: [Lemos, June](#)
Subject: Fwd: CVStarr center as a winter shelter
Date: Thursday, January 7, 2021 12:37:32 PM

Bernie Norvell
NORVELLS PAINT AND GARAGE DOORS.

Begin forwarded message:

From: Bernie Norvell <bnorvell@mcn.org>
Date: January 7, 2021 at 12:37:15 PM PST
To: Melissa Ivankay <MelissaIvankay@msn.com>
Subject: Re: CVStarr center as a winter shelter

Well received

B.

Bernie Norvell
NORVELLS PAINT AND GARAGE DOORS.

On Jan 7, 2021, at 12:27 PM, Melissa Ivankay <MelissaIvankay@msn.com> wrote:

Hello and thank you for your time.

I am writing to express my concern regarding the CV Starr Center being used as a winter shelter.

I hope there is a screening mechanism in place to protect our school children from those who may be registered sex offenders and wish to utilize the shelter. Or anyone who may be a danger to our school sites.

I currently work at Dana Gray and supervise one of our internet rooms. We have young kids who are on campus daily and walk to and from school.

My concern for them and their safety is why I don't believe this is the best location for transient people to be encouraged to congregate.

Thank you for considering this concern.

Melissa Ivankay

Get [Outlook for iOS](#)

From: [Kristy Tanguay](#)
To: [Lemos, June](#)
Subject: Jan 11 Item 8a
Date: Thursday, January 7, 2021 11:55:25 AM

I am writing to support the use of the CV STARR center as a temporary winter shelter to be operated by the Hospitality Center.

Homelessness is a problem that can affect all us. Whether we are one paycheck away from a financial hardship, or we are affected by the actions of some unhoused people in our communities. The Hospitality Center has searched all year long for a suitable facility to operate the temporary winter shelter. I know this because I have been approached several times.

The CV STARR center is presently unused and funded by our community. Why can't we address a community need with an available community resource? NIMBYism will not alleviate the unfortunate problem of people freezing in the elements during rainy winter months.

Kristy Tanguay
Community member
Fort Bragg

From: kyra@keemail.me
To: [Lemos, June](#)
Subject: Please used closed public buildings for use as homeless shelters!
Date: Monday, January 11, 2021 3:53:22 PM

I support the use of either the Rec Center Or C.V. Starr for the Winter Shelter. Please approve one of them for the temporary Winter Shelter while they are not being used.

**Thank you,
Kyra Rice**

From: [Jaschinto](#)
To: [Lemos, June](#)
Subject: Temporary Winter Shelter for Our Local Homeless Population
Date: Monday, January 11, 2021 4:58:30 PM

Dear Council Members, Et Al:

I am hoping to reach you before your meeting tonight.

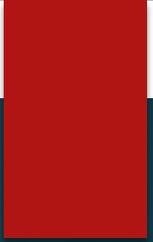
I am writing to address the recent issue with providing adequate, Covid-safe house for our local homeless population. There is a suggestion of using either the Rec Center or CV Starr for sheltering our most vulnerable. I would support either of these options as the buildings are not in use at this time. CV Starr Center seems a better option. The building is newer and cleaner with better insulation. There are also shower facilities. The Rec Center seems less healthy since despite "mold abatement" some years ago, the building still reeks of mold. However, any shelter would be better than leaving the community to fend for themselves outside.

Please vote to approve a temporary Winter Shelter. Help the The Hospitality Center take care of our people.

Thank you for your attention in this matter.

Sincerely,

Jeanine Schinto
Concerned Community Member



Preferred Location for Winter Shelter

JANUARY 11, 2021

CITY COUNCIL MEETING

Direction Requested from City Council

Preferred Venue Location for Winter Shelter 2-15 to 3-31

1. Portion of unused C.V. Starr Community Center
2. City Hall East Gymnasium
3. Hospitality Center at 101 N. Franklin Street
4. Alternative Location as arranged for by MCHC

Typical Operations of Winter Shelter

- ▶ Until last year, only opened when weather predictions included low temperatures and/or rain.
- ▶ Hosted by Faith Community for two week periods.
- ▶ Rotating locations limited the impact to individual venues and neighborhoods.
- ▶ Check-in completed during the day at the Hospitality Center and staging at the Fort Bragg Food Bank.
- ▶ Return to the Hospitality Center by 8:00am.
- ▶ Operated from December to March.

Current Status of Winter Shelter 2020-21

- ▶ Opened on January 1, 2021
- ▶ Hosted at the Trinity Lutheran Church
- ▶ Average of 8 guests per night
- ▶ Capacity of 17 guests
- ▶ Check-in and Staging at Hospitality Center 101 N. Franklin Street
- ▶ Cleaning and COVID response plan
- ▶ Commitment from Trinity Lutheran Church until February 14, 2021

Mendocino Coast Hospitality Center

- ▶ Requested use of City Hall East Gymnasium from February 15- March 31, 2021.
- ▶ Contract with Mendocino County Continuum of Care to operate the Winter Shelter nightly from December 1, 2020 to March 31, 2021.
- ▶ End of November, concern the shelter would not open this season.
- ▶ City's Homelessness Ad Hoc Committee met on November 30, 2020 to consider options to assist the challenges MCHC faced this winter.
 - ▶ Council Approved \$15,000 in budget to subsidize the Winter Shelter wages.
 - ▶ Considered both the Gymnasium and the CV Starr as possible venues.

C.V. Starr Community Center

- ▶ Residential Neighborhood
- ▶ Surrounded by Large outdoor space
- ▶ Closed to the public but staff and limited School District functions are on site during the day
- ▶ Could interfere with ongoing maintenance & repairs
- ▶ Requires segregating Winter Shelter Operations
- ▶ Limited space in multiple rooms
- ▶ Impacts to CV Starr staff and neighborhood can be mitigated through Temporary Use Permit

City Hall East Gymnasium

- ▶ Large, open, and currently unused space
- ▶ Located in the Central Business District
- ▶ Ongoing impact to Business Community already suffering from pandemic and Stay-in-place orders
- ▶ Loitering in CBD and interference with businesses and perception of visitors
- ▶ Guest more likely to stay in CBD between Hospitality Center, Hospitality House and City Hall

Mendocino Coast Hospitality Center

- ▶ Service provider for shelter guests
- ▶ Current check-in and staging location
- ▶ No need to move shelter guests between locations
- ▶ Require a Temporary Zoning Waiver
- ▶ MCHC considers this a conflict with their current transitional residents' leases – see *letter from Paul Davis 01-10-2021*

Alternative Location as Arranged for by MCHC

- ▶ MCHC reached out to venues in the fall when there was still hope that stay at home orders and restrictions would be lifted sooner rather than later
- ▶ Venues, wanted to retain the option to be available if orders were eased
- ▶ Site identified for the month of December that was not used

Questions?



City of Fort Bragg

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

Text File

File Number: 20-979

Agenda Date: 1/11/2021

Version: 1

Status: Business

In Control: City Council

File Type: Resolution

Agenda Number: 8B.

Receive Report and Consider Adoption of City Council Resolution Approving Contract Amendment with LACO Associates, Inc. (LACO) for Consulting Planning Services for the Grocery Outlet Project and Authorizing City Manager to Execute Contract Amendment (Amount Not to Exceed \$38,044; Account No. 119-0000-2668)



AGENCY: City Council
MEETING DATE: January 11, 2021
DEPARTMENT: CDD/PW
PRESENTED BY: C. O'Neal
EMAIL ADDRESS: coneal@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Contract Amendment with LACO Associates, Inc. (LACO) for Consulting Planning Services for the Grocery Outlet Project and Authorizing City Manager to Execute Contract Amendment (Amount Not To Exceed \$38,044; Account No. 119-0000-2668)

ISSUE:

Since July of 2020, the Community Development Department has remained understaffed, an issue which initially arose from the budget cuts due to the COVID-19 Pandemic. Despite staffing challenges, there were numerous planning project applications submitted in various phases of completeness in the queue. Without sufficient staff reviewers, the City solicited the assistance of LACO Associates, Inc. (LACO) for assistance with planning services related to the Grocery Outlet Project. At the time of the initial contracting with LACO, the scope of services and costs quoted by the Consultant was less than \$25,000 and thus a Professional Services Agreement was executed by the City Manager under purchasing authority identified by Municipal Code §3.20.040.

LACO has completed the Initial Study for CEQA for the project but due to unforeseen circumstances (namely challenges with Vehicle Miles Travelled or VMT), LACO is requesting additional budget to complete the planning work on this project. LACO is requesting an additional \$13,400, bringing the new contract total to \$38,044. Per the purchasing authorization and duties established by the aforementioned Municipal Code Section, City staff is seeking City Council authorization to execute the amended contract.

ANALYSIS:

On June 3, 2019, BRR Architecture and Best Development Group submitted an application and a deposit in the amount of \$15,000 for a developer deposit account (DDA) for a Grocery Outlet to be sited at 851 S. Franklin Street (formerly the site of the Social Services Building). Over the coming months, several iterations of the submittal were drafted until staff determined the project packet to be complete on October 23, 2019. Upon determination of a complete application, a request for comments was submitted to commenting agencies and by January of 2020 an Initial Study (IS) for the CEQA determination was started. As described above, in the first nine months of 2020, the Planning Department experienced significant staff turnover, and COVID furloughs further impacted staff's capacity to complete workloads.

In August of 2020, the City executed a contract with LACO to process the proposed application for the new Grocery Outlet (Attachment 4), including the project analysis with City General Plan consistency, Zoning, and Design Review Guidelines, review of special studies and other application materials, California Environmental Quality Act (CEQA)

document development and review, creation of the Staff Report and presentation to the City Planning Commission, and appeal to the City Council, if necessary. The initial estimated cost for the scope of services was \$24,644. An additional deposit request of \$30,000 from the applicant to cover the remaining consultant staff and City staff time was requested from the applicant on December 11, 2020. The \$30,000 will bring the total deposit from the applicant to \$45,000, an amount which should sufficiently cover both the consultant's time, staff time, and costs associated with hearing notice distribution and hearing(s).

On December 4, 2020, LACO submitted a budget amendment request (Attachment 2) which provides a general description of the increased costs and rationale for those increases.

RECOMMENDED ACTION:

Receive Report and approve a contract amendment with LACO for planning services for the Grocery Outlet Project in the amount of \$38,044.

ALTERNATIVE ACTION(S):

1. Request contract amendments and approve contract with LACO for planning services for the Grocery Outlet Project.
2. Deny contract amendment and recommend alternate means for processing planning permit for the Grocery Outlet Project.

FISCAL IMPACT:

This project is funded directly by applicant through a Developer Deposit Account (DDA) thus any real expenses incurred by the City for managing the consultant, preparing and distributing notices on behalf of the applicant, or other services rendered by either City staff or consulting staff are invoiced to the applicant.

GREENHOUSE GAS EMISSIONS IMPACT:

Processing the contract amendment is not expected to have any greenhouse gas emission impacts.

CONSISTENCY:

In accordance with the Fort Bragg Municipal Code §3.20.040, the City Manager is designated as the Purchasing Officer for the City and delegated authority for approving contracts for professional services up to the amount of \$25,000. As this project is now expected to exceed the allowed threshold, staff is seeking Council authorization to proceed accordingly.

IMPLEMENTATION/TIMEFRAMES:

If the contract amendment is approved by Council, an amendment will be circulated and signed by both parties (Attachment 6). In the meantime, the completed CEQA document is scheduled to begin circulation on January 14, 2021 and circulate for 30 days. During the circulation period, any comments received from the public will be reviewed and incorporated as appropriate. After the circulation period ends, LACO will prepare any responses to comments, amendments to the documents, and/or begin the staff report for Planning Commission (depending upon the level of responses received). A full tentative timeline for

this project can be found on the City's Community Development Active Planning Permit Application Page: <https://city.fortbragg.com/486/Active-Planning-Permit-Applications>.

ATTACHMENTS:

1. LACO's Initial Contract Proposal
2. LACO's Contract Amendment Request
3. Resolution – Contract Amendment 2
4. Contract dated 8/4/2020
5. First Amendment to Contract dated 11/23/2020
6. Proposed Second Amendment to Contract

NOTIFICATION:

1. Kevin Doble, LACO
2. Terry Johnson, Best Development
3. Jenna Markley, BRR Architecture

EXHIBIT A

City of Fort Bragg
 Grocery Outlet
 825 S. Franklin Street
 LACO Project No. 8135.14
 July 17, 2020

On June 3rd, August 2nd, and September 26, 2019, Best Development Group submitted applications CDP 8-19, DR 1-19, and MGR 1-19 to the City of Fort Bragg (Client) to facilitate construction of new Grocery Outlet Supermarket. The City is seeking assistance in processing the proposed application, including but not limited to project analysis with City General Plan, Zoning, and Design Review Guidelines, review of special studies and other application materials, California Environmental Quality Act (CEQA) document development and review, creation of the Staff Report and presentation to the City Planning Commission, and appeal to the City Council, if necessary.

The scope of services presented below describes the tasks required to complete the application processing and related services.

Task	Task Description	Estimated Cost
1000	Project Management, Client Communication, and Agency Coordination	\$2,600
2000	Review Application Materials and Consistency Analysis	\$2,500
3000	CEQA Document	\$10,000
3100	Analysis and response to comments	\$1,500
4000	Staff Report	\$2,672
5000	Planning Commission Presentation and Public Hearing	\$1,972
6000	Appeal Staff Report	\$1,500
7000	City Council Public Presentation and Public Hearing	\$ 1,900
	Estimated Time and Materials Total	\$24,644

Task 1000 – Project Management, Client Communication, and Agency Coordination

The project will be managed by LACO Associates (LACO). LACO will conduct coordination between the Applicant and CLIENT. Invoices and correspondence will be delivered to CLIENT. Task 1000 includes up to up to six hours of phone or video conference meetings with CLIENT to discuss project status and benchmarks. This task also includes up to four hours of discussion and updates directly with the applicant and up to four hours of discussion with referral agencies.

Task 2000– Review of Application Materials and Consistency Analysis.

LACO will conduct in depth review of the project application materials. All project application materials and correspondence will be provided to LACO from CLIENT electronically. This includes the original application materials and those submitted on April 8, 2020, in response to the consistency analysis prepared by CLIENT. LACO will review all submitted special studies, and make recommendations on the adequacy of the studies. Studies to be reviewed include but are not limited to Traffic, Biological, and a cultural records search. LACO will review project status to ensure all procedures prescribed by AB52 have been followed.

Following the review of application materials, LACO will revise the Consistency Analysis previously prepared CLIENT, and update based on the information provided by the applicant. LACO will make a recommendation on whether the project is consistent with applicable codes and regulations, and if the project is complete enough for public hearing. If additional materials are needed LACO will prepare a letter to the applicant.

Task 3000 – CEQA document

LACO will prepare the Initial Study/Mitigated Negative Declaration in the format prescribed by the CLIENT. The IS/ MND will be prepared using the special studies provided by the applicant and publicly available resources. LACO will prepare the Mitigation Monitoring and Reporting Program (MMRP) for review by the CLIENT. LACO will deliver the environmental documents to the CLIENT for circulation.

Task 3100 – Analysis and response to comments

If public comments are received during the Initial Study circulation period. Upon consultation with CLIENT, LACO will provide responses to the comments as necessary, and revise the Environmental Document as needed. Up to 10 hours has been allotted for this task. Should extensive public comments be received an amendment may be required.

Task 4000 – Staff Report

LACO will draft a Staff Report for the project in the form prescribed by the CLIENT. Staff Report will include recommendations, findings, and conditions of approval based on the project consistency and environmental analysis. Staff Report will include all necessary maps and attachments. LACO will also prepare a draft notice.

Task 5000 – Planning Commission Public Hearing

LACO will attend one (1) public hearing of the Planning Commission (anticipated via ZOOM), and present the application on behalf of and as staff to the CLIENT. LACO will prepare a Power Point presentation which will be provided to CLIENT for review prior to the hearing. LACO staff will be available and prepared to address project related questions during the hearing.

Should a continuance occur and additional meetings be required LACO may request an amendment to the anticipated budget. It is assumed that meetings will be held via Zoom or other electronic platform. If travel to the Planning Commission hearing is required, LACO will charge separately for travel time.

Task 6000 – Appeal Staff Report

Should this project be appealed to the City Council, LACO will draft a Staff Report for the project in the form prescribed by the CLIENT. Staff Report will include recommendations, findings, and conditions of approval based on the project consistency and environmental analysis. Staff Report will include all necessary maps and attachments. LACO will also prepare a draft notice.

Task 7000- City Council Public Hearing

Should this project be appealed to the City Council, LACO will attend one (1) public hearing of the Fort Bragg City Council (anticipated via ZOOM), and present the appeal on behalf of and as staff to the CLIENT. LACO will prepare a Power Point presentation which will be provided to CLIENT for review prior to the hearing. LACO staff will be available and prepared to address project related questions during the hearing.

Should a continuance occur and additional meetings be required LACO may request an amendment to the anticipated budget. It is assumed that meetings will be held via Zoom or other electronic platform. If travel to the Planning Commission hearing is required, LACO will charge separately for travel time.

SPECIAL CONDITIONS, ASSUMPTIONS, AND SERVICES NOT PROVIDED

- CLIENT will pay all public agency fees associated with this project.
- LACO does not make any guarantee of the viability of the project, the date upon which approvals will be received, or the successful completion of the project. LACO does not possess any control over the discretionary approval process employed by any involved government agency, or the timely processing of application submittals.
- Task budgets are estimates of required effort; to meet project objectives, LACO may adjust the budget allocations for tasks, but may not invoice in excess of the total estimated cost without written approval from CLIENT.
- Tasks not specifically identified above are not included in this scope of services.

December 4, 2020

8135.14

Chantell O'Neal
 Assistant Public Works Director
 City of Fort Bragg

Subject: Grocery Outlet Project
 Request for additional budget

Chantell,

LACO Associates, Inc. (LACO) has prepared an Initial Study for the Grocery Outlet on behalf of the City of Fort Bragg.

While completing the document, several unforeseen issues arose that resulted in LACO utilizing additional budget that was originally budgeted for other tasks that have yet to be completed. In order to complete the project, including responding to comments, completing the staff report, and presentation to the Planning Commission, additional budget is hereby requested. A description of each task and justification is found below:

Task	Task Description	Estimated Cost	Additional Requested	New Total
1000	Project Management, Client Communication, and Agency Coordination	\$2,600	\$2,400	\$5,000
2000	Review Application Materials and Consistency Analysis	\$2,500	\$5,000	\$7,500
3000	CEQA Document	\$10,000	\$5,000	\$15,000
3100	Analysis and response to comments	\$1,500	\$1,500	\$3,000
4000	Staff Report	\$2,672		
5000	Planning Commission Presentation and Public Hearing	\$1,972		
6000	Appeal Staff Report	\$1,500		
7000	City Council Public Presentation and Public Hearing	\$1,900		
	Estimated Time and Materials Total	\$24,644	\$13,400	\$38,044

Tasks 1000, 2000, & 3000 - Complete

Task 1000 – Project Management, Client Communication, and Agency Coordination

The project will be managed by LACO Associates (LACO). LACO will conduct coordination between the Applicant and CLIENT. Invoices and correspondence will be delivered to CLIENT. Task 1000 includes up to up to six hours of phone or video conference meetings with CLIENT to discuss project status and benchmarks. This task also includes up to four hours of discussion and updates directly with the applicant and up to four hours of discussion with referral agencies.

Update: Approximately 6 hours of additional meetings took place between LACO and either City Staff or the applicant regarding unresolved traffic issues and CEQA exemption possibilities. As the project

continues moving forward, it is anticipated that several additional hours of conference will be required to discuss and resolve issues as they arise.

Task 2000– Review of Application Materials and Consistency Analysis.

LACO will conduct in depth review of the project application materials. All project application materials and correspondence will be provided to LACO from CLIENT electronically. This includes the original application materials and those submitted on April 8, 2020, in response to the consistency analysis prepared by CLIENT. LACO will review all submitted special studies, and make recommendations on the adequacy of the studies. Studies to be reviewed include but are not limited to Traffic, Biological, and a cultural records search. LACO will review project status to ensure all procedures prescribed by AB52 have been followed.

Following the review of application materials, LACO will revise the Consistency Analysis previously prepared CLIENT, and update based on the information provided by the applicant. LACO will make a recommendation on whether the project is consistent with applicable codes and regulations, and if the project is complete enough for public hearing. If additional materials are needed LACO will prepare a letter to the applicant.

Update: While the materials provided for review presented a complete file package not requiring any additional studies, significant additional review was required to process all of the information provided. It was recognized early in the process that local interests were reviewing the documents as well, so additional analysis was undertaken to assess their adequacy. Over 80 emails between the previous Planner assigned to this project and the applicant or other interests needed to be categorized, organized, and analyzed.

Particular attention was paid to the analysis of the submitted Traffic Study, as it recommended a mitigation measure that is not possible at this time due to lack of mechanism or benefit area to allow the City to collect for signalization of Hwy 1, and Caltrans lack of plan for the improvement of said highway. While we believe the solution has presented itself over time, it took unanticipated hours to come to a logical conclusion.

No further additional review of backup materials is anticipated, however this task absorbed more anticipated budget than expected.

Task 3000 – CEQA document

LACO will prepare the Initial Study/Mitigated Negative Declaration in the format prescribed by the CLIENT. The IS/ MND will be prepared using the special studies provided by the applicant and publicly available resources. LACO will prepare the Mitigation Monitoring and Reporting Program (MMRP) for review by the CLIENT. LACO will deliver the environmental documents to the CLIENT for circulation.

Update: This task has been completed pending response to City comments on the document. Significant time and budget were spent on this task, particularly with regard to Air Quality and Traffic.

Additionally, special attention was paid to sections/issues that had been identified by interests through the review of correspondence. It should also be noted that according to the previous planner on the project, the Initial Study was reported to be 30 to 35% complete, and therefore LACO budgeted for this task accordingly. When the partial IS was reviewed by LACO, it became clear that with the exception

of portions of the project description, the document was the IS prepared for a different project (Autozone), and was being used as a template for the Grocery Outlet project.

Task 3100 – Analysis and response to comments

If public comments are received during the Initial Study circulation period. Upon consultation with CLIENT, LACO will provide responses to the comments as necessary, and revise the Environmental Document as needed. Up to 10 hours has been allotted for this task. Should extensive public comments be received an amendment may be required.

Update: Although the document has not circulated yet, based on correspondence received and reviewed, LACO recommends additional budget be allocated to this task.

We are not requesting any budget augmentation for the remaining tasks, Task 4000 – Staff Report, Task 5000 – Planning Commission Public Hearing, Task 6000 - Appeal Staff Report, and Task 7000 - City Council Public Presentation and Public Hearing at this time.

Thank you for reviewing this request. I look forward to discussing them with you and continuing the project.

Respectfully,
LACO Associates



Byron Turner
Senior Planner

RESOLUTION NO. ____-2021

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING CONTRACT AMENDMENT WITH LACO ASSOCIATES, INC. (LACO) FOR CONSULTING PLANNING SERVICES FOR THE GROCERY OUTLET PROJECT AND AUTHORIZING CITY MANAGER TO EXECUTE CONTRACT AMENDMENT (AMOUNT NOT TO EXCEED \$38,044; ACCOUNT NO. 119-0000-2668)

WHEREAS, on August 4, 2020, the City of Fort Bragg entered into a Professional Services Agreement (“Contract”) in the amount of \$24,644 with LACO Associates, Inc. (LACO) (“Consultant”) to provide planning services for the Grocery Outlet Project; and

WHEREAS, the City and Consultant entered into a First Amendment to the Contract on November 23, 2020 to extend the time of completion of the Contract; and

WHEREAS, several tasks required additional services not initially included in the quote; and

WHEREAS, several other tasks remain to be completed which are described in the contract amendment request and attached to Professional Services Agreement as Exhibit A; and

WHEREAS, per the 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; and

WHEREAS, the consultant has agreed to pay the full amount associated with this contract change;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve a Second Amendment to the Professional Services Agreement with LACO Associates, Inc. and authorizes the City Manager to execute same (total amount of contract not to exceed \$38,044, Account No. 119-0000-2668).

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 11th day of January, 2021, by the following vote:

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

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

**CITY OF FORT BRAGG
PROFESSIONAL SERVICES AGREEMENT
WITH
LACO ASSOCIATES, INC.**

THIS AGREEMENT is made and entered into this 4th day of August, 2020 ("Effective Date"), by and between the CITY OF FORT BRAGG, a municipal corporation, 416 N. Franklin Street, Fort Bragg, California 95437 ("City"), and LACO ASSOCIATES, INC., a California corporation, 311 S. Main Street, Ukiah, California, 95482 ("Consultant").

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to process applications CDP 8-19, DR 1-19, and MGR 1-19 for a new Grocery Outlet Supermarket, as more fully described herein; and

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

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

D. WHEREAS, the City Manager is authorized by Fort Bragg Municipal Code Section 3.20.140 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 AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in **Exhibit A**, in an amount not to exceed **Twenty-four Thousand Six Hundred Forty-four Dollars (\$24,644.00)**.

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 **December 31, 2020**. 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 March 31, 2021 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 Chantell O'Neal, Assistant Director – Engineering Division. 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 Elizabeth Burkes, Planning Director, 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:
Elizabeth Burkes
LACO Associates, Inc.
311 S. Main St.
Ukiah, CA 95482
Tel: (707) 462-0222
Fax: (707) 462-0223

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

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

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

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

6.8. Indemnification and Hold Harmless. If Consultant is not a design professional performing "design professional" services under this Agreement, as that term is defined in Civil Code Section 2782.8, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected and appointed officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings brought against the City, its elected and appointed officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work

undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply whenever any claim, action, complaint or suit asserts liability against the City, its elected and appointed officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

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

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

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

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

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

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

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

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

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

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

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in 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.

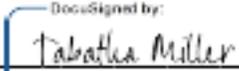
6.24. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other 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.

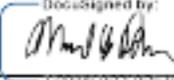
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY

By: 

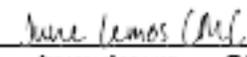
Tabatha Miller
Its: City Manager

CONSULTANT

By: 

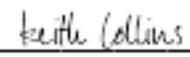
Michael Nelson
Its: President/CEO

ATTEST:

By: 

June Lemos, CMC
City Clerk

APPROVED AS TO FORM:

By: 

Keith F. Collins
City Attorney



EXHIBIT A

City of Fort Bragg
 Grocery Outlet
 825 S. Franklin Street
 LACO Project No. 8135.14
 July 17, 2020

On June 3rd, August 2nd, and September 26, 2019, Best Development Group submitted applications CDP 8-19, DR 1-19, and MGR 1-19 to the City of Fort Bragg (Client) to facilitate construction of new Grocery Outlet Supermarket. The City is seeking assistance in processing the proposed application, including but not limited to project analysis with City General Plan, Zoning, and Design Review Guidelines, review of special studies and other application materials, California Environmental Quality Act (CEQA) document development and review, creation of the Staff Report and presentation to the City Planning Commission, and appeal to the City Council, if necessary.

The scope of services presented below describes the tasks required to complete the application processing and related services.

Task	Task Description	Estimated Cost
1000	Project Management, Client Communication, and Agency Coordination	\$2,600
2000	Review Application Materials and Consistency Analysis	\$2,500
3000	CEQA Document	\$10,000
3100	Analysis and response to comments	\$1,500
4000	Staff Report	\$2,672
5000	Planning Commission Presentation and Public Hearing	\$1,972
6000	Appeal Staff Report	\$1,500
7000	City Council Public Presentation and Public Hearing	\$ 1,900
	Estimated Time and Materials Total	\$24,644

Task 1000 – Project Management, Client Communication, and Agency Coordination

The project will be managed by LACO Associates (LACO). LACO will conduct coordination between the Applicant and CLIENT. Invoices and correspondence will be delivered to CLIENT. Task 1000 includes up to six hours of phone or video conference meetings with CLIENT to discuss project status and benchmarks. This task also includes up to four hours of discussion and updates directly with the applicant and up to four hours of discussion with referral agencies.

Task 2000– Review of Application Materials and Consistency Analysis.

LACO will conduct in depth review of the project application materials. All project application materials and correspondence will be provided to LACO from CLIENT electronically. This includes the original application materials and those submitted on April 8, 2020, in response to the consistency analysis prepared by CLIENT. LACO will review all submitted special studies, and make recommendations on the adequacy of the studies. Studies to be reviewed include but are not limited to Traffic, Biological, and a cultural records search. LACO will review project status to ensure all procedures prescribed by AB52 have been followed.

Following the review of application materials, LACO will revise the Consistency Analysis previously prepared CLIENT, and update based on the information provided by the applicant. LACO will make a recommendation on whether the project is consistent with applicable codes and regulations, and if the project is complete enough for public hearing. If additional materials are needed LACO will prepare a letter to the applicant.

Task 3000 – CEQA document

LACO will prepare the Initial Study/Mitigated Negative Declaration in the format prescribed by the CLIENT. The IS/ MND will be prepared using the special studies provided by the applicant and publicly available resources. LACO will prepare the Mitigation Monitoring and Reporting Program (MMRP) for review by the CLIENT. LACO will deliver the environmental documents to the CLIENT for circulation.

Task 3100 – Analysis and response to comments

If public comments are received during the Initial Study circulation period. Upon consultation with CLIENT, LACO will provide responses to the comments as necessary, and revise the Environmental Document as needed. Up to 10 hours has been allotted for this task. Should extensive public comments be received an amendment may be required.

Task 4000 – Staff Report

LACO will draft a Staff Report for the project in the form prescribed by the CLIENT. Staff Report will include recommendations, findings, and conditions of approval based on the project consistency and environmental analysis. Staff Report will include all necessary maps and attachments. LACO will also prepare a draft notice.

Task 5000 – Planning Commission Public Hearing

LACO will attend one (1) public hearing of the Planning Commission (anticipated via ZOOM), and present the application on behalf of and as staff to the CLIENT. LACO will prepare a Power Point presentation which will be provided to CLIENT for review prior to the hearing. LACO staff will be available and prepared to address project related questions during the hearing.

Should a continuance occur and additional meetings be required LACO may request an amendment to the anticipated budget. It is assumed that meetings will be held via Zoom or other electronic platform. If travel to the Planning Commission hearing is required, LACO will charge separately for travel time.

Task 6000 – Appeal Staff Report

Should this project be appealed to the City Council, LACO will draft a Staff Report for the project in the form prescribed by the CLIENT. Staff Report will include recommendations, findings, and conditions of approval based on the project consistency and environmental analysis. Staff Report will include all necessary maps and attachments. LACO will also prepare a draft notice.

Task 7000- City Council Public Hearing

Should this project be appealed to the City Council, LACO will attend one (1) public hearing of the Fort Bragg City Council (anticipated via ZOOM), and present the appeal on behalf of and as staff to the CLIENT. LACO will prepare a Power Point presentation which will be provided to CLIENT for review prior to the hearing. LACO staff will be available and prepared to address project related questions during the hearing.

Should a continuance occur and additional meetings be required LACO may request an amendment to the anticipated budget. It is assumed that meetings will be held via Zoom or other electronic platform. If travel to the Planning Commission hearing is required, LACO will charge separately for travel time.

SPECIAL CONDITIONS, ASSUMPTIONS, AND SERVICES NOT PROVIDED

- CLIENT will pay all public agency fees associated with this project.
- LACO does not make any guarantee of the viability of the project, the date upon which approvals will be received, or the successful completion of the project. LACO does not possess any control over the discretionary approval process employed by any involved government agency, or the timely processing of application submittals.
- Task budgets are estimates of required effort; to meet project objectives, LACO may adjust the budget allocations for tasks, but may not invoice in excess of the total estimated cost without written approval from CLIENT.
- Tasks not specifically identified above are not included in this scope of services.



**LACO ASSOCIATES
SCHEDULE OF RATES**

HOURLY RATES

Planning Principal.....	\$160.00 - 180.00 per hour
Project Manager.....	\$160.00 - 175.00 per hour
Senior Planner.....	\$125.00 - 150.00 per hour
Associate Planner.....	\$100.00 - 125.00 per hour
Assistant Planner.....	\$80.00 - \$100.00 per hour
Clerical.....	\$75.00 - 90.00 per hour

PLANNING STAFF

Elizabeth Burks, Planning Principal
 Kevin Doble, Project Manager
 Byron Turner, Senior Planner
 Rebecca Dalske, Associate Planner
 Megan Marruffo, Associate Planner
 Cameron Purchio, Associate Planner
 Samantha Thomas, Associate Planner

1. The above rates are regular hourly rates and include payroll costs, overhead, and profit. If overtime is requested by the client, it will be charged at 130% of the above hourly rates.
2. In accordance with State labor laws, prevailing wage rates may be required on State or Federally funded projects. These rates apply to survey party chief, rodman, chainman, soils field tester, and materials field tester. The hourly rate differential is \$25 to \$35 dollars per hour per person depending on project location and labor classification. The differential will be added to the above hourly rates.
3. Outside services will be performed at Cost plus 15%.
4. Subsistence and per diem will be calculated at Cost plus 15%.
5. All travel time will be charged at the regular hourly rates unless other written arrangements are made.

Policy Number: TGF07301212

EXCERPTS FROM: Fireman's Fund ABC MULTICOVER – AB 91 89 08 07

THIS ENDORSEMENT MODIFIES INSURANCE PROVIDED UNDER THE FOLLOWING: AMERICAN BUSINESS COVERAGE

2. Blanket Additional Insured

Section II – Liability Coverage, Part I. Who Is An Insured, Item 2. is amended to include:

- f. Any person or organization that you are required by a written insured contract to include as an insured, subject to all of the following provisions:
 - (1) Coverage is limited to their liability arising out of:
 - (a) the ownership, maintenance or use of that part of the premises, or land owned by, rented to, or leased to you; or
 - (b) your ongoing operations performed for that insured; or
 - (c) that insured's financial control of you; or
 - (d) the maintenance, operation or use by you of equipment leased to you by such person(s) or organization(s)

4. Blanket Waiver of Subrogation

Section II – Liability Coverage, Part K. Liability and Medical Payments General Conditions, is amended to include:

- 6. Transfer or Rights of Recovery Against Others to us and Blanket Waiver of Subrogation
 - b. If required by a written insured contract, we waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your operations or your work for that person or organization.

19. Common Policy Conditions (AB 00 09 A 01 87), Part H. Other Insurance, Item 2 is replaced with:

2. Coverage C – Liability

If other valid and collectible insurance is available to any insured for a loss we cover under Coverage C of this Coverage Part our obligations are limited as follows:

- a. The insurance provided under this policy is primary if you are required by a written insured contract to include any person or organization as an insured, but only with respect to that insured's liability arising out of the ownership, maintenance, or use of that part of the premises owned by or rented to you, or your work for that insured by or for you. Any other insurance available to that person or organization is excess and noncontributory with this insurance.

EXCERPT FROM: PROPERTY/LIABILITY POLICY – AB 90 00 12 93

II. K. 5. Separation of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or suit is brought.

C. Additional Insured Coverage and Waiver of Subrogation

1. Form CA0001 (if attached to this policy), Section II – Covered Autos Liability Coverage, A. Coverage, 1. Who Is An Insured, the following is added as item e.; and form CA0020 (if attached to this policy), Section II – Covered Autos Liability Coverage, A. Coverage, 1. Who Is An Insured; the following is added as item g.:

Any person or organization with respect to the operation, maintenance, or use, of a covered auto, provided that you and such person or organization have agreed under an expressed provision in a written insured contract or written agreement, or a written permit issued to you by a governmental or public authority, to add such person, organization, or governmental or public authority to this policy as an insured.

However, such person or organization is an insured:

- (1) Only with respect to the operation, maintenance, or use, of a covered auto; and
 - (2) Only for bodily injury or property damage caused by an accident which takes place after:
 - (a) You executed the insured contract or written agreement; or
 - (b) The permit has been issued to you.
2. Form CA0001 (if attached to this policy), Section IV - Business Auto Conditions, A. Loss Conditions, item 5.; and form CA0020 (if attached to this policy), Section V - Motor Carrier Conditions, A. Loss Conditions, item 6.; the following is added:

Waiver of Subrogation

If required by a:

- a. Written insured contract or written agreement executed prior to the accident; or
- b. Written permit issued to you by a governmental or public authority prior to the accident;

we waive any right of recovery we may have against any person or organization named in such contract, agreement or permit, because of payments we make for injury or damage arising out of the ownership, maintenance or use of a covered auto.

D. Auto Medical Payments - Increased Limit

For each covered auto described in the Declarations or shown in the Schedule as having Auto Medical Payments Coverage, the Medical Payments Limit of Insurance for those autos is revised to the greater of:

1. \$5,000; or
2. The limit shown in the Declarations.

E. Hired Auto Physical Damage Coverage and Loss of Use Expenses

Hired Auto Physical Damage Coverage



WAIVER OF SUBROGATION
BLANKET BASIS

REP 14
9097689-20
RENEWAL
NA
1-43-09-58
PAGE 1 OF 1

HOME OFFICE
SAN FRANCISCO

EFFECTIVE MAY 1, 2020 AT 12.01 A.M.
AND EXPIRING MAY 1, 2021 AT 12.01 A.M.

ALL EFFECTIVE DATES ARE
AT 12:01 AM PACIFIC
STANDARD TIME OR THE
TIME INDICATED AT
PACIFIC STANDARD TIME

LACO ASSOCIATES
21 W 4TH ST
EUREKA, CA 95501

WE HAVE THE RIGHT TO RECOVER OUR PAYMENTS FROM ANYONE
LIABLE FOR AN INJURY COVERED BY THIS POLICY. WE WILL
NOT ENFORCE OUR RIGHT AGAINST THE PERSON OR
ORGANIZATION NAMED IN THE SCHEDULE.

THIS AGREEMENT APPLIES ONLY TO THE EXTENT THAT YOU
PERFORM WORK UNDER A WRITTEN CONTRACT THAT REQUIRES YOU
TO OBTAIN THIS AGREEMENT FROM US.

THE ADDITIONAL PREMIUM FOR THIS ENDORSEMENT SHALL BE
2.00% OF THE TOTAL POLICY PREMIUM.

SCHEDULE

<u>PERSON OR ORGANIZATION</u>	<u>JOB DESCRIPTION</u>
ANY PERSON OR ORGANIZATION FOR WHOM THE NAMED INSURED HAS AGREED BY WRITTEN CONTRACT TO FURNISH THIS WAIVER	BLANKET WAIVER OF SUBROGATION

NOTHING IN THIS ENDORSEMENT SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND
ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS POLICY
OTHER THAN AS ABOVE STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE
HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR
LIMITATIONS IN THIS ENDORSEMENT.

COUNTERSIGNED AND ISSUED AT SAN FRANCISCO:

APRIL 27, 2020

AUTHORIZED REPRESENTATIVE

PRESIDENT AND CEO

Additional Insured - Owners, Lessees or Contractors - AB 90 67 12 93

Policy Amendment Section II

Insured: LACO Associates

Policy Number: TGF07301212

Producer: Dealey, Renton & Associates
P. O. Box 12675
License # 0020739
Oakland CA 94604-2675

Effective Date: 12/31/2019

Schedule

Name of Person(s) or Organization(s)

The City of Fort Bragg and its elected and appointed boards, officers, officials, agents, employees and volunteers

(If no entry appears above, information required to complete this Endorsement will be shown in the Declarations as applicable to this Endorsement.)

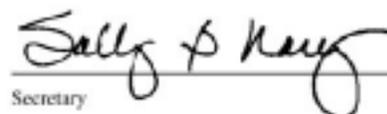
The following is added to Part I - WHO IS AN INSURED in the Business Liability Section of this policy

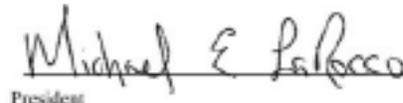
arising out of your work for that insured by or for you.

- 5. The person or organization shown in the Schedule is also an insured, but only with respect to liability

All other terms and conditions of the policy apply.

This Form must be attached to Change Endorsement when issued after the policy is written.
One of the Fireman's Fund Insurance Companies as named in the policy


Secretary


President

**FIRST AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT
WITH
LACO ASSOCIATES, INC.**

THIS FIRST AMENDMENT is made and entered into this 23rd day of November, 2020, by and between the CITY OF FORT BRAGG, a municipal corporation, 416 N. Franklin Street, Fort Bragg, California 95437 ("City"), and LACO ASSOCIATES, INC., a California corporation, 311 S. Main Street, Ukiah, California 95482 ("Consultant").

WHEREAS, the City and Consultant entered into a Professional Services Agreement ("Contract") on August 4, 2020; and

WHEREAS, the Contract states that Consultant will process applications CDP 8-19, DR 1-19 and MGR 1-19 for a new Grocery Outlet Supermarket as described in Consultant's Scope of Work attached to the Contract as Exhibit A; and

WHEREAS, the time for completion of the Contract is December 31, 2020 and the Contract will expire on March 31, 2021; and

WHEREAS, the Consultant has been performing tasks for the City, some of which are still in various stages of completion and need to be finished; and

WHEREAS, there are still sufficient funds budgeted for these activities; and

WHEREAS, City and Consultant desire to amend the Contract to extend the time of completion to March 31, 2021 and the term of the contract to June 30, 2021;

NOW, THEREFORE, for the aforementioned reasons and other valuable consideration, the receipt and sufficiency of which is acknowledged, City and Consultant hereby agree that the Professional Services Agreement for processing Grocery Outlet Supermarket applications, is hereby amended as follows:

1. TIME OF PERFORMANCE

Paragraph 3.1 (Commencement and Completion of Work) is hereby amended to extend the time of completion of the project to **March 31, 2021**.

2. TERM AND TERMINATION

Paragraph 4.1 (Term) is hereby amended to extend the expiration date of the Contract to **June 30, 2021**.

3. Except as expressly amended herein, the Professional Services Agreement, between the City and Consultant dated August 4, 2020, is hereby reaffirmed.

IN WITNESS WHEREOF, the parties have executed this Amendment the day and year first above written.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF FORT BRAGG:

DocuSigned by:
Tabatha Miller
By: C1A32C1B85E445E
Its: **Tabatha Miller**
City Manager

CONSULTANT:

DocuSigned by:
Michael Nelson
By: 32A690361136dE0
Its: **Michael Nelson**
President/CEO

ATTEST:

DocuSigned by:
June Lemos CMC
By: 52C17EAD35DD44E
Its: **June Lemos, CMC**
City Clerk

APPROVED AS TO FORM:

DocuSigned by:
Keith Collins
By: 35D037A7FB214D4
Its: **Keith F. Collins**
City Attorney

**SECOND AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT
WITH
LACO ASSOCIATES, INC.**

THIS SECOND AMENDMENT is made and entered into this 12th day of January, 2021, by and between the CITY OF FORT BRAGG, a municipal corporation, 416 N. Franklin Street, Fort Bragg, California 95437 (“City”), and LACO ASSOCIATES, INC., a California corporation, 311 S. Main Street, Ukiah, California 95482 (“Consultant”).

WHEREAS, the City and Consultant entered into a Professional Services Agreement (“Contract”) on August 4, 2020; and

WHEREAS, the Contract states that Consultant will process applications CDP 8-19, DR 1-19 and MGR 1-19 for a new Grocery Outlet Supermarket as described in Consultant’s Scope of Work attached to the Contract as Exhibit A; and

WHEREAS, on November 23, 2020, the parties entered into a First Amendment to Contract to extend the time for completion of the Contract to March 31, 2021 and the Contract term to June 30, 2021; and

WHEREAS, the Consultant has been performing tasks for the City, and additional tasks are required to complete the project as outlined in Exhibit A attached hereto; and

WHEREAS, there are still sufficient funds budgeted for these activities; and

WHEREAS, City and Consultant desire to amend the Contract to augment the Scope of Work and to increase the Not to Exceed amount of the Contract by \$13,400, from \$24,644 to \$38,044;

NOW, THEREFORE, for the aforementioned reasons and other valuable consideration, the receipt and sufficiency of which is acknowledged, City and Consultant hereby agree that the Professional Services Agreement for processing Grocery Outlet Supermarket applications, is hereby amended as follows:

1. SCOPE OF WORK

Paragraph 1.1 (Scope of Work) is hereby amended to include the additional tasks specified in Exhibit A attached hereto.

2. COMPENSATION

Paragraph 2.1 (Compensation) is hereby amended to increase the amount of Contract by \$13,400 to a total Not to Exceed amount of **Thirty-eight Thousand Forty-four Dollars (\$38,044)**.

3. Except as expressly amended herein, the Professional Services Agreement between the City and Consultant dated August 4, 2020, as amended by the First Amendment to Agreement dated November 23, 2020, is hereby reaffirmed.

IN WITNESS WHEREOF, the parties have executed this Second Amendment the day and year first above written.

CITY OF FORT BRAGG:

CONSULTANT:

By: _____
 Tabatha Miller
Its: City Manager

By: _____
 Michael Nelson
Its: President/CEO

ATTEST:

By: _____
 June Lemos, CMC
 City Clerk

APPROVED AS TO FORM:

By: _____
 Keith F. Collins
 City Attorney

EXHIBIT A



December 4, 2020

8135.14

Chantell O'Neal
Assistant Public Works Director
City of Fort Bragg

Subject: Grocery Outlet Project
Request for additional budget

Chantell,

LACO Associates, Inc. (LACO) has prepared an Initial Study for the Grocery Outlet on behalf of the City of Fort Bragg.

While completing the document, several unforeseen issues arose that resulted in LACO utilizing additional budget that was originally budgeted for other tasks that have yet to be completed. In order to complete the project, including responding to comments, completing the staff report, and presentation to the Planning Commission, additional budget is hereby requested. A description of each task and justification is found below:

Task	Task Description	Estimated Cost	Additional Requested	New Total
1000	Project Management, Client Communication, and Agency Coordination	\$2,600	\$2,400	\$5,000
2000	Review Application Materials and Consistency Analysis	\$2,500	\$5,000	\$7,500
3000	CEQA Document	\$10,000	\$5,000	\$15,000
3100	Analysis and response to comments	\$1,500	\$1,500	\$3,000
4000	Staff Report	\$2,672		
5000	Planning Commission Presentation and Public Hearing	\$1,972		
6000	Appeal Staff Report	\$1,500		
7000	City Council Public Presentation and Public Hearing	\$1,900		
	Estimated Time and Materials Total	\$24,644	\$13,400	\$38,044

Tasks 1000, 2000, & 3000 - Complete

Task 1000 – Project Management, Client Communication, and Agency Coordination

The project will be managed by LACO Associates (LACO). LACO will conduct coordination between the Applicant and CLIENT. Invoices and correspondence will be delivered to CLIENT. Task 1000 includes up to up to six hours of phone or video conference meetings with CLIENT to discuss project status and benchmarks. This task also includes up to four hours of discussion and updates directly with the applicant and up to four hours of discussion with referral agencies.

Update: Approximately 6 hours of additional meetings took place between LACO and either City Staff or the applicant regarding unresolved traffic issues and CEQA exemption possibilities. As the project

continues moving forward, it is anticipated that several additional hours of conference will be required to discuss and resolve issues as they arise.

Task 2000– Review of Application Materials and Consistency Analysis.

LACO will conduct in depth review of the project application materials. All project application materials and correspondence will be provided to LACO from CLIENT electronically. This includes the original application materials and those submitted on April 8, 2020, in response to the consistency analysis prepared by CLIENT. LACO will review all submitted special studies, and make recommendations on the adequacy of the studies. Studies to be reviewed include but are not limited to Traffic, Biological, and a cultural records search. LACO will review project status to ensure all procedures prescribed by AB52 have been followed.

Following the review of application materials, LACO will revise the Consistency Analysis previously prepared CLIENT, and update based on the information provided by the applicant. LACO will make a recommendation on whether the project is consistent with applicable codes and regulations, and if the project is complete enough for public hearing. If additional materials are needed LACO will prepare a letter to the applicant.

Update: While the materials provided for review presented a complete file package not requiring any additional studies, significant additional review was required to process all of the information provided. It was recognized early in the process that local interests were reviewing the documents as well, so additional analysis was undertaken to assess their adequacy. Over 80 emails between the previous Planner assigned to this project and the applicant or other interests needed to be categorized, organized, and analyzed.

Particular attention was paid to the analysis of the submitted Traffic Study, as it recommended a mitigation measure that is not possible at this time due to lack of mechanism or benefit area to allow the City to collect for signalization of Hwy 1, and Caltrans lack of plan for the improvement of said highway. While we believe the solution has presented itself over time, it took unanticipated hours to come to a logical conclusion.

No further additional review of backup materials is anticipated, however this task absorbed more anticipated budget than expected.

Task 3000 – CEQA document

LACO will prepare the Initial Study/Mitigated Negative Declaration in the format prescribed by the CLIENT. The IS/ MND will be prepared using the special studies provided by the applicant and publicly available resources. LACO will prepare the Mitigation Monitoring and Reporting Program (MMRP) for review by the CLIENT. LACO will deliver the environmental documents to the CLIENT for circulation.

Update: This task has been completed pending response to City comments on the document. Significant time and budget were spent on this task, particularly with regard to Air Quality and Traffic.

Additionally, special attention was paid to sections/issues that had been identified by interests through the review of correspondence. It should also be noted that according to the previous planner on the project, the Initial Study was reported to be 30 to 35% complete, and therefore LACO budgeted for this task accordingly. When the partial IS was reviewed by LACO, it became clear that with the exception

of portions of the project description, the document was the IS prepared for a different project (Autozone), and was being used as a template for the Grocery Outlet project.

Task 3100 – Analysis and response to comments

If public comments are received during the Initial Study circulation period. Upon consultation with CLIENT, LACO will provide responses to the comments as necessary, and revise the Environmental Document as needed. Up to 10 hours has been allotted for this task. Should extensive public comments be received an amendment may be required.

Update: Although the document has not circulated yet, based on correspondence received and reviewed, LACO recommends additional budget be allocated to this task.

We are not requesting any budget augmentation for the remaining tasks, Task 4000 – Staff Report, Task 5000 – Planning Commission Public Hearing, Task 6000 - Appeal Staff Report, and Task 7000 - City Council Public Presentation and Public Hearing at this time.

Thank you for reviewing this request. I look forward to discussing them with you and continuing the project.

Respectfully,
LACO Associates



Byron Turner
Senior Planner

From: noreply@granicusideas.com
To: [Lemos, June](#)
Subject: New eComment for City Council - Via Video Conference
Date: Wednesday, January 6, 2021 10:10:06 PM

[SpeakUp](#)

New eComment for City Council - Via Video Conference

Jacob Patterson submitted a new eComment.

Meeting: City Council - Via Video Conference

Item: 8B. 20-979 Receive Report and Consider Adoption of City Council Resolution Approving Contract Amendment with LACO Associates, Inc. (LACO) for Consulting Planning Services for the Grocery Outlet Project and Authorizing City Manager to Execute Contract Amendment (Amount Not to Exceed \$38,044; Account No. 119-0000-2668)

eComment: This request and recommendation are merited and should be approved. The community appreciates when the City invests the appropriate amount of time and resources to the environmental review for a proposed development project. In this case, LACO has identified the need for a more thorough environmental review in at least two areas of community concern: traffic and air quality. There are likely other areas but those can be addressed via the public review and comment period as necessary.

[View and Analyze eComments](#)

This email was sent from <https://granicusideas.com>.

[Unsubscribe](#) from future mailings

From: [Leslie Kashiwada](#)
To: [Lemos, June](#)
Subject: comments re agenda item 8B
Date: Monday, January 11, 2021 3:41:47 PM

Hi June,

I am unable to attend the meeting tonight online. Could you please get this comment to the City Council:

Agenda Item 8B Contract of LACO Associates for Outlet Grocery Store Project

I don't know enough about LACO Associates to speak to the quality of their work, but I appreciate that they came back with an amended agreement based on additional meetings and conferences, especially related to traffic.

The traffic in this area is complex with the main access to the project being from Main St to North Harbor Drive. People driving up from the south will turn right onto North harbor Drive. People coming from town will either have to turn left at North Harbor Drive (which can currently be done by pulling into a center turn land), or they will cross South Street at Franklin. People leaving the project will either go across South St. on Franklin or turn right onto Main Street from North Harbor Dr. Left turns from North harbor Dr. onto Main St. are currently not allowed, but people do it anyway (often by pulling into the gas station at the corner).

I know this will come up for public comment during the public hearings, but wanted to mention 2 concerns:

1) I read some of the traffic options and, although a stop sign or light might sound like a good mitigation, there is a good possibility that traffic will back up onto the bridge or in the middle turn lane. South St. is the main access to the hospital ER and I'm sure this was a key factor in putting the main entrances to the project on North Harbor Sr. and Franklin. That said, there will be a big increase in cross traffic at Franklin and South St, and I foresee many accidents at this intersection because of this project.

2) There needs to be a thoughtful analysis of the economic impact of the project. With harvest Market hoping to build a new facility on their property on the Mill Site, there will be 3 big grocery stores in the community (Purity, Safeway, and Harvest). Can the community really support one more? Make sure these stores weigh in on the impact it will have on their business and if it might lead them to shut down (I am more concerned about Safeway and Purity than Harvest Market). If the community can support one more large grocery store I suggest we wait until Harvest market moves. Then that store (presumably Grocery Outlet) can go in the Boatyard, where Harvest Market is currently located.

I will hold further comments until the project to brought to the public for discussion.

Thank you,

Leslie Kashiwada

From: [Annemarie](#)
To: [Norvell, Bernie](#); [Morsell-Haye, Jessica](#); [Peters, Lindy](#); [Albin-Smith, Tess](#); [Miller, Tabatha](#); [Lemos, June](#)
Subject: city council meeting 1-11-21 public comment item 8B
Date: Monday, January 11, 2021 3:56:11 PM
Attachments: [Grocery Outlet comments .odt](#)

Item: 8B. 20-979 Receive Report and Consider Adoption of City Council Resolution Approving Contract Amendment with LACO Associates, Inc. (LACO) for Consulting Planning Services for the Grocery Outlet Project and Authorizing City Manager to Execute Contract Amendment (Amount Not to Exceed \$38,044; Account No. 119-0000-2668)

Please read my short statement at the meeting and please post my longer comment & short comments online. Thanks.

Dear city council members,

I am very concerned about this request by LACO and recommendation made by city staff to approve an additional \$13,400, bringing the new contract total to \$38,044 (amount not to exceed). Why is LACO citing unforeseen circumstances (namely challenges with Vehicle Miles Travelled) and is requesting an additional 54%. It seems clear that these companies underbid to get the job and then ask more money as time goes on. That also happened with the environmental consultant that was in charge of the DEIR/EIR for the Hare Creek mall. Why is a contract set up that makes it possible to get a 54% increase? How many more times will LACO come back and request more money? Why could not Grocery Outlet pay that difference? We should demand that they do not come back for any more money or if they do, that Grocery Outlet pays for it. I found out that there seems to be also a study dealing with Air Quality, but have not seen it online. Please post. The Biological Review needs a follow up study in regards to bats. When exactly did those studies take place (Day, Month, Year?)

I am very concerned with the quality of the Traffic Analysis and my in debt comments list my concerns, the need for a more thorough environmental review.

Why does a project like this not require a Mitigated Negative Declaration? Based on the superficial Traffic Impact Analysis alone this seems crucial. There seems to be no way that a project like this can be exempt from CEQA!

Sincerely, Annemarie Weibel

P.S.: The \$24,644 requested by LACO Associates, Inc. (LACO) for consulting planning services for the Grocery Outlet Project which includes a Coastal Development Permit 8-19 (CDP 8-19), Design Review 1-19 (DR 1-19), Parcel Merger (MGR 1-19), a demolition of an existing 16,436 SF former office building, and construction of one 16,000 SF retail building, a 53-space parking lot, site landscaping, and the merger of three existing parcels apparently turns out not to cover their cost.

The \$24,644 requested by LACO Associates, Inc. (LACO) for consulting planning services for the Grocery Outlet Project which includes a Coastal Development Permit 8-19 (CDP 8-19), Design Review 1-19 (DR 1-19), Parcel Merger (MGR 1-19), a demolition of an existing 16,436 SF former office building, and construction of one 16,000 SF retail building, a 53-space parking lot, site landscaping, and the merger of three existing parcels apparently turns out not to cover their cost.

LACO asks for an additional \$13,400, bringing the new contract total to \$38,044 (amount not to exceed). Why is LACO citing unforeseen circumstances (namely challenges with Vehicle Miles Travelled) and is requesting an additional 54%. It seems clear that these companies underbid to get the job and then ask more money as time goes on. That also happened with the environmental consultant that was in charge of the DEIR/EIR for the Hare Creek mall. Why is a contract set up that makes it possible to get a 54% increase? How many more times will LACO come back and request more money? Why could not Grocery Outlet pay that difference? We should demand that they do not come back for any more money or if they do that Grocery Outlet pays for it. I found out that there seems to be also a study dealing with Air Quality, but have not seen it online. Please post. The Biological Review needs a follow up study in regards to bats. When exactly did those studies take place (Day, Month, Year?)

Why does a project like this not require a Mitigated Negative Declaration? Based on the superficial Traffic Impact Analysis alone this seems crucial. There seems to be no way that a project like this can be exempt from CEQA!

Is Grocery Outlet required to get a permit from one or more state or federal agencies (as it adds traffic to a state road)?

The Traffic Impact Analysis identifies 54 parking spaces, whereas the staff report indicates 53 spaces.

As we experience with other big box stores like the Dollar Tree these trucks need a lot of space and having them enter from Franklin Street and exit onto N. Harbor Drive or S. Franklin Street makes this problematic as N. Harbor Drive is approaching Hwy 1/Main Street in a westerly direction and enters immediately at the end of Noyo River Bridge. The westbound approach indicates RIGHT TURN ONLY. Therefore it would not be possible for trucks or would not make any sense for them to exit onto N. Harbor Drive.

Exiting S. Franklin Street is also problematic as there is no stoplight on South Street and therefore trucks would have to drive to Cypress Street to get to Hwy 1.

Apparently multiple 24 hr traffic counts were made on key roadway segments on a summer Thursday, Friday and Saturday to define the periods of intersection analysis. The counts were made at these locations:

Cypress Street between Main Street and S. Franklin Street

South Street between Main Street and S. Franklin Street

Harbor Drive between Main Street and S. Franklin Street

S. Franklin Street between Cypress Street and South Street

S. Franklin Street between South Street and North Harbor Drive.

What Saturday? Was it during July 4th, the Salmon Barbecue? What year? What month? With public schools & college in session or not? During Covid?

New intersection turning movement counts (motor vehicles, pedestrians, bicycles) were then made on a weekday and on Saturday during the two-hour peak periods at these locations: 1. Main Street / Cypress Street 2. Main Street / South Street 3. Main Street / N. Harbor Drive 4. S. Franklin Street / Cypress Street 5. S. Franklin Street / South Street 6. S. Franklin Street / Harbor Drive.

Again, what Saturday? Was it during July 4th, the Salmon Barbecue? What year? What month? With public schools & college in session or not? During Covid? From when to when was the two-hour peak period? The difficulty is not only the amount of time a turning movement takes, but the space available for these big trucks to go around a curve without ending up in another lane.

Long Term Year 2040 conditions were assessed based on Caltrans local area growth rates and information available from the City of Fort Bragg regarding other approved projects in this area of the community. The extent to which other approved projects should be considered in future forecasts in addition to the growth rate was apparently considered. There is one approved project in the area of the Grocery Outlet Store that would be expected to result in traffic volume increases beyond that already addressed by the assumed background growth rate. The Plateau Housing Project will be located on the east end of South Street south of Kemppe Way. There is also a project in the works for a Dollar General store located at the corner of S. Franklin Street and Maple Street. Operating hours would be from 8:00 AM to 9:00 PM. seven days per week. This also needs to be considered.

With Harvest Market moving their business onto the former mill site along Hwy 1 and the mill site planning development maybe before 2040 it is not good enough to only consider already approved projects.

Traffic studies need to also include the Simpson Lane turnaround, the intersection of Hwy 1 and Hwy 20 and other intersections farther north of Cypress Street on Hwy 1.

We are told that with increased development by 2040 trucks will comprise more than 3% of the daily traffic (21,200 vehicles per day (vpd) south of Cypress Street, with the daily volume rising to 24,200 vpd) in the peak month.

Cypress Street is the main access to the hospital, doctor's offices, a pharmacy, and also the main access to the emergency room and ambulance. Many places for elderly and low income residents are located in the area surrounding the hospital. The police department is at the corner of Cypress Street and S. Franklin Street.

Located on S. Franklin Street is the court, the environmental health department, the mental health department and Social Services department. There is a dip in the road slowing traffic down at the intersection of S. Franklin Street and South Street.

The clinic is also located on South Street (east of S. Franklin Street).

With all the businesses that are located in this general neighborhood doing a Traffic Impact Analysis on a weekend would not show that much traffic as during the week. When were the studies done? What month, day, and year? During Covid?

N. Harbor Drive is a scenic road leading to the scenic harbor and used by many locals and tourists who want to see the north side of the harbor, go to the beach, eat in local restaurants, and buy fresh fish.

The Hwy 1/Main Street and N. Harbor Drive intersection is not a four-way intersection and there is no stop signs on the eastbound approach. The westbound approach indicates RIGHT TURN ONLY. Therefore it would not be possible for trucks to exit that way or would not make any sense for them to exit onto Hwy 1/Main Street.

The Traffic Impact Analysis mentions that the SR 1 TCR is currently unavailable on the Caltrans website as that source undergoes accessibility updates. This has been like that for at least 2 years and maybe will be for another 2 years, therefore it is important if the analysis is based on actual information by Caltrans.

I am concerned about the LEVEL OF SERVICE E & F.

The Traffic Analysis found it worthwhile to note that at the Hwy 1/ N. Harbor Drive intersection some motorists were observed making left turns and through traffic movements contrary to posted turn prohibitions. You excluded them from the LOS calculations, but they do exist as many tourists who do not know the area and do not realize this issue before they get to that intersection.

The Mendocino Transit Authority (MTA) provides transit service in addition to a stop near the County Social Services building at the South Street / S. Franklin Street intersection, and also circles around the hospital by driving on South Street, River Drive, Kemppe Way and Cypress Street and also stop at Safeway accessible from the S. Franklin Street.

To get a good count of this area east of Hwy 1 doing a traffic impact analysis on a weekend would not give high #'s.

If assumptions were made for the Grocery Outlet based on other retail projects in previous Fort Bragg traffic studies I hope that they were not based on the traffic study for the Hare Creek mall as this study was faulty. See public input with MND, DEIR/EIR.

Many locals do not believe that a Grocery Outlet store in a rural community like Fort Bragg would attract customers from a relatively broad area that extends beyond the limits of the community. Our eco tourists are not keen on stores they can go to wherever they live. They are looking for charming specialty stores.

If the availability of right of way to construct improvements is unknown next to Grocery Outlet it can be researched and Grocery Outlet could pay for these improvements.

It seems to me that Caltrans 2014 Growth Factors need to be updated.

I disagree with the statement in the Traffic Impact Analysis that at the intersection of (Hwy 1/ Main Street and Cypress Street the queue will not spill over into the adjoining through lane and as the through travel lane would not be affected that background conditions would be acceptable. This transition area is ok to use for cars, bicycles, and bikes, but if we get many

huge trucks delivering goods (maybe also to Dollar General) it will be hard to see beyond one of these trucks. Traffic accidents will go up and people will do more illegal maneuvers just to pass huge trucks.

Based on the Traffic Impact Analysis Hwy 1/ Main Street and South Street intersection the Level of Service on the westbound approach will drop to LOS E in the weekday p.m. peak hour and in the peak Saturday hour. I read that LOS E exceeds the weekday p.m. peak hour standard of LOS D, but is accepted under the General Plan policy for peak summer conditions. What might be acceptable as far as the General Plan policy for peak summer conditions is concerned might not be acceptable to the residents who live here. Many escaped the big cities in search for a more laid back approach. Summer traffic in Fort Bragg is unsafe and nerve racking.

The Analysis lists the need for mitigation to deal with this above mentioned traffic problem, but indicates that all that is needed is either a roundabout which did not go over well with the Simpson Lane roundabout and for Caltrans get an encroachment permit. Your idea of a mitigation seems crazy. The Grocery Outlet Store project owners and not the proponents should contribute their fair share to the cost of regional circulation improvements by paying adopted fees and making frontage improvements. It is clear that a Mitigated Negative Declaration is needed. The traffic problems at this site alone create impacts that are serious.

The Traffic Impact Analysis concludes by indicating that the regional effect on Vehicles Miles Traveled is likely to be small, but generally will be reduced by offering a closer option for northbound traffic. In a small place like Fort Bragg where Safeway is just around the corner a Grocery Outlet can easily force Purity to go under. That fact is not addressed in the Analysis.

If this Traffic Impact Analysis was done during Covid this project should be on hold until some normalcy will return (people have work, can afford to keep their business open, can afford a car, insurance and gas, etc.) and a better Analysis can be done. We need a development moratorium until Covid is over.

With all of this development, water, respectively lack thereof does not seem to come into play so far. In 2015 the city announced that they would only have 1% water left for the Hare Creek mall and the Avalon Hotel & Conference Center. We are in a drought, the city was not able to procure new water other than a small reservoir (not new water) and citizens & tourists were asked to ration their water due to a stage 1 and stage 2 water emergency this year. The same was true for other years in the past. In previous Fort Bragg water studies there was concern that there is a lack of water pressure for exactly that area of Fort Bragg in case of an emergency.

We need a Mitigated Negative Declaration and a development moratorium until Covid is over. We also need a moratorium on formula businesses until our policy is adopted at least locally.

Sincerely, Annemarie Weibel
1-11-2021

From: [Jenny Shattuck](#)
To: [Lemos, June](#)
Date: Monday, January 11, 2021 8:51:34 PM

If planners are not, or were not, in past, familiar with all our policies, are applicants paying more in hours for their learning process? This seems counterproductive to trying to bring costs down for building and planning in Fort Bragg. Would it cost less to have more planners on staff that are familiar with our town?



City of Fort Bragg

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

Text File

File Number: 20-951

Agenda Date: 1/11/2021

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8C.

Receive Report and Discuss Local Coastal Program Update Process and Process for Reuse of the Former Georgia Pacific Mill Site



AGENCY:	City Council
MEETING DATE:	January 11, 2021
DEPARTMENT:	Administration
PREPARED BY:	S. McCormick
PRESENTED BY:	S McCormick / T Miller

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Discuss Local Coastal Program Update Process and Process For Reuse of the Former Georgia Pacific Mill Site

BACKGROUND:

The Georgia Pacific lumber mill closed in 2002. The City of Fort Bragg and the property owner, Georgia Pacific (GP), engaged in a collaborative process to plan for the eventual redevelopment of the property for other uses between the closure of the lumber mill in 2002 and 2012. GP funded all City and consultant costs associated with preparation of the Mill Site Specific Plan, including all associated studies and documents. This planning process stopped in 2012, when GP withdrew its Specific Plan application to rezone the site in order to focus attention on the remediation of the site, and because the City was drawn into a lawsuit between GP and OfficeMax regarding cost-recovery for cleanup efforts.

On February 6, 2017, City Council and the Planning Commission held a joint meeting to discuss how to move forward with rezoning and planning efforts for the reuse of the Mill Site. The City Council and the Planning Commission supported the removal of Coastal General Plan policy requirements that a Specific Plan be prepared to rezone property on the Mill Site (Policies LU-7.1 and LU-7.2), and instead to complete a comprehensive community-based planning process. In August 2018, the Coastal Commission certified the LCP amendment replacing the requirement for a specific plan with revisions to the introductory text of the Coastal General Plan Land Use Element, Policies LU-7.1, LU-7.2, C-2.10, and Coastal Land Use and Development Code (CLUDC) Section 17.94.030(C).

The City restarted the community planning process in September 2017 with all-day open houses that included mini workshops, workshops at a Fort Bragg Rotary Club meeting, a Chamber of Commerce mixer, a Coastal Mendocino Association of Realtors meeting, hosting a table at the Farmer's Market, as well as two online community surveys.

Over the course of two years, City Council, Planning Commission and the community considered new land use zones, development regulations, infrastructure requirements, sustainability, open space, circulation, design guidelines, and more. A draft of proposed changes to the Coastal General Plan was submitted to Coastal Commission staff for review and comment, which Coastal Commission staff responded to on August 30, 2019. Staff responded to the Coastal Commission comments and provided revisions in December 2019. Drafts of several supporting studies were also submitted and received Coastal Commission staff comments, such as a Sea Level Rise analysis, visual analysis, visitor serving accommodations evaluation and a build-out analysis (although the build-out analysis became quickly out of date as the Land Use Map kept evolving). Staff turnover, staff reductions and the City's ongoing response to the pandemic reduced the resources available to work on the Mill Site Reuse Project.

Staff is providing this report as an update and is seeking direction from City Council on how to best move forward.

AGENDA ITEM NO. 8C

ISSUE:

There are several factors to consider when contemplating how the City might move forward with reuse of the Mill Site and to process a comprehensive LCP amendment to update land use policies and regulations:

- New ownership of the northern portion of the site by Mendocino Railway;
- Ongoing environmental remediation by GP; and
- Complexity of LCP amendment.

Mendocino Railway. On September 21, 2019, City Council and Planning Commission received a presentation by representatives of Mendocino Railway depicting a concept Master Plan for the area between Elm Street and Redwood Avenue (Attachment 1 – September 2019 Mill Site North Proposal). Since this time the concept has morphed into a phased development initially utilizing train cars for residences and lodging. Mendocino Railway shared their current proposal with the Mill Site Ad Hoc Committee on November 30, 2020.

Environmental Remediation. Between 2012 and 2020, GP completed a number of milestones in the remediation of the Mill Site under the oversight of California’s Department of Toxic Substances Control (DTSC), including completion of Remedial Action Plans (RAPs) for Operable Units C and D (OUC and OUD) and a Remedial Action Plan (RAP) for OUE (Attachment 2 – DTSC Update May 2018 and Attachment 3 – DTSC Update December 2020).

In October 2020, GP submitted the final RAP to DTSC involving OUE and Pond 8, based on the September 2019 Feasibility Study for OUE, which was recently approved. The City is identified as the Lead Agency for the related environmental review (Attachment 4 – DTSC Letter December 2020). The City anticipates an Environmental Impact Report (EIR) will be necessary to complete the environmental review process pursuant to the California Environmental Quality Act (CEQA), and will solicit requests for proposals from qualified firms in early 2021.

LCP Amendment. A Local Coastal Program (LCP) is comprised of a Land Use Plan (LUP) and Implementation Program (IP). The City’s LUP includes the Coastal General Plan and Land Use Map, while the City’s IP includes the Coastal Land Use and Development Code and Zoning District Map. Fort Bragg’s LCP reflects the unique characteristics of our community, while also addressing regional and statewide interests, and conforms with Coastal Act goals and policies.

Although an LCP grants the City permitting authority over most development, the Coastal Commission retains permanent jurisdiction on tidelands, submerged land, public trusts and acts on appeals from certain local decisions. In addition, California’s Coastal Commission reviews and approves any amendment to a certified LCP.

The City of Fort Bragg’s most recent LCP was certified in 2008 and is outdated. It is a big undertaking to simply review existing land use policies and regulations under the lens of the City’s existing land use map; it becomes a much more complex endeavor to include rezoning Timber Industrial on the Mill Site. This is due to the fact that rezoning involves numerous background studies, to understand build-out, capacity of City services, sea level rise, financial feasibility, etc., in order specify the appropriate location, type, and scale of new uses of land and provide measures to implement the plan.

ANALYSIS:

The City enlisted professional services from an outside planning firm to review the City’s rezoning efforts to date and provide potential approaches to both process a comprehensive LCP amendment and rezone the Mill Site. Staff recommends Council consider moving forward in three separate, independent LCP amendments in order to simplify the process. All parts can progress at the same time, however no part

is interdependent. City staff has conferred with Coastal Commission staff regarding submittal of multiple LCP amendment applications and Coastal Commission staff is supportive of this approach. Below is a list of the three components, in no particular order.

1. Process an LCP amendment to update the City's Coastal General Plan (the certified LUP) and Coastal Land Use and Development Code (the certified IP) that are unrelated to the Mill Site. Numerous updates are needed to clean up existing issues, simplify the documents, and bring the documents into alignment with the City's Inland regulations and State law. For example: (a) updates to CEQA section; (b) non-conforming signs and structures; (c) cannabis businesses; (d) animal keeping; (e) revisions to use tables; (f) storm water and low impact development; (g) live work; (h) mixed-use development; (i) inclusionary housing; (j) housing element; (k) parking requirements; (l) accessory dwelling units; (m) single family use in existing structures in commercial districts that have the appearance of a residence; (n) accessory structures; (o) vacation rentals.
2. Require Mendocino Railway to submit a Master Plan to the City for consideration and approval by the City and processing of the subsequent LCP amendment application to the California Coastal Commission. A Master Plan is a planning tool that typically covers a smaller, more localized area or single site, and includes a graphic conceptual layout, including allowable land uses and expected development. A Master Plan will also include zoning regulations and development standards. Those portions of the Master Plan that meet the definition of an LUP and IP and implement the Coastal Act at the local level will be submitted to the Coastal Commission as an amendment to the currently certified LCP.

Mendocino Railway's LCP amendment application would only be approved if Planning Commission and Coastal Commission determine the LUP portion of the amendment is in conformance with the Chapter 3 policies of the Coastal Act, and the IP portion is consistent with and adequate to carry out the City's certified LUP. Mendocino Railway would work directly with staff from Coastal Commission and the City, incurring all costs associated with the preparation of the Master Plan, including the associated CEQA document and subsequent LCP amendment application.

3. Develop an approach to reuse the southern portion of the Mill Site as a separate LCP amendment. It might be best to do this after the EIR is completed for the GP RAP and remediation is better understood for Pond 8. The resulting project could impact potential development of this area and future landowners. Furthermore, there was less community consensus about how the southern portion should be developed, so additional public meetings and potential Ad Hoc meetings will be necessary.

RECOMMENDED ACTION:

This report is designed to provide an opportunity for the community and the City Council to consider and discuss approaches to update City regulations in the Coastal Zone and reuse of the Mill Site and provide staff direction or request additional information.

ALTERNATIVE ACTION(S):

N/A

FISCAL IMPACT:

The City was recently awarded a Community Development Block Grant (CDBG) in the amount of \$100,000 and a grant from the U.S Department of Commerce Economic Development Association (EDA) in the amount of \$137,500 for planning reuse of the Mill Site. The grant funds are available now

and would help to cover staff time and consultant costs associated with preparation of necessary background studies, such as the evaluation of City water rights, resources, storage, treatment and distribution system, or a draft Development Impact Study.

General Plan Maintenance Fee Funds set aside for long range planning may also be utilized to process the LCP amendment to update current land use policies and regulations as identified in the City's existing coastal zone land use map.

Mendocino Railway would bear the costs of the Master Plan and the subsequent LCP amendment associated with their Northern portion of the property.

CONSISTENCY:

The City's 2014 Economic Development Strategy specifically includes rezoning and the eventual reuse of the Mill Site as a high priority project. The project must comply with the City's Coastal General Plan in order to be certified by the Coastal Commission. This will require modification of the Coastal General Plan.

IMPLEMENTATION/TIMEFRAMES:

Below are estimated timelines for each of the proposed LCP amendments:

1. **Existing Coastal Zone.** Preparation, adoption and implementation of a comprehensive LCP amendment to include the current existing land uses of the City's coastal zone could be accomplished in the following timeframes:
 - 2021: Update General Plan Elements, omitting Mill Site specific policies, and submit draft to Coastal Commission staff for review and comments.
 - 2021: Update Coastal Land Use and Development Code (CLUDC) to reflect changes made to the Inland Land Use and Development Code (2016), address new regulatory changes since 2016, and any other changes set forth by the City Council. Submit to Coastal Commission staff for review and comments.
 - 2021/2022: Address comments and provide additional analysis as required by Coastal Commission staff. At this point, it is difficult to determine whether or not additional studies would be requested. That said, it is estimated that within a year of submitting a complete application, a hearing would be scheduled before the Coastal Commission for certification.

2. **Northern Portion of Site.** The timeline and process of developing a Master Plan for consideration and approval by the City and Coastal Commission would be driven by the applicant, Mendocino Railway.
 - Update/complete related resource studies for an environmental review, pursuant to CEQA, and develop Master Plan application for submission to the City for permitting.
 - The City anticipates that an EIR will be necessary and will solicit requests for proposals from qualified firms to review application documents, hold EIR scoping session, and prepare draft EIR.
 - Hold public hearing on Master Plan and associated EIR. Identify portions of plan that are necessary to include in an LCP amendment in order to prepare and submit LCP amendment to Coastal Commission.

3. **Southern Portion of Mill Site.** Numerous background studies have been completed in the City's effort to rezone the Mill Site. That said, several more background studies and additional analysis will be needed. Currently, a Traffic Study is being completed, and professional services are being

obtained to prepare an economic development feasibility study. Other important issues to address include the evaluation of City water rights, resources, storage, treatment and distribution system, a draft Development Impact Study and utilities/infrastructure. The City has received \$100,000 of CDBG grant funding, however additional funding sources will need to be identified. Funding will determine how quickly the LCP amendment can be processed.

- 2021: Complete Traffic Study
- 2021: Complete Economic Development Feasibility Study
- 2021-2022: Development Impact Study
- 2021-2022: Evaluate water rights, resources, storage, treatment and distribution centers.
- 2021 and beyond: Develop land use map to rezone southern portion of Mill Site. Obtain funding for and update resource studies for EIR, complete EIR RFP process, hold EIR scoping session, and prepare draft EIR. Hold public hearing on LCP amendment application, including adoption of EIR, and submit to Coastal Commission.

Georgia Pacific has submitted a Remedial Action Plan (RAP) to DTSC based on the recently approved Final Feasibility Study for Operable Unit E (OUE), which is anticipated to be released in the coming weeks. This area includes Mill Pond 8 located near the center of site and remedial activities will require an EIR as part of the permitting process. The City will be acting as lead agency for the environmental review.

- 2021: DTSC releases a Remedial Action Plan (RAP) for OUE
- 2021-2022: Complete EIR RFP process, hold EIR scoping session, and prepare draft EIR.
- 2022-2023: Hold public hearing for permitting of identified project involving the remediation of OUE, including adoption of associated EIR and approval of coastal development permit
- 2023 and beyond: Implement project related to remedial activities in OUE

ATTACHMENTS:

1. October 2019 Mill Site North Proposal
2. DTSC Update May 2018
3. DTSC Update December 2020
4. DTSC Letter December 8, 2020

NOTIFICATION:

1. Notify Me Subscriber Lists: Mill Site Reuse; Georgia Pacific Site Remediation; Coastal Trail; Economic Development Planning; Fort Bragg Downtown Businesses; CDBG Activities
2. Sherwood Valley Band of Pomo, Tribal Chairman Melanie Rafanan & THPO Tina Sutherland
3. Coastal Commission Supervising Analyst, Cristin Kenyon
4. Georgia Pacific, Dave Massengill
5. Spring Pond West, Tom Honer & Jennifer Bosma
6. Mendocino Railway, Chris Hart & Michael Hart
7. Noyo Center for Marine Science Executive Director, Shelia Semans

Mill Site North

CONCEPT MASTER PLAN PRESENTATION
SPECIAL JOINT CITY COUNCIL/PLANNING COMMISSION MEETING
September 21, 2019



Hornberger + Worstell

Architects and Planners
170 Maiden Lane
San Francisco, CA 94108

415.391.1080
design@hwiarchitects.com



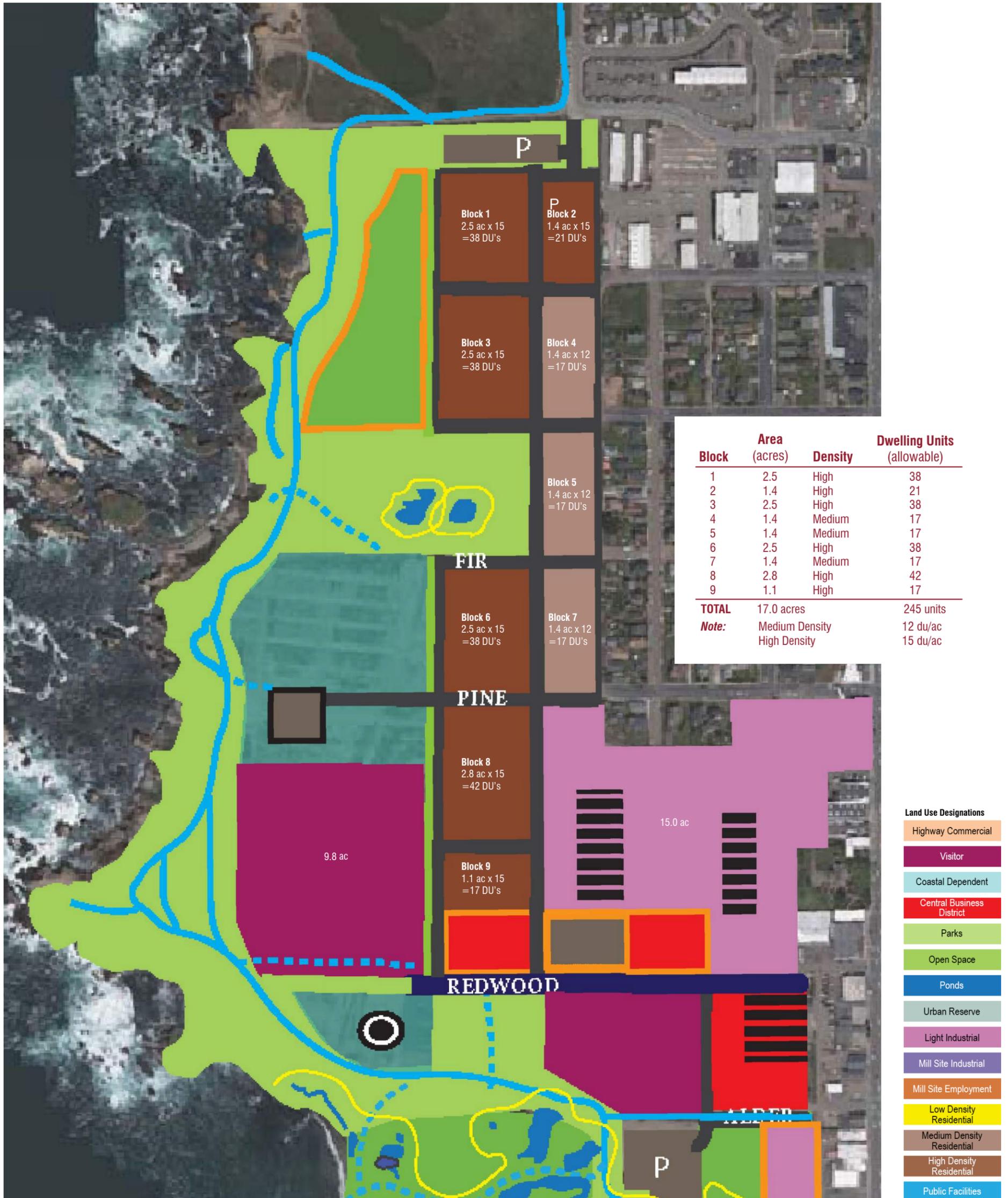
Mill Site North

AERIAL VIEW



Mill Site North - Planning Commission 6-2019 Land Use Map

MASTER PLAN CONCEPT STUDY



Mill Site North - Concept Master Plan Phase 1

MASTER PLAN CONCEPT STUDY



Mill Site North - Concept Master Plan Proposed Phase 2

W REDWOOD AVENUE EXTENSION



Mill Site North - Concept Master Plan Land Use Map

MASTER PLAN CONCEPT STUDY



Block	Area (acres)	Density	As Designed (du/ac)	Dwelling Units
1	1.9	Small-Unit	42	81
2	1.7	Medium	9	15
3	2.3	High	15	36
4	2.0	Medium	9	18
5	2.0	Medium	8	16
6	2.3	High	15	36
7	2.3	Small-Unit	42	98
TOTAL	14.5 acres			300 units

Note:
 Medium Density 12 du/ac
 High Density 15 du/ac
 Small-Unit High Density 42 du/ac
 If Small-Unit High Density is 30 du/ac, then total unit count is 250 units.

- Proposed Land Use**
- Small-Unit High Density Residential
- Land Use Designations**
- Highway Commercial
 - Visitor
 - Coastal Dependent
 - Central Business District
 - Parks
 - Open Space
 - Ponds
 - Urban Reserve
 - Light Industrial
 - Mill Site Industrial
 - Mill Site Employment
 - Low Density Residential
 - Medium Density Residential
 - High Density Residential
 - Public Facilities

Mill Site North - Glass Beach Station Area

MASTER PLAN CONCEPT STUDY



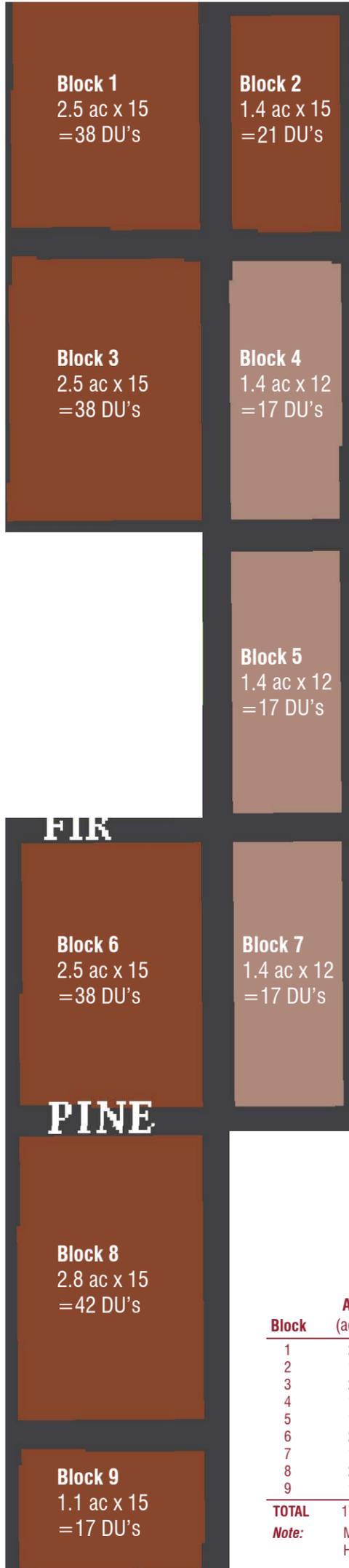
Mill Site North - Residential Neighborhoods

MASTER PLAN CONCEPT STUDY

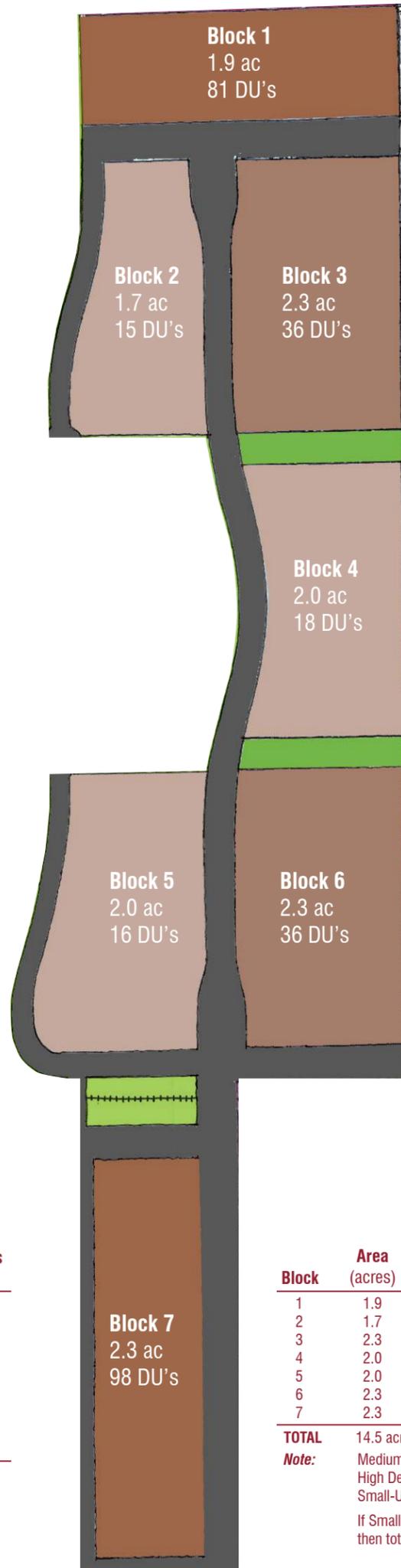


Mill Site North - Housing Types and Densities

MASTER PLAN CONCEPT STUDY



Block	Area (acres)	Density	Dwelling Units (allowable)
1	2.5	High	38
2	1.4	High	21
3	2.5	High	38
4	1.4	Medium	17
5	1.4	Medium	17
6	2.5	High	38
7	1.4	Medium	17
8	2.8	High	42
9	1.1	High	17
TOTAL	17.0 acres		245 units
Note:	Medium Density High Density		



Block	Area (acres)	Density	As Designed (du/ac)	Dwelling Units
1	1.9	Small-Unit	42	81
2	1.7	Medium	9	15
3	2.3	High	15	36
4	2.0	Medium	9	18
5	2.0	Medium	8	16
6	2.3	High	15	36
7	2.3	Small-Unit	42	98
TOTAL	14.5 acres			300 units
Note:	Medium Density 12 du/ac High Density 15 du/ac Small-Unit High Density 42 du/ac If Small-Unit High Density is 30 du/ac, then total unit count is 250 units.			

Mill Site North - Housing Types and Densities

MASTER PLAN CONCEPT STUDY



10 du/ac



13-15 du/ac



15 du/ac



8-10 du/acre



42-45 du/ac

Mill Site North - Oceanfront Hotel and Condominiums

MASTER PLAN CONCEPT STUDY



Mill Site North - W Redwood CBD Mixed-Use and Promenade

MASTER PLAN CONCEPT STUDY



Mill Site North - Railroad Square

MASTER PLAN CONCEPT STUDY



Mill Site North - Parks and Open Space

MASTER PLAN CONCEPT STUDY



Mill Site North - Concept Master Plan Land Use Map

MASTER PLAN CONCEPT STUDY



Block	Area (acres)	Density	As Designed (du/ac)	Dwelling Units
1	1.9	Small-Unit	42	81
2	1.7	Medium	9	15
3	2.3	High	15	36
4	2.0	Medium	9	18
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Note:
 Medium Density 12 du/ac
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- Proposed Land Use**
- Small-Unit High Density Residential
- Land Use Designations**
- Highway Commercial
- Visitor
- Coastal Dependent
- Central Business District
- Parks
- Open Space
- Ponds
- Urban Reserve
- Light Industrial
- Mill Site Industrial
- Mill Site Employment
- Low Density Residential
- Medium Density Residential
- High Density Residential
- Public Facilities

Mill Site North - Existing Brownfield Condition

MASTER PLAN CONCEPT STUDY



Mill Site North - Illustrative Concept Master Plan

MASTER PLAN CONCEPT STUDY



COMMUNITY UPDATE

The mission of DTSC is to protect California’s people and environment from harmful effects of toxic substances by restoring contaminated resources, enforcing hazardous waste laws, reducing hazardous waste generation, and encouraging the manufacture of chemically safer products.

Former Georgia-Pacific Mill Site Updates on Cleanup Progress and Feasibility Study

The California Department of Toxic Substances Control (DTSC) wants to update you on the cleanup progress at the former Georgia-Pacific Mill Site. The Mill Site is located west of Highway 1 in the City of Fort Bragg, Mendocino County.

To help organize investigation and cleanup, DTSC divided the Mill Site into five geographic areas (A, B, C, D, E) called operable units (OUs). The OUs are shown on the figure located on the last page. This update focuses on recent cleanup actions (in OUs C, D, and E) and on the revised draft OU-E Feasibility Study (FS).

DTSC’s oversight of the Georgia-Pacific Mill Site cleanup began in 2006, with cleanup efforts initially focused on the removal of contaminated soil and fly ash. In 2007, fuel pipelines and soil contaminated with petroleum from OU-E were removed, as was the pile of fly ash located near the South Ponds (Ponds 1-4). In 2009, over 14,000 cubic yards of soil [contaminated with polychlorinated biphenyls (PCBs), lead, and dioxin] were removed from OU-A, prior to the development of Noyo Headlands Park and Coastal Trail. In 2008 and 2009, over 1,000 cubic yards of soil contaminated with lead and PCBs were removed from OUs C and E. This work included bioremediation (using microbes for cleanup) of approximately 40,000 cubic yards of soil contaminated with petroleum. This cleanup achieved residential cleanup goals.

2017 Cleanup Summary

In 2017, Georgia-Pacific implemented two DTSC approved cleanup plans, a Remedial Action Plan (RAP) for OUs C and D and a Removal Action Workplan (RAW) for OU-E. These cleanup actions disposed of approximately 3,218 combined cubic yards of contaminated soil and sediment to a permitted disposal facility. OUs C and D achieved residential cleanup standards for pentachlorophenol (a wood preservative), dioxin, petroleum, and benzo(a)pyrene. The OU-E soil excavation also met residential standards for dioxin, lead and benzo(a)pyrene. The draft Completion Report for the 2017 work is available at the Information Repositories listed at the end of this document and on DTSC’s EnviroStor website.

Public Comment Period






Community Meeting:
Thursday May 24, 2018
6:30 pm - 8:30 pm

Town Hall
 363 N. Main Street
 Fort Bragg, CA 95437

Format will be half hour presentation by DTSC, followed by opportunity for questions and discussion.



Following the 2017 cleanup, soil contaminant levels are now below residential cleanup goals for nearly 95 percent of OUs C, D, and E. Currently, over 100 acres are in use as the Noyo Headlands Park, and more than 215 additional acres are suitable for unrestricted reuse (see figure on last page). Because of soil cleanup in 2017, an additional 82 acres are under consideration for no further action. Approximately two acres in OUs C and D meet industrial cleanup goals for soil and require land use restrictions.

Changes to OU-E Feasibility Study Based on Community Feedback

DTSC received over 200 comments about the draft OU-E FS, some of which are addressed in the following sections. Soliciting these comments was not a legally required step in the cleanup process, but due to community interest, DTSC asked for the public's input. Public comments helped DTSC understand general community concerns and guided our review of the draft OU-E FS. DTSC is now reviewing the revised OU-E FS. To address concerns about potential earthquakes, tsunamis, and sea-level rise, DTSC revised the FS to include:

- **Pond 8 Dam**

The revised FS adds the Pond 8 dam as a containment structure for pond sediment. DTSC is coordinating with the Division of Safety of Dams (California Department of Water Resources) on the design for the repair of the Pond 8 dam. In addition, a new feature would consist of a concrete structure installed in the center of Pond 8 to create two smaller containment areas. The Pond 8 dam would be maintained for the long-term, including annual inspections, repairs, and review of the protectiveness of the remedy every five years.

- **Beach Berm**

The revised draft Feasibility Study adds the beach berm as a containment and protective structure for Ponds 6, 7, and the North Pond. The beach berm

would be maintained for the long-term, including annual inspections, repairs, and review of the protectiveness of the remedy every five years.

Do the Ponds/Wetlands Pose a Risk to Humans?

Because the trail is used recreationally, DTSC has determined that the risk to a visitor would be negligible for two reasons:

- **Low concentrations of contaminants**

The levels of contaminants in pond sediment are below recreational cleanup goals. Dioxin and arsenic are the primary contaminants in sediment in the ponds/wetland areas (South Ponds 1-4, Ponds 6, 7, 8 & North Pond). Because dioxin is highly toxic, DTSC established a very low residential cleanup goal for dioxin [50 parts per trillion (ppt)] at the Mill Site. The arsenic goal is the background level [10 parts per million (ppm)], which is the naturally occurring concentration present within proximity to the Mill Site. Because pond sediments have dioxin and arsenic above residential or no action levels, DTSC is required to act to further protect public health and the environment.

- **Limited exposure**

The public will not have direct access to the ponds because they are ecologically sensitive habitat areas.

Do the Ponds/Wetlands Pose a Risk to Wildlife?

DTSC has determined the dioxin and arsenic in the pond sediments are not a risk to wildlife. The cleanup goals for wildlife are higher than those for human exposure. For example, levels of dioxin measured in Pond 8 are ten times lower than the ecological cleanup goal. Before the implementation of the OU-E RAW, Pond 7 was the only pond at the Mill Site with an unacceptable risk to wildlife. During the cleanup, 708 cubic yards of dioxin and arsenic contaminated sediment were excavated from Pond 7. Except for Pond 7, the ponds have little or no standing water. The



ponds at the Mill Site were designated as wetlands by the U.S. Army Corps of Engineers in 2010.

Pond/Wetland 8 Meets Recreational Cleanup Goals

Pond 8 has the lowest dioxin contamination remaining in any of the ponds/wetlands (118 ppt). In fact, dioxin levels in Pond 8 are below recreational cleanup goals (120 ppt). Current site conditions and planned actions are protective of public health and the environment. Some additional topics we received community feedback on are listed below:

- ***Land use designation***

Pond 8 (and the other ponds/wetlands) are in areas designated by the City of Fort Bragg as open space/recreational. DTSC does not have authority to require the property owner to clean up beyond what is protective of the intended use. If the intended use changes, the property owner would be required to work with DTSC to clean up to appropriate levels protective of human health and the environment.

- ***Limiting exposure***

A fence protecting sensitive habitat will also create a barrier for human contact with the sediment.

- ***Wetland status***

Because Pond 8 (and the other ponds/wetlands) are designated wetlands, they are regulated by the U.S. Army Corps of Engineers, the Regional Water Quality Control Board, and the California Coastal Commission. Policies and regulations discourage the filling of wetlands. Destroying wetlands require mitigation measures, such as the creation of wetlands at another location.

- ***Excavation and disposal***

Due to the large quantity of sediment, factors such as cost, landfill capacity, and short-term impacts (such as diesel and greenhouse gas emissions from trucking) do not make this a feasible option.

- ***Other technologies***

DTSC has considered bioremediation (using microorganisms for cleanup), phytoremediation (using plants for cleanup), and mycoremediation (using mushrooms for cleanup). These are not feasible for Pond 8 because of the type of contaminants and their low concentrations.

OU-E Groundwater Meets State Drinking Water Standards

Groundwater contaminant levels (petroleum and the metal barium) in OU-E currently meet state drinking water standards (Regional Water Quality Control Board's Water Quality Objectives). Groundwater data collected over the last several years shows a decline in contaminants in OU-E monitoring wells through natural processes. The proposed remedy is to monitor the groundwater, allowing natural processes to reduce contaminants. However, if contaminants remain below drinking standards, no further action would be proposed. The groundwater contamination does not threaten the ocean due to low levels of contamination.

Future Opportunities for Involvement

The draft OU-E FS is now available for public review in the information repositories and online on DTSC's EnviroStor website. After DTSC's approval of a Final FS, we will prepare a draft OU-E RAP for public review and comment. There will be a public meeting associated with the draft RAP comment period as well. This is part of the formal process, so we will be responding to comments received during the public comment period in written form. DTSC will review and consider all public comments before making a final decision on the RAP. At the end of the public comment period, we will evaluate comments received and make any necessary changes to the RAP.



Where to Find Documents

Fort Bragg Library
499 East Laurel Street
Fort Bragg, CA 95437
(707) 964-2020; call for hours

Fort Bragg City Hall, Planning Counter
416 N. Franklin St
Fort Bragg, CA 95437
(707) 961-2823; call for hours

Department of Toxic Substances Control
700 Heinz Ave.
Berkeley, California 94710
(510) 540-3800; call for appointment

You may review information on DTSC's EnviroStor website: <https://envirostor.dtsc.ca.gov/public> (select "Site/Facility Search" link, enter "200402" in the "Site Code" field, and click on "Report"). To find the OU-E FS, select the "Community Involvement" link. Scroll down to the Project Related Documents heading and click on the first link for "Operable Unit E Feasibility Study - Draft Final April 2018". You can also go directly to this link:

https://www.envirostor.dtsc.ca.gov/public/community_involvement/6955204606/2018-04_OU-E_FS_Draft_Final%20April%202018.pdf

Sign up for DTSC email alerts notifying you when new documents are available by clicking at the top right link on the EnviroStor report page for this Site. To learn more about DTSC, please visit our website at www.dtsc.ca.gov.

Contact Information

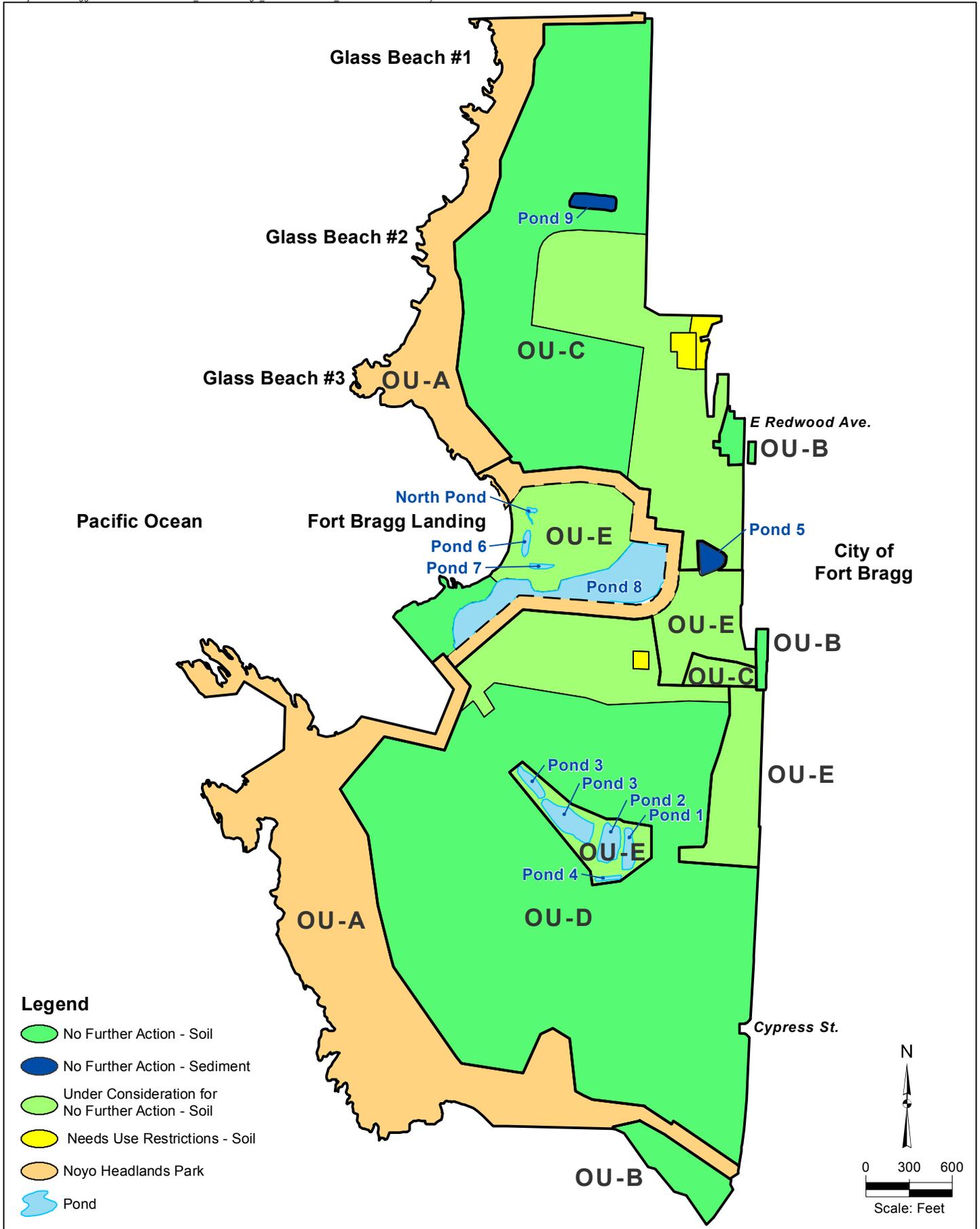
If you have any questions or would like to discuss the project, please contact:

Tom Lanphar
Project Manager
(510) 540-3776
Tom.Lanphar@dtsc.ca.gov

Asha Setty
Public Participation Specialist
(510) 540-3910
Asha.Setty@dtsc.ca.gov

Media Inquiries:
Barbara Zumwalt
Public Information Officer
(916) 445-2964
Barbara.Zumwalt@dtsc.ca.gov





**Figure: Mill Site Soil and Sediment Status
May 2018**

From: [Setty, Asha@DTSC](mailto:Setty.Asha@DTSC)
To: [Setty, Asha@DTSC](mailto:Setty.Asha@DTSC)
Cc: Lanphar, Tom@DTSC
Subject: 2020 Update - Former Georgia Pacific Mill Site
Date: Friday, December 18, 2020 4:27:35 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Greetings,

It's been quite a year, and we wanted to get in touch before the year comes to an end! I hope that your community is faring as well as possible during the pandemic.

DTSC has been continuing our work to provide oversight for the Former Georgia Pacific Mill Site. We will be providing more details in a mailer that we will send out next year. In the meantime, we wanted to provide you with a summary of what to expect.

- The [Feasibility Study for Operable Unit E](#) (OU-E) was approved.
- The [Sediment Sampling Report](#) for Pond 8, Pond 6, and the North Pond is available. The findings show arsenic and dioxin levels in deeper sediments are lower in concentration than the initial samples taken in shallow sediments.
- We have received a [draft of the OU-E Remedial Action Plan](#) to review. We will provide an opportunity for input early on in our review process. We will not be able to go out for public comment on this document until the City of Fort Bragg completes their EIR process for the dam and beach berm repairs.
- We will also provide an update about the Mendocino Railway (owner of the Skunk Train) and their purchase of 45 acres in the northern portion of the former Georgia-Pacific Mill Site.

I will be out the next couple of weeks and wish you all a safe and peaceful holiday.

Take care,
Asha

Asha Setty, Public Participation Specialist
Office of Environmental Equity
CalEPA | Department of Toxic Substances Control
700 Heinz Avenue, Berkeley CA 94710
Direct: (510) 540-3910 | Toll free: (866) 495-5651

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Jared Blumenfeld
Secretary for
Environmental Protection



Department of Toxic Substances Control

Meredith Williams, Ph.D., Director
700 Heinz Avenue
Berkeley, California 94710-2721



Gavin Newsom
Governor

December 8, 2020

Mr. David G. Massengill
Senior Director
Georgia-Pacific LLC
133 Peachtree Street NE
Atlanta, Georgia 30303
DGMassen@GAPAC.com

OPERABLE UNIT E DRAFT REMEDIAL ACTION PLAN AND CONFIRMATION OF NO FURTHER ACTION FOR OPERABLE UNIT E SOIL AND PONDS 5 AND 9, FORMER GEORGIA-PACIFIC WOOD PRODUCTS FACILITY, FORT BRAGG, CALIFORNIA

Dear Mr. Massengill,

The Department of Toxic Substances Control (DTSC) has received the *Operable Unit - E (OU-E) draft Remedial Action Plan (RAP)* dated October 14, 2020. Although DTSC has initiated internal review of the RAP, DTSC will not begin the formal public review period until the City of Fort Bragg completes their draft Environmental Impact Report (EIR) for the Mill Pond Dam Repair Project scheduled for late 2021. Repair of Mill Pond Dam is a central element of the proposed containment remedial action for Pond 8 at the Former Mill Site. The City of Fort Bragg is the lead agency for implementing the California Environmental Quality Act (CEQA) for the project. As a Responsible Agency under CEQA, DTSC will provide input into the scope and preparation of the draft EIR and rely on a final EIR when considering approval of the OU-E RAP. DTSC will provide comments on the draft OU-E RAP next year (early 2021).

No Further Action for Ponds 5 and 9

The draft OU-RAP recommends No Further Action (NFA) for the Pond 5 Area of Interest (AOI) and Pond 9 AOI. Sediment in Pond 5 and Pond 9 was evaluated in the Baseline Human Health and Ecological Risk Assessment (BHHERA). As described in the BHHERA, occasional adult recreator hazard indices (HIs) and excess lifetime cancer risks (ELCRs) for Pond 5 and Pond 9 are below 1 and 1×10^{-6} respectively, considering a 50 day per year exposure frequency. DTSC accepted this conclusion in the BHHERA when DTSC approved the BHHERA on August 20, 2015. As presented in the OU-E Feasibility Study (FS), dated September 12, 2019 (Section 2.2.6.2), Pond 5 AOI and Pond 9 AOI were not evaluated in the OU-E FS because the ELCRs for Pond 5 and

Dave Massengill
December 8, 2020
Page 2 of 3

Pond 9 are below the risk management threshold of 1×10^{-6} . DTSC again agreed with this conclusion and approved the OU-E FS on October 24, 2019. DTSC agrees with the recommendation of NFA in the draft OU-E RAP for the Pond 5 AOI and Pond 9 AOI. Because of the anticipated extended schedule for the OU-E RAP and in support for possible redevelopment of the Former Mill Site, DTSC approves NFA for the Pond 5 and Pond 9 AOIs. The draft OU-E RAP can be amended to reflect this approval.

No Further Action for OU-E Soil

As presented in the Removal Action Completion Report (RACR) dated March 12, 2018, residual contaminant of concern (COC) concentrations at the Riparian Area AOI are below the residential screening criteria at each confirmation sample point; therefore, NFA was recommended for the Riparian Area AOI in the RACR. The Lowland Terrestrial Area of Concern (AOC) includes several AOIs: Water Treatment and Truck Dump AOI, Powerhouse and Fuel Barn AOI, Sawmill #1 AOI, and the Compressor House and Lath Building AOI. The Exposure Point Concentrations (EPCs) for soil in the Lowland Terrestrial AOC meet residential screening criteria, and therefore, the Lowland Terrestrial AOC was also recommended for NFA for soil in the RACR. DTSC approved the RACR and NFA for OU-E Lowland Terrestrial Soil AOC and Riparian AOI on June 27, 2018. DTSC confirms that the OU-E Lowland Terrestrial AOC and Riparian AOI soil are approved for NFA.

Other OU-E AOIs previously approved for NFA for soil include Pond 8 Fill Area AOI, West of Interim Remedial Measure (IRM) AOI, and IRM AOI. DTSC approved NFA for Pond 8 Fill Area AOI on February 7, 2013 with the approval of the OU-E Remedial Investigation Report. DTSC approved NFA for West of IRM AOI and IRM AOI on April 12, 2011 with the approval of the Operable Units C and D Remedial Investigation Report.

NFA soil and sediment areas are shown on Figure 1-5 of the draft OU-E RAP. I hope this letter clarifies areas of OU-E approved for NFA by DTSC.

If you have any questions regarding this letter, please contact Tom Lanphar at Tom.Lanphar@dtsc.ca.gov.

Sincerely,



Julie Pettijohn, Branch Chief
Site Mitigation and Restoration Program – Berkeley Office

cc: continued next page

Dave Massengill
December 8, 2020
Page 3 of 3

cc (via email)
Mr. Jeremie Maehr, P.E.
Kennedy/Jenks Consultants
JeremieMaehr@kennedyjenks.com

Mr. Craig Hunt
North Coast Regional Water Quality Control Board
Craig.Hunt@waterboards.ca.gov

Ms. Tabatha Miller
Fort Bragg Community Redevelopment Department
TMiller@fortbragg.com

Tom Lanphar
Site Mitigation and Restoration Program – Berkeley Office
Department of Toxic Substances Control
Tom.Lanphar@dtsc.ca.gov

From: [George](#)
To: [Lemos, June](#)
Cc: [McCormick, Sarah](#)
Subject: Re: A question regarding Agenda item 8C.
Date: Monday, January 11, 2021 8:59:20 AM

Thanks June. I think I'd rather play music, but I'll consider it. I will be making a written comment, but we need more information to adequately consider the Skunk's proposal. Briefly, I think the separating of the LCP process into three parts is a good idea.

George

On Jan 11, 2021, at 8:47 AM, Lemos, June <JLemos@fortbragg.com> wrote:

If you attend tonight's Council meeting you are welcome to make your comments under Public Comment for Item 8C and they will become a permanent part of the official record.

June Lemos, CMC
City Clerk
City of Fort Bragg
416 N Franklin St
Fort Bragg CA 95437
707.961.2823 ext. 104

From: George <george@mcn.org>
Sent: Monday, January 11, 2021 8:45 AM
To: Lemos, June <JLemos@fortbragg.com>
Cc: McCormick, Sarah <SMcCormick@fortbragg.com>
Subject: Re: A question regarding Agenda item 8C.

Thanks June. This seems a little "off kilter." Any response to the Mendo Rail piece requires their current proposal—it seems to me. I detest to old one, included in the packet. But, it appears, that is old news.

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Good morning, George:

Agendas for ad hoc committees are not required to be published, so I

have not seen the current Mendocino Railway proposal that was shared with the Mill Site ad hoc committee on November 30, 2020. I am copying Sarah McCormick with this email and asking her to please contact you to respond to your questions.

Sincerely,

June Lemos, CMC
City Clerk
City of Fort Bragg
416 N Franklin St
Fort Bragg CA 95437
707.961.2823 ext. 104

From: George <george@mcn.org>
Sent: Monday, January 11, 2021 8:14 AM
To: Lemos, June <jlemos@fortbragg.com>
Subject: A question regarding Agenda item 8C.

Hi June,

What's this? The Agenda summary states this regarding the Mendocino Railway Company:

1. Since this time the concept has morphed into a phased development initially utilizing train cars for residences and lodging. Mendocino Railway shared their current proposal with the Mill Site Ad Hoc Committee on November 30, 2020. And is this what we should be responding to? Is there a summary of the Skunk's current proposal?

George

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From: [George](#)
To: [Lemos, June](#)
Subject: A couple more thoughts on 8C.
Date: Monday, January 11, 2021 4:28:34 PM

Honorable Fort Bragg City Council members,

The key issues are the Skunk is trying to push forward with plans outside of the planning process. Their ideas for development are all pretty terrible, but they might come around if our community is clear and firm about what we want. The City needs the Skunk Train to take on the responsibility for paying for their plans and development ideas. As always, it's complicated, but the city council is looking for community support to break up the overall mill site LCP-Local Coastal Plan process into three parts, so the city can make headway on the plans for the rest of the property. This seems sensible to me. Item 8C is hard to understand because the current Skunk plans are not included in the packet. Thus, it is hard to engage with their current bad ideas.

The current Skunk ideas for development are quite different than the tired old bubble maps of Attachment #1. From what I gather, the city council is tired of the Skunk ignoring the community's wishes. If I understand this correctly, thank you, City Council members. The Skunk is already fighting with the California Coastal Commission about a number of issues. I will enumerate these and other issues:

- 1 It appears they are trying to avoid oversight. You will recall, this has been going on for some time.
2. They are never the less also telling the Fort Bragg City Council what out to be done with property south of their holdings.
3. They are still pushing for a big hotel, less wildlife corridor, and their new really bad idea is they are going to solve the cities housing crisis by essentially creating a trailer park—made of old rail cars—which could also be vacation rentals for their ridiculous fancy hotel.
4. They are moving everything around, in their revised plan, but I can't tell you specifics because they are not posted anywhere. A problem don't you think.
5. If I have any of the facts wrong, about their vision, obfuscation or questionable behavior, more transparency, and an effort to work with our community will help a great deal.
6. I think it is a distraction for us to try to push back on ANY of their ideas right now, but the city is looking for flexibility in planning these three separate pieces of the former mill site, and I think this is a good idea.
7. The Skunk proposal ignores most of the pressing issues that our community has faced since the closing of the mill.
 - a. Climate Change and our community response to it must be forefront in any plan.
 - b. Native American desires for their ancestral places and sacred sites must be respected.
 - c. Where will the water come from and how will this impact decisions?
 - d. The Skunk still has some clean-up issues. Not as serious as the central parkland area but requiring much more transparency.
 - e. Open and sincere collaboration with all of our community is the only sensible path forward.

Thank you for the opportunity to comment on these important issues. And thanks to all of you

and your hard working staff for all that you do for our community!

George Reinhardt

noyohadlands.org

forbraggheadlandsconsortium.org

From: [Leslie Kashiwada](#)
To: [Lemos, June](#)
Cc: [george reinhardt](#); [Susan Kelley](#); [Bill Lemos](#); [David Jensen](#); [John Gallo](#)
Subject: Re: A thread to consider regarding tonight's agenda packet — Fwd: A question regarding Agenda item 8C.
Date: Monday, January 11, 2021 11:27:24 AM

Dear June (and City Council as part of this email thread),

I endorse the comments by George Reinhardt and John Gallo. An updated Skunk Train proposal needs to be provided for review and comment, and a wildlife corridor must be included in it.

The consultant for the Skunk Train made the nonsensical statement that a wildlife corridor was not necessary because the southern end of their property abuts a dead-end mess of fences which are themselves barriers to migration (he used a much more controversial term). I say this is nonsensical because it denies a future possibility of restoring that area as a functioning estuarine habitat. The bottom line is the ocean will reclaim the berm and, because of this, the area needs to be cleaned up and restored. Those fences are useless in containing the contaminants once the ocean breaches the berm and the earthen dam holding back Pond 8.

The wildlife corridor (and any proposal development) also needs to account for sea level rise and continued erosion of the bluffs.

Thank you,
-Leslie

On Jan 11, 2021, at 11:00 AM, John Gallo <gallo.ja@gmail.com> wrote:

Hello June and City Council (c/o George Reinhardt via this thread or other),

it is imperative that any future proposals under discussion contain AT LEAST as much of a wildlife corridor and open space as we called for in our presentation to the Council during the Fall 2019 meeting about this. Also, that presentation should be mentioned and provided in the background documents. Please let me know if you would like me to send the .pdf again.

Thank you,

John Gallo
Member of the Fort Bragg Headlands Consortium

On Mon, Jan 11, 2021 at 9:18 AM george reinhardt <georeinhardt@comcast.net> wrote:

Hello FBHC,

June is submitting this thread in the packet. Someone please make a comment about more open space/wild life corridor — obviously, only if you wish. Also, Why isn' there even a mention of our presentation?

George

Begin forwarded message:

From: "Lemos, June" <JLemos@fortbragg.com>
Subject: RE: A question regarding Agenda item 8C.
Date: January 11, 2021 at 9:00:44 AM PST
To: George <george@mcn.org>
Cc: "McCormick, Sarah" <SMcCormick@fortbragg.com>

If you like, I can submit this email thread as a public comment on Item 8C. I'm just about to republish the agenda with comments on other items.

(Personally, I'd go with the music.)

June Lemos, CMC
City Clerk
City of Fort Bragg
416 N Franklin St
Fort Bragg CA 95437
707.961.2823 ext. 104

From: George <george@mcn.org>
Sent: Monday, January 11, 2021 8:59 AM
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Cc: McCormick, Sarah <SMcCormick@fortbragg.com>
Subject: Re: A question regarding Agenda item 8C.

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George

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From: djensen@mcn.org
To: [Lemos, June](#)
Cc: [George](#); "[Leslie Kashiwada](#)"; "[John Gallo](#)"; "[Bill Lemos](#)"; "[Susan Kelley](#)"
Subject: Agenda Item 8.c, January 11, 2021 meeting for Fort Bragg City Council
Date: Monday, January 11, 2021 12:32:23 PM

Ms. Lemos and members of the Fort Bragg city Council,
Due to my inability to attend this evening's meeting, please accept my comment on the following agenda item.

Concerning any and all plans for future development of the former Georgia-Pacific mill site, and in particular concerning Item 8.c on the agenda for tonight's (January 11, 2021) meeting of the Fort Bragg City Council, I share the concerns previously expressed by George Rinehart and John Gallo concerning proposed development, particularly in the northern section of that property, and any resultant erosion of sensible open space allotments.

However, my main concern is that the City of Fort Bragg clearly address the adequacy of water supplies for ANY future development on that site. This past summer the City of Fort Bragg again was forced to declare a water emergency – prior to any expansion of residential or industrial users. The health and safety of the current citizenry of this town must be prioritized above the profits of those who seek to gain from the development of the mill site property. I request that those who are responsible for the management and leadership of Fort Bragg realistically and scientifically insure that the city is able to provide sufficient water supplies BEFORE any expansion of residential or industrial development is considered, let alone approved.

David Jensen, Fort Bragg City resident, utility customer and business owner

From: maureen@mcn.org
To: [Lemos, June](#)
Subject: planned development for north side of Mill Site.
Date: Monday, January 11, 2021 3:27:06 PM

My question is regarding the density. Where is the water coming for this high density development?

I am aware of Fish and Wildlife reports of the city overdrawing water from the Noyo which is needed to support what little salmon we have left.

"FORT BRAGG, 8/31/20 — Facing the lowest Noyo River water flows ever recorded, the Fort Bragg City Council voted unanimously to declare a “stage 2” water emergency at a special meeting held by Zoom webinar Monday night. Residents of Fort Bragg are asked to reduce water use by 20 percent and refrain from watering outdoor landscaping, among other measures."

"The City of Fort Bragg’s water supply system relies solely on three surface water sources: Waterfall Gulch (tributary to Hare Creek), Newman Gulch (tributary to Noyo River), and the Noyo River (diversion at Madsen Hole). The city has no wells and does not use groundwater."

Maureen Gealey

From: [Erica Fielder](#)
To: [Lemos, June](#)
Subject: City Council Meeting Tonight
Date: Monday, January 11, 2021 4:16:17 PM

Regarding the Mill Site North Proposal:

This proposal looks to be way too dense for the site. The community's original ideas were to more closely match the architecture to that of existing town design, to leave more open space, to not make the housing so dense. How will 500 units affect our small town traffic and other services like medical, emergency, water? I reject this plan and request that the City Council start anew with older ideas the community has proposed.

Sincerely,

Erica Fielder

Erica Fielder
efielder@mcn.org
707-671-4072

See unique interpretive displays on our new website:

<https://www.ericafelderstudio.com>

See more interpretive panels about nature and culture on our Facebook page:

<https://www.facebook.com/ericafelderstudio>

From: [Linda Jupiter](#)
To: [Lemos, June](#)
Subject: Tonight's City Council agenda item #8C
Date: Monday, January 11, 2021 4:34:32 PM

Dear City Council members,
I just had a chance to quickly look at the staff report and railroad proposal regarding the Mill Site.

When I looked at the railroad proposal I was horrified. I and my fellow Fort Braggers would no longer be living in our idyllic town by the sea, but would be living in a Bay Area or Southern California suburb.

Most likely I'll be dead by the time this would finally occur, but my heart breaks for everyone left behind here in Fort Bragg.

Salud,
Linda Jupiter
Fort Bragg
Uninvited dweller on Northern Pomo land

From: [Jenny Shattuck](#)
To: [Lemos, June](#)
Subject: Not sure which item it falls under
Date: Monday, January 11, 2021 7:30:51 PM

Will there be a report out from adhoc about north portion of mill site new plan by owners, or by owners? Also, does this mean they will start over and completely disregard the plan already submitted?
Does breaking into 3 parts make this less input from public?
Does this change our housing Element plan?



Local Coastal Program Update Process & Process for Reuse of Mill Site

City Council Meeting

January 11, 2021

The City's Local Coastal Program (LCP) includes a Land Use Plan and an Implementation Program

Land Use Plan:

- Coastal General Plan
- Land Use Map

Implementation Program:

- Coastal Land Use & Development Code
- Zoning District Map

Initial Approach to Rezone Mill Site 2002 - 2012

Property Owner, Georgia Pacific, engaged in collaborative process with the City to plan for redevelopment of Mill Site.

Georgia Pacific funded all City and consultant costs associated with the preparation of the Mill Site Specific Plan, including all studies and documents.

This process stopped in 2012 when the Specific Plan application was withdrawn to focus on remediation.



Current Approach to Rezone Mill Site 2017 - present

City initiated community planning process to undertake a comprehensive LCP update that includes rezoning of the former Mill Site.

Numerous public meetings have taken place to consider new land use zones, development regulations, infrastructure requirements, sustainability, open space, circulation, design guidelines and more.



Tonight's Discussion

Consider processing three (3) separate LCP Amendments to simplify the process

- Amendment to Update City's LCP (2008)
- North Mill Site Master Plan Application (including CEQA), and subsequent LCP Amendment
- Amendment to rezone southern portion of the Mill Site

If the current comprehensive LCP amendment were to be separated into three steps, each amendment could occur concurrently and may actually speed up the process. In addition, it would limit investment of public dollars for private development.



Amendment to Update the City's LCP

Update the City's Coastal General Plan (2008) and Coastal Land Use & Development Code (2008).

Numerous updates are needed to clean-up existing issues, simplify/refine documents, and bring the LCP into compliance with local and State laws.

The specifics of how this would be accomplished would be brought forward to Council for consideration and direction to staff in an upcoming meeting.



North Mill Site Master Plan Application and Subsequent LCP Amendment Application

Require Mendocino Railway to submit a Master Plan Application to the City for consideration. Applicant would work directly with staff from the Coastal Commission and the City, incurring all costs associated with the preparation of application and associated CEQA document, and subsequent LCP amendment application.

Entitlements would be considered at a public hearing before Planning Commission for a recommendation to City Council.

Decision made by Council at a public hearing. If approved, a LCP Amendment Application would be submitted to Coastal Commission for certification.



LCP Amendment Application to Rezone Southern Portion of Mill Site

Continue planning process to establish vision for development of the southern portion of Mill Site. The upcoming EIR associated with remediation of Mill Ponds is expected to begin early 2021 and may help inform decisions.

This would be a City initiated endeavor.



Findings for General Plan Amendments

CLUDC 17.94.060 Findings for General Plan Amendments.

1. The amendment is internally consistent with all other provisions of the 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; and
3. The affected site physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities (e.g., fire protection, police protection, potable water, schools, solid waste collection and disposal, storm drainage, wastewater collection, treatment, and disposal, etc.), to ensure that the proposed or anticipated uses and/or development would not endanger, jeopardize, or otherwise constitute a hazard to the property or improvements in the vicinity in which the property is located.

Recommendation

This report is to intended to provide an opportunity for the community and City Council to consider and discuss the approach of processing three (3) separate LCP amendments to update City regulations in the Coastal Zone and rezoning of the Mill Site.

Please provide staff direction and/or request additional information.





City of Fort Bragg

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

Text File

File Number: 21-003

Agenda Date: 1/11/2021

Version: 1

Status: Business

In Control: City Council

File Type: Ordinance

Agenda Number: 8D.

Receive Report and Consider Adoption of Urgency Ordinance No. 963-2021 Waiving Certain Zoning Requirements and/or Standards to Facilitate Business Operations Affected by Public Health Orders Designed to Slow Transmission of COVID-19



AGENCY: City Council
MEETING DATE: January 11, 2021
DEPARTMENT: City Manager
PRESENTED BY: S McCormick
EMAIL ADDRESS: smccormick@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of Urgency Ordinance No. 963-2021 Waiving Certain Zoning Requirements and/or Standards to Facilitate Business Operations Affected by Public Health Orders Designed to Slow Transmission of COVID-19

ISSUE:

On May 26, 2020 Councilmember Norvell introduced Urgency Ordinance 962-2020, which was adopted unanimously and became effective immediately (Attachment 1 – Staff Report) and Attachment 2 – Urgency Ordinance 962-2020). The purpose of the ordinance was to provide a process for business owners to request flexibility of zoning requirements and/or standards, and to streamline the approval process in order to support modifications to business operations affected by COVID-19. Requests have been granted by the Director of Emergency Services (City Manager) to the extent that such waivers comply with health orders and that such requests involve negligible or no expansion of use.

Urgency Ordinance 962-2020 expired six (6) months after its effective date and a new ordinance must be adopted to continue offering this tool to our business community.

ANALYSIS:

The economic impact of the COVID-19 pandemic has affected local businesses differently. Although some have fared well economically, many have been devastated. The City's ability to respond to site specific, individual requests from businesses is an important tool because every business is unique. Since Urgency Ordinance 962-2020 has been put into place, numerous businesses have requested, and been granted, regulatory flexibility to operate outdoor eating areas, gyms and retail space, provide drive-through and curbside pick-up, post additional signage and utilize off site sales.

Staff recommends continuing to offer these regulatory waivers until health orders are lifted statewide by adopting Urgency Ordinance 963-2021. The proposed ordinance would alter the original ordinance by adding a WHEREAS recital paragraph to acknowledge the original ordinance, justify the proposed ordinance, include additional detail under Section 3, and extend the expiration date in Section 6. These changes are identified in red; provided in excerpts below. The proposed ordinance, in its entirety, is included as an attachment (Attachment 3 – Urgency Ordinance 963-2021):

WHEREAS, to facilitate the return to business operations during COVID-19 pandemic, this City Council introduced and unanimously adopted Urgency Ordinance 962-2020 ~~would~~ on May 26, 2020 authorizing the Director of Emergency Services to waive strict application of zoning standards and/or regulations to the extent that such waivers would not result in an increase in general intensity of use beyond that which is generally allowed; and

WHEREAS, Urgency Ordinance 962-2020 has been identified as a valuable tool to support local business operations affected by health orders and expired six (6) months after its effective date; and

WHEREAS, the adoption of this Urgency Ordinance would continue to authorize the Director of Emergency Services to waive strict application of zoning standards and/or regulations to the extent that such waivers would not result in an increase in general intensity of use beyond that which is generally allowed, until statewide health orders are lifted.

Section 3. Urgency Finding and Declaration.

6. On December 3, 2020, California issued a Regional Stay at Home Order to take immediate action to prevent the unprecedented rise in COVID-19 cases, hospitalizations and test positivity rates across California. Since December 3, 2020, the number of COVID-19 cases in the state and locally have set new records. The Northern California Region, which includes Mendocino County, remains the only region in California not subject to the much stricter Regional Order, which now affects more than 98% of the state's population and limits nonessential travel to only the 1.7% of the state's population in the Northern Region. Early predictions by the State Health Official anticipated that all regions would be under the Regional Order by the end of December; and

Section 6. Effective Date. Following adoption by at least a four-fifths vote of City Council, this Ordinance shall take effect and be enforced immediately, and shall remain in effect ~~for six (6) months from the date of adoption or~~ until thirty (30) days after the expiration of ~~any~~ the State of California State of Emergency due to COVID-19, or when repealed by the Fort Bragg City Council, ~~order of the state or county government health orders to slow the transmission of COVID-19~~ whichever comes first.

RECOMMENDED ACTION:

City Council upon review may waive the reading of the Ordinance and adopt by title only an Urgency Ordinance of the City of Fort Bragg establishing authority to the Director of Emergency Services (City Manager) to waive certain zoning requirements and/or standards to facilitate business operations during the COVID-19 pandemic.

ALTERNATIVE ACTION(S):

The City Council may choose to adopt, decline to adopt the Urgency Ordinance and/or provide other direction to staff.

FISCAL IMPACT:

There is no cost to business owners. The General Fund would support staff time to process requests.

GREENHOUSE GAS EMISSIONS IMPACT:

None to negligible impacts associated with greenhouse gas emissions.

CONSISTENCY:

The proposed urgency ordinance is consistent with all state laws, city ordinances, and emergency orders currently in effect.

IMPLEMENTATION/TIMEFRAMES:

If adopted by a four-fifths vote of the entire membership of the City Council, the proposed Urgency Ordinance will become effective immediately.

ATTACHMENTS:

1. Staff Report, May 2020
2. Urgency Ordinance 962-2020
3. Urgency Ordinance 963-2021

NOTIFICATION:

1. "Notify Me" subscriber lists: Fort Bragg Downtown Businesses; and Economic Development



AGENCY: City Council
MEETING DATE: May 26, 2020
DEPARTMENT: City Manager
PRESENTED BY: S McCormick
EMAIL ADDRESS: smccormick@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:

Receive Report and Consider Adoption of Urgency Ordinance No. 962-2020 Waiving Zoning Requirements and/or Standards to Facilitate Business Operations Affected by Public Health Orders

ISSUE:

The Mendocino County Health Officer, Dr. Noemi Doohan, declared a local health emergency on March 4, 2020. The County Health Officer issued a Recommended Shelter-in-Place Order on March 16, 2020, and a Mandatory Shelter-in-Place Order on March 18, 2020, most recently revised on May 15, 2020. These County orders are part of a larger statewide stay-at-home order issued on March 19, 2020 by Governor Newsom.

Modifications to the Shelter-in-Place Order are guided by health risk and will take a gradual phased approach that includes four stages, referred to as California's Resilience Roadmap. We are now in early Stage 2, where retail (curbside and delivery only), related logistics and manufacturing, office workplaces, limited personal services, outdoor museums, and childcare programs can open with modifications.

It is anticipated that most businesses will need to adapt to operate during the COVID-19 pandemic. Specific modifications to adhere to the Shelter-in-Place Order and Social Distancing requirements will vary depending on guidance prepared for specific industries. Businesses that are not anticipated to reopen until Stage 3 or Stage 4 may need to reconsider their business model entirely in order to stay economically viable.

ANALYSIS:

Regulatory flexibility and streamlining of approval processes could support the implementation of creative adaptations of business operations during the COVID-19 pandemic. Adaptations will likely be industry specific, site specific and differ depending on the proprietor's approach. For example, restaurants allowed to reopen with less capacity may desire to move tables outdoors and request to waive parking requirements, or serve meals at an off-site location. Likewise, retail shops may wish to move products outdoors or request to waive the maximum sign allowance.

The State and County are issuing guidance to help workplaces reopen safely. Businesses are encouraged to use innovative methods to build upon issued guidelines, but before opening, all facilities must perform a detailed risk assessment and implement a site-specific protection plan. The goal of these protective measures is to offer a safe environment for workers and customers. Counties that have met the readiness criteria will be able to move faster and be able to open more workplaces.

The purpose of the attached ordinance is to provide a process for business owners to request flexibility of zoning requirements and/or standards and receive timely responses for effective implementation. Requests would be made directly to the City Manager for approval; appeals would be considered by the Community Development Committee for initial determination and recommendation to the City Council.

The ordinance is a Municipal Code amendment to Title 2: Administration and Personnel, Chapter 2.24 Emergency Organization and Functions, Section 2.24.070 Powers and Duties of the Director During Emergency as follows:

2.24.070 POWERS AND DUTIES OF DIRECTOR DURING EMERGENCY.

A. In the event of a proclamation of a local emergency, or the proclamation of a state of emergency, or state of war emergency by the Governor, or the existence of a national emergency by the president, the Director is hereby empowered:

1. To promulgate orders and regulations necessary to provide for the protection for the life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. The orders and regulations shall be in writing and shall be confirmed at the earliest practical time by the City Council;

2. To obtain vital supplies, equipment, and any other properties found lacking and needed for the protection of life and property and to bind the City for the fair value thereof, and, if required immediately, to commandeer the same for the public use;

3. To require emergency services of any City officer or employee, and to command the aid of as many citizens of this community as the Director deems necessary in the execution of the Director's duties. In the event the aid of private citizens is necessary, the persons shall register as volunteers in accordance with the City emergency operations plan. The persons shall be entitled to all privileges, benefits, and immunities as are provided by state law for registered disaster service workers;

4. To requisition necessary personnel or material of any City department or agency; and

5. To execute all of his or her ordinary powers as City Manager, as well as to execute all of his or her special powers conferred by this chapter, emergency operations plan, contingency plans, any agreement approved by the City Council, or by any other lawful authority.

6. 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.

B. Notwithstanding the provisions of the section, the Director is not authorized to commandeer any newspaper, newspaper wire service, or radio or television station, but if no other means of communication is available, the Director may utilize any news service, and the City shall pay the reasonable value of the use. In so utilizing any such facilities, the Director shall interfere as little as possible with the facilities' transmission of news.

Many businesses have been closed since March 19th and the economic impact of this closure is catastrophic. The path forward for each individual business is unknown, and this Urgency Ordinance would allow the City to respond to site specific, individual requests. Requests would be granted to the extent that waivers comply with the Shelter-in-Place Order and that such requests would involve negligible or no expansion of use.

Local businesses are already developing creative solutions. City staff was approached by a proprietor of a Bed & Breakfast concerned their business would not survive until Stage 4 and inquired about temporarily transforming the lodging kitchen into a bakery for curbside/delivery. Another potential option for a lodging facility might be to transform their property into a multifamily project with long-term rentals. Perhaps the yoga or fitness studio decides to apply for a limited term permit to host small outdoor classes, and then follows up with a request to waive the time limit. There are many possibilities for our local business community to explore and this ordinance supports Council's goal to be "Business Friendly" while maintaining the safety and wellbeing of the public.

RECOMMENDED ACTION:

City Council upon review may waive the reading of the Ordinance and adopt by title only an Urgency Ordinance of the City of Fort Bragg establishing authority to the Director of Emergency Services to waive zoning requirements and/or standards to the return to business operations during the COVID-19 pandemic.

ALTERNATIVE ACTION(S):

The City Council may choose to decline to adopt the Urgency Ordinance and/or provide other direction to staff.

FISCAL IMPACT:

There is no cost to business owners. The General Fund would support staff time to process requests.

GREENHOUSE GAS EMISSIONS IMPACT:

None to negligible impacts associated with greenhouse gas emissions.

CONSISTENCY:

The proposed urgency ordinance is consistent with all state laws, city ordinances, and emergency orders currently in effect.

IMPLEMENTATION/TIMEFRAMES:

If adopted by a four-fifths vote of the entire membership of the City Council, the proposed Urgency Ordinance will become effective immediately.

ATTACHMENTS:

1. Urgency Ordinance 962-2020

NOTIFICATION:

1. "Notify Me" subscriber lists: Fort Bragg Downtown Businesses; and Economic Development Planning.

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN UNCODIFIED URGENCY
ORDINANCE AUTHORIZING THE
DIRECTOR OF EMERGENCY SERVICES
TO WAIVE ZONING REQUIREMENTS
AND/OR STANDARDS TO FACILITATE
BUSINESS OPERATIONS AFFECTED BY
PUBLIC HEALTH ORDERS**

**URGENCY ORDINANCE
NO. 962-2020**

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"); and

WHEREAS, on March 17, 2020, the Fort Bragg City Manager, acting as the Director of Emergency Services, declared a local emergency due to COVID-19, which was ratified by the City Council at its March 24, 2020 City Council meeting; and

WHEREAS, on March 18, 2020, the Mendocino County Health Officer issued a Shelter-in-Place Order, which was revised on March 24, 2020, May 8, 2020, and May 15, 2020; and

WHEREAS, the easing of restrictions to health orders is anticipated and a return to business operations during COVID-19 will occur in a gradual four-stage phased approach following California's Pandemic Resilience Roadmap; and

WHEREAS, on May 4, 2020 Executive Order N-60-20 directed continued compliance with State Public Health Directives, and the May 7, 2020 State Public Health Officer Order allows for all local health jurisdictions to begin gradual movement into Stage 2; and

WHEREAS, the Mendocino County Health Officer has filed for attestation with the State of California and anticipates moving through Stage 2 at an increased pace; and

WHEREAS, local businesses are an integral part of the community for the jobs, essential services and amenities they provide and the revenues they generate; and

WHEREAS, businesses will likely need to modify operations to adapt to Social Distancing requirements, as well as to meet current market demands, and the specific needs of individual businesses are an unknown; and

WHEREAS, to facilitate the return to business operations, this Urgency Ordinance would authorize the Director of Emergency Services to waive strict application of zoning standards and/or regulations to the extent that such waivers would not result in an increase in general intensity of use beyond that which is generally allowed; and

NOW, THEREFORE, the Fort Bragg City Council ordains as follows:

Section 1. Findings. The foregoing recitals are true and correct and are made a part of this ordinance.

Section 2. Municipal Code Amendment. Title 2, Chapter 2.24, Section 2.24.070, subdivision A(6) is hereby added to the Fort Bragg Municipal Code to read as follows:

2.24.070 POWERS AND DUTIES OF DIRECTOR DURING EMERGENCY.

6. To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of federal, state and local 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.

Section 3. Urgency Finding and Declaration. City Council finds and declares there is an immediate threat to public health, safety and/or welfare and that this Ordinance is hereby declared to be necessary and will take effect immediately upon its adoption by a four-fifths (4/5) vote of the members of the Fort Bragg City Council. The facts constituting the urgency are as follows:

1. On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"). On March 17, 2020, the City's Director of Emergency Services declared a local emergency due to COVID-19, which was ratified by the City Council at its March 24, 2020 Special City Council meeting. Due to directives from federal, state, and local health officers, residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease.
2. On March 18, 2020, the Mendocino County Health Official issued a Shelter-in-Place Order, which was revised on March 24, 2020, May 8, 2020, and May 15, 2020; and
3. On May 4, 2020 the Governor issued Executive Order N-60-20 directing continued compliance with State Public Health Directives, and on May 7, 2020 the State Public Health Officer issued an order allowing all local health jurisdictions to begin gradual movement into Stage 2; and
4. The City, County and State economies have been significantly impacted by the shutdown of nonessential businesses, as a result of the COVID-19 pandemic. The tourism industry in Fort Bragg is particularly vulnerable to adverse impacts from closure of nonessential businesses and the ban on nonessential travel required by the public health orders; and
5. The specific needs of individual businesses as they return to operations during the COVID-19 pandemic in a gradual phased approach following California's Pandemic Resilience Roadmap are an unknown. Businesses will likely need to modify operations to adapt to Social Distancing requirements, as well as to meet current market demands, and the City desires to be responsive, flexible, and accommodating to requests from our local business community, while maintaining the safety and wellbeing of the public; and

6. It would substantially defeat the purpose of this ordinance, if the effective date were delayed to permit introduction at one City Council meeting, adoption at a second meeting and a referendum period of 30 days following adoption of the Ordinance.

Section 4. CEQA Compliance. The City Council finds that the adoption and implementation of this ordinance is exempt from requirements of CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities) because it would involve negligible or no expansion of use.

Section 5. 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 6. Effective Date. Following adoption by at least a four-fifths vote of City Council, this Ordinance shall take effect and be enforced immediately, and shall remain in effect for six (6) months from the date of adoption or until the expiration of any order of the state or county government to slow the transmission of COVID-19, whichever occurs first.

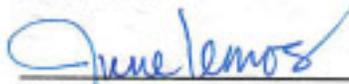
The foregoing Urgency Ordinance was introduced by Councilmember Norvell and adopted at a regular meeting of the City Council of the City of Fort Bragg held on May 26, 2020 by the following vote:

AYES: Councilmembers Albin-Smith, Morsell-Haye, Norvell, Peters and Mayor Lee.
NOES: None.
ABSENT: None.
ABSTAIN: None.
RECUSE: None.



William V. Lee,
Mayor

ATTEST:



June Lemos, CMC
City Clerk

PUBLISH: June 4, 2020.
EFFECTIVE DATE: May 26, 2020.

STATE OF CALIFORNIA)
COUNTY OF MENDOCINO) ss.
CITY OF FORT BRAGG)

I, JUNE LEMOS, CMC, City Clerk of the City of Fort Bragg, California, do hereby certify the attached to be a true and correct copy of Urgency Ordinance No. 962-2020, duly adopted by the City Council on May 26, 2020, and that it was published in the Fort Bragg Advocate News on June 4, 2020, pursuant to State Law (G.C. §40806).

Dated: 6.8.2020



June Lemos, CMC
City Clerk

Fort Bragg Advocate-News

690 S. Main Street
Fort Bragg, California 95437
707-964-5642

2114123

CITY OF FORT BRAGG
416 N FRANKLIN STREET
FORT BRAGG, CA 95437

RECEIVED

JUN 08 2020

CITY OF FORT BRAGG
CITY CLERK

Legal No. 0006489165

**PROOF OF PUBLICATION
(2015.5 C.C.P.)**

**STATE OF CALIFORNIA
COUNTY OF MENDOCINO**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the Office Clerk of the Fort Bragg Advocate-News, a newspaper of general circulation by the Superior Court of the County of Mendocino, State of California under the date of May 9, 1952 - Case Number 9151, that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been printed in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates:

06/04/2020

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated at Fort Bragg, California,
June 4th, 2020


LEGAL CLERK

Invoice Text: BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG
URGENCY
ORDINANCE
NO. 962-2020

AN UNCODIFIED URGENCY ORDINANCE AUTHORIZING THE DIRECTOR OF EMERGENCY SERVICES TO WAIVE ZONING REQUIREMENTS AND/OR STANDARDS TO FACILITATE BUSINESS OPERATIONS AFFECTED BY PUBLIC HEALTH ORDERS

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"); and

WHEREAS, on March 17, 2020, the Fort Bragg City Manager, acting as the Director of Emergency Services, declared a local emergency due to COVID-19, which was ratified by the City Council at its March 24, 2020 City Council meeting; and

WHEREAS, on March 18, 2020, the Mendocino County Health Officer issued a Shelter-in-Place Order, which was revised on March 24, 2020, May 8, 2020, and May 15, 2020; and

WHEREAS, the easing of restrictions to health orders is anticipated and a return to business operations during COVID-19 will occur in a gradual four-stage phased approach following California's Pandemic Resilience Roadmap; and

WHEREAS, on May 4, 2020 Executive Order N-60-20 directed continued compliance with State Public Health Directives, and the May 7, 2020 State Public Health Officer Order allows for all local health jurisdictions to begin gradual movement into Stage 2; and

WHEREAS, the Mendocino County Health Officer has filed for attestation with the State of California and anticipates moving through Stage 2 at an increased pace; and

WHEREAS, local businesses are an integral part of the community for the jobs, essential services and amenities they provide and the revenues they generate; and

WHEREAS, businesses will likely need to modify operations to adapt to Social Distancing requirements, as well as to meet current market demands, and the specific needs of individual businesses are an unknown; and

WHEREAS, to facilitate the return to business operations, this Urgency Ordinance would authorize the Director of Emergency Services to waive strict application of zoning standards and/or regulations to the extent that such waivers would not result in an increase in general intensity of use beyond that which is generally allowed; and

NOW, THEREFORE, the Fort Bragg City Council ordains as follows:

Section 1.

Findings.

The foregoing recitals are true and correct and are made a part of this ordinance.

Section 2.

Municipal Code Amendment.

Title 2, Chapter 2.24, Section 2.24.070, subdivision A(5) is hereby added to the Fort Bragg Municipal Code to read as follows:

2.24.070 POWERS AND DUTIES OF DIRECTOR DURING EMERGENCY.

6. To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of federal, state and local 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.

Section 3.

Urgency Finding and Declaration.

City Council finds and declares there is an immediate threat to public health, safety and/or welfare and that this Ordinance is hereby declared to be necessary and will take effect immediately upon its adoption by a four-fifths (4/5) vote of the members of the Fort Bragg City Council. The facts constituting the urgency are as follows:

1. On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"). On March 17, 2020, the City's Director of Emergency Services declared a local emergency due to COVID-19, which was ratified by the City Council at its March 24, 2020 Special City Council meeting. Due to directives from federal, state, and local health officers, residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease.

2. On March 18, 2020, the Mendocino County Health Official issued a Shelter-in-Place Order, which was revised on March 24, 2020, May 8, 2020, and May 15, 2020; and

3. On May 4, 2020 the Governor issued Executive Order N-60-20 directing continued compliance with State Public Health Directives, and on May 7, 2020 the State Public Health Officer issued an order allowing all local health jurisdictions to begin gradual movement into Stage 2; and

4. The City, County and State economies have been significantly impacted by the shutdown of nonessential businesses, as a result of the COVID-19 pandemic. The tourism industry in Fort Bragg is particularly vulnerable to adverse impacts from closure of nonessential businesses and the ban on nonessential travel required by the public health orders; and

5. The specific needs of individual businesses as they return to operations during the COVID-19 pandemic in a gradual phased approach following California's Pandemic Resilience Roadmap are an unknown. Businesses will likely need to modify operations to adapt to Social Distancing requirements, as well as to meet current market demands, and the City desires to be responsive, flexible, and accommodating to requests from our local business community, while maintaining the safety and wellbeing of the public; and

6. It would substantially defeat the purpose of this ordinance, if the effective date were delayed to permit introduction at one City Council meeting, adoption at a second meeting and a referendum period of 30 days following adoption of the Ordinance.

Section 4.

CEQA

Compliance

The City Council finds that the adoption and implementation of this ordinance is exempt from requirements of CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities) because it would involve negligible or no expansion of use.

Section 5.

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 6.

Effective Date.

Following adoption by at least a four-fifths vote of City Council, this Ordinance shall take effect and be enforced immediately, and shall remain in effect for six (6) months from the date of adoption or until the expiration of any order of the state or county government to slow the transmission of COVID-19, whichever occurs first.

The foregoing Urgency Ordinance was introduced by Councilmember Norvell and adopted at a regular meeting of the City Council of the City of Fort Bragg held on May 26, 2020 by the following vote:

AYES:

Councilmembers Albin-Smith, Morsell-Hays, Norvell, Peters and Mayor Lee.

NOES: None.

ABSENT: None.

ABSTAIN: None.

RECUSE: None.

Dated: 5/26/20

s/June Lemos,

CMC City Clerk

Publish:

06/04/2020

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN UNCODIFIED URGENCY
ORDINANCE AUTHORIZING THE
DIRECTOR OF EMERGENCY SERVICES
TO WAIVE ZONING REQUIREMENTS
AND/OR STANDARDS TO FACILITATE
BUSINESS OPERATIONS AFFECTED BY
PUBLIC HEALTH ORDERS**

**URGENCY ORDINANCE
NO. 963-2021**

WHEREAS, on March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 (“COVID-19”); and

WHEREAS, on March 17, 2020, the Fort Bragg City Manager, acting as the Director of Emergency Services, declared a local emergency due to COVID-19, which was ratified by the City Council at its March 24, 2020 City Council meeting; and

WHEREAS, on March 18, 2020, the Mendocino County Health Officer issued a Shelter-in-Place Order, which was revised on March 24, 2020, May 8, 2020, and May 15, 2020; and

WHEREAS, the easing of restrictions to health orders is anticipated and a return to business operations during COVID-19 will occur in a gradual four-stage phased approach following California’s Pandemic Resilience Roadmap; and

WHEREAS, on May 4, 2020 Executive Order N-60-20 directed continued compliance with State Public Health Directives, and the May 7, 2020 State Public Health Officer Order allows for all local health jurisdictions to begin gradual movement into Stage 2; and

WHEREAS, the Mendocino County Health Officer has filed for attestation with the State of California and anticipates moving through Stage 2 at an increased pace; and

WHEREAS, local businesses are an integral part of the community for the jobs, essential services and amenities they provide and the revenues they generate; and

WHEREAS, businesses will likely need to modify operations to adapt to Social Distancing requirements, as well as to meet current market demands, and the specific needs of individual businesses are an unknown; and

WHEREAS, to facilitate the return to business operations during COVID-19 pandemic, City Council introduced and unanimously adopted Urgency Ordinance 962-2020 on May 26, 2020 authorizing the Director of Emergency Services to waive strict application of zoning

standards and/or regulations to the extent that such waivers would not result in an increase in general intensity of use beyond that which is generally allowed; and

WHEREAS, Urgency Ordinance 962-2020 has been identified as a valuable tool to support local business operations affected by health orders and expired six (6) months after its effective date; and

WHEREAS, the adoption of this Urgency Ordinance would continue to authorize the Director of Emergency Services to waive strict application of zoning standards and/or regulations to the extent that such waivers would not result in an increase in general intensity of use beyond that which is generally allowed, until statewide health orders are lifted.

NOW, THEREFORE, the Fort Bragg City Council ordains as follows:

Section 1. Findings. The foregoing recitals are true and correct and are made a part of this ordinance.

Section 2. Municipal Code Amendment. Title 2, Chapter 2.24, Section 2.24.070, subdivision A(6) is hereby added to the Fort Bragg Municipal Code to read as follows:

2.24.070 POWERS AND DUTIES OF DIRECTOR DURING EMERGENCY.

6. To waive zoning requirements and/or standards to facilitate business operations of established businesses affected by public health orders of federal, state and local 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.

Section 3. Urgency Finding and Declaration. City Council finds and declares there is an immediate threat to public health, safety and/or welfare and that this Ordinance is hereby declared to be necessary and will take effect immediately upon its adoption by a four-fifths (4/5) vote of the members of the Fort Bragg City Council. The facts constituting the urgency are as follows:

1. On March 4, 2020, the Governor declared a State of Emergency in California due to the threat of Coronavirus Disease 2019 ("COVID-19"). On March 17, 2020, the City's Director of Emergency Services declared a local emergency due to COVID-19, which was ratified by the City Council at its March 24, 2020 Special City Council meeting. Due to directives from federal, state, and local health officers, residents have been advised to avoid public gatherings and stay at home to prevent the spread of this disease.
2. On March 18, 2020, the Mendocino County Health Official issued a Shelter-in-Place Order, which was revised on March 24, 2020, May 8, 2020, and May 15, 2020; and
3. On May 4, 2020 the Governor issued Executive Order N-60-20 directing continued compliance with State Public Health Directives, and on May 7, 2020 the State Public Health Officer issued an order allowing all local health jurisdictions to begin gradual movement into Stage 2; and

4. The City, County and State economies have been and continue to be significantly impacted by the shutdown of nonessential businesses, as a result of the COVID-19 pandemic. The tourism industry in Fort Bragg is particularly vulnerable to adverse impacts from closure of nonessential businesses and the ban on nonessential travel required by the public health orders; and
5. The specific needs of individual businesses as they return to operations during the COVID-19 pandemic in a gradual phased approach following California's Pandemic Resilience Roadmap are an unknown. Businesses will likely need to modify operations to adapt to Social Distancing requirements, as well as to meet current market demands, and the City desires to be responsive, flexible, and accommodating to requests from our local business community, while maintaining the safety and wellbeing of the public; and
6. On December 3, 2020, California issued a Regional Stay at Home Order to take immediate action to prevent the unprecedented rise in COVID-19 cases, hospitalizations and test positivity rates across California. Since December 3, 2020, the number of COVID-19 cases in the state and locally have set new records. The Northern California Region, which includes Mendocino County, remains the only region in California not subject to the much stricter Regional Order, which now affects more than 98% of the state's population and limits nonessential travel to only those the 1.7% of the state's population in the Northern Region. Early predictions by the State Health Official anticipated that all regions would be under the Regional Order by the end of December; and
7. It would substantially defeat the purpose of this ordinance, if the effective date were delayed to permit introduction at one City Council meeting, adoption at a second meeting and a referendum period of 30 days following adoption of the Ordinance.

Section 4. CEQA Compliance. The City Council finds that the adoption and implementation of this ordinance is exempt from requirements of CEQA pursuant to CEQA Guidelines Section 15301 (Existing Facilities) because it would involve negligible or no expansion of use.

Section 5. 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 6. Effective Date. Following adoption by at least a four-fifths vote of City Council, this Ordinance shall take effect and be enforced immediately, and shall remain in effect until thirty (30) days after expiration of the State of California State of Emergency due to COVID-19 or when repealed by the Fort Bragg City Council, whichever comes first.

The foregoing Urgency Ordinance was introduced by Councilmember _____ and adopted at a regular meeting of the City Council of the City of Fort Bragg held on January 11, 2021 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSE:

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

PUBLISH: January 21, 2021
EFFECTIVE DATE: January 11, 2021



City of Fort Bragg

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

Text File

File Number: 20-976

Agenda Date: 1/11/2021

Version: 1

Status: Business

In Control: City Council

File Type: Resolution

Agenda Number: 8E.

Receive Report and Consider Adoption of City Council Resolution Approving Amendment No. 6 to the Franchise Agreement with Waste Management



AGENCY:	City Council
MEETING DATE:	January 11, 2021
DEPARTMENT:	City Manager
PRESENTED BY:	Tabatha Miller
EMAIL ADDRESS:	tmiller@fortbragg.com

AGENDA ITEM SUMMARY

TITLE:
Receive Report and Consider Adoption of City Council Resolution Approving Amendment No. 6 to the Franchise Agreement with Waste Management

ISSUE:

The City’s Franchise Agreement (Agreement) with USA Waste of California, Inc., DBA Empire Waste Management (Waste Management) dated January 8, 2007, sets forth the services provided to customers within City limits and the original pricing in 2007 in Exhibit A. By amendment to the Agreement the City has added additional services requested by Waste Management customers, specifically Amendment 5 to the Agreement.

Over time, Waste Management has received and accommodated requests to allow the locking of trash bins and dumpsters to avoid unauthorized disposal of trash and additional charges to the customer.

Amendment No. 6 to the Franchise Agreement adds that service to Exhibit A of the Agreement.

ANALYSIS:

Locking bins is a service requested and provided by Waste Management to customers, although it is not a service provided for in the existing franchise agreement. The attached amendment adds those services and associated charges to the Agreement.

Lock Sale or Replacement (WM provided lock)	\$15.00
Monthly Lock Service Charge (per bin or gate/per month)	\$7.00

RECOMMENDED ACTION:

Staff recommends that the Council adopt a Resolution to approve Amendment No. 6 to the Franchise Agreement with Waste Management.

ALTERNATIVE ACTION(S):

Do not approve the Resolution and remove the service from those offered by Waste Management to Fort Bragg customers.

FISCAL IMPACT:

The only fiscal impact to the City is the incremental difference in Solid Waste Franchise Fees collected on gross revenues generated by Waste Management for services within City limits for the new service charges.

GREENHOUSE GAS EMISSIONS IMPACT:

There is no direct impact on greenhouse gas emissions for adding the services already provided to the Agreement.

CONSISTENCY:

N/A

IMPLEMENTATION/TIMEFRAMES:

If approved, Amendment #6 would be effective upon signature by both the City of Fort Bragg and USA Waste of California.

ATTACHMENTS:

1. Resolution
2. Amendment No. 6 to Franchise Agreement

NOTIFICATION:

1. Kayla Rodriguez, Public Sector Manager, Waste Management
2. Steve Shamblin, District Manager 1, Empire Waste Management

RESOLUTION NO. ____-2021

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
APPROVING AMENDMENT NO. 6 TO THE FRANCHISE AGREEMENT
BETWEEN THE CITY OF FORT BRAGG AND USA WASTE OF CALIFORNIA,
INC., DBA EMPIRE WASTE MANAGEMENT**

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989, has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for Solid Waste handling within their jurisdictions; and

WHEREAS, pursuant to California Public Resources Code Section 40059 (a) (2), the City Council of the City of Fort Bragg (City) determined that the public health, safety and well-being require that an exclusive franchise be awarded to a qualified Solid Waste enterprise for the collection and recovery of solid waste from certain residential, industrial and commercial areas in the City; and

WHEREAS, The City and USA Waste of California, Inc., DBA Empire Waste Management (Waste Management) executed a Franchise Agreement (Agreement) dated January 8, 2007; and

WHEREAS, the City's intention in executing the Agreement with Waste Management was to maintain reasonable rates for collection and transportation of solid waste, discarded recyclable materials and green waste within the area covered by the Agreement; and

WHEREAS, the additional services provided for in Amendment No. 6, allow for services desired and requested by Waste Management Customers located with the City; and

WHEREAS, regular pickup of garbage, green waste and recyclables is more sanitary and reduces the risk of the solid waste being spread by animals or creating unwanted smells; and

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

1. It is in the best interest of the City and Waste Management's Fort Bragg commercial customers to provide customers with the option to request the additional service of locking waste bins to avoid unauthorized trash disposal.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve Amendment No. 6 to the Franchise Agreement between the City of Fort Bragg and USA Waste of California, Inc., DBA Empire Waste Management and authorizes the City Manager to execute same.

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 11th day of January 2021, by the following vote:

AYES:

NOES:

**ABSENT:
ABSTAIN:
RECUSED:**

BERNIE NORVELL
Mayor

ATTEST:

June Lemos, CMC
City Clerk

**SIXTH AMENDMENT TO FRANCHISE AGREEMENT
BETWEEN THE CITY OF FORT BRAGG AND
USA WASTE OF CALIFORNIA INC. DBA EMPIRE WASTE MANAGEMENT**

This Sixth Amendment To Franchise Agreement Between the City of Fort Bragg and USA Waste of California, Inc. dba Empire Waste Management (hereinafter, the "Sixth Amendment") is by and between USA Waste of California, Inc., dba Empire Waste Management, hereinafter called "GRANTEE", and the City of Fort Bragg, hereinafter called "CITY," is made this ____ day of _____, 2021 at Fort Bragg, California.

WHEREAS, CITY and GRANTEE entered into a Franchise Agreement (the "Agreement") for the collection, transportation, and disposal of solid waste in the CITY on January 8, 2007; and

WHEREAS, CITY and GRANTEE amended the Agreement by approving a first amendment in 2009, a second amendment in 2011, a third amendment in 2011, a fourth amendment in 2013, and a fifth amendment in 2018; and

WHEREAS, the parties wish to further modify the Agreement to add certain service levels and customer rates;

NOW THEREFORE, it is agreed as follows:

1. The following service levels and rates are hereby added to Exhibit A of the Agreement:

Lock Sale or Replacement (WM provided lock) ²	\$15.00
Monthly Lock Service Charge (per bin or gate/per month)	\$7.00

2. All other terms and conditions of the Agreement shall remain in full force and effect.

CITY OF FORT BRAGG

USA WASTE OF CALIFORNIA, INC.

By: _____
Title: _____

By: _____
Title: _____

ATTEST:

By: _____
Title: _____

APPROVED AS TO FORM:

By: _____
Title: _____