



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, August 25, 2025

6:00 PM

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

AMENDED

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

COUNCILMEMBERS PLEASE TAKE NOTICE

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

ZOOM WEBINAR INVITATION

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

You are invited to a Zoom webinar.

When: Aug 25, 2025 06:00 PM Pacific Time (US and Canada)

Topic: City Council Meeting

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/85947171075>

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

Webinar ID: 859 4717 1075

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

CLOSED SESSION REPORT

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [25-359](#) Receive N. Harbor Circulation Plan Presentation from Mendocino Council of Governments

Attachments: [Presentation MCOG](#)

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

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

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

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

WRITTEN PUBLIC COMMENTS: Written public comments received after agenda publication are forwarded to the Councilmembers as soon as possible after receipt and are available for inspection at City Hall, 416 N. Franklin St, Fort Bragg, during normal business hours. All comments after 2 PM on the day of the meeting will become a permanent part of the agenda packet on the day after the meeting or as soon thereafter as possible, except comments that are in an unrecognized file type or too large to be uploaded to the City's agenda software. Public comments may be submitted to cityclerk@fortbraggca.gov.

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. [25-342](#) Adopt a City Council Resolution Approving a Professional Services Agreement with Marie Jones Consulting, for On-Call As-Needed Professional Planning Services (Total Project Amount Notice Not to Exceed \$85,000) and Authorizing City Manager to Execute Contract Subject to City Attorney Approval as to Form

Attachments: [Att 1 - MJC Reso FY 25-26 DDA](#)
[Att 2 - MJC New Contract - DDAs](#)

- 5B. [25-357](#) Resolution of the Fort Bragg City Council and the Fort Bragg Municipal Improvement District Approving Budget Amendment 2025/26-05 to Provide Installment Purchase Agreement Loan Funds to the Municipal Broadband Utility Project

Attachments: [Att 1 - RESO Broadband IPA Loan](#)
[Att 2 - Budget Amendment 2025/26-5](#)

- 5C. [25-358](#) Receive and File Minutes of the Public Works and Facilities Committee Meeting for May 8, 2025

Attachments: [PWF 05082025](#)

- 5D. [25-350](#) Approve Minutes of Special Meeting of May 12, 2025

Attachments: [SCCM 2025-05-12](#)

- 5E. [25-349](#) Approve Minutes of May 12, 2025

Attachments: [CCM2025-05-12](#)

- 5F. [25-329](#) Approve Minutes of Special City Council of July 14, 2025

Attachments: [SCCM2025-07-14](#)

- 5G. [25-355](#) Approve Minutes of August 11, 2025

Attachments: [CC MINS 2025-08-11](#)

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. [25-368](#) Notice: Mill Site Reuse Item Removed from the Agenda
Mill Site Reuse: The Draft Land Use Plan for Feedback and Council Direction
Due to changes in the Coastal Commission's September agenda in Fort Bragg, this item has been removed and will be continued to a future date.

- 8B. [25-362](#) Receive Report and Recommendation from the Community Development Committee Regarding the Establishment of an Entertainment Zone for City-Approved Events Only; Introduce by Title Only and Waive Further Reading of Ordinance 2025-XX Adding Chapter 5.06 to the Fort Bragg Municipal Code Establishing Entertainment Zones; and Consider Adoption of a Resolution Approving the Entertainment Zone Management Plan; CEQA Exemptions 15061(b)(3), 15301(c), and 15305.

Attachments: [Staff Report](#)

[Att 1 - Ordinance 1018-2025 EZ](#)

[Att 2 - RESO xxx-2025 EZ Management Plan](#)

[Att 3 - FAQs](#)

[Att 4 - Survey - Downtown](#)

[Att 5 - ABC EZ Participation Requirements and Guidelines](#)

- 8C. [25-351](#) Receive Report and Provide Direction to Staff Regarding Initiating Project for Installation of Scenic Tower Viewer Binoculars Along Coastal Trail: Categorical Exemption 15061(b)(3).

Attachments: [Staff Report](#)

[Att. 1 - Binocular Survey](#)

[Att. 2 - Vendor Comparison](#)

- 8D. [25-356](#) Receive Report and Consider Adopting City Council/Municipal Improvement District Resolution Awarding the Bio Solids Material Storage Building Project, City Project No. WWP-00025, to FRC, Inc. as the Lowest Responsible Bidder, and Authorizing the City Manager to Execute Contract (Not To Exceed \$973,099.60)

Attachments: [Staff Report](#)

[Att 1 - RESO Awarding BS Material Storage Construction](#)

[Att 2 - Exhibit A Bid Opening Results](#)

[Att 3 - FRC, Inc Contract](#)

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, SEPTEMBER 8, 2025**

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 August 22, 2025.

Stephanie Remington
Administrative Assistant

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: 25-359

Agenda Date: 8/25/2025

Version: 1

Status: Business

In Control: City Council

File Type:
Recognition/Announcements

Agenda Number: 1A.

Receive N. Harbor Circulation Plan Presentation from Mendocino Council of Governments

Fehr & Peers

Noyo Harbor Multimodal Circulation Plan

Draft Plan

Kelly Bond and Matthew Ridgway | August 25th, 2025



Introductions

- MCOG
- Caltrans
- Consultant Team
 - Fehr & Peers
 - Green DOT
 - CSW Stuber–Stroeh Engineering

Agenda

- 01 Study Purpose
- 02 Existing Conditions
- 03 Stakeholder Engagement
- 04 Project Recommendations
- 05 Next Steps

SECTION 01

Study Purpose

Study Purpose

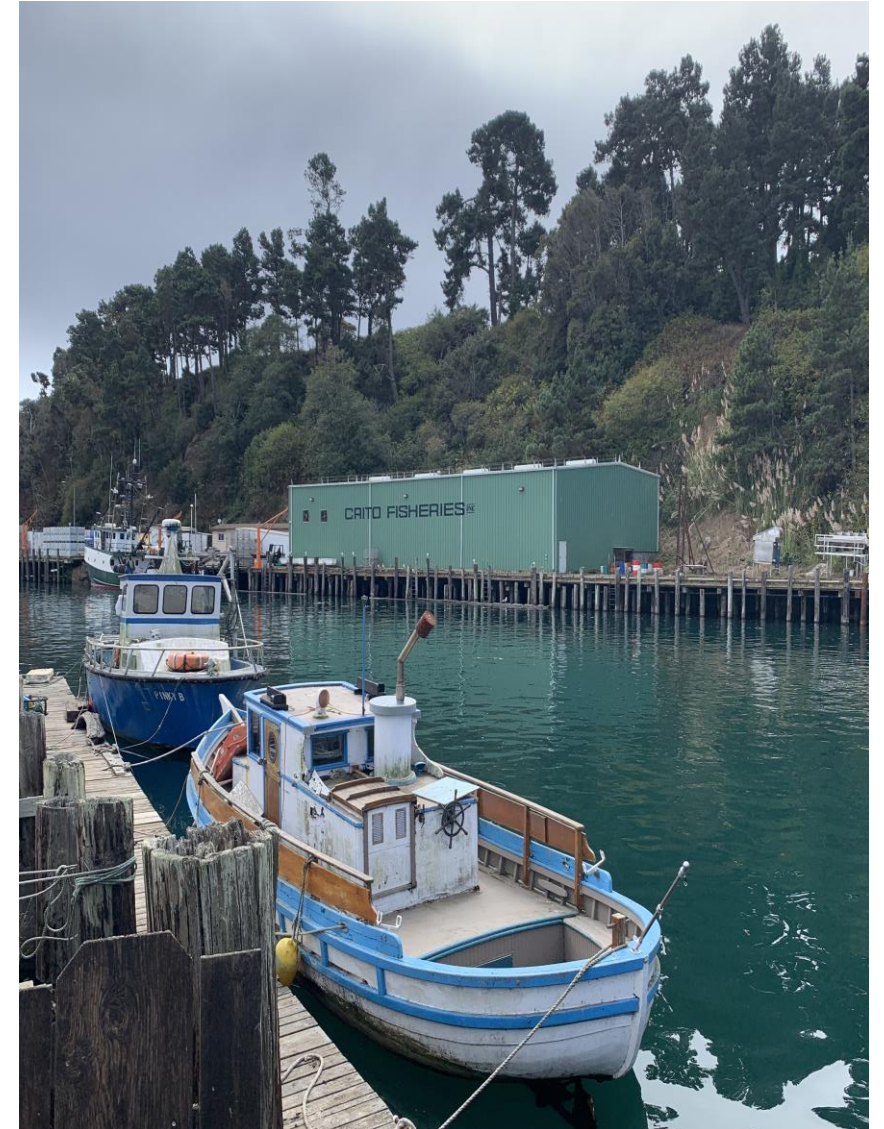
Explores multimodal access, circulation, and safety improvements in Noyo Harbor with the goal of reducing vehicle trips, enhancing connectivity for walking, biking, and transit, and support future implementation by state, local, and tribal partners

SECTION 02

Existing Conditions

Harbor Context

- Location and Operation
- Fishing and Other Uses
- Native History





Current Conditions

Conditions

- Limited multimodal access
- Circulation challenges
- Active transportation opportunities
- Car-dominant travel patterns
- No secondary emergency route
- Uncontrolled key intersection



SECTION 03

Stakeholder Engagement

September Noyo Harbor Festival

Booth & Engagement

- Booth near entrance, run by Green DOT
- Prize wheel for survey/comment participation
- Generated 80+ surveys and comments

Attendance & Outreach

- 200+ attendees, diverse mix of locals, businesses, fishers, and tourists
- Outreach via flyers, social media, website, and media promotions



October Existing Conditions Workshop

Who was there

- 2 council members, 1 candidate for city council
- 1 planning commissioner
- City manager
- Several local business owners
- Community members

What we heard

- Improved staircase under the bridge
- Cantilevered walkway North Harbor Drive
- Walkway throughout harbor
- Improved wayfinding
- Formalize and redesign parking
- Water taxis
- Possible road extension
- Roundabout @SR 1 / N. Harbor Drive



Stakeholder Engagement

Survey

- 92% Personal Vehicle
- 21% Walk
- 4% Bike

Project Team

- 11 meetings
- Key stakeholders
- Guiding plan development
- Input on project recommendations

NOYO HARBOR MULTIMODAL CIRCULATION PLAN - COMMUNITY SURVEY
For more information about this project, please visit the project website at:
<https://noyooceancollective.org/multimodal-circulation-plan/>

1. GENERAL TRAVEL BEHAVIOR

1. Which zip code do you live in? _____

2. How often do you travel to Noyo Harbor? *Select all that apply.*

☐ Daily ☐ A few times per week ☐ A few times per month
☐ A few times per year ☐ Never

3. In which ways do you travel most often to Noyo Harbor? *Select all that apply.*

☐ Personal Vehicle ☐ Bus ☐ Rideshare
☐ Bicycle ☐ Walk ☐ Other (Please specify): _____

4. What types of activities bring you to Noyo Harbor? *Select all that apply.*

☐ Job ☐ Dining ☐ Sport Fishing
☐ Outdoor Recreation ☐ Retail/Shopping ☐ Lodging
☐ Cultural Heritage ☐ Other (Please specify): _____

5. How often do you attend the events or festivals that are put on in Noyo Harbor?

☐ Regularly ☐ Occasionally ☐ Rarely ☐ Never

2. EXISTING CONDITIONS

6. What transportation challenges do you experience when traveling to Noyo Harbor? *Select all that apply.*

☐ Traffic/Congestion ☐ Lack of sidewalks or walking trails ☐ Lack of transit access (e.g. no bus stop nearby)
☐ Speeding ☐ Lack of bicycle paths or trails ☐ I do not face transportation challenges
☐ Circulation ☐ Lack of accessible parking ☐ Other (Please specify): _____

7. How often do you experience traffic congestion when accessing Noyo Harbor?

☐ Regularly ☐ Occasionally ☐ Rarely ☐ Never

8. How satisfied are you with the conditions of the sidewalks and pathways in Noyo Harbor?

☐ Very satisfied ☐ Somewhat satisfied ☐ Neutral
☐ Somewhat dissatisfied ☐ Very dissatisfied ☐ Other (Please specify): _____

ENCUESTA DEL PLAN DE CIRCULACIÓN MULTIMODAL DEL PUERTO DE NOYO
Para obtener más información sobre este proyecto, visite el sitio web del proyecto en:
<https://noyooceancollective.org/multimodal-circulation-plan/>

1. COMPORTAMIENTO GENERAL DEL VIAJE

1. ¿En qué código postal vives? _____

2. ¿Con qué frecuencia viajas al Puerto de Noyo? *Selecciona todas las opciones que apliquen.*

☐ Diario ☐ Pocas veces a la semana ☐ Pocas veces al mes
☐ Pocas veces al año ☐ Nunca

3. ¿Cómo viajas más frecuentemente al Puerto de Noyo? *Selecciona todas las opciones que apliquen.*

☐ Vehículo Personal ☐ Autobús ☐ Viaje Compartido
☐ Bicicleta ☐ A pie ☐ Otro (por favor especifica): _____

4. ¿Qué actividades te traen al Puerto de Noyo? *Selecciona todas las opciones que apliquen.*

☐ Trabajo ☐ Gastronomía ☐ Pesca Deportiva
☐ Recreación al Aire Libre ☐ Compras ☐ Alojamiento
☐ Patrimonio Cultural ☐ Otro (por favor especifica): _____

5. ¿Con qué frecuencia asistes a los eventos o festivales en el Puerto de Noyo?

☐ Regularmente ☐ Ocasionalmente ☐ Raramente ☐ Nunca

2. CONDICIONES EXISTENTES

6. ¿Qué problemas de transporte enfrentas al viajar al Puerto de Noyo? *Selecciona todas las opciones que apliquen.*

☐ Tráfico ☐ Falta de aceras o senderos para peatones ☐ Falta de acceso al transporte público (por ejemplo, falta de paradas de autobús cercanas)
☐ Exceso de Velocidad ☐ Falta de carriles o senderos para bicicletas ☐ No enfrento problemas de transporte
☐ Problemas de Circulación ☐ Falta de estacionamiento accesible ☐ Otro (por favor especifica): _____

7. ¿Con qué frecuencia experimentas congestión de tráfico en el Puerto de Noyo?

☐ Regularmente ☐ Ocasionalmente ☐ Raramente ☐ Nunca

April Two-Day Charrette Workshop



Who was there

- ~30-40 attendees over two days
- Local stakeholders
- Elected officials
- Tribal members
- Business owners
- Residents

Proposed Projects



Other:
Transit Access
Wayfinding

Road Extension
and Trails

Intersection @
SR 1 N. Harbor

Pedestrian
Connections
into Harbor

North Harbor Drive
Pedestrian Walkway

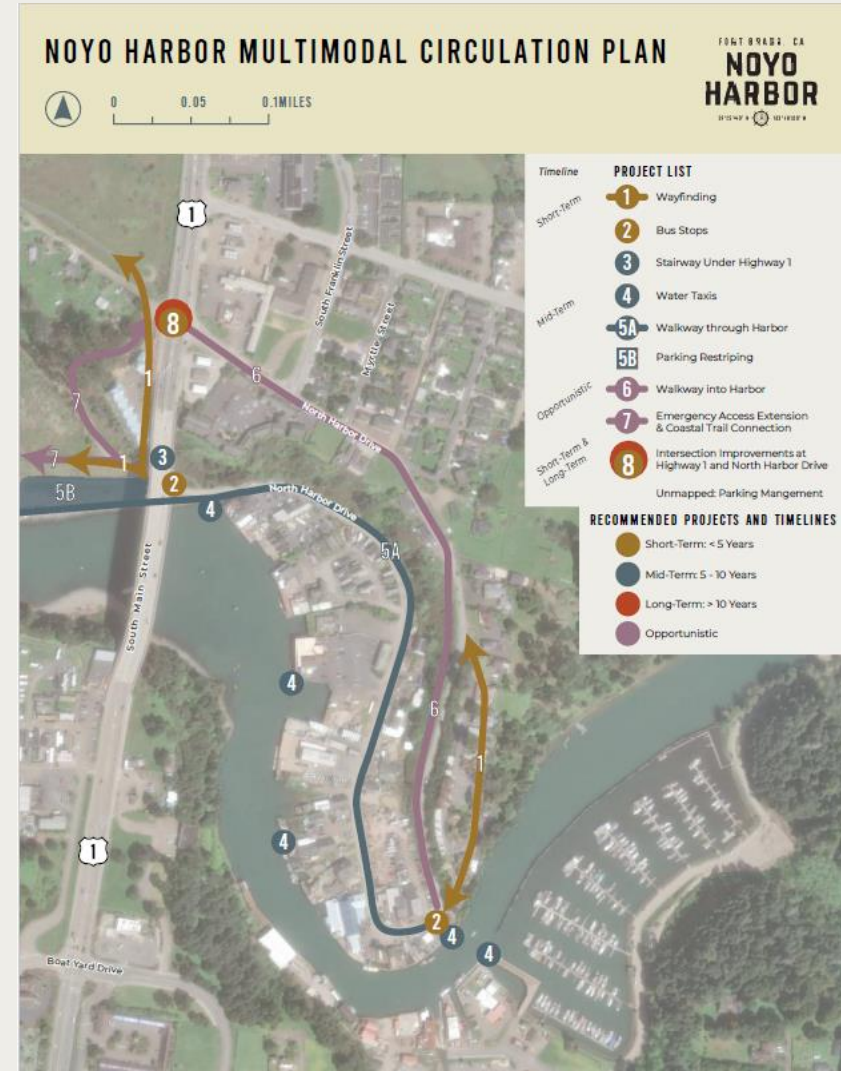
- North Harbor Drive Pedestrian Walk
- Pedestrian Connections to the Harbor
- Intersection Improvements
- Road Extension and Trails
- Wayfinding
- Transit Access into Harbor

SECTION 04

Project Recommendations

Project Recommendations

- Wayfinding
- Bus Routes
- Stairway under Highway 1
- Water Taxis
- Walkway into and through Harbor
- Parking Management
- Emergency Access Extension and Coastal Trail Connection
- Intersection Improvements at Highway 1 and North Harbor Drive










Permeable Pavement



Example Path Delineation

Walkway into and through Harbor

LEGEND

-  SIDEWALK INTO HARBOR
-  STRUCTURED WALKWAY ALONG HILLSIDE
-  WALKWAY THROUGH HARBOR
-  STRUCTURED WALKWAY OVER WATER
-  CROSSWALK

Parking Reallocation



LEGEND

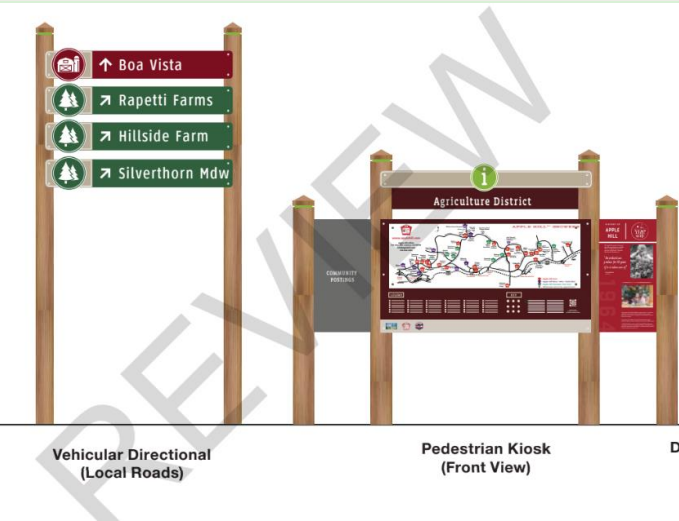


NEW PARKING SPAC25

Stairway under Highway 1



Wayfinding



Bus Routes



Water Taxis



Emergency Access Extension and Coastal Trail Connection



Intersection Improvements at Highway 1 and North Harbor Drive



SECTION 05

Next Steps

Plan Presentations & Finalization

Fort Bragg City Council

August 25th, 2025

Mendocino Board of Supervisors

September 9th, 2025

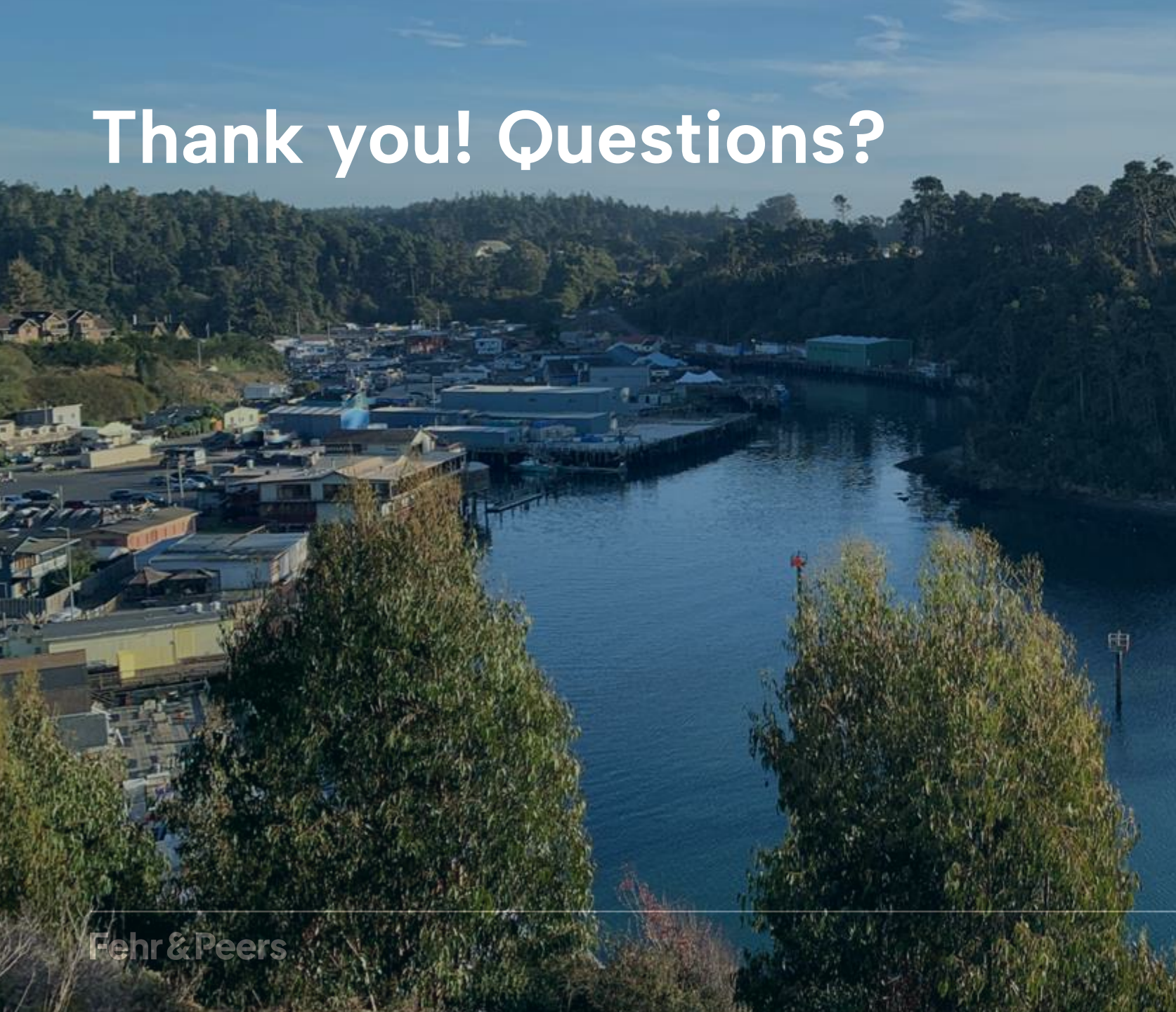
Noyo Harbor District

October 9th, 2025

Plan Finalization

Mid-late October feedback
incorporation and plan finalization

Thank you! Questions?





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Text File

File Number: 25-342

Agenda Date: 8/25/2025

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Consent Calendar

Agenda Number: 5A.

Adopt a City Council Resolution Approving a Professional Services Agreement with Marie Jones Consulting, for On-Call As-Needed Professional Planning Services (Total Project Amount Notice Not to Exceed \$85,000) and Authorizing City Manager to Execute Contract Subject to City Attorney Approval as to Form

RESOLUTION NO. XXXX-2025

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL
APPROVING A CONTRACT WITH MARIE JONES CONSULTING FOR ON-
CALL AS-NEEDED PROFESSIONAL PLANNING SERVICES AND
AUTHORIZING CITY MANAGER TO EXECUTE A PROFESSIONAL
SERVICES AGREEMENT (TOTAL CONTRACT AMOUNT NOT TO EXCEED
\$85,000)**

WHEREAS, City proposes to utilize the services of Marie Jones Consulting as an independent contractor to provide on-call as-needed land use expertise and services; and

WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

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.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve the Professional Services Agreement with Marie Jones Consulting.

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 25th day of August 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

JASON GODEKE
Mayor

ATTEST:

Diana Paoli
City Clerk

**CITY OF FORT BRAGG
PROFESSIONAL SERVICES AGREEMENT
WITH
MARIE JONES CONSULTING**

THIS AGREEMENT is made and entered into on this 25th day of August, 2025 ("Effective Date"), by and between the CITY OF FORT BRAGG, a municipal corporation, 416 N. Franklin Street, Fort Bragg, California, 95437 ("City"), and MARIE JONES CONSULTING, a sole proprietorship, 16312 Old Caspar RR, Fort Bragg, California, 95437 ("Consultant").

WITNESSETH:

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to provide on-call as-needed land use expertise and services as more fully described herein; and

B. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" 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.

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, for a total amount not to exceed Eighty-Five Thousand Dollars (\$85,000.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of work specified in the Consultant's Proposal or which is inconsistent with or in violation of the provisions of this Agreement unless the City or the Project Manager, 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 June 30, 2026. 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 June 30, 2026 unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Upon expiration of the the initial and any subsequent term, this Agreement shall automatically renew for an additional one year period unless notice of non-renewal is provided.

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 :

- (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) Automobile liability for owned vehicles, hired, and non-owned vehicles.
- (c) Workers' compensation insurance as required by the State of California.

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 Isaac Whippy, City Manager. It shall be the Consultant's responsibility to assure that the Project Manager is kept informed of the progress of the performance of the services and the Consultant shall refer any decision,

which must be made by City, to the Project Manager. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Project Manager.

Consultant designates Marie Jones 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:

Marie Jones
Marie Jones Consulting
16312 Old Caspar RR
Fort Bragg, CA 95437
Tel: 707-357-6480

IF TO CITY:

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

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. 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.

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

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

CITY

CONSULTANT

By: _____

Isaac Whippy

Its: City Manager

By: _____

Marie Jones

Its: Principal

ATTEST:

By: _____

Diana Paoli

City Clerk

APPROVED AS TO FORM:

By: _____

Baron J. Bettenhausen

City Attorney

Exhibit A

Scope of Work

Marie Jones Consulting will provide planning consulting services, on a time and materials basis, to the City of Fort Bragg in the following general areas:

- 1) Current DDA Funded Planning Projects & CEQA Review

The hourly rate for Marie Jones Consulting services is as follows:

- Developer Deposit Account Funded Projects \$155/hr.



City of Fort Bragg

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

Text File

File Number: 25-357

Agenda Date: 8/25/2025

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Consent Calendar

Agenda Number: 5B.

Resolution of the Fort Bragg City Council and the Fort Bragg Municipal Improvement District Approving Budget Amendment 2025/26-05 to Provide Installment Purchase Agreement Loan Funds to the Municipal Broadband Utility Project

RESOLUTION NO. ____-2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL

and

RESOLUTION NO. ID ____-2025

**RESOLUTION OF THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT BOARD
APPROVING BUDGET AMENDMENT NO. 2025/26-5 FOR FISCAL YEAR 2025/26**

WHEREAS, on April 28, 2025 City Council and the Fort Bragg Municipal Improvement District No. 1 Board, authorized the execution and delivery of the Installment Purchase Agreement with Everbank, N.A., to fund the remaining costs of the City's Municipal Broadband Project; and

WHEREAS, on June 10, 2025, the City Manager submitted to the City Council and the Fort Bragg Municipal Improvement District No. 1 Board, the City of Fort Bragg Capital Projects for FY 2025/26; and

WHEREAS, on July 12, 2025, Installment Purchase Agreement funds were transferred by Everbank to the City; and

WHEREAS, this funding allocation is needed to complete the City's Municipal Broadband Utility Project; and

WHEREAS, the attached Exhibit A details the proposed amendment of funds; and

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

1. The adjustment of funds to the FY2025/24 Budget have been identified and are necessary, as shown in Exhibit A.
2. The foregoing recitals are true and correct and are made part of this Resolution.

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

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg/District Board of the Fort Bragg Municipal Improvement District No. 1 does hereby approve Budget Amendment No. 2025/26-5 for \$7,879,810.41 amending the FY 2025/26 budget.

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 25th day of August, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

JASON GODEKE
Mayor/Chair

ATTEST:

Diana Paoli
City/District Clerk

[illegible]

Reason for Amendment:

RESOLUTION # :

Requested By:

Approval:

Finance Use:

Signature:

Date:

Attach copies of Resolution or other documentation



City of Fort Bragg

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

Text File

File Number: 25-358

Agenda Date: 8/25/2025

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Agenda Number: 5C.

Receive and File Minutes of the Public Works and Facilities Committee Meeting for May 8, 2025



City of Fort Bragg

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

Meeting Minutes Public Works and Facilities Committee

Thursday, May 8, 2025

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

MEETING CALLED TO ORDER

Committee Member Jason Godeke called meeting to order at 4:00 PM

ROLL CALL

Committee Members Jason Godeke and Scott Hockett present. City Staff; Public Works Director John Smith, and Administrative Assistant Emily Reno present.

1. APPROVAL OF MINUTES

- A. [25-156](#) Approve Minutes of March 31, 2025

Committee Members Godeke and Hockett approved minutes as presented.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public comment was received from Jacob Patterson.

3. CONDUCT OF BUSINESS

- A. [25-157](#) Oral Discussion on Harbor Light Staircase

Public Works Director John Smith discussed the ongoing maintenance challenges for the Harbor Light staircase, noting repeated failures of the steps and the decision to close the staircase due to safety concerns.

Public Comment was received from Jacob Patterson.

Discussion: Committee Member Godeke asked how the area functioned prior to installation of the staircase. Committee Member Hockett expressed interest in retaining the staircase but suggested that another entity take responsibility for the land or maintenance. Godeke proposed repairing the staircase using Public Works staff with assistance from community volunteers. Smith raised concerns regarding liability and risk management, explaining that community-assisted repairs would likely not meet building code requirements. Hockett supported repairing the existing structure rather than a full rebuild. Smith reiterated that any repairs must address safety and code compliance issues.

- B. [25-158](#) Director Oral Report on Departmental Activities and Project Updates

Director John Smith provided updates on the following projects and items of interest:

- Broadband Project-Under construction.
- Town Hall Retrofit & Bathrooms Project - Under construction.
- Police Department Security Retrofit Project- Contract awarded.
- Fire Station Rehabilitation Project- Looking for 1M gap funding.
- Wastewater Treatment Plant Projects- Sodium hypochlorite generators, dryer building rehab, and bio solids storage building.
- EV Fleet Charging Stations.
- Facilities Solar Project- Design is complete and working on permits.
- Cultural Center Paint Project- Working on picnic tables, signage, and furniture.
- Veteran's Hall- Emergency operations center. Working with Mendocino County for a three-year lease and easement.
- Cal OES Grant - Applying for grant funds for the City Hall east and Veterans hall projects.
- City Hall Flooring Project- Under construction.
- City Hall Sewer Line Replacement Project - Is complete.
- Facility Camera Project- Security cameras at facilities and access control at the Police Department.
- Micro Grid Solar- Application denied by PG&E. We expect to reapply in the near future.
- Bainbridge Park- Contract awarded.
- 2025 Streets Project- Bid out for solicitation soon.
- CV Starr Skylight Replacement - Contract awarded.
- CV Starr HVAC System.
- Fleet Update.
- Oneka Desal Buoy Project- Environmental documents circulating.
- Water Treatment Plant Rehabilitation Project- Construction expected to be complete in August.
- Water Meter Replacement Project- Saved 20 million gallons a year, new meters are more accurate.

Public Comment was received from Paul Clark.

Discussion: Committee Member Hockett asked questions regarding the CV Starr HVAC project, the Fire Station grant application, wastewater facility buildings, the water meter replacement project, and the camera installation project. Committee Member Godeke inquired about the water meter project, the Raw Water Line project, the biosolids storage building, the CV Starr skylight replacement project, the recycled water feasibility project, and the water treatment tank rehabilitation. Smith provided additional details in response to each question.

4. MATTERS FROM COMMITTEE / STAFF

None.

ADJOURNMENT

Committee Member Godeke adjourned the meeting at 4:43 PM



City of Fort Bragg

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

Text File

File Number: 25-350

Agenda Date: 8/25/2025

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Staff Report

Agenda Number: 5D.

Approve Minutes of Special Meeting of May 12, 2025



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*

Monday, May 12, 2025

4:30 PM

Town Hall, 363 N Main Street
and Via Video Conference

Special Meeting

CALL TO ORDER

Mayor Godeke called the meeting to order at 4:31 PM.

ROLL CALL

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

2. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

Jacob Patterson.

2. CLOSED SESSION

Mayor Godeke recessed the meeting at 4:33 PM. The meeting was reconvened to Closed Session at 4:35 PM.

2A. 25-144

CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: Intersection of Oak and Harold

Mayor Godeke reconvened the meeting to Open Session at 5:37 PM and reported that no reportable action was taken on the Closed Session item.

ADJOURNMENT

Mayor Godeke adjourned the meeting at 5:37 PM

JASON GODEKE, MAYOR

Diana Paoli, City Clerk

IMAGED (_____)



City of Fort Bragg

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

Text File

File Number: 25-349

Agenda Date: 8/25/2025

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 5E.

Approve Minutes of May 12, 2025



City of Fort Bragg

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

Meeting Minutes City Council

*CITY COUNCIL / MUNICIPAL IMPROVEMENT DISTRICT NO. 1 /
REDEVELOPMENT SUCCESSOR AGENCY / JOINT POWERS
FINANCING AUTHORITY*

Monday, May 12, 2025

6:00 PM

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

CALL TO ORDER

Mayor Godeke called the meeting to order at 6:00 PM

PLEDGE OF ALLEGIANCE

ROLL CALL

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

CLOSED SESSION REPORT

Mayor Godeke reported that no reportable action was taken on the Closed Session item.

AGENDA REVIEW

Mayor Godeke reports 5D should be 5C on Agenda Consent Calendar.

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

1A. [25-142](#) Presentation of Proclamation Declaring May 18th-24th as National Public Works Week

Councilmember Peters read and presented the Proclamation Declaring May 18th-24th National Public Works Week to Public Work's staff Ian Sanderson and Steve Baxman.

1B. [25-150](#) Presentation of Proclamation for Water Safety Week

Councilmember Albin-Smith read and presented the Proclamation for Water Safety Week to CV Starr staff Kim Ramey.

1C. [25-152](#) Presentation of Proclamation Honoring Peace Officer Memorial Week

Mayor Godeke read and presented the Proclamation Honoring Peace Officer Memorial Week to Police Chief Cervenka and thanked him for his innovative work to improve community.

1D. [25-148](#) Receive Presentation on the Fort Bragg Food Bank

Director Amanda Friscia of Fort Bragg Food Bank and Mendo Food Network presented and shared areas of funding reduction and the organization serves over 15,000 in community.

1E. [25-147](#) Receive Presentation on the Redwood Coast Senior Center

Director Jill Rexrode of Redwood Coast Senior Center shared presentation of services provided and possible funding reductions.

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

- (1) Jenny Shattuck, Chris Skyhawk, Jacob Patterson, and Chris Hart
- (2) None.
- (3) None.

3. STAFF COMMENTS

None.

4. MATTERS FROM COUNCILMEMBERS

Councilmember Peters reported events and attended Ad Hoc Mill Site meeting and Visit Fort Bragg meeting. Councilmember Hockett attended Fire Department Awards. Councilmember Albin-Smith attended Leadership Summit Workshop and Sonoma Clean Power board meeting. Mayor Godeke shared the CV Starr Ad Hoc meeting is Thursday, May 15, 2025, at 4:30 PM. Farmers Market Meet with the Mayor will be Wednesday, May 21, 2025, at 3:30 PM for one hour.

5. CONSENT CALENDAR**Approval of the Consent Calendar**

A motion was made by Councilmember Peters, seconded by Councilmember Albin-Smith, to approve the Consent Calendar. The motion carried by the following vote:

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

5A. [25-159](#) Adopt City Council Resolution Approving Contract Amendment with Truepoint Solutions for Purchase and use of Accela Software and Implementation Services

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 4922-2025

5B. [25-155](#) Receive Report and Consider Approving an Amendment to the Joint Powers Agreement of the Mendocino Council of Governments to Add Energy & Climate Related Programs as Specific Powers

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 4923-2025

5C. [25-161](#) Approve Minutes of November 12, 2024

These Minutes were approved on the Consent Calendar.

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

Mayor Godeke and Councilmember Peters reported they watched the Planning Commission meeting.

7. PUBLIC HEARING

- 7A. [25-146](#)** Receive a Report, Hold a Public Hearing, Receive Planning Commission's Recommendation regarding Coastal Development Permit 1-25 (CDP 1-25), Design Review 1-25 (DR 1-25), Use Permit 1-25 (UP 1-25), Sign Permit 2-25 (SP 2-25) for 49 apartments including 41 one-bedroom and 8 two-bedroom units at 860 Hazelwood.

Mayor Godeke opened the public hearing at 7:15 PM

Consultant Marie Jones presented staff report. Co-Developer of AMG Cameron Johnson and Architect Douglas Gibson of DG Group were available to answer clarifying questions including but not limited to parking, generator, solar panels, storage, trees, driveway, and pervious surface.

Public Comment: Tim Perry, Jenny Shattuck, Jacob Patterson, Linda Perry, Christine Stone and Jary Stavelly.

Mayor Godeke closed the public hearing at 7:52 PM

Discussion: Council asked further questions and requested amendments to Resolution.

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

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

Enactment No: RESO 4924-2025

8. CONDUCT OF BUSINESS

Mayor Godeke recessed the meeting at 8:06 PM; the meeting was reconvened at 8:18 PM.

- 8A. [25-88](#)** Receive Report and Consider Adopting Resolution of the Fort Bragg City Council Authorizing Submittal of an Application to the California Department of Housing and Community Development for funding under the HOME Investment Partnerships Program; and if Selected, the Execution of a Standard Agreement, and Amendments Thereto, and of Any Related Documents Necessary to Participate in the HOME Investment Partnerships Program

Grants Coordinator Lacy Sallas presented the staff report on this agenda item.

Public comment: None.

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

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

Enactment No: RES 4925-2025

- 8B. [25-143](#)** Receive Report and Consider Resolution Of The Board of Directors Of The Fort Bragg Joint Powers Financing Authority Authorizing The Execution And Delivery Of The Installment Purchase Agreement With The City Of Fort Bragg Joint Powers Public Financing Authority And Assignment Of Payments Thereunder To Everbank, N.A., And Related Documents And Official Actions

City Manager Isaac Whippy presented report and requested clarification from City Attorney Baron Bettenhausen who reported no material or substantive changes from prior meeting; redline is transparency for typographical errors.

Public Comment: None.

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

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

Enactment No: JPFA 11-2025

- 8C. [25-141](#)** Receive Report and Provide Direction to Staff Regarding Street Project Planning and the Use of Unassigned Reserves; Including 1) Local Streets and Roads and Funding Sources, 2) 2025 Pavement Preservation Project Direction 3) Stop-Gap Patch Paving Project, 4) Purchasing Equipment for Self-Performing Work, and 5) Escalating the 2027 Revitalization Project Design

City Manager Isaac Whippy introduced Item 8C and Director of Engineering Chantell O'Neal presented staff report. Brian Harer from Lumos & Associates was also available to answer questions. Staffing for future paving in-house, Paving Project List, and funding was discussed. Direction: Council gave direction to adjusting Paving Project List, and unassigned reserve to offset Stop Gap Paving.

Public Comment: Jacob Patterson.

This item was for direction only.

- 8D. [25-162](#)** Consider Approval of the Purchase of Mendocino Community Network (MCN), Acceptance of the Due Diligence Report, and Authorization for the City Manager to Finalize and Execute the Purchase Agreement; CEQA Exempt 15378(b)(4).

City Manager Isaac Whippy introduced Item 8D and presented the Due Diligence Report. Councilmembers asked questions regarding the purchase agreement and services to be provided.

Public Comment: None.

A motion was made by Councilmember Albin-Smith, seconded by Vice Mayor Rafanan, that the Resolution be adopted. The motion carried by the following

vote:

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

Enactment No: RESO 4926-2025

8E. [25-153](#)

Receive Report and Consider Adoption of City Council Resolution Authorizing City Manager to Execute a Contract with the County of Mendocino for a Two-Year Contract for Reimbursement of Social Services Liaisons Salary and Benefits (Reimbursed Amount Not to Exceed \$500,000)

Police Chief Neil Cervenka presented staff report.

Public Comment: None.

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

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

Enactment No: RES 4927-2025

9. CLOSED SESSION**ADJOURNMENT**

Mayor Godeke adjourned the meeting at 10:04 PM.

JASON GODEKE, MAYOR

Diana Paoli, City Clerk

IMAGED (_____)



City of Fort Bragg

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

Text File

File Number: 25-329

Agenda Date: 8/25/2025

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Minutes

Agenda Number: 5F.

Approve Minutes of Special City Council of July 14, 2025



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*

Monday, July 14, 2025

4:30 PM

Town Hall, 363 N Main Street
and Via Video Conference

SPECIAL CLOSED SESSION

CALL TO ORDER

Mayor Godeke called the meeting to order at 4:32 p.m.

ROLL CALL

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

1. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

Public Comment: Mary Sneider, Patricia Opaz, and Jacob Patterson.

2. CLOSED SESSION

Mayor Godeke recessed the meeting at 4:40 PM; the meeting reconvened to Closed Session at 4:42 PM.

2A. [25-292](#) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Initiation of Litigation Pursuant to Paragraph (4) of Subdivision (d) of Section 54956.9 (One Case)

2B. [25-293](#) CONFERENCE WITH LEGAL COUNSEL - Existing Litigation Pursuant to Paragraph (1) of Subdivision (d) of Gov. Code Section 54956.9 City of Fort Bragg v. Mendocino Railroad; SIERRA NORTHERN RAILWAY and MENDOCINO RAILWAY v. CITY OF FORT BRAGG, United States District Court Case No. 4:24-cv-04810-JST

ADJOURNMENT

Mayor Godeke adjourned the meeting at 5:42 PM.

JASON GODEKE, MAYOR

Diana Paoli, City Clerk

IMAGED (_____)



City of Fort Bragg

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

Text File

File Number: 25-355

Agenda Date: 8/25/2025

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Staff Report

Agenda Number: 5G.

Approve Minutes of August 11, 2025



City of Fort Bragg

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

Meeting Minutes City Council

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

Monday, August 11, 2025

6:00 PM

Town Hall, 363 N. Main Street
Via Video Conference

CALL TO ORDER

Mayor Godeke called the meeting to order at 6:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL

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

AGENDA REVIEW

None.

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [25-315](#)** Presentation of Mayor's Letter for Retirement of Merle Larson and Commending 21 Years of Service with the City of Fort Bragg

Mayor Godeke presented Letter of Retirement to Merle Larson who shared his positive work and relationships built at the City.

- 1B. [25-325](#)** Presentation of California State University Long Beach Master of Science in Geographic Information Science (GIS) Students Thesis Project: "Fort Bragg Unlocked" Addressing Project and GIS Web Application

Director of Engineering Chantell O'Neal introduced students, July Voong and Angelica Cruz who presented Geographic Information Science (GIS) Thesis Project.

- 1C. [25-300](#)** Presentation of Mendocino Coast Clinics

Executive Director Lucresha Renteria shared presentation of Mendocino Coast Clinic.

- 1D. [25-301](#)** Proclamation - Women's Equality Day

Councilmember Albin-Smith read and presented Proclamation of Women's Equity Day to Michele Karpov of Mendocino Women's Political Coalition.

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

(1) Tim Bosma, David Gurney, Richard Neils, unidentified man, Konstantin Karpov and grandson, Evan Dick, Gabriel Quinn Maroney; Teresa Skarr, Gayle Launer, Earl Landes, Christopher Crisper, Ms. Rojas, Jen Bosma, Jenny Shattuck, Marcy Snyder, Jay Rosenquist, and Annemarie Weibel.

(2) None.

(3) Marcy Snyder, Jacob Patterson, and Andrew Jordan.

3. STAFF COMMENTS

City Manager, Isaac Whippy reported CV Starr Center increased membership by 4,000, City Hall is now open during lunch excluding Wednesday and OktoberFest is upcoming event at CV Starr Center. Director of Engineering Chantell O'Neal reported Bainbridge Park will be closed for one month and projects have commenced including ADA Curbs, 2025 Streets Project, and Stop Gap Project.

4. MATTERS FROM COUNCILMEMBERS

Councilmember Peters reported status of Grocery Outlet. Councilmember Hockett attended Fire Board meeting and shared new vehicles for Fire and Police have arrived. Councilmember Tess Albin-Smith attended Sonoma Clean Power Meeting. Mayor Godeke reported on National Night Out and appreciated proactive work from Police Chief. He further reported Fort Building - Tribal Learning Center now has interpretive panel, signage, and native plants installed. First Friday in September Ad Hoc Culture and Education Committee is requesting community input on additional interpretive panels. Councilmembers gave condolences to Terry Vaughn's family and shared in the early days of video support provided by Mr. Vaughn to the community.

5. CONSENT CALENDAR

Approval of the Consent Calendar

A motion was made by Councilmember Peters, seconded by Councilmember Hockett, to approve the Consent Calendar. The motion carried by the following vote:

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

5A. [25-302](#)

Resolution of the Fort Bragg City Council Approving Side Letter for the Fort Bragg Employee Organization/Service Employees International Union Local 1021 (FBEO/SEIU) Revising Article 16 - Longevity Pay of the 2025-2029 Memorandum of Understanding of the Fort Bragg Employee Organization/Service Employees International Union Local 1021

This Resolution was adopted on the Consent Calendar.

Enactment No: RESO 4963-2025

5B. [25-331](#)

Resolution of the City Council of the City of Fort Bragg Approving Budget Amendment 2025/26-04 to Provide One-Time \$40,000 Allocation to the Humane Society to Maintain Animal Care and Shelter Services for the City of Fort Bragg

This Resolution was adopted on the Consent Calendar.

Enactment No: RESO 4964-2025

5C. [25-303](#)

Adopt, by Title Only, and Waive Further Reading of Ordinance 1016-2025 Amending Division 17 of the Fort Bragg Municipal Code (CLUDC 5-25) To Amend Chapter 17.71.050 - Design Review to Make Design Review for Multifamily Projects a Ministerial Process Subject to Objective Requirements per the Housing Accountability Act

This Ordinance was adopted on the Consent Calendar.

Enactment No: ORD 1016-2025

5D. [25-304](#)

Adopt, by Title Only, and Waive Further Reading of Ordinance 1017-2025 Amending Division 18 of the Fort Bragg Municipal Code (ILUDC 5-25) To Amend Chapter 18.71.050 - Design Review to Make Design Review for Multifamily Projects a Ministerial Process Subject to Objective Requirements per the Housing Accountability Act

This Ordinance was adopted on the Consent Calendar.

Enactment No: ORD 1017-2025

5E. [25-323](#)

Adopt City Council Resolution Approving Budget Amendment BA 2025/26-3 and Contract Amendment for Five Additional Licenses with Accela Civic Applications for a Building, Planning and Engineering Permits (Amount Not to Exceed \$109,208)

This Resolution was adopted on the Consent Calendar.

Enactment No: RES 4965-2025

5F. [25-318](#)

Adopt City Council Resolution Approving Professional Services Agreement with Creative Thinking, Inc., DBA The Idea Cooperative for Strategic and Creative Marketing Services for Visit Fort Bragg and Authorizing the City Manager to Execute Contract Amount Not to Exceed \$175,000.00; Account No. 110-4321-0319)

This Resolution was adopted on the Consent Calendar.

Enactment No: RESO 4966-2025

5G. [25-310](#)

Receive and File Minutes of the February 14, 2025 Finance & Administration Committee Meeting

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

5H. [25-313](#)

Receive and File Minutes of the March 3, 2025 Community Development Committee Meeting

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

- 5I. [25-324](#) Approve Minutes of March 24, 2025
These Minutes were approved on the Consent Calendar.
- 5J. [25-326](#) Approve Minutes of April 14, 2025
These Minutes were approved on the Consent Calendar.
- 5K. [25-327](#) Approve Minutes of Special Meeting of June 26, 2025
These Minutes were approved on the Consent Calendar.

6. DISCLOSURE OF EX PARTE COMMUNICATIONS ON AGENDA ITEMS

None.

Mayor Godeke recessed the meeting at 8:10 PM; the meeting was reconvened at 8:23 PM. Mayor Godeke reported on the advice of City Attorney there will be no Closed Session this evening and 9A Item may be continued to a future date.

7. PUBLIC HEARING

8. CONDUCT OF BUSINESS

- 8A. [25-330](#) Building Connection and Community: Hosting Fort Bragg's First Longest Table Event on October 5, 2025

City Manager, Isaac Whippy introduced item and shared a video. Pam Bell Events shared further details of upcoming event: Fort Bragg's Longest Table Event on October 5, 2025 from 1-4 PM. Councilmembers asked clarifying questions regarding chairs, tables, staffing, parking, and trash.

Public Comment: Jay Rosenquist, Jacob Patterson, and Andrew Jordan.

Direction: There was no objection from Councilmembers to move forward with event.

This item was for direction only.

9. CLOSED SESSION

- 9A. [25-338](#) CONFERENCE WITH LEGAL COUNSEL-ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to paragraph (2) or (3) of subdivision (d) of [Section 54956.9](#) (One case)

Mayor Godeke reported on the advice of City Attorney there will be no Closed Session this evening and 9A Item may be continued to a future date.

ADJOURNMENT

Mayor Godeke adjourned the meeting at 8:49 PM

JASON GODEKE, MAYOR

Diana Paoli, City Clerk

IMAGED (_____)



City of Fort Bragg

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

Text File

File Number: 25-368

Agenda Date: 8/25/2025

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8A.

Notice: Mill Site Reuse Item Removed from the Agenda

Mill Site Reuse: The Draft Land Use Plan for Feedback and Council Direction

Due to changes in the Coastal Commission's September agenda in Fort Bragg, this item has been removed and will be continued to a future date.



City of Fort Bragg

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

Text File

File Number: 25-362

Agenda Date: 8/25/2025

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8B.

Receive Report and Recommendation from the Community Development Committee
Regarding the Establishment of an Entertainment Zone for City-Approved Events Only;
Introduce by Title Only and Waive Further Reading of Ordinance 2025-XX Adding Chapter
5.06 to the Fort Bragg Municipal Code Establishing Entertainment Zones; and Consider
Adoption of a Resolution Approving the Entertainment Zone Management Plan; CEQA
Exemptions 15061(b)(3), 15301(c), and 15305.



CITY COUNCIL STAFF REPORT

TO: City Council

DATE: August 25, 2025

DEPARTMENT: City Manager's Office

PREPARED BY: Isaac Whippy, City Manager

PRESENTER: Isaac Whippy, City Manager

AGENDA TITLE: Receive Report and Recommendation from the Community Development Committee Regarding the Establishment of an Entertainment Zone for City-Approved Events Only and Adopting Resolution approving the Management Plan

RECOMMENDATION

1. Adopt an Ordinance adding Chapter 5.06 to the Fort Bragg Municipal Code establishing and regulating Entertainment Zones in accordance with SB 969 (2024).
2. Approve a Resolution adopting the Entertainment Zone Management Plan Template to guide implementation, compliance, and public safety.

BACKGROUND

The California Alcoholic Beverage Control Act (Bus. & Prof. Code §23000 et seq.) regulates the sale and consumption of alcoholic beverages and is administered by the Department of Alcoholic Beverage Control (ABC). The Act authorizes businesses to obtain on-sale, off-sale, or combined licenses and prohibits public consumption except where expressly permitted.

In 2023, SB 76 allowed the City and County of San Francisco to establish "Entertainment Zones," permitting open container consumption in defined public areas during special events. Building on that pilot, the State Legislature adopted SB 969 in 2024, authorizing all California cities and counties to create Entertainment Zones, subject to public safety conditions and ABC compliance.

Key requirements of SB 969 include:

- Only licensed establishments within a Zone may sell alcohol for public consumption.
- Alcohol must be served in non-glass, non-metal containers.
- No alcohol deliveries to consumers in the Zone.
- Cities must consult with law enforcement prior to designation.

AGENDA ITEM NO. 8B

In early 2025, the City of Fort Bragg began exploring the feasibility of adopting an Entertainment Zone as part of its downtown revitalization and event activation strategy. This concept aligns with state law, local economic development goals, and downtown business community interests.

This item was presented at the Community Development Committee meeting on August 18, 2025, where public input was received. Following the discussion, the Committee recommended advancing the proposed ordinance and accompanying Entertainment Zone Management Plan to the City Council for formal consideration.

DISCUSSION

The proposed Chapter 5.06 – Entertainment Zones would allow the City to designate limited areas where patrons may consume alcohol in public during City-approved events under controlled conditions.

Initial Zone Location:

The proposed Entertainment Zone encompasses the core of Fort Bragg's Central Business District, including the 300 and 400 blocks of Franklin Street, Laurel Street, Redwood Avenue, and adjacent cross streets extending from Pine Street to Oak Street, including the Downtown Plaza. This area is already a focal point for major City events such as the Magic Market, Blues Festival, First Friday's, Whale Festival, and Paul Bunyan Days.

The zone is strategically aligned with nearby alcohol-serving establishments, including Tall Guy Brewery, Cucina Verona, Sip Wine Bar, Welcome Inn, Golden West, Piaci, and Los Gallitos, to enhance walkability and increase foot traffic during special events.



Operational Requirements:

1. City-issued Special Event Permit required for each activation; no standing right to operate.
2. Defined hours (e.g., Fridays 12–9 PM; Saturdays 12–9 PM; Sunday 12-9pm; City-approved festivals).
3. Boundaries clearly marked with signage, barriers, and staff checkpoints.
4. Non-glass, non-metal containers only; branded wristbands or cups may be required for age verification.
5. ABC compliance measures, including direct-to-Zone service only.
6. Security and post-event cleanup plans tailored to each event.

LAW ENFORCEMENT COORDINATION

The Fort Bragg Police Department supports a pilot Entertainment Zone with clear boundaries, time limits, and operator accountability. Concerns regarding overconsumption and youth access will be mitigated through:

- Wrist banding for age verification
- Mobile barriers for temporary street closures

- Security staffing plans and real-time contact for each event
- Bi-annual public safety review in coordination with FBPD

ENTERTAINMENT ZONE MANAGEMENT PLAN

The accompanying Management Plan provides a framework for all events activating an Entertainment Zone. Required elements include:

- Zone Lead and 24/7 contact
- Security, if needed, sanitation, and ABC compliance plans
- Public notifications and signage
- Incident reporting to FBPD within 24 hours

COMMUNITY ENGAGEMENT

In early 2025, the City of Fort Bragg conducted a public survey to evaluate community sentiment regarding the establishment of an Entertainment Zone (EZ) within the Central Business District. Over 40 responses were received, with 92% of respondents identifying as downtown residents, business owners, or frequent patrons.

Key survey results include:

- 55% of respondents expressed support for the creation of a designated Entertainment Zone for events such as *First Friday*, *Magic Market*, and *summer festivals*.
- An additional 22% were undecided or seeking more information.
- 15% opposed the idea, citing concerns related to public safety, preserving a family-friendly downtown atmosphere, and potential litter issues.

The majority of respondents favored the following operational parameters:

- Limiting Entertainment Zone use to evenings and weekends.
- Ensuring clearly marked boundaries and visible supervision during events.
- Implementing age verification, sanitation protocols, and trash management measures.

In addition to the survey, staff met with the Business Roundtable to discuss the proposal and received support and feedback from local business owners, and event organizers to ensure the proposed ordinance reflects community values and priorities. Input gathered during these conversations helped shape the proposed boundaries, safety protocols, and implementation strategies.

ENVIRONMENTAL REVIEW

The ordinance is exempt from CEQA under:

- **§15061(b)(3)** – No potential for significant environmental impact
- **§15301(c)** – Use of existing public rights-of-way
- **§15305** – Minor alterations in land use limitations

FISCAL IMPACT

- Minimal impact to General Fund; oversight provided by existing staff
- Event organizers are responsible for costs related to signage, barriers, and compliance
- Opportunities exist for cost recovery via sponsorships and permitting fees

FINDINGS

A. General Plan Consistency:

- Supports economic development, cultural events, and community use of public space.

B. No Public Detriment:

- Operations are limited to permitted, City-approved events with built-in revocation authority.

C. Physical Suitability:

- Utilizes existing infrastructure with no zoning or land use changes.

ATTACHMENTS

1. Resolution No. 25-XXX – Approving Management Plan Template
2. Ordinance No. 25-XXX – Adding Chapter 12.50: Entertainment Zones
3. Entertainment Zone Management Plan Template
4. Map of Proposed Pilot Zone
5. Summary of Community Survey Results

CONSISTENCY

The establishment of an Entertainment Zone is consistent with the following adopted policies and strategic priorities of the City of Fort Bragg:

- 2024–2028 Strategic Plan Goals:
 - *Economic Vitality*: Supports local business recovery and growth by increasing foot traffic and spending in the downtown area.
 - *Vibrant Downtown*: Aligns with efforts to create a more engaging and family-friendly downtown environment through expanded events and placemaking strategies.
 - *Tourism Development*: Enhances visitor experience and supports event-based tourism that benefits the hospitality and retail sectors.
- General Plan Policy Objectives:

- Encourages land uses and programs that promote walkable, active commercial districts.
- Supports community events and outdoor public space utilization for cultural and economic benefit.
- Downtown Revitalization Priorities:
 - Builds on existing activation efforts such as the Blues Festival, First Fridays, and the Magic Market by providing tools to increase downtown engagement.
 - Strengthens coordination between City-sponsored events and adjacent businesses through structured alcohol service and safety plans.

IMPLEMENTATION/TIMEFRAMES:

1. City Council to consider adopting the ordinance to allow for entertainment zones (Aug 25th)
2. Submit notice to ABC with zone boundaries and compliance documentation
3. Finalize zone signage, safety equipment, and branded containers (Sept)
4. Conduct a coordination meeting with FBPD, Visit Fort Bragg, and participating businesses (Sept/Oct)
5. Soft launch of pilot zone during select fall events (e.g., First Friday, Longest Table)
6. Gather community and business feedback on zone operations -December 2025
7. Review pilot implementation with FBPD and stakeholders, Dec/Jan
8. Recommend adjustments and identify possible expansion areas for April 2026

NOTIFICATION

Economic Development

Community Development

Downtown Business

**AN ORDINANCE OF THE CITY OF FORT
BRAGG ADDING CHAPTER 5.06 TO THE
FORT BRAGG MUNICIPAL CODE TO
ESTABLISH ENTERTAINMENT ZONES**

ORDINANCE NO. XXX-2025

WHEREAS, Senate Bill 969 (SB 969), signed into law in 2024, authorizes cities and counties in California to establish "Entertainment Zones" in which patrons may consume alcoholic beverages in the public right-of-way under specified conditions; and

WHEREAS, the City of Fort Bragg seeks to activate its downtown core, enhance community events, and support small businesses by allowing for regulated outdoor consumption of alcoholic beverages during City-approved special events; and

WHEREAS, the Department of Alcoholic Beverage Control (ABC) requires cities establishing Entertainment Zones to adhere to certain requirements, including consultation with law enforcement and ongoing review to ensure public safety; and

WHEREAS, the City Council finds that this ordinance is consistent with the City's General Plan, Strategic Plan, and Economic Development goals.

WHEREAS, the City Council finds and declares:

1. The ordinance is consistent with the City's General Plan as it would support economic development, cultural events, and community use of public space.
2. The ordinance would not result in risks to public health or safety as all events would be City-approved events with built-in revocation authority.
3. The downtown area is physically suitable for an entertainment zone because it is an established community downtown with existing restaurants, bars, parking and other features which will make these activities safe and advantages to the business community.
4. Approval of this Ordinance is categorically exempt from CEQA because:
 - a. It can be seen with certainty that there is no potential for significant environmental impact because the permitted activity is only temporary in nature. Exemption 15061(b)(3), and
 - b. It involves the operation or licensing of existing public rights-of-way involving negligible or no expansion of existing use because zones are limited to a few streets in the Central Business District. Exemption 15301(c).

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF FORT BRAGG DOES
FIND, DETERMINE, AND ORDAIN AS FOLLOWS:**

Section 1. The Recitals set forth above are true and correct and incorporated herein as findings.

Section 2. Chapter 5.06 titled “Entertainment Zones” is hereby added to Title 5 “Business Licenses and Regulation” of the Fort Bragg Municipal Code as follows:

Chapter 05.06 – Entertainment Zones

- 05.06.010 – Purpose and Intent
- 05.06.020 – Definitions
- 05.06.030 – Establishment of Entertainment Zones
- 05.06.040 – ABC Compliance
- 05.06.050 – Management Plan Requirement
- 05.06.060 – Law Enforcement and Review
- 05.06.070 – Violations and Enforcement

05.06.010 – PURPOSE AND INTENT

This chapter establishes Entertainment Zones pursuant to the authority granted under California Business & Professions Code § 25623, as amended by SB 969. The purpose is to promote economic development, enhance community events, and allow the regulated consumption of alcoholic beverages in designated public areas during approved special events.

05.06.020 – DEFINITIONS

For the purposes of this chapter:

- A. “*Entertainment Zone*” or “*Zone*” means an area designated by resolution of the City Council where alcoholic beverages may be consumed in public rights-of-way during approved events.
- B. “*Licensed Premises*” refers to an establishment licensed by ABC for the sale of alcoholic beverages for on-site or off-site consumption.
- C. “*Zone Operator*” means the person or entity designated in the Entertainment Zone Management Plan responsible for compliance with this chapter and all applicable laws.
- D. “*Open Container*” refers to any unsealed alcoholic beverage container in a non-glass, non-metal cup or receptacle.

05.06.030 – ESTABLISHMENT OF ENTERTAINMENT ZONES

- A. The City Council may, by resolution, establish Entertainment Zones. The resolution shall specify:
 - 1. Geographic boundaries of the Zone;
 - 2. Authorized hours and days of operation;
 - 3. Types of alcoholic beverages permitted;
 - 4. Container requirements;
 - 5. Identification mechanisms (e.g., wristbands, stamps) for verifying age compliance;
 - 6. Special conditions or limitations deemed necessary for public health and safety.
- B. Entertainment Zones shall only be active during City-authorized special events with an approved Special Event Permit.

- C. Changes or alternative designated zones, boundaries, hours, or requirements may be adopted by future City Council resolution without amending this ordinance.

05.06.040 – ABC COMPLIANCE

- A. Only ABC-Licensed Premises located within the boundaries of an Entertainment Zone may sell alcoholic beverages for off-site consumption in the Zone, subject to compliance with the following:
 - a. The type of alcohol provided for consumption in the Zone is authorized by the Resolution establishing the Zone.
 - b. Alcohol provided for consumption in the Zone may only be served in non-glass, non-metal containers.
 - c. Deliveries of alcoholic beverages to consumers located within the Entertainment Zone are prohibited, unless the delivery is made to a licensed private business or residential address within the Zone.
 - d. Patrons with Open Containers must exit Licensed Premises directly into the Entertainment Zone. Alcoholic beverages may not be consumed outside the designated boundaries or during unauthorized hours.
- B. The Zone Operator shall be responsible for implementation of the measures outlined in the approved Management Plan submitted pursuant to Section 05.06.050.

05.06.050 – MANAGEMENT PLAN REQUIREMENT

- A. An approved Entertainment Zone Management Plan shall be required for each event and shall include:
 - 1. Zone Operator designation with 24/7 contact;
 - 2. Security and public safety plan (subject to FBPD review);
 - 3. Trash and cleanup plan;
 - 4. Boundary markings (signage, fencing, decals);
 - 5. Procedures for age verification;
 - 6. ABC compliance protocol;
 - 7. Incident reporting procedures.
- B. No alcohol consumption may occur within an Entertainment Zone without a City-approved Management Plan.
- C. The Management Plan is subject to review and approval of the City Manager or designee.

05.06.60 – LAW ENFORCEMENT AND REVIEW

- A. Prior to establishing or renewing any Entertainment Zone, the Fort Bragg Police Department shall review the proposed Zone and Management Plan regarding: public safety concerns, mitigation strategies, and proposed boundaries, hours, and event types.
- B. Every two years, unless requested sooner by the Chief of Police, the City shall review the operation and impacts of each established Entertainment Zone in consultation with FBPD. Reports may be provided to ABC upon request.

05.06.70 – VIOLATIONS AND ENFORCEMENT

- A. Any violation of this chapter or the approved Management Plan is subject to administrative penalties.
- B. The City reserves the right to suspend or revoke the use of an Entertainment Zone at any time if deemed necessary to protect public health and safety.

Section 3. 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 4. Effective Date and Publication. This ordinance shall be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.

The foregoing Ordinance was introduced by Councilmember _____ at a regular meeting of the City Council of the City of Fort Bragg held on August 25, 2025 and adopted at a regular meeting of the City of Fort Bragg held on _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

Jason Godeke
Mayor

ATTEST:

Diana Paoli
City Clerk

PUBLISH: DATE, 2025 and _____ (by summary).

RESOLUTION NO. xxxx-2025

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING THE MANAGEMENT PLAN TEMPLATE FOR THE IMPLEMENTATION OF AN ENTERTAINMENT ZONE

WHEREAS, the California Legislature adopted Senate Bill 969 (SB 969) in 2024, which allows cities and counties to establish designated “Entertainment Zones” where alcoholic beverages may be consumed in public rights-of-way during approved events, subject to local regulation and Alcoholic Beverage Control (ABC) requirements; and

WHEREAS, the City of Fort Bragg seeks to activate and revitalize its Central Business District through permitted special events that promote economic vitality, community gathering, and tourism; and

WHEREAS, the City Council is considering the adoption of Ordinance No. 2025-XX, adding Chapter 5.06 to the Fort Bragg Municipal Code, authorizing the establishment and regulation of Entertainment Zones; and

WHEREAS, Chapter 5.06 once implemented requires a Management Plan to ensure the safe, orderly, and compliant activation of Entertainment Zones in accordance with state law and local requirements; and

WHEREAS, City staff has developed an Entertainment Zone Management Plan to be used by applicants as part of the City’s Limited Term Permit process, ensuring consistency, accountability, and coordination with the Fort Bragg Police Department and other public agencies; and

WHEREAS, the Management Plan Template outlines operational requirements related to zone boundaries, alcohol sales, ABC compliance, age verification, sanitation, public safety, and post-event reporting, as informed by community feedback and law enforcement recommendations.

NOW, THEREFORE, THE FORT BRAGG COMMUNITY DEVELOPMENT COMMITTEE FINDS, DETERMINES, AND RESOLVED AS FOLLOWS:

1. The Recitals set forth above are true and correct and incorporated herein as findings.
2. The City Council of the City of Fort Bragg hereby approves the Entertainment Zone Management Plan Template, attached as *Exhibit A*, to guide the review and permitting of future Entertainment Zone activations.

3. The City Manager or designee is authorized to approve the Management Plan for each individual activation and to update or impose such additional conditions as necessary to improve clarity, incorporate future state or local regulatory changes, or respond to operational feedback from City departments, event organizers, or the public.

The above and foregoing Resolution was introduced by _____,
seconded by _____, and passed and adopted at a regular
meeting of the City Council of the City of Fort Bragg held on the 25th day of August,
2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

JASON GODEKE
Mayor

ATTEST:

Diana Paoli
City Clerk

Fort Bragg Entertainment Zone – Frequently Asked Questions (FAQ)

What is the Fort Bragg Entertainment Zone?

The Entertainment Zone (EZ) is a designated area in Downtown Fort Bragg where patrons can responsibly enjoy alcoholic beverages purchased from licensed businesses during permitted special events. The EZ is established under California SB 969 and regulated by the City of Fort Bragg and ABC.

Do I need to be 21 or over to enter the Entertainment Zone?

No. The EZ is open to people of all ages. However, to consume alcohol, you must:

Be 21 or older

Purchase alcohol from an authorized vendor within the EZ

Receive a wristband confirming age verification

Use a City-approved compostable, non-glass, non-metal container

Can I bring alcoholic drinks into or out of the Entertainment Zone?

No. Only drinks purchased from an approved EZ vendor are allowed and must remain within the EZ boundaries. Exiting the zone with alcohol is prohibited, and signage will be posted at all exit points stating:

“No Alcohol Beyond This Point.”

Can I bring my own food or beverages into the EZ?

No outside alcoholic drink is allowed. However, a wide selection of food and beverage options will be available from participating downtown restaurants, bars, and vendors.

Can I buy a drink from one place and consume it in another?

Only beverages purchased from authorized vendors within the EZ may be consumed in:

The public right-of-way inside the EZ

The establishment from which it was purchased.

What hours will the Entertainment Zone operate?

Hours vary by event but are generally limited to:

Fridays: 12 PM – 9 PM

Saturdays: 12 PM – 9 PM

Sunday 12 PM-9 PM

Special festival hours may be approved by the City. All operations outside of these hours are prohibited.

Where is the Entertainment Zone located?

The initial pilot area includes:

300 & 400 Blocks of Franklin Street

Laurel Street

Redwood Avenue

The Downtown Plaza

Additional zones may be considered by City Council in the future.

Can I have alcohol delivered to me while I'm in the EZ?

No. Alcohol delivery to people in public areas of the EZ is prohibited. Deliveries may only be made to residential or business addresses within the Zone.

Will there be security or enforcement?

Yes. Each EZ event requires:

City review and approval

A designated Zone Operator

Security personnel if needed

Public safety plans reviewed by Fort Bragg Police Department (FBPD)

Police will enforce the prohibition underage drinking, overconsumption, and other violations per state and local law.

How will trash and cleanup be managed?

Event organizers are required to submit a Sanitation Plan as part of their Entertainment Zone Management Plan. This includes:

Litter control

Post-event cleanup

Compostable service ware

Do I need a permit to hold an event in the EZ?

Yes. A Limited Term Permit is required for each EZ activation, including:

Event application and map

Management Plan (security, cleanup, signage)

Compliance with ABC and City rules

Permits are reviewed and approved by City staff.

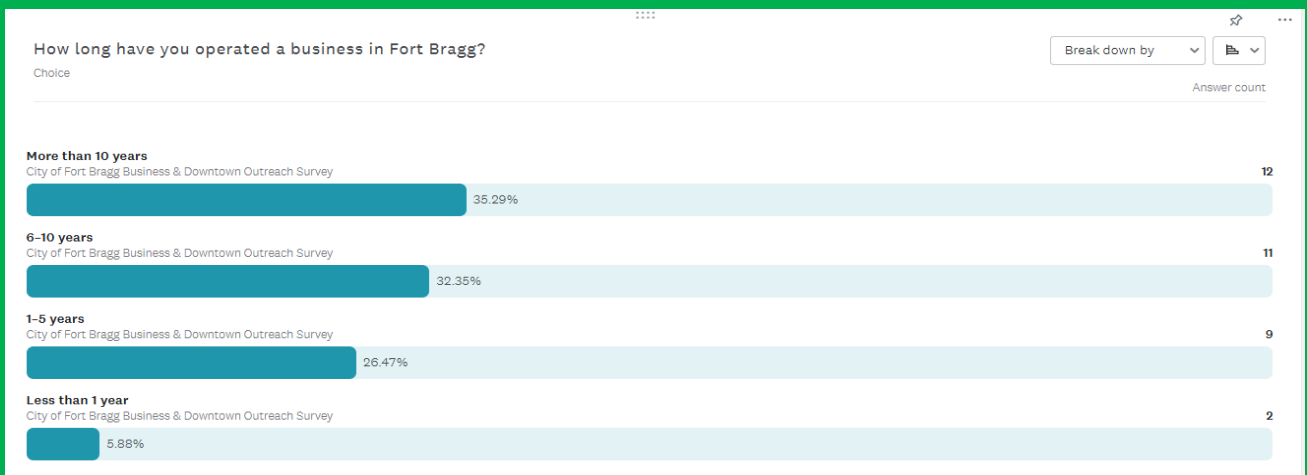
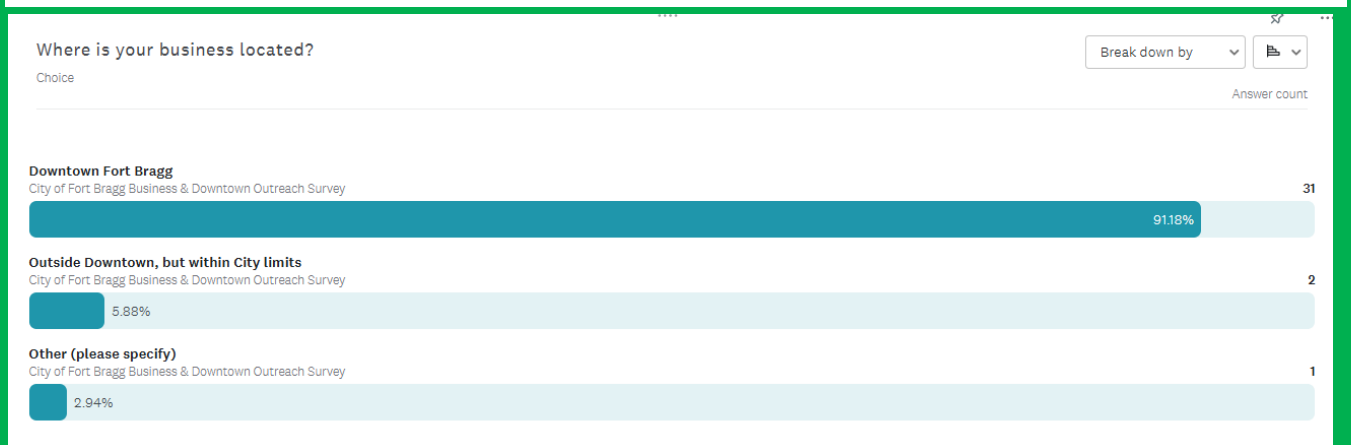
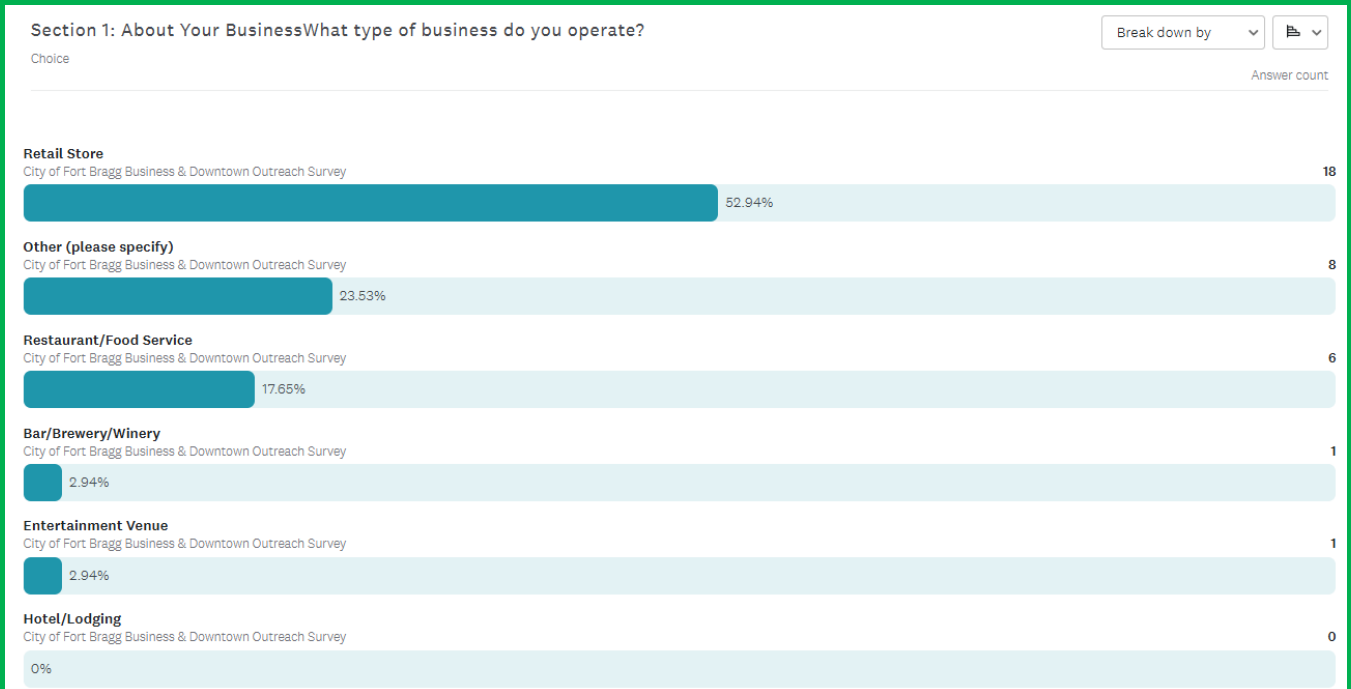
Is this safe for families and kids?

Yes. While only those 21+ can consume alcohol (with proper wristbands), the EZ is intended as a family-friendly space during permitted events, featuring:

Live music



Cultural performances

Art and food vendors



Section 2: Awareness & Understanding Before receiving this survey, were you aware of SB 969 and its j

Choice

Break down by  

Answer count

Yes, I am familiar with it

City of Fort Bragg Business & Downtown Outreach Survey

13



No, this is new to me

City of Fort Bragg Business & Downtown Outreach Survey

11



Somewhat—I have heard about it but need more information

City of Fort Bragg Business & Downtown Outreach Survey

10



Would you like more information or a business workshop on SB 969 and entertainment zones?

Choice

Break down by  

Answer count

No, I understand it well

City of Fort Bragg Business & Downtown Outreach Survey

13



Maybe, depending on the details

City of Fort Bragg Business & Downtown Outreach Survey

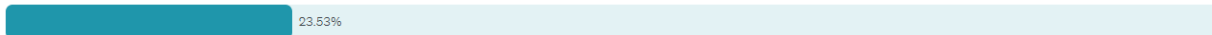
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Yes

City of Fort Bragg Business & Downtown Outreach Survey

8



Section 3: Business Impacts & ConcernsDo you support the creation of an entertainment zone where public alcohol consumption would ... areas?

Choice

Break down by  

Answer count

Yes

City of Fort Bragg Business & Downtown Outreach Survey

20



No

City of Fort Bragg Business & Downtown Outreach Survey

8



Unsure (need more information)


City of Fort Bragg Business & Downtown Outreach Survey

6



What potential benefits do you see for your business if entertainment zones were implemented? (Select all that apply)

Choice

Break down by  

Answer count

Enhanced downtown vibe and event participation

City of Fort Bragg Business & Downtown Outreach Survey

4



Increased foot traffic and tourism

City of Fort Bragg Business & Downtown Outreach Survey

3



Higher sales and revenue opportunities

City of Fort Bragg Business & Downtown Outreach Survey

2



Opportunity for more outdoor seating/service expansion

City of Fort Bragg Business & Downtown Outreach Survey

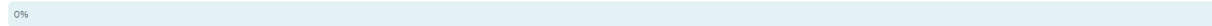
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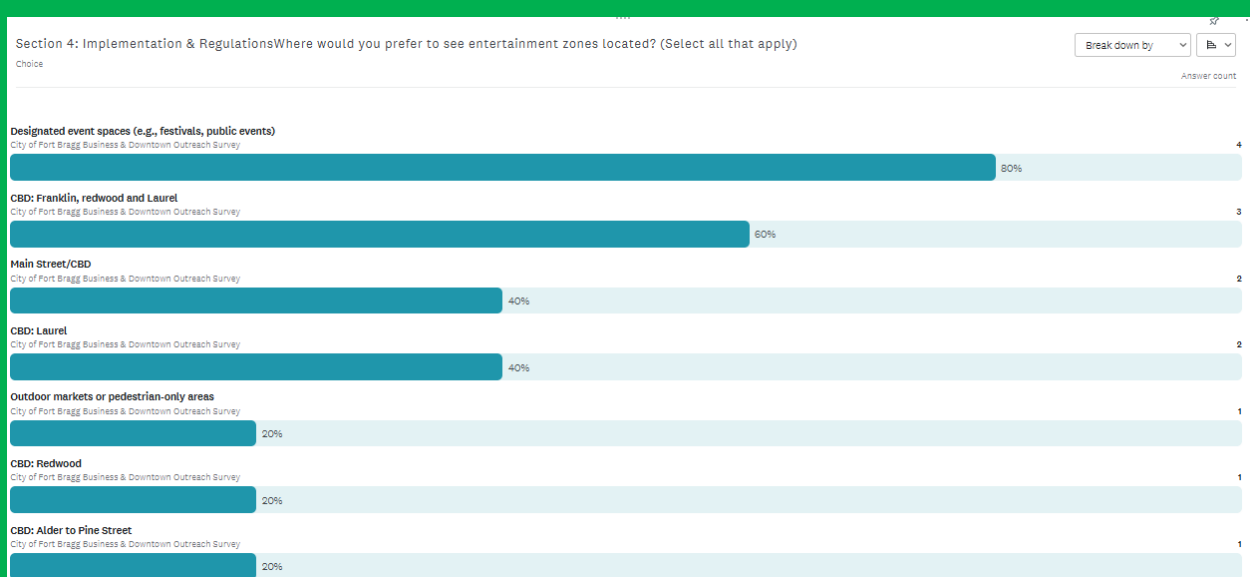
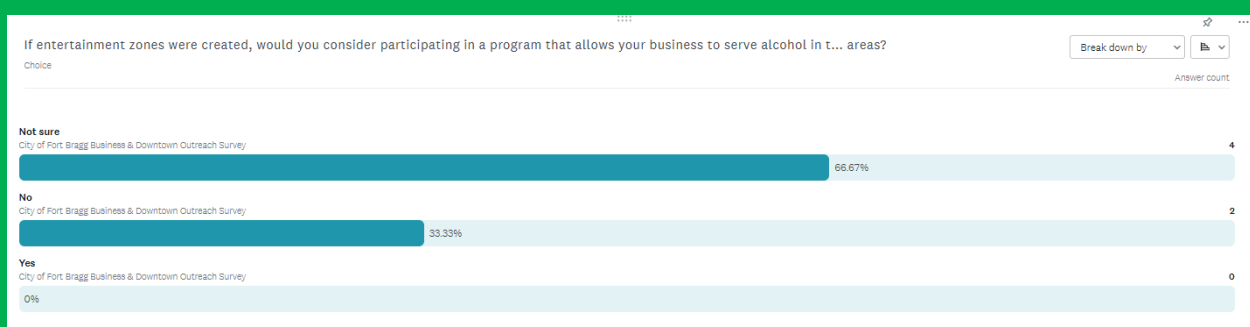
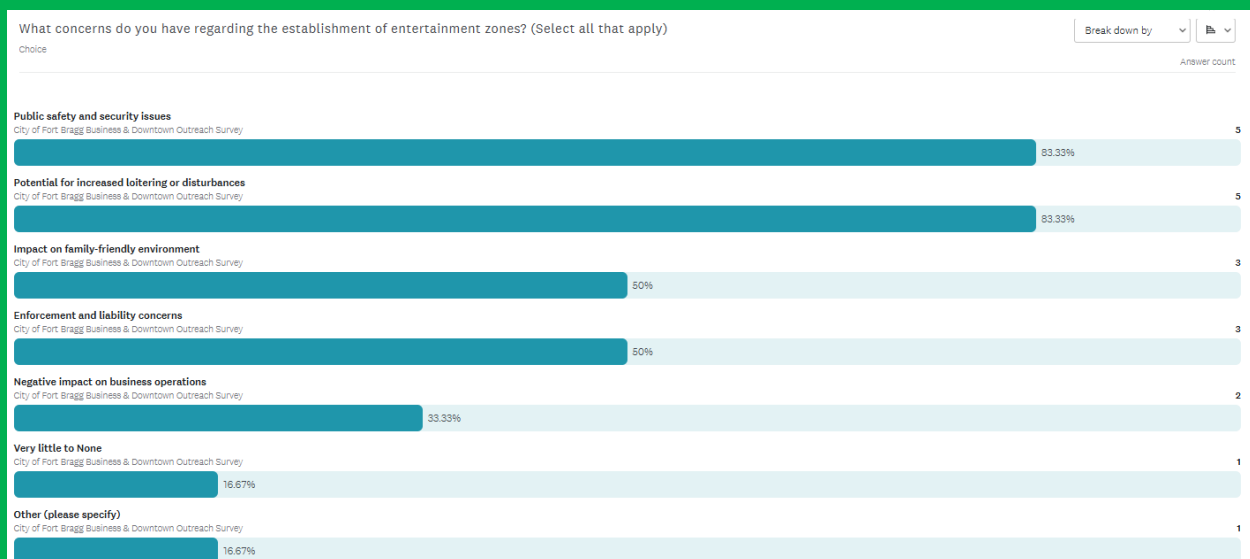


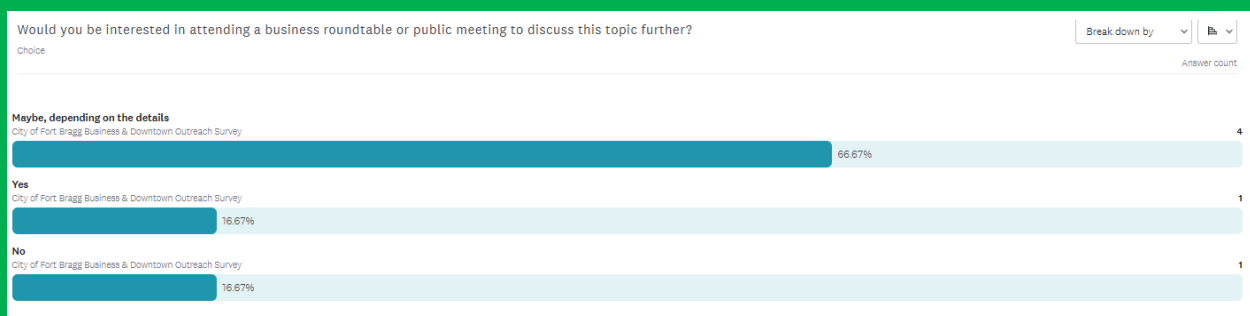
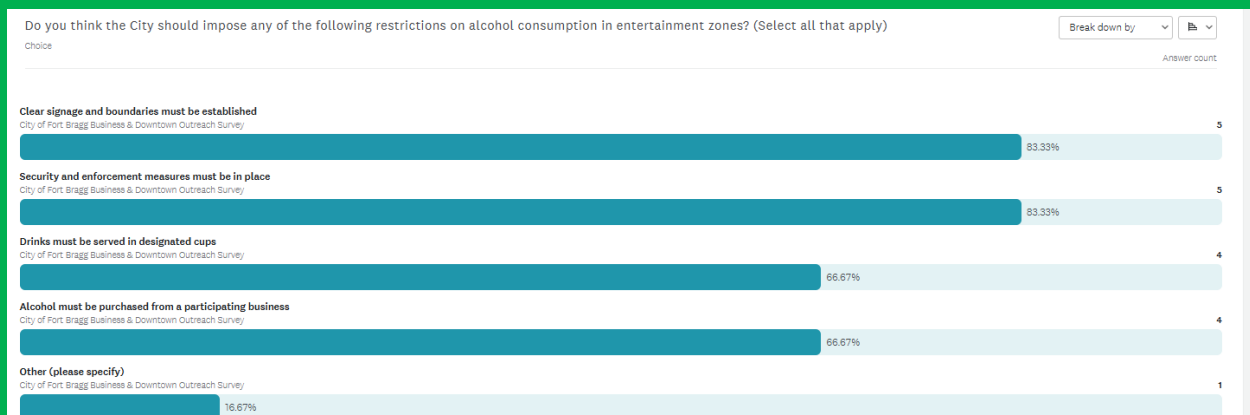
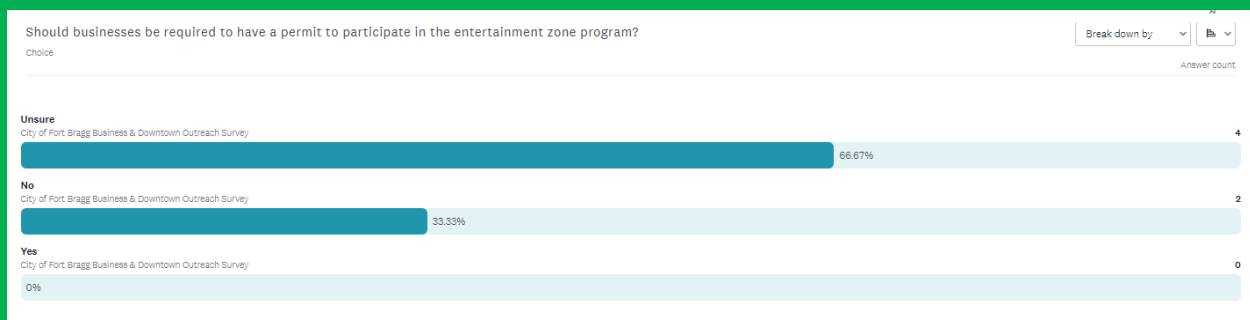
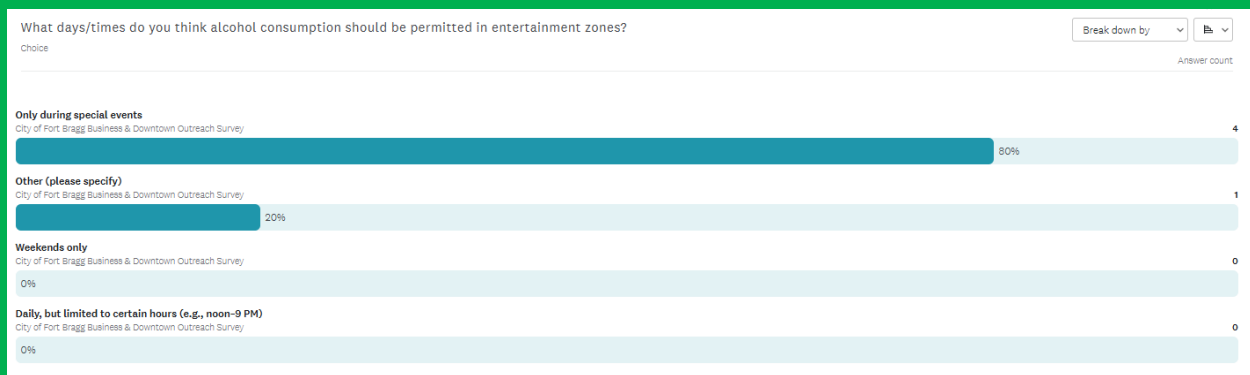
Other (please specify)

City of Fort Bragg Business & Downtown Outreach Survey

0







Entertainment Zone Participation Requirements and Guidelines

Detailed requirements and guidelines for participating in an established entertainment zone.

Requirements

Effective January 1, 2025, amendments to existing law allow for a city, county, or city and county to enact an ordinance that creates entertainment zones within their local jurisdiction. An established entertainment zone authorizes consumption of one or more types of alcoholic beverages on public streets, sidewalks, or public rights-of-way located within the defined boundaries of the entertainment zone. Licensees who would like to participate in an established entertainment zone must meet the following requirements:

1. Must be either a licensed beer manufacturer (e.g., Type 01, 23, 75), a licensed winegrower (e.g., Type 02), or an on-sale licensee (e.g., Type 41, 42, 47, 48). The example license types provided are not inclusive of all license types that may be able to participate. You should contact your local ABC office if you have questions about your ability to participate in an established entertainment zone.
2. The licensed premises that will be participating must be located within the defined boundaries of the established entertainment zone. You should contact the local jurisdiction responsible for creating the entertainment zone if you have questions about the defined boundaries.
3. Licensees who would like to participate in an established entertainment zone must notify the department of their intent to do so on an annual basis. This can be done on-line via the department's Entertainment Zone Notification Tool.

Guidelines

1. Only those alcoholic beverages allowable by the license type and the ordinance establishing the entertainment zone may be provided to patrons for purposes of participating in the entertainment zone's privileges.
2. Patrons leaving the participating licensed premises with an open alcoholic beverage container must exit the premises directly into the established entertainment zone. Additionally, this may only occur during the days and hours allowed by the ordinance establishing the entertainment zone.
3. No alcoholic beverages purchased at a participating licensed premises may leave the premises in an open glass or metal container.
4. Delivery of alcoholic beverages to consumers within the entertainment zone by the participating licensee or a third-party delivery service is prohibited unless the delivery is to a residential building or private business that is not a licensee.

5. Participating licensees whose privileges are restricted due to operating conditions or other statutory restrictions may be prohibited from exercising entertainment zone privileges that are contrary to those operating conditions or statutory restrictions. For example, a licensee with an operating condition that limits sales and/or consumption of alcoholic beverages to 10:00 P.M. must still abide by this condition regardless of the time allowable by the established entertainment zone. However, any operating conditions on the exercise of off-sale privileges shall not apply to the removal of open alcoholic beverage containers from the participating licensed premises for consumption within the entertainment zone.

It is the participating licensee's responsibility to understand the privileges and restrictions associated with participating in an established entertainment zone. Any violations associated with a licensee's participation in an established entertainment zone may subject the licensee to disciplinary action. Before participating in an established entertainment zone, licensees should familiarize themselves with the following sections of the ABC Act: Business and Professions Code Sections 23095.5, 23357, 23358, 23396, 25690, 25691, and 25692. Licensees should also be fully aware of the privileges and restrictions associated with the ordinance that established the entertainment zone.



City of Fort Bragg

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

File Number: 25-351

Agenda Date: 8/25/2025

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8C.

Receive Report and Provide Direction to Staff Regarding Initiating Project for Installation of Scenic Tower Viewer Binoculars Along Coastal Trail: Categorical Exemption 15061(b)(3).



CITY COUNCIL STAFF REPORT

TO:	City Council	DATE: August 25, 2025
DEPARTMENT:	Community Development	
PREPARED BY:	Sarah Peters, Assistant Planner	
PRESENTER:	Sarah Peters, Assistant Planner	
AGENDA TITLE:	Receive Report and Provide Direction Regarding Installation of Scenic Tower Viewer Binoculars on the Fort Bragg Coastal Trail	

BACKGROUND

At the March 3, 2025, Community Development Committee (CDC) meeting, members expressed interest in the possibility of installing binoculars on the Coastal Trail, and directed staff to include Binoculars as a subject for one of two Blue Zones Demonstration Projects that Blue Zones had allocated to the City of Fort Bragg. A Blue Zones Demonstration Project is a semi-permanent change to the physical infrastructure to prove a concept or need. It is a short-term project, typically research, that feeds into something permanent. The direction was that a demonstration project be done, similar to a pop-up event out on the Coastal Trail, that would allow users to use temporarily provided binoculars for viewing birds and the scenery out at the North Coastal Trail near Glass Beach, and to take a survey. Depending on the response and feedback obtained from this event, the binocular project could be considered for prioritization as a Marquee project, which is a permanent change to the built environment that encourages active transportation and living and that applies best practices for creating vibrant, livable communities and engaging people in collectively reimagining public spaces.

The Demonstration Project was held in coordination with the City of Fort Bragg, Blue Zones and Audubon, during the March 15 Whale Run, and the survey was launched.

Staff took both the fitness equipment and binocular projects to the City Council on June 9, 2025. At that meeting, Council directed staff to coordinate with Blue Zones Project Mendocino Coast to determine if the binocular project could become a Marquee project, and if so, to bring it back in more detail for Council consideration.

DISCUSSION AND ANALYSIS

Scenic tower viewer binoculars are often found at tourist destinations. Typically, the binoculars swivel side to side and are mounted on solid pedestal that keeps the view steady, unlike hand-held binoculars that can be difficult to hold still. Often the pedestal base will have steps to ease access for children and shorter adults. The purpose of these binoculars is to provide a more immersive and engaging way to enjoy the landscape by allowing users to see boats, birds, sea-life and other scenery more clearly and in greater detail than they

AGENDA ITEM NO. 8C

otherwise could. They can be used as an educational tool as well, as well as contribute to a positive recreational experience for visitors.

Regulatory Issues

A Coastal Development Permit (CDP) is required for any development in the coastal zone. Development means:

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the subdivision map act (commencing with Government Code Section [66410](#)), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg Nejedly Forest Practice Act of 1973 (commencing with Public Resources Code Section [4511](#)).

Installation of binoculars falls within this definition. The CDP staff report would analyze coastal resources, such as visual, biological, and cultural resources.

Magnification, Locations, Maintenance, and Other Considerations

Magnification. These viewers commonly come with 10X or 20X magnification. 10X magnification allows objects to appear ten times closer than they appear to the naked eye. For example, a bird 300 feet away would appear as if it were only 30 feet away. The maximum distance will depend on factors like atmospheric conditions and the size of the object. Clear skies and good visibility will allow you to see farther than in hazy or foggy conditions. Higher quality binoculars with better lenses and coatings will provide a clearer image, allowing for better visibility over longer distances. Magnification also means a narrower field of view, which can make it harder to find and track moving objects.

The images below demonstrate the difference between the naked eye and 10X, 20X and 35X magnification.



Coin Operated vs. Non-Coin Operated Viewers. Most of the companies that sell or lease these viewers offer both coin operated or non-coin operated. Advantages and disadvantages of coin-operated are listed below.

Advantages	Disadvantages
Cost is minimal (1-2 quarters) for a set viewing time, thus accessible to a wide range of visitors.	Many people no longer carry quarters in their pockets.
Inserting a coin adds an interactive element to the sightseeing experience.	Malfunctions of the coin mechanism could block use and cause frustration.
Paid viewing times are roughly 1.5-2.5 minutes, which could limit viewers from monopolizing the binoculars for long periods of time.	Limitations on quarter storage would require timely collection to prevent the viewer from becoming full. The range is approximately 700-2,000 quarters.
Could provide a source of income for the location, as visitors pay to use them.	Reduced access and usage by trail visitors.

Weatherproofing and Durability. The marine environment with its high degree of moisture and salt air is very hard on materials. The viewers we have looked at claim to be very weather resistant to the coastal climates in which they are frequently found. Manufacturers often use materials like stainless steel and incorporate features to withstand weather, humidity, and vandalism. Many models are designed to be waterproof and resistant to fogging, often with nitrogen-filled optics.

Factors affecting durability include –

- **Frequency of Use:** While designed for public use, extremely high usage might necessitate more frequent maintenance or replacement parts over time.
- **Exposure to Extreme Conditions:** Prolonged exposure to very harsh environments, such as constant salt spray or exceptionally high humidity, might accelerate wear and tear, even with protective designs. Our salt spray environment is classed in this category.
- **Maintenance and Servicing:** Proper care, including regular cleaning and attention to potential issues like stiff focusing or seal deterioration, can significantly prolong the lifespan of the binoculars.

Maintenance. There will be some on-going maintenance. Depending on the machine type, examples include:

- Application of lubricant on a monthly basis.
- Routine cleansing of lenses.
- Touch-up paint as needed to cover any nicks or scratches on powder-coated surfaces.

- Polishing the viewer heads on which the finish may dull over time.
- Coin collection.

Age Restrictions. Most scenic tower viewers do not have specific age restrictions; however, the following considerations may influence ease of use for children:

- **Height:** Young children might need assistance or a boost to reach the eyepieces comfortably.
- **Interpupillary Distance (IPD):** These viewers often have a fixed IPD, which might not be ideal for very young children whose eyes are closer together.
- **Understanding the mechanism:** Children may need help understanding how to operate coin-operated models.

Accessibility. There are accessible options available from all of the manufacturers researched by staff. Some fit the standard equipment with an ADA compliant wheelchair accessible base that allows anyone in a wheelchair or at wheelchair height to access the viewer. Another option offered by at least two manufacturers is a “Dual Viewer” which is a model that provides two viewing heads off of one post – one at standard height and one at wheelchair (ADA) height. Below are examples of the two types:

Wheelchair Accessible



Dual Viewer Model

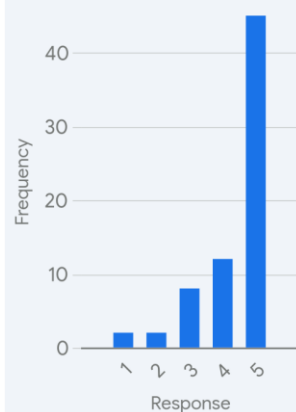


Utilization. Scenic viewer binoculars are popular at tourist destinations and are frequently found at scenic overlooks, observation decks, and other popular attractions to allow visitors to get a closer look at the surrounding landscape.

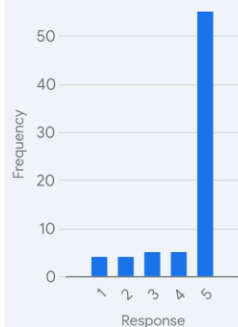
Survey.

A Demonstration Event was held on March 15, 2025, during the Whale Run event. It was coordinated by City staff, Blue Zones staff, and the local Audubon. A survey was conducted during that event and kept open online for one month. The results of the survey were mostly favorable to installation of binoculars along the trail. See graph below and full survey attached.

Distribution of Responses for "On a scale of 1-5, how much do you enjoy binocular viewing in this location?"



Distribution of Responses for "Do you believe permanently mounted binoculars would be a good addition to the Coast Headland Trail?"



Potential Locations. The maps below illustrate potential locations that may be suitable for installation of scenic viewer binoculars. The ideal location will already have concrete that the binocular base can be bolted to, which would streamline the process by not requiring new concrete pads to be poured.

South Coastal Trail Picnic Area, Near Parking Lot



South Coastal Trail Locations



South Coastal Trail Near the Crow's Nest



Otsuchi Point





FISCAL IMPACT/FUNDING SOURCE

Approximately \$22,500 - \$45,000 depending on chosen model/vendor and excluding site work, installation or permitting fees. This includes three stations with the accessible option. If bolting onto existing pads, installation could be done by Public Works staff. If the City needs to install pads, this would likely need to be contracted out, thereby increasing the cost. Shipping and Handling is factored in at a roughly estimated \$1,500 but could be more or less than that. Costs over and above \$35,000 could come from the General Fund. The manufacturers we are looking at include *SeeCoast Manufacturing Company, Inc.*, *Tower Optical Co., Inc.*, and *Hi-Spy Viewing Machines*.

Blue Zones Project (BZP) would contribute up to \$35,000. For approval, they would require a Memorandum of Understanding (MOU) with the City of Fort Bragg to ensure equipment maintenance after purchase. The MOU would include term/date details, costs, binocular details, City project planning approval, Blue Zones promotion requirements, i.e. donation plaque, etc. The city would need to be set up as a vendor with BZP to receive funds, unless Blue Zones purchases the equipment directly from the manufacturer.

BRANDING AND RECOGNITION

If the City of Fort Bragg accepts Blue Zones Project funding to purchase and install the mounted binoculars as considered in this report, the gift would be recognized by a donation plaque, powder-coated logo on the equipment, or something comparable as mutually agreed upon by the City of Fort Bragg staff and Blue Zones Project Mendocino County.

ENVIRONMENTAL ANALYSIS

The direction requested is covered by the 15061(b)(3) common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Direction from the Council does not commit the City to installation of the binoculars which is subject to a CDP. Environmental impacts would be analyzed in a Coastal Development Permit concurrent with the City committal to the installation.

TIMELINE

Blue Zones Program funding to be expended and equipment installed by the end of December.

STRATEGIC PLAN/COUNCIL PRIORITIES/GENERAL PLAN CONSISTENCY

General Plan Policy OS-17.3 Recreational Facilities: Provide recreational facilities to meet the needs of all Fort Bragg citizens, especially children and teenagers.

Strategic Goal 4: Enhance public spaces, promote recreation, and cultivate civic pride.

Strategic Goal 4E: Expand, improve, and repair parks, green spaces, and urban forests to encourage nature-immersed recreation.

COMMUNITY OUTREACH

- CDC discussion March 3 and June 2, 2025
- Coastal Trail Binocular Demonstration Event on March 15, 2025
- Coastal Trail Binocular Survey initiated March 15, 2025

COMMITTEE REVIEW AND RECOMMENDATIONS

Initiated through the Community Development Committee. See background section.

RECOMMENDATION

That the City Council: 1) receive staff report; 2) take public comment; 3) deliberate; and 4) provide direction to staff regarding whether or not staff should undertake permitting, environmental review and installation of scenic tower viewer binoculars on the Coastal Trail and if yes, provide feedback to staff regarding whether to install coin operated machines, whether to include ADA binoculars and preferred locations.

ALTERNATIVES

Provide other direction to Staff.

ATTACHMENTS

1. Survey
2. Vendor Comparison

NOTIFICATION

"Notify Me" subscriber lists

What is your age range?	Are you local or visiting?	How often do you visit The Coast Headlands Trail in Fort Bragg?	On a scale of 1-5, how much do you enjoy binocular viewing in this location?	Do you believe permanently mounted binoculars would be a good addition to the Coast Headland Trail?	Would you be more likely to walk the Coast Headlands Trail if there were features such as mounted binoculars available for public use there?	Do you have any concerns with adding binoculars on the trail?	Would you pay money to use mounted binoculars if they were "pay-per-use?"	If there was fitness equipment along the trail, how likely would you be to use it?	Do you have any other suggestions for improving the Coast Headlands Trail?
35-44	Local	More than 10 times a year	4	5	Yes		Depends on who was recieving the fees.	5	
25-34	Local	More than 10 times a year	5	5	Yes	No	No	5	
35-44	Local	More than 10 times a year	5	5	Maybe	NA	No	3	NA
25-34	Local	More than 10 times a year	3	4	Maybe		No	5	
25-34	Visiting from 30-90 minutes away	2-4 times a year	5	5	Yes		Yes	5	
45-54	Local	More than 10 times a year	5	5	No	None	Yes i would but i wouldn't have had the means when I was a young parent. Please make them free	3	
25-34	Visiting from 30-90 minutes away	Once a year or less	4	5	Yes	Nope	Yes	3	No :)
35-44	Visiting from outside the area	2-4 times a year	4	5	Yes		Yes	3	Thank you
65 or older	Local	More than 10 times a year	4	5	Yes	no	No	4	convenience makes use more likely
65 or older	Local	More than 10 times a year	5	5	Maybe		Yes	2	
55-64	Local	More than 10 times a year	5	5	Maybe	Vandalism	If it's reasonable	4	
55-64	Visiting from outside the area	2-4 times a year		5	Maybe	Vandalism	Yes	1	Binoculars in other areas up and down the coast from fort bragg
35-44	Local	More than 10 times a year	1	5	Yes	Making them wheelchair accessible height	No	1	Better wheelchair access
65 or older	Local	More than 10 times a year	3	1	No	Ruins the natural beauty of the area. Spoils the sight-lines.	No	1	
35-44	Local	More than 10 times a year	5	3	No	Wondering how long it will last before someone decides to damage them and is it cost effective to repair?	No	5	To fix the spot that gets big puddle is a problem during running/walk events or walking with friends during winter. Overall great job maintaining the trail.
45-54	Local	5-10 times a year	5	5	No		Maybe	4	
45-54	Visiting from 30-90 minutes away	5-10 times a year		5	Yes	No	Yes	5	
45-54	Local	More than 10 times a year	5	2	No	Yes. Look around. The City doesn't have the resources or isn't capable of maintaining what they currently have. Most things have been become rundown and look worse every year. Before long the binoculars will become an unusable eyesore by vandalism and/or neglect.	Maybe if we had visitors and not enough binoculars to go around.	2	Clean up messes and vandalism more promptly and make better, more professional looking repairs.
45-54	Local	More than 10 times a year	5	5	No	If they are directly on the trail, they may impede pedestrian, bike, skate, or scooter traffic. It would be great if they had designated spaces with a bench or two.	Yes. If it took quarters, I would bring them with me on my walk!	1	No, it is phenomenal. Thank you!

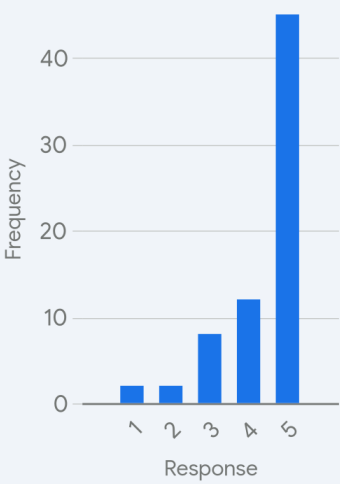
What is your age range?	Are you local or visiting?	How often do you visit The Coast Headlands Trail in Fort Bragg?	On a scale of 1-5, how much do you enjoy binocular viewing in this location?	Do you believe permanently mounted binoculars would be a good addition to the Coast Headland Trail?	Would you be more likely to walk the Coast Headlands Trail if there were features such as mounted binoculars available for public use there?	Do you have any concerns with adding binoculars on the trail?	Would you pay money to use mounted binoculars if they were "pay-per-use?"	If there was fitness equipment along the trail, how likely would you be to use it?	Do you have any other suggestions for improving the Coast Headlands Trail?
55-64	Local	More than 10 times a year	5	5	Maybe	Yeah, they are going to be vandalized completely within 3 months just like the bike repair station at the Alder St bathrooms by the Mill pond. This is a great idea, but it will not work, and will fail as another disappointing public effort to make our city nicer. It's why we can't have nice things. I would be happy to be wrong, but I just see history repeating itself.	No	5	Empty trashcans daily and fix the ruts. Wildflowers would be nice and I would pledge good, hard, and substantial cash money for native wildflowers for the coastal trail and the mill site. A seeding project or similar.
35-44	Local	More than 10 times a year	5	5	Yes		Yes	4	
25-34	Local	More than 10 times a year	5	5	Maybe		Yes	1	
55-64	Local	More than 10 times a year	3	3	No	Vandals will break them and it will be costly to the city to maintain them. Sorry but that seems to be the case around here if it's not graffiti then it's destruction.	I would not, but a tourist probably would	1	Getting rid of the stinky smell of sewage by the crows nest
65 or older	Local	More than 10 times a year	3	2	No	Maintenance cost/vandalism?	No	1	Benches to sit on along the path
45-54	Local	More than 10 times a year	5	5	Yes	No concerns	I thi k they should be free for all	3	Center trail access parking lot should be paved
55-64	Local	More than 10 times a year	5	5	Yes	Vandalism	I'd prefer them to be free, everything now a days makes you pay for something.	3	
45-54	Local	More than 10 times a year	5	5	Maybe	Potential vandalism	No	1	
65 or older	Local	More than 10 times a year	5	5	Maybe	A way to protect them from vandalism	Yes	5	
35-44	Local	5-10 times a year	4	5	Yes	My only concern is the chance of them getting damaged by the weather/waves/salty air	Yes	5	More benches or seating areas. Maybe even a picnic table or few
45-54	Local	More than 10 times a year	5	5	Maybe	No	No	5	Simple/minimal exercise equipment would be spectacular along the coastal trail. The type of equipment they have in Santa Monica would be perfect. This community has a serious obesity problem, I think locals would be really into it. Having some for the younger kids would also be really great.
55-64	Local	More than 10 times a year	5	5	Yes	No	No	2	Work on removing the invasive non native wild radish and ice plant!
65 or older	Local	2-4 times a year	3	3	Maybe	People my vandalize them	Depends on how much.	4	More distance markers. More benches.

What is your age range?	Are you local or visiting?	How often do you visit The Coast Headlands Trail in Fort Bragg?	On a scale of 1-5, how much do you enjoy binocular viewing in this location?	Do you believe permanently mounted binoculars would be a good addition to the Coast Headland Trail?	Would you be more likely to walk the Coast Headlands Trail if there were features such as mounted binoculars available for public use there?	Do you have any concerns with adding binoculars on the trail?	Would you pay money to use mounted binoculars if they were "pay-per-use?"	If there was fitness equipment along the trail, how likely would you be to use it?	Do you have any other suggestions for improving the Coast Headlands Trail?
25-34	Local	More than 10 times a year	2	2	No	Unfortunately, mounted binoculars are a gimmicky tourist attraction (especially pay per use ones) and would cheapen the coastal trail. Perhaps the Noyo Center could own and rent out regular binoculars instead. The coast should avoid cheap attractions like this, as they will make FB feel like a tourist trap, rather than a living breathing cultural space.	No	5	A good test for adding anything to the coastline would be to ask if tourists And locals are likely to use it. Can it build community in any way? The trolley, for example, will be a failure if it's Just for tourists, and isn't ultimately useful to locals. Exercise equipment would be both, and has potential to build community (similar to the exercise space on the beaches in Barcelona). Anything that would wear out its novelty so that locals won't like it in the end won't ultimately increase the experience for tourists either. Binoculars are not something that will actively increase tourism in Fort Bragg.
55-64	Local	More than 10 times a year	5	5	No	vandalism.	No	2	signage about proper trail behavior (ringing bike bells etc) and NOT FEEDING WIDLIFE- and ENFORCEMENT!
35-44	Local	More than 10 times a year	5	5	Maybe	No	Yes	5	
25-34	Local	More than 10 times a year	5	5	Yes	No	No	3	
25-34	Local	More than 10 times a year	5	5	Yes		No	2	
55-64	Local	More than 10 times a year	5	5	Maybe	vandalism is my only concern.	No	3	Plant native plants to attract more native species of birds and small mammals. Provide natural food and cover for them to feel safe. Don't **BUILD** anything more on the trail unless it's a gazebo-like structure to protect the scopes/binoculars. Don't clear the brambles of berries during Spring and Summer (wait til winter!). Consider that we have visiting rare species on that particular stretch of coastline every fall and winter - the Burrowing and Short-eared Owls, among them. It's a spectacular sight to witness a Short-eared Owl hunting over the wide open expanses of headlands, looking for food. If we plant native plants that bear fruits and seeds, that will attract the prey animals the owls are looking for. It will create a valuable ecosystem for them, especially if there's low disturbance. I like the idea of leaving most of the headlands wild and free, for the sake of the wildlife.
45-54	Local	More than 10 times a year	5	5	Maybe	No	Yes	5	
35-44	Local	5-10 times a year	2	4	No	No	Maybe	2	
65 or older	Visiting from outside the area	Once a year or less	4	5	Maybe	Vandalism and on going cost of repairs.	Yes	3	Not at this time.
35-44	Local	2-4 times a year	4	5	Yes		No	1	
18-24	Local	More than 10 times a year	5	5	Maybe		No	1	
25-34	Local	More than 10 times a year	4	4	Maybe	A couple here and there would be great, just hopefully with room in front of them to have an unobstructed view	I use my own	4	There are a few areas in the main part of the trail that become unusable when there's heavier rain. Needs to be fixed somehow

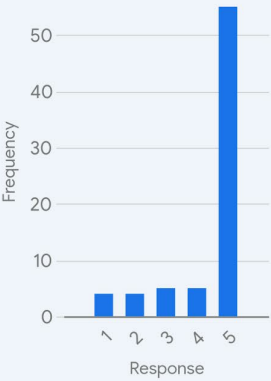
What is your age range?	Are you local or visiting?	How often do you visit The Coast Headlands Trail in Fort Bragg?	On a scale of 1-5, how much do you enjoy binocular viewing in this location?	Do you believe permanently mounted binoculars would be a good addition to the Coast Headland Trail?	Would you be more likely to walk the Coast Headlands Trail if there were features such as mounted binoculars available for public use there?	Do you have any concerns with adding binoculars on the trail?	Would you pay money to use mounted binoculars if they were "pay-per-use?"	If there was fitness equipment along the trail, how likely would you be to use it?	Do you have any other suggestions for improving the Coast Headlands Trail?
65 or older	Local	More than 10 times a year	4	3	No		No	1	Keep it as natural as possible. Don't make it into an amusement park. It is a beautiful place to observe and experience nature. Leave it that way.
45-54	Local	More than 10 times a year	3	3	Maybe	Will they be weather proof - our coastal is particularly rough on equipment like this. What is the cost and longevity when faced with the "coastal cancer" effect	No	1	seats/pick nic areas, parking areas for bikes, better historical/education maps
55-64	Local	More than 10 times a year		1	No	Visually unappealing, unsanitary, unnecessary- many people have binoculars and bring them with them.	No	1	
17 or younger	Local	More than 10 times a year	4	5	Yes	I worry if they are pay to use. They may be vandalized and they will not be used.	No	3	Add more garbage cans along the trail to reduce litter.
17 or younger	Local	More than 10 times a year	4	5	Yes	I worry if they are pay to use. They may be vandalized and they will not be used.	No	3	Add more garbage cans along the trail to reduce litter.
65 or older	Local	More than 10 times a year	4	5	No	no.	Yes	5	
45-54	Local	2-4 times a year	5	5	Yes	Vandalism	Yes	5	
35-44	Visiting from 30-90 minutes away	2-4 times a year	3	5	Maybe		Yes but not everyone may be able to afford	1	
65 or older	Local	5-10 times a year	3	1	No	I think they detract from the natural beauty of the area	No	2	I am not opposed to a "par course for fitness" as long as it is E of the trail
17 or younger	Local	5-10 times a year	5	5	Yes	Nope	Yes	5	Nope
45-54	Local	More than 10 times a year	5	5	Yes	Absolutely not i think is a grate idea especially if little kids can see the whales and boats and other marine animals.	Yes	3	Yes ha a bike trail and walking way for people separate.
17 or younger	Local	More than 10 times a year	5	5	Yes		Yes	5	
45-54	Local	More than 10 times a year	5	4	Yes	No	Yes	4	No
65 or older	Local	5-10 times a year		5	Yes		No	1	I'm very against charging money! I'm sick of having to pay for everything. Let all people have the opportunity to use the binoculars free of charge.
65 or older	Local	More than 10 times a year	5	2	No	Generally those type of mounted binoculars aren't very good and are difficult to adjust, especially for children and elderly folks.	No	4	perhaps putting a lane on the right side for bikes/roller blades and thereby separating the walkers from the bikers - it would be safer.
55-64	Local	More than 10 times a year	5	5	Maybe		Yes	1	
25-34	Visiting from 30-90 minutes away	2-4 times a year	5	5	Yes		No	4	
65 or older	Visiting from 30-90 minutes away	2-4 times a year	5	5	Maybe	I am always concerned with vandalism.	Yes	3	

What is your age range?	Are you local or visiting?	How often do you visit The Coast Headlands Trail in Fort Bragg?	On a scale of 1-5, how much do you enjoy binocular viewing in this location?	Do you believe permanently mounted binoculars would be a good addition to the Coast Headland Trail?	Would you be more likely to walk the Coast Headlands Trail if there were features such as mounted binoculars available for public use there?	Do you have any concerns with adding binoculars on the trail?	Would you pay money to use mounted binoculars if they were "pay-per-use?"	If there was fitness equipment along the trail, how likely would you be to use it?	Do you have any other suggestions for improving the Coast Headlands Trail?
35-44	Local	2-4 times a year	5	4	No	People don't know how to act right	No	1	PPV for nature viewing is lame, and won't work anyway because everyone uses credit card, nobody will have quarters/change. If it has to be PPV, let viewers know explicitly where the funds are going. If you do something involving people needing change, I recommend the penny smasher machine because people love a tangible souvenir. I don't know if permanent binocular stations are a thing of the past/nostalgia, I grew up with and love them, but/and I would love to know what younger people think, the attention span and interest is different. Please survey a lot of younger people for this. I support small QR codes with info about leave no trace/why (i.e. this won't be here anymore if you don't). With any viewing thing, always present info about preservation/how to act in multilingual format (beyond Spanish/English bilingual), there are tourists from everywhere who don't have context or know how to engage with the natural environment (no fault of their own, it is an education opportunity).
65 or older	Visiting from outside the area	Once a year or less	5	5	Yes			5	
35-44	Visiting from outside the area	This is my first time here	5	5	Yes		Yes	4	
65 or older	Visiting from outside the area	This is my first time here	5	5	Yes	vandals	Yes	1	
65 or older	Visiting from outside the area	Once a year or less	5	5	Yes	no	Yes	5	It's beautiful! Thank you
35-44	Visiting from outside the area	2-4 times a year	5	5	Yes	no	Yes	1	no
45-54	Visiting from outside the area	This is my first time here	5	5	Yes		Yes	5	
25-34	Visiting from outside the area	Once a year or less	5	5	Yes	no	No	5	
25-34	Local	More than 10 times a year	5	5	Yes	vandals		5	donation box
65 or older	Visiting from outside the area	2-4 times a year	1	1	No	no	No	1	
65 or older	Local	More than 10 times a year	5	5	Yes		Yes	5	

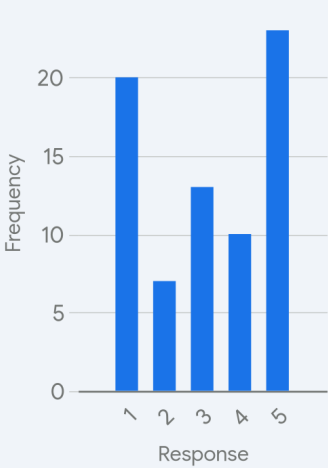
Distribution of Responses for "On a scale of 1-5, how much do you enjoy binocular viewing in this location?"



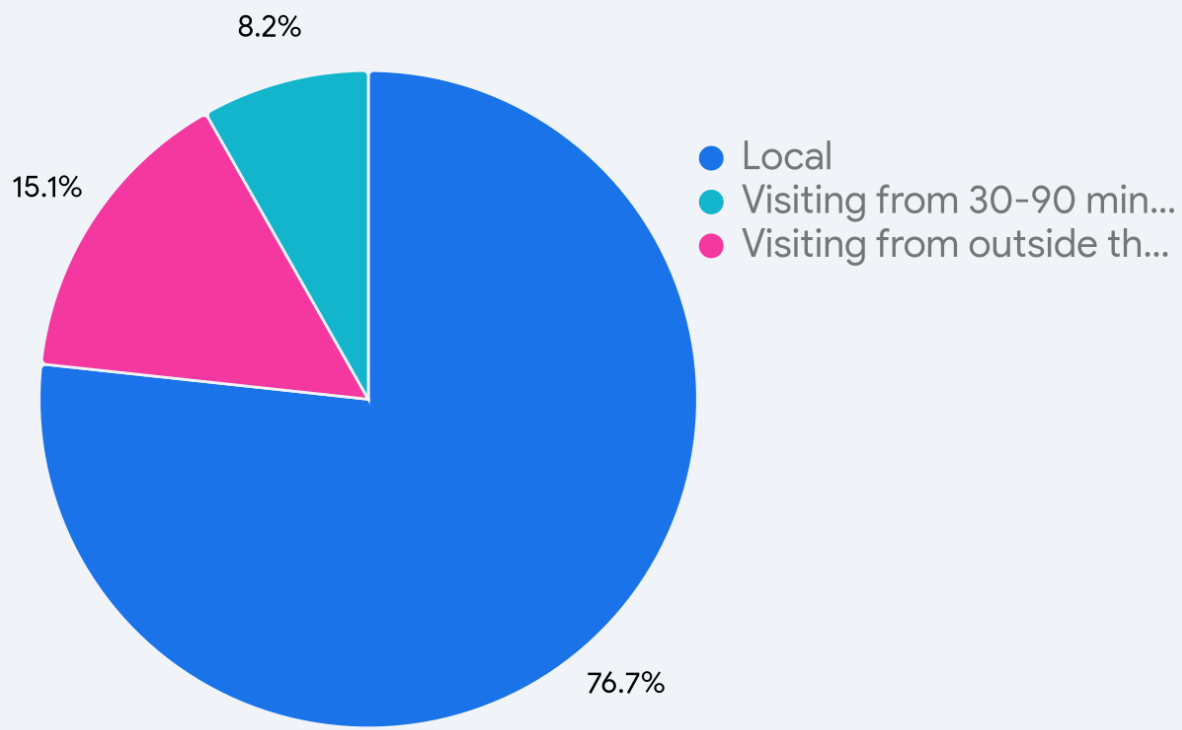
Distribution of Responses for "Do you believe permanently mounted binoculars would be a good addition to the Coast Headland Trail?"



Distribution of Responses for "If there was fitness equipment along the trail, how likely would you be to use it?"



Distribution of Respondents by Locality



VENDOR COMPARISON

Features	Hi-Spy Dual Viewer Model	SeeCoast Mark III	Tower
Cost Each	\$7,826	\$11,800 (2 viewers+base)	\$9,000
Cost for 3 Units	\$20,449 + S&H	\$35,400 + S&H (combined ADA and Standard, single base)	\$45,000 + S&H (3 ADA + 3 Standard)
Magnification*	20X60	10X50	10X42
Field of View*	120' at 1000 yards	366' at 1000 yards	318' at 1000 yards
Focus System	Manual	No info	Manual
ADA Accessible design	Yes	Yes	Yes
Warranty	5 years all parts	3 years on manufacturing defects	Lifetime warranty on all parts
Lead Time	2-3 weeks	5-6 months	2-4 weeks (shipped by truck within 2 weeks of signed contract)
Returns	Up to 15 days, must pay shipping	No returns	Up to 30 days, must pay shipping
Maintenance by	City	City	City
Non-Coin Operated Option	Yes	Yes	Yes
Height	60 inches + ADA accessible height	60" + ADA accessible height	63 inches (overall), ADA=51"
Weight	120 lbs	95 lbs	300 lbs
Rotational Angles	360°, vertical +/-30°	360°, 40° up or down	360°, 45° up or down
Viewing Time	N/A	1.5 – 2 minutes	1.5 or 2.5 minutes
Construction	Viewing head: painted aluminum. Support arms: aluminum. Main tube: powder coated aluminum 0.1875" wall thickness. Base: powder coated aluminum.	356 aluminum alloy castings with a 4.5" diameter aluminum column.	Housing: Chrome plated bronze casting. Yoke, pedestal, base, step-ups: Cast iron. Internal: Bronze and stainless steel
Color Options	Textured black w/aluminum head is standard. Sierra tan, moss green, blue, green and red also available.	Sepia Hammer-tone, Hammer Grey, and Capri Blue	Housing: Chrome Plated Yoke, Pedestal, Base: Black, other colors also available.
Other	Dual viewer: non-coin operated only	Hand made to order	Stand alone models only, no dual viewer models

Magnification and Field of View. The lower the magnification, the smaller the image but the wider the field of view. For example, if you want to see all the sailboats in the lake, use 10X. If you want to see just the people on one boat, use a higher magnification.

In a 10X50 binocular, the first number (10) refers to the magnification, or how many times closer an object will appear when looking through the binocular compared to looking at the same object with the naked eye. The second number (50) indicates the diameter of the objective lens (the light-gathering lens at the far end of the binocular) in millimeters.

Aperture. Regarding the objective (front) lens size: the bigger the lens, the heavier the binocular. A larger lens will provide a brighter image (all other things being equal), but the compromise is increased size and weight of the viewer. For example, a compact binocular has a very small objective lens size, and will not be as bright, especially in low light conditions such as dawn, dusk, or in the woods.

Websites: [Hi-Spy Viewing Machines](#), [Tower Optical Co., Inc.](#), [SeeCoast Manufacturing Company, Inc.](#)



City of Fort Bragg

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Text File

File Number: 25-356

Agenda Date: 8/25/2025

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 8D.

Receive Report and Consider Adopting City Council/Municipal Improvement District Resolution Awarding the Bio Solids Material Storage Building Project, City Project No. WWP-00025, to FRC, Inc. as the Lowest Responsible Bidder, and Authorizing the City Manager to Execute Contract (Not To Exceed \$973,099.60)



CITY COUNCIL STAFF REPORT

TO: City Council and Municipal Improvement District Board
DATE: August 25, 2025

DEPARTMENT: Public Works Department

PREPARED BY: Alfredo Huerta, Assistant City Engineer

PRESENTER: Alfredo Huerta, Assistant City Engineer

AGENDA TITLE:

Receive Report and Consider Adopting City Council/Municipal Improvement District Resolution Awarding the Bio Solids Material Storage Building Project, City Project No. WWP-00025, to FRC, Inc. as the Lowest Responsible Bidder, and Authorizing the City Manager to Execute Contract (Not to Exceed \$973,099.60)

RECOMMENDATION

Adopt City Council/Municipal Improvement District Resolution Awarding the Bio Solids Material Storage Building Project, City Project No. WWP-00025, to FRC, Inc. as the Lowest Responsible Bidder, and Authorizing the City Manager to Execute Contract (Not to Exceed \$973,099.60).

BACKGROUND

The Bio Solids Material Storage Building Project (Project) construction was advertised for bidding in July 2025. The Project is in the City's 2025/2026 Capital Project list with a budget of \$1,017,421. Bids for the construction of the Project were opened on August 15, 2025. Six (6) bids were received (Attachment 2), with the lowest bid coming from FRC, Inc. (FRC) for \$973,099.60. The contractor has the proper license and experience and meets the requirements to be considered a responsive bidder, and staff recommends making the award.

DISCUSSION AND ANALYSIS

Originally constructed in 1970, the City of Fort Bragg's Wastewater Treatment Facility (WWTF) still retains components from this original build, despite the reconstruction of the primary treatment operations in 2018. The City obtained Planning Commission approval of a Coastal Development Permit (CDP 2-16) and Design Review Permit (DR 2-16) for the WWTF renovation and upgrades in October 2016. The CDP and DR permitted the installation of an activated sludge treatment system, a new dewatering building, a new sludge holding area, a splitter box and pump station, the conversion of the existing primary and secondary clarifiers to emergency/surge basins, and the renovation of interior site access ways and modified catchment basins. The City then

obtained approval of CDP 5-18 to place approximately 12,000 cubic yards of clean soil associated with the construction of the Wastewater Treatment Facility on the Noyo Center Site.

For this current project, the City obtained a Coastal Development Permit (CDP 9-24) and Design Review Permit (DR 12-24). The Project consists of constructing a wood-frame storage building for dried biosolids, approximately 50 feet by 100 feet in size, with a 4-foot concrete stem wall, open on one side and enclosed on the three remaining sides. This building will be constructed over one of the existing sludge drying slabs. The construction of this building will help reduce the overhandling of the material by WWTP staff by keeping biosolid material in a dry space.

The design Architect, Calpo Hom & Dong Architects, completed the design in July 2025, and City staff put the Project out to bid shortly after on July 17th, 2025. The City received five (5) responsive bids and one (1) non-responsive bid when the bid period closed on August 15, 2025. Responses and valuations are as follows: DMR Builders for \$1,065,552; E Thompson Construction for \$1,227,108; FRC, Inc. for \$973,099.60; Jess Construction (Non-Responsive) for \$1,215,500; Kirby Construction Co. for \$1,160,952.90; and Plummerbuilt Inc. for \$1,238,992. As required by the California Public Contract Code and the City's Municipal Code, the apparent low bidder is being recommended for the contract award.

FISCAL IMPACT/FUNDING SOURCE

This project was budgeted for \$1,017,421 in the FY 25/26 budget, which was carried over and increased from the previous fiscal year after the final engineer's estimate was provided by the design team. This capital improvement project will be funded in most part by using Wastewater Enterprise Capacity fees; about \$750,000 of Capacity fees will be used and the remaining amount will be covered by Wastewater Enterprise Fund.

The lowest total bid from FRC is \$973,099.60, leaving a contingency of \$44,321.40, most of which will be used for permitting, inspections, and monitoring. This project requires a building permit and inspections with an estimated cost of \$6,000 and Tribal Monitoring during earth-moving activities with an estimated cost of \$25,000 that were not previously accounted for.

ENVIRONMENTAL ANALYSIS:

The Project is subject to a Mitigated Negative Declaration (MND) under the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"), which was adopted at the December 11, 2024, Planning Commission meeting. The MND was prepared for the construction of this building, as well as the reconstruction of the bio solids dryer building and the installation of solar panels. Mitigation measures included in the MND for this project include restrictions on ground disturbance (Allowed from August 31 to January 31), removal of ice plant, and Tribal Monitoring requirements during earth-moving activities.

There will be a short-lived increase in greenhouse gas emissions during the construction phase due to the equipment necessary for the performance of the work. Increases in greenhouse gases will only occur during actual construction. All Air Quality Management District best management practices for minimizing greenhouse gas emissions during construction will be incorporated into the daily activities of this project.

STRATEGIC PLAN/COUNCIL PRIORITIES/GENERAL PLAN CONSISTENCY

This project does not conflict with any Coastal General Plan policies. The proposed project would upgrade a portion of the existing WWTF to meet the City's ongoing needs and ensure that the WWTF is adequate to provide services for the community.

ALTERNATIVES:

Direct staff to reject all current bids and re-bid the project.

ATTACHMENTS:

1. Resolution
2. Bid Opening
3. Contract

NOTIFICATION:

1. DMR Builders
2. E Thompson Construction
3. FRC, Inc.
4. Jess Construction
5. Kirby Construction Co.
6. Plummerbuilt, Inc.

RESOLUTION NO. ____-2025
RESOLUTION OF THE FORT BRAGG CITY COUNCIL
and
ID RESOLUTION NO. ____-2025

**RESOLUTION OF THE FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT
AWARDING THE BIO SOLIDS MATERIAL STORAGE BUILDING PROJECT,
CITY PROJECT NO. WWP-00025, TO FRC, INC. AS THE LOWEST
RESPONSIBLE BIDDER, AND AUTHORIZING CITY MANAGER TO EXECUTE
CONTRACT (AMOUNT NOT TO EXCEED \$973,099.60)**

WHEREAS, in September 2024, the City entered into a professional services agreement with Calpo Hom & Dong Architects (CH&D) to provide design and engineering services for the Bio Solids Material Storage Building Project, Project Number WWP-00025; and

WHEREAS, the project was part of a Coastal Development Permit (CDP 9-24) and Design Review (DR 12-24) Permit that was presented to the Planning Commission and approved on December 11, 2024; and

WHEREAS, in accordance with California Public Contract Code 20164 and other applicable laws, the Bio Solids Material Storage Building Project, WWP-00025 (the "Project") was advertised for bid on July 17, 2025; and

WHEREAS, five (5) responsive bids and one (1) non-responsive bid were received and opened on August 15, 2025, for this Project (Exhibit A); and

WHEREAS, FRC, Inc. (FRC) is the low bidder with a total bid price (including alternates) of \$973,099.60, and the City has confirmed that FRC has the proper license and experience and meets the requirements to complete the Project as bid; and

WHEREAS, the Project is the subject of a Mitigated Negative Declaration pursuant to the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"); and

WHEREAS, funds in the amount of \$1,017,421 were appropriated in the FY 2025/26 budget for this activity, and sufficient funds are available to award this contract; and

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

1. The bid of FRC, Inc. meets the requirements of the Project bid documents and is considered responsive.
2. FRC, Inc. has the proper licenses to complete the Project and, based upon previous experience in completing similar projects, is a responsible bidder.
3. Sufficient funds are available to complete the Project.

NOW, THEREFORE, BE IT RESOLVED that the District Board of the Fort Bragg Municipal Improvement District No. 1 does hereby approve a contract with FRC, Inc. for the Bio Solids Material Storage Building Project, Project No. WWP-00025, and authorizes the

District Manager to execute the same upon execution by the Contractor (amount not to exceed \$973,099.60 Account 716-7010-0731).

The above and foregoing Resolution was introduced by Board Member _____, seconded by Board Member _____, and passed and adopted at a regular meeting of the District Board of the Fort Bragg Municipal Improvement District No. 1 held on the 25th day of August, 2025, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

JASON GODEKE
Chair

ATTEST:

Diana Paoli
District Clerk



CITY OF FORT BRAGG

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

BID OPENING Bio Solids Material Storage Building Project City Project No. WWP-00025

Bids were opened on August 15, 2025, at 2:00 p.m. by Diana Paoli, District Clerk. City staff present in addition to the District Clerk included: Emily Reno, Alfredo Huerta and Heath Daniels.

Six (6) bids were received. Said bids were from:

1.	DMR Builders 2725 Guerneville Road Santa Rosa, CA 95401	Base Bid Base + Alt	\$1,044,552.00 \$1,065,552.00
2.	E. Thompson Construction 30751 Pudding Creek Road Fort Bragg, CA 95437	Base Bid Base + Alt	\$1,215,858.00 \$1,227,108.00
3.	FRC, Inc. 9680 Old Redwood Highway Windsor, CA 95495	Base Bid Base + Alt	\$ 952,007.62 \$ 973,099.60
4.	Jess Construction 208 Park Street Fort Bragg, CA 95437	Base Bid Base + Alt	\$1,150,500.00 \$1,215,500.00
5.	Kirby Construction Company, Inc. 625 Ware Avenue Santa Rosa, CA 95404	Base Bid Base + Alt	\$1,110,952.90 \$1,160,952.90
6.	Plummerbuilt, Inc. P.O. Box 474 Heald, CA 95638	Base Bid Base + Alt	\$1,210,322.00 \$1,238,922.00

The bids will be reviewed by City Staff and a recommendation will be made to the Fort Bragg City Council/Fort Bragg Municipal Improvement District No.1 at its regular meeting of August 25, 2025, at 6:00 p.m., or as soon thereafter as the matter may be heard.

Dated: 8/15/2025

Diana Paoli, District Clerk
cc: Planholders

Fort Bragg Municipal Improvement District No. 1
416 N. Franklin Street
Fort Bragg, California 95437

CONTRACT CHECK LIST

Complete, accurate, executed copies of the following documents must be submitted to the Fort Bragg Municipal Improvement District No. 1 (City) in accordance with the bid package issued by the City for the Bio Solids Material Storage Building Project, WWP-00025 within ten (10) working days of receiving written notice of award of the project. The bidder's security of any successful bidder that fails to do so will be forfeited to the City.

_____ Contract Check List

_____ Contract, Part 1

_____ Contract, Part 2 – General Provisions

_____ Contract, Part 3 – Special Provisions

_____ Performance Bond

_____ Payment Bond

_____ Maintenance Bond

_____ Certificates of Insurance and Endorsements

Fort Bragg Municipal Improvement District No. 1
Project No. WWP-00025
Contract Check List

CONTRACT, PART 1

1. RECITALS

- A. Notice Inviting Bids.
- B. Bid Opening
- C. Project Award.
- D. Required Documents.
- E. Investigation and Verification of Site Conditions.

2. CONTRACT TERMS

- 1. The Work.
- 2. Location of Work.
- 3. Time for Completion
- 4. Remedies for Failure to Timely Complete the Work.
- 5. Contract Price and Payment.
- 6. Prevailing Wages.
- 7. The Contract Documents.
- 8. Provisions Incorporated by Reference.
- 9. Interpretation of Contract Documents.
- 10. Assignment Prohibited.
- 11. Contractor's License Certification.
- 12. Severability.
- 13. Project Representatives

CONTRACT, PART 2 GENERAL PROVISIONS

1. DEFINITIONS

2. PLANS AND SPECIFICATIONS

- 2.1 Documents Furnished by City.
- 2.2 Ownership of Documents Furnished by City.
- 2.3 Technical Specifications and Project Plans.

3. CONTROL OF WORK AND MATERIAL

- 3.1 Construction Manager's Status.
- 3.2 Architect or Engineer's Status.
- 3.3 Inspection and Testing of Work and Material.
- 3.4 Samples Furnished by the Contractor.
- 3.5 Materials and Substitutions.
- 3.6 Maintenance and Examination of Records.
- 3.7 Advertising

- 3.8 Project Schedule.
- 3.9 Construction Staking.
- 3.10 Materials Testing.

4. CHANGES IN WORK

- 4.1 City Directed Change Orders.
- 4.2 Writing Requirement.
- 4.3 Contractor Proposed Change Orders.
- 4.4 All Change Orders.
- 4.5 Change Order Pricing.
- 4.6 Liability Under Unapproved Change Orders.
- 4.7 Changes Subject to Contract Documents.
- 4.8 Change Order Disputes.
- 4.9 Change in Time for Completion.

5. TRENCHING AND UTILITIES

- 5.1 Contractor to Locate Underground Facilities.
- 5.2 Excavation More Than Four Feet Deep.
- 5.3 Excavation of Five Feet or More.
- 5.4 Utility Relocation Costs.
- 5.5 Concealed or Unknown Conditions.
- 5.6 Underground Facilities not owned or built by the City
- 5.7 Contractor's compensation for claimed latent or materially different Project conditions

6. PROJECT FACILITIES

- 6.1 Work Site Offices.
- 6.2 City Rights of Access and Ownership

7. PROSECUTION AND PROGRESS OF THE WORK

- 7.1 Liquidated Damages.
- 7.2 No Damage for Avoidable Delays.
- 7.3 Unavoidable Delays.
- 7.4 No Damage for Contractor Caused Delay.
- 7.5 No Damage for Other Delay.
- 7.6 Delays Caused by the City and/or Its Privities.
- 7.7 Weather Delays.
- 7.8 Delay Claims.
- 7.9 Contractor Coordination of the Work.

8. CONTRACTOR RESPONSIBILITIES

- 8.1. Eligibility.
- 8.2 Non Discrimination.
- 8.3 Supervision of the Work.
- 8.4 Contractor's Superintendent.

- 8.5 Competent Employees.
- 8.6 Items Necessary for Proper Completion of the Work.
- 8.7 Construction Reports.
- 8.8 Subcontracting.
- 8.9 Insurance.
- 8.10 Indemnities.
- 8.11 Licenses/Permits.
- 8.12 California Labor Code Requirements.
- 8.13 Laws and Ordinances.
- 8.14 Guaranty.
- 8.15 Safety.

9. MEASUREMENT AND PAYMENT

- 9.1 F.O.B.
- 9.2 Payment
- 9.3 Non-Allowable Direct Charges.
- 9.4 Retention.
- 9.5 Securities in Lieu of Retention.

10. PROJECT ACCEPTANCE AND CLOSEOUT

- 10.1 Occupancy.
- 10.2 Work Completion and Final Inspection.
- 10.3 Work Acceptance.

11. REMEDIES AND DISPUTES

- 11.1 Failure to Correct Work
- 11.2 Termination for Cause
- 11.3 Termination for Convenience.
- 11.4 Disputes.
- 11.5 Non-Waiver.

CONTRACT, PART 3 SPECIAL PROVISIONS

12. SPECIAL PROVISIONS

- 12.1 Description of Work.
- 12.2 Construction Limitations.
- 12.3 Storm Water Pollution Prevention.
- 12.4 Maintaining Traffic and Pedestrian Operations.
- 12.5 Public Safety.
- 12.6 Protection of Existing Facilities and Property.
- 12.7 Preconstruction Conference.
- 12.8 Owner Notification.
- 12.9 Emergency Service Providers Notifications
- 12.10 Clean up.
- 12.11 Payment.

- 12.12 Construction Staking.
- 12.13 Materials Testing Allowance.
- 12.14 Obstructions.
- 12.15 Hours of Work.
- 12.16 Dust Control.
- 12.17 Water for Construction and Dust Control.
- 12.18 Protection and Restoration of Vegetation.
- 12.19 Surplus Material.
- 12.20 Cultural Resources.
- 12.21 Historical Finds.
- 12.22 Cultural Resources Defined.
- 12.23 Construction Manager's Discretion.

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Fort Bragg Municipal Improvement District No. 1
Project No. WWP-00025
Contract Check List

Fort Bragg Municipal Improvement District No. 1
416 Franklin Street
Fort Bragg, California 95437

CONTRACT, PART 1

The FORT BRAGG MUNICIPAL IMPROVEMENT DISTRICT NO. 1, 416 N. Franklin Street, Fort Bragg, California 95437 ("City") enters into this Contract, dated [REDACTED], for reference purposes only, with FRC, Inc 9680 Old Redwood Hwy, Windsor Ca, 95492 ("Contractor").

RECITALS

- A. NOTICE INVITING BIDS. The City gave notice inviting bids to be submitted by August 15, 2025 for the **Bio Solids Material Storage Building** ("Project") by published notice and/or posting in accordance with California Public Contract Code Section 20164 and other applicable law.
- B. BID OPENING. On August 15, 2025, City representatives opened the bids for the Project and read the bids aloud.
- C. PROJECT AWARD. On August 25, 2025, the District Board of the Fort Bragg Municipal Improvement District No. 1 awarded the Project to the Contractor and directed City staff to send the Contractor written notice of award of the project. The District Board conditioned award of the project on the Contractor's providing executed copies of all documents specified in the contract check list included in the bid package within ten (10) working days of receiving written notice of award of the project.
- D. REQUIRED DOCUMENTS. The Contractor has provided the City executed copies of all documents specified in the contract check list included in the bid package within ten (10) working days of receiving written notice of award.
- E. INVESTIGATION AND VERIFICATION OF SITE CONDITIONS. The Contractor warrants that it has conducted all necessary pre-bid investigations and other obligations, and agrees that it shall not be entitled to Change Orders (time or compensation) due to any information, error, inconsistency, omission, or conditions that Contractor should have known as a part of this Work. Contractor shall be responsible for the resultant losses, including, without limitation, the cost of correcting Defective Work. In executing this Contract, Contractor shall rely on the results of its own independent investigation and shall not rely on City-supplied information regarding above ground conditions and as-built conditions, and Contractor shall accept full responsibility for its verification work sufficient to complete the Work as intended.

CONTRACT TERMS

The City and the Contractor agree as follows:

1. THE WORK. The Contractor shall furnish all equipment, tools, apparatus, facilities,

Fort Bragg Municipal Improvement District No. 1
Project No. WWP-00025
Contract, Part 1

material labor, and skill necessary to perform and complete in a good and workmanlike manner the Bio Solids Material Storage Building ("project ("Work") as shown in the Technical Specifications and Project Plans in accordance with the Contract Documents and applicable law.

2. LOCATION OF WORK.

The Work will be performed at the following location:

281 Jere Melo St, Fort Bragg, CA 95437

3. TIME FOR COMPLETION. The Contractor must complete the Work in accordance with the Contract Documents within 100 working days from the date specified in the City's Notice to Proceed ("Time for Completion").

4. REMEDIES FOR FAILURE TO TIMELY COMPLETE THE WORK. If the Contractor fails to fully perform the Work in accordance with the Contract Documents by the Time for Completion, as such time may be amended by change order or other modification to this Contract in accordance with its terms, and/or if the Contractor fails, by the Time for Completion, to fully perform all of the Contractor's obligations under this Contract that have accrued by the Time for Completion, the Contractor will become liable to the City for all resulting loss and damage in accordance with the Contract Documents and applicable law. The City's remedies for the Contractor's failure to perform include, but are not limited to, assessment of liquidated damages of \$500 per day in accordance with California Government Code Section 53069.85 and the Contract Documents, and/or obtaining or providing for substitute performance in accordance with the Contract Documents.

5. CONTRACT PRICE AND PAYMENT. As full compensation in consideration of completion of the Work in accordance with the Contract Documents and in consideration of the fulfillment of all of the Contractor's obligations under the Contract Documents, the City will pay the Contractor in lawful money of the United States the total price of **Nine Hundred Seventy Three Thousand Ninety Nine Dollars and Sixty cents, (\$973,099.60)** (the "Contract Price") as specified in the Contractor's completed Bid Schedule dated August 15, 2025, and attached to and incorporated in this Contract. Payment to the Contractor under this Contract will be for Work actually performed in accordance with the Contract Documents and will be made in accordance with the requirements of the Contract Documents and applicable law. The City will have no obligation to pay the Contractor any amount in excess of the Contract Price unless this Contract is first modified in accordance with its terms. The City's obligation to pay the Contractor under this Contract is subject to and may be offset by charges that may apply to the Contractor under this Contract. Such charges include but are not limited to, charges for liquidated damages and/or substitute performance in accordance with the Contract Documents.

The Contract Sum is all inclusive and includes all Work; all federal, state, and local taxes on materials and equipment, and labor furnished by Contractor, its subcontractors, subconsultants, architects, engineers, and" vendors or otherwise arising

out of Contractor's performance of the Work, including any increases in any such taxes during the term of this Agreement; and any duties, fees, and royalties imposed with respect to any materials and equipment, labor or services. The taxes covered hereby include (but are not limited to) occupational, sales, use, excise, unemployment, FICA, and income taxes, customs, duties, and any and all other taxes on any item or service that is part of the Work, whether such taxes are normally included in the price of such item or service or are normally stated separately. Notwithstanding the foregoing, each party shall bear such state or local inventory, real property, personal property or fixtures taxes as may be properly assessed against it by applicable taxing authorities.

6. PREVAILING WAGES. In accordance with California Labor Code Section 1771, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the Work is to be performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in the California Labor Code must be paid to all workers engaged in performing the Work. In accordance with California Labor Code Section 1770 et seq., the Director of Industrial Relations has determined the general prevailing wage per diem rates for the locality in which the Work is to be performed. In accordance with California Labor Code Section 1773, the City has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the project. In accordance with California Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at the City Public Works Department and will be made available on request. Throughout the performance of the Work the Contractor must comply with all provisions of the Contract Documents and all applicable laws and regulations that apply to wages earned in performance of the Work.

- 6.1. Contractor acknowledges and agrees that it shall comply with the requirements of California Public Contracts Code sections 2600 et seq., in its entirety and, in particular, those sections related to Skilled and Trained Workforce. By its execution of this agreement Contractor certifies and warrants that it is aware of the requirement of California Public Contracts Code section 2600 et seq. and its requirements as to a Skilled and Trained Workforce.

7. THE CONTRACT DOCUMENTS. This Contract consists of the following documents ("Contract Documents"), all of which are incorporated into and made a part of this Contract as if set forth in full. In the event of a conflict between or among the Contract Documents, precedence will be in the following order:

- 7.1 This Part 1 of the Contract and change orders and other amendments to this Contract signed by authorized representatives of the City and the Contractor.
 - 7.2 The General Provisions, Part 2 of the Contract, and change orders and other amendments to the General Provisions signed by authorized representatives of the City and the Contractor.

- 7.3 The Special Provisions, Part 3 of the Contract, addenda to the Special Provisions signed by authorized representatives of the City and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized representatives prior to bid opening, and change orders and other amendments to the Special Provisions signed by authorized representatives of the City and the Contractor.
- 7.4 The Technical Specifications, addenda to the Technical Specifications signed by authorized representatives of the City and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Technical Specifications signed by authorized representatives of the City and the Contractor.
- 7.5 The Project Plans, addenda to the Project Plans signed by authorized representatives of the City and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Project Plans signed by authorized representatives of the City and the Contractor.
- 7.6 Notice Inviting Bids
- 7.7 Instructions to Bidders
- 7.8 The successful bidder's completed Proposal Cover Page and Bid Schedule
- 7.9 The successful bidder's completed Contractor License Information
- 7.10 The successful bidder's completed List of Proposed Subcontractors
- 7.11 The successful bidder's Workers Compensation Insurance Certification
- 7.12 The successful bidder's completed Non-collusion Affidavit
- 7.13 The successful bidder's Debarment Certification
- 7.14 The successful bidder's completed Certificates of Insurance and Endorsements
- 7.15 The successful bidder's executed Performance Bond
- 7.16 The successful bidder's executed Payment Bond
- 7.17 The Maintenance Bond form included in the bid package that the Contractor must execute prior to release of final payment under the Contract
- 7.18 The successful bidder's Qualification Statement, if any
- 7.19 The successful bidder's signed Signature Form
- 8. PROVISIONS INCORPORATED BY REFERENCE. Provisions or parts of provisions that are incorporated by reference and not set forth at length in any of the Contract Documents will only form a part of this Contract to the extent the Contract Documents expressly make such provisions or parts of provisions a part of this Contract. For example, published public works agreement provisions, such as those of the State of

California Department of Transportation Standard Specifications (known as the Standard Specifications) are only a part of this Contract to the extent expressly incorporated in the Contract by section number. When such published provisions are made a part of this Contract, references in the published provisions to other entities, such as the State, the Agency, or similar references, will be deemed references to the City as the context of this Contract may require.

9. INTERPRETATION OF CONTRACT DOCUMENTS. Any question concerning the intent or meaning of any provision of the Contract Documents, including, but not limited to, the Technical Specifications or Project Plans, must be submitted to the Public Works Director, or his/her designee, for issuance of an interpretation and/or decision by the authorized Public Works Director in accordance with the requirements of the Contract Documents. Interpretations or decisions by any other person concerning the Contract Documents will not be binding on the City. The decision of the Public Works Director, or his/her designee, shall be final.
10. ASSIGNMENT PROHIBITED. The Contractor may not assign part or all of this Contract, or any monies due or to become due under this Contract, or any other right or interest of the Contractor under this Contract, or delegate any obligation or duty of the Contractor under this Contract without the prior written approval of an official authorized to bind the City and an authorized representative of Contractor's surety or sureties. Any such purported assignment or delegation without such written approval on behalf of the City and the Contractor's sureties will be void and a material breach of this Contract subject to all available remedies under this Contract and at law and equity.
11. CONTRACTOR'S LICENSE CERTIFICATION. By signing this Contract the Contractor certifies that the Contractor holds a valid Type B license issued by the California State Contractors Licensing Board, and that the Contractor understands that failure to maintain its license in good standing throughout the performance of the Work may result in discipline and/or other penalties pursuant to the California Business and Professions Code, and may constitute a material breach of this Contract subject to all available remedies under this Contract and at law and equity.
12. SEVERABILITY. If any term or provision or portion of a term or provision of this Contract is declared invalid or unenforceable by any court of lawful jurisdiction, then the remaining terms and provisions or portions of terms or provisions will not be affected thereby and will remain in full force and effect.
13. PROJECT REPRESENTATIVES
 - 13.1 The City has designated Alfredo Huerta as its Project Manager to act as its Representative in all matters relating to the Contract. If Project Manager is an employee of City, Project Manager is the beneficiary of all Contractor obligations to the City including, without limitation, all releases and indemnities.

Project Manager shall have final authority over all matters pertaining to the Contract and shall have sole authority to modify the Contract on behalf of the City, to accept work, and to make decisions or actions binding on the City, and shall have sole signature authority on behalf of the City.

The City may assign all or part of the Project Manager's rights, responsibilities and duties to a construction manager or other City representative.

- 13.2 The Contractor has designated [REDACTED] as its Project Manager to act as Contractor's Representative in all matters relating to the Contract. The Contractor's Project Manager shall have final authority over all matters pertaining to the Contract and shall have sole authority to modify the Contract on behalf of the Contractor and to make decisions or actions binding on the Contractor, and shall have sole signature authority on behalf of the Contractor.

SIGNATURES ON FOLLOWING PAGE

Executed on _____, by

CONTRACTOR

Fort Bragg Municipal Improvement
District No.1

By: _____
Title: _____

By: Isaac Whippy
Title: District Manager

ATTEST:

By: _____
Diana Paoli
District Clerk

APPROVED AS TO FORM:

By: _____
Baron J. Bettenhausen
District Counsel

Fort Bragg Municipal Improvement District No. 1
Project No. WWP-00025
Contract, Part 1

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONTRACT, PART 2
GENERAL PROVISIONS

1. DEFINITIONS

The following terms as used in any agreement of which these General Provisions are a part are defined as follows:

- 1.1 **Architect or Engineer:** The person or persons so specified on the title sheet of the Technical Specifications and/or Project Plans.
- 1.2 **ASTM:** American Society for Testing and Materials, latest edition.
- 1.3 **Bid Package:** All of the documents listed as comprising the entire Bid Package as specified in the Instructions to Bidders and representing the full set of documents made available to bidders on the Project.
- 1.4 **Caltrans Standard Specifications:** Caltrans construction manual entitled, "State of California, Department of Transportation, Standard Specifications," latest edition.
- 1.5 **City:** Fort Bragg Municipal Improvement District No. 1
- 1.6 **Construction Manager:** The City's authorized representative for administration and overall management of the Project contract and Work. The Construction Manager is the official point of contact between the City, the Architect and/or Engineer, and the Contractor. The Construction Manager for this project shall be Assistant City Engineer Alfredo Huerta.
- 1.7 **Contract:** The agreement between the City and Contractor concerning the Project, as evidenced by and comprised of the Contract Documents.
- 1.8 **Contract Documents:** All documents identified in Section 7 of Part 1 of the Contract.
- 1.9 **Contractor:** The successful bidder for the Project and party to the Project agreement with the City as specified in the Project agreement. FRC, Inc
- 1.10 **Days:** Unless otherwise specified in the Contract Documents, Days mean working days.
- 1.11 **Project:** The Bio Solids Material Storage Building Project as described in the Technical Specifications and Project Plans.
- 1.12 **Project Inspector:** The party or parties charged by the City with inspecting the Work for compliance with the requirements of the Contract Documents and applicable laws and regulations. The Project Inspector acts under the

Fort Bragg Municipal Improvement District No. 1
Project No. WWP-00025
Contract, Part 2
General Provisions

direction of the City and shall coordinate with the Construction Manager and Architect as directed by the City in accordance with the Contract Documents.

- 1.13 **Project Plans:** The primarily graphic detailed requirements concerning the Project contained in Volume 3 of the Bid Package and any addenda to the Project Plans signed by authorized City representatives and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Project Plans signed by authorized representatives of the City and the Contractor in accordance with the requirements of the Contract Documents.
- 1.14 **Subcontractor:** A person, firm or corporation that is obligated as a party to a contract with the Contractor to perform part of the Project work. For purposes of these General Provisions Subcontractors include, but are not limited to, those that are obligated as parties to a contract with the Contractor to specially fabricate and install a portion of the Project Work according to the Technical Specifications and/or Project Plans.
- 1.15 **Technical Specifications:** The detailed Project requirements contained in Volume 3 of the Bid Package and any addenda to the Technical Specifications signed by authorized City representatives and issued prior to bid opening, Equal Product Proposals accepted by the City and signed by authorized City representatives prior to bid opening, and change orders and other amendments to the Technical Specifications signed by authorized representatives of the City and the Contractor in accordance with the requirements of the Contract Documents.
- 1.16 **Time for Completion:** The Time for Completion is the time by which the Work must be completed, as defined in the Contract, Part 1, or as modified in a writing, executed by the City and Contractor.
- 1.17 **Work:** The furnishing of all equipment, tools, apparatus, facilities, material, labor and skill necessary to perform and complete in a good and workmanlike manner the Project as shown in the Technical Specifications and Project Plans in accordance with the Contract Documents and applicable law.
- 1.18 **Written Notice:** Will be deemed to have been duly served for purposes of these General Provisions and any agreement of which they are a part if delivered in person to the individual or to a member of the firm or to any office of the corporation for whom the notice is intended, or if sent by registered or certified mail to the last known business address known to the party giving notice. Unless otherwise specified in the Contract Documents, the last known address of the Contractor shall be that listed in the Contractor's completed Proposal Cover Page and Bid Schedule.

2. PLANS AND SPECIFICATIONS

- 2.1 Documents Furnished by City. The City will furnish to the Contractor, free of charge, one (1) set of reproducible Project Plans and five (5) sets of prints of the Project Plans and Technical Specifications for execution of the Work. Throughout the performance of the Work the Contractor must keep one copy of the Project Plans and Technical Specifications in good order and available for review by the Construction Manager, the Engineer, the Architect, and any other City contractors or representatives.
- 2.2 Ownership of Documents Furnished by City. All documents furnished by the City, including, but not limited to, the Technical Specifications, Project Plans, and any copies, are the property of the City. Documents furnished by the City may not to be used on any other work. All documents furnished by the City must be returned to City upon completion of the Work.
- 2.3 Technical Specifications and Project Plans.
 - 2.3.1 The Technical Specifications and Project Plans are complementary and intended to mutually describe the Work necessary to complete the Project in accordance with the Contract Documents.
 - 2.3.2 In general, the Project Plans indicate dimensions, position and kind of construction, and the Technical Specifications indicate qualities and methods. Any Work indicated on the Project Plans and not mentioned in the Technical Specifications or vice versa must be furnished as though fully set forth in both. Work that is not particularly detailed, marked or specified shall be the same as similar Work that is detailed, marked or specified. The Contractor must furnish items necessary for the operation of equipment depicted in the Project Plans or specified in the Technical Specifications that are suitable to allow such equipment to function properly at no extra charge.
 - 2.3.3 Contractor shall perform reasonably implied parts of Work as “incidental work” although absent from Drawings and Specifications. Incidental work includes any work not shown on Drawings or described in Specifications that is necessary or normally or customarily required as a part of the Work shown on Drawings or described in Specifications. Incidental work includes any work necessary or required to make each installation satisfactory, legally operable, functional, and consistent with the intent of Drawings and Specifications or the requirements of Contract Documents. Contractor shall perform incidental work without extra cost to City. Incidental work shall be treated as if fully described in Specifications and shown on

Drawings, and the expense of incidental work shall be included in price Bid and Contract Sum.

- 2.3.4 Before undertaking each portion of the Work, Contractor shall carefully study and compare the Contract Documents and check and verify pertinent figures shown in the Contract Documents and all applicable field measurements. Contractor shall be responsible for any errors that might have been avoided by such comparison. The Contractor must notify the Construction Manager and the Architect in writing as soon as possible of any apparent errors or inconsistencies, including, but not limited to, typographical or notational errors in the Project Plans, Technical Specifications, and/or in work done by others affecting the Work. The Construction Manager will issue written instructions concerning any such apparent errors, inconsistencies, or clarifications with reasonable promptness and these shall be binding on the Contractor. If Contractor believes that a written response, clarification or interpretation justifies an adjustment in the Contract Sum or Contract Time, Contractor shall give City prompt written notice. If the parties are unable to agree to the amount or extent of the adjustment, if any, then Contractor shall perform the Work in conformance with City's response, clarification, or interpretation and may make a written claim for the adjustment as provided in Section 11. If the Contractor proceeds with Work impacted by apparent errors or inconsistencies without instructions from the Construction Manager, the Contractor shall do so at its sole risk and shall have all of the obligations and the City shall have all of the rights and remedies specified in Section 11 concerning any resulting damage or defect.
- 2.3.5 The General Provisions apply with equal force to all of the Work, including extra work authorized by the Construction Manager in accordance with the Contract Documents. The Contractor must submit any required shop diagrams and/or drawings by the times and in the quantities indicated in the Technical Specifications. Any such shop diagrams and/or drawings must show completely the Work to be done, expanding on the Project Plans concerning details not previously shown, field conditions and the condition of the Work. Architect or Engineer review of such shop diagrams and/or drawings will concern conformance with the requirements of the Contract Documents only. The Architect or Engineer assumes no responsibility for the correctness or accuracy of the dimensions or any other contents of any shop diagrams and/or drawings submitted by the Contractor. The Contractor must check all dimensions at the Work site. Shop diagrams and/or drawings must be clearly marked with the name of the Project and the name of the Contractor, subcontractor or supplier making the submittal, and must be stamped and signed by the Contractor and submitted under a signed transmittal letter from the Contractor

Fort Bragg Municipal Improvement District No. 1
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certifying that all dimensions have been checked at the Work site. These requirements are mandatory. The Architect or Engineer will not review shop diagrams and/or drawings that do not satisfy these requirements. The Contractor will be responsible for any and all discrepancies between dimensions of the actual Project site and/or Work and those shown on shop diagram and/or drawings submitted by the Contractor, and for any other errors contained in or resulting from such shop diagrams and/or drawings, including, but not limited to, errors in material and/or equipment quantities and any resulting errors, delays or additional cost in the performance of the Work. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any discrepancies or errors in shop diagrams and/or drawings submitted by the Contractor, and concerning any resulting errors, delays or additional costs in the performance of the Work.

3. CONTROL OF WORK AND MATERIAL

- 3.1 Construction Manager's Status. The Construction Manager will administer the Project in accordance with the Contract Documents. After execution of the agreement and issuance of the Notice to Proceed, all correspondence and/or instructions concerning the Project between the Contractor and/or City shall be forwarded through the Construction Manager. Except as otherwise provided in the Contract Documents, the Construction Manager will not be responsible for and will not have control or charge of construction means, methods, techniques, or procedures or for safety precautions in connection with the Work. The Construction Manager, however, will have authority to reject materials and/or workmanship that do not conform to the requirements of the Contract Documents. The Construction Manager will also have the authority to require inspection or testing of the Work.
- 3.2 Architect or Engineer's Status. The Architect or Engineer will advise the Construction Manager concerning decisions on all claims of the Contractor and all other matters relating to the execution and progress of the Work or the interpretation of the Contract Documents. The Architect or Engineer will also advise the Construction Manager concerning Work that does not conform to the Contract Documents. Whenever, in the Architect's or Engineer's opinion, it is necessary or advisable in accordance with the Contract Documents, the Architect or Engineer may recommend to the Construction Manager inspection or testing of the Work, whether or not such Work is then fabricated, installed or completed.
- 3.3 Inspection and Testing of Work and Material.
 - 3.3.1 The City, the Construction Manager, the Architect or Engineer and their representatives will have access to the Work at all times wherever it is

in preparation or progress. The Contractor must provide proper facilities for such access and for inspection.

- 3.3.2 The Contractor must inspect all materials as delivered and promptly return all defective materials without waiting for their rejection by the Construction Manager or Architect or Engineer.
- 3.3.3 If the Construction Manager, the Technical Specifications, or any laws, ordinances, or any public authority require any Work to be tested or approved, the Contractor must give the Construction Manager timely notice of the Contractor's readiness for inspection. Inspections will be promptly made, and where practicable, at the source of supply. Any work subject to such testing that is covered up without timely notice to the Construction Manager or without the approval or consent of the Construction Manager must, if required by the Construction Manager, be uncovered for examination at the Contractor's expense. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any work subject to testing that is covered up without timely notice to the Construction Manager and that is not uncovered for examination at the Contractor's Expense if required by the Construction Manager.
- 3.3.4 Tests of materials or qualification tests required by the Contract Documents must be made in accordance with the Technical Specifications and the requirements of the California Building Standards Code as adopted by the City and other applicable law. Copies of all testing reports shall be distributed as required in the Technical Specifications.
- 3.3.5 The City or its representatives may order re-examination of questioned Work. If ordered to do so, the Contractor must uncover such Work. If such Work is found to be according to the Contract Documents, the City shall pay the cost of uncovering and restoring the Work, unless such Work was subject to testing and covered up without timely notice to or approval of the Construction Manager. If re-examined Work is found not in accordance with the Contract Documents, the Contractor must pay the cost of uncovering and restoring the Work. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any re-examined Work not in accordance with the Contract Documents that the Contractor fails to uncover and restore at the Contractor's expense.
- 3.3.6 The Contractor must replace or correct without charge any material or workmanship found not to conform to the requirements of the Contract Documents, unless the City consents to accept such material or workmanship with an appropriate adjustment in the Contract Price. The Contractor must promptly segregate and remove non-conforming

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material from the Work site. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any failure by the Contractor to replace or correct without charge any material or workmanship that does not conform to the requirements of the Contract Documents and that the City has not consented to accept.

3.4 Samples Furnished by the Contractor. The Contractor must furnish all samples for approval as directed in sufficient time to permit the Architect or Engineer to examine, approve and select samples before they are required by the progress of the Work. Portions of the Work for which samples are required and for which the Architect or Engineer has selected samples must be in accordance with such approved samples. Samples must be sent prepaid to the office of the Construction Manager or to such place as the Construction Manager may direct.

3.5 Materials and Substitutions.

3.5.1 Materials used for the Work must be new and of the quality specified. When not particularly specified, materials must be the best of their class or kind. The Contractor must, if required, submit satisfactory evidence as to the kind and quality of materials.

3.5.2 If the Contractor submitted complete information to the Public Works Department for products proposed as equals in accordance with the Bid Package, and the City approved such products proposed as equals in writing, the Contractor may either furnish such products approved as equals, or furnish the products listed by manufacturer name, brand or model number in the Technical Specifications or Project Plans. The City retains the right, in its sole discretion, to accept or reject any other proposed substitution. To be considered, proposals concerning products proposed as equals must include sufficient information to permit the City to determine whether the products proposed as equals will satisfy the same performance requirements as products listed by manufacturer's name, brand or model number. Such performance requirements may include, but are not limited to, size, strength, function, appearance, ease of maintenance and repair, and useful life requirements. If the City does not accept a proposed substitution, the Contractor must furnish the product specified in the Technical Specifications or Project Plans for the Contract Price, regardless of whether the product is specified by manufacturer's name, brand or model number, or otherwise.

3.5.3. During the performance of the Work, all materials must be neatly stacked, properly protected from the weather and other adverse impacts, and placed so as to avoid interference with efficient progress of the Work, with other activities of the City, or with the use of existing

City facilities by the public. All materials must be delivered so as to ensure efficient and uninterrupted progress of the Work. Materials must be stored so as to cause no obstruction and so as to prevent overloading of any portion of the Work. The Contractor will be responsible for damage or loss of materials delivered to and/or stored at the Work site due to weather or other causes. The Contractor must promptly remove from the Work site all materials rejected by the City or its representatives as failing to conform to the requirements of the Contract Documents, whether such non-conforming materials have been incorporated in the Work or not. If the City or its representatives so direct, the Contractor must promptly replace and re-execute Work performed by the Contractor and order the replacement and re-execution of Work performed by subcontractors using non-conforming materials with materials that satisfy the requirements of the Contract Documents without expense to the City. The Contractor will bear the expense of making good all Work destroyed or damaged by such removal. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any failure by the Contractor to replace or re-execute Work using non-conforming materials, and/or to make good all work destroyed or damaged by such removal and/or execution.

- 3.6 Maintenance and Examination of Records. Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Contract Modifications, Change Orders, Work Directives, Force Account orders, and written interpretations and clarifications in good order and annotated to show all as-built changes made during construction. These Project Record Documents, together with all approved Samples and a counterpart of all approved Shop Drawings, shall be maintained and available to the City for reference. Upon completion of the Work, Contractor shall deliver to the City, the Project Record Documents, Samples and Shop Drawings and as-built drawings.

Throughout Contractor's performance of the Work of the Project, Contractor shall maintain construction records to include: shop drawings; product data/material data sheets; samples; submittals; purchases; materials; equipment; inspections; applicable handbooks; applicable codes and standards; maintenance and operating manuals and instructions; RFI Log; Submittal Log; other related documents and revisions which arise out of the Construction Contracts. Contractor shall maintain records of principal building layout lines, elevations for the bottom of footings, floor levels, and key site elevations (certified by a qualified surveyor or professional engineer). Contractor shall make all records available to the City. At the completion of the Project, Contractor shall deliver all such records to the City to have a complete set of record as-built drawings.

The City may examine and audit at no additional cost to the City all books, estimates, records, contracts, documents, bid documents, bid cost data, subcontract job cost reports and other Project related data of the Contractor, subcontractors engaged in performance of the Work, and suppliers providing supplies, equipment and other materials required for the Work, including computations and projections related to bidding, negotiating, pricing or performing the Work or contract modifications and other materials concerning the Work, including, but not limited to, Contractor daily logs, in order to evaluate the accuracy, completeness, and currency of cost, pricing, scheduling and any other project related data. The Contractor will make available all such Project related data at all reasonable times for examination, audit, or reproduction at the Contractor's business office at or near the Work site, and at any other location where such Project related data may be kept until three years after final payment under the Agreement. Pursuant to California Government Code Section 8546.7, if the amount of public funds to be expended is in excess of \$10,000, this Contract shall be subject to the examination and audit of the State Auditor, at the request of the City, or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

- 3.7 Advertising. No advertising signs of any kind may be displayed on the Work site, or on fences, offices or elsewhere adjacent to the Work site.
- 3.8 Project Schedule. Prior to the pre-construction meeting, the Contractor shall submit a baseline schedule showing each task of Work, including, as required by the City, equipment procurement and delivery (Contractor and City supplied), activities with Subcontractors and suppliers, major submittal reviews, commissioning of systems, use of major equipment on site, and necessary interface with the City and third parties. The baseline schedule shall include the sequence of each task, the number of days required to complete each task, and the critical path controlling the completion of the entire Work. The schedule shall allow for the completion of the entire Work within the Time for Completion.
 - 3.8.1 City Review of Schedule. The City may review the Contractor's submitted schedule and may note any exceptions. The Contractor shall correct any exceptions noted by the City within five (5) working days of being notified of the exceptions.
 - 3.8.2 Update of Schedule. After submission of a schedule to which the City has taken no exceptions, the Contractor shall submit an updated schedule on a biweekly basis until completion of the Work. The updated schedule shall show the progress of Work as of the date specified in the updated schedule. Contractor shall provide the City with an electronic copy of each updated schedule.

- 3.8.3 Float. The baseline schedule and all later submitted schedules shall show early and late completion dates for each task. The number of days between these dates shall be designated as "Float." The Float shall be designated to the Project and shall be available to both the City and the Contractor as needed to complete the Work in accordance with the Contract.
- 3.8.4 Failure to Submit Schedule. If the Contractor fails to submit the schedule within the time period specified in this section or submit a schedule to which the City has taken uncorrected exceptions, the City may withhold payments to the Contractor until such schedules are submitted and/or corrected in accordance with the Contract documents.
- 3.8.5 Responsibility for Schedule. The Contractor will be solely and exclusively responsible for creating the schedule and properly updating it. The City may note exceptions to any schedule submitted by the Contractor. However, the Contractor will be solely responsible for determining the proper method of addressing such exceptions, and the City's review of the schedule will not create scheduling obligations for the City.
- 3.8.6 Contractor's baseline schedule and progress schedules shall be in the form of a CPM (arrow) diagram. Contractor shall provide the City with native format electronic schedules and hard copies of the baseline schedule, schedule updates, and look ahead schedules. All electronic and hard copies of the schedule that Contractor provides to the City shall indicate the critical path of the Work (in red) and shall show a logical progression of the Work through completion within Contract Time.
- 3.8.7 The City has no obligation to accept an early completion date.
- 3.8.8 The City may request a recovery schedule should Contractor fall 21 or more Days behind any schedule milestone, which schedule shall show Contractor's plan and resources committed to retain Contract completion dates. The recovery schedule shall show the intended critical path. If the City requests, Contractor shall also: secure and demonstrate appropriate subcontractor and supplier consent to the recovery schedule; and submit a written plan and narrative explaining on trade flow and construction flow changes and man-hour loading assumptions for major Work activities and/or subcontractors.
- 3.8.9 If the Contractor requests an extension of the Time for Completion, it shall submit the request in a writing that provides information justifying the request and stating the extent of the adjustment requested for each specific change or alleged delay. The writing shall include this narrative and a schedule diagram depicting how the changed Work or other

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impact affects other schedule activities. The schedule diagram shall show how Contractor proposes to incorporate the changed Work or other impact in the schedule and how it impacts the current schedule impact or critical path or otherwise. Any requests of an extension of the Time for Completion stemming from an alleged project delay shall be made within five (5) days of the commencement of the alleged delay, explain the reason for delay, include the anticipated length of the delay, and contain a narrative justifying the extension, in addition to the other information and schedules required by this section.

- 3.9 Construction Staking. All Work done under this Contract must be in conformance with the Project Plans and staked by the Engineer in the field. The Contractor must inform the Engineer, forty-eight (48) hours in advance, of the time and places at which he or she wishes to do work, in order that lines and grades may be furnished and necessary measurements for record and payment made, with the minimum of inconvenience to the Engineer and delay to the Contractor.

- 3.10 Materials Testing. Materials will be tested by the CITY OF FORT BRAGG or its authorized agent, following State of California Test Methods. Statistical testing may not be used. All individual samples must meet the specified test results. Each material used must meet the specified requirements.

The Contractor must request and coordinate all testing. All tests must occur in the presence of the Project Inspector. The City will, at its sole discretion, have the right to reject any and/or all test results that do not meet this requirement, and to order a retest in the presence of the Project Inspector. The costs for all retests so ordered will be the responsibility of the Contractor. The cost of all retests will be charged to the Contractor at the actual cost plus 30 percent, with a minimum charge of \$150.00 per test to cover staff and administrative costs.

The City, at its sole expense, will provide all initial material and compaction tests. Sampling and testing will comply with Chapter 6 of the Caltrans Construction Manual, at a minimum. Where conditions vary, the City may perform additional testing. Cost for testing of materials offered in lieu of the specified materials will be the responsibility of the Contractor. Cost for R-value tests when required by the Standard Specifications will be the responsibility of the Contractor.

Testing will only be performed on normal City working days between the hours of 8:00 a.m. and 4:00 p.m. unless other arrangements are made in advance. Tests performed outside of these hours may be subject to increased charges.

The Contractor must request all tests in writing a minimum of two (2) working days in advance of the time desired. A minimum of one working day must be allowed for compilation and reporting of data and test results after tests have

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been performed. No subsequent layer of material may be placed until a passing test is obtained and acknowledged by the City.

Concrete and asphalt may be supplied only from suppliers approved and certified by the State Department of Transportation. Proposed mix designs for all concrete and asphalt concrete to be placed within the CITY OF FORT BRAGG must be provided to and approved by the City, prior to placement.

The Contractor must coordinate with the City concerning any additional testing as required.

4. CHANGES IN WORK

- 4.1 City Directed Change Orders. The City may at any time during the progress of the Work direct any amendments to the Work or any of the Contract Documents, including, but not limited to the Technical Specifications, or Project Plans. Such amendments will in no way void the agreement, but may be applied to amend the Contract Price or Time for Completion, if such amendments affect the Contract Price, the Project schedule, or any other provision of the Contract Documents based on a fair and reasonable valuation of the amendment in accordance with this Section 4.
- 4.2 Writing Requirement. Change orders and other amendments to the Technical Specifications, the Project Plans, or other Contract Documents may be made only by a writing executed by authorized representatives of the City and the Contractor.
- 4.3 Contractor Proposed Change Orders. Unless the Construction Manager otherwise authorizes or the City and the Contractor otherwise agree, change order proposals submitted by the Contractor must be submitted to the Construction Manager no later than the time of the proposed change.
- 4.4 All Change Orders. All change order proposals must be submitted on completed Change Order forms provided by the City. All such change order proposals must itemize all cost impacts of the proposed change order and include a total price for that change order and the amended Contract Price that would become effective upon execution of the change order. All change order proposals must specify any change in the Project schedule, or in any project milestone including, but not limited to, the Time for Completion, under the change order, and must provide information justifying the requested change in the Time for Completion. It is understood that change orders that do not specify a change in any milestone, including, but not limited to, the Time for Completion, will be accomplished by the Time for Completion then in effect.
- 4.5 Change Order Pricing. Change order pricing will be governed by the following:

- 4.5.1 Unit prices specified in the Contract Documents will apply to cost impacts involving items for which the Contract Documents specify unit prices.
- 4.5.2 Cost impacts involving items for which no unit prices are specified will be calculated by adding the itemized actual direct cost that would be added or reduced under the change order and an allowance for indirect costs in accordance with this Section. Itemization for direct costs for required labor must include the classifications of labor required, the total hours required for each classification, the hourly rate for each classification and other labor related costs such as liability and workers compensation insurance, social security, retirement and unemployment insurance. All other cost impacts for which no unit prices are specified must be itemized as appropriate, including the cost of tools, vehicles, phones and other equipment, and the cost of all required materials or supplies. Indirect costs added under a change order may not exceed an allowance of fifteen (15) percent of the total of combined Contractor and subcontractor direct costs added under the change order. Such allowance covers Contractor overhead and profit under the change order and includes the cost of insurance in addition to that required pursuant to Section 8.8, bond premiums, superintendent labor, clerical labor, home office expenses, worksite office expenses, and utility costs under the change order. Such costs may not be itemized as direct costs under a change order. Indirect costs deducted under a change order will be calculated in exactly the same way as indirect costs added under a change order, except indirect costs deducted under a change order may not exceed an allowance of seven and a half (7.5) percent of the total of combined Contractor and subcontractor direct costs deducted under the change order.
- 4.6 Liability Under Unapproved Change Orders. The Contractor shall be solely responsible for any and all losses, costs, or liabilities of any kind incurred by the Contractor, any subcontractor engaged in the performance of the Work, any party supplying material or equipment for the Work or any third party that are incurred pursuant to Contractor-proposed change orders prior to issuance of an approved change order executed in accordance with this Section 4. The Contractor will have all of the obligations and the City will have all of the rights and remedies that are specified in Section 11 concerning any work or resulting losses, costs, or liabilities pursuant to a Contractor proposed change order before issuance of an approved change order executed in accordance with this Section 4.
- 4.7 Changes Subject to Contract Documents. Any changes in the Work and/or the Contract Documents pursuant to change orders and any other amendments issued in accordance with the Contract Documents, including

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this Section 4, will in all respects be subject to all provisions of the Contract Documents, including, but not limited to, the Technical Specifications and the Project Plans, except as modified by such change orders or amendments.

4.8 Change Order Disputes.

4.8.1 Disputed City Directed Change Orders. If the Contractor disputes a City directed change order following a reasonable effort by the City and the Contractor to resolve the dispute including, at a minimum, a meeting between appropriate representatives of the Contractor and the City, the Contractor must commence performing the Work consistent with the disputed change order within five (5) working days of the last meeting between representatives of the Contractor and the City to resolve the dispute, or within the time specified in the disputed City directed change order, whichever is later. In performing Work consistent with a disputed City-directed change order pursuant to this provision the Contractor will have all of the Contractor's rights concerning claims pursuant to the Contract Documents and applicable law.

4.8.2 Disputed Contractor Proposed Change Orders. If the City disputes a Contractor proposed change order, the City and the Contractor will use reasonable efforts to resolve the dispute including, at a minimum, holding a meeting between appropriate representatives of the Contractor and the City. Regardless of and throughout any such efforts to resolve the dispute the Contractor must continue performing the Work irrespective of and unmodified by the disputed change order. In continuing to perform the Work, the Contractor will retain all of the Contractor's rights under contract or law pertaining to resolution of disputes and protests between contracting parties. Disputes between the City and the Contractor concerning any Contractor-proposed change order or other amendment do not excuse the Contractor's obligation to perform the Work in accordance with the Contract Documents excluding such Contractor-proposed change order or other amendment by the Time for Completion or waive any other Project milestone or other requirement of the Contract Documents.

4.9 Change in Time for Completion. The Time for Completion may only be changed through a Change Order, and all time limits stated in the Contract Documents are to mean that time is of the essence. Contractor shall not be entitled time extension for impacts that consume Float, but do not impact the critical path. Time extensions will not be granted unless substantiated by the Critical Path Method (CPM) Schedule, and then not until the CPM float becomes zero. If contractor fails to submit documentation requesting and justifying a change in Time for Completion consistent with the Contract Documents, the Contractor shall be deemed to have agreed that there is no

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extension of time and that Contractor has irrevocably waived its rights to any change in the Time for Completion. Contractor initiated change orders shall address any impacts on the Time for Completion when first submitted to the City. Contractor shall submit any request for change in the Time for Completion and all supporting information and documentation required by the Contract Documents within seven (7) working days of receipt of a City-directed Change Order.

5. TRENCHING AND UTILITIES

- 5.1 Contractor to Locate Underground Facilities. During construction, Contractor shall comply with Government Code Sections 4216 to 4216.9, and in particular Section 4216.2 which provides, in part: "Except in an emergency, every person planning to conduct any excavation shall contact the appropriate regional notification center at least two working days, but no more than 14 calendar days, prior to commencing that excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator, and, if practical, the excavator shall delineate with white paint or other suitable markings the area to be excavated. The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation."

Contractor shall contact Underground Service Alert (USA), and schedule the Work to allow ample time for the center to notify its members and, if necessary, for any member to field locate and mark its facilities. Contractor is charged with knowledge of all subsurface conditions reflected in USA records. Prior to commencing excavation or trenching work, Contractor shall provide the City with copies of all USA records secured by Contractor. Contractor shall advise the City of any conflict between information in the Contract Documents, Drawings, independent investigations, and that provided by USA records. Contractor's excavation shall be subject to and comply with the Contract Documents.

Contractor shall also investigate the existence of existing service laterals, appurtenances or other types of utilities, indicated by the presence of an underground transmission main or other visible facilities, such as buildings, manholes, new asphalt, meters and junction boxes, on or adjacent to the Site, even if not shown or indicated in existing conditions data, Contract Documents, or USA records, or discovered during Contractor's pre- or post-bid investigation. Contractor shall immediately secure all such available information and notify the City and the utility City, in writing, of its discovery.

- 5.2 Excavation More Than Four Feet Deep. In accordance with California Public Contract Code Section 7104, if the Work involves excavation more than four feet deep the Contractor must promptly notify the City in writing before

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disturbing: any material that the Contractor believes may be hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II or Class III disposal site in accordance with provisions of existing law; any subsurface or latent physical conditions at the Work site differing from those indicated; or any unknown physical conditions at the Work site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents. The City will promptly investigate any such conditions for which notice is given. If the City finds that the conditions do materially differ, or involve hazardous waste, and would cause a decrease or increase in the cost or time of performance of the Work, the City will issue a change order pursuant to Section 4 of these General Provisions. If a dispute arises between the City and the Contractor concerning whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the cost or time of performance, the Contractor will not be excused from any completion date provided in the Contract Documents, but shall proceed with all Work to be performed. The Contractor will retain all rights under contract or law pertaining to resolution of disputes and protests between contracting parties.

- 5.3 Excavation of Five Feet or More. In accordance with California Labor Code Section 6705, contractors performing contracts exceeding \$25,000 in cost and involving excavation five or more feet deep must submit for the City's acceptance, prior to excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during excavation. If the plan varies from the shoring system standards, it must be prepared by a registered civil or structural engineer.

5.4 Utility Relocation Costs.

- 5.4.1 In accordance with California Government Code Section 4215, the City assumes the responsibility for the timely removal, relocation or protection of existing main or trunkline utility facilities located on the Work site if such utilities are not identified by the City in the Technical Specifications and/or Project Plans. The City will compensate the Contractor for the costs of locating, repairing damage not due to the Contractor's failure to exercise reasonable care, and removing or relocating existing main or trunkline utility facilities located at the Work site and not identified with reasonable accuracy in the Technical Specifications and/or Project Plans. The City will also compensate the Contractor for the cost of equipment on the Project necessarily idled during such work. The Contractor will not be assessed liquidated damages for Work completion delays caused by the City's failure to provide for removal or relocation of such main or trunkline utility facilities.

- 5.4.2 Nothing in this provision or the Contract Documents will be deemed to require the City to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the Work site can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the Work site; provided, however, that nothing in this provision or the Contract Documents shall relieve the City from identifying main or trunklines in the Technical Specifications and/or Project Plans.
- 5.4.3. Nothing in this provision or the Contract Documents will preclude the City from pursuing any appropriate remedy against the utility for delays which are the responsibility of the utility.
- 5.4.4 Nothing in this provision or the Contract Documents will be construed to relieve the utility from any obligation as required either by law or by contract to pay the cost of removal or relocation of existing utility facilities.
- 5.4.5 If the Contractor while performing the Work discovers utility facilities not identified by the City in the Technical Specifications and/or Project Plans, the Contractor must immediately notify the City and utility in writing.
- 5.4.6 Either the City or the utility, whichever owns existing main or trunkline utility facilities located on the Work site, shall have sole discretion to effect repairs or relocation work or to permit the Contractor to perform such repairs or relocation work at a reasonable price.
- 5.5 Concealed or Unknown Conditions.
 - 5.5.1 If either of the following conditions is encountered at Site when digging trenches or other excavations that extend deeper than four feet below the surface, Contractor shall promptly give a written Notice of Differing Site Conditions to the City before conditions are disturbed, except in an emergency, and in no event later than seven (7) calendar days after first observance of:
 - 5.5.1.1 Subsurface or Latent physical conditions which differ materially from those indicated in the Contract Documents; or
 - 5.5.1.2 Unknown physical conditions of an unusual nature or which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents.
 - 5.5.2 In response to Contractor's Notice of Differing Site Conditions under this Section, the City will investigate the identified conditions, and if they differ materially and cause increase or decrease in Contractor's

cost of, or time required for, performance of any part of the Work, the City will negotiate the appropriate change order following the procedures set forth in the Contract Documents. If the City determines that physical conditions at the Project are not latent or are not materially different from those indicated in Contract Documents or that no change in terms of the Contract Documents is justified, the City will so notify Contractor in writing, stating reasons (with Contractor retaining all rights under the Contract Documents).

- 5.5.3 Contractor shall not be entitled to any adjustment in the Contract Sum or Contract Time regarding claimed latent or materially different Project conditions (whether above or below grade) if Contractor knew or should have known of the existence of such conditions at the time Contractor submitted its Bid, failed to give proper notice, or relied upon information, conclusions, opinions or deductions of the kind that the Contract Documents preclude reliance upon.
- 5.5.4 Regarding Underground Facilities, Contractor shall be allowed an increase in the Contract Sum or an extension of the Time for Completion, or both, to the extent that they are attributable to the existence of any Underground Facility that is owned and was built by the City only where the Underground Facility:
 - 5.5.4.1 Was not shown or indicated in the Contract Documents or in the information supplied for bidding purposes or in information on file at USA; and;
 - 5.5.4.2 Contractor did not know of it; and
 - 5.5.4.3 Contractor could not reasonably have been expected to be aware of it or to have anticipated it from the information available. (For example, if surface conditions such as pavement repairs, valve covers, or other markings, indicate the presence of an Underground Facility, then an increase in the Contract Sum or an extension of the Time for Completion will not be due, even if the Underground Facility was not indicated in the Contract Documents, in the information supplied to Contractor for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor.)
- 5.6 Contractor shall bear the risk that Underground Facilities not owned or built by the City may differ in nature or locations shown in information made available by the City for bidding purposes, in information on file at USA, or otherwise reasonably available to Contractor. Underground Facilities are inherent in construction involving digging of trenches or other excavations on City's Project, and Contractor is to apply its skill and industry to verify the information available.

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- 5.7 Contractor's compensation for claimed latent or materially different Project conditions shall be limited to the actual, reasonable, incremental increase in cost of that portion of the Work, resulting from the claimed Latent or materially different Site conditions. Such calculation shall take into account the estimated value of that portion of the Work and the actual value of that portion of the Work, using for guidance Contractor's or its subcontractor's bid amount and actual amounts incurred for that portion of the Work and the reasonable expectation (if any) of differing or difficult site conditions in the Work area based on the available records and locale of the Work. For example, if Contractor excavates in an area unexpected, then such costs would be recoverable entirely; while if Contractor extends an existing excavation, then such costs would be recoverable if the resulting excavation costs in that work area exceeded the reasonable expectations therefor.

6. PROJECT FACILITIES

- 6.1 Work Site Offices. Any Work site office facilities used by the Contractor and/or its privities must conform to all applicable codes, ordinances and regulations. The cost of such Work site office facilities shall be paid from and included in the Contract Price.
- 6.2 City Rights of Access and Ownership. The City and its authorized representatives will at all reasonable times while such office facilities are located at the Work site (including, at a minimum, all times during which the Work is performed), have access to any such Work site office facilities used by the Contractor and/or its privities. With respect to the right of access of the City and its authorized representatives, neither the Contractor nor its privities shall have a reasonable expectation of privacy pursuant to the Fourth Amendment to the United States Constitution or other applicable law concerning such Work site office facilities used by the Contractor and/or its privities. Without exception, any and all Project related materials located at such Work site facilities will be deemed at all times to be City property subject to inspection and copying by the City and its authorized representatives at all reasonable times while such facilities are located at the Work site (including, at a minimum, all times during which the Work is performed). Any interference by the Contractor or its privities with the City's rights of access and/or Ownership pursuant to this Section 6 will constitute a material breach of the Agreement subject to any and all remedies available pursuant to the Contract Documents and at law and equity.

7. PROSECUTION AND PROGRESS OF THE WORK

- 7.1 Liquidated Damages. Time is of the essence in the Agreement. The City and the Contractor agree that it will be difficult and/or impossible to determine the actual damage which the City will sustain in the event of the Contractor's failure to fully perform the Work or to fully perform all of the Contractor's obligations that have accrued pursuant to the Agreement by the Time for

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Completion. Accordingly, the City and the Contractor agree in accordance with California Government Code Section 53069.85 that the Contractor will forfeit and pay to the City liquidated damages in the sum of \$500 per day for each and every calendar day completion of the Work and/or performance of all of the Contractor's obligations that have accrued pursuant to the Agreement is delayed beyond the Time for Completion. The City and the Contractor further agree in accordance with California Government Code Section 53069.85 that the liquidated damages sum specified in this provision is not manifestly unreasonable under the circumstances existing at the time the Agreement was made, and that the City may deduct liquidated damages sums in accordance with this provision from any payments due or that may become due the Contractor under the Agreement.

- 7.2 No Damage for Avoidable Delays. All delays in the Work that might have been avoided by the exercise of care, prudence, foresight and diligence of the Contractor or any privities of the Contractor will be deemed avoidable delays. Delays in the Work that may be unavoidable but that do not necessarily affect other portions of the Work or prevent completion of all Work within the Time for Completion, including, but not limited to, reasonable delays in Engineer approval of shop drawings, placement of construction survey stakes, measurements and inspection, and such interruption as may occur in prosecution of the Work due to reasonable interference of other contractors of the City, will be deemed avoidable delays. The Contractor will not be awarded a change in the Project schedule, the Time for Completion, and/or additional compensation in excess of the contract price for avoidable delays.
- 7.3 Unavoidable Delays. All delays in the Work that result from causes beyond the control of the Contractor and that the Contractor could not have avoided through exercise of care, prudence, foresight, and diligence will be deemed unavoidable delays. Orders issued by the City changing the amount of Work to be done, the quantity of materials to be furnished, or the manner in which the work is to be prosecuted, and unforeseen delays in the prosecution of the Work due to causes beyond the Contractor's control, such as strikes, lockouts, labor disturbances, fires, epidemics, earthquakes, acts of God, neglect by utility owners or other contractors that are not privities of the Contractor will be deemed unavoidable delays to the extent they actually delay the Contractor's completion of the Work. The Contractor will be awarded a change in the Project schedule, the Time for Completion, and/or additional compensation in excess of the Contract Price for unavoidable delays to the extent such delays actually delay the Contractor's completion of the Work and/or result in the Contractor incurring additional costs in excess of the Contract Price.
- 7.4 No Damage for Contractor Caused Delay. Contractor shall not be entitled to additional compensation for extended field or home office overhead, field supervision, costs of capital, interest, escalation charges, acceleration costs or other impacts for any delays to the extent such delays are caused by the

failure of the Contractor or any subcontractor or other entity engaged in performance of the Work to perform the Work in accordance with the Contract Documents.

- 7.5 No Damage for Other Delay. Contractor will not be entitled to damages for delay to the Work caused by the following, which the City and Contractor agree will be deemed for purposes of California Public Contract Code Section 7102 either not caused by the City, and/or within the contemplation of the City and the Contractor, and/or reasonable under the circumstances:

7.5.1 Exercise of the City's right to sequence the Work in a manner that would avoid disruption to the City and other contractors based on: the failure of the Contractor or any subcontractor or other entity engaged in the performance of the Work to perform the Work in accordance with the Contract Documents, enforcement by the City or any other governmental agency of competent jurisdiction of any government act or regulation, or enforcement by the City of any provisions of the Agreement.

7.5.2 Requests for clarification or information concerning the Contract Documents or proposed change orders or modifications to the Contract Documents, including extensive and/or numerous such requests for clarification or information or proposed change orders or modifications, provided such clarifications or information or proposed change orders or modifications are processed by the City or its representatives in a reasonable time in accordance with the Contract Documents.

- 7.6 Delays Caused by the City and/or Its Privities. Delay caused by the City and/or other Contractors of the City will be deemed unavoidable delays. Either the City or the Contractor may propose a change in the Time for Completion for delays that are purported to be caused by the City and/or its privities and that are not reasonable under the circumstances involved and/or that are not within the contemplation of the City and the Contractor. Such proposed changes in the Time for Completion will constitute change order proposals subject to Section 4. In accordance with Section 4, the City and the Contractor may agree upon pricing for the cost impacts, if any, resulting from such delays. If such pricing is in anticipation of cost impacts that may, but have not yet occurred, the City will be obligated to pay the Contractor for such anticipated impacts in accordance with the Agreement and any applicable, approved change orders only to the extent the Contractor actually incurs the anticipated cost impacts. Notwithstanding anything to the contrary in Section 4, the City and the Contractor may agree to a daily rate or cap or lump sum that will apply to the cost impacts, if any, resulting from delay purportedly caused by the City and/or its privities subject to this provision. However, if such daily rate or cap or lump sum is in anticipation of cost impacts that have not yet occurred, the City will be obligated to pay such daily rate or cap or lump sum only to the extent the Contractor actually incurs such cost impacts.

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- 7.7 Weather Delays. Extensions of the Time for Completion will not be allowed for normal, adverse weather conditions that are consistent with historical weather data of the National Oceanographic and Atmospheric Administration of the U.S. Department of Commerce for the record station that is nearest or most applicable to the Work site. The Contractor should understand that normal adverse weather conditions are to be expected and plan the Work accordingly, such as by incorporating into the Project schedule, normal adverse weather delays as reflected in historical data of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce for the weather station most applicable to the Work site. Extensions of the Time for Completion for delays due to adverse weather will be allowed only if the number of adverse weather days far exceeds the historical data. No extensions of the Time for Completion will be granted for normal, adverse weather conditions or for adverse weather conditions that merely result in delays that do not or would not, themselves, result in failure to complete the Work by the Time for Completion.
- 7.8 Delay Claims. Within five (5) days of the beginning of any delay, Contractor shall notify the City in writing, by submitting a notice of delay that shall describe the anticipated delays resulting from the delay event in question. Whenever the Contractor claims a delay for which the Time for Completion may be extended, the Contractor must request an extension of time within five (5) days of submitting its notice of delay. The request must be in writing in the form of a change order and describe in detail the cause for the delay, and, if possible, the foreseeable extent of the delay. The City will determine all claims and adjustments in the Time for Completion. No claim for an adjustment in the Time for Completion will be valid and such claim will be waived if not submitted in accordance with the requirements of this Section and Section 4.9. In cases of substantial compliance with the notice timing requirements of this Section (but not to exceed twenty-one (21) days from the beginning of the delay event), City may in its sole discretion recognize a claim for delay accompanied with the proper documentation and justification, provided the Contractor also shows good faith and a manifest lack of prejudice to the City from the late notice.
- 7.9 Contractor Coordination of the Work.
- 7.9.1 The City reserves the right to do other work in connection with or in the vicinity of the Project by contract or otherwise, and Contractor shall at all times conduct the Work so as to impose no hardship on the City, others engaged in the Work or other contractors working at the Work site. The Contractor will adjust, correct and coordinate the Work with the work of others so that no delays result in the Work or other work at or near the Work site.
- 7.9.2 If any part of the Work depends for proper execution or results upon the work of the City or any other contractor, the Contractor will, before

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proceeding with such Work, promptly report to the City any apparent discrepancies or defects in such other Work. Failure of the Contractor to promptly report any apparent discrepancy or defect will be deemed an acceptance of the City's or other contractor's Work as fit and proper.

7.9.3 The Contractor will anticipate the relations of the various trades to the progress of the Work and will ensure that required anchorage or blocking is furnished and set at proper times. Anchorage and blocking necessary for each trade shall be part of the Work except where stated otherwise.

7.9.4 The Contractor will provide proper facilities at all times for access of the City, the Construction Manager, Architect or Engineer, and other authorized City representatives to conveniently examine and inspect the Work.

8. CONTRACTOR RESPONSIBILITIES

8.1. Eligibility. By executing the Agreement, the Contractor certifies that the Contractor is not ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7. In accordance with California Public Contract Code Section 6109(a), contractors who are ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7 may neither bid on, be awarded or perform the Work. To the fullest extent permitted by law, the Contractor shall hold harmless and indemnify the City from and against any and all damages, costs, and liability arising from or as a consequence of any violation of Public Contract Code Section 6109.

8.2 Non Discrimination. During the performance of this Contract, Contractor will not discriminate against any employee or subcontractor of the Contractor or applicant for employment because of race, religion, creed, color, national origin, gender, sexual orientation, or age. Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, creed, color, national origin, gender, sexual orientation, or age.

Contractor acknowledges that Contractor, and all subcontractors hired by Contractor to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Contractor is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by Contractor to perform services under this Agreement are in compliance with the IRCA. In addition, Contractor agrees to indemnify, defend and hold harmless City, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that Contractor's employees, or employees of any subcontractor hired by Contractor, are not authorized to work in the United States for Contractor or its

subcontractor and/or any other claims based upon alleged IRCA violations committed by Contractor or Contractor's subcontractors.

- 8.3 Supervision of the Work. The Contractor will be solely responsible for the performance of the Work, including portions of the Work to be performed by subcontractors. The Contractor is charged with ensuring that all orders or instructions from the City, Construction Manager or Architect are disseminated to and followed by all subcontractors engaged in performance of the Work. The Contractor will supervise the Work using the Contractor's best skill and attention. At any time during the progress of the Work, the City, the Construction Manager, or the Architect may require the Contractor and/or subcontractors engaged in performance of the Work to attend a project meeting and the Contractor will attend, and ensure the attendance of any subcontractors whose attendance is required by the City and/or advisable in light of the matters to be addressed at the meeting.
- 8.4 Contractor's Superintendent. The Contractor will keep on the Work, throughout its progress, a competent superintendent and any necessary assistants, all satisfactory to the City. The superintendent may not be changed without the consent of the City. The superintendent will represent the Contractor and all directions given by the City to the superintendent will bind the Contractor in accordance with the Agreement. Superintendent time included in Contractor's completed bid schedule and/or in approved change orders, if any, must be included in Contractor's approved overhead rate and may not be charged as a direct cost.
- 8.5 Competent Employees. The Contractor must at all times enforce strict discipline and good order among the Contractor's employees and may not employ on the Project any unfit person or anyone not skilled in the Work assigned, or anyone incompetent or unfit for the duties of that person. When the City determines that a Contractor employee does not satisfy the requirements of this provision, upon notice from the City, the Contractor must ensure that employee performs no further Work and is no longer present at the Work site. Any such Contractor employee may not again be employed on the Project without City approval.
- 8.6 Items Necessary for Proper Completion of the Work. Except as otherwise noted in the Contract Documents, the Contractor will provide and pay for all labor, materials, equipment, permits, fees, licenses, facilities and services necessary for the proper execution and timely completion of the Work in accordance with the Contract Documents.
- 8.7 Construction Reports. The Contractor must submit daily construction reports detailing the daily progress of the Work to the Construction Manager on a weekly basis.
- 8.8 Subcontracting. The Contractor must perform with his or her own organization, a value of work amounting to not less than fifty percent (50%) of

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the Contract amount, except that the bid amount for subcontracted “Specialty Items” so designated in the Special Provisions may be eliminated from the Contract amount and not considered as sub-contracted for the purposes of calculating the value of work to be performed by the Contractor. For the purposes of determining the value of work to be performed by the Contractor pursuant to this provision, materials, equipment, incidentals, etc., shall be considered to have been purchased by the Contractor or Subcontractor that is to install them. Where a portion of an item is subcontracted, the value of work subcontracted will be based on the estimated cost of such portion of the subcontracted item, as determined from information submitted by the Contractor, subject to approval by the Engineer.

8.8.1 By executing the Contract, the Contractor certifies that no subcontractor included on the list of proposed subcontractors submitted with the Contractor’s bid is ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7. In accordance with California Public Contract Code Section 6109(a), subcontractors who are ineligible to perform work on public works projects pursuant to California Labor Code Sections 1777.1 or 1777.7 may neither bid on, be awarded or perform as a subcontractor on the Work. In accordance with California Public Contract Code Section 6109(b), any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. The Contractor will ensure that no debarred subcontractor receives any public money for performing the Work, and any public money that may have been paid to a debarred subcontractor for the Work is returned to the City. The Contractor will be responsible for payment of wages to workers of a debarred subcontractor who has been allowed to perform the Work.

8.8.2 The Agreement and the performance of the Work are subject to the requirements of the Subletting and Subcontracting Fair Practices Act codified at California Public Contract Code Section 4100 et seq. If the Contractor fails to specify a subcontractor or specifies more than one subcontractor for the same portion of the Work in excess of one-half of one percent of the Contractor’s total bid, the Contractor agrees that the Contractor is fully qualified to perform that portion of the Work with the Contractor’s own forces, and that the Contractor will perform that portion of the Work with the Contractor’s own forces. If after award of the Agreement the Contractor subcontracts, except as provided for in California Public Contract Code Sections 4107 or 4109, any such portion of the Work, the Contractor will be subject to the penalties set forth in California Public Contract Code Sections 4110 and 4111, including cancellation of the Agreement, assessment of a penalty of up to 10 percent of the amount of the subcontract, and disciplinary action by the Contractors State License Board.

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- 8.8.3. No contractual relationship exists between the City and any subcontractor engaged in performance of the Work.
 - 8.8.4 Incorporation of Contract Documents. The Contractor must incorporate the Contract Documents in each contract with a subcontractor engaged in the performance of the Work including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. The Contractor shall be solely responsible for any delay or additional costs incurred as a result of its failure to provide adequate or accurate project information to a subcontractor that results in improper submittals and/or work, or time or other impacts is the sole responsibility of the Contractor. The Contractor will have all of the obligations and the City will have all of the remedies that are specified in Section 11.
 - 8.8.5 Subcontractor agrees to be bound to General Contractor and City in the same manner and to the same extent as General Contractor is bound to City under the Contract Documents. Subcontractor further agrees to include the same requirements and provisions of this agreement, including the indemnity and insurance requirements, with any Sub-subcontractor to the extent they apply to the scope of the Sub-subcontractor's work. A copy of the City's Contract Document Indemnity and Insurance provisions will be furnished to the Subcontractor upon request. The Contractor shall require all subcontractors to provide a valid certificate of insurance with the required endorsements included in the agreement prior to commencement of any work and General Contractor will provide proof of compliance to the City.
 - 8.8.6 Coordination of Subcontract Work: The Contractor is responsible for scheduling the Work of subcontractors so as to avoid delay or injury to either Work or materials.
- 8.9 Insurance.
- 8.9.1 All required insurance shall be provided in the form of "occurrence"-type policies underwritten by admitted insurers in the State of California with a rating of A or better from the current year Best Rating Guide. All policies must be issued at the expense of the Contractor and must be maintained at the Contractor's expense throughout the performance of the Work.
 - 8.9.2 The Contractor and any subcontractors engaged in performance of the Work must secure payment of workers compensation in accordance with California Labor Code Section 3700 and other applicable law. The Contractor must verify that all Subcontractors comply with this requirement.

8.9.3 Within ten (10) working days following notice of award the Contractor must submit to the City along with executed copies of all other documents specified in the Contract Check List certificates of insurance and endorsements evidencing that the Contractor has in effect and will maintain throughout the performance of the Work the following kinds and amounts of insurance:

8.9.3.1 Worker's Compensation Insurance. Workers Compensation and Employers Liability insurance as required by any applicable law, regulation or statute, including the provisions of Division IV of the Labor Code of the State of California, and any act or acts amending it. Worker's Compensation insurance must be for Statutory Limits and must cover the full liability of the Contractor. The Contractor's Employer's Liability Insurance must be in an amount no less than \$1,000,000.00 per occurrence. The insurance must be endorsed to waive all rights of subrogation against City and its officials, officers, employees, and volunteers for loss arising from or related to the work performed under this agreement.

8.9.3.2 Commercial General Liability and Automobile Liability Insurance. Coverage for liability because of Bodily Injury and Property Damage including, but not limited to the following coverage:

- Completed Operations and Products Liability
- Bodily Injury
- Personal Injury
- Broad Form Property Damage Liability
- Contractual Liability insuring the obligations assumed by the Contractor under the Contract Documents
- Automobile Liability, including owned, non-owned and hired automobiles
- Coverage for the XCU hazards of Explosion, Collapse and Underground Hazards

8.9.3.3 Commercial General Liability Self-Insured Retentions:

- All self-insured retentions (SIR) must be disclosed to City for approval and shall not reduce the limits of liability.
- Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or the City.

- The City reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

8.9.3.4 Commercial Umbrella Policy. The limits of insurance required in these Contract Documents may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City (if agreed to in a written contract or agreement) before the City's own Insurance or self-insurance shall be called upon to protect it as a named insured.

8.9.3.5 Builders Risk. The Contractor must, at the Contractor's own expense, maintain a builder's risk fire insurance policy, special form including extended coverage and vandalism, and malicious mischief endorsements. The policy must name the City and the Contractor as insureds. Such insurance must be carried in the amount of 100% of the Contract Price. In the event of a partial or total destruction by fire of any or all of the Work at any time prior to the completion and acceptance thereof, the Contractor shall promptly reconstruct all Work so destroyed or injured at the Contractor's own cost and expense and at no cost to the City.

8.9.4 The Additional Insured coverage under the Contractor's policy shall be "primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

8.9.5 The limits of the insurance required above will be at least:

Comprehensive General Liability

Bodily Injury Liability	\$2,000,000	each occurrence
	\$4,000,000	each aggregate
Property Damage Liability	\$2,000,000	each occurrence
	\$4,000,000	each aggregate

Comprehensive Automobile Liability

Bodily Injury Liability	\$2,000,000	each person
	\$2,000,000	each occurrence
Property Damage Liability	\$2,000,000	each occurrence

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Builders Risk

issued for the value of the Contract Price

- 8.9.6 For each insurance policy required under the Agreement except for the required workers compensation insurance policy, the Contractor must provide endorsements that add the City, its officials, officers, employees, agents and volunteers as an additional insured ("Additional Insured"). Such endorsements must: provide that the insurance required to be furnished by the Contractor will be primary as regards the City, and that the City's insurance will be excess of and not contribute to the insurance required to be furnished by the Contractor; that the City will receive 30 day written notice of any reduction or cancellation of such insurance required to be furnished by the Contractor; and include a severability of interest clause acceptable to the City. Said endorsement shall be at least as broad as Insurance Services Office form number CG2010 (Ed. 11/85).
- 8.9.7 It shall be a requirement under these Contract Documents that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the Additional Insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater.
- 8.9.8 Contractor shall maintain insurance as required by these Contract Documents to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following the completion of this project. In the event contractor fails to obtain or maintain completed operations coverage as required by this Agreement, the City at its sole discretion may purchase the coverage required and the cost will be paid by Contractor.

8.10 Indemnities.

- 8.10.1 The Contractor will take all responsibility for the Work, and will bear all losses and damages directly or indirectly resulting to the Contractor, any subcontractors engaged in performance of the Work, the City, its officials, officers, employees, agents, volunteers and consultants, and to third parties on account of the performance or character of the Work, unforeseen difficulties, accidents, or occurrences of other causes arising out of the Contractor's execution of the Work or of any subcontractor engaged in performance of the Work. To the fullest extent permitted by law the Contractor will indemnify, defend and hold harmless the City, its officials, officers, employees, agents, volunteers and consultants from and against any or all loss, liability, expense, claims, costs

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(including costs of defense and consultants' costs), suits, and damages of every kind, nature and description (including, but not limited to, penalties resulting from exposure to hazards in violation of the California Labor Code and bodily injury or death) directly or indirectly arising from the Contractor's performance of the Work, failure to perform the Work, or condition of the Work that is caused in whole or in part by any act or omission of Contractor, its subcontractors, or anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, resulting from any cause whatsoever, save for liability for any loss, damage, or expense arising out of the City's sole negligence or willful misconduct.

- 8.10.2 The Contractor will indemnify, defend and hold harmless the City, the City's officials, officers, employees, volunteers, agents and the Construction Manager and Architect for all liability on account of any patent rights, copyrights, trade names or other intellectual property rights that may apply to the Contractor's performance of the Work. The Contractor will pay all royalties or other charges as a result of intellectual property rights that may apply to methods, types of construction, processes, materials, or equipment used in the performance of the Work, and will furnish written assurance satisfactory to the City that any such charges have been paid.
- 8.10.3 The Contractor assumes all liability for any accident or accidents resulting to any person or property as a result of inadequate protective devices for the prevention of accidents in connection with the performance of the Work. The Contractor will indemnify, defend, and hold harmless the City and its officials, officers, employees, agents, volunteers and consultants from such liability.
- 8.10.4 Approval of the Contractor's certificates of insurance and/or endorsements does not relieve the Contractor of liability under this Section 8.9. The Contractor will defend, with legal counsel reasonably acceptable to the City, any action or actions filed in connection with any Claims and will pay all related costs and expenses, including attorney's fees incurred. The Contractor will promptly pay any judgment rendered against the City, its officials, officers, employees, agents, volunteers or consultants for any Claims. In the event the City, its officials, officers, employees, agents, volunteers or consultants is made a party to any action or proceeding filed or prosecuted against Contractor for any Claims, Contractor agrees to pay the City, its officials, officers, employees, agents, volunteers and consultants any and all costs and expenses incurred in such action or proceeding, including but not limited to, reasonable attorneys' fees.

- 8.10.5 Subject to the requirements of Section 5 of the General Provisions, the Contractor will indemnify, hold harmless and defend, with legal counsel reasonably acceptable to the City, the City and its officials, officers, employees, agents and volunteers from and against any and all claims related to damage to surface or underground facilities caused by the Contractor or any of the Contractor's privities or agents.
- 8.10.6 The Contractor will indemnify, hold harmless and defend, with legal counsel reasonably acceptable to the City, the City and its officials, officers, employees, agents and volunteers from and against any and all claims, including any fines or other penalties, related to failure of the Contractor and/or privities or agents of the Contractor to comply with the requirements of the General Permit, or to implement the Stormwater Pollution Prevention Plan ("SWPPP") in accordance with provision 12 of the Special Provisions. The City may withhold from amounts due or that may become due to the Contractor under this Contract amounts that equal or are estimated to equal the amount of claims, including fines, resulting from failure of the Contractor and/or privities or agents of the Contractor to comply with the requirements of the General Permit, or to implement the SWPPP in accordance with provision 12 of the Special Provisions.
- 8.10.7 In accordance with California Civil Code Section 2782(a), nothing in the Contract will be construed to indemnify the City for its sole negligence, willful misconduct, or for defects in design furnished by the City. By execution of the Contract Documents the Contractor acknowledges and agrees that the Contractor has read and understands the insurance and indemnity requirements of the Contract Documents, which are material elements of consideration.
- 8.10.8 The defense and indemnification obligations of these Contract Documents are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in these Contract Documents.
- 8.10.9 Contractor/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of these Contract Documents for the full period of time allowed by law.
- 8.10.10 If Contractor fails to perform any of the foregoing defense and indemnity obligations, the City may defend itself and back-charge the Contractor for the City's costs and fees (including attorneys' and consultants' fees), and damages and withhold such sums from progress payments or other Contract monies which may become due.

8.11 Licenses/Permits. The Contractor must, without additional expense to the City, obtain all licenses, permits and other approvals required for the performance of the Work.

8.12 California Labor Code Requirements.

8.12.1 In accordance with California Labor Code Section 1771.1, this Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations (DIR). The Contractor and subcontractors engaged in performance of the Work must comply with Labor Code Section 1771.1.

8.12.2 In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Work shall constitute a legal day's work under the Agreement.

8.12.3 In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the Work is limited to eight hours during any one calendar day, and forty hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of eight hours during any one calendar day and forty hours during any one calendar week is permitted upon compensation for all hours worked in excess of eight hours during any one calendar day and forty hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.

8.12.4 The Contractor and its subcontractors will forfeit as a penalty to the City \$25 for each worker employed in the performance of the Work for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day, or more than forty (40) hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 et seq.

8.12.5 In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the Work is to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the Public Works Department and shall be made available on request. The Contractor and subcontractors engaged in the performance of the Work shall pay no less than these rates to all persons engaged in performance of the Work.

8.12.6 In accordance with California Labor Code Section 1775, the Contractor and any subcontractors engaged in performance of the Work must comply with Labor Code Section 1775 which establishes a

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penalty of up to \$200 per day for each worker engaged in the performance of the Work that the Contractor or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner. The Contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the Work is not paid the general prevailing per diem wages by the subcontractor, the Contractor is not liable for any penalties therefor unless the Contractor had knowledge of that failure or unless the Contractor fails to comply with all of the following requirements:

- 8.12.6.1 The contract executed between the Contractor and the subcontractor for the performance of part of the Work must include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
- 8.12.6.2 The Contractor must monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
- 8.12.6.3 Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Contractor must diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the Work.
- 8.12.6.4 Prior to making final payment to the subcontractor, the Contractor must obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to employees engaged in the performance of the Work and any amounts due pursuant to California Labor Code Section 1813.
- 8.12.7 In accordance with California Labor Code Section 1776, the Contractor and each subcontractor engaged in performance of the Work, must keep accurate payroll records showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating that the information contained in the

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payroll record is true and correct and that the employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project. The payroll records required pursuant to California Labor Code Section 1776 must be certified and must be available for inspection by the City and its authorized representatives, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations and must otherwise be available for inspection in accordance with California Labor Code Section 1776.

- 8.12.8 In accordance with California Labor Code Section 1777.5, the Contractor, on behalf of the Contractor and any subcontractors engaged in performance of the Work, will be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
- 8.12.9 In case it becomes necessary for the Contractor or any subcontractor engaged in performance of the Work to employ on the Work any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor must pay the minimum rate of wages specified therein for the classification which most nearly corresponds to Work to be performed by that person. The minimum rate thus furnished will be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.
- 8.13 Laws and Ordinances. The Contractor and all subcontractors engaged in the performance of the Work must conform to the following specific rules and regulations as well as all other laws, ordinances, rules and regulations that apply to the Work. Nothing in the Technical Specifications or Project Plans is to be construed to permit Work not conforming to these codes:
- National Electrical Safety Code, U. S. Department of Commerce
 - National Board of Fire Underwriters' Regulations
 - California Building Standards Code as adopted by the City
 - California Plumbing Code as amended by applicable local ordinances for plumbing, sewage disposal and health requirements.
 - California Mechanical Code as amended by applicable local ordinances for all construction work.
 - California Administrative Code Titles 15, 19 and 24 (with California amendments), and Americans with Disabilities Act (ADA) accessibility guidelines, whichever is more stringent.

- Manual of Accident Prevention in Construction, latest edition, published by A.G.C. of America
- Industrial Accident Commission's Safety Orders, State of California
- Regulations of the State Fire Marshall (Title 19, California Code of Regulation) and Applicable Local Fire Safety Codes
- Labor Code of the State of California - Division 2, Part 7, Public Works and Public Agencies
- Federal, state, and local air pollution control laws and regulations applicable to the Contractor and/or Work

8.14 Guaranty. The Contractor guarantees all of the Work for one year from the date the City accepts the Work. Upon receiving written notice of a need for repairs which are directly attributable to defective materials or workmanship the Contractor must make good any defects arising or discovered in any part of the Work by diligently commencing the necessary repairs within seven (7) days from the date of notice from the City. If the Contractor fails to make good any defects in the Work in accordance with this provision, in addition to any other available remedy under the contract or at law or equity, the City may make good or have made good such defects in the Work and deduct the cost from amounts that may be due or become due the Contractor, and/or call on the Contractor's maintenance bond for the cost of making good such defects and for the City's reasonable legal costs, if any, of recovering against the bond. The Contractor shall remain responsible for repairing any Work found to be defective regardless of when such defect is discovered by the City.

Where defective or rejected Work and any damage caused thereby has been corrected, removed, or replaced by the Contractor pursuant to this section, the guarantee period with respect to that Work shall be extended for an additional period of one year after such correction, removal, or replacement has been satisfactorily completed.

8.15 Safety.

8.15.1 In accordance with generally accepted construction practices and applicable law, the Contractor will be solely and completely responsible for conditions of the Work site, including safety of all persons and property during performance of the Work. This requirement will apply continuously and not be limited to normal working hours. For purposes of California Labor Code Section 6400 and related provisions of law, the Contractor and the Contractor's privities and any other entities engaged in the performance of the Work will be "employers" responsible for furnishing employment and a place of employment that is safe and healthful for the employees, if any, of such entities engaged in the performance of the Work. Neither the City nor its officials, officers, employees, agents, volunteers or consultants will be "employers" pursuant to California Labor Code

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Section 6400 and related provisions of law with respect to the Contractor, the Contractor's privities or other entities engaged in the performance of the Work. The Contractor agrees that neither the City, the Construction Manager, the Architect, nor the Engineer will be responsible for having hazards corrected and/or removed at the Work site. The Contractor agrees that the City will not be responsible for taking steps to protect the Contractor's employees from such hazards, or for instructing the Contractor's employees to recognize such hazards or to avoid the associated dangers. The Contractor agrees with respect to the Work and the Work site, the Contractor will be responsible for not creating hazards and for having hazards corrected and/or removed, for taking appropriate, feasible steps to protect the Contractor's employees from such hazards and that the Contractor has instructed and/or will instruct its employees to recognize such hazards and how to avoid the associated dangers.

- 8.15.2 Review and inspection by the City, the Construction Manager, the Architect or Engineer, and/or other representatives of the City of the Contractor's performance of the Work will not constitute review of the adequacy of the Contractor's safety measures in, on, or near the Work site. Such reviews and inspections do not relieve the Contractor of any of the Contractor's obligations under the Contract Documents and applicable law to ensure that the Work site is maintained and the Work is performed in a safe manner.
- 8.15.3 The Contractor will be solely responsible for the implementation and maintenance of safety programs to ensure that the Work site is maintained and the Work is performed in a safe manner in accordance with the Contract Documents and applicable law.
- 8.15.4 Within ten (10) working days following notice of award the Contractor must submit to the City a copy of the Contractor's Safety Plan.
- 8.15.5 The Contractor must furnish and place proper guards and systems for the prevention of accidents, including, but not limited to, those systems required pursuant to Title 8, Section 1670 et seq. of the California Code of Regulations concerning safety belts and nets. The Contractor must provide and maintain any other necessary systems or devices required to secure safety of life or property at the Work site in accordance with accepted standards of the industry and applicable law. The Contractor must maintain during all night hours sufficient lights to prevent accident or damage to life or property.
- 8.16 Assignment of Unfair Business Practice Claims. In accordance with California Public Contract Code Section 7103.5, the Contractor and any subcontractors offer and agree to assign to the City all rights, title, and interest in and to all causes of action the Contractor or any subcontractors may have under Section

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4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to this contract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgement by the parties.

- 8.17 Contractor shall be responsible for properly notifying residents and property owners impacted by this project in accordance with City standards. Specific notification procedures vary with the type of work and shall be coordinated with the City before work begins. The City will furnish a list of impacted property owners.
- 8.18 Contractor shall use paper products and printing and writing paper that meets Federal Trade Commission recyclability standards as defined in 16 CFR 260.12.

9. MEASUREMENT AND PAYMENT

- 9.1 F.O.B. All shipments must be F.O.B. destination to the Work site and/or other sites indicated in the Contract Documents. The Contract Price is all-inclusive (including sales tax). There shall be no additional compensation paid for containers, packing, unpacking, drayage or insurance.
- 9.2 Payment
 - 9.2.1 On or about the first day of each calendar month the Contractor will submit to the Construction Manager a verified application for payment and schedule of values supported by a statement showing all materials actually installed during the preceding month and the cost of labor actually expended in the performance of the Work. **Billing must be received on a monthly basis, at a minimum.** Unless otherwise provided in the Contract Documents, no allowances or payments will be made for material or equipment not placed at the Work site.
 - 9.2.2 To be eligible for payment the Contractor's applications for payment must include certified payroll reports prepared in accordance with California Labor Code Section 1776 and the Agreement for each employee of the Contractor and any subcontractors engaged in the performance of the Work during the preceding months, applications for payment will not be processed without certified payroll reports.
 - 9.2.3 In accordance with California Public Contract Code Section 20104.50, the City will review applications for payment as soon as practicable after receipt. Any application or part of an application that is determined to be improper will be returned to the Contractor as soon as practicable, but no later than seven (7) days after receipt by the City,

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along with a written description of the reasons why the application is improper. The Contractor's failure to submit a schedule in the time specified in Section 3.8, or its submission of a schedule to which the City has taken any uncorrected exception, shall serve as a basis for returning an application for payment in its entirety.

- 9.2.4 Unless the Contractor has elected to post securities in lieu of retention in accordance with California Public Contract Code Section 22300 and the Agreement, and the Contractor and the City have executed an escrow agreement in accordance with the Public Contract Code and the Agreement, the City will make progress payments to the Contractor in accordance with applicable law in the amount of ninety-five (95) percent of the value of the labor actually performed and the material incorporated in the Work as specified in Contractor's verified application for payment upon approval by the City's authorized representative(s). Payment of progress payments will not be construed as acceptance of the Work performed. If the Contractor has elected to post securities in lieu of retention in accordance with Public Contract Code Section 22300 and the Agreement and the Contractor and the City have executed an escrow agreement in accordance with the Public Contract Code and the Agreement, the City will make payments to the Contractor or the Contractor's escrow agent in accordance with such escrow agreement.
- 9.2.5 The City will pay the Contractor's final invoice in accordance with applicable law and this Section 9 following acceptance of the Work provided that:
 - 9.2.5.1 The Contractor has furnished evidence satisfactory to the City that all claims for labor and material have been paid, or the time for filing valid stop notices has passed and no stop notices have been filed, or all stop notices filed have been released by valid release or release bond acceptable to the City.
 - 9.2.5.2 No claim has been presented to the City by any person based upon any acts or omissions of the Contractor or any subcontractor engaged in the performance of the Work.
 - 9.2.5.3 No other claim or dispute exists under the Agreement or applicable law concerning payment of the Contractor's final invoice and/or release of the Agreement retention.
 - 9.2.5.4 The Contractor has filed with the City the Maintenance Bond provided in the Contract Documents with duly notarized signatures of an authorized representative of the Contractor and an attorney-in-fact of an admitted surety insurer acceptable to the City and such Maintenance Bond binds the

Contractor as Principal and the Surety in accordance with its terms in the amount of 10% of the final Contract Price.

9.2.6 In accordance with California Public Contract Code Section 20104.50, if the City fails to make a progress payment within thirty (30) days of receipt of an undisputed, properly submitted application for payment, the City will pay the Contractor interest equivalent to the legal rate set forth in subdivision (a) of California Code of Civil Procedure Section 685.010. The number of days available to the City to make a payment without incurring an interest obligation pursuant to this provision and California Public Contract Code Section 20104.50 will be reduced by the number of days, if any, by which the City has delayed return of an application for payment beyond the seven day return requirement set forth in Section 9.2.5.

9.3 Non-Allowable Direct Charges. The following costs are not allowable direct charges under the Agreement. The following costs may only be paid under the Agreement, if at all, as part of any allowance for contractor overhead and/or profit established under the Agreement.

9.3.1 Labor costs in excess of applicable prevailing wages pursuant to the Agreement and applicable law, liability and workers compensation insurance, social security, retirement and unemployment insurance and other employee compensation and benefits pursuant to bona fide compensation plans in effect at the time specified for the opening of Project bids for contractor and subcontractor employees engaged in the performance of the Work or in excess of the labor costs specified in Section 4.5 of this Contract in the case of cost impacts involving items for which the Contract Documents do not specify prices and for which no lump sum amount has been approved by the City. However, in no event will allowable direct labor charges under the agreement include employee bonuses, employee vehicles or vehicle allowances, employee telephones or telephone allowances, or employee housing or housing allowances, whether or not such benefits are part of a bona fide compensation plan in effect at the time specified for the opening of Project bids.

9.3.2 Superintendent labor and clerical labor.

9.3.3 Bond premiums.

9.3.4 Insurance in excess of that required under Section 8.8.

9.3.5 Utility costs.

9.3.6 Work Site office expenses.

9.3.7 Home office expenses.

9.3.8 Permit or license costs.

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9.4 Retention. The City or its agent may, in accordance with the Contract Documents and applicable law, withhold any payment of monies due or that may become due the Contractor because of:

- 9.4.1 Defective work not remedied or uncompleted work.
- 9.4.2 Claims filed or reasonable evidence indicating probable filing of claims.
- 9.4.3 Failure to properly pay subcontractors or to pay for material or labor.
- 9.4.4 Reasonable doubt that the Work can be completed for the balance then unpaid.
- 9.4.5 Damage to another contractor.
- 9.4.6 Damage to the City.
- 9.4.7 Damage to a third party.
- 9.4.8 Delay in the progress of the Work, which, in the City's judgment, is due to the failure of the Contractor to properly expedite the Work.
- 9.4.9 Liquidated damages or other charges that apply to the Contractor under the Agreement.
- 9.4.10 Any other lawful basis for withholding payment under the contract.

9.5 Securities in Lieu of Retention.

- 9.5.1 In accordance with Public Contract Code Section 22300, except where federal regulations or policies do not permit substitution of securities, the Contractor may substitute securities for any moneys withheld by the City to ensure performance of the Work. At the Contractor's request and expense, securities equivalent to the amount withheld will be deposited with the City, or with a state or federally chartered bank in California as the escrow agent, who will then pay those moneys to the Contractor under the terms of an Escrow for Security Deposit agreement. The Escrow for Security Deposit agreement is provided in the Contract Documents. Upon satisfactory completion of the Work, the securities will be returned to the Contractor.
- 9.5.2 Alternatively, at the Contractor's request and expense, the City will pay retentions earned directly to the escrow agent. At the Contractor's expense, the Contractor may direct investment of the payments into securities. Upon satisfactory completion of the Work, the Contractor will receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City pursuant to this provision and the terms of the Escrow for Security Deposit agreement. The Contractor will, within 20 days of receipt of

payment, pay to each subcontractor the respective amount of interest earned, less costs of retention withheld from each Subcontractor, on monies withheld to ensure the Contractor's performance of the Work.

9.5.3 Securities eligible for investment in accordance with this provision include those listed in Government Code Section 16430, bank or savings and loan certificates of deposit, interest bearing demand deposit accounts, standby letters of credit, or any other security mutually agreed to by the Contractor and the City.

9.5.4 The Contractor will be the beneficial owner of any securities substituted for moneys withheld and will receive any interest thereon.

10. PROJECT ACCEPTANCE AND CLOSEOUT

10.1 Occupancy. The City reserves the right to occupy or use any part or parts or the entirety of the Work before the Work is fully performed. Subject to applicable law, exercising this right will in no way constitute acceptance of any part of the Work so occupied or used or acceptance of the entire Work, nor will such occupancy or use in any way affect the times when payments will become due the Contractor, nor will such occupancy or use in any way prejudice the City's rights under the Agreement, any Agreement bonds, or at law or equity. Occupancy or use shall not waive the City's rights to assess liquidated damages in accordance with Section 7 after the date of such occupancy or use.

10.2 Work Completion and Final Inspection. When the Contractor considers the Work is completed, the Contractor will submit written certification to the Construction Manager specifying that: the Contract Documents have been reviewed; the Work has been inspected for compliance with the Contract Documents; the Work has been completed in accordance with the Contract Documents; and that equipment and systems have been tested in the presence of the City's representative and are operational. The City and/or the City's authorized representatives will make an inspection to verify that the Work is complete and will notify the Contractor in writing of any incomplete or deficient Work. The Contractor will take immediate steps to remedy the stated deficiencies and give notice of correction to the Construction Manager. Upon receiving a notice of correction, the City or the City's authorized representatives will re-inspect the Work. The Contractor must correct all punch list items within 15 working days after the issuance of the punch list. Before acceptance of the Work the Contractor must submit: one set of the Project Record Drawings (As-Builts), and any equipment operating and maintenance instructions and data, warranties.

10.3 Work Acceptance.

10.3.1 All finished Work will be subject to inspection and acceptance or rejection by the City, the Construction Manager, and the Architect

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or Engineer and other government agencies having jurisdiction over the Work. Final acceptance of the Work will be at the discretion of the City.

- 10.3.2 The City will accept the Work in writing only when the Work has been completed to the City's reasonable satisfaction. Progress payments will in no way be construed as acceptance of any part of the Work.
- 10.3.3 In evaluating the Work, no allowance will be made for deviations from the Technical Specifications, Project Plans or other Contract Documents unless already approved in writing in accordance with the requirements of Section 4, above.
- 10.3.4 The fact that the Work and materials have been inspected from time to time and that progress payments have been made does not relieve the Contractor of the responsibility of replacing and making good any defective or omitted work or materials in accordance with the requirements of the Contract Documents.
- 10.3.5 None of the provisions of this section, including acceptance of the Project, final payment, or use or occupancy of the Project Site shall constitute acceptance of Work not done in accordance with the Contract Documents nor relieve Contractor of liability relating to the express guarantees or responsibility for faulty materials or workmanship. Nothing in this section or the Contract Documents shall be construed to limit, relieve, or release Contractor's, subcontractors', and materials suppliers' liability to the City for damages sustained as a result of latent defects in materials, equipment, or the Work caused by the Contractor, its agents, suppliers, employees, or Subcontractors.

11. REMEDIES AND DISPUTES

- 11.1 Failure to Correct Work. Within ten (10) working days of receiving written notice from the City describing Work that is defective or that is otherwise not in accordance with the requirements of the Agreement and/or applicable law and directing that such Work be corrected, the Contractor and/or the Contractor's sureties must give the City written notice of the intent of the Contractor and/or the Contractor's sureties to correct such Work and commence correction of such Work in accordance with the City's notice and the Agreement. If the Contractor and/or the Contractor's sureties do not give the City written notice of intent to correct such Work and commence correction of such Work within ten (10) working days of receipt of the City's notice, then the City may correct such work and/or have such work corrected for the account and at the expense of the Contractor and/or its sureties, and the Contractor and/or its sureties will be liable to the City for any resulting excess cost. The City may, in addition to all other remedies that the City may have under the Agreement

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and at law or equity, deduct any such excess cost of completing the Work from amounts that are due or that may become due the Contractor. Contractor shall not be entitled to an extension of the Time of Completion because of a delay in the performance of the Work attributable to the City's exercise of its rights under this section.

11.2 Termination for Cause

11.2.1 In accordance with California Public Contract Code Section 7105, in addition to all other available remedies that the City may have under the Agreement, and at law or equity, the City may terminate the Contractor's control of the Work for any material breach of the Contract, including, but not limited to the following:

11.2.1.1 If the Contractor or any of its subcontractors engaged in the performance of the Work fails to timely perform the Work and/or any of the Contractor's material obligations under the Contract Documents, including but not limited to submission of an acceptable schedule, that have accrued except for due to reasons beyond the control of the Contractor pursuant to the Contract Documents.

11.2.1.2 If the Contractor is adjudged bankrupt, or if it should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of its creditors.

11.2.1.3 If the Contractor or any of the subcontractors engaged in the performance of the Work persistently or repeatedly refuses or fails to supply enough properly skilled workmen or proper materials for the timely completion of the Work.

11.2.1.4 If the Contractor fails to make prompt payment to subcontractors engaged in the performance of the Work or for material or labor used in the performance of the Work in accordance with the Contract Documents and applicable law.

11.2.1.5 If the Contractor or any subcontractors engaged in the performance of the Work persistently disregards laws or ordinances applicable to the performance of the Work, or the instructions of the City, the Construction Manager, the Architect, or other authorized representatives of the City.

11.2.2 If the City intends to terminate the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, above, the City will immediately serve written notice to the Contractor and its sureties in accordance with the Contract Documents. Notice of the City's intent to terminate the Contractor's control of the Work will be given by registered or certified mail and specify the grounds for

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termination, the required cure and the time by which the cure must be effected. Upon receipt of notice of the City's intent to terminate the Contractor's control of the Work for any of the reasons specified in provisions 11.2.1.1 through 11.2.1.5, above, the Contractor will have ten (10) days from receipt of the notice or a longer time specified in the notice to cure its default. If the Contractor does not affect the required cure by the time specified in the notice, the City will issue a written notice of termination to the Contractor and its sureties by registered or certified mail. The notice of termination will specify: that upon receipt of the notice the Contractor's right to perform or complete the Work, including on behalf of the Contractor's sureties, is terminated; that the Contractor's sureties will have the right to take over and complete the Work and perform all of the Contractor's remaining obligations that have accrued under the Agreement; and that if the Contractor's sureties do not both give the City written notice of their intention to take over and perform the Agreement and commence completion of the Work and performance of all of the Contractor's remaining obligations that have accrued under the Agreement within ten (10) days after receipt of notice of termination that the City may declare the Contractor's sureties in default and take over the completion of the Work or have the Work completed for the account and at the expense of the Contractor and its sureties, and the Contractor and its sureties will be liable to the City for any resulting excess cost. The City may, in addition to all other available remedies that the City may have under the Contract Documents and at law or equity, deduct any such excess cost of completing the Work from amounts that are due or that may become due the Contractor.

- 11.2.3 Upon termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, the Contractor will, if so directed by the City, immediately remove from the Work site any and all materials and personal property belonging to the Contractor which have not been incorporated in the Work and the Contractor and its sureties will be liable upon their bond for all damages caused the City by reason of the Contractor's failure to complete the Work.
- 11.2.4 Upon termination of the Contractor's control of the Work for any of the reasons specified in provisions 11.2.1.1 through 11.2.1.5, above, the City reserves the right to refuse tender of the Contractor by any surety to complete the Work.
- 11.2.5 If the City completes or has completed any portion of, or the whole of the Work, following termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, above, the City will neither be liable for nor account to the Contractor

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or the Contractor's sureties in any way for the time within which, or the manner in which such Work is performed, or for any changes made in such Work or for the money expended in satisfying claims and/or suits and/or other obligations in connection with completing the Work. If, following termination of the Contractor's control of the Work for any of the reasons specified in Sections 11.2.1.1 through 11.2.1.5, above, the unpaid balance of the Contract Price exceeds the expense of completing the Work, including compensation for additional legal, managerial and administrative services and all other amounts due for the completion of the Work and/or satisfaction of claims of the City and/or others arising out of the Agreement and any other charges that apply to the Contractor under the Agreement, the difference will be paid to the Contractor. If such expenses of completing the Work exceed the unpaid balance of the Contract Price, the Contractor or its sureties will pay the difference to the City.

- 11.2.6 If the Agreement or Contractor's control of the Work is terminated for any reason, Contractor waives all consequential damages resulting therefrom, including, but not limited to, the loss of any anticipated profit by the Contractor for the Work, the loss of profit on any potential or future jobs, and the loss of bonding capacity.
- 11.2.7 In accordance with California Government Code Section 4410, in the event a national emergency occurs, and public work being performed by contract is stopped, directly or indirectly, because of the freezing or diversion of materials, equipment or labor, as the result of an order or a proclamation of the President of the United States, or of an order of any federal authority, and the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the work, then the City and the Contractor may, by written agreement, terminate the Agreement. In accordance with California Government Code Section 4411, such an agreement will include the terms and conditions of the termination of the contract and provision for the payment of compensation or money, if any, which either party will pay to the other or any other person, under the facts and circumstances in the case. Compensation to the Contractor will be determined on the basis of the reasonable value of the work done, including preparatory work. As an exception to the foregoing, in the case of any fully completed separate item or portion of the Work for which there is a separate contract price, the contract price shall control. The parties may in any other case adopt the contract price as the reasonable value of the work or any portion of the work done.
- 11.2.8 In the event a termination for cause is later determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience, and the Contractor shall

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have no greater rights than it would have following a termination for convenience. Any contractor claim arising out of a termination for cause shall be made in accordance with this section.

11.3 Termination for Convenience.

- 11.3.1 The City may terminate performance of the Work under the Contract Documents in accordance with this clause in whole, or from time to time in part, whenever the City shall determine that termination is in the City's best interest. Termination shall be effected by the City delivering to the Contractor notice of termination specifying the extent to which performance of the Work under the Contract Documents is terminated, and the effective date of the termination.
- 11.3.2 Contractor shall comply strictly with the City's direction regarding the effective date of the termination, the extent of the termination, and shall stop work on the date and to the extent specified.
- 11.3.3 Contractor shall be entitled to a total payment on account of the Contract work so terminated measured by: (i) the actual cost to Contractor of Work actually performed, up to the date of the termination, with profit and overhead limited to twelve percent (12%) of actual cost of work performed, up to but not exceeding the actual contract value of the work completed as measured by the Schedule of Values and Progress Schedule; and (ii) offset by payments made and other contract credits. In connection with any such calculation, however, the City shall retain all rights under the Contract Documents including, without limitation, claims, indemnities, or setoffs.
- 11.3.4 Under no circumstances may Contractor recover legal costs of any nature, nor may Contractor recover costs incurred after the date of the termination.

11.4 Disputes.

The procedure set forth in California Public Contracts Code section 9204 (as summarized in Exhibit A attached hereto) shall apply to all "claims" by the Contractor on the City, as that term is defined in Section 9204. With respect to "claims" or any portion of a claim not resolved by way of the procedure set forth in Section 9204, the following procedure shall thereafter apply as follows:

- 11.4.1 In accordance with California Public Contract Code Section 20104.2, the following procedures apply to claims of \$375,000 or less between the Contractor and the City:
 - 11.4.1.1 The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede

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notice requirements otherwise provided by contract for the filing of claims.

- 11.4.1.2 For claims of less than fifty thousand dollars (\$50,000), the City shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.
 - 11.4.1.2.1 If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the Contractor.
 - 11.4.1.2.2 The City's written response to the claim, as further documented, shall be submitted to the Contractor within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the Contractor in producing the additional information, whichever is greater.
- 11.4.1.3 For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the City shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the City may have against the Contractor.
 - 11.4.1.3.1 If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the Contractor.
 - 11.4.1.3.2 The City's written response to the claim, as further documented, shall be submitted to the Contractor within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.
- 11.4.1.4 If the Contractor disputes the City's written response, or the City fails to respond within the time prescribed, the Contractor may so notify the City, in writing, either within 15

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days of receipt of the City's response or within 15 days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute.

11.4.1.5 Following the meet and confer conference, if the claim or any portion remains in dispute, the Contractor may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the Contractor submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

11.4.1.6 This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

11.4.2 In accordance with California Public Contract Code Section 20104.4, the following procedures apply to civil actions to resolve claims of \$375,000 or less between the City and the Contractor:

11.4.2.1 Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to non-binding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

11.4.2.2 If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code.

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The Civil Discovery Act of 1986 (Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

11.4.2.2.1 Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

11.4.2.2.2 In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

11.4.2.3 The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

11.4.3 In accordance with California Public Contract Code Section 20104.6:

11.4.3.1 The City shall not fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

11.4.3.2 In any suit filed under Public Contract Code Section 20104.4 concerning this contract, the City shall pay interest at the legal rate on any arbitration award or judgment. Such interest shall accrue from date the suit was filed.

11.5 Non-Waiver.

11.5.1 Either party's waiver of any breach or failure to enforce any of the terms, covenants, conditions or other provisions of the Contract Documents at any time shall not in any way affect, limit, modify or

waive that party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.

- 11.5.2 Neither acceptance of the whole or any part of Work by City nor any verbal statements on behalf of City or its authorized agents or representatives shall operate as a waiver or modification of any provision of the Contract Documents, or of any power reserved to City herein nor any right to damages provided in the Contract Documents.

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Fort Bragg Municipal Improvement District No. 1
Project No. WWP-00025
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General Provisions

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONTRACT, PART 3

SPECIAL PROVISIONS

12. SPECIAL PROVISIONS

12.1 Description of Work.

The Work in general consists of constructing a building to store the byproduct of the Bio Solids operations, for protected drying. The building will be approximately 50' deep by 100' wide, with openings on one of the long sides and closed on the three remaining sides. The structure will be wood frame, on top of a 4'-0" high concrete stem wall. Finish will be Cement Fiber Siding and a Membrane Roof. No doors or interior improvements are anticipated. Height will be approximately 20' and other such items of work as are required to complete the project in accordance with this Contract, the Project Plans and Technical Specifications.

The estimate of the quantities of work to be done is approximate only, being as a basis for the comparison of bids, and the City does not expressly or by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount or any portion of the work as directed by the Construction Manager.

Incidental items of construction necessary to complete the whole Work in a satisfactory and acceptable manner as shown on the Project Plans and as provided for in the Technical Specifications and not specifically referred to in this section, will be understood to be furnished by the Contractor.

12.2 Construction Limitations.

The Contractor will be expected to conduct his or her operations in a manner that creates a minimum of damage to the natural vegetation and landscape. Ingress and egress must be via the existing driveways. Care must be exercised to avoid hazards that may cause injury to persons, animals or property either during working hours or after work hours, which will include dust control, backfilling trenches immediately following pipe laying and temporary fencing as required. Excavation made under this Contract must be backfilled before leaving the Work for the night.

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Ground disturbance should be initiated and/or completed from August 31 to January 31, outside of the general bird nesting season. If land disturbance activities cannot be completed or initiated during this time, a pre-construction nesting bird survey should be performed by a qualified biologist no more than 7 days prior to the initiation of ground disturbance. The survey should cover the Project Area and surrounding areas within 500 feet. If active bird nests are found during the survey, a qualified biologist should monitor nesting birds during construction to ensure they are not disturbed by the project activities. If the monitor notices behavioral changes in the birds, an appropriate no-disturbance buffer should be established by the qualified biologist. The no-disturbance buffer will remain in place until it is determined that the young have fledged (left the nest) or the nest otherwise becomes inactive (e.g., due to predation). If more than 14 days of no work occurs during the nesting season, birds may begin nesting; therefore, if more than 14 days of no work occurs during the nesting season and will need to resume to complete the proposed Project, an additional nesting survey is recommended.

The Contractor will be responsible for obtaining permission from the property owners for any construction outside of the Work site or easements as shown on the plans. Equipment will be restricted to the immediate area of construction, pipe trenches will be backfilled as soon as possible.

Receptacles for construction residue, including oil, cleaning fluids, and litter must be covered. Such residues must be disposed of in a proper manner.

Construction activity within the existing right-of-way must be scheduled to minimize traffic inconvenience and safety hazards to motorists, pedestrians and cyclists.

12.3 Storm Water Pollution Prevention.

All proposed development associated with this project shall be compliant with the Fort Bragg Municipal Code (FBMC) sections 17.64 [Stormwater Runoff Pollution Control] Standards for development and section 12.14 [Drainage Facility improvements].

The contractor shall implement stormwater management practices throughout the construction phase to minimize erosion and sedimentation, comply with all local, state, and federal regulations, and protect water quality.

1. General Requirements. The contractor must comply with all applicable water pollution control laws, regulations, and ordinances. The contractor

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shall implement Best Management Practices (BMPs) to minimize water pollution during construction activities.

2. Temporary Erosion and Sediment Control. Install BMPs appropriate to the site, such as silt fences, straw bales, stabilized construction entrances, and/or sediment traps around the work area to prevent soil erosion and sediment runoff. Grading operations shall be conducted in a manner that reduces the potential for erosion.
3. Inlet Protection. Install inlet protection devices (such as filter fabric or gravel bags) at storm drain inlets to filter sediment from stormwater runoff before entering the drainage system.
4. Site Management. Designate a concrete washout area to prevent contaminated runoff from entering water bodies. Maintain all equipment to prevent leaks and spills, and have spill containment measures in place on-site.
5. Material Handling and Storage. Store chemicals, fuels, lubricants, and any potential pollutants in covered areas to prevent exposure to rainwater. Ensure that any storage containers are in good condition and meet environmental standards.
6. Maintenance. Inspection and maintenance of all stormwater controls shall occur weekly, both before and after rainfall events (greater than 0.5 inches). Remove accumulated sediment and debris from erosion and sediment control measures to ensure continued functionality.
7. Monitoring and Reporting. The contractor shall conduct routine inspections of erosion and sediment control measures. Any spills or leaks must be reported immediately to the City Construction Project Manager and managed according to established protocols.

Portions of the Work that may be subject to the BMPs include, but are not limited to clearing, grading, stockpiling and excavation.

Any fines, damages, Work delays or other impacts that result from failure of the Contractor or privities or agents of the Contractor to fully comply with the requirements of the General Permit or to fully implement the SWPPP will be solely the responsibility of the Contractor.

12.4 Maintaining Traffic and Pedestrian Operations.

The Contractor must conduct his or her operations so as to cause the least possible obstruction and inconvenience to public traffic. Unless otherwise approved by the Construction Manager, all traffic must be permitted to pass through the Work.

Due to the need to accommodate and minimize inconvenience to the public, unless expressly specified or approved in writing by the Construction Manager, no road closures will be permitted. Public vehicular and pedestrian traffic must be allowed to travel through the Work area with an absolute minimum of interruption or impedance unless otherwise provided for in the Special Provisions or approved in writing by the Construction Manager. The Contractor must make provisions for the safe passage of pedestrians around the area of Work at all times.

Residents affected by construction must be provided passage and access through the Work area to the maximum extent possible. Where existing driveways occur on the street, the Contractor must make provisions for the trench crossings at these points, either by means of backfill or by temporary bridges acceptable to the Construction Manager, so that the length of shut-down of any driveway is kept to a minimum. In addition, all driveways must be accessible at the end of each workday, and no driveway or property access may be closed for more than four (4) hours during the workday. Access to driveways, houses, and buildings along the road or street must be as convenient as possible and well maintained, and all temporary crossings must be maintained in good condition. To minimize the need for and complexity of detours, not more than one crossing or street intersection or road may be closed at any one time without the written approval of the Construction Manager.

The Contractor must provide multiple, advance written notices of closures to all affected property owners in a form approved by the Construction Manager.

Except as otherwise approved by the Construction Manager, the stockpiling or storing of material in City streets or rights of way shall be prohibited. Where this is unavoidable, all such materials must be piled or stored in a manner that will not obstruct sidewalks, driveways, or pedestrian crossings. Gutters and drainage channels must be kept clear and unobstructed at all times. All such materials shall be stored and handled in a manner that protects City streets, sidewalks, or other facilities from damage.

Where approved in advance by the Construction Manager, the Contractor must construct and maintain detours for the use of public traffic at his or her own expense. Failure or refusal of the Contractor to construct and maintain detours so approved at the proper time will be a material breach of the Contract subject to any and all remedies available pursuant to the Contract Documents and at law and equity. Such remedies include, but are not limited to, termination pursuant to Section 11.

Throughout performance of the Work, the Contractor must construct and adequately maintain suitable and safe crossings over trenches and such detours as are necessary to care for the public and private traffic at all times including Saturdays, Sundays and holidays.

The Contractor will be responsible for keeping all emergency services, including the Fort Bragg police and fire departments informed of obstructions to, or detours around any public or private roads caused by reasons of his or her operations.

The Contractor must comply with the State of California, Department of Transportation Manual of warning signs, lights, and devices for use and performance of work within the job site.

The fact that rain or other causes, either within or beyond the control of the Contractor, may force suspension or delay of the Work, shall in no way relieve the Contractor of his or her responsibility of maintaining traffic through the Project and providing local access as specified in this section. The Contractor must, at all times, keep on the job such materials, force and equipment as may be necessary to keep roads, streets and driveways within the Project open to traffic and in good repair and shall expedite the passage of such traffic, using such force and equipment as may be necessary.

Full compensation for conforming to the requirements of this section will be deemed included in the prices paid or the various Contract items of Work, and no additional allowances will be made therefor.

12.5 Public Safety.

The Contractor must at all times conduct the Work in accordance with Construction Safety Orders of the Division of Industrial Safety, State of California, to ensure the least possible obstruction to traffic and inconvenience to the general public, and adequate protection of persons and property in the vicinity of the Work.

During construction, the applicant shall install signage to the north and south

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on the Coastal Trail which includes the following language: "Caution, Slow Down, Truck Traffic ahead.

No pedestrian or vehicle access way may be closed to the public without first obtaining permission of the Construction Manager.

Should the Contractor fail to provide public safety as specified or if, in the opinion of the Construction Manager, the warning devices furnished by the Contractor are not adequate, the City may place any warning lights or barricades or take any necessary action to protect or warn the public of any dangerous condition connected with the Contractor's operations, and the Contractor will be liable to the City for, and the City may deduct from amounts due or that may become due to the Contractor under the Contract, all costs incurred including, but not limited to, administrative costs.

Nothing in this section will be construed to impose tort liability on the City or Construction Manager.

Contractor acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a Contractor, must be accessible to the disabled public. Contractor shall provide the services specified in the Contract Documents in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under the Contract Documents and further agrees that any violation of this prohibition on the part of Contractor, its employees, agents or assigns shall constitute a material breach of the Contract Documents.

12.6 Protection of Existing Facilities and Property.

The Contractor must notify Underground Service Alert (USA) for marking the locations of existing underground facilities.

Subject to Section 5 of the General Provisions, the Contractor must take all necessary measures to avoid injury to existing surface and underground utility facilities in and near the Work site. Subject to Section 5 of the General Provisions, no error or omission of utility markouts will be construed to relieve the Contractor from his responsibility to protect all underground pipes, conduits, cables or other structures affected by the Work.

The existing underground facilities in the area of Work may include telephone, television and electrical cables, gas mains, water mains, sewer

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pipe and drainage pipe. The various utility companies must be notified before trenching begins and at such other times as required to protect their facilities. Subject to Section 5 of the General Provisions, all underground facilities must be located and exposed ahead of trenching to prevent damage to the facilities, and to determine the depth and character of all facilities that cross or infringe on the trench prism. The Contractor must immediately notify the Construction Manager of any facilities found. If damage should occur to the existing facilities, the utility company and the City must be notified immediately and, subject to Section 5 of the General Provisions, repairs acceptable to the utility company must be made at the Contractor's expense.

The Project Plans show the underground utilities on the site of the construction insofar as they are known to the City. The drawings may not show facilities apparent from visual inspection of the site or service laterals or appurtenances, the existence of which can be inferred from the presence of other visible facilities such as buildings, meters, junction boxes, etc. on or adjacent to the construction site.

If in the performance of the Work an existing utility is encountered that is not shown on the Project Plans and is not apparent or inferable from visual inspection of the Project site, the Project Inspector must be notified immediately. The Construction Manager will determine, subject to Section 5 of the General Provisions, whether the Project Plans or Technical Specifications should be modified, or whether the existing utility should be relocated or whether the Contractor must work around the existing utility. Subject to Section 5 of the General Provisions, the Contractor must replace, at his or her own expense, in as good condition as they were prior to the start of construction, all existing improvements and surroundings damaged by his or her operation. Reconstruction of all existing improvements must conform to CITY OF FORT BRAGG Public Works Standard Specifications and Details under the direction of and subject to the acceptance by the Construction Manager.

Subject to Section 5 of the General Provisions, should the Contractor fail to take adequate measures to avoid injury or damage to the facilities described above, the City may take any actions necessary to protect such facilities from the Contractor's operations. Subject to Section 5 of the General Provisions, the City may withhold the cost of injury to existing surface and underground utility facilities in and near the Work site from amounts due or that may become due the Contractor.

12.7 Preconstruction Conference.

A pre-construction conference will be scheduled, at which time the Contractor must present his or her proposed work schedule in accordance with Section 3.8 of the General Provisions, information concerning offsite yards, Subcontractors, location of disposal and stock pile areas, and traffic control plans. All such schedules will be subject to the approval of the Construction Manager and the applicable agencies.

City will schedule and administer intermittent progress meetings throughout duration of work. City will determine the location and time for the meetings.

12.8 Owner Notification.

The Contractor must notify all property owners and businesses affected by the Work at least 48 hours before Work is to begin. The notice must be in writing in the form of a door hanger, and must indicate the Contractor's name and phone number, type of work, day(s) and time when Work will occur. Notices must be reviewed in advance and approved by the Construction Manager.

12.9 Emergency Service Providers Notifications.

The Contractor must furnish the name and phone number of a representative that can be contacted in the event of an emergency. Said information must be reported to the City Police Department dispatcher, and updated as required to provide 24-hour phone access.

12.10 Clean up.

Attention is directed to Section 4-1.02 of the Caltrans Standard Specifications, which section is made a part of this Contract.

Before final inspection of the Work, the Contractor must clean the construction site and all ground occupied by him in connection with the Work, of all rubbish, excess material, falsework, temporary structures and equipment. All parts of the Work shall be left in a neat and presentable condition.

Nothing herein shall require the Contractor to remove warning, regulatory, and guide signs prior to formal acceptance by the Construction Manager.

12.11 Payment.

Payment for all work and work requirements specified in these Special Provisions shall be considered as included in the Contract Price and no additional allowances shall be made therefore.

12.12 Construction Staking.

Attention is directed to Section 3.9 of the General Provisions for information on Construction Staking.

12.13 Materials Testing Allowance.

Attention is directed to Section 3.10 of the General Provisions for information on Materials Testing Allowance.

12.14 Obstructions.

Attention is directed to Section 15, "Existing Highway Facilities," of the Caltrans Standard Specifications, which section is made a part of this Contract.

Attention is directed to the existence of overhead and underground power, telephone, and television cable poles, underground sewer mains and laterals, underground gas mains, and underground water mains and laterals within the area in which construction is to be performed.

Prior to starting the Work, the Contractor must (a minimum of 2 working days in advance) call Underground Service Alert (USA), toll free, at 811, and provide USA with all necessary data relative to the proposed work. USA will accept calls and process information to participating agencies who have underground facilities in the area between the hours of 7:30 a.m. and 5:00 p.m. daily, except Saturdays, Sundays, and holidays. Between the hours of 5:00 p.m. and 7:30 a.m. calls will be recorded and then processed after 7:30 a.m. For emergency situations, after hours and on Saturdays, Sundays and holidays, the Contractor shall contact the organization owning the affected facility. Upon notification, agencies having facilities in the area of the proposed excavation will mark their locations in the field using USA standard colors and codes to identify the facility.

The Contractor will be required to work around public and private utility facilities and other improvements that are to remain in place within the construction area, and he will be held liable to the owners of such facilities for interference with service resulting from his operations.

Fort Bragg Municipal Improvement District No. 1
Project No. WWP-00025
Contract, Part 3
Special Provisions

12.15 Hours of Work.

Unless otherwise specified herein, all construction activity, except for emergency situations, will be confined to Monday through Friday between the hours of 7:30 a.m. and 6:00 p.m., to minimize nuisances to local residents. Mufflers and/or baffles will be required on all construction equipment to control and minimize noise. The Contractor must comply with all applicable noise regulations in the City's Zoning Ordinance.

Saturdays, Sundays, holidays and overtime shall not be regarded as working days. Work shall not be allowed on non-working days without the expressed approval of the Construction Manager. The Contractor shall make a request for approval in writing with the stipulation (implied or expressed) that the Contractor shall pay for all overtime labor charges at the applicable hourly rate of the City or contract employee performing duties of inspector and/or resident engineer. All overtime labor charges shall be deducted from the final payment along with any liquidated damages.

Work necessary for the proper care and protection of work already performed or in case of emergency may be allowed without permission of the Construction Manager.

12.16 Dust Control.

The Contractor must furnish all labor, equipment, and means required and carry out effective measures wherever and as often as necessary to prevent its operation from producing dust in amounts damaging to property, cultivated vegetation, or domestic animals, or causing a nuisance. The Contractor will be responsible for any damage resulting from any dust originating from the performance of the Work. The use of water resulting in mud on streets, sidewalks, or driveways, will not be permitted as a substitute for sweeping or other methods of dust control. The Contractor may not discharge smoke, dust, or any other air contaminants into the atmosphere in such quantity as will violate the regulations of any legally constituted authority.

Dust control must conform to the provisions in Sections 10-5, "Dust Control" and Section 18, "Dust Palliatives" of the Caltrans Standard Specifications, which section is made a part of this Contract.

12.17 Water for Construction and Dust Control.

Unless otherwise provided, the Contractor will be responsible for applying to the City's Utility Department to establish utility accounts (at no charge) for all water necessary to perform the Work. The Contractor must comply with all City requirements for construction water, including provision of deposits and provision of backflow prevention devices. In accordance with State law, backflow prevention devices for construction water connections must be re-tested when relocated. The Contractor will be responsible for the cost of any re-testing.

The Contractor is prohibited from operating gate valves, fire hydrants, pumps or any other components of the City water system. The Contractor must contact the City's utilities staff, a minimum of twenty-four (24) hours in advance, to operate these or any other components on the City water system.

12.18 Protection and Restoration of Vegetation.

Trees, lawns, shrubbery and vegetation that are not to be removed must be protected from damage or injury. Existing trees, shrubs, and other plants, that are not to be removed and are injured or damaged by reason of the Contractor's operations, must be replaced by the Contractor in accordance with the requirements in Section 20-3.01C, "Replacement," of the Caltrans Standard Specifications. Section 20-3.01C of the Caltrans Standard Specifications is made a part of this Contract.

When it is necessary to excavate adjacent to existing trees, shrubs, or hedges, the Contractor must use all possible care to avoid injury to the trees, shrubs, or hedges and their roots. No roots or limbs two inches (2") or larger in diameter may be cut without the express approval of the Construction Manager.

All roots two inches (2") in diameter and larger left in place must be wrapped with burlap to prevent scarring or excessive drying. When it is necessary to cut limbs and branches of trees to provide clearance for equipment used in construction, the Contractor must repair the damaged areas by properly painting with an emulsified asphalt type seal. All cuts through 1/2" or larger roots and limbs must be hand trimmed and cleanly cut before being repaired.

12.19 Surplus Material.

All material removed or excavated during the course of construction will be surplus. All surplus material will be the property of the Contractor and be disposed of outside the right-of-way, unless the City elects to salvage certain

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Project No. WWP-00025
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objects that are determined to be of historical interest. The City reserves the right of ownership of all objects that it elects to salvage, and the Contractor must protect such objects from subsequent damage until delivered unto the care of the owner.

12.20 Cultural Resources.

In accordance with the National Historic Preservation Act of 1966 (16 U.S.C. 470), the following procedures are implemented to ensure historic preservation and fair compensation to the Contractor for delays attendant to the cultural resources investigation. The Contractor hereby agrees to comply with these procedures.

12.21 Historical Finds.

In the event potential historical, architectural, archeological, or cultural resources (hereinafter called cultural resources) are discovered during subsurface excavations at the site of construction, the following procedures will apply:

1. The Contractor must immediately notify the Construction Manager and stop any Work that may jeopardize the find pending an investigation of its significance;
2. The Construction Manager will select a qualified archeologist (such as through the Northwest Information Center at Sonoma State University or other official contact) and wait for an archaeologist to complete an evaluation of significance before continuing Work in that area.
3. The Construction Manager will supply the Contractor with a "Stop Work Order" directing the Contractor to cease all portions of the Work that the Construction Manager determines may impact the find. The "Stop Work Order" will be effective until a qualified archaeologist assesses the value of the potential cultural resources. The "Stop Work Order" will contain the following:
 - a. A clear description of the Work to be suspended;
 - b. Any instructions regarding issuance of further orders by the Contractor for materials services;
 - c. Guidance as to action to be taken regarding Subcontractors;
 - d. Any direction to the Contractor to minimize costs; and
 - e. Estimated duration of the temporary suspension.
4. If the archaeologist determines the potential find is a bona fide cultural resource, the Construction Manager may extend the duration of the "Stop Work Order" in writing, and if so the "Stop Work Order" will

Fort Bragg Municipal Improvement District No. 1
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remain in effect and Work subject to the “Stop Work Order” may not resume until authorized by the Construction Manager.

12.22 Cultural Resources Defined.

Possible indicators that a cultural resource has been found include, but are not limited to the following:

1. Prehistoric-era archaeological site indicators: obsidian tools, tool manufacture waste flakes, grinding and other implements, dwelling sites, animal or human bones, fossils, and/or locally darkened soil containing dietary debris such as bone fragments and shellfish remains;
2. Historic-era site indicators: ceramic, glass, and/or metal.

12.23 Construction Manager’s Discretion.

Once possible cultural resources are found at the Work site, the Construction Manager may use discretion to continue the Work, regardless of the cultural resource find, if the Construction Manager determines that there are overriding considerations such as the instability of the excavation site, the existence of adverse weather or other conditions that would preclude leaving the site exposed, or if the site would be unsafe to workers who would retrieve cultural resource items from therein.

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONSTRUCTION PERFORMANCE BOND

(Note: The successful bidder must use this form. Use of any other bond form may prevent a contract from forming and/or result in forfeiture of the successful bidder's bid bond.)

THIS CONSTRUCTION PERFORMANCE BOND (Bond), dated _____, is in the amount of _____ (Penal Sum), which is 100% of the Contract Sum and is entered into by and between the parties listed below to ensure the faithful performance of the Contract identified below. This Bond consists of this page and the Bond Terms and Conditions, Paragraphs 1 through 14 attached to this page. Any singular reference to _____ (Contractor), _____ (Surety), City of Fort Bragg (City), or other party shall be considered plural where applicable.

CONTRACTOR:

Name of Contractor

Address

City/State/Zip

SURETY:

Name of Surety

Principal Place of Business

City/State/Zip

CONSTRUCTION CONTRACT:

Agreement for the _____ (Project) located at _____ (Address), California, dated _____, in the amount of _____.

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)
Signature: _____
Name: _____
Title: _____

SURETY

Company: (Corp. Seal)
Signature: _____
Name: _____
Title: _____

Fort Bragg Municipal Improvement District No. 1
Project No. WWP-00025
Construction Performance Bond

BOND TERMS AND CONDITIONS

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the City and the State of California for the complete and proper performance of the Construction Contract, which is incorporated herein by reference.
2. If Contractor completely and properly performs all of its obligations under the Construction Contract, Surety and Contractor shall have no obligation under this Bond.
3. If there is no City Default, Surety's obligation under this Bond shall arise after:
 - 3.1 City provides Surety with written notice that City has declared a Contractor Default under the Construction Contract pursuant to the terms of the Construction Contract; and
 - 3.2 City has agreed to pay the Balance of the Contract Sum:
 - 3.2.1 To Surety in accordance with the terms of this Bond and the Construction Contract; or
 - 3.2.2 To a Contractor selected to perform the Construction Contract in accordance with the terms of this Bond and the Construction Contract.
4. When City has satisfied the conditions of Paragraph 3 above, Surety shall promptly (within 40 Days) and at Surety's expense elect to take one of the following actions:
 - 4.1 Arrange for Contractor, with consent of City, to perform and complete the Construction Contract (but City may withhold consent, in which case the Surety must elect an option described in Paragraphs 4.2, 4.3 or 4.4 below); or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors or Construction entities; provided, that Surety may not select Contractor as its agent or independent contractor or Contractor without City's consent; or
 - 4.3 Undertake to perform and complete the Construction Contract by obtaining bids from qualified contractors or Construction entities acceptable to City for a contract for performance and completion of the Construction Contract and, upon determination by City of the lowest responsive and responsible Bidder, arrange for a contract to be prepared for execution by City and the contractor or Contractor selected with City's concurrence, to be secured with performance and payment bonds executed by a qualified surety

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equivalent to the bonds issued on the Construction Contract; and, if Surety's obligations defined in Paragraph 6 below, exceed the Balance of the Contract Sum, then Surety shall pay to City the amount of such excess; or

- 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor or Contractor, and with reasonable promptness under the circumstances and, after investigation and consultation with City, determine in good faith its monetary obligation to City under Paragraph 6 below, for the performance and completion of the Construction Contract and, as soon as practicable after the amount is determined, tender payment therefor to City with full explanation of the payment's calculation. If City accepts Surety's tender under this Paragraph 4.4, City may still hold Surety liable for future damages then unknown or unliquidated resulting from the Contractor Default, as agreed by City and Surety at the time of tender. If City disputes the amount of Surety's tender under this Paragraph 4.4, City may exercise all remedies available to it at law to enforce Surety's liability under Paragraphs 6 and 7 below.
5. At all times City shall be entitled to enforce any remedy available to City at law or under the Construction Contract including, without limitation, and by way of example only, rights to perform work, protect Work, mitigate damages, advance critical Work to mitigate schedule delay, and coordinate Work with other consultants or contractors.
6. If Surety elects to act under Paragraphs 4.1, 4.2 or 4.3 above, within the time period provided in Paragraph 4, above, and complies with its obligations under this Bond, Surety's obligations under this Bond are commensurate with Contractor's Construction Contract obligations. Surety's obligations include, but are not limited to:
 - 6.1 Contractor's obligations to complete the Construction Contract and correct Defective Work;
 - 6.2 Contractor's obligations to pay liquidated damages; and
 - 6.3 To the extent otherwise required of Contractor under the Construction Contract, Contractor's obligations to pay additional legal, design professional, and other costs not included within liquidated damages resulting from Contractor Default (but excluding attorney's fees incurred to enforce this Bond).

7. If Surety does not elect to act under Paragraphs 4.1, 4.2, 4.3, or 4.4, above, within the time period provided in Paragraph 4, above, or comply with its obligations under this Bond, then Surety shall be deemed to be in default on this Bond ten Days after receipt of an additional written notice from City to Surety demanding that Surety perform its obligations under this Bond. Such Surety default shall be independent of the Contractor Default. To the extent Surety's independent default causes City to suffer damages including, but not limited to, delay damages, which are different from, or in addition to (but not duplicative of) damages which City is entitled to receive under the Construction Contract, Surety shall also be liable for such damages. In the event any Surety obligation following its independent default is inconsistent or conflicts with California Civil Code Section 2809, or any other law which either prohibits, restricts, limits or modifies in any way any obligation of a surety which is larger in amount or in any other respect more burdensome than that of the principal, Surety hereby waives the provisions of such laws to that extent.
8. If Surety elects to act under Paragraphs 4.1, 4.2, 4.3 or 4.4 above, within the time period provided in Paragraph 4, above, and complies with all obligations under this Bond, Surety's monetary obligation under this Bond is limited to the Penal Sum.
9. No right of action shall accrue on this Bond to any person or entity other than City or its successors or assigns.
10. Surety hereby waives notice of any change, alteration or addition to the Construction Contract or to related subcontracts, design agreements, purchase orders and other obligations, including changes of time, and of any City action in accordance with Paragraph 5 above. Surety consents to all terms of the Construction Contract, including provisions on changes to the Contract. No extension of time, change, alteration, Modification, deletion, or addition to the Contract Documents, or of the Work (including services) required thereunder, or any City action in accordance with Paragraph 5 above shall release or exonerate Surety on this Bond or in any way affect the obligations of Surety on this Bond, unless such action is an City Default.
11. Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction where a proceeding is pending between City and Contractor regarding the Construction Contract, or in the Superior Court of the County of Mendocino, California, or in a court of competent jurisdiction in the location in which the Work is located. Communications from City to Surety under Paragraph 3.1 above shall be deemed to include the necessary agreements under Paragraph 3.2 above unless expressly stated otherwise.
12. All notices to Surety or Contractor shall be mailed or delivered (at the address set forth on the signature page of this Bond), and all notices to City shall be mailed or delivered as provided in the Construction Contract. Actual receipt of notice by

Surety, City or Contractor, however accomplished, shall be sufficient compliance as of the date received at the foregoing addresses.

13. Any provision in this Bond conflicting with any statutory or regulatory requirement shall be deemed deleted herefrom and provisions conforming to such statutory requirement shall be deemed incorporated herein.

14. Definitions

- 14.1 Balance of the Contract Sum: The total amount payable by City to Contractor pursuant to the terms of the Construction Contract after all proper adjustments have been made under the Construction Contract, for example, deductions for progress payments made, and increases/decreases for approved Modifications to the Construction Contract.

- 14.2 Construction Contract: The agreement between City and Contractor identified on the signature page of this Bond, including all Contract Documents and changes thereto.

- 14.3 Contractor Default: Material failure of Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract, limited to "default" or any other condition allowing a termination for cause as provided in the Construction Contract.

- 14.4 City Default: Material failure of City, which has neither been remedied nor waived, to pay Contractor progress payments due under the Construction Contract or to perform other material terms of the Construction Contract, if such failure is the cause of the asserted Contractor Default and is sufficient to justify Contractor termination of the Construction Contract.

END OF DOCUMENT

CITY OF FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

CONSTRUCTION LABOR AND MATERIAL PAYMENT BOND

(Note: The successful bidder must use this form. Use of any other bond form may prevent a contract from forming and/or result in forfeiture of the successful bidder's bid bond.)

KNOW ALL PERSONS BY THESE PRESENTS:

1.01 WHEREAS, the City of Fort Bragg, 416 N. Franklin Street, Fort Bragg, California 95437 (City) has awarded a Contract to _____ as Principal, dated the _____ day of _____, _____ (the Contract), titled THE _____ PROJECT in the amount of \$_____, which Contract is by this reference made a part hereof, for the work of the following Contract:

1.02 WHEREAS, Principal is required to furnish a bond in connection with the Contract to secure the payment of claims of laborers, mechanics, material suppliers, and other persons as provided by law;

1.03 NOW, THEREFORE, we, the undersigned Principal and _____, as Surety, are held and firmly bound unto City in the sum of 100% OF THE CONTRACT PRICE (\$_____), for which payment well and truly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

1.04 THE CONDITION OF THIS OBLIGATION IS SUCH, that if Principal, or its executors, administrators, successors, or assigns approved by City, or its subcontractors shall fail to pay any of the persons named in California Civil Code Section 9100, or amounts due under the State of California Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the State of California Employment Development Department from the wages of employees of Principal and subcontractors pursuant to Section 13020 of the State of California Unemployment Insurance Code with respect to such work and labor, that Surety will pay for the same in an amount not exceeding the sum specified in this bond,

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plus reasonable attorneys' fees, otherwise the above obligation shall become and be null and void.

- 1.05 This bond shall inure to the benefit of any of the persons named in California Civil Code Section 9100, as to give a right of action to such persons or their assigns in any suit brought upon this bond. The intent of this bond is to comply with the California Mechanic's Lien Law.
- 1.06 Surety, for value received, hereby expressly agrees that no extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder, shall in any way affect the obligation of this bond; and it does hereby waive notice of any such extension of time, change, modification, alteration, or addition to the undertakings, covenants, terms, conditions, and agreements of the Contract, or to the work to be performed thereunder.
- 1.07 Surety's obligations hereunder are independent of the obligations of any other surety for the payment of claims of laborers, mechanics, material suppliers, and other persons in connection with Contract; and suit may be brought against Surety and such other sureties, jointly and severally, or against any one or more of them, or against less than all of them without impairing City's rights against the other.
- 1.08 Correspondence or claims relating to this bond shall be sent to Surety at the address set forth below.

IN WITNESS WHEREOF, we have hereunto set our hands this ____day of _____, _____.

CONTRACTOR AS PRINCIPAL

Company: (Corp. Seal)

Signature

Name

Title

Street Address

City, State, Zip Code

SURETY

Company: (Corp. Seal)

Signature

Name

Title

Street Address

City, State, Zip Code

END OF DOCUMENT

Fort Bragg Municipal Improvement District No. 1
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Construction Labor & Material Payment Bond

FORT BRAGG
416 Franklin Street
Fort Bragg, California 95437

MAINTENANCE BOND

(Note: The successful bidder must use this form. Use of any other bond form may prevent a contract from forming and/or result in forfeiture of the successful bidder's bid bond.)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS the City Council of the CITY OF FORT BRAGG has awarded to _____, (designated as the "PRINCIPAL") a contract for the _____ Project, Project No. _____, which contract and all of the contract documents as defined therein (designated as the "Contract") are hereby made a part hereof; and

WHEREAS, the PRINCIPAL is required under the terms of the Contract to furnish a bond for the correction of any defects due to defective materials or workmanship in the work performed under the Contract.

NOW, THEREFORE, we the PRINCIPAL and the undersigned _____, as surety (designated as "SURETY"), an admitted surety insurer authorized to do business in the State of California, are held and firmly bound unto the CITY OF FORT BRAGG, (designated as the "OBLIGEE"), in the penal sum of _____ Dollars (\$_____), lawful money of the United States, being a sum not less than ten percent (10%) of the final Contract price, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that if, during a maintenance period of one (1) year from the date of acceptance by the OBLIGEE of the contracted work, the PRINCIPAL upon receiving written notice of a need for repairs which are directly attributable to defective materials or workmanship, shall diligently take the necessary steps to correct said defects within seven (7) days from the date of said notice, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

If any action shall be brought by the OBLIGEE upon this bond, a reasonable attorney's fee, to be fixed by the Court, shall be and become a part of OBLIGEE's judgment in any such action.

No right of action shall accrue on this bond to, or for the use of, any person or corporation other than the OBLIGEE named herein or the heirs, executors, administrator or successor of the OBLIGEE.

IN WITNESS WHEREOF, the above bound parties have executed this instrument under their seals this _____ day of _____, _____ the name and corporate seals

Fort Bragg Municipal Improvement District No. 1
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of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Corporate Seal)

PRINCIPAL

By:_____

(Acknowledgement)

Title:_____

(Corporate Seal)

SURETY

By:_____

(Attorney-in-fact)

(Acknowledgement)

Title:_____

(NOTE TO SURETY COMPANY: A certified copy of unrevoked resolution of authority for the attorney-in-fact must be submitted with and attached to the executed bid bond.

END OF DOCUMENT

EXHIBIT A

CLAIMS PROCEDURE

SUMMARY OF PUBLIC CONTRACT CODE § 9204

The following procedure will apply to any claims by the Contractor on the City:

A “claim” is a separate demand on the City by a contractor on a public works project and sent by registered mail or certified mail with return receipt requested, for one or more of the following:

- A time extension, including relief from penalties for delay
- Payment by the City of money damages under the terms of the contract
- Payment of an amount that is disputed by the City

Initial Review

The claim must be supported by appropriate documentation. The City has 45 days within which to review the claim and provide the contractor with a written statement identifying the disputed and undisputed portions of the claim. If the City does not issue a written statement, the claim is deemed rejected in its entirety. The City will pay any undisputed portion of the claim within 60 days of issuing the statement.

Meet & Confer

If the contractor disputes the City’s written response, or if the City does not issue one, the contractor may request in writing an informal conference to meet and confer for possible settlement of the claim. The City will schedule the meet and confer conference within 30 days of this request and provide a written statement identifying the remaining disputed and undisputed portions of the claim within 10 business days of the meet and confer. The City will pay the undisputed portion within 60 days of issuing this statement.

Mediation

With respect to any disputed portion remaining after the meet and confer, the City and contractor will submit the matter to nonbinding mediation, agree to a mediator within 10 business days after issuing the written statement, and share mediation costs equally. If mediation is unsuccessful, then the terms of the public works agreement and applicable law will govern resolution of the dispute.

Miscellaneous Provisions

Amounts not paid by the City in a timely manner bear interest at 7% per annum. Subcontractors may submit claims via this procedure through the general contractor. The City and contractor may waive the requirement to mediate, but cannot otherwise waive these claim procedures.