

AMENDMENT TO LICENSE AGREEMENT

This Amendment to LICENSE AGREEMENT (the "Amendment") is made and entered into as of this ____ day of ____ 2015 (the "Effective Date"), by and between **GEORGIA-PACIFIC LLC**, a Delaware limited liability company ("GP"), having a mailing address at 133 Peachtree Street NE, Atlanta, Georgia 30303, Attention: Law Department-Real Estate, and the **CITY OF FORT BRAGG**, a municipal corporation (the "City"), having a mailing address at 416 North Franklin Street, Fort Bragg, California 95437, Attention: City Manager.

RECITALS:

WHEREAS, on July 15, 2014, GP and the City entered into a License Agreement for the City's construction of a stormwater management system, temporary earthen berms, and a support and staging area in the Licensed Areas on the GP Property for the City's construction of the Trail on the City Property (the "License Agreement");

WHEREAS, GP is the fee simple owner of the GP Property;

WHEREAS, the City is the fee simple owner of the City Property;

WHEREAS, the City constructed the Trail and a permanent stormwater management system on the City Property;

WHEREAS, GP allowed the City temporary use of the Licensed Area in accordance with the provisions of the License Agreement in order to allow the City access to construct the Trail and permanent stormwater management system on the City Property;

WHEREAS, the City intends to open up public access to the Trail and host community Trail events on the City Property beginning in the Summer of 2015;

WHEREAS, the Parties have agreed, in concept, on terms for a transfer of property from GP to the City (the "Future Land Transfer") and an amendment to the License Agreement is desired to allow for construction of access improvements and fencing in advance of the transfer of title associated with the Future Land Transfer in order to restrict public access onto the GP Property and to coordinate needed access improvements with other construction activities on the City Property;

WHEREAS, the Parties now desire that the City install security fencing on the interior property lines between City Property and GP Property, and on GP Property along the proposed future City Property boundaries as follows: Extending from the Cypress Street entry along the northern and southern boundary of the Cypress Street roadway and along the western boundary of the runway; and

WHEREAS, the Parties now desire that the City install access improvements on GP Property at the Cypress Street entry, along the Cypress Street extension, on the runway, and adjacent to the City's Elm Street parking lot in advance of the Future Land Transfer.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GP and the City, intending to be legally bound, hereby agree as follows:

1. **Recitals.** The foregoing recitals are true and correct and hereby incorporated herein.

2. **Defined Terms.** All capitalized terms not defined herein shall have the meanings ascribed to them in the License Agreement.

3. **Section 1.** Section 1, Grant of Licenses, of the License Agreement is hereby amended to read as follows, with additional text underlined:

1. **Grant of Licenses.**

(a) Berm License Area. GP hereby grants to the City an exclusive license to use the Berm License Area solely for the construction, placement and maintenance of the Berms. The Berms shall be constructed in the location depicted in red on Exhibit A, which location shall not exceed 110 feet from the current eastern edge of the City's Property, and in strict accordance with the Plans and Specifications attached hereto as Exhibit B and incorporated herein by this reference (the "Plans"). The parties hereto acknowledge and agree that the Berms shall consist solely of clean earthen soil, rock and fabric, topped with a layer of top soil and seeded with vegetation. For the avoidance of doubt, the parties agree that the Berms shall not be constructed with asphalt or other similar material that may contain constituents of concern. The City shall be responsible for maintaining the Berms in good repair and in a safe condition, in such a way that the Berms do not constitute a nuisance or hazard on the GP Property.

(b) Construction License Area. GP further grants to the City a non-exclusive temporary license to use the Construction License Area (as depicted on Exhibit A and not to exceed 200 feet from the current eastern boundary of the City's Property) as a construction work area for the passage of City employees, City contractors and vehicles, the parking of vehicles and as temporary construction lay-down area in connection with the construction of the Trail and the Berms. The Construction License Area shall not be used for any other purpose. Notwithstanding anything herein to the contrary, the City and its contractors shall be prohibited from performing any maintenance, service, or fueling of any vehicles or equipment (including, without limitation, the changing of oil) on the Construction License Area. Further, the City shall be prohibited from bringing, storing, using, disposing or otherwise handling any Hazardous Materials (as hereinafter defined) in the Construction License Area without the express written permission of GP.

(c) Security Fencing License Area. GP further grants to the City a non-exclusive temporary license to install Security Fencing along the property line between the GP Property and the City Property as depicted on

Exhibit C, and use of a temporary work/staging area to provide a lay down area for the fencing and construction equipment not to exceed thirty (30) feet onto the GP Property from the proposed fenceline (the "Security Fencing License Area"). The Security Fencing License Area shall only be used for the temporary work/staging area and to install Security Fencing meeting the following specifications: (i) poly-coated wire mesh fencing 5-foot high along the interior boundary of City Property and on GP Property as shown in Exhibit C; and (ii) 5-wire fencing 4.5-foot high along the GP Property boundary located south of the Cypress Street extension and along the City Property/GP Property boundary as shown in Exhibit D. Collectively, the poly-coated wire mesh fence and the 5-wire fence are referred to as, the "Security Fencing" for purposes of the Agreement as amended by this Amendment.

(d) Cypress Street Extension/Runway License Area. GP further grants to the City a non-exclusive temporary license to construct access improvements such as paving, gates and safety signage in the Cypress Street Extension/Runway License Area, as shown in Exhibit D. The work in the Cypress Street portion of the Cypress Street Extension/Runway License Area shall be limited to the following: (i) installation of turn movement arrows, stop bars, stop signs; (ii) installation of a short strip of asphalt paving from back of sidewalk to the start of the access road (for pedestrian access from the cross walk to the access road); (iii) installation of road way improvements to include a 24 foot wide asphalt paved road (HMA); (iv) an 8 foot wide gravel shoulder on the southern extent of the road, and a 4 foot wide gravel shoulder on the northern extent of the road; (v) installation of security fencing and vehicle access gates where the GP Property roads cross the Cypress Street License Area; and (vi) the installation of park identification sign, speed limit signs and no trespassing signs. The road alignment shall conform to the alignment of the existing gravel road, and shall extend from the Cypress Street gate to the southern end of the Runway. Public access shall not be allowed until the Future Land Transfer property is transferred to the City of Fort Bragg. The work in the Runway License Area shall be limited to installation of a 5 foot high wire mesh security fence and installation of no trespassing signs.

(e) Elm Street Parking Lot License Area. GP further grants a non-exclusive temporary license to install approximately 0.17 acre of paving adjacent to the Elm Street parking lot on the City Property in the Elm Street Parking Lot License Area as shown Exhibit E. The work in the Elm Street Parking Lot License Area shall be limited to the following: (i) installation of paving (HMA) and striping to construct an additional 33 parking spaces at the Elm Street Parking Lot; (ii) installation of permanent security fencing around the perimeter of the parking area; and (iii) installation of temporary construction fencing and no-trespassing signage (as illustrated in Exhibit E), until such time as the Future Land Transfer property is transferred to the City. Public access shall not be allowed until the Future Land Transfer property is transferred to the City of Fort Bragg.

(f) Use Limitations. Notwithstanding anything herein to the contrary, the City and its contractors shall be prohibited from performing any maintenance,

service, or fueling of any vehicles or equipment (including, without limitation, the changing of oil) on the Security Fencing License Area, the Cypress Street Extension/Runway License Area, and the Elm Street Parking Lot License Area). Notwithstanding the foregoing, with the exception of the HMA paving in the Cypress Street Extension/ Runway License Area and the Elm Street Parking Lot License Area, the City shall be prohibited from bringing, storing, using, disposing or otherwise handling any Hazardous Materials (as hereinafter defined) in the Security Fencing License Area without the express written permission of GP.

(g) Future Replacement of 5-Wire Fencing. In the event that the number of trespassing incidents and attempts by the public to access the GP Property located south of the Cypress Street extension increases during the term of this Amendment, the City shall replace the existing 5-wire fencing with the poly-coated wire-mesh fencing within ninety (90) days of receiving a written request by GP to replace the existing 5-wire fencing.

(h) Restoration of Premises. Following the installation of the Security Fence, City shall remove all vehicles and equipment and restore the License Area to its pre-condition with the Security Fence in place.

3. Section 2. Section 2, Access to the License Area, of the License Agreement is hereby amended to read as follows, with additional text underlined:

2. Access to the Licensed Area. Access to the Licensed Areas from public roads shall be limited to (i) the Elm Street gate, (ii) the Noyo Point Road gate and (iii) the Cypress Street Gate, provided, however, that upon crossing through the Cypress Street Gate, the City shall then turn left and utilize the roadway extending from the Noyo Point Road Gate to the southern end of the runway as illustrated on Exhibit A. The City shall maintain the roadway leading from Cypress Street Gate to the southern end of the runway. In the event that the roadway is not properly maintained, or if the City's use thereof otherwise causes undue disturbance or disruption to GP's activities, GP reserves the right to terminate the City's license to use the Cypress Street Gate for construction access immediately upon providing written notice to the City. The City and its contractors and employees are strictly prohibited for any reason from entering any other areas outside the Licensed Area on GP's Property. The City shall not permit the use or occupancy of the Licensed Area by any person or entity other than the City, its contractors or employees that are directly engaged in construction activities for the coastal trail, access and parking improvements, and the Security Fencing. At no time shall any of the roads on GP's Property be blocked by construction vehicles and equipment.

4. Section 3. Section 3, Term, of the License Agreement is hereby amended to read as follows, with additional text underlined:

3. **Term.**

(a) Berm License Area. The license granted herein for the Berm License Area shall commence on the date on which GP has received the City's signed counterpart of this Agreement together with a certificate of insurance and will continue for a period of ten (10) years. Thereafter, either party hereto shall have the option to renew this Agreement for one (1) additional term of five (5) years by providing written notice to the other party no less than ninety (90) days prior to the expiration of the initial ten-year term.

(b) Construction License Area. The license granted herein for the Construction License Area shall commence on the date on which GP has received the City's signed counterpart of this Agreement together with a certificate of insurance and will terminate upon the date that is two (2) years thereafter.

(c) Security Fencing License Area, Cypress Street Extension/Runway License Area, Elm Street Parking Lot License Area. The license granted herein for the Security Fencing License Area, Cypress Street Extension/Runway License Area, and Elm Street Parking Lot License Area shall commence on the date on which GP has received the City's signed counterpart of this Amendment together with a certificate of insurance and will terminate upon the date that is six (6) months thereafter. Thereafter, either party hereto shall have the option to renew this Amendment for one (1) additional term of six (6) months by providing written notice to the other party no less than thirty (30) days prior to the expiration of the initial six (6) -month term under this Section 3.c.

5. **Section 9.** Section 9, Indemnification, of the License Agreement is hereby amended to read as follows, with additional text underlined:

9. Indemnification. The City agrees to indemnify GP for all acts and omissions of itself and all of the City Parties in exercising the rights granted in this Agreement, and the City agrees to indemnify GP and the GP Parties, and to defend and hold GP and the GP Parties free and harmless, from and against any and all losses, costs, damages, liabilities, demands, and expenses (including, without limitation, reasonable attorneys' fees, court costs, costs of litigation and the cost and expense of removing or bonding any liens affecting the Licensed Area) suffered or incurred by GP or any of the GP Parties by reason of the City's or other governmental agency's approval of any of the permits and authorizations required for the improvements contemplated in this License Agreement, and for the exercise of the rights granted to the City and City Parties herein or arising out of the construction and post-construction access to the Berms or the Security Fencing License Area, the Cypress Street License Area, or the Elm Street Parking Lot License Area unless due to the sole negligence or willful misconduct of GP or the GP Parties. The indemnity contained in this Section shall expressly survive the expiration or earlier termination for any reason of this Agreement as Amended.

6. **Effect of this Amendment.** Except as expressly modified by this Amendment, the License Agreement shall continue in full force and effect according to its terms, and GP and the City hereby ratify and affirm all their respective rights and obligations under the License Agreement as modified by this Amendment, including but not limited to City's indemnification obligations as set forth in the License Agreement. In the event of any conflict between this Amendment and the License Agreement, the provisions of this Amendment shall govern.

7. **Binding Agreement.** This Amendment shall be binding upon and inure to the benefit of the successors, agents, administrators, or assigns of each of the Parties hereto. Any reference in this Amendment to a specifically named party shall be deemed to apply to any successor, agent, administrator, or assignee of such party who has acquired an interest in compliance with the terms of this Amendment or under law.

8. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute the same document.

9. **California Law.** This Amendment shall be governed by and interpreted in accordance with the laws of the State of California.

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IN WITNESS WHEREOF, the parties hereto have set their hands and seals as of the day and year indicated beneath their signatures.

GP:

GEORGIA-PACIFIC LLC

By _____
Gerald A. Shirk
Vice President-Real Estate

Date of Execution: _____, 2015

CITY:

CITY OF FORT BRAGG

By _____
Linda Ruffing
City Manager

Attest: _____
City Clerk

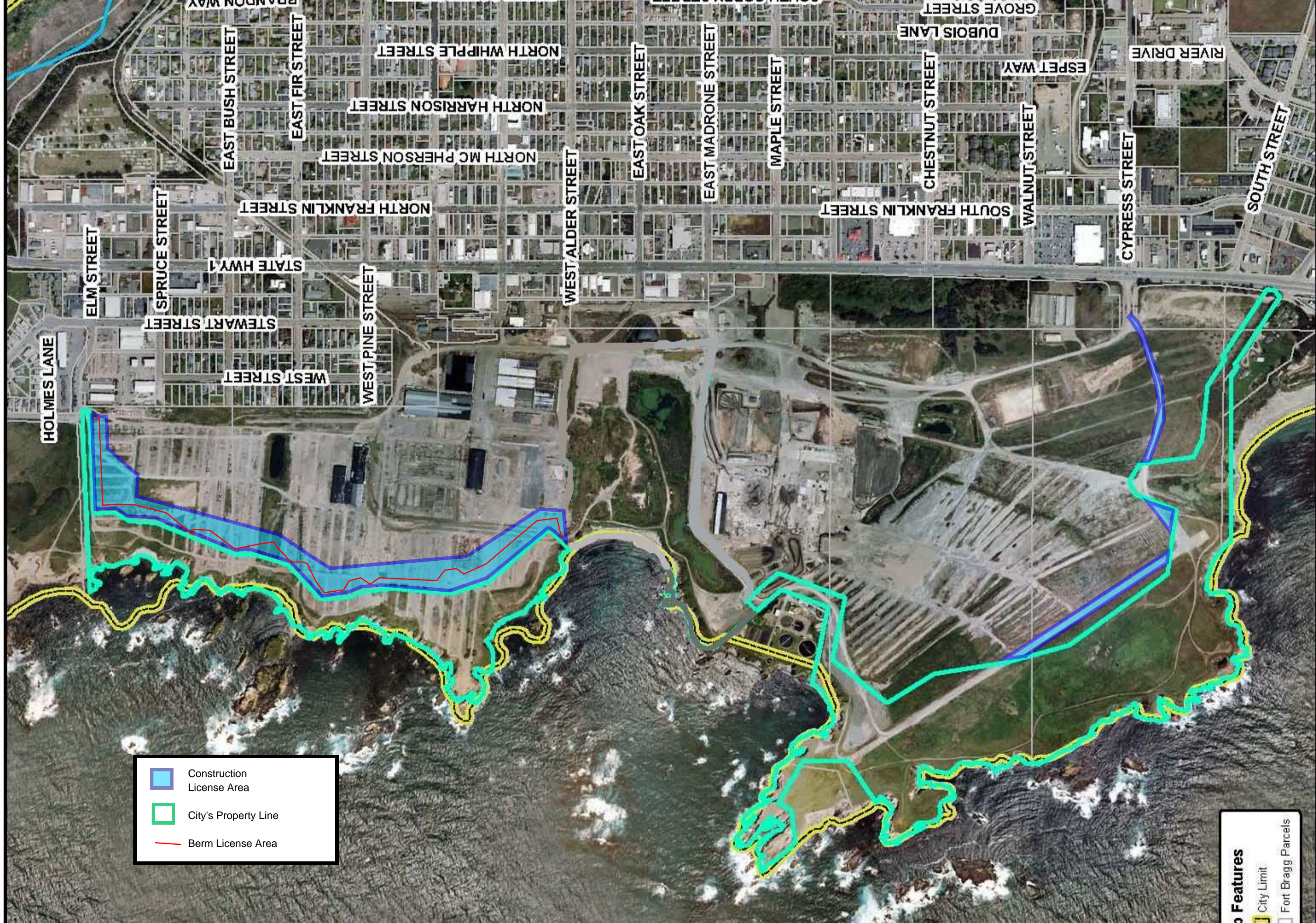
Approved as to Form

By _____

Date of Execution: _____, 2015

EXHIBIT A

Construction License Area



City of Fort Bragg



Feature and boundary locations depicted are approximate only.

EXHIBIT C

Fencing Areas (i) and (ii)



5' High Mesh
Fencing (i)

5' High Mesh
Fencing (i)

5' High 5-
Strand Property
Line Fence (ii)

0 250 500 Feet

Locations of features and boundaries depicted are approximate. No warranty is assumed by the City of Fort Bragg for any information or data.

Exhibit C - Fencing Areas (i) and (ii)

August, 2009



EXHIBIT D

**Cypress Street Extension and
Runway License Area**



Runaway
License Area

Cypress Street
Extension License Area

0 250 500 Feet

Locations of features and boundaries depicted are approximate. No warranty is assumed by the City of Fort Bragg for any information or data.

Exhibit D - Cypress Street Extension
Runway License Area

August, 2009



EXHIBIT E

Elm Street Parking Lot

License Area



Elm Street Parking
Lot License Area

Feet

0

Locations of features and boundaries depicted are approximate. Accuracy is assumed by the City of Fort Bragg for any information or data.

Exhibit E - Elm Street Parking Lot License Area

August, 2009





Elm Street Construction Fencing

