



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, September 26, 2016

6:00 PM

Town Hall, 363 N. Main Street

MEETING CALLED TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

AGENDA REVIEW

1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [16-381](#) Presentation of Proclamation Declaring the Week of October 9-15, 2016 as Fire Prevention Week in Fort Bragg

Attachments: [19-2016 Fire Prevention Week](#)

- 1B. [16-375](#) Presentation of Proclamation Recognizing October 17-21, 2016 as Fort Bragg "Walktober Week" and Proclaiming Wednesday October 19, 2016 as Fort Bragg Walk to School Day"

Attachments: [20-2016 Walktober Week-Day Proclamation](#)

- 1C. [16-383](#) Receive Oral Update from Renewable Energy Development Institute Staff Regarding HELP Plus and HELP H2O Programs

Attachments: [Help Plus Brochure](#)
[HELP Plus-H2O 1-Year Report](#)

2. STAFF COMMENTS

3. MATTERS FROM COUNCILMEMBERS

4A. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes)

MANNER OF ADDRESSING THE CITY COUNCIL: Any member of the public desiring to address the City Council shall submit a "Speaker Card" to the City Clerk and proceed to the podium after being recognized by the Presiding Officer. Speakers will be called up in the order the Speaker Cards are received. All remarks and questions shall be addressed to the City Council and no discussion or action shall be taken on any requests, in accordance with Brown Act Requirements. No person shall enter into any discussion without being recognized by the Mayor or acting Mayor.

IF AGENDA PERMITS: A maximum of thirty (30) minutes shall be allotted to receiving public comments at the initial public comment period and, if necessary, an additional 30 minutes shall be allotted to public comments prior to action on the Consent Calendar. 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 but not limited to, the number of persons wishing to speak on a particular topic or at a particular meeting, 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: Pursuant to the Brown Act the Council cannot discuss issues or take action on any requests during this comment period.

5. 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.

6. CONDUCT OF BUSINESS

- 6A. [16-389](#)** Receive Annual Progress Report on the Fort Bragg Inland General Plan and the Fort Bragg Coastal General Plan

Attachments: [09262016 General Plan Annual Report](#)

[Attachment 1: HCD Housing Report](#)

- 6B. [16-377](#)** Receive Report and Consider Adoption of City Council Resolution Declaring a Stage 2 Water Emergency in Response to Decreasing Source Water and the Possibility of a Delayed Rainy Season

Attachments: [09262016 Stage 2 Water Emergency Declaration 2016](#)

[Attachment 1: RESO Declaring Stage 2 Water Emergency 2016](#)

[Attachment 2: FBMC 14.06.050](#)

- 6C.** [16-387](#) Receive Report and Consider Adoption of City Council Resolution Requesting that the Sonoma Clean Power Authority Act as Community Choice Aggregator on Behalf of the City of Fort Bragg and Implement the Sonoma Clean Power Community Choice Aggregation Program within the City of Fort Bragg

Attachments: [09262016 Sonoma Clean Power Reso Report](#)

[Attachment 1: RESO Community Choice Aggregation Program](#)

- 6D.** [16-388](#) Receive Report and Consider Introduction by Title Only and Waiving Reading of Ordinance No. 925-2016 Authorizing the Implementation of a Community Choice Aggregation Program within the City of Fort Bragg by Participating with the Sonoma Clean Power Authority

Attachments: [09262016 Sonoma Clean Power Ordinance Report](#)

[Attachment 1: ORD#925 Sonoma Clean Power Ordinance](#)

4B. PUBLIC COMMENTS ON NON-AGENDA, CONSENT CALENDAR & CLOSED SESSION ITEMS (30 Minutes, If Necessary)

See 4A. above.

7. 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

- 7A.** [16-367](#) Adopt City Council Resolution Approving Professional Services Agreement with SHN Consulting Engineers & Geologists, Inc. to Provide Construction Management Services for the Chestnut Street Corridor Project (Project No. 2015-04) and Authorizing City Manager to Execute Same (Amount Not to Exceed \$120,500) Account No 413-4950-0731; and Amending the FY 2016/17 Budget to Appropriate \$120,500 from 250-7999-0799 for Construction Management and Inspection Services (Budget Amendment No. 2017-02; Amount Not to Exceed \$120,500; Transfer from Fund 250 to Fund 413)

Attachments: [RESO SHN Consulting Engineers Chestnut Street Project](#)

[SHN Consulting Engineers for Chestnut Street Agreement](#)

- 7B.** [16-374](#) Adopt City Council Resolution Approving a Professional Services Agreement with Parker Lucas & Associates (DBA Community Development Services) for Community Development Block Grant Funded Business Loan Services and Authorizing City Manager to Execute Same (Amount Not to Exceed \$52,000; Account No. 315-4869-0631)

Attachments: [RESO CDS Contract CDBG Business Loans](#)

[Parker Lucas CDBG Business Loan Service Agreement](#)

- 7C. [16-379](#) Adopt City Council Resolution Consenting to Inclusion of Properties within the City of Fort Bragg in the California HERO Program to Finance Distributed Generation Renewable Energy Sources, Energy and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure and Approving the Amendment to a Certain Joint Powers Agreement

Attachments: [RESO California HERO Program](#)

- 7D. [16-380](#) Adopt City Council Resolution Authorizing Submittal of an Application and Execution of State Parks Grant Agreement, Committing Match of \$7,695, and Amending the FY 2016-17 Budget to Purchase Two Fully Equipment Police ATVs (Amount Not To Exceed \$16,744; Transfer from Grant Funds Account No. 329-7999-0799 to Fleet Account No. 522-4550-0742)

Attachments: [RESO OHV Grant Application, Execution and Match](#)

- 7E. [16-373](#) Adopt Resolution Confirming the Continued Existence of a Local Drought Emergency in the City of Fort Bragg

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

- 7F. [16-369](#) Receive and File Minutes of June 1, 2016 Finance and Administration Committee Meeting

Attachments: [FACM2016-06-01](#)

8. CLOSED SESSION

- 8A. [16-386](#) CONFERENCE WITH REAL PROPERTY NEGOTIATORS:
Pursuant to California Government Code Section 54956.8
Property: 90 West Redwood Ave., Fort Bragg, CA
(APNs 018-430-21, -22; 018-010-67; 008-161-08; 008-171-07;
008-020-13, -15)
Agency Negotiator: Linda Ruffing, City Manager
Negotiating Parties: City of Fort Bragg and Georgia-Pacific, LLC
Under Negotiation: Real property negotiations, including price and terms of payment.

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., TUESDAY, OCTOBER 11, 2016

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 September 21, 2016.

Brenda Jourdain, Acting City Clerk

NOTICE TO THE PUBLIC:

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection in the lobby of City Hall at 416 N. Franklin Street during normal business hours.*
- *Such documents are also available on the City of Fort Bragg's website at <http://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.

The Council Chamber is equipped with a Wireless Stereo Headphone unit for use by the hearing impaired. The unit operates in conjunction with the Chamber's sound system. You may request the Wireless Stereo Headphone unit from the City Clerk for personal use during the Council meetings.

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

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City of Fort Bragg

416 N Franklin Street
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Phone: (707) 961-2823
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Text File

File Number: 16-381

Agenda Date: 9/26/2016

Version: 1

Status: Mayor's Office

In Control: City Council

File Type: Proclamation

Agenda Number: 1A.

Presentation of Proclamation Declaring the Week of October 9-15, 2016 as Fire Prevention Week in Fort Bragg

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

Recognizing October 9 – 15, 2016 as Fire Prevention Week

WHEREAS, the City of Fort Bragg is committed to ensuring the safety and security of all those living in and visiting Fort Bragg; and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are where people are at greatest risk from fire; and

WHEREAS, U.S. fire departments responded to 369,500 home fires in 2014, according to the National Fire Protection Association (NFPA); and

WHEREAS, U.S. home fires resulted in 2,745 civilian deaths in 2014, representing the majority (84 percent) of all U.S. fire deaths; and

WHEREAS, in one-fifth of all homes with smoke alarms, the smoke alarms are not working; and

WHEREAS, three out of five home fire deaths result from fires in properties without smoke alarms (38 percent) or with no working smoke alarms (21 percent); and

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half; and

WHEREAS, many Americans don't know how old the smoke alarms in their homes are, or how often they need to be replaced; and

WHEREAS, all smoke alarms should be replaced at least once every ten years; and

WHEREAS, the age of a smoke alarm can be determined by the date of its manufacture, which is marked on the back of the smoke alarm; and

WHEREAS, Fort Bragg first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, Fort Bragg residents are responsive to public education measures and are able to take personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, the 2016 Fire Prevention Week theme, "Don't Wait – Check the Date! Replace Smoke Alarms Every 10 Years" effectively serves to educate the public about the vital importance of replacing the smoke alarms in their homes at least every ten years, and to determine the age of their smoke alarms by checking the date of manufacture on the back of the alarms.

NOW, THEREFORE, I, Dave Turner, Mayor of the City of Fort Bragg, on behalf of the entire City Council, do hereby proclaim October 9-15, 2016, as Fire Prevention Week throughout this city. I urge all the people of Fort Bragg to find out how old the smoke alarms in their homes are and to replace them if they are more than 10 years old.

SIGNED this 26th day of September, 2016.

DAVE TURNER, Mayor

ATTEST:

Brenda Jourdain, Acting City Clerk

No. 19-2016



City of Fort Bragg

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

File Number: 16-375

Agenda Date: 9/26/2016

Version: 1

Status: Mayor's Office

In Control: City Council

File Type: Proclamation

Agenda Number: 1B.

Presentation of Proclamation Recognizing October 17-21, 2016 as Fort Bragg "Walktober Week" and Proclaiming Wednesday October 19, 2016 as Fort Bragg Walk to School Day"

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

**RECOGNIZING OCTOBER 17 - 21, 2016 AS “WALKTOBER” WEEK” IN
FORT BRAGG AND PROCLAIMING WEDNESDAY, OCTOBER 19, 2016 AS
FORT BRAGG “WALK TO SCHOOL DAY”**

WHEREAS, the City of Fort Bragg has implemented a Safe Routes to School program and completed a number of infrastructure improvements in the areas serving Redwood Elementary School, Dana Gray Elementary School, Fort Bragg Middle School, and Fort Bragg High School; and

WHEREAS, the City of Fort Bragg has secured additional grant funding through the State Active Transportation Program (ATP) to complete further infrastructure improvements to enhance bicycle and pedestrian safety in areas serving schools in the Fort Bragg Unified School District; and

WHEREAS, with designated ATP funding, the City of Fort Bragg has contracted with Walk & Bike Mendocino to provide Safe Routes to School education and increase community awareness and support for Active Transportation; and

WHEREAS, non-vehicular commuting to school benefits children and families by promoting physical activity, reducing car-related pollution and traffic hazards, and contributing to a cleaner, safer and healthier community; and

WHEREAS, communities throughout Mendocino County are designating October as “Walktober,” and the Safe Routes to School Committee will provide special activities to promote participation of Fort Bragg students in Walktober Week October 17-21, 2016, and Walk to School Day on Wednesday, October 19, 2016; and

WHEREAS, Walk to School events will take place across California, the United States, and internationally in October 2016, to focus on the many benefits of walking or bicycling rather than driving to school; and

NOW, THEREFORE, I, Dave Turner, Mayor of the City of Fort Bragg, on behalf of the entire City Council, do hereby recognize the week of October 17-21, 2016, as Walktober Week, and proclaim October 19, 2016, as Fort Bragg Walk to School Day. Further, I encourage everyone to participate in this very worthwhile event and to consider the safety and health of our community’s children this week and throughout the year.

SIGNED this 26th day of September, 2016.

DAVE TURNER, Mayor

ATTEST:

Brenda Jourdain, Acting City Clerk

No. 20-2016



City of Fort Bragg

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

File Number: 16-383

Agenda Date: 9/26/2016

Version: 1

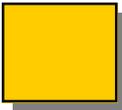
Status: Mayor's Office

In Control: City Council

File Type:
Recognition/Announcements

Agenda Number: 1C.

Receive Oral Update from Renewable Energy Development Institute Staff Regarding HELP Plus and HELP H2O Programs



What is HELP Plus?

HELP Plus is a community program that can save Fort Bragg **households** money each month by reducing the amount of energy and water that they use.

HELP Plus assists **all income levels** with education as well as money-saving programs matched to household income.

HELP Plus grew out of concern over **rising utility costs** that affect each of us. It provides free utility payment assistance and weatherization to income eligible households, **Plus** both energy and water conservation assistance to anyone, including:

- Accessing Rebates and Cash Incentives,
- Energy and Water Financing, and
- Assistance with Application Completion

HELP Plus is funded by a CA Community Development Block Grant awarded to the **City of Fort Bragg** through REDI (Renewable Energy Development Institute), a non-profit engaged in energy education & demonstration.

HELP Plus **efficient energy use plus water conservation** saves money and makes your home more comfortable.



Some common questions about HELP Plus

Is HELP Plus assistance FREE?

YES. HELP Plus assistance is **FREE** for all Fort Bragg residents.

Can all income levels qualify for assistance?

YES. Eligibility for FREE improvements is determined by your monthly gross income (before taxes). Higher income households are eligible for various cash incentives.

Can renters get HELP Plus too?

YES, with agreement of the property owner.

Does HELP Plus offer assistance for apartments and mobile homes?

YES! Tenants must obtain a written consent from the owner or manager. A mobile home must measure a minimum of 8 feet wide by 40 feet long to qualify for any weatherization services.



Home Energy Link Program
 Provided by the City of Fort Bragg through
 REDI (Renewable Energy Development Institute)
 119 No. Franklin St. #A, Ft. Bragg, Ca. 95437
 Phone: (707) 962-3070
 HELP@redinet.org



Save Energy!

Home

Energy

Link

Program
Plus

Call to Sign Up!
 962-3070 or email
 HELP@redinet.org

Energy Improvements
 + Water Conservation
**For Income Eligible Home
 Owners and Renters**

- FREE Assessments
- FREE Weatherization
- FREE appliance upgrades

**All Fort Bragg residents
 are eligible for HELP Plus**



What does HELP Plus cost?

HELP Plus assistance is free to all. Income eligible households can qualify for completely FREE improvements like Weatherization and old appliance replacement. Income eligibility levels for certain programs are more than you might think—see the table below. Other programs are not income based and are available for all Fort Bragg residents.

Monthly income levels must be at or below the amounts below for income-based programs. (Non-CDBG Income Guidelines)

Household size, including children					
1	2	3	4	5	6
\$1997	\$2611	\$3226	\$3840	\$4455	\$5069
Household total monthly GROSS income (before taxes)					

If you have questions about the HELP Plus program or need assistance to complete an application package, contact our office. REDI's staff is here to HELP make the process as easy as possible. CALL or EMAIL today to learn how to qualify!



How does HELP Plus work?

There are 3 steps to HELP Plus.

Step 1. Call or email for HELP Plus
962-3070
HELP@redinet.org

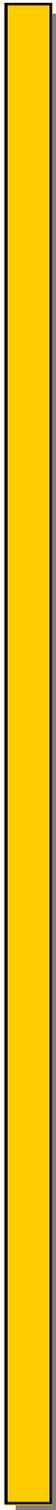
Our friendly staff will assist you in completing a simple eligibility survey. It only takes a few minutes to determine which program information and applications are right for you.

Step 2. Apply for HELP Plus

You will receive program materials with instructions and assistance to complete and send your application directly to each program suggested. For income-eligible residents, HELP Plus includes assistance with Energy plus Water-use options to recommend money-saving improvements for your home. You decide which ones you want to have done.

Step 3. HELP Plus arrives!

Most of the programs will contact you in a few weeks with a status update.



Energy Plus Water Use Improvements

• Weatherization

Caulking/Weather-stripping
Insulation for home, ducts,

• Water Conservation

Rainwater Harvesting
Graywater Systems
Irrigation Timers
Water Conservation Kits including
Toilet flappers
Aerators
And more

• Appliance Upgrades *

Refrigerator	Water Heater
Microwave	Shower Head
Stove	Faucet Aerators
Heating	Timers
Cooling	CFL/LED bulbs

• Windows & Doors

Shade & Insulating Screens
Storm Windows
Replacement Windows & Doors

• Renewable Energy

Solar Hot Water
Solar Electric
Passive Solar Retrofits

* Subject to Availability



CITY OF FORT BRAGG Progress Report through June 30, 2016

Renewable Energy Development Institute
Home Energy Link Program Plus & H2O
September 23, 2016

From program inception in mid 2015 through June 30, 2016, the two Fort Bragg HELP programs (HELP Plus and HELP H2O) began with initial start-up efforts of acquiring office space, hiring employees, creating and printing promotional literature, and researching websites, services, programs, and incentives of benefit to Ft Bragg residents in the areas of energy and water conservation.

Clients Serviced and Outreach

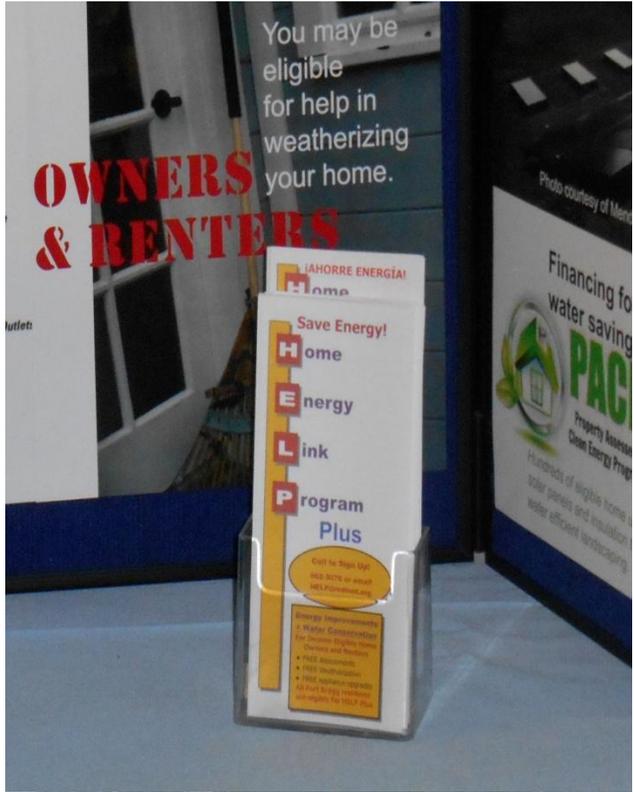
Through June 30, 2016, HELP has provided assistance to 279 total households of which 218 are Fort Bragg city resident households. After the initial start-up phase, efforts were directed toward community outreach activities, processing various program applications for Fort Bragg residents, and tracking progress of approvals and implementations. Numerous press releases have been published in the Fort Bragg Advocate and other community publications promoting HELP. Both English and Spanish speaking residents have been extensively approached, and our staff includes a bi-lingual representative while all of our literature and press releases are available in both languages. HELP staff has contacted community organizations and businesses placing program literature at 20 locations, making presentations of approximately one hour long to 11 different organizations, three of which were geared towards the local Hispanic population, tabling at 10 community events (including repeated tabling at the Farmer's Market), and sponsoring or co-sponsoring workshops on rainwater catchment, greywater use, drought resistant landscaping, and solar electric installations. HELP contacted nine social service agencies with seven replying positively for varying forms of promotion. Outreach to 17 churches resulted in 14 being contacted, with six having confirmed publication of HELP news releases in their newsletters and/or distribution of HELP literature.

In efforts to promote water conservation in outdoor irrigation, REDI/HELP has contacted all of the 23 licensed plumbers and landscapers in the 95437 zip code to confirm whether they will do greywater and rainwater catchment installations, (methods which have not been significantly used in Fort Bragg to date), and to request their participation in workshops. Twelve contractors have been reached with four plumbers and three landscapers responding positively. There has been concern expressed by a number of contractors regarding the specific City of Fort Bragg regulations on greywater installations. Through continuing efforts between HELP staff and City representatives between approximately April – June of 2016, the City has now prepared a form outlining the approved design and procedure.

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Home Energy Link Program



CONSERVATION

HELP program offers a toolkit of home savings

Thursday, September 17, 2015 9:08 AM www.redinet.org/news

HOME + GARDEN

Staff reports

As state government mandates a 25 percent reduction in California's water use, and the coming winter ups heating costs, a local program is bundling an array of energy and water efficiency programs available to all Fort Bragg residents and they are looking for ways to increase their reach.

Local resident Susan Kelley is working with the City of Fort Bragg on the Home Energy Link Program (HELP) to boost participation in a range of conservation efforts, from storm-water catchment and gray-water systems, to an array of existing energy-saving services, rebates, financing and upgrade programs.

Among energy programs, Kelley said, efforts are being made now to recruit income eligible residents for North Coast Energy Services' free HEAP utility payment assistance as well as LIHEAP home weatherization and help replacing old refrigerators and other household appliances.

While the HEAP program is designed with income restrictions, PACE Energy Upgrade California is available regardless of income. Energy Upgrade takes a "whole house" approach to energy conservation by encouraging generous rebates on many of those solutions up to \$4,000.

HELP is also looking for contractors on the Mendocino Coast to participate in the Property Assessed Clean Energy (PACE) program, in which households can get financing for things like a new roof, windows, improved heater, weatherization and solar, which also includes a 50 percent tax credit incentive.

Funding for the PACE program comes in the form of low-interest assessments that can be paid back as part of property tax bills over five to 30 years, depending upon the improvements. Kelley said qualifying for PACE is not income-dependent and does not require qualifying with a bank, but simple having at least 15 percent equity in the home.

Susan Kelley is heading up efforts to promote the HELP program. She can be reached at skelley@redinet.org.

Saving water

While energy-saving programs focus on contractor-installed household improvements, water conservation programs tend toward the do-it-yourself.

There are many small steps to water conservation:

- Installing aerators on kitchen and bathroom faucets can save more than a gallon per person per day per fixture.
- Fixing a leaky toilet can save 30 to 60 gallons per day.
- Installing a water-efficient showerhead saves 1.2 gallons per minute.
- Running a full, rather than half-full dishwasher, can save 5 to 15 gallons per load.

Many gallons can be saved by putting a water-filled plastic bag or bottle in the toilet tank, reducing the volume of each flush.

Household tips like these are gathered on the City of Fort Bragg's water conservation web page: <http://city.fortbragg.com/474/Water-Conservation>.

Catching the storm

The next step beyond making current systems more efficient is adapting household water systems to more long-term water savings. Two relatively inexpensive additions to home water systems are currently being encouraged throughout California and are part of HELP's offerings.

WATSON PAGE 2



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Home Energy Link Program

One area of success that cannot easily be measured by statistics is our relationship with City, social and other organizations. These agencies often pass on HELP literature and information directly to their clients. In this way, many more city residents are being assisted with water and energy conservation measures in addition to those that contact the HELP office directly. These agencies routinely approach the HELP office for more information and assistance, as well as offering to promote HELP's agenda by placing flyers and brochures in their offices and offering referrals to their clients.

Email from Alyson B. of the Mendocino Coast Chamber of Commerce regarding a HELP presentation: *"Susan, Thank you for your excellent and informative presentation at Friday's 12@12. I think everyone who went was kind of blown away at how amazing the programs can be... Photos are attached, and I would like to use them to promote your efforts on our Facebook".*

Projected Outreach

REDI will maintain the marketing of HELP for the City of Fort Bragg through more of these same efforts, with additional plans of future promotion through social media such as REDI's Facebook page. REDI will continue to educate the Fort Bragg residents about HELP and assist them in applying for the City's H2O Water Bill assistance program, North Coast Energy Services for free weatherization or utility payment assistance, Energy Upgrade California, CARE, and other PG&E incentive programs, GRID Alternatives' SASH solar electric installation program, Save Our Water's toilet and turf replacement programs, the City's Owner Occupied Housing Rehabilitation and PACE loan programs, and many other programs available to residents for water and energy conservation – see "Statistics of Promoted Programs" below.

HELP Program Results through June 30, 2016

As stated above, through June 2016 HELP has made contact with and has provided services to 218 City of Fort Bragg households.

Energy Efficiency

One hundred fifty-eight total households within the city have made inquiries about utility payment assistance for water, electric, propane or some combination of those three, of which 131 households have submitted applications. All of these households have also been referred to assistance with making their home more energy and/or water efficient. Seventy-six applied for water bill assistance payment through H2O and 66 were confirmed to have received assistance. Of those 66 households, 37 claimed their \$25 water saver coupons of which 19 have thus far been redeemed for water conservation products. Ninety-two city households applied for electric and/or propane assistance

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Home Energy Link Program

through the following programs: 122 inquiries with 85 applications submitted to NCES (North Coast Energy Services, Inc) for the HEAP program, and 13 inquiries with seven applications submitted to PG&E programs CARE, FERA, and Medical Baseline. Through March 30, 2016 (the last date for which NCES has reported results) HEAP approved the funding of 47 utility assistance payments averaging \$727/each for a total \$34,163. Most clients were already enrolled in CARE and other PG&E low income programs prior to HELP Plus' start-up, but through June 30, 2016, 5 new applications have been sent to CARE (California Alternate Rates for Energy) or FERA lowering client utility rates by 30% or more, and 2 requests for Medical Baseline assistance have been submitted. HELP staff track all applications and continue to follow up with clients to make sure that applications are processed to completion.

Letter from Robert H. regarding the City's H2O payment assistance program: *"Toward the end of last year I went to the H.E.L.P. office. You helped me with my water bill when I was behind. It all worked out great! Keep up the great work! You are really helping a lot of people in this town!"*

Letter from Christina V. M. regarding NCES' HEAP payment assistance program: *"The Fort Bragg office program "HELP" has given me the opportunity to have propane for my home. I really appreciate your company's program and the co-workers at the office; they are pleasant for working with my needs. I highly recommend this program, "HELP", to anyone that needs the service."*

A basic step toward energy conservation is to make certain households are as energy efficient as possible. Both PG&E and North Coast Energy Services offer "weatherization" programs for income qualified individuals that will replace older energy inefficient appliances and make basic repairs on homes that are leaking heat, but there are a number of barriers to providing Fort Bragg with weatherization services. Contractors are often located inland or outside Mendocino County which means travel time, lower population numbers than less rural communities and communication challenges make providing service in Fort Bragg less cost effective than contractors prefer. The HELP office has worked to develop relationships with referral agencies and purveyors that mitigate barriers in order to increase services to Fort Bragg.

One hundred thirty-nine city residents have requested assistance for weatherization. Fifty-one households have inquired about LIHEAP and 36 applications were sent to North Coast Energy Services (NCES) to begin processing, 88 residents have been referred to PG&E's ESAP program, and three residents were referred to PG&E's Energy Upgrade California utility incentive program as their income level was above that required for HEAP or ESAP. Applications sent to NCES for weatherization can have a processing time of approximately six months from intake of application to implementation of energy efficient measures installed by contractor, and both PG&E's ESAP and Energy Upgrade California programs have had their own internal administrative issues affecting efficient implementation of

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Home Energy Link Program

assistance to clients. HELP staff continues to track these applications through completion of the weatherization improvements.



HELP Bilingual Staff member Loreto Rojas assists a Fort Bragg resident in applying for weatherization

Letter from Bill and Annie S.: *"Thank you so much for connecting us with the LIHEAP Weatherization program. Not only did they "weatherize" our "mobile" home; they gave us a new propane heater, replaced all of the heating ducts, installed smoke and CO2 alarms, and gave us energy efficient light bulbs and a low flow showerhead. They even installed a new back door on our home. The old one leaked like a sieve, the new one fits like a glove!"*

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Home Energy Link Program

Solar Electric Systems

As of June 30, 2016, 30 clients were referred to the GRID Alternatives' SASH program with 13 clients being approved for grid-tied roof-top solar electric installations, two more clients being approved pending roof repairs, and one installation completed in June with the rest to follow over the next 15 months. Effective June 30, 2016, while not affecting any existing approved applications, the GRID requirements have changed and most Ft Bragg households will no longer be eligible to apply for any future no or low cost solar electric system installations funded by SASH.

Quote from Natalie H. regarding GRID's SASH program: *"The solar panel program will allow me to not only save money on my electric bill, but teach my children the importance of understanding our own consumption of energy and our direct impacts on the environment. Susan Kelley at the HELP office...has been wonderful in linking me with the program."*



Water Efficiency

A total of 114 residents completed water audits including all 76 HELP H2O inquiries with an additional 38 HELP Plus clients. Seventy-five total Water Saver coupons were issued to 70 different clients: 37 from H2O, 33 from HELP Plus. (Five clients received a second coupon because first coupons issued were lost, damaged, expired, etc.). Thirty-two coupons have been confirmed redeemed (19 from H2O, 13 from HELP Plus). Items purchased include pails, dishpan, 55 gallon barrels, toilet, toilet repair kits, showerheads, aerators, faucet washers, faucets, filter, drain stoppers, caulking, hoses, hose nozzles,

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Home Energy Link Program

hose wands, hose repair kits, irrigation fittings, timer, pressure switch, rain gauge, and mulch. Forty-three families participated in water conservation themed workshops.

Demographics

Of the 218 city households served, 68 (31%) are homeowners, and 140 (64%) are renters, with 10 (5%) unknown. 82% of households that applied for utility assistance are renters, and 78% of those that applied for weatherization are renters. Rental properties require landlord approvals for weatherization work to be performed and that can sometimes present a barrier to applying. This high percentage of renter weatherization activity shows that local landlords are cooperating with the renters. Applications will continue to be tracked by REDI/HELP through completion.

In terms of long-term benefits for city residents, a higher number of weatherization and water or energy conservation projects will generate significant energy, water, and dollar savings resulting from physical improvements made to the home and changes in usage, as compared to the one-time payment for past due utility payments. The HELP staff concentrates the bulk of our time and efforts on educating and referring clients in the areas of water and energy conservation.

Ethnicity

Hispanic	58
Non-Hispanic	160

Race

White	203
Black/African American	1
Asian	1
American Indian/Alaskan Native	5
Native Hawaiian/Other Pacific Islander	2
American Indian/Alaskan Native & White	3
Asian & White	1
Black/African American & White	0
American Indian/Alaskan & Black/African	1
Other Multi-Racial	1

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Home Energy Link Program

Other Demographics

Veteran	9
Disabled	69
Elderly	67
Female Head of Household	43

Income Levels

Extremely Low (<30%)	66
Very Low (31%-50%)	57
Low (51%-80%)	34
Moderate and high (+80%)	13

The balance of HELP's clients did not divulge income information

Statistics of Promoted Programs

From program inception in mid 2015 through June 30 2016, the Fort Bragg Home Energy Link Program has actively promoted 30 total different programs in 9 different categories to HELP Fort Bragg residents with energy and water conservation:

- Appliances/Lighting – 11 programs
- Electric Vehicles – 2 programs
- Fuel Cells – 1 program
- Heating/Cooling/Weatherization – 9 programs
- Solar Electric – 9 programs
- Solar Water Heating – 5 programs
- Utility Bills – 5 programs
- Water Conservation – 12 programs
- Wind – 5 programs

(Many programs are applicable to more than one category)

While many of these programs assisted residents with payments, either directly paying a utility bill or offering special financing options, 18 of these programs in 8 categories offered actual free or reduced rate products or services to assist HELP clients with actual energy and water conservation:

- Appliances/Lighting/Landscaping – 7 programs
- Electric Vehicles – 2 programs

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Home Energy Link Program

Fuel Cells – 1 program
Heating/Cooling/Weatherization – 5 programs
Solar Electric – 4 programs
Solar Water Heating – 1 program
Water Conservation – 5 programs
Wind – 1 program

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A City Problem with few Ifs or Ands,



**Yet Plenty of
BUTTS!**



**Progressive Alliance
Center Mendocino
328 N. Main Street
Fort Bragg**





Progressive Alliance Center Mendocino

~ Democracy for All ~
328 N. Main St. Fort Bragg 962.3101

To: City Council, City of Fort Bragg

Re: Project StopButts - Report requesting City Action

Da: September 26, 2016

Worldwide, well over 5 trillion cigarettes are sold each year. The U.S. accounts for 300 billion of the total. Once smoked, what becomes of the butt?

Cigarette butts are the most common form of litter, as an estimated 4.5 trillion cigarette butts are thrown away every year worldwide. Most cigarette filters are composed of cellulose acetate, a form of plastic. The white fibers in a cigarette filter are NOT cotton, but a plastic that can persist in the environment as long as other forms of plastic.

Rather than being a protective health device, cigarette filters are primarily a marketing tool to help sell 'safe' cigarettes and are erroneously perceived by much of the public (especially current smokers) to reduce health risks. Slightly reduced per-cigarette intake of tar and nicotine is often offset by smokers inhaling more deeply or simply smoking more often.

“The Big Butt Problem – TPW (Tobacco Product Waste)”

Almost all cigarettes are sold with a cellulose acetate filter. About one-third of these butts never are properly disposed of but are thoughtlessly discarded onto the ground. From there, they are washed into watercourses and the ocean, to be eaten by fish, animals and birds.

Ultraviolet sunlight will eventually biodegrade the filter itself, but not what is inside. Filters take anywhere from 18 months to as much as 10 years to “degrade,” depending on where the butt is dropped and the exposure to sunlight. Meanwhile, in a 1997 study, more than 4,500 chemicals were found inside cigarettes and these chemicals and heavy metals (toxins) remain unaffected by the sun and are poisonous when ingested by any living being.

Tobacco companies tried to make fully biodegradable filters for years but were unsuccessful.¹ Cigarettes today commonly include pesticides, herbicides, insecticides, fungicides and rodenticides. If you want to name names of chemicals: ethyl phenol, nicotine, hydrogen cyanide, polycyclic aromatic hydrocarbons, ammonia, acetaldehyde, formaldehyde, benzene, phenol, argon, pyridines and acetone, and Polonium-210. Of these, more than 50 are known to be carcinogenic to humans.

In California specifically, our Department of Public Health Tobacco Control Program puts it in these terms:

- Butts are the number one item found on California highways and 34% of total waste captured statewide
- Cigarette production requires one tree for every 300 cigarettes or one tree for every 1 ½ cartons manufactured
- Discarded butts have been linked to numerous wildfires and property damage
- State agencies spend over \$40 million annually in cigarette litter cleanup

“The Local Butt Problem”

About one-half of smokers do not consider the butts to be litter and feel free to discard them on the ground or even toss them from a car window. Cigarette butts are the most common form of debris collected from beaches and waterways during the annual Ocean Conservancy’s International Coastal Cleanups. Cigarette butts recovered from beaches are not necessarily due to cigarettes that are smoked at that location. Butts are dropped on sidewalks or thrown from moving cars; they then move to the street drains and into streams, rivers, and the ocean. In addition, since the early 1980s there has been increasing concern about the health consequences of passive smoking, and thus more smoking occurs outdoors, likely contributing to this chain of events.

In 2011, researchers at San Diego State University published their study that found lethal concentration (LC50) for both fresh water (fathead minnow) and saltwater (topsmelt) fish species exposed for four days was just one cigarette butt in one liter of water. A “leachate” (chemical soup produced by soaking butt) proved similarly toxic, with most of it emanating from the smoked cigarette butt and residue tobacco. Filters alone showed such toxicity.

“Clean-up ain’t necessarily cheap, but you can start right here in Fort Bragg”

In a review of litter cleanup project reports, the Keep America Beautiful Campaign reported that cigarette butts comprise from 25 to 50 percent of all collected litter items

¹ CORESTA, the tobacco industry’s international research organization, formed a ‘Cigarette Butt Degradability Task Force’ in the early 1990s to “develop a test to determine the rate of degradability of a complete cigarette butt.” The task force disbanded in 2000 after CORESTA found that it was “unlikely that the level of interest could justify the scale of the effort”, which would require more data collection and the development of instrumentation to establish a standardized test for cigarette filter degradation.

from roadways and streets. One report from a college campus estimated the cost of cigarette litter cleanup at \$150,000 for a single, two-week-long effort. No other economic impact studies have been reported. Their non-biodegradability means that they also increase landfill demands, add costs to municipalities' waste disposal programs, and create environmental blight in public spaces.

“Set up a brainstorm group to identify the extent of the problem & to propose solutions”

Form a task force of some kind to explicitly emphasize the importance of this problem and of finding locally-feasible solutions. Ask that body to conduct further fact-finding and to seek creative solutions. These might include:

1. Develop retailer responsibility ordinance for street-side pick-ups (Adopt-Your-CurbSide/Sidewalk)
2. Enforce and/or strengthen the City's litter ordinances & be willing to issue citations
3. Immediately purchase & install Seattle Surfrider cigarette receptacles/canisters (HOTYB: Hold on to your Butts program launched in 2014) or Cal Poly Surfriders' "Butt Biters" receptacles.
4. Evaluate the Model Tobacco Waste Act & other publications for ideas, inspiration and regulatory options
5. Consider a ban on sale of filtered cigarettes on the coast based on adverse environmental impact
6. Create local awareness and focused clean-up projects, especially at coastal trail areas

Sources consulted:

California Tobacco Control Program (Tobacco Product Waste Reduction Toolkit [2013] produced by Department of Public Health) & website www.tobaccofreeca.com
Cigarette Butt Pollution Project (www.cigwaste.org) & "Kick the Butts" initiative [based in San Marcos, CA]

Truth Initiative (www.truthinitiative.org)

Surfrider Foundation (<https://seattle.surfrider.org>)

National Center for Biotechnology (www.ncbi.nlm.nih.gov)

"Cigarette Butt Litter" newsletter (www.longwood.edu) [Clean Virginia Waterways project of Longwood University]

<http://saveourshores.org/what-we-do/reduce-cigarette-litter/>



Progressive Alliance
Center Mendocino

~ Democracy for All ~

StopButts Project

RESOURCES & BACKGROUND MATERIALS

SAVE THE BAY

<http://www.savesfbay.org/municipal-resources>

Resources for Municipalities

Save The Bay's pollution prevention program - the Clean Bay Project - works with municipalities in the nine Bay Area counties to develop and implement policies that stop trash at the source. By adopting ordinances, restricting plastic bags and Styrofoam food ware and limiting outdoor smoking, cities and counties can prevent plastics, toxic chemicals and other pollutants from impacting our waterways and the Bay. Listed below are resources for municipalities interested in pursuing these policies.

For more information, please contact Allison Chan, Clean Bay Campaign Manager at allison@savesfbay.org.

Cigarette Butts

Model Ordinances:

- [Walnut Creek](#)
- [Berkeley](#)
- ChangeLab Solutions model ordinance - [Comprehensive Smokefree Places](#)

Fact Sheets

- [Save The Bay tobacco litter fact sheet](#)
- [Cigarette Pollution Project fact sheet](#)
- [American Legacy Foundation tobacco fact sheet](#)

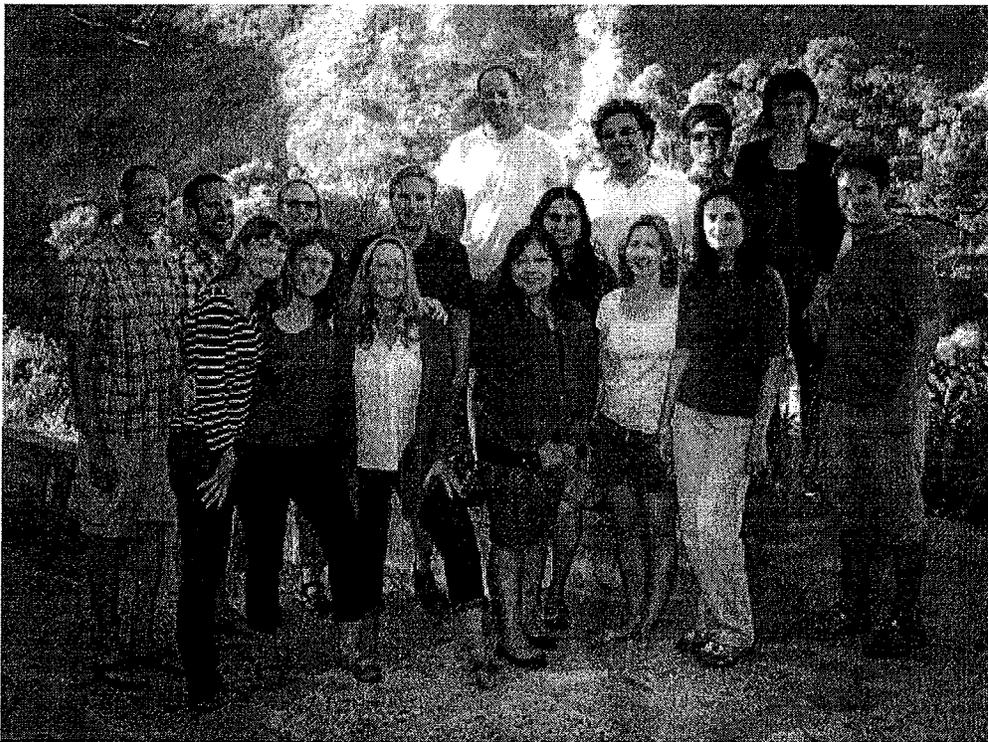
Literature

- [Tobacco Control: The Environmental Burden of Cigarette Butts](#)
- [Tobacco Product Waste: An Environmental Approach to Reduce Tobacco Consumption](#)
- Changes in smoking behaviours following a smokefree legislation in parks and on beaches, an [observational study](#)

Visit Save The Bay's [Butt Free Bay](#) site to learn more about our public campaign.



Get to know our member cities and green leaders.



1. Berkeley
2. Chula Vista
3. Hayward
4. Los Angeles
5. Manhattan Beach
6. Marin County
7. Oakland
8. Palo Alto
9. Richmond
10. San Diego
11. San Francisco
12. San Jose
13. Santa Barbara
14. Santa Monica



[LEADING POLICIES & PROGRAMS \(/LEADING-GREEN-POLICIES-AND-PROGRAMS/\)](#)

[MEET MEMBERS \(/MEMBERS/\)](#)

[JOIN AS A MEMBER \(/JOIN/\)](#)

[ABOUT US \(/ABOUT/\)](#)

[NEWS \(/NEWS/\)](#)

[Q \(/SEARCH-GREEN-CITIES-CALIFORNIA/\)](#)

Zero Waste

CIGARETTES

Animals accidentally eat cigarette butts which can give them seizures (<http://www.savesfbay.org/buttfreebay>). You can change that with this policy:

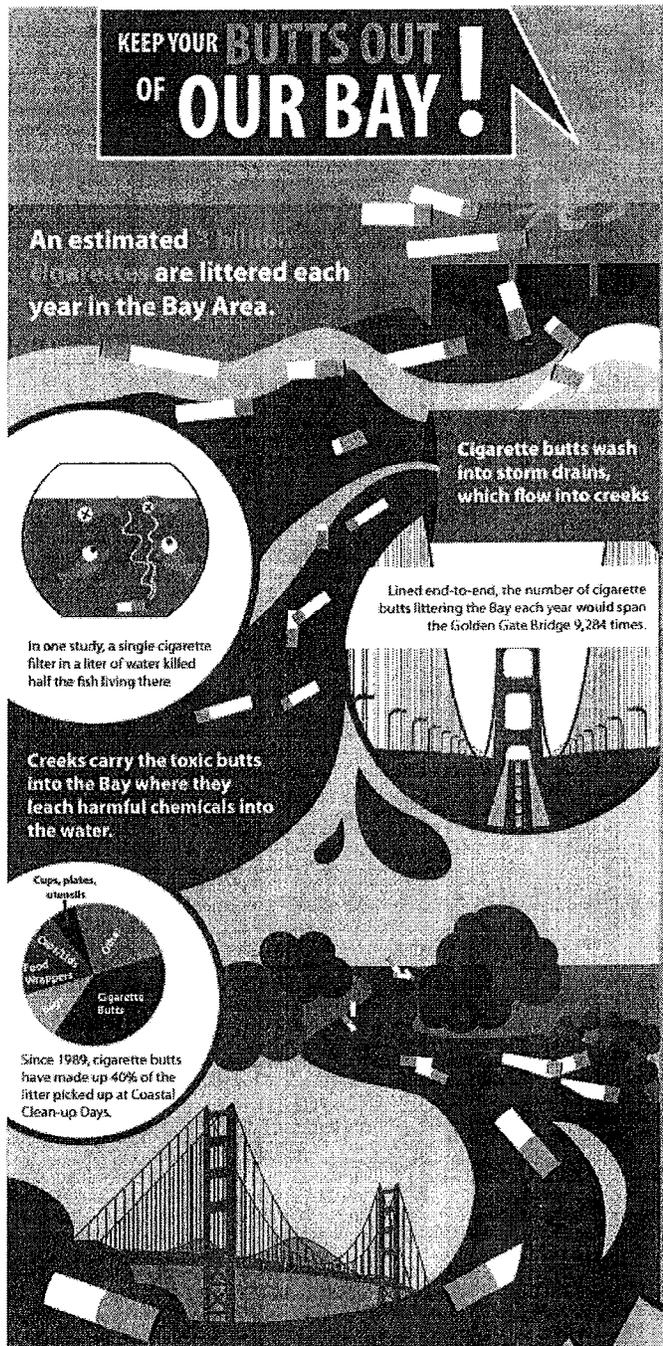
- First and last CA fee to cleanup cigarettes (**Cigarette Litter Abatement Fee Ordinance** (<https://greencitiesca.squarespace.com/zero-waste-1/san-francisco-cigarette-litter-abatement-fee>)), 2009, San Francisco, CA

COMPOST & RECYCLING

If you put compostables (food, plants, paper foodware, plastics labelled "compostable" not "biodegradable") in the landfill, you create polluting greenhouse gasses. So join cities below in preventing that:

- Most comprehensive U.S. composting and recycling law (**Recycling and Composting Ordinance** (<http://greencitiesca.squarespace.com/zero-waste-1/san-francisco-recycling-composting-ordinance>)), 2009, San Francisco, CA
- Achieving zero waste by 2022 (**Zero Waste Resolution** (<http://greencitiesca.squarespace.com/zero-waste-1/zero-waste-resolution-san-jose-ca>)), 2008, San Jose, CA
- Requiring all building materials, packaging, vegetation to be reused or recycled (**Construction and Demolition Ordinance** (<http://greencitiesca.squarespace.com/zero-waste-1/construction-and-demolition-ordinance-san-francisco-ca>)), 2006, San Francisco, CA

PAPER



(<http://www.savesfbay.org/buttfreebay>)

CIGARETTE BUTTS ARE TOXIC PLASTIC LITTER

ACETIC ACID
BUTANE
HEAVY METALS
NICKEL
ARSENIC
In some birds, arsenic causes destruction of gut blood vessels, seizures, reproductive problems, blood cell damage and loss of muscular coordination.

TOLUENE
METHYLOLEFIN
CHROMIUM
In invertebrates, like crabs, chromium delays growth and reduces the ability to reproduce.

NITROGEN
PHOSPHORUS
AMMONIA

PLASTIC FILTERS ARE NOT BIODEGRADABLE

TAKE ACTION
www.savesfbay.org/buttfreebay
#BUTTFREEBAY



HOW YOU CAN BENEFIT

In 2009, San Francisco experienced 25% of cigarette butt and packaging litter, and spent over \$6 million a year to clean them. So the city created the Cigarette Litter Abatement Fee Ordinance to collect \$0.20 when a customer buys a cigarette pack. The fee funds the Environment Cigarette Litter Abatement Fund.

WHY IT'S A LEADING POLICY

This is the first and possibly last ordinance of its kind in California because Proposition 26 now requires a two thirds super-majority vote in the State Legislature to pass fees, levies, charges and tax revenue allocations. Previously, only a simple majority vote was required.

GOAL

To fund costs to clean up cigarette litter.

WHO CAN TAKE ACTION

Retailers of cigarettes.

OUTCOME

Some of the revenue goes to the Treasurer to administer fees. The rest goes to the Department of Public Works to cleanup litter. The ordinance generates about \$5 million annually.

CONTACT

Soko Made, City Government Zero Waste Assistant, San Francisco Department of Environment, (415) 355-3739, Soko.Made@sfgov.org

LAST UPDATED

September 25, 2015

♥ 0 LIKES < SHARE

Hold On To Your Butts

Seattle Chapter of Surfrider Foundation

In early 2014, the Seattle Chapter launched the Hold On To Your Butts Program (HOTYB), which is a national campaign that has been met with significant success in San Diego and Huntington Beach. Through beach cleanups, the Seattle Surfrider chapter has witnessed that the city has a serious problem of cigarette filters littering public areas, especially beaches and city parks. Though it is illegal to smoke at beaches and parks in Seattle, and within 25 feet of public places like bus stops and doorways (per WA state 70.160.0175 RCW) butts are a significant problem particularly in these areas.

The Seattle chapter is focused on 1) educating people about cigarette impacts and 2) providing smokers an opportunity to dispose of cigarette butts responsibly. The chapter collaborated with Seattle Parks and Recreation to install two ashcans at Alki Beach Park in August, 2014 and added 6 more in July 2015. The chapter donated 12 cans to West Seattle Junction Association in July 2015 for use in the Junction restaurant and shopping district. Three UW interns have contributed 300 hours of service combined in 2015 and spoken with hundreds of park and event patrons about HOTYB. Chapter volunteers completed a Walk of Shame to draw social media presence to litter at popular bars in Capitol Hill.

Why choose Surfrider cigarette receptacles?

You can find other cigarette receptacles for cheaper, but you won't find one like ours. Ours were specially designed by the manufacturer and Don and Tony at the Huntington Beach Surfrider Chapter. Check out the benefits of using Surfrider's cans:

- The attractive vinyl sticker helps create uniformity, making receptacles easy to spot from far away, which increases likelihood of use
- The openings are small enough to keep other litter out
- The grooves draw rainwater away from the openings
- The locking mechanism keeps out passersby looking for a butt, doesn't spill or tip over, and are easy to empty into a garbage
- Metal canisters are less of a fire hazard and have proven they can handle the weather on California beaches for several years
- They can be secured to a wall or post to reduce stealing

Our next steps

We are actively working to find partners (local businesses owners, business associations, government departments, etc.) in high litter areas to install ashcans to reduce litter as well as promote education of cigarette litter impacts on the environment. We are looking for local businesses, especially near parks and beaches, to sponsor ash cans and partner with us to keep these toxic butts out of our waters. Check out this success story from the Vancouver Island Chapter on their highly successful HOTYB program to get inspired!

<file:///C:/Users/Owner/Desktop/Surfrider%20Seattle%20Chapter.htm> [Barbara Clabots]



Copy of Image of many ash cans w/o sticker

Sign In



Surfrider aims to can cigarette butts in Huntington Beach

The Orange County Register [April 12, 2015]

HUNTINGTON BEACH – Norma Sellers wears the message on her T-shirt like a walking billboard as she strolls the streets of downtown Huntington Beach.

“Our streets and beaches are not ashtrays,” it reads.

It’s a message the volunteer with the Huntington Beach chapter of Surfrider Foundation takes seriously, for the past three years helping to implement a canister program called “Hold Onto Your Butts” that has gathered more than 250,000 cigarette butts.

There are more than 170 canisters that serve as bright ashtrays dotting the city, everywhere from downtown to bus stops to college campuses. The butts have been collected and recycled for the past three years, keeping them off Surf City’s streets, gutters and beaches.

Surfrider has long held beach clean ups around the world, but the nonprofit hopes the canister program will catch fire among others who want to help tackle the big problem. Even though many cities outlaw smoking on the sand, butts still generate the number one trash item on the beach, making their way to the coast from waterways and storm drains.

The Huntington Beach program is now being watched closely by other major cities such as Chicago, and as close as Stanton and Long Beach. The canisters are already being used in Vancouver, Canada.

San Diego has a similar program, but businesses are responsible for cleaning the canisters. When Surfrider volunteer Don MacLean first proposed the project to Huntington Beach officials to have city employee maintenance workers involved, there was some resistance. Naysayers thought it would promote smoking, or generate resistance from smokers.

“At the very beginning, people thought we were trying to prevent smoking. We’re not,” said Surf Rider Huntington Beach and Seal Beach chapter chairman Tony Soriano. “We’re trying to prevent people from throwing it onto the ground. It ends up in the ocean. It’s the number one contaminant in our ocean.”

Soriano remembers standing around the downtown area with MacLean, looking at the butts covering the streets and gutters.

“There were cigarette butts everywhere. You could see it in the gutter, you could see it here (on the sidewalk),” Soriano said. “Any place people sat down, you’d see it. It was disgusting.”

Downtown ambassador Russ Myers, who walks around in a bright yellow shirt to make sure people are behaving, said the response has been well received.

“Once I learned about the program, I thought, ‘this is killer’,” the former smoker said. “(Smokers) actually make a conscious decision to put them in there. It keeps them from going down the sewers. Mostly, people don’t mind using it. I see people throw cigarettes on the ground, see a butt can and put it in the canister.”

There’s still some resistance getting the canisters near the beach, with lifeguards worried it will send mixed messages to people who think they are allowed to smoke. Huntington outlawed smoking on the sand about a decade ago.

Special keys are required to open up the canisters, and each week city maintenance worker Isabel James empties out the canisters. Then, Sellers gathers the piles of butts each month or so in big plastic bags and takes it to the U. S. Post Office to ship them out to be recycled to a company called Terracycle.

On a recent day, Sellers had two big boxes full of butts that had been collected during the past two months.

“Holy smokes,” Myers exclaimed when the weight of the first box hit the scale, showing it weighed nearly 14 pounds.

The second bag was even more impressive, weighing in at 21 pounds.

That's an estimated 35,000 cigarette butts taken off Huntington Beach streets in just two months' time.

The next step is to get canisters set up at bus stops and the Bella Terra area.

Smoker Kyle Shelby, who can be found hanging out on the corner of Walnut and Main Street nearly every day, said he always makes it a point to tell fellow smokers about the Surfrider canisters if he sees them toss a butt on the ground.

"It's very convenient," he said. "They are bright, and you can see them. It gives a message to everyone, especially out-of-towners, 'pick up your stuff and stop littering our streets'," he said.

Contact the writer: lconnelly@ocregister.com

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Cal Poly Surfrider Installs Cigarette Receptacles in Morro Bay

Published: May 29, 2012 Views: 941 Share This Article: Tweet

PRESS RELEASE

On Saturday May 26, 2012 three members of Cal Poly Surfrider, Scott Doyle, Adam Rianda, and Jon Howard, installed three cigarette receptacles at Morro Bay beach. Philip Chehade, a industrial technology senior at Cal Poly and one of Cal Poly Surfrider's own, welded four Butt Biters November, 2011. The Butt Biters were constructed as a result of CP Surfrider recognizing an increasing need to combat cigarette pollution at San Luis Obispo County beaches. Cal Poly Surfrider decided to place three of the four Butt Biters at Morro Bay beach, with the knowledge that cigarette pollution is high at the Morro rock parking lot and the "pit" main parking lot in Morro Bay. The first location of placement is between the rocks and the first row of parking at the Morro rock parking lot. The students planted the second one next to the row of signs that contain beach rules and regulations and sits in front of the Morro rock parking lot bathrooms. The third Butt Biter is located at the "pit" main parking lot, in front of the first row of parking. With the cigarette receptacles newly installed, CP Surfrider hopes for the residents of Morro Bay to use them properly and often. CP Surfrider will be placing the fourth Butt Biter at another beach in the county in the near future. On a closing note, CP Surfrider kindly asks all residents of SLO County to properly dispose of all cigarette butts when out in public, especially when visiting beaches.

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'Get the Filter Out' campaign aims to clean up littered cigarettes

By Tanaz Ahmed, University of Michigan, Ann Arbor USA TODAY COLLEGE
(August 6, 2015)

Do Something, a nonprofit organization geared toward teen volunteerism and activism, is launching a campaign with truth, a youth smoking prevention campaign, to clean up cigarette butts littering the streets.

The new campaign, Get the Filter Out — GTFO for short — asks young Americans to sign up on Do Something to receive a free clean-up kit. Once a person signs up, he or she is also has the opportunity to win \$10,000. For every 250 cigarettes an individual collects, they receive an additional entry into the scholarship lottery. The winner will be announced after the campaign ends on Sept. 30, 2015.

GTFO hopes to motivate young Americans to stop smoking and to improve the environment, says Cas Marburger, the social media manager for truth.

“We really feel like this partnership with Do Something is a great opportunity for truth to help inspire people to clean things up and to really take action in their communities,” Marburger says.

According to a PLOS ONE report published on Jan. 27, 2015, cigarettes are the most littered item on Earth. GTFO reports 1.69 billion pounds of cigarette filters end up as waste every year — a fact corroborated in a May 2009 report published in the International Journal of Environmental Research and Public Health.

“A lot of people — smokers and non-smokers alike — think that cigarette butts are an acceptable type of litter because there is this misconception that cigarette butts will biodegrade,” Marburger says. “They don’t. They’re made of a type of plastic, cellulose acetate, which doesn’t degrade well. It sits there and releases toxic waste.”

The National Center for Biotechnology reports that the non-biodegradability of cigarette filters increases landfill demands, municipalities’ waste disposal program costs and environmental blight in public places. Chemicals from discarded cigarettes are also toxic to aquatic organisms.

Lizzy Divine, the environment campaigns associate at Do Something’s in-house marketing agency TMI, says that although this campaign does not address the root cause of the littering, organizing clean-up is still an effective solution to the issue.

“Litter begets litter,” she says. “One of the largest factors affecting a person’s decision to litter is the condition of their physical surroundings. Individuals are more likely to litter

into a dirty or already littered environment. So, by cleaning up the cigarettes we're hoping that people won't want to deviate from the social form and will be less likely to litter in the area."

Along with addressing environmental concerns, Do Something and truth also hope the new campaign will help end teen smoking.

According to a University of Michigan press release, a national survey of approximately 40,000 teens in 2014, found that 8% reported smoking cigarettes in comparison to 28% in 1997, a statistic which Divine believes indicates that cigarette use in the United States can continue to decrease.

Do Something really believes that this can be the generation that puts the cigarette industry out of business, which is why we're teaming up with truth to tell Big Tobacco to GTFO," Divine says.

[Tanaz Ahmed is a student at the University of Michigan and a summer 2015 USA TODAY Collegiate Correspondent.]

Santa Cruz Sentinel

Unanimous support on Capitola City Council for smoking ban

By Jondi Gumz (10/24/09)

CAPITOLA -- The tide is turning against smokers in this oceanfront tourist town.

Citing health hazards and cigarette butt litter, the City Council unanimously expressed support Thursday night for a smoking ban on the Esplanade, Stockton Avenue Bridge and the wharf, all locations frequented by visitors, and other public property in the city.

Council members told staff to draft an ordinance covering those locations and schedule a public hearing. In addition, Councilman Dennis Norton favored banning smoking throughout the city, which attracts thousands of tourists every year. So did Councilmen Ron Graves and Mayor Bob Begun. Councilmen Kirby Nicol and Sam Storey said they would consider a broader ban.

Though the council decided not to go that far at this point, environmental and health advocates hailed the city.

"Capitola is such a leader," said Laura Kasa, executive director of Save Our Shores, which has been picking up cigarette butts on the beach for 25 years. "Capitola is a destination that fosters family recreation and environmental stewardship -- tobacco just doesn't fit in," said Richard Salazar, who chairs the Santa Cruz County Tobacco Education Coalition.

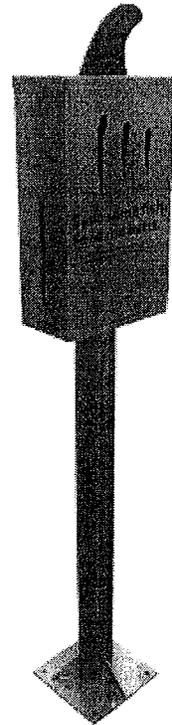
A smoking ban took effect Oct. 20 in the city of Santa Cruz along Pacific Avenue, Beach Street, West Cliff Drive and the wharf, all outside dining areas, such as bars, coffee shops and restaurants, and on city property including all parks. Tolerance of smoking in public has declined since 2006, when the U.S. surgeon general reported secondhand smoke is dangerous in any amount.

In California, adult smoking rates have fallen from 22.7 percent in 1988 to 13.8 percent in 2007.

Capitola currently prohibits smoking on Capitola Beach and near playgrounds and public buildings. "I have friends who come here from Mexico City, Bangkok, Manila and Rome and Paris, and they all say the same thing, the air is so fresh," said Nicol, who sees community support for a broad smoking ban. "We have to protect the environment."

Chris Gay, 24, a Monterey Bay Sanctuary steward, and Sandy Erickson, a nurse, spoke in favor of the ban, as did Bob Yount, 71, who lives on Portola Drive and came wearing a respirator. Hasan Ayaad of Havana Village on Monterey Avenue expressed concern about a ban affecting sales at the smoke shop. "If people can't smoke anywhere else, they will go up to your smoke shop," Storey said. "Maybe that will help your business."

Public Works chief Steve Jesberg noted San Francisco has a new butt "cleanup fee." The 20-cents-per-pack fee, which took effect Oct. 1, would bring \$6 million for that city if sales remain at 30 million packs annually.



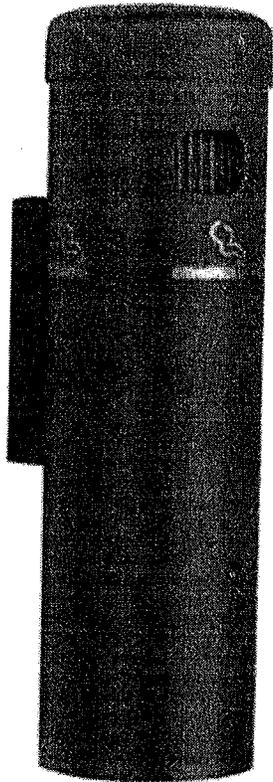
Capitola's Smoke-Free Beach approach



Aarco

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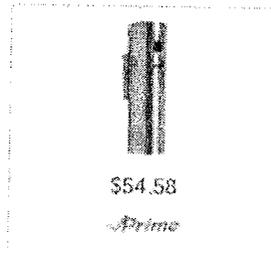
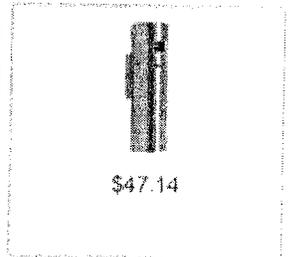
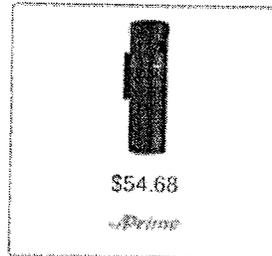
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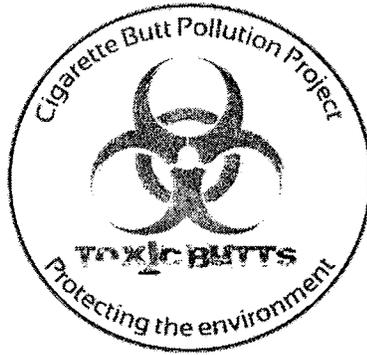


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The Environmental Impact of Cigarette Butt Waste: Just the Facts

1. Trillions of cigarettes: 5 trillion cigarettes sold globally every year; 300 billion sold in the United States.
2. Butt waste is everywhere: 99% of the 300 billion cigarettes sold have cellulose acetate (plastic) filters; at least one-third of those – 100 billion – are discarded into the environment. Washed into rivers, lakes and the ocean, and eaten by birds, animals and fish, they are the most littered item in the U.S. and the world. Smoking-related debris is 1/3 or more of all U.S. debris items found on beaches, and in rivers and streams.
3. Butt waste is not biodegradable: Filters are non-biodegradable, and while ultraviolet rays from the sun will eventually break them into smaller pieces, the toxic material never disappears.
4. Butt waste is toxic: Cigarette butts leach chemicals and heavy metals into the environment that are toxic to fresh and salt-water fish. They are poisonous when ingested by children and other living organisms.
5. Cigarettes kill: Containing so many highly toxic, carcinogenic chemicals, pesticides and nicotine, tobacco use is the No. 1 cause of preventable death globally, taking over 5 million lives a year, and likely to kill 1 billion people this century (ten times the 20th century toll).
6. Cigarette butts are dangerous: Discarded cigarettes can ignite very destructive, deadly and injurious fires. More than 900 people in the United States die each year in fires started by cigarettes, and about 2,500 are injured. Nationally, annual human and property costs of fires caused by careless smoking total about \$6 billion.
7. Butt waste cleanup is expensive: Cigarette butt waste cleanup is very costly, with a San Francisco litter audit study finding the cost to be more than \$7 million annually. Taxpayers and local authorities currently bear the cost everywhere, but it needs to be paid for and managed by the tobacco industry.
8. Filters don't make cigarettes safer: Many smokers believe filters provide some protection - that they're "safer" - but National Cancer Institute studies, among others, show there have been no benefits to public health from filters. The tobacco industry knows that filters are a fraud.
9. The tobacco industry blames smokers: Tobacco companies oppose regulations compelling them to take responsibility for butt waste – despite the widely recognized environmental principle of Extended Producer Responsibility; instead, they say 'the responsibility for proper disposal' of cigarette waste belongs to the smoker.

Butt waste isn't just litter:

Filters falsely reassure smokers, and cigarette waste damages habitat, landscapes and ecosystems; ignites destructive, deadly fires; poisons wildlife and children; consumes tax dollars for cleanup and disposal; and lasts forever!

Sources: "The Environmental Burden of Cigarette Butts," *Tobacco Control*, April 2011, (http://tobaccocontrol.bmj.com/content/20/Supp_1.toc); "The Impact of Tobacco on the Environment," *Legacy Factsheet*, April 2010 (www.Legacyfor-health.org); "Tobacco and the environment," *ASH fact sheet*, 2009 (www.ash.org.uk); CA Dept of Public Health's Butt Waste "Toolkit Project," (www.toxicbutts.com); "Tobacco Watch," *Framework Convention Alliance*, 2010 (www.ftc.org)

www.cigwaste.org



Picking up 52.9 Million Plastic Cigarette Butts off Beaches

APRIL 26, 2012 -- 52.9 million.

That is the disgustingly large number of cigarette butts beach cleanup volunteers have collected over the past 25 years during the International Coastal Cleanup, an annual event sponsored by the Ocean Conservancy.

Consistently the number one piece of litter found, cigarette butts represent an astounding 32 percent of total debris items gathered overall at these cleanups. And that's sadly not only the case on beaches but elsewhere too.

Most cigarette filters are made of a type of plastic, cellulose acetate, which doesn't biodegrade and can persist in the environment for a long time.

Fish, birds, and other animals can mistake small pieces of plastic, like cigarette butts, for food. Eating them could cause the animal to choke or starve to death because the plastic isn't digested, filling up their stomachs.

Cigarette butts contain toxins (such as heavy metals and the organic compounds nicotine and ethylphenol) and not a lot is known about how those toxins impact the environment, wildlife, and humans.

However, studies show they have a negative health impact on fish. For example, according to public health non-profit Legacy®, a recent laboratory test demonstrated that one cigarette butt soaked in a liter of water was lethal to half of the fish exposed to it.

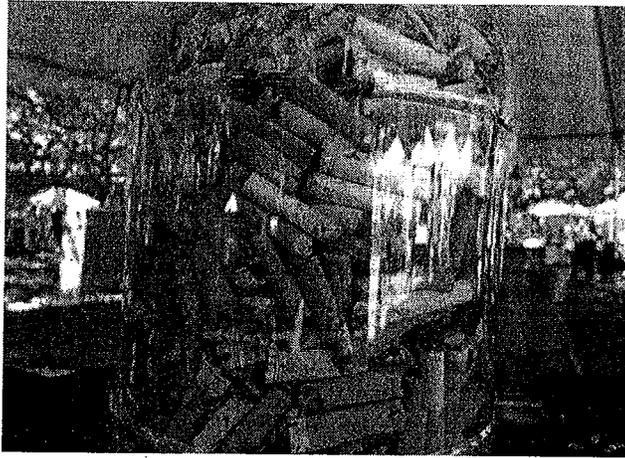
In an effort to raise awareness about this common source of pollution, NOAA's Office of Response and Restoration hosted a booth at the Louisiana Earth Day environmental festival in Baton Rouge on April 22, 2012. The festival is one of the largest Earth Day events in the nation, covering several downtown blocks and attracting thousands of people.

Even as the occasional smoker strolled by the booth, children crowded in for the chance to win a T-shirt by guessing as close as possible the number of cigarette butts in a large jar (1,523 gathered in only two hours!) and marvel at its grossness. Several of the kids remarked as they looked at the jar how they want their parents to stop smoking. Some of the parents and other grown-up visitors proudly announced how long it had been since they quit.

One current smoker announced that his girlfriend was making him dispose of his cigarette butts responsibly, rather than tossing them on the ground. Lots of visitors had never considered the negative impacts cigarettes could cause to the marine environment.

But here in this part of the country, next to the Mississippi River and not far from the Gulf of Mexico, most seemed interested in learning about the harmful implications this type of marine debris could cause their environment.

The NOAA Marine Debris Program, part of the Office of Response and Restoration, is educating the public on this specific type of pollution, one that almost seems to be the "last form of acceptable litter." While most people would be horrified to see, say, some fast food litter tossed out of the car in front of them, unfortunately



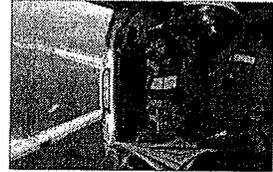
Visitors to the NOAA booth at Louisiana Earth Day tried to guess the number of cigarettes butts in the jar (1,523) to qualify to win a T-shirt, donated by the non-profit Legacy. The NOAA exhibit was designed to raise awareness of how toxic cigarette butts can harm the marine environment. (NOAA)



A local student, visiting the NOAA booth with his mom, guessed how many cigarettes butts were in the jar in hope of winning a T-shirt at Louisiana Earth Day, April 22, 2012. He came close and got a shirt. (NOAA)

On Our Radar

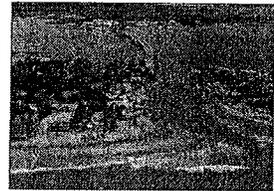
Response Tools for Spills



How Do Oil Spills Affect Sea Turtles?



Preparing for Hurricane Season



How Does NOAA Model Oil Spills?



few of us would be as shocked to see someone throw a cigarette butt on the street. [Learn more about what you can do about this problem.](#)

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Tobacco Product Waste Reduction Toolkit

April 2013



This publication was developed by the San Diego State University Research Foundation and the Cigarette Butt Pollution Project and made possible with funds from the Tobacco Tax Health Protection Act of 1988 – Prop. 99, through the California Department of Public Health, under Grant No. 10-10230.

1

COVER ONLY - TOOLKIT 67 PAGES



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Cigarette butts are more than mere litter; environmental and health groups are just now appreciating the seriousness of the butt problem, from bio-accumulation of poisons up the food chain to damage to commercial fisheries and water supplies. A recent study showed that cigarette waste easily meets standardized tests for city and state agencies to label a substance as toxic waste. This hazardous material persists in the environment for some time and is often ingested by aquatic creatures, wildlife, and pets, not to mention small children, who suffer serious health problems as a result. Cigarette filters are made from cellulose acetate, a plastic that can break into smaller pieces, but will never biodegrade or disappear. What's worse is that the filters themselves are a sham. They offer no health protection and are simply a marketing device to give the appearance that a cigarette is somehow safer.

A study from the Centers for Disease Control and Prevention on small children who had ingested cigarette butts concluded that one-third of them exhibited symptoms of illness such as spontaneous vomiting, nausea, lethargy, gagging, and flushing. Cigarette butts leach toxins into the water and kill or injure various forms of wildlife. In addition, the plastic parts of cigarette butts can be ingested by fish, birds, whales and other marine animals. According to the Surfrider Foundation, cigarette butts are the most frequent item collected during the group's beach cleanups. The good news is that **smokefree beach laws help reduce butts on beaches by 45%** according to the Audubon Society. Discarded cigarettes are also a major cause of fires.

The cleanup costs are immense - the city of San Francisco has estimated that it spends \$11 million per year cleaning up butts. The city has proposed a first of its kind fee on tobacco retailer licenses to help recover the cost of cleanup. We expect more cities and states to label cigarette butts as toxic waste and to pursue policy approaches to address this serious environmental problem. A study published in the April 2011 issue of Tobacco Control, estimated that "tobacco product litter (TPL)" comprises 22 to 36 percent of all visible litter. Estimated removal costs range from \$3 million to \$16 million for major cities and municipalities.

A May 2009 study published in the *International Journal of Environmental Research and Public Health* stated, "Several options are available to reduce the environmental impact of cigarette butt waste, including developing biodegradable filters, increasing fines and penalties for littering butts, monetary deposits on filters, increasing availability of butt receptacles, and expanded public education. It may even be possible to ban the sale of filtered cigarettes altogether on the basis of their adverse environmental impact. This option may be attractive in coastal regions where beaches accumulate butt waste and where smoking indoors is increasingly prohibited."

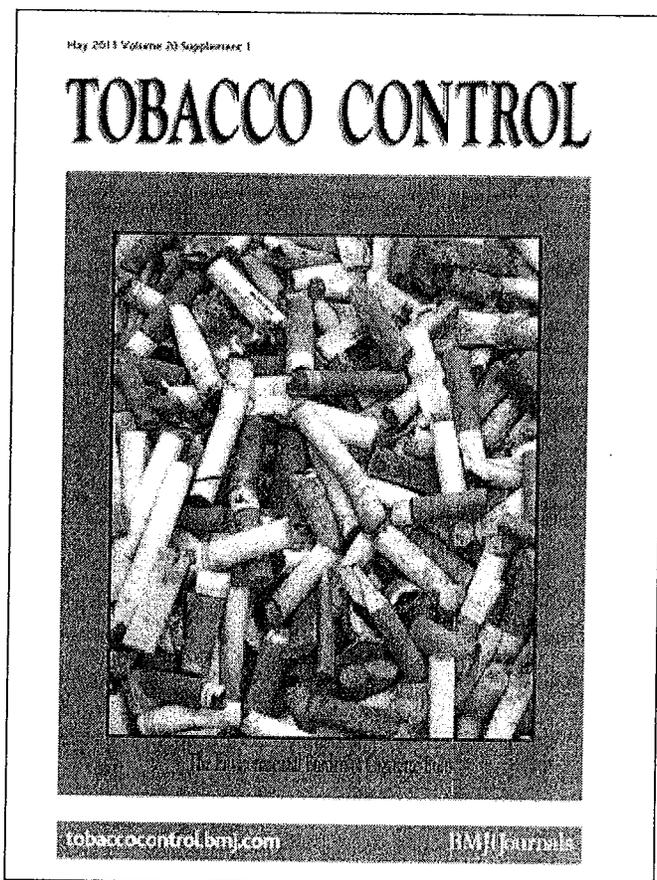
Tobacco Control

An international peer-reviewed journal for health professionals and others in tobacco control

Tobacco Control aims to study the nature and consequences of tobacco use worldwide; tobacco's effects on population health, the economy, the environment, and society; efforts to prevent and control the global tobacco epidemic through population level education and policy changes; the ethical dimensions of tobacco control policies; and the activities of the tobacco industry and its allies. Owned by BMJ, that began 170 years ago as a single medical journal and now publishes 55 medical and science journals. Based in London, it has additional offices in Europe, Asia and North America (Hoboken, NJ).

May 2011, Volume 20, Suppl 1 (tobaccocontrol.bmj.com)

The Environmental Burden of Cigarette Butts



Research papers

Whose butt is it? tobacco industry research about smokers and cigarette butt waste

- Elizabeth A Smith,
- Thomas E Novotny

The intractable cigarette ‘filter problem’

- Bradford Harris

Tobacco and cigarette butt consumption in humans and animals

- Thomas E Novotny,
- Sarah N Hardin,
- Lynn R Hovda,
- Dale J Novotny,
- Mary Kay McLean,
- Safdar Khan

Smoke-free college campuses: no ifs, ands or toxic butts

- Michael Sawdey,
- Ryan P Lindsay,
- Thomas E Novotny

Toxicity of cigarette butts, and their chemical components, to marine and freshwater fish

- Elli Slaughter,
- Richard M Gersberg,
- Kayo Watanabe,
- John Rudolph,
- Chris Stransky,
- Thomas E Novotny

Analysis of metals leached from smoked cigarette litter

- J W Moerman, G E Pottsle

Tobacco litter costs and public policy: a framework and methodology for considering the use of fees to offset abatement costs

- John E Schneider,
- N Andrew Peterson,
- Noemi Kiss,
- Omar Ebeid,
- Alexis S Doyle

Geographic patterns of cigarette butt waste in the urban environment

- Maacah Merah,
- Thomas E Novotny

Regulating the disposal of cigarette butts as toxic hazardous waste

- Richard L Barnes

Excerpt from Barnes submission [footnotes omitted]:

We know that tobacco contains thousands of different and potentially hazardous compounds and that cigarette butts in water leach a variety of toxic wastes, including heavy metals, nicotine and ethyl phenol. However, we have very limited knowledge on the actual toxic impact of these compounds in the environment. By applying the precautionary principle to the issue of cigarette butt waste, it is not necessary to have identified each and every toxic compound in cigarette butt leachate before we undertake to regulate and control it. The precautionary principle holds that when an activity raises threats to human health or the environment, precautionary measures should be taken even if some cause and effect relationships are not fully established scientifically, shifting the burden of proof to the proponent of the activity, and has been embodied in laws and in international treaties.

A PRODUCT STEWARDSHIP APPROACH

Product stewardship started in the USA as an effort to shift the responsibility and the cost of protecting the environment from taxpayers to the manufacturer, retailer and consumer for products put in the stream of commerce: “The greater the ability of a party to influence the life cycle impacts of a product, the greater the degree of that party’s responsibility. The stakeholders typically include manufacturers, retailers, consumers and government officials. This movement has gone global.

A related, but different, approach is the extended producer responsibility (EPR) concept, which places the onus of waste management for end-of-life products on the manufacturer, while product stewardship adds retailers and consumers into the process. EPR began to be implemented in Europe in the early 1990s, and was incorporated into European Union environmental policy in 2002; to date it has not been considered at the federal level in the US. In the US, as of October 2010 a total of 32 states have enacted EPR laws that require manufacturers to finance the costs of recycling or safe disposal of their consumer products, covering a range of products including auto switches, batteries, carpet, cell phones, electronics, fluorescent lighting, mercury-containing thermostats, paint and pesticide containers. Most of this legislation is of recent origin, but it may be another model of regulations that could be adapted to cigarette butt waste.

In 2010, the State of Maine considered a bill to enact a comprehensive product stewardship law that would avoid the EPR problems experienced in Europe. Under the proposed law, the Maine Department of Environmental Protection would designate what products or product categories sold in Maine would be required to participate in a product stewardship program, financed and either managed or provided by producers of a designated product. No designated product could be sold or offered for sale in Maine by any producer, wholesaler, retailer, or other person unless the producer participated in a product stewardship program.

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This article has a correction

Please see: [Tob Control 2011;20:418](#)

[Tob Control 2011;20:i25-i29](#) doi:10.1136/tc.2010.040170

Research paper

Toxicity of cigarette butts, and their chemical components, to marine and freshwater fish



Authors

Abstract

Background Cigarette butts are the most common form of litter, as an estimated 4.5 trillion cigarette butts are thrown away every year worldwide. Many chemical products are used during the course of growing tobacco and manufacturing cigarettes, the residues of which may be found in cigarettes prepared for consumption. Additionally, over 4000 chemicals may also be introduced to the environment via cigarette particulate matter (tar) and mainstream smoke.

Methods Using US Environmental Protection Agency standard acute fish bioassays, cigarette butt-derived leachate was analysed for aquatic toxicity. Survival was the single endpoint and data were analysed using Comprehensive Environmental Toxicity Information System to identify the LC50 of cigarette butt leachate to fish.

Results The LC50 for leachate from smoked cigarette butts (smoked filter + tobacco) was approximately one cigarette butt/l for both the marine topsmelt (*Atherinops affinis*) and the freshwater fathead minnow (*Pimephales promelas*). Leachate from smoked cigarette filters (no tobacco), was less toxic, with LC50 values of 1.8 and 4.3 cigarette butts/l, respectively for both fish species. Unsmoked cigarette filters (no tobacco) were also found to be toxic, with LC50 values of 5.1 and 13.5 cigarette butts/l, respectively, for both fish species.

Conclusion Toxicity of cigarette butt leachate was found to increase from unsmoked cigarette filters (no tobacco) to smoked cigarette filters (no tobacco) to smoked cigarette butts (smoked filter + tobacco). This study represents the first in the literature to investigate and affirm the toxicity of cigarette butts to fish, and will assist in assessing the potential ecological risks of cigarette butts to the aquatic environment.

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Responses to this article

a possible solution?

steven m. bergey

Tob Control published online April 28, 2016

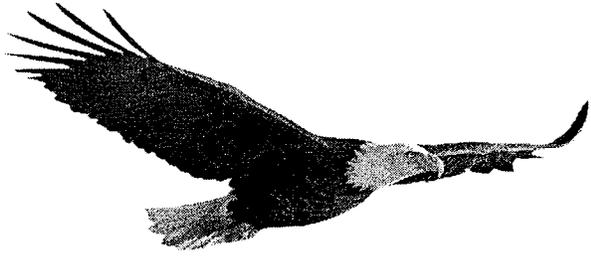
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StopButts Project

REGULATORY MATERIALS

San Francisco Administrative Code

CHAPTER 105:

CIGARETTE LITTER ABATEMENT FEE ORDINANCE

Sec. 105.1. Title.

Sec. 105.2. Definitions.

Sec. 105.3. Imposition of Cigarette Litter Abatement Fee.

Sec. 105.4. Enforcement.

Sec. 105.5. Records for Enforcement Only.

Sec. 105.9. Effective/Operative Dates.

SEC. 105.1. TITLE.

This Ordinance shall be known as the "Cigarette Litter Abatement Fee Ordinance" and the fee imposed herein shall be known as the "Cigarette Litter Abatement Fee."
(Added by Ord. 173-09, File No. 090724, App. 7/21/2009)

SEC. 105.2. DEFINITIONS.

The following definitions shall apply for purposes of this Ordinance:

(a) "Cigarette Retailer" means a person required to obtain and maintain a tobacco sales permit under San Francisco Health Code Section 1009.52.

(b) "Cigarette Sale" means any transfer of title or possession of a Pack or Packs of Cigarette by a Cigarette Retailer to a person for a consideration, exchange or barter, in any manner or by any means whatever.

(c) "City" means the City and County of San Francisco.

(d) "Fee" means the Cigarette Litter Abatement Fee imposed pursuant to this Chapter 105 of the San Francisco Administrative Code.

(e) "Inventory Purchase Invoice" means a purchase invoice for every Cigarette Retailer tobacco product purchase, that meets the requirements of California Business and Professions Code Section 22978.4, as it may be amended from time to time, and that California Business and Professions Code Section 22974 requires a Cigarette Retailer to retain for at least four years.

(f) "Pack of Cigarettes" means the individual packet, box or other container by which retail sales of cigarettes are normally made or intended to be made. "Pack of Cigarettes" does not mean containers such as cartons, cases, bales or boxes which contain smaller packaged units of cigarettes.

(g) "Person" means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity other than a cigarette wholesaler, cigarette distributor, cigarette manufacturer or Cigarette Retailer.

(h) "Purchaser" means the person obtaining cigarettes from a Cigarette Retailer as a result of a Cigarette Sale

(i) "Rule" means any rule, regulation, guideline, instruction or prescribed form that the Tax Collector duly issues, promulgates or adopts under either Section 105.4(b) of this Ordinance or Article 6 of the Business and Tax Regulations Code to enforce and administer this Cigarette Litter Abatement Fee Ordinance.

(j) "Tax Collector" means the designee of the Office of the Treasurer and Tax Collector of the City and County of San Francisco.

(Added by Ord. 173-09, File No. 090724, App. 7/21/2009)

SEC. 105.3. IMPOSITION OF CIGARETTE LITTER ABATEMENT FEE.

(a) The City hereby imposes a Cigarette Litter Abatement Fee at the rate of \$0.20 per Pack of Cigarettes on the Purchaser for all Cigarette Sales within the geographic limits of the City, subject to adjustment from time to time under subsection (f) below. The Fee shall be imposed on a per-Pack of Cigarettes basis for Cigarette Sales in larger quantities. The Fee is payable at the time of the Cigarette Sale transaction.

(b) Each Cigarette Retailer shall collect the Fee from the Purchaser at the time of the Cigarette Sale and remit the collected revenue to the City as provided in Subsection (c).

(c) The Cigarette Retailer shall hold the collected Fee revenue in trust for the City and remit such revenue to the Tax Collector each calendar quarter on or before the last day of the month immediately following each respective quarterly period, and in accordance with the Tax Collector's Rules, except that all such amounts shall be due immediately upon the City's suspension of a Cigarette Retailer's Health Code Article 19H tobacco sales permit, or upon a Cigarette Retailer's voluntary surrender of such tobacco sales permit, or upon the transfer of ownership or cessation of a Cigarette Retailer's business for any reason.

(d) If the Cigarette Retailer fails to collect and remit the Fee as Subsections (a), (b) and (c) require, the Cigarette Retailer is liable to the City for the full Fee amount.

(e) The Tax Collector shall deposit all monies collected pursuant to this Cigarette Litter Abatement Fee Ordinance to the credit of the Environment Cigarette Litter Abatement Fund authorized by San Francisco Administrative Code Section 10.100-70. Said fund shall be used exclusively for the following purposes:

(1) Refunds of any overpayments of the Fee imposed hereunder;

(2) Costs of the Department of Public Works incurred in abating cigarette litter from sidewalks, street gutters, and similar outdoor public spaces consistent with the categories of expense items included in the report that the Department of Public Works has submitted to the Board of Supervisors in support of this ordinance and that appears in File No. 101140;

(3) Costs of the Tax Collector incurred in the collection and enforcement of the Cigarette Litter Abatement Fee consistent with the categories of expense items included in the report that the Tax Collector has submitted to the Board of Supervisors in support of this ordinance and that appears in File No. 101140;

(4) Costs of public outreach and education to curb improper cigarette litter disposal;
and

(f) Fee Adjustment. No later than December 1, 2010, and every year thereafter, the Controller shall adjust the Fee without further action by the Board of Supervisors, as set forth in this subsection.

(1) The Controller shall determine whether the current Fee has produced or is projected to produce revenues sufficient to support the services and activities described in Section 105.3(e) herein and that the current Fee has not produced or is not projected to produce revenue which is significantly more than necessary to support those services and activities. In making such determinations, the Controller shall use the most recent available data concerning the percentage of litter on City sidewalks, street gutters, and similar outdoor public spaces that is cigarette butts and related packaging litter. At the time of the enactment of this Ordinance, such data indicates that 22% of litter on City sidewalks, street gutters, and similar outdoor public spaces consists of cigarette butts and related packaging litter. The Controller shall periodically procure updated data concerning the percentage of litter in such areas that is cigarette butts and related packaging litter.

(2) The Controller shall, if necessary, adjust the Fee upward or downward for the upcoming fiscal year as appropriate to ensure that, over time, the Fee program recovers no more than the costs of the services and activities described in Section 105.3(e) herein. The adjusted Fee shall become operative on January 1.

(3) The Tax Collector shall post the adjusted Fee on its website. Failure to make the posting that this subsection requires shall not affect the rights of the City to collect the adjusted Fee.

(Added by Ord. 173-09, File No. 090724, App. 7/21/2009; Ord. 239-10, File No. 101140, App. 9/28/2010)

SEC. 105.4. ENFORCEMENT.

(a) The Tax Collector shall enforce the provisions of this Cigarette Litter Abatement Fee Ordinance. The Tax Collector shall collect the Fee, conduct audits, and issue deficiency and jeopardy determinations pursuant to the Business and Tax Regulations Code, Article 6, provided that nothing in this Ordinance or in Article 6 of the Business and Tax Regulations Code shall be construed to mean that the Cigarette Litter Abatement Fee is a tax rather than a fee. The Tax Collector may issue, and serve, subpoenas to carry out these duties.

(b) The Tax Collector shall have the power and duty to promulgate Rules to implement and administer this Ordinance, including but not limited to Rules prescribing methods and schedules for Fee collection, payment and verification. A Cigarette Retailer's failure or refusal to comply with any Rule shall be a violation of this Ordinance and may subject the violator to the penalties set forth herein or in Business and Tax Regulations Code, Article 6.

(c) Until otherwise specified by Rule, the Tax Collector shall allow any Cigarette Retailer to report Cigarette Sales based either on its Inventory Purchase Invoices for the reporting period or its Cigarette Sales records for the reporting period. A Cigarette Retailer shall use the same method for calculating and reporting its Fees each reporting period until otherwise specified by Rule.

(d) The Cigarette Litter Abatement Fee Ordinance is a Tobacco Control Law under Health Code Section 1009.60. Upon a decision of the Director of the Department of Public Health that any Cigarette Retailer has engaged in any conduct that violates any requirement of this Ordinance, the Director may suspend the Cigarette Retailer's tobacco sales permit as set forth in Health Code Section 1009.66, impose administrative penalties as set forth in Health Code Section 1009.67, or both suspend the permit and impose administrative penalties.

(Added by Ord. 173-09, File No. 090724, App. 7/21/2009)

SEC. 105.5. RECORDS FOR ENFORCEMENT ONLY.

(a) Every Cigarette Retailer shall keep and preserve all such records as the Tax Collector may require for the purpose of ascertaining and determining compliance with this Cigarette Litter Abatement Fee Ordinance, including but not limited to, all local, State and Federal tax returns and all Inventory Purchase Invoices, for a period of four years. Cigarette Retailers shall submit copies of such records with its periodic Fee returns as the Tax Collector may by Rule require, and shall make its original documents available at its retail location for review, inspection or copying by the Tax Collector upon request during normal business hours.

(b) The City shall access and use Cigarette Retailers' records required to be prepared or provided under this Ordinance and Rules promulgated hereunder, including but not limited to its local, State and Federal tax returns and Inventory Purchase Invoices, solely for the purposes of enforcing this Cigarette Litter Abatement Fee Ordinance. The City shall adhere to all applicable state and local laws, policies and regulations pertaining to personal information, individual privacy, trade secrets and proprietary information with respect to such records.

(Added by Ord. 173-09, File No. 090724, App. 7/21/2009)

SECS. 105.6—105.8. RESERVED.

SEC. 105.9. EFFECTIVE/OPERATIVE DATES.

This Chapter shall become effective upon passage, except that the Fee imposed by this Ordinance shall become operative and be imposed on October 1, 2009, and shall not apply to Cigarette Sales that occur prior to October 1, 2009.

(Added by Ord. 173-09, File No. 090724, App. 7/21/2009)



September 24, 2009

NOTICE TO SAN FRANCISCO CIGARETTE RETAILERS

RE: CIGARETTE LITTER ABATEMENT FEE

In July 2009, the Cigarette Litter Abatement Fee was passed by the Board of Supervisors and signed by the Mayor. The fee is imposed on the sale of cigarettes in San Francisco at \$0.20 per pack. **The fee is effective as of October 1, 2009** and due and payable to the Treasurer's Office in quarterly installments. The first quarterly statement will be mailed to cigarette retailers by December 1, 2009 and payment will be due on or before January 31, 2010.

The ordinance is available the following web address: www.sfgov.org/treasurer/cigarettefee.

Cigarette retailers must report cigarette sales based on its cigarette sales records for the reporting period, or, if that is impracticable, its inventory purchase invoices for the reporting period.

Cigarette retailers must be prepared to demonstrate by records which can be verified by audit that the method used properly reflects their cigarette sales. Such records include but are not limited to: (A) Normal books of account ordinarily maintained by the reasonably prudent businessperson engaged in the activity in question; (B) Bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account; and (C) Schedules or working papers used in connection with the preparation of returns and the calculation of fees. Pursuant to Section 105.5(a) of the San Francisco Administrative Code, cigarette retailers must maintain records for a period of four years.

Please begin collection of the fee on October 1, 2009.

Information about the Cigarette Litter Abatement Fee is available at the Treasurer's Office website, at www.sfgov.org/treasurer/cigarettefee. If you have any questions about the fee, please contact Loretta Lieberman in the Treasurer's Office at 415-554-7339.

Sincerely,

George Putris
Tax Administrator

San Francisco to double litter fee on cigarette sales

By Joshua Sabatini (12-18-15)



For the first time since imposing a litter fee on the purchases of cigarettes six years ago, San Francisco is doubling the surcharge on Jan. 1. Every pack of cigarettes sold starting next year will come with a 40 cent fee, double the current fee. Last fiscal year, an estimated 11.9 million packs of cigarettes were purchased in San Francisco, generating more than \$2 million in fee revenue for litter cleanup crews.

The City says it could charge up to 84 cents to fully recoup the cleanup costs of discarded butts and other related items like wrappers, foil and lighters. Even though cigarette-related litter is down, according to a 2014 litter study used to justify the fee hike, the percentage of tobacco-related litter has significantly increased from the previous 22 percent of all litter to 53 percent.

Another factor driving the fee increase is the Department of Public Works is spending more on litter cleanup in San Francisco's public spaces, increasing from \$16.6 million in fiscal year 2012-13 to \$21.4 million in fiscal year 2014-15. The analysis shows that The City's costs for tobacco-related litter cleaning increased from \$3.7 million to \$11.4 million during the same time frame.

"Setting the fee at the permissible level of 84 cents per pack would result in a 400 percent increase from the current fee level of 20 cents per pack," said City Controller Ben Rosenfield's memo to the Board of Supervisors. "In order to reduce the volatility of the fee level, the Controller's Office is limiting the fee increase to 40 cents per pack, an increase of 100 percent." At one retailer near City Hall on Thursday, a pack of cigarettes was selling for as much as \$7.49, before tax.

In 2009, as The City's budget was facing a significant deficit, the Department of Public Works proposed the fee, approved by the Board of Supervisors and mayor, to help defray costs. Other fee proposals surfaced a year later, such as one on the sale of alcohol and another on fast-food wrappers. Both those fees died for lack of political support. San Francisco's tax collector Jose Cisneros sent letters earlier this month to cigarette retailers alerting them of the fee hike. "You are responsible for collecting the new fee on all packs of cigarettes sold," the letters said. The legislation, adopted in 2009, authorizes the city controller, in this case Ben Rosenfield, to adjust the fee without additional approval, which he has done.

HDR, Inc, an engineering firm with offices in the Mission, conducted the 2014 litter analysis, examining 32 sites, each 200 feet in length and 18 feet wide, around The City. The same sites were used in a 2009 litter study.

"The 2014 litter study found that 53 percent of litter consisted of tobacco-related litter," the study found. "This result differed substantially from the results of the 2009 litter study which found that 22 percent of all litter was tobacco-related. The primary reason for this difference was that

the sites were substantially cleaner in 2014 (with a total of 3,881 individual pieces of litter) than they were in 2009 (with 12,123 individual pieces of litter).”

The site with the most litter found was 20th Street and Folsom Street, in the Mission, at 285 pieces of litter, of which 172 were tobacco-related products, such as cigarette butts, cigar butts, cigarette packs, cellophane from cigarette packs, wrappers, tobacco foil products, lighters, matchboxes and matches. The second highest count for litter was in North Beach at Francisco Street and Mason Street, where 260 pieces of litter were counted, 159 of which were tobacco-related. The cleanest of the 32 sites was in Hayes Valley at Fell Street and Franklin Street, where just 42 pieces of litter were counted, 17 of which were tobacco-related.

Department of Public Works spokeswoman Rachel Gordon said the revenue boost will help improve the cleanliness of neighborhoods. “Cigarette butts are a major contributor to litter in San Francisco and often are labor-intensive to pick up,” Gordon said. While crews use brooms or mechanical street sweepers, many butts are “tossed into tree wells or that get caught between the sidewalk squares and must be picked up by hand,” according to Gordon. She added that “there still are a lot of smokers who fling the cigarette butts without consideration for the blight and the environmental harm they cause.”

California Proposition 26, Supermajority Vote to Pass New Taxes and Fees (2010)

California Proposition 26, or the Supermajority Vote to Pass New Taxes and Fees Act, was on the November 2, 2010 ballot in California as an initiated constitutional amendment, where it was approved [52.5% to 47.5%].

Proposition 26 requires a two-thirds supermajority vote in the California State Legislature to pass many fees, levies, charges and tax revenue allocations that under the state's previous rules could be enacted by a simple majority vote. Supporters of Proposition 26 called it the Stop Hidden Taxes initiative, saying that fees, levies, and so on imposed by the California government amount to taxes, and should therefore require the same supermajority vote required to enact income or sales tax increases.

Official summary: Requires that certain state fees be approved by two-thirds vote of Legislature and certain local fees be approved by two-thirds of voters. Increases legislative vote requirement to two-thirds for certain tax measures, including those that do not result in a net increase in revenue, currently subject to majority vote.

Philip Morris provided \$2.3 million out of a total of \$18.3 million to the California Chamber of Commerce's Proposition 26... These restrictions on the enactment of fees severely limits state and local efforts to mitigate costs through the collection of fees, such as fees to help recover costs of picking up cigarette butts through fees imposed on cigarettes.

[Sources: www.ballotpedia.org; Natl Inst Health Lib of Medicine <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4040295/>]

Background from “Proposition 26 Implementation Guide, April 2011,” League of California Cities [Excerpts]:

Proposition 13 made the definition of “tax” important for the first time. It led to the adoption of Gov. Code § 50076, which states: “A special tax shall not include any fee which does not exceed the reasonable cost of providing the service or regulatory activity for which the fee is charged and which is not levied for general revenue purposes.” The authority to impose regulatory fees was well established when Proposition 13 was adopted in 1978. It derives from the “police power,” the inherent reserved power of government to subject individual rights to reasonable regulations for the general welfare. Fees, charges, and rates must be reasonable, fair and equitable in nature and proportionately representative of the costs incurred by the regulatory agency... For such fees to be valid, there must be a reasonable relationship between the fee's use and type of project; and between the need for the public facility and the type of development project on which the fee is imposed.

Proposition 26 adds a definition of “tax” to the Constitution: “(e) As used in this article, “tax” means any levy, charge, or exaction of any kind imposed by a local government, except the following:

(1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.

(2) A charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product.

(3) A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections, and audits, enforcing agricultural marketing orders, and the administrative enforcement and adjudication thereof. [remainder of seven “exceptions” not included].

Previously, the Constitution’s definitions of “general tax” and “special tax” (added by Proposition 218) did not directly define “tax,” but rather the Constitution and statutes described what a tax was not. [Art. XIIC, sec. 1 (e)] For example, Gov. Code § 50076 provides that a fee that does not exceed the reasonable cost of providing a service is not a “tax.” Proposition 26 ... prohibits a local government from enacting, increasing, or extending any levy, charge, or exaction of any kind without voter approval unless an exceptions can be identified. If a post-Proposition 26 fee is “imposed” and does not fall within one of the seven stated exceptions, then Proposition 26 defines it as a “tax” for which voter approval is required under either:

- Proposition 62 (Gov. Code § 53720 et seq.) as to counties and general law;
- Proposition 218 (Art. XIIC, § 2) as to all local agencies.

Exception No. 3 [Permitting and Inspection Fees]: This exception will cover a wide range of local government regulatory fees such as building permit fees, fire inspection fees, assessments to recover the cost of weed abatement services provided to property the owners of which failed to comply with a weed abatement requirement, alarm permit fees, sales tax audit fees and the like. The list of permitted “reasonable regulatory costs” is a closed list (it does not say “including” or “such as”) and includes (i) issuing permits and licenses; (ii) performing investigations and audits; and (iii) administrative enforcement and adjudication. Like the first two exceptions, fees protected by this exception are limited to the local government’s reasonable costs.

Because the history of this measure involves the proponents’ dissatisfaction with *Sinclair Paint Co. v. State Board of Equalization*, and because the ballot arguments described above support “legitimate fees such as those to...fund necessary consumer regulations,” the breadth of this exception will most likely be determined by the courts. A local agency, therefore, should ask the following questions when determining whether its fee comes within this exception:

- Is the fee payor regulated?
- If so, what is the regulatory program?
- Does the program involve the issuance of a license or permit or authorize or require an investigation, inspection or audit?

One example of a regulatory fee within the exception of § 1(e)(3), but which is designed to

enforce a regulation established to mitigate the adverse impacts of a regulated activity on a community follows:

All restaurants and other food establishments must obtain a license from the county to operate their businesses. The county prohibits restaurants and other food establishments from using Styrofoam® products in the distribution and sale of food products. The purpose of the regulation is to mitigate the adverse impacts that Styrofoam has on the county's landfill. The county imposes a fee on all restaurants and other food establishments for the reasonable costs of issuing the license, performing investigations, and inspections and enforcement of the regulation. In this instance, the purpose of the regulation is to mitigate the adverse impact of the fee payor's operations on the community. The fee, however, is only used for those purposes authorized pursuant to § 1(e)(3) – to recover the reasonable costs to the local agency for issuing permits, performing investigations, inspections, and audits, and the administrative enforcement of the regulations. The regulatory fee in this hypothetical would not be deemed to be a tax within the meaning of § 1(e)(3) for these reasons.

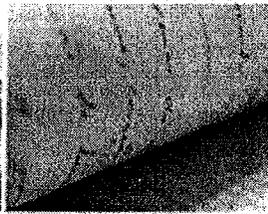
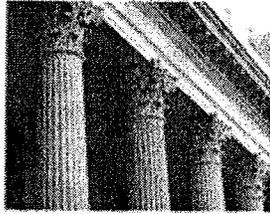
Other Sources/Publications:

CounterTobacco.Org: The first comprehensive resource for local, state, and federal organizations working to counteract tobacco product sales and marketing at the point of sale (POS). Website offers evidence-based descriptions of the problem, policy solutions, advocacy materials, [news updates](#), and an [image gallery](#) exposing tobacco industry tactics at the point of sale. CounterTobacco.Org is supported in part by the [U.S. Centers for Disease Control and Prevention, Office on Smoking and Health](#) (Grant Number U48-DP001944). Countertobacco.org is also supported by grant number U01 CA154281 from the National Cancer Institute's State and Community Tobacco Control Initiative, and in-kind support for Dr. Kurt Ribisl's time from the UNC School of Public Health.

Counter Tobacco. Raising Tobacco Prices Through Non-Tax Approaches; Approach #4: Mitigation Fees. 2012 2011 2011 [cited May 16, 2012]. Available from <http://countertobacco.org/raising-tobacco-prices-through-non-tax-approaches?page=5>; see also, "Licensing and Zoning" (<http://countertobacco.org/policy/licensing-and-zoning/>)



Tobacco Control
Legal Consortium



Policy Tools for Minimizing Public Health and Environmental Effects of Cigarette Waste

The Tobacco Control Legal Consortium in partnership with the Cigarette Butt Pollution Project (CBPP), a 501(c)(3) organization registered in California, has created this publication to serve as a starting point for governmental authorities and organizations interested in implementing measures to minimize the adverse public health and environmental effects of cigarette waste.¹ Before attempting to implement any of these measures, be sure to consult with local legal counsel. For more details about policy considerations, please contact the [Consortium](#) and the [Cigarette Butt Pollution Project](#).

Overview

In sheer numbers, cigarette butts constitute the most common type of litter today, with approximately 4.95 trillion cigarette butts thrown away annually.² An estimated 30 percent of the total waste (by count) on U.S. shorelines, waterways and land is cigarette waste.³ This is a significant public health problem: used cigarette butts have been found to contain many toxins including ammonia, formaldehyde, benzene, butane, acrylonitrile, toluene, and alkaloid nicotine.⁴ This waste can affect the health of humans and animals by direct consumption of used cigarettes⁵ and through leachates (chemical soups produced when cigarette butts are wet) that enter storm drains, groundwater, recreational bodies of water, and other environments.⁶



Proposed policies to reduce or eliminate the public health and environmental effects of cigarette butt waste have focused on two discrete methods: 1) making cigarette butt waste less toxic and persistent, and 2) reducing the number of cigarettes smoked. The first method more directly addresses cigarettes as the source of butt waste, but some policymakers have expressed concerns that making cigarettes less harmful might discourage some smokers from attempting to quit.⁷ The second method has broader public health benefits and thus, though difficult to accomplish, may be a more effective long-term solution.

(16 PAGES - FREE DOWNLOAD)



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Law & policy innovation for the common good.

Tobacco Litter Control Ordinance

A Model California Ordinance Regulating Tobacco Waste

WITH ANNOTATIONS

December 2015

Developed by ChangeLab Solutions

This material was made possible by funds received from Grant Number 14-10214 with the California Department of Public Health, California Tobacco Control Program.

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ChangeLab Solutions has worked on tobacco control policy for more than 15 years. In fact, our model tobacco control policies and laws helped change the public acceptance of smoking in California. Our largest program, formerly known as the Technical Assistance Legal Center (TALC), funded by the California Department of Public Health, provides California communities with free technical assistance on tobacco control policy issues.

ChangeLab Solutions' tobacco control attorneys provide advocates, health professionals, government attorneys, and elected officials with high-quality products and services on tobacco control policies. Our staff offers tailored support throughout the process of law and policy development, including providing research on specific legal issues and analyzing draft ordinances and policies. Thanks to ongoing funding from the California Department of Public Health, many of those services are provided at no cost to California communities.

Our website is packed with model policies, how-to guides, fact sheets, and other policy tools. **Be sure to check out the TOOLS tab to browse or search resources organized by more specific categories.**

To sign up for our e-mail announcement list, or submit specific questions, [use our contact form](#).

An important message about our website: This website provides general information about legal issues. While ChangeLab Solutions and its projects make every effort to ensure that the information is accurate and complete, you should consult an attorney before acting on the basis of information on this website. Please note that while our staff can answer certain questions via e-mail or telephone, ChangeLab Solutions does not provide legal advice or enter into attorney-client relationships.

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June 23, 2016

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February 1, 2016

In 2011, Americans consumed approximately 292.8 billion cigarettes, which resulted in an estimated 110 million pounds of waste. Unfortunately, much of this tobacco waste – filters and cigarette butts, for instance – ends up on streets, in parks, on beaches, and in other public places. Not only is tobacco litter unsightly, it can pollute water...

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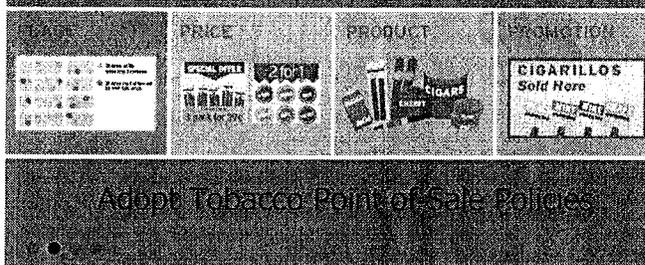
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**(DON'T) SEE MORE BUTTS: PREEMPTION AND LOCAL
REGULATION OF CIGARETTE LITTER**

*Michael Freiberg**

I.	INTRODUCTION	205
II.	POLICY OPTIONS	209
III.	PREEMPTION	214
	<i>A. EXISTING AUTHORITY ON PRODUCT STANDARD PREEMPTION</i>	214
	<i>B. STATE AND LOCAL REGULATIONS IMPACTING TOBACCO PRODUCTS</i>	216
	<i>C. THE EFFECTS OF PRODUCT STANDARD PREEMPTION ON STATE AND LOCAL REGULATIONS</i>	220
	<i>D. IMPLIED PREEMPTION OF STATE AND LOCAL REGULATIONS</i>	224
	<i>E. PREEMPTION IN THE CIGARETTE BUTT LITTER CONTEXT</i>	225
IV.	RECOMMENDATIONS	227

I. INTRODUCTION

In 2009, the city of San Francisco implemented a first-in-the-nation cigarette litter abatement fee.¹ To help address the staggering cleanup costs of cigarette butt litter, the city began charging twenty cents on a pack of cigarettes.² This figure was not calculated arbitrarily. San Francisco, a city that is justifiably proud of its beaches, conducted an extensive audit showing the costs of cigarette butt litter.³ This audit showed that the city spent

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¹ See Jesse McKinley, *Cost of Cigarette Litter May Fall on San Francisco's Smokers*, N.Y. TIMES (May 18, 2009), www.nytimes.com/2009/05/19/us/19smoke.html?_r=0 ("Officials here say the municipal fee would be the first in the country to take aim specifically at cigarette butts, particularly filters . . ."). For text of the San Francisco ordinance, see S.F., CAL., ADMIN. CODE §§ 105.1–5, 105.9 (2013), available at [http://www.amlegal.com/nxt/gateway.dll/California/administrative/chapter105cigarettelitterabatementfeeord?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$anc=JD_105.9](http://www.amlegal.com/nxt/gateway.dll/California/administrative/chapter105cigarettelitterabatementfeeord?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$anc=JD_105.9).

² S.F., CAL., ADMIN. CODE § 105.3.

³ JOHN E. SCHNEIDER ET AL., HEALTH ECON. CONSULTING GRP. LLC, ESTIMATES OF THE COSTS OF TOBACCO LITTER IN SAN FRANCISCO AND CALCULATIONS OF MAXIMUM

HAMLIN LAW REV. VOL. 37 (2014)

(24 PAGE FREE DOWNLOAD)

Select Excerpts from Freiberg law review article (footnotes omitted):

approximately six million dollars in 2009 to clean up improperly discarded cigarettes. Cleanup costs are not the only problem caused by cigarette butt litter. Used cigarette butts contain toxic chemicals that can affect the health of humans and animals, including arsenic, cadmium, and toluene. Used cigarette butts have been shown to leach out heavy metals, nicotine, and ethylphenol in water. To make matters worse, they are not biodegradable. Cigarette trash is unsightly and can have an adverse economic impact in areas where it is a problem—particularly in areas where tourism is an economic driver. Finally, discarded cigarette butts can pose a fire safety risk because of the combustible nature of cigarettes.

Tobacco manufacturers so feared the proliferation of laws like the San Francisco litter mitigation fee that they challenged the law on two fronts. First, they unsuccessfully challenged the law as an unauthorized tax rather than a fee. Second, they donated extensively to a successful statewide ballot initiative that sharply limited the authority of local jurisdictions to adopt similar measures.

San Francisco approach is just one way a state or local government has attempted to address the problem of cigarette butt litter. [] There are, however, potential novel approaches to addressing the problem of cigarette litter, which this article will discuss in depth. Several of these approaches have been considered or adopted by legislative bodies.

This article will examine several policy options to address cigarette butt litter, while considering the advantages and disadvantages of each option from policy and legal standpoints. This article will then use these and other options as case studies to determine whether federal law preempts them as a tobacco product standard. It will conclude that the strongest state and local policy options to address the issue of cigarette butt litter are those that can be drafted as sales restrictions rather than as manufacturing requirements. Finally, it will identify the most promising potential regulation from a public health standpoint and from a preemption standpoint: a prohibition on the sale of cigarettes containing filters.



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Kill the Butts: Policy Options for Reducing Cigarette and Other Tobacco Product Waste (2014)

Date: Thu, 03/27/2014

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Cigarette butts on public streets, sidewalks and other outdoor areas are toxic and unsightly and result in high litter management and collection costs for communities. Programs that effectively minimize tobacco product waste can save municipalities money, substantially benefit the environment, enhance our quality of life, and lower the risk of cigarette-caused fires. This webinar will describe the problem of tobacco product waste, explain relevant environmental principles, and discuss several policy and regulatory options and legislative efforts underway to reduce tobacco product waste, including Extended Producer Responsibility and Product Stewardship policy tools and a ban on cigarette filters. Speakers are Dr. Thomas Novotny, Professor of Global Health at San Diego State University (SDSU) and the University of California San Diego (UCSD) and founder of the Cigarette Butt Pollution Project, Clif Curtis, J.D., Policy Research Director at the Cigarette Butt Pollution Project and a Director of the Varda Group for Environment and Sustainability, and Mike Freiberg, Staff Attorney, Tobacco Control Legal Consortium.

[Download the Powerpoint slides here.](#)

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9-26-2016

To city of Fort Bragg & State Clearinghouse,

I am bringing to your attention that it is my understanding that in order for the EIR to begin a settled ("finite") project description is needed.

I do not know whether the city is in possession of the new use permit, land division, coastal permit and design review for the new project as indicated by the Environmental Document Transmittal & NOC. They were not made available to the public so far.

If the public and other agencies are asked to make comments it seems to me that these documents are crucial. The fact that maybe the old ones are used that were deemed faulty is confusing at best.

The new plans so far do not show clearly where & how tall and how long retention walls would be, areas for pedestrians to walk and bicycle, parking for Hare Creek Beach access, and so on. Many of the document do not show the different size of the area to be 3.92 acres and to extend farther to the south by 20 ft.

I do not know whether the State Clearinghouse has yet reviewed the NOP & additional documents.

I see a need for the city to resend the NOP with a better description and a new ending date (not 9-20-16 as indicated in the power point presentation by the EIR consultants, nor 9-30-16 as indicated in the handout by the city, and also not 10-19-16) as indicated by the city's poster/flyer.

An e-mail from the Community Development Director indicated that "given that agencies did not receive the flyer, I am not going to reissue the NOP for them. However if they respond after the 30th I will of course accept their comments until the 19th of October to give everyone the same amount of time to respond."

As I am unhappy with the incomplete and faulty NOC & Environmental Document Transmittal I am asking that the City resubmit a complete NOP.

The NOP does not offer much information. I had to ask to have Figure 1, 2 & 3 added on the city's web page.

The NOP still lists 1250 Del Mar Drive as an address, but since the MND was

deemed faulty and the city council indicated that less of the hill would be cut and no road would connect the shopping mall to Bay View Avenue, the public was taken back to find out that the shopping center would still be served by Bay View Avenue.

I also want to point out that the longitude/latitude is not checked in the NOC & Environmental Document Transmittal. There is no indication how many employees would be working there and therefore needed parking.

The environmental areas checked by the clearinghouse (with information of the City I assume) are not complete. I will submit to you the environmental areas that need to be looked into as well. Each of the documents available so far lists different environmental areas of concern.

The reviewing agencies list is totally incomplete.
I will submit to you the agencies that should be contacted as well.

And finally it is very confusing that a property that had originally several owners, had signatures of father and son on the MND documents now lists the architect as the applicant. This might be ok with your city guidelines, but the public needs an explanation. Who is the real owner? Who is the true party? Who is the property proponent?

Sincerely, Annemarie Weibel

Copy to State Clearinghouse
<state.clearinghouse@opr.ca.gov>

- All coastal Tribal Councils must be consulted about this project including, but not limited to, the Sherwood Valley Band of Pomo Indians, Manchester-Point Arena Band of Pomo Indians, Kashia Band of Pomo Indians; Stewarts Point Rancheria, and Graton Rancheria;



City of Fort Bragg

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Text File

File Number: 16-389

Agenda Date: 9/26/2016

Version: 1

Status: Business

In Control: City Council

File Type: Staff Report

Agenda Number: 6A.

Receive Annual Progress Report on the Fort Bragg Inland General Plan and the Fort Bragg Coastal General Plan



AGENCY:	City Council
MEETING DATE:	September 26, 2016
DEPARTMENT:	Community Dev.
PREPARED BY:	M Jones
PRESENTED BY:	M Jones

AGENDA ITEM SUMMARY

TITLE:
RECEIVE ANNUAL PROGRESS REPORT ON THE FORT BRAGG GENERAL PLANS

ISSUE:

State planning laws require that each year, the City Council receive a report on the status of the General Plan and progress in its implementation. According to the Governor's Office of Planning and Research:

"The intent of the statute is to ensure that the General Plan directs all land use decisions and remains an effective guide for future development. Because the role of the general plan is to act as a "constitution" for the long-term physical development of a community and because it is required to be updated periodically to reflect current circumstances, it is critical that local planning agencies periodically review the general plan and its implementation. The Progress Report is a tool for doing this."

Additionally the statute requires that the City Council receive information regarding efforts to consult with Native American tribes under SB 18. The City of Fort Bragg is a bit unique as it has two General Plans: the Coastal General Plan which is a component of the City's Local Coastal Program and the 2004 General Plan which regulates development in the non-coastal areas of the City. The following analysis provides an update for both General Plans and Native American consultation activities.

RECOMMENDED ACTION:

Accept Annual Progress Report on the Fort Bragg General Plans

ALTERNATIVE ACTION(S):

Direct staff to revise the Annual Report prior to submittal to the Office of Planning & Research and the Department of Housing & Community Development

ANALYSIS:

1. Annual Report on Housing Needs

Please see attached Annual Report to the Department of Housing and Community Development for a complete annual report on the Housing Element. The following list identifies specific actions taken by the City in the past year to address housing needs in the community:

Goal H-1 Conserve and Improve the existing supply to provide adequate, safe and decent housing for all Fort Bragg residents.

- Implemented the \$800,000 Housing Rehabilitation Program and Homeownership Assistance Program.
- Continued to manage and administer funds for the Home Energy Link Program and HELP

H20 and the Housing Rehabilitation Project.

Goal H-4 Expand affordable housing opportunities for persons with special housing needs such as the elderly, the disabled, households with very-low to moderate incomes, and first time home buyers.

- Working with CDBG funding and the Mendocino Coast Hospitality Center the City developed two new units of transitional housing serving ten persons with disabilities (Hospitality Center project). The City completed one housing rehabilitation project which served a disabled adult.
- Seven new residences were approved and constructed, four for low income individuals (through the Habitat for Humanity program) and the rest were market rate.

3. Status of the Coastal General Plan

The Coastal General Plan was adopted in 2008 and will be updated in 2016 to mirror the changes made to the Inland General Plan in 2014 including:

- Add a new Sustainability Element;
- Delete programs which have been implemented since 2008;
- Correct inaccuracies in the 2008 Coastal General Plan;
- Address new State Planning law requirements for storm water management and flood plain development; and
- Extend the time horizon for the General Plan to 2023.

Additional changes may be made to the Coastal General Plan in the 2016 update to address reuse of the Mill Site.

4. Major Planning and Project Activities

During the past year, the City has engaged in a number of long-range planning and implementation activities in support of General Plan goals and policies. The City's activities are organized below by General Plan policy. Please note that the planning policy numbers below are from the Inland General Plan. The policies listed below are in both the Coastal General Plan and the Inland General Plan, though the numbering may be different in the Coastal General Plan.

Chapter 2: Land Use

Policy LU-1.1 Implementation of the Land Use Designations Map: Implement the Land Use Designations Map by approving development and conservation projects consistent with the land use designations, and ensure consistency between the Inland General Plan and the Inland Land Use and Development Code.

- Processed and reviewed 72 building permit applications, 32 development permits, and 71 code enforcement cases.

Chapter 3: Public Services

Policy PF-2.2 Potable Water Capacity: Develop long-term solutions regarding the supply, storage, and distribution of potable water and develop additional supplies.

- Completed the Summers Lane Reservoir project.
- Continue to provide HELP Plus (Home Energy Link Program with water conservation),

HELP H2O (payment assistance program) to City residents.

Policy PF-2.3 Emergency Water Supply: Develop an emergency water supply for disaster preparedness.

- Completed the Summers Lane Reservoir project.
- Completed a laundry to landscape water recycling program that allows homeowners to conserve water by reusing laundry water for landscaping.

Policy PF-2.7 Public Buildings: Ensure that public buildings in the City are adequate to provide services for the community.

- On-going maintenance and emergency repairs at the Guest House. This includes letting the contract for the roof repairs.
- Ongoing maintenance and repair of the City's, facilities, parks, fleet, storm drain, and street infrastructure.

Policy PF-2.8 Capital Improvement Plan: Continually update the Capital Improvement Plan to ensure that it identifies capital projects necessary to maintain adequate levels of performance as well as funding sources for all phases of intended projects.

- The CIP is updated annually as part of the budget process.

Chapter 4: Conservation, Open Space and Parks

Program OS-2.2.1: Require that Caltrans, PG&E, the County of Mendocino, and private property owners remove pampas grass and broom from their properties and rights-of-way. The City shall strive to remove these plants from City-owned property and rights-of-way.

Provided ongoing code enforcement to ensure removal of all pampas grass and scotch broom from within City limits.

Goal OS-2 Improve Water Quality

- Processed National Pollution Discharge Elimination System (NPDES) permit changes and performed on-going permit compliance.

Policy OS-11.3 Recreational Facilities: Provide recreational facilities to meet the needs of all Fort Bragg citizens, especially children and teenagers.

- Phase I of the Fort Bragg Coastal Trail & Restoration Project was completed, culminating many years of effort by staff.
- Initiated design of Phase II of the Fort Bragg Coastal Trail.
- Completed the Fort Bragg Wayfinding Plan
- Completed the C.V. Starr Center Phase 3 Master Plan.
- Completed the Bainbridge Park Master Plan.
- Completed the Athletic Fields Master Plan
- Completed the City of Trails Feasibility Study.
- Continue to assist the C.V. Starr Center with its major maintenance projects and its capital projects program.

Policy OS-13.1 Multiple Use Trail System: Develop a multiple use trail system.

- Phase I of the Fort Bragg Coastal Trail & Restoration Project was completed,

culminating many years of effort by staff.

- Initiated design of Phase II of the Fort Bragg Coastal Trail, applied for additional \$740K in funding from ATP for Phase II of the project, coordinated placement of 13,000 CY of dredge material for restoration of south trail and reuse during construction of middle trail.

Goal OS-9 Reduce, recycle and reuse solid water generated within the City.

- Continued to implement the Construction and Demolition Recycling ordinance.

Chapter 6: Circulation

Policy C-2.1: Roadway Improvements: In coordination with Caltrans and Mendocino County, plan for and seek funding for on-going improvements to the local and regional road system to ensure that the roadway system operates safely and efficiently. Project applicants are fiscally responsible for their fair share of roadway improvements necessary to serve their projects.

- Constructed the City's first Low Impact Development (Green) Alley Projects: Purity Alley from Redwood Avenue to Alder Street just east of Franklin Street, and an alley from Oak Street to Madrone Street east of Harrison Street.
- Additional alley improvements included: the Columbi Alley from Oak Street to Madrone Street east of Whipple Streets and the alley behind the CV Starr Center from Willow Street to Wall Street. In addition, several storm drain inlets, with supplementary infiltration, were installed in various locations.
- Restarted the street and alley rehabilitation plans by designing the next round of improvements: N Sanderson Street, S. Franklin Street, Boatyard Drive, "Sears" alley, "Starbucks" alley, and a residential neighborhood alley.

Policy C-10.1 Provide Continuous Sidewalks: Provide a continuous system of sidewalks throughout the City.

- Completed the design and bidding of the Chestnut Street Corridor multi-use trail.
- Worked with Caltrans to incorporate sidewalk improvements into Pudding Creek Bridge widening project.

Chapter 9: Housing

Please see the attached Annual Housing Element Status Report prepared for the Department of Housing and Community Development.

FISCAL IMPACT:

This report is intended to provide an overview of the status of the City's General Plan and to identify the City's efforts to address housing needs within the community. There are no fiscal impacts associated with the report.

IMPLEMENTATION/TIMEFRAMES:

Not applicable

ATTACHMENTS:

1. Annual Housing Element Progress Report to the Department of Housing and Community Development

NOTIFICATION:

None

City Clerk's Office Use Only

Agency Action Approved Denied Approved as Amended

Resolution No.: _____ Ordinance No.: _____

Moved by: _____ Seconded by: _____

Vote: _____

Deferred/Continued to meeting of: _____

Referred to: _____

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction City of Fort Bragg

Reporting Period 6/1/2015 - 6/1/2016

Table A

Annual Building Activity Report Summary - New Construction Very Low-, Low-, and Mixed-Income Multifamily Projects

Housing Development Information							Housing with Financial Assistance and/or Deed Restrictions		Housing without Financial Assistance or Deed Restrictions		
1	2	3	4				5	5a	6	7	8
Project Identifier (may be APN No., project name or address)	Unit Category	Tenure R=Renter O=Owner	Affordability by Household Incomes				Total Units per Project	Est. # Infill Units*	Assistance Programs for Each Development	Deed Restricted Units	Note below the number of units determined to be affordable without financial or deed restrictions and attach an explanation how the jurisdiction determined the units were affordable. Refer to instructions.
			Very Low-Income	Low-Income	Moderate-Income	Above Moderate-Income			See Instructions	See Instructions	
018-051-28 & 29	Duplex	O		2			2	2	Habitat for Humanity		Per ILUDC
018-440-66	SFH	O				1	1	1			
008-191-27	Mobile Home	O			1		1	1			
018-440-64	SFH					1	1	1			
018-051-28 & 29	Duplex			2			2	2	Habitat for Humanity		Per ILUDC
(9) Total of Moderate and Above Moderate from Table A3 ▶ ▶				0		3	3				
(10) Total by income Table A/A3 ▶ ▶				4	1	5	10	7			
(11) Total Extremely Low-Income Units*											

* Note: These fields are voluntary

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction City of Fort Bragg

Reporting Period 6/1/2015 - 6/1/2016

Table A2
Annual Building Activity Report Summary - Units Rehabilitated, Preserved and Acquired pursuant to GC Section 65583.1(c)(1)

Please note: Units may only be credited to the table below when a jurisdiction has included a program it its housing element to rehabilitate, preserve or acquire units to accommodate a portion of its RHNA which meet the specific criteria as outlined in GC Section 65583.1(c)(1)

Activity Type	Affordability by Household Incomes				(4) The Description should adequately document how each unit complies with subsection (c)(7) of Government Code Section 65583.1
	Extremely Low-Income*	Very Low-Income	Low-Income	TOTAL UNITS	
(1) Rehabilitation Activity		2	1	3	The City administered it's CDBG funded housing rehabilitation program with three qualified low and very low income home-owners.
(2) Preservation of Units At-Risk				0	
(3) Acquisition of Units				0	
(5) Total Units by Income	0	2	1	3	

* Note: This field is voluntary

Table A3
Annual building Activity Report Summary for Above Moderate-Income Units (not including those units reported on Table A)

	1. Single Family	2. 2 - 4 Units	3. 5+ Units	4. Second Unit	5. Mobile Homes	6. Total	7. Number of infill units*
No. of Units Permitted for Moderate						0	
No. of Units Permitted for Above Moderate	2	0	0	0	1	3	3

* Note: This field is voluntary

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

(CCR Title 25 §6202)

Jurisdiction City of Fort Bragg

Reporting Period 6/1/2015 - 6/1/2016

Table B

Regional Housing Needs Allocation Progress

Permitted Units Issued by Affordability

Enter Calendar Year starting with the first year of the RHNA allocation period. See Example.		2014	2015	2016	2017	2018	2019	2020			Total Units to Date (all years)	Total Remaining RHNA by Income Level
Income Level	RHNA Allocation by Income Level	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9		
Very Low	Deed Restricted	5	12								12	-7
	Non-deed restricted											
Low	Deed Restricted	5	12								12	-11
	Non-deed restricted			2	2						4	
Moderate	Deed Restricted	3	1								1	2
	Non-deed restricted											
Above Moderate		9	1	3	4						8	1
Total RHNA by COG. Enter allocation number:		22										
Total Units ▶ ▶ ▶			26	5	6						37	-15
Remaining Need for RHNA Period ▶ ▶ ▶ ▶ ▶												

Note: units serving extremely low-income households are included in the very low-income permitted units totals.

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Fort Bragg
Reporting Period 6/1/2015 - 6/1/2016

Table C

Program Implementation Status

Program Description (By Housing Element Program Names)	Housing Programs Progress Report - Government Code Section 65583. Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.		
Name of Program	Objective	Timeframe in H.E.	Status of Program Implementation
Program H-1.1.1 Housing Rehabilitation Projects; Program H-1.1.3 Housing Rehabilitation/Preservation Program: Housing Rehabilitation/Preservation Program: Continue the City's housing rehabilitation program which provides low interest loans for the rehabilitation of homes owned or occupied by very low to moderate income households. Continue to seek funding from CDBG, HOME and other sources for the housing rehabilitation loan program. Facilitate citizen awareness of the City's rehabilitation loan program.	30 rehabilitated units	2014-2019	3 units rehabilitated to date. One additional unit in process.
Program H-1.1.2 Target Areas: Continue to identify target areas and specific properties where housing rehabilitation is most needed through a periodic update of the housing conditions survey which identifies the neighborhoods and areas requiring rehabilitation assistance. Scheduling:	Housing Conditions survey	Update in 2015	Not Completed
Program H-1.1.4 Capital Improvement Program:	Consider capital improvement projects necessary to maintain the community's older neighborhoods as part of the City Council's annual review of the Capital Improvement Program.	Annually	Completed annually

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Fort Bragg
Reporting Period 6/1/2015 - 6/1/2016

<p>Program H-1.2.1 Single-Family Homes: Consider revising the zoning ordinance so that single-family residences, located in commercial zones, can be used as single-family residences, even if their legal non-conforming status has expired due to vacancy or interim commercial use.</p>	<p>Revise zoning ordinance</p>	<p>2014-2015</p>	<p>Rezoning is underway</p>
<p>Program H-1.2.2 Housing Rehabilitation in Non-Residential Areas: Continue to permit substantial rehabilitation of, and additions to, existing housing located in zones where it is a non-conforming use.</p>	<p>Revise zoning ordinance</p>	<p>2014</p>	<p>Completed in 2014</p>
<p>Program H-1.3.1 Energy Conservation Program: Continue to provide energy conservation and green building materials and techniques workshops, display board and brochures. Continue the City's energy conservation program as funding allows.</p>	<p>Energy Conservation Program</p>	<p>2014-2016</p>	<p>Help program has served 295 residents</p>
<p>Program H-1.4.1 Develop At-Risk Units Program: Maintain an inventory of at-risk affordable housing units and work with property owners and non-profit affordable housing organizations to preserve these units by identifying and seeking funds from Federal, State and local agencies to preserve the units.</p>	<p>Develop Inventory</p>	<p>2014-2015</p>	<p>Completed in 2014</p>
<p>Program H-1.4.2 Require At-Risk Education Program: Work with property owners and non-profit affordable housing organizations to ensure that tenants receive required education and notifications regarding at-risk units.</p>	<p>Education program</p>	<p>2014-2019</p>	<p>Not started</p>
<p>Program H-2.1.1 Inventory of Infill Sites: Maintain the inventory of vacant and underdeveloped residentially designated land in the City's GIS system. Provide copies of the inventory for public distribution on the City website.</p>	<p>GIS inventory of vacant sites</p>	<p>2014-2019</p>	<p>Completed in 2016</p>

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
 (CCR Title 25 §6202)

Jurisdiction City of Fort Bragg
Reporting Period 6/1/2015 - 6/1/2016

<p>Program H-2.3.1 Secondary Dwelling Unit Design: Continue to implement the City's free secondary unit program to provide affordable and aesthetically pleasing second unit designs for the development of secondary units in Fort Bragg.</p>	<p>Ongoing</p>	<p>2014-2019</p>	<p>Two second units have been completed with the designs</p>
<p>Program H-2.3.2 Reduce Development Impact Fees for Secondary Units and Smaller Units: Consider establishing an updated Capacity Fee for small residential units that recognizes the reduced impacts on the City's sewer, water, drainage, parks, and streets of smaller units of one bedroom or less.</p>	<p>Revise Capacity fee for second units</p>	<p>2015</p>	<p>Not yet started</p>
<p>Program H-2.3.3 Develop Amnesty/Legalization Program for Illegal Residential Units: Consider establishing an amnesty or legalization program for illegal residential units, especially second units, that includes payment of capacity and connection fees and required improvements to meet the health and safety code.</p>	<p>legalization program for illegal second units</p>	<p>2015-2016</p>	<p>Not officially started, but staff has assisted two property owners legalize their illegal units</p>
<p>Program H-3.1.1 Available Funding: Seek available State and Federal assistance to develop affordable housing for seniors, the disabled, persons with developmental disabilities, lower-income large households, and households with special housing needs. Work with the County Community Development Commission (CDC), Rural Community Housing Development Corporation (RCHDC), and other non-profit and for-profit affordable housing developers to apply for and implement HCD programs such as the HOME Program. Seek funding for affordable housing from other sources such as the United States Department of Agriculture (USDA), Tax Credit financing, and CDBG.</p>	<p>Seek funding for affordable housing</p>	<p>2014-2019</p>	<p>Staff is working with Danco developers to identify additional properties in Fort Bragg for the development of affordable housing. We hope to submit a HOME application for an additional senior or multi-family housing project this Fall.</p>

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Fort Bragg
Reporting Period 6/1/2015 - 6/1/2016

<p>Program H-3.2.1 Affordable Senior Housing: Maintain an inventory which identifies properties which are potentially well-suited for senior housing. Work with developers to facilitate funding and construction of senior housing.</p>	<p>Property inventory for affordable housing</p>	<p>2014-2019</p>	<p>Completed in 2015</p>
<p>Program H-3.5.1 Inclusionary Housing Ordinance: Continue to implement the City's Inclusionary Housing Ordinance.</p>	<p>Five inclusionary units for the Housing Element period.</p>	<p>2014-2019</p>	<p>None. There have not been any new housing development projects which are sufficiently large to require inclusionary units.</p>
<p>Program H-3.5.2 Support Self Help Housing: Continue to provide one or two planning incentives for self-help affordable housing.</p>	<p>Six self-help units for the Housing Element period.</p>	<p>2014-2019</p>	<p>Four self help units have been constructed so far during this period.</p>
<p>Program H-3.5.3 Support SRO Housing: Continue to encourage and facilitate Single-Room Occupancy Units by allowing rooming and boarding with a Minor Use Permit in the RM, RH, and RVH zones.</p>	<p>Twenty SRO units for the Housing Element period.</p>	<p>2014-2019</p>	<p>No new SRO units to date.</p>
<p>Program H-3.7.1 Seek Funding to Develop or Rehabilitate Housing for Large Low-Income Families: Continue to work with affordable housing developers to identify a potential new construction or rehabilitation project that will serve large lower-income families and obtain and administer an HCD HOME grant or CDBG grant specifically to accommodate large families.</p>	<p>Five large family units for the Housing Element period.</p>	<p>2014-2019</p>	<p>None to date.</p>
<p>Program H-3.8.1 Continue to provide expedited permit processing and reasonable accommodation program to projects targeted for persons with disabilities, including those with developmental disabilities. Encourage developers of supportive housing, on an annual basis, to develop projects targeted for persons with disabilities, including those with developmental disabilities. Work with the Redwood Regional Center to implement an outreach program to families with disabilities regarding the City's services for this population. Place info about this program on the City's website.</p>	<p>Ten units of housing for persons with disabilities for the Housing Element period. Five of these units will be for people with Developmental Disabilities.</p>	<p>2014-2019</p>	<p>Developed two new units serving ten persons with disabilities (Hospitality Center project). One housing rehabilitation project served a disabled adult.</p>

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Fort Bragg
Reporting Period 6/1/2015 - 6/1/2016

<p>Program H-3.9.1 Ongoing Estimates of the Demand for Emergency Housing: Continue to work with the Fort Bragg Police Department and homeless service providers in the community to maintain ongoing estimates of the demand for emergency housing in Fort Bragg and to develop strategies to meet that demand</p>	<p>Annual</p>	<p>2014-2019</p>	<p>Completed</p>
<p>Program H-3.9.2 Inter-Agency Cooperation: Continue to work with private, non-profit, County, and State agencies to provide transitional housing, supportive services and emergency housing for the homeless.</p>	<p>20 transitional units for the Housing Element period.</p>	<p>2014-2019</p>	<p>Developed two units serving ten persons with transitional housing</p>
<p>Program H-3.9.3 Transitional and Supportive Housing: Continue to regulate transitional and supportive housing as a residential use subject to the same restrictions that apply to other residential use types and dwellings of the same type in the same zone.</p>	<p>Zoning change</p>	<p>2014-2019</p>	<p>Completed in 2014</p>
<p>Program H-3.9.4 Emergency Shelters: Continue to allow emergency shelters as a permitted use in the General Commercial (CG) zoning district.</p>	<p>Scheduling: Changes to the zoning code have been completed.</p>	<p>2014-2019</p>	<p>Completed 2014</p>
<p>Program H-3.10.1 First Time Home Buyers: Continue to require through the inclusionary housing ordinance, the provision of housing units affordable to first time home buyers who qualify for affordable housing.</p>	<p>10 inclusionary units for the Housing Element period.</p>	<p>2014-2019</p>	<p>None. There have not been any new housing development projects which are sufficiently large to require inclusionary units.</p>
<p>Program H-3.10.2: Funding Sources for First Time Home Buyers: Continue applying for funding sources for first time home buyers such as HCD's HOME Program and CDBG, and provide referrals to FHA programs offered by local lenders and sweat-equity programs operated by non-profit housing organizations.</p>	<p>20 first time home loans for the Housing Element period.</p>	<p>2014-2019</p>	<p>The City will apply for Home funding for First Time Home Buyers during the next funding cycle. The funding is competitive.</p>

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Fort Bragg
Reporting Period 6/1/2015 - 6/1/2016

<p>Program H-4.1.1 Housing Discrimination Complaints: Continue to facilitate equal housing opportunity by referring housing discrimination complaints to the Fair Housing Division of HUD. Continue to distribute information regarding equal housing opportunity laws and the equal housing opportunities for Fair Housing at City Hall</p>	<p>referring housing discrimination complaints to the Fair Housing Division of HUD</p>	<p>2014-2019</p>	<p>Ongoing</p>
<p>Program H-4.1.2 Non-discrimination Clauses: Include non-discrimination clauses in rental agreements and deed restrictions for housing constructed with City assistance.</p>		<p>2014-2019</p>	<p>Ongoing</p>
<p>Program H-4.2.1 Use Housing Funds: Use CDBG funds, and other funds as available, to support renovations and improvements to accessibility in affordable housing for qualified seniors, persons with disabilities and persons with developmental disabilities.</p>	<p>Twenty units for seniors, persons with disabilities and persons with developmental disabilities in the Housing Element Period.</p>	<p>2014-2019</p>	<p>24 units for seniors; one housing rehab for a disabled adult.</p>
<p>Program H-4.2.2 Reasonable Accommodation for Persons with Disabilities and Developmental Disabilities: Continue to review the City's land use and building regulations to identify constraints that may exist for the provision of housing for persons with disabilities and developmental disabilities, and continue to implement the City's policy and program to provide reasonable accommodations for persons with disabilities and developmental disabilities. Publicize revisions to land use regulations and the City's policy and programs for providing reasonable accommodation for persons with disabilities.</p>	<p>Ten reasonable accommodations for persons with disabilities for the Housing Element period. Five reasonable accommodations will be for people with developmental disabilities.</p>	<p>2014-2019</p>	<p>Two reasonable accommodations were granted for people with mental disabilities</p>
<p>Program H-4.2.3 Reasonable Accommodation: Ensure all new, multi-family construction meets the accessibility requirements of the federal and State Fair Housing Acts through local permitting and approval processes.</p>	<p>Planning Review</p>	<p>2014-2019</p>	<p>No new large multi-family projects</p>

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction City of Fort Bragg
Reporting Period 6/1/2015 - 6/1/2016

<p>Program H-5.1.1 Continue to Pursue Strategies to Address Water Storage, Pressure, and Supply Issues:</p>	<p>Continue to pursue strategies to: 1) add additional water storage capacity to the City's water supply system; 2) identify and fix water leaks in the water supply system; 3) address water pressure issues that impact development potentials; and/or 4) seek new water supply as opportunities arise.</p>	<p>2014-2019</p>	<p>City's Help Plus and Help H2O program has assisted 295 households with water conservation audits, information and kits. The City has added an additional 45 acre feet of water storage capacity with the Summer's Lain Reservoir.</p>
<p>Program H-6.1.1 Workshops: Continue to hold workshops and public hearings to discuss proposed revisions to the City's Housing Element.</p>		<p>2019</p>	<p>Will occur prior to the update of the housing element in 2019.</p>
<p>Program H-6.2.1 Annual Report: Prepare an annual report that describes the amount and type of housing constructed, the stock of affordable housing units, demolition permits, and conversion of residential units to other uses, and other housing-related activities for review by the EDAC, Planning Commission, and City Council.</p>	<p>Annually</p>	<p>2014-2019</p>	<p>Completed in 2016</p>

General Comments:

ANNUAL ELEMENT PROGRESS REPORT
Housing Element Implementation
(CCR Title 25 §6202)

Jurisdiction	City of Fort Bragg
Reporting Period	6/1/2015 - 6/1/2016

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City of Fort Bragg

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Text File

File Number: 16-377

Agenda Date: 9/26/2016

Version: 1

Status: Business

In Control: City Council

File Type: Resolution

Agenda Number: 6B.

Receive Report and Consider Adoption of City Council Resolution Declaring a Stage 2 Water Emergency in Response to Decreasing Source Water and the Possibility of a Delayed Rainy Season



AGENCY: City Council
MEETING DATE: September 26, 2016
DEPARTMENT: Public Works
PRESENTED BY: Tom Varga

AGENDA ITEM SUMMARY

TITLE:

RECEIVE REPORT AND CONSIDER ADOPTION OF CITY COUNCIL RESOLUTION DECLARING A STAGE 2 WATER EMERGENCY IN RESPONSE TO DECREASING SOURCE WATER AND THE POSSIBILITY OF A DELAYED RAINY SEASON

ISSUE:

The prolonged drought affecting the State of California, as well as Fort Bragg, has eased but not ended. Fall is the season when source water flows reach their minimum. While this year's flows are better than the record setting lows of last year, they are still below normal levels. The long range climatological forecast is for an average chance of normal precipitation in the latter part of September through October and November as the usual rainy season begins. The City's water supply resources are expected to be adequate until the start of the rainy season. However, given the wide variability of what can be expected as normal rainfall, a delayed start to the rainy season is possible. A precautionary approach to water supply availability may be appropriate. Rather than waiting until a crisis is impending, the Council may choose to impose additional water conservation measures at this time through the declaration of a Stage 2 Water Emergency.

RECOMMENDED ACTION:

Adopt City Council resolution declaring Stage 2 Water Emergency.

ALTERNATIVE ACTION(S):

1. No Action. The Council may choose a wait and see approach.
2. Direct staff to agendize this matter for consideration on subsequent Council agendas.
3. Modify the resolution prior to its adoption.

ANALYSIS:

The Fort Bragg Municipal Code authorizes the City Council to declare water emergencies when the flow from the City's raw water sources has declined to the point that it is becoming difficult for the City to reliably supply water to its customers and maintain adequate fire protection. Finished water production in September has been regularly below 600,000 gallons per day, and the City's water sources continue to reliably produce sufficient water.

Flows from the City's two spring fed sources (Waterfall Gulch and Newman Gulch) have declined to seasonal norms. However, approximately half of the City's raw water is drawn from the Noyo River. Noyo River flows dropped below three cubic feet per second (cfs) during the first week of September. At that level and lower, the river comes under the influence of ocean saltwater when high tides reach six feet or more. This becomes a problem when both of the two daily high tides exceed this height and the reduced flows slow the retreat of the brackish water back to the ocean. These dual high tide events occur once every 28 days of the lunar/tidal cycle. During such events, the river pumps are not used and several hours of raw water pumping is lost each day.

This lost pumping capacity is compensated for by carefully maximizing storage in the water treatment plant's storage facilities and blending the stored water with saltier river water. With the Summers Lane Reservoir now online, the City's storage capacity has been greatly expanded and the ability to address multiple high tide events is now possible. By the time of the Council's September 26th meeting, approximately 4.5 million gallons will be stored in the new reservoir, (about 30% of capacity).

The most recent climatological forecasts from the National Weather Service predict an average chance of normal precipitation during the months of October, November, and on into the rest of winter. The rainy season most commonly begins sometime in October. However, this is a variable event and it is good planning practice to be prepared for a later than usual start.

The next period of double high tides is expected to be from October 15 through October 22. By October 15th, estimated storage in Summers Lane Reservoir will be between 8 and 9 million gallons. The worst-case scenario would be for the City to not use any Noyo River source water for eight days. In turn, this would require a maximum drawdown of approximately 2 million gallons of Summers Lane Reservoir storage. This worst-case scenario also assumes essentially no rainfall from now through the latter part of October.

Presently, a Stage 1 Water Emergency is in effect to meet State mandates for water conservation. In addition, a Council resolution is adopted monthly declaring the continued existence of a local drought emergency that reflects the continued drought and the conditions noted above. A Stage 2 Water Emergency could be put in place until the rainy season has reliably begun.

Under Stage 2 Water Emergency restrictions, the conservation goal is 20% below the consumption of the same month during the 2013 base year, (before wide-scale water conservation measures were implemented). Outdoor irrigation of landscaping (private and public) would be suspended. Section 14.060.050 – Conservation Goals and Prohibited Water Uses during Water Emergency of the Fort Bragg Municipal Code (FBMC) is attached for reference. The Stage 2 Water Emergency declaration is an effective tool to inform the community of the importance that extra care is needed to minimize water use until the winter rains start again. With a timely start to the winter rains, a Stage 2 Water Emergency can be a short-lived action.

FISCAL IMPACT:

There are no direct fiscal impacts. Between the expected short period of a Stage 2 Water Emergency, and given the significant on-going water conservation measures already being practiced by the community, the effects of additional water conservation on water revenues should be nominal.

ATTACHMENTS:

1. Resolution
2. FBMC § 14.06.050

NOTIFICATION:

None.

City Clerk's Office Use Only

Agency Action	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Approved as Amended
Resolution No.:	_____	Ordinance No.:	_____
Moved by:	_____	Seconded by:	_____
Vote:	_____		
<input type="checkbox"/> Deferred/Continued to meeting of:	_____		
<input type="checkbox"/> Referred to:	_____		

RESOLUTION NO. [REDACTED] -2016

RESOLUTION OF THE FORT BRAGG CITY COUNCIL DECLARING A STAGE 2 WATER EMERGENCY

WHEREAS, the City of Fort Bragg continues to experience the effects of the on-going statewide and local drought; and

WHEREAS, the City’s raw water supplies have reached their seasonal low levels of production; and

WHEREAS, the three surface water sources that supply raw water to the City’s municipal water system are flowing at or below historic levels; and

WHEREAS, there exists uncertainty as to when the winter, rainy season will begin; and

WHEREAS, it is becoming more challenging for the City to reliably supply water to its customers and maintain adequate flows for fire protection; and

WHEREAS, a Stage 1 Water Emergency is currently in effect; and

WHEREAS, it is prudent as a precautionary measure to plan for the possibility that the winter rainy season may be delayed resulting in additional water supply challenges;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby declare a Stage 2 Water Emergency in accordance with Fort Bragg Municipal Code Section 14.06.050.

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 26th day of September, 2016, by the following vote:

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

DAVE TURNER,
Mayor

ATTEST:

Brenda Jourdain
Acting City Clerk

14.06.050 CONSERVATION GOALS AND PROHIBITED WATER USES DURING WATER EMERGENCY.

For the purpose of calculating the percentage reduction for water conservation goals, a baseline year will be chosen that is a recent, nondrought year relative to the year in which a water emergency is declared. Reductions in water usage, generally, will be calculated by comparing monthly water usage during the emergency declaration against the corresponding month on the baseline year.

Residential water conservation efforts will be considered to have reached a maximum level of effort when water usage at a specific water account is 50 gallons per capita per day (gcpd) or less. When such a level is reached and maintained, no further water usage reductions are required, except during a Stage 4 water emergency when flow restrictors may be installed.

Uses of potable water supplied by the City of Fort Bragg that are identified as prohibited during a water emergency shall be allowed only where necessary to address an immediate health and safety need or to comply with a term or condition in a permit issued by a state or federal agency.

A. *Stage 1 Water Emergency – 10% Goal for Reducing Water Usage.*

1. All users of potable water shall reduce their potable water consumption by 10% as compared to the same month of the base year.
2. Consistent with state requirements to prevent the waste and unreasonable use of potable water and to promote water conservation, each of the following actions is prohibited during a water emergency:
 - a. The use of potable water on outdoor landscapes in a manner that causes runoff such that water flows onto adjacent property, nonirrigated areas, private and public walkways, roadways, parking lots, or structures.
 - b. The use of a hose that dispenses potable water to wash a motor vehicle, or to irrigate landscaped areas, including trees and shrubs located on residential and commercial properties that are not irrigated by a landscape irrigation system, except where the hose is fitted with a shut-off nozzle or device attached to it that causes it to cease dispensing water immediately when not in use.

- c. The use of potable water to wash driveways, sidewalks, and similar hardscapes.
 - d. The use of potable water in a fountain or other decorative water feature, except where the water is part of a recirculating system.
 - e. The irrigation of outdoor landscapes during and within 48 hours after measurable rainfall.
 - f. The irrigation of residential and commercial landscapes, at any time other than before 10:00 a.m. and after 6:00 p.m.
 - g. The serving of drinking water other than upon request in eating or drinking establishments, including but not limited to restaurants, hotels, cafes, cafeterias, bars, or other public places where food or drink are served and/or purchased.
 - h. The irrigation with potable water of ornamental turf on public street medians.
 - i. The irrigation with potable water of landscapes outside of newly constructed homes and buildings in a manner inconsistent with regulations or other requirements established by the California Building Standards Commission and the Department of Housing and Community Development.
3. In addition, each of the following uses of potable water is prohibited during a water emergency:
- a. The use of any hose or similar device, irrespective of whether a nozzle, valve, or other shut-off mechanism is attached thereto, for washing or cleaning the exterior surface of any dwelling, garage, commercial or industrial building. Persons painting building exteriors shall be exempted from this provision when potable water is used to clean or prepare a surface for painting during a Stage 1 water conservation emergency.
 - b. The use of potable water for filling or refilling any existing or new swimming pool. Replenishing existing pools which have lost water due to evaporation shall be permitted.

c. The use of potable water in construction projects for backfill consolidation or compaction, or for dust control purposes; provided, however, that the City Manager may permit the use of potable water upon a determination by the City Manager that no other source of water for the purpose is available, or that no other method of compaction, consolidation, or dust control is reasonably available. The reuse of water system flush water is permitted.

d. The use of water through, with or by any plumbing, sprinkler, watering or irrigation system, or other device, equipment, or appliance which is broken or defective, or which, for any reason, fails to use water in the ordinary and customary manner or quantity for which it was designed, constructed, or manufactured.

4. To promote water conservation, operators of hotels and motels shall provide guests with the option of choosing not to have towels and linens laundered daily. Each hotel or motel shall prominently display notice of this option in each guestroom using clear and easily understood language.

5. To prevent waste and unreasonable use of potable water and to promote water conservation, lawn watering and landscape irrigation with potable water shall be limited to no more than 2 days per week for all water users.

6. Tampering with any part of the water system to circumvent the provisions contained within this section, include tampering with hydrants or water meters, is prohibited.

7. Residents and business owners shall repair all water leaks as soon as feasibly possible, but no later than 5 days after notification by the City, unless other arrangements are made with the Public Works Director.

B. *Stage 2 Water Emergency – 20% Goal for Reducing Water Usage.*

1. All users of potable water shall reduce their potable water consumption by 20% as compared to the same month of the base year.

2. The provisions governing the uses of potable water during a Stage 1 water emergency shall remain effective during a Stage 2 water emergency. The following additional and more restrictive provisions regarding uses of potable water shall be effective during a Stage 2 water emergency:

- a. Irrigation or watering of any residential and commercial landscaping using potable water is prohibited.
- b. The use of compostable plates, cups, and flatware is encouraged.
- c. Filling or refilling ornamental lakes or ponds is prohibited, except to the extent needed to sustain aquatic life; provided, that such animals have been actively managed within the water feature prior to declaration of a drought response level under this chapter.

3. Residents and business owners shall repair all water leaks as soon as feasibly possible, but no later than 3 days after notification by the City, unless other arrangements are made with the Public Works Director.

C. Stage 3 Water Emergency – 30% Goal for Reducing Water Usage.

1. All users of potable water shall reduce their potable water consumption by 30% as compared to the same month of the base year.

2. The provisions governing uses of potable water during Stage 1 and Stage 2 water emergencies shall remain effective during a Stage 3 water emergency. The following additional and more restrictive provisions regarding uses of potable water shall be effective during a Stage 3 water emergency:

- a. All washing of motor vehicles shall be prohibited, except at commercial car washes that employ a high pressure/low volume wash system.
- b. Discontinuing the use of hot tubs and in-room spa tubs at hotels is encouraged.

3. No new potable water service shall be provided, no new temporary meters or permanent meters shall be provided, and no statements of immediate ability to serve or provide potable water service (such as will serve letters, certificates, or letters of availability) shall be issued, except under the following circumstances:

- a. A valid, unexpired building permit has been issued for the project;
- b. The project is necessary to protect the public's health, safety, and welfare; or
- c. The applicant provides substantial evidence of an enforceable commitment that water demands for the project will be offset prior to the provision of a new water meter(s) to the satisfaction of the City.

This provision shall not preclude the resetting or turn-on of meters to provide continuation of water service or to restore service that has been interrupted for a period of 1 year or less.

D. Stage 4 Water Emergency.

1. A Stage 4 water emergency occurs when all available water sources cannot provide sufficient flow for water users or cannot maintain adequate flows or pressures for fire-fighting; and the conservation measures required by a Stage 1, Stage 2, and Stage 3 water emergency are no longer adequate to address the water shortage.

2. Notice of an impending Stage 4 water emergency declaration shall be made at least 14 days in advance of the actual declaration.

3. All of the restrictions and provisions governing uses of potable water during a Stage 1, Stage 2, and Stage 3 water emergency are in effect during a Stage 4 water emergency. The City shall have the authority to limit residential and commercial usage of potable water supplied by the City to a quantity determined by the City to provide for the basic safety and well-being of the community.

- a. The City shall be permitted to install flow restrictors at any City-owned water meter, or any similar location, to regulate water usage.
- b. The City shall determine the order of installation of flow restrictors based on relevant safety considerations and the users of City supplied water.

c. The size of the flow restrictors shall be determined by an effort to equitably spread water availability among all water user accounts.

(Ord. 883 § 1, passed 7-13-2009; Ord. 919, § 5, passed 08-24-2015; Ord. 922, § 4 (Exh. A), passed 10-13-2015; Ord. 923, § 5, passed 01-25-16)

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City of Fort Bragg

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

Text File

File Number: 16-387

Agenda Date: 9/26/2016

Version: 1

Status: Business

In Control: City Council

File Type: Resolution

Agenda Number: 6C.

Receive Report and Consider Adoption of City Council Resolution Requesting that the Sonoma Clean Power Authority Act as Community Choice Aggregator on Behalf of the City of Fort Bragg and Implement the Sonoma Clean Power Community Choice Aggregation Program within the City of Fort Bragg



AGENCY: City Council
MEETING DATE: September 26, 2016
DEPARTMENT: Administration
PRESENTED BY: L. Ruffing

AGENDA ITEM SUMMARY REPORT

TITLE:

RECEIVE REPORT AND CONSIDER ADOPTION OF CITY COUNCIL RESOLUTION REQUESTING THAT THE SONOMA CLEAN POWER AUTHORITY ACT AS COMMUNITY CHOICE AGGREGATOR ON BEHALF OF THE CITY OF FORT BRAGG AND IMPLEMENT THE SONOMA CLEAN POWER COMMUNITY CHOICE AGGREGATION PROGRAM WITHIN THE CITY OF FORT BRAGG

ISSUE:

At the September 12, 2016 Fort Bragg City Council meeting, the Council received a presentation from representatives of Sonoma Clean Power and directed staff to prepare the necessary resolution and ordinance for Fort Bragg to participate in the Sonoma Clean Power Authority's Community Choice Aggregation (CCA) program. The attached resolution requests that the Sonoma Clean Power Authority implement its CCA program within the City of Fort Bragg. A separate agenda item includes an ordinance that will also need to be introduced and adopted in order for Fort Bragg to participate in the Sonoma Clean Power Authority's CCA program.

Once Sonoma Clean Power is fully authorized to provide service in Fort Bragg, it will perform outreach and notification of utility customers. Customers who do not wish to receive power that has been purchased or generated by Sonoma Clean Power may "opt out" and continue to receive power purchased by PG&E. Either way, electricity distribution, customer service, and billing will continue to be handled by PG&E.

RECOMMENDED ACTION:

Adopt City Council Resolution Requesting that the Sonoma Clean Power Authority act as Community Choice Aggregator on behalf of the City of Fort Bragg and implement the Sonoma Clean Power Community Choice Aggregation program within the City of Fort Bragg.

ALTERNATIVE ACTION(S):

1. No Action. Under this alternative, the City Council would decline to participate in the Sonoma Clean Power Community Choice Aggregation Program.
2. Continue action on the matter and direct staff to provide additional information or analysis. Under this alternative, the City would not be able to meet the established deadline for June 2017 service.

ANALYSIS:

In 2002, legislation was passed in California to allow local agencies to purchase or develop electricity that would be delivered to utility customers within their jurisdictions by the region's existing utility (in our case, PG&E). This service is known as Community Choice Aggregation (CCA). The intention behind CCA is to increase the amount of renewable energy available to customers thereby reducing greenhouse gas emissions. In addition, CCA provides opportunities for local control of rates and revenues. In Sonoma County, the Sonoma Clean Power Authority was formed in 2012 and its CCA program serves all utility customers in the County except for within the City of Healdsburg (which has its own electric utility). Sonoma Clean Power offers two levels of service to its customers- CleanStart, which is the default service, has 36% renewable power in its

portfolio and offers rates which are slightly lower than PG&E's. EverGreen is an optional service that has 100% renewable power and has a current pricing that is .025/kWh higher than the CleanStart rate. By comparison, PG&E's portfolio currently includes 27% renewable power.

Earlier this summer, Sonoma Clean Power voted to offer Mendocino County and its incorporated cities (except for Ukiah which has its own electric utility) participation in its CCA program. On September 12, the Council received a presentation from representatives of Sonoma Clean Power and directed staff to prepare the necessary resolution and ordinance for Fort Bragg to participate in Sonoma Clean Power's CCA program.

The SCPA Board will need to take the following actions before a final decision is reached: (1) update the Joint Power Agreement to offer one seat on the Board to represent Mendocino County and one seat to collectively represent Fort Bragg, Willits and Point Arena, assuming that all three cities vote to participate; and (b) a vote to accept Mendocino County and any incorporated cities once those jurisdictions have passed ordinances.

FISCAL IMPACT:

This action will not have a fiscal impact on the City or its residents other than potential savings on utility bills.

IMPLEMENTATION/TIMEFRAMES:

If the City Council adopts a resolution requesting that SCPA extend their CCA program to utility customers in the City of Fort Bragg and adopts an ordinance authorizing implementation of SCPA's CCA program and the SCPA approves the request, service to Fort Bragg customers could begin in June 2017.

ATTACHMENTS:

- 1. Resolution

NOTIFICATION:

- 1. None

City Clerk's Office Use Only

Agency Action	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Approved as Amended
Resolution No.:	_____	Ordinance No.:	_____
Moved by:	_____	Seconded by:	_____
Vote:	_____		
<input type="checkbox"/> Deferred/Continued to meeting of:	_____		
<input type="checkbox"/> Referred to:	_____		

RESOLUTION NO. ____-2016

RESOLUTION OF THE FORT BRAGG CITY COUNCIL REQUESTING THAT THE SONOMA CLEAN POWER AUTHORITY ACT AS COMMUNITY CHOICE AGGREGATOR ON BEHALF OF THE CITY AND IMPLEMENT THE SONOMA CLEAN POWER COMMUNITY CHOICE AGGREGATION PROGRAM WITHIN THE CITY OF FORT BRAGG

WHEREAS, the City of Fort Bragg has been actively investigating options to provide electric services to constituents within its service area with the intent of achieving greater local involvement in the provision of electric services and promoting competitive and renewable energy; and

WHEREAS, on September 24, 2002, the Governor signed into law Assembly Bill 117 (Stat. 2002, Ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the "Act"), which authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation ("CCA"); and

WHEREAS, the Act expressly authorizes participation in a CCA program through a joint powers agency and, on December 4, 2012, the Sonoma Clean Power Authority ("SCPA") was established as a joint powers authority pursuant to a Joint Powers Agreement, as amended from time to time ("SCPA Joint Powers Agreement"); and

WHEREAS, on October 4, 2013, the California Public Utilities Commission certified the "Implementation Plan" for SCPA's CCA program, and on February 20, 2015 approved a First Revised and Updated Implementation Plan, confirming SCPA's compliance with the requirements of the Act; and

WHEREAS, on June 16, 2015, the Board of Supervisors of Mendocino County adopted Ordinance No. 4337, determining that implementation of a CCA program is in the public interest and welfare of its residents, and elected to authorize and implement a CCA program within the unincorporated areas of the County of Mendocino; and

WHEREAS, on August 2, 2016, the Board of Supervisors of Mendocino County adopted a resolution requesting that SCPA act as the CCA on behalf of the County and implement SCPA's CCA program within the unincorporated areas of Mendocino County; and

WHEREAS, on September 13, 2016, the Board of Supervisors of Mendocino County adopted Ordinance No. 4363, authorizing the implementation of SCPA's CCA program within the unincorporated areas of Mendocino County; and

WHEREAS, the Fort Bragg City Council supports the goals stated in the SCPA Joint Powers Agreement, which are to address climate change by reducing greenhouse gas emissions, to provide electric power at a competitive cost, to carry out programs to reduce energy use, to provide for long-term electric rate stability and energy security and reliability for residents through local control of electric generation resources, and to stimulate and sustain the local economy; and

WHEREAS, the Fort Bragg City Council supports SCPA's current electricity procurement plan, which increases the amount of renewable energy available to customers and reduces greenhouse gas emissions; and

WHEREAS, SCPA representatives have stated a willingness to consider including one Mendocino County representative on the SCPA Board and another representative collectively representing the cities of Mendocino County if at least two eligible Mendocino County cities apply and are accepted for participation in the SCPA; and

WHEREAS, SCPA representatives have stated a willingness to consider proportional and equitable use of program funds and mutually beneficial local partnerships; and

WHEREAS, in order to participate in SCPA's CCA program, the Act requires Fort Bragg to adopt a resolution requesting that SCPA act as the community choice aggregator on behalf of the City; and

WHEREAS, the Fort Bragg City Council wishes to make such a request, so that SCPA can provide CCA service to electric utility customers in the City of Fort Bragg.

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

1. The foregoing recitals are true and correct.
2. Based upon all of the above, the Fort Bragg City Council requests that the SCPA act as Community Choice Aggregator on its behalf within the jurisdiction of the City of Fort Bragg, and authorizes the SCPA to implement and carry out within the City of Fort Bragg the community choice aggregation program as generally described in the First Revised and Updated Implementation Plan.
3. The City of Fort Bragg, in conjunction with other eligible cities in Mendocino County that participate in SCPA's CCA program, will designate and appoint a representative of the participating cities in Mendocino County to serve on the Board of Directors of the Sonoma Clean Power Authority, and will designate and appoint an alternate.
4. The City Clerk is hereby directed to forward a copy of this resolution to the Sonoma Clean Power Authority.
5. The City Manager is authorized to sign other documents as needed to implement this process.

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 26th day of September, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

RECUSED:

DAVE TURNER,
Mayor

ATTEST:

Brenda Jourdain
Acting City Clerk



City of Fort Bragg

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

File Number: 16-388

Agenda Date: 9/26/2016

Version: 1

Status: Business

In Control: City Council

File Type: Ordinance

Agenda Number: 6D.

Receive Report and Consider Introduction by Title Only and Waiving Reading of Ordinance No. 925-2016 Authorizing the Implementation of a Community Choice Aggregation Program within the City of Fort Bragg by Participating with the Sonoma Clean Power Authority



AGENCY: City Council
MEETING DATE: September 26, 2016
DEPARTMENT: Administration
PRESENTED BY: L. Ruffing

AGENDA ITEM SUMMARY REPORT

TITLE:

RECEIVE REPORT AND CONSIDER INTRODUCTION BY TITLE ONLY AND WAIVING READING OF ORDINANCE NO. 925-2016 AUTHORIZING THE IMPLEMENTATION OF A COMMUNITY CHOICE AGGREGATION PROGRAM WITHIN THE CITY OF FORT BRAGG BY PARTICIPATING WITH THE SONOMA CLEAN POWER AUTHORITY

ISSUE:

At the September 12, 2016 Fort Bragg City Council meeting, the Council received a presentation from representatives of Sonoma Clean Power and directed staff to prepare the necessary resolution and ordinance for Fort Bragg to participate in the Sonoma Clean Power Authority's Community Choice Aggregation (CCA) program. The attached ordinance establishes that the Fort Bragg City Council is choosing to participate in the Sonoma Clean Power Authority's CCA program.

RECOMMENDED ACTION:

Introduce by Title Only, and Waive Reading of Ordinance No. 925-2016 Authorizing the Implementation of a Community Choice Aggregation Program within the City of Fort Bragg by Participating with the Sonoma Clean Power Authority.

ALTERNATIVE ACTION(S):

1. No Action. Under this alternative, the City Council would decline to participate in the Sonoma Clean Power Community Choice Aggregation Program.
2. Continue action on the matter and direct staff to provide additional information or analysis. Under this alternative, the City would not be able to meet the established deadline for June 2017 service.

ANALYSIS:

Background information regarding Sonoma Clean Power's CCA program is provided in the Agenda Summary Report accompanying the Council Resolution requesting that Sonoma Clean Power Authority provide services within the City of Fort Bragg. In addition, the City Council received information in presentations on April 11, 2016 and September 12, 2016. Following introduction of the ordinance (attached), it will be brought back for adoption on the October 11, 2016 Council agenda.

The SCPA Board will need to take the following actions before a final decision is reached: (1) update the Joint Power Agreement to offer one seat on the Board to represent Mendocino County and one seat to collectively represent Fort Bragg, Willits and Point Arena, assuming that all three cities vote to participate; and (b) a vote to accept Mendocino County and any incorporated cities once those jurisdictions have passed ordinances.

FISCAL IMPACT:

This action will not have a fiscal impact on the City or its residents other than potential savings on utility bills.

IMPLEMENTATION/TIMEFRAMES:

If the City Council adopts Ordinance No. 925-2016 and the SCPA takes the actions necessary to extend its services to utility customers within the City of Fort Bragg, service to Fort Bragg customers is expected to begin in June 2017.

ATTACHMENTS:

- 1. Ordinance

NOTIFICATION:

- 1. None

City Clerk's Office Use Only

Agency Action	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Approved as Amended
Resolution No.:	_____	Ordinance No.:	_____
Moved by:	_____	Seconded by:	_____
Vote:	_____		
<input type="checkbox"/> Deferred/Continued to meeting of:	_____		
<input type="checkbox"/> Referred to:	_____		

BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

**AN ORDINANCE AUTHORIZING THE
IMPLEMENTATION OF A
COMMUNITY CHOICE
AGGREGATION PROGRAM BY
PARTICIPATING WITH THE SONOMA
CLEAN POWER AUTHORITY**

ORDINANCE NO. 925-2015

The City Council of the City of Fort Bragg ordains as follows:

SECTION 1. The City of Fort Bragg has been actively investigating options to provide electric services to constituents within its service area with the intent of achieving greater local involvement over the provision of electric services and promoting competitive and renewable energy.

SECTION 2. On September 24, 2002, the Governor signed into law Assembly Bill 117 (Stat. 2002, Ch. 838; see California Public Utilities Code section 366.2; hereinafter referred to as the “Act”), which authorizes any California city or county, whose governing body so elects, to combine the electricity load of its residents and businesses in a community-wide electricity aggregation program known as Community Choice Aggregation (“CCA”).

SECTION 3. The Act expressly authorizes participation in a CCA program through a joint powers agency, and on December 4, 2012, the Sonoma Clean Power Authority (“SCPA”) was established as a joint powers authority pursuant to a Joint Powers Agreement, as amended from time to time (“SCPA Joint Powers Agreement”).

SECTION 4. On October 4, 2013, the California Public Utilities Commission certified the “Implementation Plan” for SCPA’s CCA program and on February 20, 2015, approved a First Revised and Updated Implementation Plan, confirming SCPA’s compliance with the requirements of the Act.

SECTION 5. On June 16, 2015, the Board of Supervisors of Mendocino County adopted Ordinance No. 4337, determining that implementation of a CCA program is in the public interest and welfare of its residents, and elected to authorize and implement a CCA program within the unincorporated areas of the County of Mendocino; and on September 13, 2016, the Board of Supervisors of Mendocino County adopted Ordinance No. 4363, authorizing the implementation of the SCPA’s CCA program within the unincorporated areas of Mendocino County.

SECTION 6. On April 11, 2016 and September 12, 2016, the City Council of the City of Fort Bragg heard presentations and received public comment regarding SCPA’s CCA program. In order to participate in SCPA’s CCA program, the Act requires the City of Fort Bragg to adopt an ordinance electing to implement SCPA’s CCA program in its jurisdiction.

SECTION 7. Based upon all of the above, the City Council of the City of Fort Bragg elects to implement a Community Choice Aggregation program within the City of Fort Bragg, through the City’s participation as a “Participant” in the SCPA CCA program as defined in the

SCPA Joint Powers Agreement. The City Manager is hereby authorized to execute any documents necessary for the City's participation in the program.

SECTION 8. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Fort Bragg hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 9. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Councilmembers 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 September 26, 2016, and adopted at a regular meeting of the City of Fort Bragg held on October 11, 2016, by the following vote:

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

**Dave Turner
Mayor**

ATTEST:

**June Lemos
City Clerk**

**PUBLISH: September 29, 2016 and October 20, 2016 (by summary).
EFFECTIVE DATE: November 10, 2016.**

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City of Fort Bragg

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

File Number: 16-367

Agenda Date: 9/26/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 7A.

Adopt City Council Resolution Approving Professional Services Agreement with SHN Consulting Engineers & Geologists, Inc. to Provide Construction Management Services for the Chestnut Street Corridor Project (Project No. 2015-04) and Authorizing City Manager to Execute Same (Amount Not to Exceed \$120,500) Account No 413-4950-0731; and Amending the FY 2016/17 Budget to Appropriate \$120,500 from 250-7999-0799 for Construction Management and Inspection Services (Budget Amendment No. 2017-02; Amount Not to Exceed \$120,500; Transfer from Fund 250 to Fund 413)

On September 1, 2016, bids were opened for the Chestnut Street Corridor project to build a multi-use path on the north side of Chestnut Street from Franklin Street to Dana Street. A single bid, in the amount of \$2,009,148.30 for the base bid plus alternates bid, was received from Granite Construction. This was nearly \$1,000,000 over the engineer's estimate of \$1,010,052.00. Consequently, all bids have been rejected. The project will be re-bid in late September to give more potential bidders additional time to meet Disadvantaged Business Enterprise (DBE) goals for the project.

Given the complex requirements and documentation for this project, SHN will provide valuable assistance to staff through the re-bidding process and construction management and inspection services for the project. The SHN contract will be funded with Street Sales Tax funds to avoid the extensive consultant hiring process required by Caltrans. The use of Street Sales Tax funds to supplement the grant funds available for this project is appropriate as the tax revenues are available for all street and alley projects including associated curbs, gutters, sidewalks and bike lanes. When the construction contract is awarded (anticipated in November), an additional budget amendment will likely be necessary to appropriate additional Street Sales Tax funds to the project.

RESOLUTION NO. _____-2016

A RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING PROFESSIONAL SERVICES AGREEMENT WITH SHN CONSULTING ENGINEERS & GEOLOGISTS, INC. TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES FOR THE CHESTNUT STREET CORRIDOR PROJECT (PROJECT NO. 2015-04) AND AUTHORIZING CITY MANAGER TO EXECUTE SAME (AMOUNT NOT TO EXCEED \$120,500.00; ACCOUNT NO. 413-4950-0731) AND AMENDING THE FY 2016/17 BUDGET TO APPROPRIATE \$120,500 FROM 250-7999-0799 FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES (BUDGET AMENDMENT NO. 2017-02; AMOUNT NOT TO EXCEED \$120,500; TRANSFER FROM FUND 250 TO FUND 413)

WHEREAS, the City of Fort Bragg (“City”) is soliciting bids for the Chestnut Street Corridor Project (“Project”) being the construction of a multi-use trail on Chestnut Street (“Project Site”); and

WHEREAS, with the unexpected departure of the City’s Associate City Engineer who was project manager for the Project created a need to find a replacement quickly; and

WHEREAS, four regional engineering firms were contacted for Project construction management and inspection services, namely: LACO Associates of Ukiah, GHD Inc. of Eureka, Caltrop of Sacramento, and SHN Consulting Engineers & Geologists of Willits; and

WHEREAS, two firms responded with proposals, namely LACO Associates and SHN Consulting Engineers & Geologists; and

WHEREAS, both proposals were technically sufficient and SHN Consulting Engineers & Geologists was substantially less costly; and

WHEREAS, based on the proposal review, staff has determined that SHN Consulting Engineers & Geologists is the most qualified to provide the desired construction management and inspection services for the Project; and

WHEREAS, additional funding is needed for construction management and inspection services by a consultant; and

WHEREAS, funds in the amount of \$120,500 are being requested to be appropriated from the Special Sales Tax – Street Repair for the construction management and inspection services; Account No.413-4950-0731.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Fort Bragg does hereby approve a Professional Services Agreement with SHN Consulting Engineers & Geologists to provide construction management and inspection services for the Chestnut Street Corridor Project in an amount not to exceed \$120,500; Account No 413-4950-0731 and authorizes the City Manager to execute same.

BE IT FURTHER RESOLVED, that the City Council of the City of Fort Bragg does hereby amend the FY 2016/17 budget to appropriate \$120,500 from Fund 250 (Special Sales Tax, Street) for Project construction management and inspection services (Budget Amendment 2017-02; Amount Not to Exceed \$120,500; Transfer from Fund 250 to Fund 413).

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 26th day of September, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:
RECUSED:

DAVE TURNER,
Mayor

ATTEST:

Brenda Jourdain
Acting City Clerk

PROFESSIONAL SERVICES AGREEMENT

AGREEMENT

This Agreement is made and entered into this 26th day of September, 2016 by and between the City of Fort Bragg, a California Municipal Corporation, 416 N. Franklin Street, Fort Bragg, California, 95437 ("City"), and SHN Consulting Engineers & Geologists, Inc., 335 S. Main Street, Willits, California, 95490-3977, a California corporation ("Consultant").

RECITALS

WHEREAS, City has determined that it requires the following professional services from a consultant: to provide construction management services for the Chestnut Street Corridor Project (Project 2015-04); and

WHEREAS, Consultant represents and warrants that it is fully qualified to perform such professional services by virtue of specialized experience and training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the legislative body of the City on September 26, 2016, by Resolution No. _____-2016 authorized execution of this Agreement on behalf of the City in accordance with Chapter 3.20 of the City Municipal Code and/or other applicable law;

NOW, THEREFORE, City and Consultant, for the consideration hereinafter described, mutually agree as follows:

1. DESCRIPTION OF SERVICES OR SCOPE OF WORK

The services to be performed under this Agreement ("Services") are as follows: provide construction management services for the Chestnut Street Corridor Project (Project 2015-04) including: project management, grants administration, inspection, materials testing, and construction staking. The Services are further described in Consultant's proposal (the "Proposal"), which is attached to and made a part of this Agreement as Exhibit A.

2. TERM

The Agreement term will commence on October 1, 2016 and expire on July 31, 2017 unless the Agreement term is amended or the Agreement is terminated in accordance with its terms.

3. PAYMENT TERMS AND NOT TO EXCEED AMOUNT

City agrees to pay Consultant for Services that are actually performed in accordance with this Agreement. To be eligible for payment, Consultant invoices must be submitted not more often than monthly to the City and list the Services performed and the amounts to be paid according to the cost categories and prices in the Proposal. In no event will the City's obligation to pay the Consultant under this Agreement exceed ONE HUNDRED TWENTY THOUSAND FIVE HUNDRED DOLLARS (\$120,500.00) (the "Not to Exceed Amount"), unless this Agreement is first modified in accordance with its terms. Where the Proposal provides for compensation on a time and materials basis, Consultant must maintain adequate records to permit inspection and audit of Consultant's time and material charges under this Agreement. Consultant will make such records available to the City during normal business hours upon reasonable notice. In accordance with California Government Code § 8546.7, if the Not to Exceed Amount exceeds TEN THOUSAND DOLLARS (\$10,000.00), this Agreement and the Consultant's books and records related to this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

4. TIME OF COMPLETION

Consultant must commence performance of the Services upon receipt of written direction to proceed from City. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 7 below and to satisfy Consultant's obligations hereunder. Consultant will complete the Services in accordance with this Agreement by April 30, 2017 (the "Time of Completion"). The Time of Completion may only be modified by an amendment of the Agreement in accordance with its terms.

5. INDEPENDENT CONTRACTOR

Consultant and City agree that the Consultant will perform the Services as an independent contractor and not as an employee or agent of the City. Persons employed or utilized by Consultant in the performance of the Services will not be employees or agents of the City. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

6. SUBCONTRACTING

Consultant may subcontract portions of the Services upon the prior written approval of the City. Consultant will be solely responsible for payment of such subcontract Services. No contractual relationship will exist between any such subcontractors of the Consultant and the City.

Subcontractor agrees to be bound to Consultant and City in the same manner and to the same extent as Consultant is bound to City under the Agreement. 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 indemnity and insurance provisions will be furnished to the subcontractor upon request.

7. STANDARD OF PERFORMANCE

a. Consultant will perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession and will prepare all work products required by this Agreement in accordance with such standards. Consultant will comply with federal, state and local laws and regulations applicable to performance of the Services, including but not limited to, the California Building Standards Code as in effect in the City, the Americans with Disabilities Act, any air pollution control laws and regulations applicable to Consultant, and any laws and regulations related to any copyright, patent, trademark or other intellectual property right involved in performance of the services. Consultant's Failure to comply with any law(s) or regulation(s) applicable to the performance of the services hereunder shall constitute a material breach of this agreement.

b. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

8. OTHER GOVERNMENTAL REGULATIONS

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.

9. USE OF RECYCLED PRODUCTS

Consultant shall endeavor to prepare and submit all reports, written studies, and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10. INDEMNITY

To the maximum extent permitted by law, Consultant shall, at its own expense, indemnify, defend with counsel acceptable to the City, (which acceptance will not be unreasonably withheld), and hold harmless City and its officers, officials, employees, agents and volunteers ("Indemnitees") from and against any and all liability, loss, damage, claims, suits, actions, arbitration proceedings, administrative proceedings,

regulatory proceedings, civil penalties and fines, expenses and costs (including, without limitation, claims expenses, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature, whether actual, alleged or threatened, arising out of or in connection with the Services or Consultant's failure to comply with any of the terms of this Agreement, regardless of any fault or alleged fault of the Indemnitees.

The Consultant's obligation to indemnify, defend and hold harmless under this provision shall not be excused because of the Consultant's inability to evaluate Liability, or because the Consultant evaluates Liability and determines that the Consultant is not or may not be liable. The Consultant must respond within 30 calendar days to any tender for defense and indemnity by the City, unless the time for responding is extended by an authorized representative of the City in writing. If the Consultant fails to accept tender of defense and indemnity within 30 calendar days, in addition to any other remedies authorized by law, so much of the money due or that may become due the Consultant under this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the matter subject to tender, or until the Consultant accepts the tender, whichever occurs first.

The Consultant waives any and all rights to express or implied indemnity against the Indemnitees concerning any Liability of the Consultant arising out of or in connection with the Services or Consultant's failure to comply with any of the terms of this Agreement.

Notwithstanding the foregoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code § 2783, as may be amended from time to time, Consultant's duty to indemnify under this provision shall not apply when to do so would be prohibited by California Civil Code § 2782, as may be amended from time to time.

Notwithstanding the foregoing, to the extent that the Services include design professional services subject to Cal. Civil Code § 2782.8, as amended from time to time, Consultant's duty to indemnify shall only be to the maximum extent permitted by Civil Code § 2782.8.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement 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 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.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this agreement.

Consultant/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

11. INSURANCE

a. Before commencing performance of the Services, Consultant, at its own cost and expense, must: a) procure "occurrence coverage" insurance of the kinds and in the amounts specified below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Services hereunder by the Consultant or its agents, representatives, employees, or subcontractors; and b) submit to the City certificates of insurance and endorsements evidencing insurance coverage that meets the requirements of this section. Consultant must maintain the insurance policies required by this section throughout the Agreement term. The cost of such insurance must be included in the Consultant's proposal.

Consultant agrees to include with all subcontractors in their subcontract the same requirements and provisions of this Agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the subcontractor's work. The Consultant shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in this Agreement prior to commencement of any work and Consultant will provide proof of compliance to the City.

Consultant may not allow any subcontractor to commence work on the Services until Consultant and/or the subcontractor have obtained all insurance required by this Agreement for the subcontractor(s) and submitted certificates of insurance and endorsements evidencing such coverage to City.

b. Workers Compensation Insurance. Consultant must, at its sole cost and expense, maintain Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. Workers' Compensation Insurance as required by the State of California, with coverage providing Statutory Limits, and Employer's Liability Insurance with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence must be provided. 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 Services.

c. Consultant, at its own cost and expense, must maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, TWO MILLION DOLLARS (\$2,000,000.00) aggregate, combined single limit coverage for risks associated with Services. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Services or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall

not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

d. Except for Workers' Compensation insurance and Professional Liability insurance, all other insurance coverages required pursuant to this Agreement must include or be endorsed to include the following:

(1) City and its officials, officers, employees, agents, and volunteers ("Additional Insured") shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by Consultant. The coverage may contain no special limitations on the scope of protection afforded to City or its officials, officers, employees, agents, or volunteers.

(2) The Additional Insured coverage under the Consultant's policy shall be "primary and non-contributory" and Consultant's coverage 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.

e. It shall be a requirement under this Agreement 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.

f. The limits of insurance required in this Agreement 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.

g. Insurance coverage required pursuant to this Agreement must include or be endorsed to include the following:

(1) Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

(2) Required insurance coverage may not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

h. Consultant, at its own cost and expense, must maintain for the period covered by this Agreement professional liability insurance in an amount not less than TWO MILLION DOLLARS (\$2,000,000) covering errors and omissions. Any deductible or self-insured retention under the required professional liability insurance may not exceed \$150,000 per claim.

i. All insurance required under this Agreement must be placed with insurers with a Best's rating of no less than A:VII unless otherwise approved by the City.

j. The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

k. 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. 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.

l. To the extent this Agreement is a "construction contract" as defined by California Civil Code § 2783, as may be amended from time to time, Consultant shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following completion of the Services. In the event Consultant 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 Consultant.

12. NON DISCRIMINATION

During the performance of this Agreement, Consultant will not discriminate against any employee of the Consultant or applicant for employment because of race, religion, creed, color, national origin, sex, or age. Consultant 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, sex or age.

13. LICENSES & PERMITS

a. BUSINESS LICENSE

Before the City will issue a notice to proceed with the Services, Consultant and any subcontractors must acquire, at their expense, a business license from City in accordance with Chapter 5.04 of the Fort Bragg Municipal Code. Such licenses must be kept valid throughout the Agreement term.

b. OTHER LICENSES AND PERMITS

Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.

14. OWNERSHIP OF WORK PRODUCTS AND TREATMENT OF DOCUMENTS

All plans, specifications, reports, designs and other documents prepared by Consultant pursuant to this Agreement shall be and remain the property of the City. Any modification or reuse of such documents by the City without Consultant's prior written consent will be at the City's sole risk. Except as may be otherwise required by law, Consultant will disclose no data, plans, specifications, reports or other documents pertaining to the Services without the prior written consent of City.

15. TERMINATION AND REMEDIES

a. City may terminate this Agreement for convenience by giving at least 10 days written notice to Consultant specifying the termination effective date. Upon receipt of such notice, Consultant may continue performance of the Services through the date of termination. City shall pay Consultant for all Services actually performed in accordance with this Agreement through the termination effective date.

b. If Consultant materially breaches any term of this Agreement, in addition to any other remedies the City may have at law or equity, the City may:

(1) Terminate the Agreement by notice to the Consultant specifying the termination effective date;

(2) Retain, and/or recover from the Consultant at no additional cost to the City, the plans, specification, drawings, reports and other design documents and work products prepared by Consultant, whether or not completed;

(3) Complete the unfinished Services itself or have the unfinished Services completed, and/or;

(4) Charge Consultant, or deduct from monies that may be due or become due the Consultant under this Agreement, the difference between the cost of completing the unfinished Services pursuant to this Agreement and the amount that

would otherwise be due Consultant had Consultant completed the Services in accordance with this Agreement.

16. BINDING EFFECT AND ASSIGNMENT PROHIBITION

This Agreement is binding upon City, Consultant, and their successors. Except as otherwise provided herein, neither City nor Consultant may assign, sublet or transfer its interest in this Agreement or any part thereof without the prior written consent of the other, and any purported assignment without such consent will be void.

17. REPRESENTATIVES

a. City representative for purposes of this Agreement will be Public Works Director Tom Varga. Consultant representative for purposes of this Agreement will be Jason Island or Tom Herman. The parties' designated representatives will be the primary contact persons regarding the performance of the Services. The parties intend that their designated representatives will cooperate in all matters regarding this Agreement and in such manner so as to achieve performance of the Services in a timely and expeditious fashion.

b. Notices:

Any written notice to Consultant shall be sent to:

Jason Island
Tom Herman
SHN Consulting Engineers & Geologists
335 S. Main Street
Willits, CA 95490-3977

Any written notice to City shall be sent to:

Tom Varga, Director of Public Works
City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

18. INTEGRATION AND AMENDMENT

This Agreement represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations or agreements, whether written or oral. If a discrepancy, disagreement, ambiguity, inconsistency or difference in interpretation of terms arises as to terms or provisions of this Agreement and any Exhibit(s) attached to this Agreement, this Agreement shall control and shall be deemed to reflect the intent of the Parties with respect to the subject matter hereof.

This Agreement may only be amended by a writing signed by a representative authorized to bind the Consultant and a representative authorized to bind the City.

19. CONFLICT OF INTEREST PROHIBITION

City and Consultant will comply with the requirements of the City's Conflict of Interest Code adopted pursuant to California Government Code §87300 et seq., the Political Reform Act (California Government Code §81000 et seq.), the regulations promulgated by the Fair Political Practices Commission (Title 2, §18110 et seq. of the California Code of Regulations), California Government Code §1090 et seq., and any other ethics laws applicable to the performance of the Services and/or this Agreement. Consultant may be required to file with the City Clerk a completed Form 700 before commencing performance of the Services unless the City Clerk determines that completion of a Form 700 is not required, pursuant to City's Conflict of Interest Code. Form 700 forms are available from the City Clerk.

Consultant may not perform Services for any other person or entity that, pursuant to any applicable law or regulation, would result in a conflict of interest or would otherwise be prohibited with respect to Consultant's obligations pursuant to this Agreement. Consultant agrees to cooperate fully with City and to provide any necessary and appropriate information requested by City or any authorized representative concerning potential conflicts of interest or prohibitions concerning Consultant's obligations pursuant to this Agreement.

Consultant may not employ any City official, officer or employee in the performance of the Services, nor may any official, officer or employee of City have any financial interest in this Agreement that would violate California Government Code §1090 et seq. Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of City. If Consultant was an employee, agent, appointee, or official of City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 et seq., the entire Agreement is void and Consultant will not be entitled to any compensation for Consultant's performance of the Services, including reimbursement of expenses, and Consultant will be required to reimburse City for any sums paid to Consultant under this Agreement. Consultant understands that, in addition to the foregoing, penalties for violating Government Code §1090 may include criminal prosecution and disqualification from holding public office in the State of California.

Any violation by Consultant of the requirements of this provision will constitute a material breach of this Agreement, and the City reserves all its rights and remedies at law and equity concerning any such violations.

20. APPLICABLE LAW AND VENUE

The laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and the interpretation of this Agreement. Any

action or proceeding that is initiated or undertaken to enforce or interpret any provision, performance, obligation or covenant set forth in this Agreement shall be brought in a state court in Mendocino County.

21. RECOVERY OF ATTORNEYS' FEES

If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret any term of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

22. SEVERABILITY

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged will remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

23. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

IN WITNESS HEREOF, the parties have caused their authorized representative to execute this Agreement on the date first written above.

CITY

CONSULTANT

By: _____
Linda Ruffing
Its: City Manager

By: Tom Herman
Tom Herman
Its: Principal

ATTEST:

[Attach Notary Acknowledgment Page]

By: _____
June Lemos
City Clerk

APPROVED AS TO FORM:

By: Samantha W. Zutler
Samantha W. Zutler, City Attorney

Exhibits: Exhibit A – Consultant's Proposal



Transmittal

To: Tom Varga	Reference No: 416000.072
Company: City of Fort Bragg	Date: August 2, 2016
Address: 416 N. Franklin St. Fort Bragg, CA 95437	From: Tom Herman
Subject: Proposal Letter - Chestnut Street Corridor & 2016 Streets and Alleys Projects	

We are sending you:

- | | | | |
|--|---|--|--|
| <input type="checkbox"/> Change Order | <input type="checkbox"/> Correspondence | <input type="checkbox"/> Report/Specifications | <input type="checkbox"/> Samples |
| <input type="checkbox"/> Computer File | <input type="checkbox"/> Plans | <input type="checkbox"/> Reproducibles | <input type="checkbox"/> Shop Drawings |
| <input type="checkbox"/> Contract | <input type="checkbox"/> Prints | <input checked="" type="checkbox"/> Other: Proposal | |

Copies	Date	No.	Description
10	8/2/16		Proposal Letter - Quote for Inspection and Construction Management Services for the Chestnut Street Corridor Project and the 2016 Streets And Alleys Project

These are transmitted as checked below:

- | | | |
|---|---|---|
| <input type="checkbox"/> Approved as Noted | <input type="checkbox"/> For Review and Comment | <input type="checkbox"/> Resubmittal Not Required |
| <input type="checkbox"/> As Requested | <input type="checkbox"/> For Your Approval | <input type="checkbox"/> Returned for Corrections |
| <input checked="" type="checkbox"/> Copies for Distribution | <input type="checkbox"/> For Your Use | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Corrected Prints | <input type="checkbox"/> Resubmit | |

Comments:

Copy To:	Signed: 
----------	---



Reference: 416000.072

August 2, 2016

Tom Varga
Director of Public Works
City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

Subject: Quote for Inspection and Construction Management Services for the Chestnut Street Corridor Project and the 2016 Streets and Alleys Project

Dear Mr. Varga:

Thank you for the opportunity to provide this quote for inspection, construction management and administration, construction surveying and materials testing services for the above referenced projects. We offer this quote as a starting point to negotiate final scope and cost for these services. You will find our daily rate slightly revised from the quote that I sent via email several weeks ago. We have expanded the scope of our daily tasks to include Resident Engineer services to address construction management/administration responsibilities such as RFI's, Submittals, Change Orders, and weekly construction meetings, etc. Our combined daily rate for inspection, construction management/administration work is based on an eight hour day, plus two hours of travel time. The daily inspection work will be provided by a certified construction inspector/materials testing technician or the Resident Engineer (consistent with current prevailing wage requirements). Inspection work will be scheduled so that the inspector will also provide necessary materials testing. The Resident Engineer services will be performed by a licensed Civil Engineer. Labor compliance, documentation and correspondence with the funding agencies and regulators will be performed by one of our administrative staff. Our daily rate for these services is estimated to be \$1,150. This rate is applicable to both projects and is not dependent on the number of construction days associated with each.

Based on the project-specific information that you provided, our estimated costs for the above described services are as follows:

Chestnut Street Corridor Improvement Project:

Inspection and Construction Management	\$1,150/day @ 90 DA	\$103,500
Materials Testing	\$2,200	2,200
Construction Surveying	\$14,800	14,800
		<u>\$120,500</u>

2016 Streets and Alleys Project:

Inspection and Construction Management	\$1,150/day @ 50 DA	\$ 57,500
Materials Testing	\$4,200	4,200
Construction Staking	\$26,600	26,600
		<u>\$ 88,300</u>

Tom Varga

Quote for Inspection and Construction Management Services for the Chestnut Street Corridor Project and the 2016 Streets and Alleys Project

August 2, 2016

Page 2

Our quotes are based the project descriptions that you provided, estimated total project costs, and previous experience with similar projects. Our project total quotes for the two projects can be calculated by using our estimated daily rate of \$1,150 for the project duration plus the estimated costs for materials testing and construction surveying. We trust that our understanding of the scope and requested services for these projects is consistent with your needs. We are committed to providing the breadth of services necessary to successfully complete the projects and will adjust our approach as necessary to comply with project requirements and budget. Our work will be billed on a time and expenses basis with a negotiated cost not to exceed for the agreed to scope. We will make every effort to provide only the services necessary and to contain costs.

We have appreciated the opportunity to serve the City of Fort Bragg providing field inspection and materials testing on the Summers Lane reservoir project. Attached is our Firm Description and examples of several recent projects demonstrating our experience in providing similar services to other municipalities. Thank you for this opportunity to again be of service to you and the City of Fort Bragg and please do not hesitate to call me at (707) 459-4518 with any questions or to discuss our quotes.

Sincerely,

SHN Consulting Engineers & Geologists, Inc.



Jason Island
Professional Engineer RCE 64809

JGI: amg

Firm Description

SHN Consulting Engineers & Geologists, Inc. (SHN) was founded in 1979 to meet the engineering needs of both the public and private sectors in Northern California. SHN merged in 2003 with T.M. Herman and Associates, a full service engineering and surveying company serving Lake and Mendocino Counties. SHN has grown in concert with progressive technologies, positioning itself for innovation and expansion, while remaining committed to its founding philosophy. SHN is dedicated to contributing to a socially responsible, dynamic, and rewarding environment for its clients, employees, and community. SHN produces high quality work products for its clients, while providing a professional and challenging work experience for its employees. SHN's staff includes over 80 employees of diverse talents, education, training and cultural backgrounds, thus enabling SHN to offer a broad range of services. SHN's professionals and technicians provide project services including geotechnical investigations, conceptual planning, permitting, environmental analysis, surveying, final design, construction materials testing and construction management.

Because quality is an essential element to our success, SHN's Project Managers, Engineers, Construction Managers, and Field Technicians and Inspectors communicate directly and promptly, enabling them to meet client needs effectively. SHN has worked successfully with government and industry on a wide variety of both public and private projects.

SHN's Construction Management Team is comprised of Registered Civil and Geotechnical Engineers, Professional Geologists, Certified Construction Inspectors and Materials Testing Technicians, and Labor Compliance and Project Funding and Development Specialists. Our team has extensive experience managing construction projects from small road construction projects to complex utility facilities.

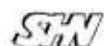
SHN staff has worked directly with funding agencies such as Caltrans Local Assistance, local redevelopment agencies, US Department of Agriculture (USDA) Rural Development, Federal Aviation Administration (FAA), Federal Emergency Management Authority, (FEMA), and Housing and Urban Development (HUD).

Our construction managers have established procedures to process submittals, administer contract cost controls and schedule compliance, manage inspections and testing to assure quality, to review and recommend change orders and pay requests, to compile a variety of informative reports for distribution to clients, agencies and others, to coordinate with agencies and client, and to facilitate contract closeout. Staff members are well versed in SHN's internal hard copy and electronic work flow systems and with specialized paperwork utilized by various agencies such as Caltrans Local Assistance.

SHN's construction managers and special inspectors are highly trained in all aspects of materials and compliance testing. Our inspectors are certified by Caltrans, American Concrete Institute, American Association of State Highway and Transportation Officials and



Confusion Hill Hwy 101 Bypass Bridge



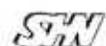
International Code Council. Because our construction managers and inspectors have these qualifications, they are able to provide expert construction observation and quality control. When requested, our inspectors provide Independent Assurance Testing as identified in the Caltrans Quality Assurance Program. Our inspectors are keenly aware of the importance of their role on a construction site, and they work cooperatively with the contractors, agency inspectors and our clients. If the Project conditions call for it, our inspectors can provide construction materials testing with the accreditations that follow.



Compressive strength testing in our state of the art lab.

SHN's Materials Testing and Inspection Division maintains dedicated laboratories in its Eureka and Willits offices for engineering construction materials testing. The lab adheres to a quality system based on criteria and guidelines set forth by California Department of Transportation (Caltrans) Independent Assurance Manual, July 2005 and the Quality Assurance Program, December 2008. Our laboratories hold the following certifications and adhere to the following standards for performance:

- **State of California Department of Transportation (CALTRANS)** - Approved for California testing procedures and annually inspected by Caltrans Inspectors.
- **American Association of State Highway and Transportation Officials (AASHTO)** - Fully accepted in the Accreditation Program (AAP)
- **Office of Statewide Health Planning and Development (OSHPD)** - Approved construction materials laboratory with special inspection experience in hospital construction
- **Division of State Architect/Office of Regulation Services (DSA/ORS)** - Accepted into Laboratory Evaluation and Acceptance (LEA) program for testing and inspection agencies
- **National Institute of Standards and Technology (NIST)** - Enrolled in the Aggregate Materials Reference Laboratory (AMRL) and Cement and Concrete Reference Laboratory (CCRL) and participates in Proficiency Sample Programs
- **American Concrete Institute (ACI)** - Certified concrete field-testing, and laboratory testing technicians. Lab capabilities of 400,000 pounds for compressive strength testing of concrete cylinders and masonry blocks
- **International Code Council (ICC)** - Certified special inspectors
- **Technologically-Advanced** - Computerized data acquisition instrumentation for Direct Shear, Consolidation, and Unconfined Compression of soils



Grace Hudson Nature Education Center

City of Ukiah, Ukiah, CA

SHN's involvement in the project has been continuous from conceptual plans to implementation of construction and has often required the ability to be flexible and innovative in our design solutions.

SHN employed our expertise in Low Impact Development (LID) techniques to plan and design the parking lots, walkways and trails that surround the Grace Hudson Nature Education Center.

Project Design:

SHN's goal with the grading plan was to balance the grading elements of the project, and eliminate the need to import or export soils to achieve final design grades.

The drainage plan utilized the natural drainage elements of the site while incorporating new stormwater treatment features. A strong focus on LID techniques maximized opportunities for storm water runoff detention, infiltration, and evaporation.

Existing utilities were utilized as much as possible to reduce costs. SHN investigated opportunities to reduce the extent of underground utilities needed by minimizing utility line distances to new structures.

In addition to providing the design elements necessary for construction of a "green" parking lot, SHN provided additional opportunities to promote alternative modes of transportation in the general Ukiah area by addressing the use of bicycles - providing access along the driveway, bicycle parking and storage areas.

Construction Management:

SHN also provided the City of Ukiah with comprehensive construction management services for the project. Our tasks included daily inspections, materials testing, and primary point-of-contact construction management by the project engineer. The design team included many consultants of varying disciplines. We often had to make informed field decisions for the client while insuring appropriate design input from the project team. The project was completed successfully with several challenging deadlines met ahead of schedule. Our success with this project has led to additional work with the City of Ukiah.

Project Details:

- Bidding Assistance
- Construction Contract Negotiations
- Engineering Support During Construction
- Daily Construction Inspection

Project Contact:

Katie Marsolan
City of Ukiah
300 Seminary Ave.
Ukiah, CA 95482
707-462-1412

Relevance to Chestnut Street:

- Construction Management
- Inspection and Materials Testing
- Construction Surveying



SHN's approach to the overall engineering elements of the project included a strong emphasis on thoughtful design practices coupled with the goal of resource preservation.



North State Street Sewer Main Improvement Project

City of Ukiah, Ukiah, CA

SHN contracted with the City of Ukiah to provide Resident Engineering, daily inspection, materials testing and contract management and administration services for the replacement of approximately 2000 feet of sewer main in the busy North State Street corridor. Our Resident Engineer coordinated weekly contractor meetings and reviewed requests of information, change order requests, progress payment submittals and labor compliance. Our field inspector provided daily inspection, monitoring of contractor personnel, oversight of traffic control and site safety plans, attended daily safety meetings and provided daily materials testing of construction materials and placement. For project completion, our Resident Engineer and inspector provided an as-built drawing of the final construction elements, completed daily field reports, compiled final contractor progress and change order payments and ending project construction cost, and coordinated with the City for potential additional future construction to facilitate the completion of the project. SHN and the City are currently exploring a redesign of an intersection impacted by this project utilizing design information acquired during construction.



Project Details:

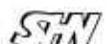
- Daily Construction Inspection
- Responded to Requests for Information
- Verification of Contractor's Pay Requests
- Certified Payroll Compliance
- Construction Materials Acceptance Testing
- Special Inspections
- Project Change Negotiation
- Compile As-Built Information

Project Contact:

Jarod Thiele, Project Analyst
City of Ukiah
300 Seminary Avenue.
Ukiah, CA 95482
707-463-6755

Relevance to Chestnut Street:

- Construction Management/ Administration
- Daily Field Inspection
- Construction Materials Testing
- Construction in a Highly Travelled Corridor



Willits Wastewater Treatment Facilities Upgrade

City of Willits, Willits, CA



The City of Willits wastewater treatment plant produced an acceptable quality effluent for discharge to an adjacent creek and irrigation on local farm lands. However, during non-irrigation discharge periods, the flows in the creek were not sufficient to accept effluent discharge.

SHN's design team developed a solution to the discharge problem which included upgrades to the influent facilities, a new advanced secondary treatment system and a 30 surface acre storage/wetland treatment lagoon.

The City of Willits contracted with SHN to provide construction administration and management during the construction of the new facilities. The construction administration/management team provided the following services for the construction of the Project:

Project Details:

- Bidding Assistance
- Construction Contract Negotiations
- Engineering Support During Construction
- Labor Compliance
- Funding Compliance
- Environmental Compliance
- Daily Construction Inspection
- Construction Materials Acceptance Testing
- Special Inspections
- Project Change Negotiation
- Project Punch List
- Substantial Completion Determination
- Project Close Out

Project Contact:

Adrienne Moore, City Manager
City of Willits
111 E. Commercial St.
Willits, CA 95490
707-459-4601

Relevance to Chestnut Street:

- Construction Management and Administration
- Daily Field Inspection
- Construction Materials Testing
- Labor and Funding Compliance





City of Fort Bragg

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

Text File

File Number: 16-374

Agenda Date: 9/26/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 7B.

Adopt City Council Resolution Approving a Professional Services Agreement with Parker Lucas & Associates (DBA Community Development Services) for Community Development Block Grant Funded Business Loan Services and Authorizing City Manager to Execute Same (Amount Not to Exceed \$52,000; Account No. 315-4869-0631)

On May 9, 2016, City Council approved a Scope of Work for consultant services to assist the City with its CDBG-funded business loan programs. A Request for Proposals (RFP) was released on June 23, 2016, to a list of eighteen consultants. Of the eighteen consultants, six were provided by the CDBG Business Assistance Underwriting Consultant List; seven additional firms were contacted from the CALED (California Association for Local Economic Development) member list, and five were local and regional firms including a clearing house that had requested to be contacted about City RFPs. In addition, the RFP was posted at the City's website and the RFP link was distributed to 127 interested parties on the City's RFP notification list. Only one response was received by the proposal due date of July 15, 2016, from Parker Lucas & Associates DBA Community Development Services (CDS). A City team comprised of the Community Development Associate Planner, Finance Director, and CDD Administrative Assistant reviewed the proposal, and a recommendation was made to issue a contract to CDS based on responsiveness to the Scope of Work, depth of CDBG experience, and experience and background in the Mendocino County region. Due to receipt of only one response, staff requested Sole Source Procurement authorization from CDBG, and approval for the contract was received from CDBG on September 6, 2016. CDS is a highly experienced CDBG business loan consultant and is on the CDBG list of qualified specialized contractors. The City has successfully worked with CDS to enter in to several CDBG business loans in the past.

RESOLUTION NO. ____-2016

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH PARKER LUCAS & ASSOCIATES (DBA COMMUNITY DEVELOPMENT SERVICES) FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDED BUSINESS LOAN SERVICES AND AUTHORIZING CITY MANAGER TO EXECUTE SAME (AMOUNT NOT TO EXCEED \$52,000; ACCOUNT NO. 315-4869-0631)

WHEREAS, the City of Fort Bragg wishes to be pro-active in the creation of economic development opportunities for the community; and

WHEREAS, each year the City is eligible to apply for Community Development Block Grant (CDBG) Over-the-Counter (OTC) business loan funding; and

WHEREAS, in addition, the City may periodically provide economic development assistance from available Program Income funds or other CDBG grant funding; and

WHEREAS, applications for OTC funding and other CDBG business loan processing and approvals require specialized knowledge, and City staff lacks capacity to properly administer such loans; and

WHEREAS, a Request for Proposals (RFP) for consultant services to prepare OTC applications and to provide other CDBG business loan program services was broadly released on June 23, 2016, and the only response was from Parker Lucas & Associates DBA Community Development Services (CDS); and

WHEREAS, CDS is a highly qualified CDBG economic development consulting firm that is one of six firms on the CDBG Business Assistance Underwriting Consultant List; and

WHEREAS, a City review team evaluated the proposals and determined that Community Development Services is specially trained, experienced, and competent to perform the special services required and recommended award of a contract to Parker Lucas & Associates DBA Community Development Services, and

WHEREAS, on September 6, 2016, the City was notified that the State Department of Housing and Community Development authorized a Non-Competitive Proposal/Sole Source Procurement for award of the contract to CDS; and

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

1. Securing services from Parker Lucas & Associates DBA Community Development Services (CDS) will ensure that the City is prepared to engage in economic development opportunities funded through the CDBG program.
2. A City review team reviewed the CDS proposal and found CDS to be specially trained, experienced, and competent to perform the required tasks.
3. Staff requested and received Sole Source Procurement approval from the State Department of Housing and Community Development on September 6, 2016.
4. There is sufficient General Administration funding available from open CDBG grants to pay for business loan development and loan servicing activities. If the City is awarded CDBG

business loan funds, additional Activity Delivery and General Administration funding will be available for specific loan activities.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby approve a Professional Services Agreement with Parker Lucas & Associates (DBA Community Development Services) for Community Development Block Grant Funded Business Loan Services and Authorizes City Manager to Execute Same (Amount Not to Exceed \$52,000; Account No. 315-4869-0631).

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 26th day of September, 2016, by the following vote:

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

**DAVE TURNER,
Mayor**

ATTEST:

**Brenda Jourdain
Acting City Clerk**

PROFESSIONAL SERVICES AGREEMENT

AGREEMENT

This Agreement is made and entered into this 26th day of September, 2016 by and between the City of Fort Bragg, a California Municipal Corporation, 416 N. Franklin Street, Fort Bragg, California, 95437 ("City"), and Parker Lucas & Associates dba Community Development Services, a California corporation, 3895 Main Street, Kelseyville, California 95451 ("Consultant").

RECITALS

WHEREAS, City has determined that it requires the following professional services from a consultant: to provide Community Development Block Grant (CDBG) business loan services; and

WHEREAS, Consultant represents and warrants that it is fully qualified to perform such professional services by virtue of specialized experience and training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the legislative body of the City on September 26, 2016 by Resolution No. _____-2016 authorized execution of this Agreement on behalf of the City in accordance with Chapter 3.20 of the City Municipal Code and/or other applicable law;

NOW, THEREFORE, City and Consultant, for the consideration hereinafter described, mutually agree as follows:

1. DESCRIPTION OF SERVICES OR SCOPE OF WORK

The services to be performed under this Agreement ("Services") are as follows: Provide CDBG business loan services. The Services are further described in Consultant's proposal (the "Proposal"), which is attached to and made a part of this Agreement as Exhibit 1.

2. TERM

The Agreement term will commence on October 1, 2016 and expire on September 30, 2019, unless the Agreement term is amended or the Agreement is terminated in accordance with its terms.

3. PAYMENT TERMS AND NOT TO EXCEED AMOUNT

City agrees to pay Consultant for Services that are actually performed in accordance with this Agreement. To be eligible for payment, Consultant invoices must be submitted

not more often than monthly to the City and list the Services performed and the amounts to be paid according to the cost categories and prices in the Proposal. In no event will the City's obligation to pay the Consultant under this Agreement exceed FIFTY-TWO THOUSAND DOLLARS (\$52,000.00) (the "Not to Exceed Amount"), unless this Agreement is first modified in accordance with its terms. Where the Proposal provides for compensation on a time and materials basis, Consultant must maintain adequate records to permit inspection and audit of Consultant's time and material charges under this Agreement. Consultant will make such records available to the City during normal business hours upon reasonable notice. In accordance with California Government Code § 8546.7, if the Not to Exceed Amount exceeds TEN THOUSAND DOLLARS (\$10,000.00), this Agreement and the Consultant's books and records related to this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of four (4) years after final payment under the Agreement.

4. TIME OF COMPLETION

Consultant must commence performance of the Services upon receipt of written direction to proceed from City. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 7 below and to satisfy Consultant's obligations hereunder. Consultant will complete the Services in accordance with this Agreement by September 30, 2019 (the "Time of Completion").

5. INDEPENDENT CONTRACTOR

Consultant and City agree that the Consultant will perform the Services as an independent contractor and not as an employee or agent of the City. Persons employed or utilized by Consultant in the performance of the Services will not be employees or agents of the City. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

6. SUBCONTRACTING

Consultant may subcontract portions of the Services upon the prior written approval of the City. Consultant will be solely responsible for payment of such subcontract Services. No contractual relationship will exist between any such subcontractors of the Consultant and the City.

Subcontractor agrees to be bound to Consultant and City in the same manner and to the same extent as Consultant is bound to City under the Agreement. 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 indemnity and insurance provisions will be furnished to the subcontractor upon request.

7. STANDARD OF PERFORMANCE

a. Consultant will perform the Services in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession and will prepare all work products required by this Agreement in accordance with such standards. Consultant will comply with federal, state and local laws and regulations applicable to performance of the Services, including but not limited to, the California Building Standards Code as in effect in the City, the Americans with Disabilities Act, any air pollution control laws and regulations applicable to Consultant, and any laws and regulations related to any copyright, patent, trademark or other intellectual property right involved in performance of the services. Consultant's Failure to comply with any law(s) or regulation(s) applicable to the performance of the services hereunder shall constitute a material breach of this agreement.

b. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

8. OTHER GOVERNMENTAL REGULATIONS

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. Required contract provisions for Community Development Block Grant (CDBG)-Aided Consultant Contracts are attached as Exhibit 2, and said provisions are incorporated into this Agreement by reference.

9. USE OF RECYCLED PRODUCTS

Consultant shall endeavor to prepare and submit all reports, written studies, and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10. INDEMNITY

To the maximum extent permitted by law, Consultant shall, at its own expense, indemnify, defend with counsel acceptable to the City, (which acceptance will not be unreasonably withheld), and hold harmless City and its officers, officials, employees, agents and volunteers ("Indemnitees") from and against any and all liability, loss, damage, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, civil penalties and fines, expenses and costs (including, without limitation, claims expenses, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature, whether actual, alleged or threatened, arising out of or in

connection with the Services or Consultant's failure to comply with any of the terms of this Agreement, regardless of any fault or alleged fault of the Indemnitees.

The Consultant's obligation to indemnify, defend and hold harmless under this provision shall not be excused because of the Consultant's inability to evaluate Liability, or because the Consultant evaluates Liability and determines that the Consultant is not or may not be liable. The Consultant must respond within 30 calendar days to any tender for defense and indemnity by the City, unless the time for responding is extended by an authorized representative of the City in writing. If the Consultant fails to accept tender of defense and indemnity within 30 calendar days, in addition to any other remedies authorized by law, so much of the money due or that may become due the Consultant under this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the matter subject to tender, or until the Consultant accepts the tender, whichever occurs first.

The Consultant waives any and all rights to express or implied indemnity against the Indemnitees concerning any Liability of the Consultant arising out of or in connection with the Services or Consultant's failure to comply with any of the terms of this Agreement .

Notwithstanding the foregoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code § 2783, as may be amended from time to time, Consultant's duty to indemnify under this provision shall not apply when to do so would be prohibited by California Civil Code § 2782, as may be amended from time to time.

Notwithstanding the foregoing, to the extent that the Services include design professional services subject to Cal. Civil Code § 2782.8, as amended from time to time, Consultant's duty to indemnify shall only be to the maximum extent permitted by Civil Code § 2782.8.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement 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 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.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this agreement.

Consultant/Subcontractor's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

11. INSURANCE

a. Before commencing performance of the Services, Consultant, at its own cost and expense, must: a) procure "occurrence coverage" insurance of the kinds and in the amounts specified below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Services hereunder by the Consultant or its agents, representatives, employees, or subcontractors; and b) submit to the City certificates of insurance and endorsements evidencing insurance coverage that meets the requirements of this section. Consultant must maintain the insurance policies required by this section throughout the Agreement term. The cost of such insurance must be included in the Consultant's proposal.

Consultant agrees to include with all subcontractors in their subcontract the same requirements and provisions of this Agreement including the indemnity and Insurance requirements to the extent they apply to the scope of the subcontractor's work. The Consultant shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in this Agreement prior to commencement of any work and Consultant will provide proof of compliance to the City.

Consultant may not allow any subcontractor to commence work on the Services until Consultant and/or the subcontractor have obtained all insurance required by this Agreement for the subcontractor(s) and submitted certificates of insurance and endorsements evidencing such coverage to City.

b. **Workers Compensation Insurance.** Consultant must, at its sole cost and expense, maintain Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. Workers' Compensation Insurance as required by the State of California, with coverage providing Statutory Limits, and Employer's Liability Insurance with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence must be provided. 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 Services.

c. Consultant, at its own cost and expense, must maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, TWO MILLION DOLLARS (\$2,000,000.00) aggregate, combined single limit coverage for risks associated with Services. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the Services or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

d. Except for Workers' Compensation insurance and Professional Liability insurance, all other insurance coverages required pursuant to this Agreement must include or be endorsed to include the following:

(1) City and its officials, officers, employees, agents, and volunteers ("Additional Insured") shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by Consultant. The coverage may contain no special limitations on the scope of protection afforded to City or its officials, officers, employees, agents, or volunteers.

(2) The Additional Insured coverage under the Consultant's policy shall be "primary and non-contributory" and Consultant's coverage 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.

e. It shall be a requirement under this Agreement 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.

f. The limits of insurance required in this Agreement 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.

g. Insurance coverage required pursuant to this Agreement must include or be endorsed to include the following:

(1) Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.

(2) Required insurance coverage may not be suspended, voided, canceled, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

h. Consultant, at its own cost and expense, must maintain for the period covered by this Agreement professional liability insurance in an amount not less than

TWO MILLION DOLLARS (\$2,000,000) covering errors and omissions. Any deductible or self-insured retention under the required professional liability insurance may not exceed \$150,000 per claim.

i. All insurance required under this Agreement must be placed with insurers with a Best's rating of no less than A:VII unless otherwise approved by the City.

j. The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverages, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

k. 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. 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.

l. To the extent this Agreement is a "construction contract" as defined by California Civil Code § 2783, as may be amended from time to time, Consultant shall maintain insurance as required by this contract to the fullest amount allowed by law and shall maintain insurance for a minimum of five years following completion of the Services. In the event Consultant 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 Consultant.

12. NON DISCRIMINATION

During the performance of this Agreement, Consultant will not discriminate against any employee of the Consultant or applicant for employment because of race, religion, creed, color, national origin, sex, or age. Consultant 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, sex or age.

13. LICENSES & PERMITS

a. BUSINESS LICENSE

Before the City will issue a notice to proceed with the Services, Consultant and any subcontractors must acquire, at their expense, a business license from City in accordance with Chapter 5.04 of the Fort Bragg Municipal Code. Such licenses must be kept valid throughout the Agreement term.

b. OTHER LICENSES AND PERMITS

Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions.

14. OWNERSHIP OF WORK PRODUCTS AND TREATMENT OF DOCUMENTS

All plans, specifications, reports, designs and other documents prepared by Consultant pursuant to this Agreement shall be and remain the property of the City. Any modification or reuse of such documents by the City without Consultant's prior written consent will be at the City's sole risk. Except as may be otherwise required by law, Consultant will disclose no data, plans, specifications, reports or other documents pertaining to the Services without the prior written consent of City.

15. TERMINATION AND REMEDIES

a. City may terminate this Agreement for convenience by giving at least 10 days written notice to Consultant specifying the termination effective date. Upon receipt of such notice, Consultant may continue performance of the Services through the date of termination. City shall pay Consultant for all Services actually performed in accordance with this Agreement through the termination effective date.

b. If Consultant materially breaches any term of this Agreement, in addition to any other remedies the City may have at law or equity, the City may:

(1) Terminate the Agreement by notice to the Consultant specifying the termination effective date;

(2) Retain, and/or recover from the Consultant at no additional cost to the City, the plans, specification, drawings, reports and other design documents and work products prepared by Consultant, whether or not completed;

(3) Complete the unfinished Services itself or have the unfinished Services completed, and/or;

(4) Charge Consultant, or deduct from monies that may be due or become due the Consultant under this Agreement, the difference between the cost of completing the unfinished Services pursuant to this Agreement and the amount that would otherwise be due Consultant had Consultant completed the Services in accordance with this Agreement.

16. BINDING EFFECT AND ASSIGNMENT PROHIBITION

This Agreement is binding upon City, Consultant, and their successors. Except as otherwise provided herein, neither City nor Consultant may assign, sublet or transfer its

interest in this Agreement or any part thereof without the prior written consent of the other, and any purported assignment without such consent will be void.

17. REPRESENTATIVES

a. City representative for purposes of this Agreement will be Jennifer Owen, Special Projects Manager. Consultant representative for purposes of this Agreement will be Jeff Lucas. The parties' designated representatives will be the primary contact persons regarding the performance of the Services. The parties intend that their designated representatives will cooperate in all matters regarding this Agreement and in such manner so as to achieve performance of the Services in a timely and expeditious fashion.

b. Notices:

Any written notice to Consultant shall be sent to:

Jeff Lucas
Parker Lucas & Associates
dba Community Development Services
3895 Main Street
Kelseyville, CA 95451

Any written notice to City shall be sent to:

Jennifer Owen
Special Projects Manager
City of Fort Bragg
416 N. Franklin Street
Fort Bragg, CA 95437

18. INTEGRATION AND AMENDMENT

This Agreement represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations or agreements, whether written or oral. If a discrepancy, disagreement, ambiguity, inconsistency or difference in interpretation of terms arises as to terms or provisions of this Agreement and any Exhibit(s) attached to this Agreement, this Agreement shall control and shall be deemed to reflect the intent of the Parties with respect to the subject matter hereof, except for Exhibit 2, the terms of which shall remain. This Agreement may only be amended by a writing signed by a representative authorized to bind the Consultant and a representative authorized to bind the City.

19. CONFLICT OF INTEREST PROHIBITION

City and Consultant will comply with the requirements of the City's Conflict of Interest Code adopted pursuant to California Government Code §87300 et seq., the Political Reform Act (California Government Code §81000 et seq.), the regulations promulgated by the Fair Political Practices Commission (Title 2, §18110 et seq. of the California Code of Regulations), California Government Code §1090 et seq., and any other ethics laws applicable to the performance of the Services and/or this Agreement. Consultant may be required to file with the City Clerk a completed Form 700 before commencing performance of the Services unless the City Clerk determines that completion of a Form 700 is not required, pursuant to City's Conflict of Interest Code. Form 700 forms are available from the City Clerk.

Consultant may not perform Services for any other person or entity that, pursuant to any applicable law or regulation, would result in a conflict of interest or would otherwise be prohibited with respect to Consultant's obligations pursuant to this Agreement. Consultant agrees to cooperate fully with City and to provide any necessary and appropriate information requested by City or any authorized representative concerning potential conflicts of interest or prohibitions concerning Consultant's obligations pursuant to this Agreement.

Consultant may not employ any City official, officer or employee in the performance of the Services, nor may any official, officer or employee of City have any financial interest in this Agreement that would violate California Government Code §1090 et seq. Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of City. If Consultant was an employee, agent, appointee, or official of City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 et seq., the entire Agreement is void and Consultant will not be entitled to any compensation for Consultant's performance of the Services, including reimbursement of expenses, and Consultant will be required to reimburse City for any sums paid to Consultant under this Agreement. Consultant understands that, in addition to the foregoing, penalties for violating Government Code §1090 may include criminal prosecution and disqualification from holding public office in the State of California.

Any violation by Consultant of the requirements of this provision will constitute a material breach of this Agreement, and the City reserves all its rights and remedies at law and equity concerning any such violations.

20. APPLICABLE LAW AND VENUE

The laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and the interpretation of this Agreement. Any action or proceeding that is initiated or undertaken to enforce or interpret any provision,

performance, obligation or covenant set forth in this Agreement shall be brought in a state court in Mendocino County.

21. RECOVERY OF ATTORNEYS' FEES

If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret any term of this Agreement, the prevailing party will be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

22. SEVERABILITY

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged will remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

23. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

IN WITNESS WHEREOF, the parties have caused their authorized representative to execute this Agreement on the date first written above.

CITY

By: _____
Linda Ruffing
City Manager

CONSULTANT

By: _____
Jeff Lucas
Principal

ATTEST:

[Attach Notary Acknowledgment Page]

By: _____
June Lemos
City Clerk

APPROVED AS TO FORM:

By: _____
Samantha W. Zutler, City Attorney

Exhibits: Exhibit 1 – Consultant's Proposal
Exhibit 2 – Required Contract Provisions for CDBG –Aided Consultant Contracts

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CITY

CONSULTANT

By: _____
Linda Ruffing
Its: City Manager

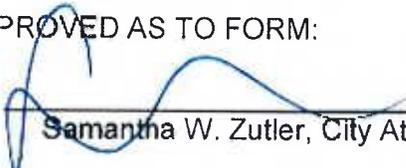
By: _____
Jeff Lucas
Its: Principal

ATTEST:

[Attach Notary Acknowledgment Page]

By: _____
June Lemos
City Clerk

APPROVED AS TO FORM:

By:  _____
Samantha W. Zutler, City Attorney

Exhibits: Exhibit 1 – Consultant's Proposal
Exhibit 2 – Required Contract Provisions for CDBG –Aided Consultant Contracts

EXHIBIT 1

SCOPE OF WORK

PREPARATION OF THE CITY'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) OVER THE COUNTER (OTC) APPLICATION (Geo Aggregates or other Business Project)

Proposed schedule of work and phased milestones for completion, based on the City's notice to proceed.

Compensation is based on \$125 per hour for lead consultant's time and includes all administrative support.

Task #1:

Gather all necessary documentation to determine the financing feasibility of the project for CDBG OTC. Conduct site visits and interviews with owners/fiscal officer of the business. Negotiate deal structure, coordinate the due diligence and project financial structure in cooperation with HCD staff. Based on the completed OTC Pre Application, participate in HCD conference calls, and present the pre-application to State Housing and Community Development. Provide prompt follow up responses to all HCD questions regarding the project in order to obtain an invitation to complete the full OTC application.

Compensation: 48 hrs X 125 hr = \$6,000

Task #2:

If the work performed by Community Development Services (CDS) does not result in an invitation for a complete funding application, no further work will be performed. The full application phase of the project will include: preparation of all financial analysis, forecasts, Return on Investment, financial ratios, industry comparisons, market assumptions and related information, for each of the primary business beneficiaries of the proposed restructure; preparation of all the socioeconomic, public benefit, and employment generation related documentation as required by HCD; preparation of all public sector documentation, including NEPA, necessary to meet HCD requirements; and preparation of all required copies of the OTC application and supporting financials, legal, and related documents required by HCD.

Documentation to include, but not be limited to:

- A. Public Documentation:
 - 1) Growth Control Attachment
 - 2) Audit Finding Attachment
 - 3) Reuse Plan
 - 4) Governing Body Resolution
 - 5) Public Hearing Notices
 - 6) Statement of Assurances
 - 7) Compliance with OMB Circular A-133
- B. Program Budget Summary:
 - 1) Summary Description
 - 2) Description of use of funds and draw down timeline
- C. Public Benefit Documentation:
 - 1) Employment Projection Forms
 - 2) Business Development Narrative, Socio Economic Impacts, Jurisdictional Fiscal Impact Analysis
- D. CDBG underwriting documentation based on benefiting business proformas:
 - 1) Return on investment (ROI), debt capacity ratio (DCR), gap analysis, and all other related documentation to establish appropriateness of financial terms.
- E. CDBG State criteria narrative:
 - 1) Community Need Description
 - 2) Local Requirements Description
 - 3) Site Control Documentation
 - 4) Applicant Capacity Description
 - 5) Business and Developer Management Capacity
 - 6) Appropriateness of Terms
 - 7) Employment opportunities generated by project

Compensation: 120 hrs X 125 hr = \$15,000

Task #3:

Respond to and follow up with HCD requests for additional information, documentation, clarification, schedules, refining forecasts, NEPA, and all other requirements related to the successful preparation of and presentation of the HCD Staff Report to the State OTC Committee.

Compensation: 28 hrs X 125 hr = \$ 3,500

Task #4:

Complete all Special Conditions documentation and loan closing documents related to the loan.

Compensation 20 hrs X 125 hr = \$ 2,500
(Due at time of approval of Special Conditions)

F. Proposed cost of preparing the CDBG OTC application.

Project Application Budget
Project costs-----\$27,000

Note: The project budget includes costs for up to six (6) visits to the City of Fort Bragg as needed to complete the work properly.

BUSINESS LOAN PROGRAMS

Business Financial Assistance Program Start Up

- a. CDS will review the Program Income Reuse Agreement in cooperation with the City and State Housing and Community Development staff. CDS will assist the City, in accordance with HCD CDBG Reuse Account requirements, to properly utilize program income in a timely and equitable manner and in full compliance with HCD CDBG overlay requirements. The current City Program Income Reuse Agreement has been approved by HCD. However, the loan policies may need updating. CDS will follow those policies in close cooperation with City staff.
- b. CDS will prepare and utilize, subject to City approval, CDBG-compliant program forms, contracts, agreements, and any other documents as may be necessary to administer the Program. CDS has developed a standard loan application form packet which has been reviewed and approved periodically by HCD staff. We will provide these documents as well as the laser pro loan closing documents we use to City staff for review and approval. We will also review the document organization system we have developed with City staff and improve upon the system based on City staff input.
- c. CDS will assist City staff with HCD required administrative report forms for monthly grant drawdown's, bi annual & annual reporting, and grant closing activities as needed by City staff. We are very familiar with the reporting

requirements and timelines associated with the CDBG ED program. These reporting functions, and the corresponding documentation, will be completed in cooperation with, and on approval of, City staff. CDS will also prepare, at the City's request, any additional reporting documentation for use at the local level. CDS will assist the City with determining the best way to implement CDBG programs in a cost effective manner.

Business Loan Program Project Application Outreach

- a. CDS routinely works with both the private and public sectors in order to facilitate and implement cost effective services on behalf of local small businesses and prospective borrowers.
- b. The most efficient marketing program is based on networking and word of mouth with loan application and program reference material being available at the local level through websites and at convenient locations. CDS will provide information to the Chamber and local banks regarding the program and how to contact us. Referrals will be made from these sources.
- c. CDS will prepare information sheets regarding the program for reference by our referral network and for the general public.
- d. CDS will cultivate the program network as described in section 2.a. In order to market the program throughout Colusa City. CDS will meet regularly with local bank staff to market the City's loan program and search out referrals and companion loans. The face-to-face meetings will be followed up with telephone contacts to bank commercial loan department contacts. CDS staff will participate in providing loan program workshops. CDS will also work closely with City staff to advise potential borrowers of the availability of business loan funds, provide information as needed, and pursue potential deals as appropriate.
- e. CDS will review and assist applicants with the loan application process and, as early on in the process as practicable, advise the applicant of the credit worthiness of the application and the potential fit with the CDBG business loan program. If the loan makes sense, we will package the deal and carry it forward.
- f. Whenever possible CDS will refer applicants to local appropriate service providers when more work is necessary to prepare the applicant for future consideration. This is an important element of what we do.
- g. The very best way to market this program is to successfully complete loans that work for the City and the business. It is the business community and the banks that will market the program for us if we do our jobs properly.

Business Loan Processing

- a. CDS will work with State CDBG staff to confirm CDBG eligibility based on job creation/retention potential and other criteria, maintain documentation, and perform tracking of job creation and public benefit. CDS has processed over 450 business loans over the past 25 years which have required ongoing communication and problem solving with bank and program staff.
- b. CDS analyzes every loan application utilizing the fundamental five Cs of credit analysis to determine creditworthiness and the CDBG Six Underwriting Criteria. The criteria are addressed in each loan proposal we prepare. This assessment includes running a credit check on each applicant with over 20% ownership of the business. Also, HCD now uses an employment forecast spreadsheet developed by CDS as part of the project review process. We will continue to use this spreadsheet as part of our loan proposals.
- c. CDS will use standard underwriting criteria in conjunction with CDBG ED overlay requirements during the underwriting process to mitigate lending risk as much as possible.
- d. CDS interviews the applicant, visits the business site, gathers the necessary documentation, analyzes the information, prepares the loan proposal, presents the loan proposal, documents the loan decision, prepares the additional necessary supporting documentation, and then completes HCD required check sheet and signature document.
- e. CDS then prepares loan closing documents, prepares escrow instructions, and will work with City staff to properly disperse the loan funds.
- f. CDS will work with City staff to arrange the loan committee meetings, present the proposal to the committee, and if approved, complete the approval process, prepare the loan closing documents and title instructions, work with City staff on the drawdown of funds, and continue to service the loan and report to the City regarding job creation fulfillment, low/mod income placements, issues impacting the business, and payments.
- g. CDS will make recommendations to the City CDBG Loan Committee regarding the utilization of the CDBG loan program and then facilitate the implementation of the City's decision regarding CDBG program funds.

- h. CDS will also coordinate CDBG Business Financial Assistance programs with local conventional and public or nonprofit lenders, in order to leverage funds for business projects.

Loan Closing & Documentation

- a. CDS uses LaserPro® loan closing documentation software, the commercial loan industry standard. All loan conditions are reviewed by the loan committee and HCD staff for appropriateness. Hard copy originals of all loan closing documents will be provided for review by City staff.
- b. CDS follows appropriate program underwriting criteria and analysis for each loan using the appropriate CDBG Economic Development Business Loan Review Checklist to ensure compliance with CDBG Federal overlay requirements, National Objectives, Public Benefit and underwriting requirements. CDS participates in the development CDBG underwriting criteria and utilizes the HCD CDBG ED loan checklist on a routine basis.
- c. CDS will utilize LaserPro® documents and CDBG public benefit documentation in accordance with the loan conditions of each approved loan. These include promissory note, business loan agreement, deed of trust, UCC filings and other loan and loan closing documents required, utilizing industry standard documents that are CDBG-compliant.
- d. CDS will provide specific escrow instructions based on the conditions set by the loan committee after the preliminary title search is completed and the loan has been approved.
- e. CDS will communicate with the title company throughout the process. We often utilize Fidelity Title Company as they are experienced with CDBG lending practices.
- f. When we are able to arrange a companion loan, we will coordinate the issues of security, disbursement, and use of funds with the participating lender. CDS is an experienced lender, we prefer companion loans with local banks because we can share risk and spread our resources further.

Monitor Loan Performance

- a. CDS will follow the **Loan Servicing Procedures** in place with the City in cooperation with City staff. We assisted in the preparation of these procedures in cooperation with City staff, and are familiar with the procedures as well as the roles of City

staff and the consultant. We also understand the importance of communicating activities with the various City Department representatives on a regular basis.

- b. The City Auditor's office issues the payment notices to the borrowers and receives and accounts for the payments as they come in. When payments are not made in a timely manner, the consultant is notified and steps up to make a site visit to the business to meet with the borrower to determine why the payment has not been made. In some cases, there is a need to restructure the repayment schedule to accommodate the debt service capacity of the borrower. In those situations, CDS would gather the business and financial documentation necessary to substantiate the need for a repayment plan modification, present that information and recommendations regarding the proposed modification to the CDBG Loan Committee for review and approval. At this time in the process, CDS will prepare the revised loan agreement modification for signature by the City representative and the borrower.
- c. During the length of the contract with the City, CDS will routinely maintain loan files and perform required post loan closing tasks including monitoring the ongoing viability of the borrowers, including recommendations for action if necessary; monitoring and documentation of job creation/retention as required; and periodic site visits to verify availability and condition of collateral, examine business records and procedures, and offer assistance, obtain annual business financials, tax returns, and make sure all insurance coverage documentation is in place.

General Administration Activities

- a. CDS will update loan related documents as needed in accordance with HCD CDBG ED program guidelines and requirements. Mr. Lucas serves on the Statewide CDBG Economic Development Program Advisory Committee and is up to date on CDBG program requirements.
- b. CDS will provide, in cooperation with the City staff, ongoing liaison and advocacy on the City's behalf with the CDBG ED program field representatives and the program manager regarding all CDBG issues. CDS will perform this function at the direction of City staff. We will also act as an interpreter and advocate on behalf of the loan applicants and recipients.
- c. CDS will assist the City with implementing the program by providing routine updates on program changes and interpretations, as well as by being responsive to specific questions posed by City staff by email or telephone. We acknowledge that the CDBG ED program is often changing; therefore, we make a practice of regular communication with HCD staff. Whenever we are unclear, we contact staff for discussion and determination. On another level, as business lenders, we

have a good deal of experience with assisting small and medium sized businesses. We often provide technical assistance to prospective borrowers, thus improving their debt service capacity.

- d. CDS will work with City staff in the preparation of annual reports for the CDBG PI Reuse Account as needed. CDS will assist City staff with the preparation of open grant reporting as needed. The prepared reports will be submitted to the City for review, signature, and transmittal to the State HCD. This work will require close coordination with City staff and HCD staff. We expect this function to be efficiently fulfilled based on our past experience with City staff. Our work will be based on accepted timelines, and an understanding and agreement on reporting responsibilities.
- e. CDS prepares all loan files in accordance with established business loan practices and in compliance with HCD CDBG program requirements. We will prepare all the necessary loan and CDBG compliance documentation, keeping copies of the files for day to day reference and reporting. The original loan agreements and all support documentation will be kept in a fire proof safe with the City for reference and legal purposes. It should be noted that CDS uses LaserPro® loan closing documents, which are the commercial industry standard.
- f. After termination of the City contract, CDS will provide to the City all documents we have prepared on behalf of the City in an orderly fashion to ensure the proper transition of files, including status of follow-up items, grant close out, and other related documentation.
- g. CDS has experienced many grant monitoring site visits and grant close outs. We will work with City staff to make the necessary preparations and assist City staff to insure the close out occurs properly. CDS will prepare in advance of the actual monitoring by providing accurate and complete documentation in accordance with HCD standards. We will identify and correct any gaps and assist in scheduling the monitoring. CDS staff will be present during the monitoring. CDS will draft any follow up or response information needed as a result of the monitoring.

Other CDBG On Call Duties

- a. CDS will perform such other on-call duties, as may be necessary, but which cannot be specified in advanced so as to reasonably assure the successful implementation of the program and compliance with applicable regulations and policies promulgated by the State Department of Housing and Community Development. These activities may include writing and/or processing Over-the-

Counter grant applications approved by HCD for economic development projects, attending HCD program workshops to ensure knowledge of the most current guidelines, research, report writing, grant application writing, market surveys and other duties as requested.

- b. CDS will attend workshops, trainings and conferences that further our capacity and ability to provide administration and activity delivery services effectively and efficiently for the City. The lead contact between the City and CDS will be Jeff Lucas. Communication will be in person, by telephone, email, memo and letter. Jeff Lucas will call into the City on a regular basis as well as communicate by email and in person as projects are developed, loans are prepared, and reporting is completed.

Business Assistance Loan Program Budget

Based on our rate of \$125 an hour, the average monthly budget for these activities is estimated to be \$2,500 per month or less.

OTC & Business Loan Programs

Proposed Roles and Responsibilities Task Matrix

ACTIVITY	CDS	CITY	BANKS
Financing Structure	X		X
Project Pre-Application and Application Preparations	X		
Program Reporting to HCD	X	X	
Program Reporting to City	X		
Drawdown of Loan Funds	X	X	
Grant Close Out	X	X	
Coordination with Bank	X		
Site Visits	X		
NEPA/CEQA Clearance		X	
Appropriate Test	X		
Presentation to State Loan Committee	X		
Disbursement Administration	X	X	
Escrow Instructions & Loan Docs	X		
Review of Loan Documentation	X		
Loan Servicing and Project Marketing	X		

We are proposing the above breakdown of roles and responsibilities for reference in the contract scope of work. This Task Matrix is based on CDBG ED program function charts and provides a recognized foundation for budgeting purposes.

EXHIBIT 2

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

REQUIRED CONTRACT PROVISIONS for CDBG-Aided Consultant Contracts

Table of Contents

Section	Page
1. General	2-2
2. Conflict of Interest Provisions	2-3
3. Equal Opportunity	2-3
4. Prevailing Wages	2-5
5. Bonus or Commission, Prohibition Against Payments of	2-5
6. Labor Standards--Federal Labor Standards Provisions	2-6
7. Anti-lobbying, Consultant's/Sub-consultant's Certification Concerning	2-6
 FORMS INCLUDED:	
Consultant's/Sub-Consultant's Certification Concerning Anti-Lobbying	2-8

1. General Provisions

- 1.1. This project is funded wholly or in part by the State of California Community Development Block Grant Program and is subject to both Federal and State regulatory requirements. The consultant and its sub-contractors agree to comply with all State and Federal laws and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the Consultant and any subcontractors. The consultant further agrees to comply with all Federal laws and regulations applicable to the CDBG Program and with other Federal provisions as set forth below.
- 1.2. These contract provisions shall apply to all work performed on the contract by the consultant's own organization and with the assistance of workers under the consultant's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.
- 1.3. Except as otherwise provided for in each section, the consultant shall insert in each subcontract all of the stipulations contained in these Required Contract Provisions for CDBG-Aided Consultant Contracts, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions for CDBG-Aided Consultant Contracts shall not be incorporated by reference in any case. The prime consultant shall be responsible for compliance by any sub-consultant or lower tier sub-consultant with these Required Contract Provisions for CDBG-Aided Consultant Contracts.
- 1.4. The consultant and its sub-consultants shall perform the project in accordance with Federal, State and local housing and building codes as are applicable.
- 1.5. The consultant and its sub-consultants shall maintain at least the minimum State-required Worker's Compensation Insurance for those employees who will perform the contract activity(ies) or any part of it.
- 1.6. The consultant and its sub-consultants shall maintain, if so required by law, unemployment insurance, disability insurance and liability insurance in an amount to be determined by the State which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by the consultant or any sub-consultant in performing the project or any part of it.
- 1.7. The consultant and its sub-consultants shall retain all books, records, accounts, documentation, and all other materials relevant to the agreement for a period of five (5) years from date of termination of the agreement, or five (5) years from the conclusion or resolution of any and all audits or litigation relevant to the agreement and any amendments, whichever is later.

- 1.8. The consultant and its sub-consultants shall permit the State, Federal government, the Bureau of State Audits, the Department of Housing and Community Development, the City of Fort Bragg and/or their representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to the agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

2. Conflict of Interest Provisions.

- 2.1. Conflict of Interest of Members, Officers, or Employees of Consultants, Members of Local Governing Body, or other Public Officials

Pursuant to 24 CFR 570.611, no member, officer, or employee of the Consultant, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-assisted activity or its proceeds, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one (1) year thereafter.

- 2.2. Conflict of Interest of Certain Federal Officials

No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

3. Equal Opportunity

- 3.1. The Civil Rights, Housing and Community Development, and Age Discrimination Acts Assurances:

During the performance of this Agreement, the Consultant assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, handicap, religion, familial status, or religious preference, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, the Age Discrimination Act of 1975, the Fair Housing Amendment Act of 1988, and all implementing regulations.

3.2. The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance

3.2.1. The work to be performed under this Agreement is on a project assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Recipients, contractors and subcontractors shall direct their efforts to provide, to the greatest extent feasible, training and employment opportunities generated from the expenditure of Section 3 covered assistance to Section 3 residents in other order of priority provided in 24 CFR 135.34(a)(2).

3.2.2. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

3.2.3. The consultant will include these Section 3 clauses in every contract and subcontract for work in connection with the project and will, at the direction of the State or City, take appropriate action pursuant to the contract upon a finding that any consultant or sub-consultant is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and will not let any contract unless the Consultant or consultant or sub-consultant has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

3.2.4. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be a condition of the Federal financial assistance provided to the project, binding upon the consultant, its successors, and assigns. Failure to fulfill these requirements shall subject the consultant and its sub-consultants, its successors, and assigns to those sanctions specified by the grant or contract through which Federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

3.3. Rehabilitation Act of 1973 and the "504 Coordinator":

The Consultant further agrees to implement the Rehabilitation Act of 1973, as amended, and its regulations, 24 CFR Part 8, including, but not limited to, for Consultants with fifteen(15) or more permanent full or part time employees, the

local designation of a specific person charged with local enforcement of this Act, as the "504 Coordinator."

4. Prevailing Wages

4.1. Where funds provided through this Agreement are used for construction work, or in support of construction work, the Consultant shall ensure that the requirements of California Labor Code (LC), Chapter 1, commencing with Section 1720, Part 7 (pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations) are met.

4.2. For the purposes of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "construction contract"). Where the construction contract will be between the Consultant and a licensed building contractor, the Consultant shall serve as the "awarding body" as that term is defined in the Labor Code. Where the Consultant will provide funds to a third party that will enter into the construction contract with a licensed building contractor, the third party shall serve as the "awarding body." Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.

5. Bonus or Commission, Prohibition Against Payments of

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of:

- A. Obtaining the Department's approval of the application for such assistance; or
- B. The Department's approval of the applications for additional assistance; or
- C. Any other approval or concurrence of the Department required under this Agreement, Title I of the Housing and Community Development Act of 1974, or the State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

6. Labor Standards--Federal Labor Standards Provisions

The Consultant shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of:

6.1 Davis-Bacon Act (40 U.S.C. 3141-3148) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000.

6.2 "Anti-Kickback Act of 1986" (41 U.S.C. 51-58) prohibits any person from:

(1) providing, attempting to provide, or offering to provide any kickback;

(2) soliciting, accepting, or attempting to accept any kickback; or

(3) including directly or indirectly, the amount of any kickback prohibited by clause (1) or (2) in the contract price charged by a subcontractor to a prime contractor or a higher tier subcontractor or in the contract price charged by a prime contractor to the United States.

6.3 Contract Work Hours and Safety Standards Act - CWHSSA (40 U.S.C. 3702) requires that workers receive "overtime" compensation at a rate of one to one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.

6.4 Title 29, Code of Federal Regulations, Subtitle A, Parts 1, 3 and 5 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

7. Anti-Lobbying Certification

The consultant shall require that the language included in the Consultant's/Sub-consultant's Certification concerning Anti-Lobbying form be included in all subcontracts entered into in connection with this activity and that consultant and all subconsultants shall certify and disclose per the requirements of that form.

CITY OF FORT BRAGG
416 North Franklin Avenue
Fort Bragg, California 95437

CONSULTANT'S/SUB-CONSULTANT'S CERTIFICATION
CONCERNING ANTI-LOBBYING

The Consultant shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant activity(ies) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure. "The undersigned certifies, to the best of his or her knowledge or belief, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions."

(Consultant/Sub-consultant)

By _____
Signature

Typed Name and Title

Date

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to title 31 U.S.C. Section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence, the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

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City of Fort Bragg

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

File Number: 16-379

Agenda Date: 9/26/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 7C.

Adopt City Council Resolution Consenting to Inclusion of Properties within the City of Fort Bragg in the California HERO Program to Finance Distributed Generation Renewable Energy Sources, Energy and Water Efficiency Improvements and Electric Vehicle Charging Infrastructure and Approving the Amendment to a Certain Joint Powers Agreement

Assembly Bill (AB) 811 was signed into law on July 21, 2008, and it authorizes a legislative body to designate an area within which authorized public officials and free and willing property owners may enter into voluntary contractual assessments to finance the installation of distributed generation renewable energy sources, energy efficiency, and/or water conservation improvements that are permanently fixed to real property, as specified. Since 2011, the HERO Program has helped more than 75,000 property owners make more than \$1.78 billion in improvements to their homes which reduce energy and water consumption, saving homeowners over \$3 billion in estimated future utility costs and more than 5.7 billion gallons of water. Adopted in 431 California communities, more than 15,100 local jobs have been created as a result of the California HERO Program. Because of its success, the California HERO Program was developed as a "turnkey program" to save other California jurisdictions time and resources in developing a stand-alone program.

To begin the process of making the HERO Program available within a local jurisdiction, the governing body only needs to adopt the attached standardized resolution and approve an amendment to the joint powers agreement related to the California HERO Program (attached to such resolution). The California HERO Program allows property owners in participating cities and counties to finance renewable energy, energy water efficiency improvements and electric vehicle charging infrastructure on their property. If a property owner chooses to participate, the improvements to be installed on such owner's property will be financed by the issuance of bonds by a joint power authority, Western Riverside Council of Governments ("WRCOG") and secured by a voluntary contractual assessment levied on such owner's property. Participation in the program is 100% voluntary. Property owners who wish to participate in the program agree to repay the money through the voluntary contractual assessment collected together with their property taxes. The proposed resolution enables the California HERO Program to be available to owners of property within our City to finance renewable energy, energy efficiency and water efficiency improvements and electric vehicle charging infrastructure. The resolution approves an Amendment to the WRCOG Joint Powers Agreement to add the City of Fort Bragg as an Associate Member in order that the California HERO Program may be offered to the owners of property located within the City of Fort Bragg.

RESOLUTION NO. _____-2016

A RESOLUTION OF THE FORT BRAGG CITY COUNCIL CONSENTING TO INCLUSION OF PROPERTIES WITHIN THE CITY OF FORT BRAGG IN THE CALIFORNIA HERO PROGRAM TO FINANCE DISTRIBUTED GENERATION RENEWABLE ENERGY SOURCES, ENERGY AND WATER EFFICIENCY IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND APPROVING THE AMENDMENT TO A CERTAIN JOINT POWERS AGREEMENT RELATED THERETO

WHEREAS, the Western Riverside Council of Governments (“Authority”) is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the “Act”) and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the “Authority JPA”); and

WHEREAS, Authority has established the California HERO Program to provide for the financing of renewable energy distributed generation sources, energy and water efficiency improvements and electric vehicle charging infrastructure (the “Improvements”) pursuant to Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code (“Chapter 29”) within counties and cities throughout the State of California that elect to participate in such program; and

WHEREAS, the City of Fort Bragg (the “City”) is committed to development of renewable energy sources and energy efficiency improvements, reduction of greenhouse gases, protection of our environment, and reversal of climate change; and

WHEREAS, in Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program; and

WHEREAS, installation of such Improvements by property owners within the jurisdictional boundaries of the counties and cities that are participating in the California HERO Program would promote the purposes cited above; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency and independence, and in doing so cooperate with Authority in order to efficiently and economically assist property owners the City in financing such Improvements; and

WHEREAS, Authority has established the California HERO Program, which is such a voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally made and entered into April 1, 1991, as amended to date, and the Amendment to Joint Powers Agreement Adding the City of Fort Bragg as an Associate Member of the Western Riverside Council of Governments to Permit the Provision of Property Assessed Clean Energy (PACE) Program Services within the City

(the "JPA Amendment"), by and between Authority and the City, a copy of which is attached as Exhibit "A" hereto, to assist property owners within the jurisdiction of the City in financing the cost of installing Improvements; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

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

1. This City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the California HERO Program to finance the installation of the Improvements.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does:

1. Consent to inclusion in the California HERO Program of all of the properties in the jurisdictional boundaries of the City and to the Improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority for the purposes thereof; and
2. Assent to the assumption of jurisdiction by Authority for all purposes of the California HERO Program and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent such contractual assessments; and
3. Approve the JPA Amendment and authorizes the execution thereof by the City Manager.

This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority Executive Committee.

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 26th day of September, 2016, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

RECUSED:

DAVE TURNER,
Mayor

ATTEST:

Brenda Jourdain
Acting City Clerk

EXHIBIT A

AMENDMENT TO THE JOINT POWERS AGREEMENT ADDING CITY OF FORT BRAGG AS AN ASSOCIATE MEMBER OF THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS TO PERMIT THE PROVISION OF PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAM SERVICES WITHIN SUCH CITY

This Amendment to the Joint Powers Agreement (“JPA Amendment”) is made and entered into on the ___day of _____, 2016, by City of Fort Bragg (“City”) and the Western Riverside Council of Governments (“Authority”) (collectively the “Parties”).

RECITALS

WHEREAS, Authority is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the “Joint Exercise of Powers Act”) and the Joint Power Agreement entered into on April 1, 1991, as amended from time to time (the “Authority JPA”); and

WHEREAS, as of October 1, 2012, Authority had 18 member entities (the “Regular Members”).

WHEREAS, Chapter 29 of the Improvement Act of 1911, being Division 7 of the California Streets and Highways Code (“Chapter 29”) authorizes cities, counties, and cities and counties to establish voluntary contractual assessment programs, commonly referred to as a Property Assessed Clean Energy (“PACE”) program, to fund certain renewable energy sources, energy and water efficiency improvements, and electric vehicle charging infrastructure (the “Improvements”) that are permanently fixed to residential, commercial, industrial, agricultural or other real property; and

WHEREAS, Authority has established a PACE program designated as the “California HERO Program” pursuant to Chapter 29 which authorizes the implementation of such PACE financing program for cities and counties throughout the state; and

WHEREAS, City desires to allow owners of property within its jurisdiction to participate in the California HERO Program and to allow Authority under Chapter 29, as it is now enacted or may be amended hereafter, to finance Improvements to be installed on such properties; and

WHEREAS, this JPA Amendment will permit City to become an Associate Member of Authority and to participate in California HERO Program for the purpose of facilitating the implementation of such program within the jurisdiction of City; and

WHEREAS, pursuant to the Joint Exercise of Powers Act, the Parties are approving this JPA Agreement to allow for the provision of PACE services through the California HERO Program, including the operation of such PACE financing program, within the incorporated territory of City; and

WHEREAS, the JPA Amendment sets forth the rights, obligations and duties of City and Authority with respect to the implementation of the California HERO Program within the incorporated territory of City.

MUTUAL UNDERSTANDINGS

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions hereinafter stated, the Parties hereto agree as follows:

A. JPA Amendment.

1. The Authority JPA. City agrees to the terms and conditions of the Authority JPA, attached.

2. Associate Membership. By adoption of this JPA Amendment, City shall become an Associate Member of Authority on the terms and conditions set forth herein and the Authority JPA and consistent with the requirements of the Joint Exercise of Powers Act. The rights and obligations of City as an Associate Member are limited solely to those terms and conditions expressly set forth in this JPA Amendment for the purposes of implementing the California HERO Program within the incorporated territory of City. Except as expressly provided for by the this JPA Amendment, City shall not have any rights otherwise granted to Authority's Regular Members by the Authority JPA, including but not limited to the right to vote on matters before the Executive Committee or the General Assembly, the right to amend or vote on amendments to the Authority JPA, and the right to sit on committees or boards established under the Authority JPA or by action of the Executive Committee or the General Assembly, including, without limitation, the General Assembly and the Executive Committee. City shall not be considered a member for purposes of Section 9.1 of the Authority JPA.

3. Rights of Authority. This JPA Amendment shall not be interpreted as limiting or restricting the rights of Authority under the Authority JPA. Nothing in this JPA Amendment is intended to alter or modify Authority Transportation Uniform Mitigation Fee (TUMF) Program, the PACE Program administered by Authority within the jurisdictions of its Regular Members, or any other programs administered now or in the future by Authority, all as currently structured or subsequently amended.

B. Implementation of California HERO Program within City Jurisdiction.

1. Boundaries of the California HERO Program within City Jurisdiction. The boundaries within which contractual assessments may be entered into under the California HERO Program (the "Program Boundaries") shall include the entire incorporated territory of City.

2. Determination of Eligible Improvements. Authority shall determine the types of distributed generation renewable energy sources, energy efficiency or water conservation improvements, electric vehicle charging infrastructure or such other improvements as may be authorized pursuant to Chapter 29 (the "Eligible Improvements") that will be eligible to be financed under the California HERO Program.

3. Implementation of California HERO Program Within the Program Boundaries. Authority will undertake such proceedings pursuant to Chapter 29 as shall be legally necessary to enable Authority to make contractual financing of Eligible Improvements available to eligible property owners within the Program Boundaries.

4. Financing the Installation of Eligible Improvements. Authority shall implement its plan for the financing of the purchase and installation of the Eligible Improvements under the California HERO Program within the Program Boundaries.

5. Ongoing Administration. Authority shall be responsible for the ongoing administration of the California HERO Program, including but not limited to producing education plans to raise public awareness of the California HERO Program, soliciting, reviewing and approving applications from residential and commercial property owners participating in the California HERO Program, establishing contracts for residential, commercial and other property owners participating in such program, levying and collecting assessments due under the California HERO Program, taking any required remedial action in the case of delinquencies in such assessment payments, adopting and implementing any rules or regulations for the California HERO Program, and providing reports as required by Chapter 29.

City will not be responsible for the conduct of any proceedings required to be taken under Chapter 29; the levy or collection of assessments or any required remedial action in the case of delinquencies in such assessment payments; or the issuance, sale or administration of any bonds issued in connection with the California HERO Program.

6. Phased Implementation. The Parties recognize and agree that implementation of the California HERO Program as a whole can and may be phased as additional other cities and counties execute similar agreements. City entering into this JPA Amendment will obtain the benefits of and incur the obligations imposed by this JPA Amendment in its jurisdictional area, irrespective of whether cities or counties enter into similar agreements.

C. Miscellaneous Provisions.

1. Withdrawal. Authority may withdraw from this JPA Amendment upon six (6) months written notice to the other party; provided, however, there is no outstanding indebtedness of Authority within City. The provisions of Section 6.2 of the Authority JPA shall not apply to City under this JPA Amendment. Notwithstanding the foregoing, City may withdraw, either temporarily or permanently, from its participation in the California HERO Program or either the residential or commercial component of the California HERO Program upon thirty (30) written notice to WRCOG without liability to the Authority or any affiliated entity. City withdrawal from such participation shall not affect the validity of any voluntary assessment contracts (a) entered prior to the date of such withdrawal or (b) entered into after the date of such withdrawal so long as the applications for such voluntary assessment contracts were submitted to and approved by WRCOG prior to the date of City's notice of withdrawal.

2. Mutual Indemnification and Liability. Authority and City shall mutually defend, indemnify and hold the other party and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the willful misconduct or negligent acts, errors or omissions of the indemnifying party or its directors, officials, officers, employees and agents in connection with the California HERO Program administered under this JPA Amendment, including without limitation the payment of expert witness fees and attorney's fees and other related costs and expenses, but excluding payment of consequential damages. Without limiting the foregoing, Section 5.2 of the Authority JPA shall not apply to this JPA Amendment. In no event shall any of Authority's Regular Members or their officials, officers or employees be held directly liable for any damages or liability resulting out of this JPA Amendment.

3. Environmental Review. Authority shall be the lead agency under the California Environmental Quality Act for any environmental review that may require in implementing or administering the California HERO Program under this JPA Amendment.

4. Cooperative Effort. City shall cooperate with Authority by providing information and other assistance in order for Authority to meet its obligations hereunder. City recognizes that one of its responsibilities related to the California HERO Program will include any permitting or inspection requirements as established by City.

5. Notice. Any and all communications and/or notices in connection with this JPA Amendment shall be either hand-delivered or sent by United States first class mail, postage prepaid, and addressed as follows:

Authority:

Western Riverside Council of Governments
4080 Lemon Street, 3rd Floor. MS1032
Riverside, CA 92501-3609
Att: Executive Director

City:

City of Fort Bragg
416 N Franklin Street
Fort Bragg, CA 95437

6. Entire Agreement. This JPA Amendment, together with the Authority JPA, constitutes the entire agreement among the Parties pertaining to the subject matter hereof. This JPA Amendment supersedes any and all other agreements, either oral or in writing, among the Parties with respect to the subject matter hereof and contains all

of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by the other Party or anyone acting on behalf of the other Party that is not embodied herein.

7. Successors and Assigns. This JPA Amendment and each of its covenants and conditions shall be binding on and shall inure to the benefit of the Parties and their respective successors and assigns. A Party may only assign or transfer its rights and obligations under this JPA Amendment with prior written approval of the other Party, which approval shall not be unreasonably withheld.

8. Attorney's Fees. If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, each Party to the litigation shall bear its own attorney's fees and costs.

9. Governing Law. This JPA Amendment shall be governed by and construed in accordance with the laws of the State of California, as applicable.

10. No Third Party Beneficiaries. This JPA Amendment shall not create any right or interest in the public, or any member thereof, as a third party beneficiary hereof, nor shall it authorize anyone not a Party to this JPA Amendment to maintain a suit for personal injuries or property damages under the provisions of this JPA Amendment. The duties, obligations, and responsibilities of the Parties to this JPA Amendment with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

11. Severability. In the event one or more of the provisions contained in this JPA Amendment is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this JPA Amendment and the remaining parts of this JPA Amendment shall remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this JPA Amendment.

12. Headings. The paragraph headings used in this JPA Amendment are for the convenience of the Parties and are not intended to be used as an aid to interpretation.

13. Amendment. This JPA Amendment may be modified or amended by the Parties at any time. Such modifications or amendments must be mutually agreed upon and executed in writing by both Parties. Verbal modifications or amendments to this JPA Amendment shall be of no effect.

14. Effective Date. This JPA Amendment shall become effective upon the execution thereof by the Parties hereto.

IN WITNESS WHEREOF, the Parties hereto have caused this JPA Amendment to be executed and attested by their officers thereunto duly authorized as of the date first above written.

[SIGNATURES ON FOLLOWING PAGES]

WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS

By: _____
Name: _____
Title: _____

Date: _____

CITY OF FORT BRAGG

By: _____
Name: Linda Ruffing
Title: City Manager

Date: _____

20323.00016\8035530.3



City of Fort Bragg

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

File Number: 16-380

Agenda Date: 9/26/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 7D.

Adopt City Council Resolution Authorizing Submittal of an Application and Execution of State Parks Grant Agreement, Committing Match of \$7,695, and Amending the FY 2016-17 Budget to Purchase Two Fully Equipment Police ATVs (Amount Not To Exceed \$16,744; Transfer from Grant Funds Account No. 329-7999-0799 to Fleet Account No. 522-4550-0742)

The Fort Bragg Police Department applied for a grant from the 2015/16 Grant and Cooperative Agreements Program through the California Department of Parks and Recreation, Off-Highway Motor Vehicle Recreation Division, for the purchase of two to three fully equipped All-Terrain Vehicles (ATVs). As required by the grant guidelines, the FBPD issued a Press Release on March 7, 2016, to provide notice to the public about the grant project before the application was submitted. The FBPD was awarded grant funding of \$16,744, and the adjusted project budget provides for purchase of two ATVs and related equipment, plus maintenance, staffing, and indirect costs for the grant period. The grant funds will pay for the two ATVs and safety equipment. Match of \$7,695 will pay for safety equipment, staffing, maintenance, and indirect expenses. Match will be provided from the Fort Bragg Police Department Operations FY 2016-17 budget. The grant period begins when the agreement is executed and terminates August 31, 2017. The FBPD expects to use the ATVS for patrolling special events such as parades, Independence Day event, search and rescue operations, Coastal Trail patrol and any other community events or activities where their use would be practical. A Resolution has been prepared to authorize the application, execute the Grant Agreement, commit the match, and move grant funds, once received, from Fund 329 to Fund 522, Fleet Account, and to authorize expenditure of grant and match funds so the purchase can be accomplished.

RESOLUTION NO. ____-2016

RESOLUTION OF THE FORT BRAGG CITY COUNCIL AUTHORIZING SUBMITTAL OF AN APPLICATION AND EXECUTION OF STATE PARKS GRANT AGREEMENT; COMMITTING MATCH OF \$7,695; AND AMENDING THE FY 2016-17 BUDGET TO PURCHASE TWO FULLY EQUIPPED POLICE ATVS (AMOUNT NOT TO EXCEED \$16,744; TRANSFER FROM GRANT FUNDS ACCOUNT NO. 329-7999-0799 TO FLEET ACCOUNT NO. 522-4550-0742)

WHEREAS, the people of the State of California have enacted the Off-Highway Motor Vehicle Recreation Act of 2003, which provides funds to the State of California and its political subdivisions for Operation and Maintenance, Restoration, Law Enforcement, and Education and Safety for off-highway vehicle recreation; and

WHEREAS, the Off-Highway Motor Vehicle Recreation Division with the California Department of Parks and Recreation has been delegated the responsibility to administer the program; and

WHEREAS, procedures established by the California Department of Parks and Recreation require the City Council of the City of Fort Bragg to certify by Resolution approval of the Application to apply for Off-Highway Motor Vehicle Grant funds; and

WHEREAS, after publicizing its intent to file an application with a Press Release issued on March 7, 2016, the Fort Bragg Police Department applied for and was awarded Off-Highway Vehicle Grant Funds in the Law Enforcement category for a Project that includes purchase two All-Terrain Vehicles (ATV) including related equipment plus staffing and maintenance for specified tasks for the grant period; and

WHEREAS, whereas the grant award require a match of \$7,695 which has been identified in the Fort Bragg Police Departments' FY2016-2017 Operations budget; and

WHEREAS, the Project is in conformance with the City of Fort Bragg adopted general or master plan and is compatible with the land use plans of the City of Fort Bragg; and

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

1. The Fort Bragg Police Department issued a Press Release on March 7, 2016, to notify city residents of the Project Application as required per grant guidelines.
2. The City of Fort Bragg authorizes filing of an application for an Off-Highway Vehicle Grant or Cooperative Agreement.
3. The City of Fort Bragg understands the Project Agreement and its legal obligations to the State upon approval of the Grant and will ensure that the Project acquisitions will be well-maintained during equipment useful life.
4. Match funding has been identified in the Fort Bragg Police Department FY2016-2017 Operations budget and will be committed to the Project.

5. The City Manager or any designee(s) is authorized to conduct all negotiations, execute and submit all documents including, but not limited to Applications, agreements, amendments, payment request, and so on, which may be necessary for completion of the Project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg does hereby authorize submittal of an application and execution of a State Parks Grant Agreement; commitment of match of \$7,695; and amendment of the FY 2016-17 Budget to Purchase Two Fully Equipped Police ATVs (Amount Not to Exceed \$16,744; Transfer from Grant Funds Account No. 329-7999-0799 to Fleet Account No. 522-4550-0742).

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 26th day of September, 2016, by the following vote:

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

DAVE TURNER,
Mayor

ATTEST:

Brenda Jourdain
Acting City Clerk

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City of Fort Bragg

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

Text File

File Number: 16-373

Agenda Date: 9/26/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Resolution

Agenda Number: 7E.

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

RESOLUTION NO. _____-2016

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

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

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

WHEREAS, on August 10, 2015, the Fort Bragg City Council adopted Resolution No. 3837-2015 declaring a Stage 1 Water Emergency and calling for immediate implementation of water conservation measures; and

WHEREAS, on September 30, 2015, the Fort Bragg City Council conducted an emergency meeting at which the City Manager reported that the City’s Noyo River diversion was not reliably providing water due to low flows and high salinity content, thus critically impairing the City’s ability to replenish water; and

WHEREAS, based on the aforementioned circumstances, the Fort Bragg City Council adopted Resolution No. 3856-2015, by which it declared a Stage 3 Water Emergency and instituted mandatory water conservation measures intended to reduce water use by 30% from the same period in the previous year as described in Title 14, Section 14.06 of the City of Fort Bragg Municipal Code; and

WHEREAS, at a regular meeting on October 13, 2015, the Fort Bragg City Council adopted Resolution No. 3857-2015, by which it reaffirmed Resolution No. 3856-2015 and its declaration of a Stage 3 Water Emergency; and

WHEREAS, at a regular meeting on October 13, 2015, the Fort Bragg City Council adopted Resolution No. 3858-2015, declaring a local drought emergency in the City of Fort Bragg; and

WHEREAS, at a regular meeting on November 9, 2015, the City Council of the City of Fort Bragg adopted Resolution No. 3865-2015, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on December 14, 2015, the City Council of the City of Fort Bragg adopted Resolution No. 3875-2015, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on December 14, 2015, the Fort Bragg City Council unanimously voted to reduce the Stage 3 Water Emergency to a Stage 1 Water Emergency; and

WHEREAS, at a regular meeting on January 11, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3883-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on February 8, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3887-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on March 14, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3890-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on April 11, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3893-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on May 9, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3900-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on June 13, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3905-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on July 11, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3918-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on July 25, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3924-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, at a regular meeting on August 22, 2016, the City Council of the City of Fort Bragg adopted Resolution No. 3924-2016, by which it continued the local drought emergency for an additional 30 days in accordance with California Government Code section 8630(c); and

WHEREAS, while the immediate threat to the Noyo River diversion has receded as a result of recent precipitation, the City of Fort Bragg's water system remains imperiled unless and until the Summers Lane Reservoir is constructed, filled, and

capable of providing supplemental water during periods of extreme low flows in the Noyo River;

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

BE IT FURTHER RESOLVED that the City Council of the City of Fort Bragg will review the need for continuing the local drought emergency at least once every 30 days until the City Council terminates the local drought emergency; and

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

The above and foregoing Resolution was introduced by Councilmember _____, seconded by Councilmember _____, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 26th day of September 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

RECUSED:

DAVE TURNER
Mayor

ATTEST:

Brenda Jourdain
Acting City Clerk



City of Fort Bragg

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Text File

File Number: 16-369

Agenda Date: 9/26/2016

Version: 1

Status: Consent Agenda

In Control: City Council

File Type: Committee Minutes

Agenda Number: 7F.

Receive and File Minutes of June 1, 2016 Finance and Administration Committee Meeting



City of Fort Bragg

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

Meeting Minutes Finance and Administration Committee

Wednesday, June 1, 2016

3:00 PM

City Hall Conference Room, 416 N. Franklin Street

MEETING CALLED TO ORDER

Chair Turner called the meeting to order at 3:08 PM

ROLL CALL

Staff Present: Finance Director Victor Damiani, City Clerk June Lemos and
Administrative Assistant Brenda Jourdain

Present: 2 - Doug Hammerstrom and Dave Turner

1. APPROVAL OF MINUTES

1A. [16-217](#) Approve Minutes of Special Meeting of May 3, 2016

A motion was made by Committee Member Hammerstrom, seconded by Chair Turner, that these Committee Minutes be approved. The motion carried by an unanimous vote.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

3. CONDUCT OF BUSINESS

3A. [16-214](#) Receive Report Regarding Modifications to City Council, Council Committee, and Planning Commission Meeting Minutes Format and Provide Recommendation to the City Council

City Clerk Lemos reviewed the Summary Report prepared for this item regarding modification to all City meeting minute format and answered any questions.

The following was noted during discussion of this item:

- * There was discussion about possible technology failure.
- * Committee meetings are not being live streamed at this time. Staff recommends live streaming all Committee Meetings at Town Hall and putting them on the City's website.
- * The meeting video is taped and is held on the City's server. These meetings are public record and are maintained on a permanent basis.
- * There was discussion on how minutes are handled regarding public comment.
- * Staff training on running a meeting and asking for motions that will be recorded in brief summary minutes for all Council Committee, City Council and Planning Commission minutes was discussed in addition to Council training on how to make a motion for additional staff action.

It was moved by Committee member Hammerstrom, seconded by Chair Turner, that the City transition to brief summary minutes and that the City Clerk train the five people on staff who take minutes for Committee Meetings to use the same brief format. The motion passed by a unanimous vote.

3B. [16-216](#) Receive Oral Update from Staff on Departmental Activities

It was reported:

- * Finishing the FY 2016/17 City Budget
- * Year-end audit scheduled for end of July.
- * Completed personnel open enrollment.
- * Coastal Trail Celebration on June 4th.
- * New phone system installment.

MATTERS FROM COMMITTEE / STAFF

ADJOURNMENT

Chair Turner adjourned the meeting at 3:36 PM



City of Fort Bragg

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Text File

File Number: 16-386

Agenda Date: 9/26/2016

Version: 1

Status: Closed Session

In Control: City Council

File Type: Report

Agenda Number: 8A.

CONFERENCE WITH REAL PROPERTY NEGOTIATORS:

Pursuant to California Government Code Section 54956.8

Property: 90 West Redwood Ave., Fort Bragg, CA

(APNs 018-430-21, -22; 018-010-67; 008-161-08; 008-171-07; 008-020-13, -15)

Agency Negotiator: Linda Ruffing, City Manager

Negotiating Parties: City of Fort Bragg and Georgia-Pacific, LLC

Under Negotiation: Real property negotiations, including price and terms of payment.