MEETING CALLED TO ORDER

ROLL CALL

1. APPROVAL OF MINUTES

   1A. 20-557 Approve Minutes of November 13, 2019

       Attachments: PWM 11132019

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

3. CONDUCT OF BUSINESS

   3A. 19-494 Receive Report Regarding RFP Scope of Work for Pudding Creek Water Main Relocation Project and Provide Recommendation to City Council

       Attachments: 01082019 Pudding Creek Water Main Project RFP Report
                     Att 1- RFP Scope Pudding Creek Water Main Design

   3B. 20-560 Discussion of Capacity Fee Waivers in the Central Business District

       Attachments: 01082020 Staff Rpt-CBD Capac Rate Waive.docx
                     01082020 Attach 1-Ord staff rpt
                     01082020 Attach 2-ORD#954.docx

4. MATTERS FROM COMMITTEE / STAFF

ADJOURNMENT
STATE OF CALIFORNIA

COUNTY OF MENDOCINO

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on January 3, 2019.

Sandy Arellano, Public Works Project Analyst

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.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).
Agenda Date: 1/8/2020

In Control: Public Works and Facilities Committee

Agenda Number: 1A.

Approve Minutes of November 13, 2019

Status: Minutes to be Approved

File Type: Committee Minutes
MEETING CALLED TO ORDER

Chair Lee called the meeting to order at 3:02 PM.

ROLL CALL

Present: 2 - Will Lee and Jessica Morsell-Haye

1. APPROVAL OF MINUTES

1A. 19-467 Approve Minutes of November 13, 2019

A motion was made by Chair Lee, seconded by Committee Member Morsell-Haye, that these Committee Minutes be approved for Council review. The motion carried by a unanimous vote.

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

Public comment was received from:
- Michael w/ Solar Company
- Nathan Orsi

3. CONDUCT OF BUSINESS

3A. 19-456 Receive Report and Make Recommendation Regarding Changed Parking Lot Orientation for Sears Alley Parking Spaces

Engineering Technician, Chantell O’Neal presented, Chair Lee approved moving forward with the project, Council Jessica Morsell-Haye seconded agreement.

Committee members approved moving forward with the project.

3B. 19-099 Receive Oral Update from Staff on Departmental Activities

Public Works Director Tom Varga presented current and coming project updates on: The Streets Rehabilitation and WWTP projects near completion, Maple Street Storm Drain/Alley and Pudding Creek water line project in design. Raw-Line, Lift Station and CV Starr Pool projects underway.
Also announced; Contract with Diversion Strategies and shared the States representatives visit to Bainbridge Park regarding Prop. 68 funding. Capacity fees coming back to committee, Sidewalk clock repair in progress and E. Fir Street round-a-bout is gone however signage is still up and stop signs to be transposed. Simpson Road round-a-bout City welcome sign to be revisited, Mendocino County Supervisor Gjerde should be of assistance.

Veterans Day appreciation to: Nancy Bennett, FBPD and City Staff support for a good turn out.

4. MATTERS FROM COMMITTEE / STAFF

Committee member Morsell-Hayes asked about the City's Storm Drain System's maintenance (regarding a specific site) and was provided with a summary from Engineering Technician O'Neal regarding the routine maintenance and inspection schedule performed by Public Works field crews usually in October however has been delayed. Engineering Technician O'Neal to follow up on the specific site. Director Varga explained the gutter system is old and updating it would be expensive and difficult process.

ADJOURNMENT

Meeting adjourned by Chair Lee at 3:44 PM.
Receive Report Regarding RFP Scope of Work for Pudding Creek Water Main Relocation Project and Provide Recommendation to City Council
COUNCIL COMMITTEE ITEM SUMMARY REPORT

MEETING DATE: NOVEMBER 13, 2019
TO: PUBLIC WORKS AND FACILITIES COMMITTEE
FROM: TOM VARGA; PUBLIC WORKS DIRECTOR
AGENDA ITEM TITLE: Receive Report Regarding RFP Scope of Work for Pudding Creek Water Main Relocation Project and Provide Recommendation to City Council

BACKGROUND AND OVERVIEW:
A design Request For Proposals (RFP) for the Pudding Creek Water Main Relocation Project is being prepared for an upcoming City Council Agenda item. The objective of this project is to relocate approximately 1000 feet of a 10-inch water main which currently crosses Pudding Creek on a dam owned by Georgia Pacific (GP) to the nearby State Route 1 Bridge over Pudding Creek owned by the California Department of Transportation (Caltrans). The project description and scope of work is further described in the attached RFP.

Budget
The total estimated cost for implementing this project is $1,312,500 as described below in table 1. The cost of the design portion of this contract is estimated at 10% of the construction component for a total cost of $101,000.00. Staff recommends the cost for design to be funded from the water enterprise fund. The design for this project is not budgeted in the 2019-2020 budget and will require a budget amendment.

<table>
<thead>
<tr>
<th>Pudding Creek Water Main Relocation Project Cost Estimate</th>
</tr>
</thead>
<tbody>
<tr>
<td>City Project #</td>
</tr>
<tr>
<td>WTR-00014</td>
</tr>
<tr>
<td>DESCRIPTION</td>
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<tr>
<td>-------------</td>
</tr>
<tr>
<td>PRE-CONSTRUCTION</td>
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<tr>
<td>Design and Engineering</td>
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<td>Permits</td>
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<td>Environmental Review</td>
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<td>Description</td>
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<td>-------------------------------------------------</td>
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<tr>
<td><strong>Subtotal</strong></td>
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<tr>
<td><strong>CONSTRUCTION</strong></td>
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<td>SWPP</td>
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<tr>
<td>Traffic Control</td>
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<tr>
<td>Mobilization</td>
</tr>
<tr>
<td>Surveying/Construction Staking</td>
</tr>
<tr>
<td>Demolition/Site Preparation</td>
</tr>
<tr>
<td>Install buried 10-inch water pipe</td>
</tr>
<tr>
<td>Install 10-inch Water Pipe on Bridge</td>
</tr>
<tr>
<td><strong>Subtotal</strong></td>
</tr>
<tr>
<td><strong>OTHERS</strong></td>
</tr>
<tr>
<td>Construction Management (15% of Construction)</td>
</tr>
<tr>
<td><strong>TOTAL COST</strong></td>
</tr>
</tbody>
</table>

**RECOMMENDATION:**
Recommend approval of the Request for Proposals (RFP) to City Council Engineering and Design of the Pudding Creek Water Main Relocation Project.

**ATTACHMENTS:**
Att 1- RFP Scope of Work for Pudding Creek Water Main Relocation Project
The City of Fort Bragg is seeking proposals from qualified professionals interested in contracting with the City of Fort Bragg to prepare construction documents for relocation and replacement of the Pudding Creek Water Main.

SCOPE OF WORK

The objective of this project is to relocate approximately 1000 feet of a 10-inch water main which currently crosses Pudding Creek on a dam owned by Georgia Pacific (GP) to the nearby State Route 1 Bridge over Pudding Creek owned by the California Department of Transportation (Caltrans). The bridge is approximately 600 feet downstream of the dam and current crossing. In December of 2016, the water main partially lost its support when the dam was overtopped during a storm. The dam and the water main lie in the estuary and floodplain of Pudding Creek. The dam has built in 1955 by GP’s predecessor, Union Lumber Company, to store water for lumber mill operations in Fort Bragg. This main was placed on the dam in 1984 and serves the health, safety, and fire protection needs of property within the City north of Pudding Creek.

The 2016 storm resulted in damage and exposure of three of the water main’s support piers, one on the north side and two on the south. Temporary measures were taken by GP and the City to support and armor the damaged areas of the dam and protect the City’s main. Caltrans is preparing to widen the State Route 1 Bridge over Pudding Creek in 2020 or 2021. An agreement has been reached with Caltrans to incorporate the addition of a sleeve or hangers on the east side of the bridge widening project for the relocation of the City’s water main. This addition to the Caltrans portion of the project allows the City to take advantage of the environmental review and permitting process being undertaken for the widening. With the off-bridge work being done in existing streets, remaining environmental review and permitting is expected to be minimal. The boundary of the Coastal Zone appears to lie along the centerline of State Route 1 as it crosses Pudding Creek. The proposed water main route is shown in Figure 1.

The pipe line shall be attached to the newly added structural supports on the east side of the Pudding Creek Bridge on State Route 1. The method of attachment shall protect the pipe from damage, provide support for seismic loads, and allow for expansion/contraction of pipe and bridge materials. The pipeline shall leave the bridge at a location adjacent to the existing abutments on the southeast and northeast corners of the bridge. Typical design elements may include double-walled construction, pipe hangers or slides and support hardware, horizontal and vertical alignments and elbows for above-ground pipes, and buttresses at the start and end of the bridge crossing. The pipe crossing location and construction documents shall be approved by the California Department of Transportation.

In addition, short, new water main extensions north and south of bridge will be needed to connect to the existing water system. One connection will be directly to the north to the existing water main in Highway
1 (Main Street). The other on the south will be to the existing main in Manzanita Street approximately 200 feet east of Highway 1 (Main Street), (see Figure 1). The scope of work includes all necessary appurtenances.

This contract would consist of the following tasks:

1. Preparation of design and construction documents for relocation of the existing pipeline from the dam to the bridge. Construction documents include:
   a. Engineering evaluation of existing conditions and constraints of the pipeline and appurtenances.
   b. Topographic and boundary survey of the project area in sufficient detail to design and build the project. Field investigation shall be extended to confirm the approximate location of underground facilities. City staff will assist with potholing.
   c. Preparation of an engineer’s construction cost estimate at the 50%, 90% and 100% stages of design. The City will need 10 working days to review and comment at both the 50% and 90% stages.
   d. Improvement plans, technical specifications, and any other relevant attachments needed to construct the project.

2. Prepare a hydraulic analysis of the proposed replacement/relocation of pipeline using material, 10-in diameter, and capacity for service area. Previously performed analysis will be provided for review.

3. Prepare a seismic analysis to determine optimum supports and appurtenances for design earthquake load, and allow for expansion and contraction of materials.

4. Coordination with Caltrans and Georgia Pacific for the right of entry and encroachment permit process and preparation of required documentation. These processes shall be started immediately upon award of the professional services agreement. Right of way acquisition is not anticipated for this project. However a preliminary review by the consultant shall be undertaken as an early task to confirm. The agreement may be modified if right of way acquisition assistance is required.

5. Preparation of Construction documents and Technical Specifications meeting City of Fort Bragg standards, Caltrans requirements, and the County of Mendocino regulations as applicable. All mitigations identified by the City, environmental documents, or permitting agencies shall be incorporated into the design and included in the contract documents. The City will prepare the Contract Document (General Provisions) and Bid Form sections of the specifications.

6. Preparation of a list of construction submittals for inclusion in the construction contract documents and for use during construction (including Buy American Certification requirements).

7. Professional services during the bid period, including attending any pre-bid meetings or walks, answering questions from potential bidders, and preparing addenda. The City is not amenable to adjustments to the contract amount for these services at any future time unless additional services are requested. Construction management services, if needed, will be requested and contracted for separately.

8. All construction documents shall be fully compliant with all of the requirements of any funding source. Consultant is responsible for thoroughly reviewing and understanding the design and construction requirements imposed by funding sources, and to ensure they are fully incorporated into the construction documents. Consultant shall work with City staff to ensure that the contract documents reflect all the funding source requirements.


10. Submittal of an electronic copy of all finished products in Microsoft Word or Excel.
PROPOSAL SUBMITTAL REQUIREMENTS

1. Proposers should send a complete digital proposal, collated into one PDF document, 3 printed copies of the completed proposals and cost bid so that it is received by the City no later than 2:00 p.m. on ____________, 2020 to:
   
   City of Fort Bragg
   Attention: June Lemos, CMC, City Clerk
   416 North Franklin Street
   Fort Bragg, CA 95437

2. Format: Printed proposal should be 8 ½ x 11 inches, printed two-sided on recycled and recyclable paper with removable bindings, bound in a single document and organized in sections following the order specified under contents.

3. Contents: Proposal shall contain the following information
   
   A. Firm Description
      Provide a description of your firm and list relevant information about capabilities, size rate of services, and length of time in existence.

   B. Relevant Experience
      Describe relevant experience in preparing capital improvement projects within the Caltrans right of way, including water main construction, for other public agencies. Describe relevant experience in water main design and other relevant experience in designing for construction in environmentally sensitive areas.

   C. Key Personnel Qualifications
      Identify key personnel who would work on the project, as assigned their respective roles and a synopsis of relevant experience.

   D. References
      List of public agencies or clients for whom similar work has been performed, with the name, title and phone number of a contact person. The may request a copy of a similar report prepared previously by the firm for another agency.

   E. Scope of Work
      Provide an explanation of tasks associated with the project, including how you propose to complete each task.

   F. Budget and Schedule of Charges
      Provide a “Not to Exceed” amount and a list of Personnel Rates, Equipment Charges, Travel Reimbursement Costs, and Job Descriptions for Personnel. Please be aware that prevailing wage rates apply to some preconstruction work, such as inspection and land surveying, for public works projects.

   G. Work Schedule
      Provide time schedule for completion of work.

   H. Insurance
      The individual or firm receiving the contract shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, employees or subcontracts as set forth in Section 13 of Exhibit “A” which is attached hereto and incorporated by reference herein. Any requests for reduction in the insurance amount shall be included in the proposal. The cost of such insurance shall be included in the consultant’s proposal.

   I. Consultant Agreement
      The City’s standard consultant services agreement is attached as Exhibit “A”. Please identify if your firm would have any issues with the provisions of the City’s standard consulting services agreement. All requests for amendments to language in the agreement must be included in the proposal.

EVALUATION CRITERIA
Proposals will be evaluated on the basis of the following criteria:
• Capabilities and resources of the firm.
• Qualifications and experience of key individuals.
• Schedule for completion of work.

The above selection criteria are provided to assist proposers and are not meant to limit other considerations that may become apparent during the course of the selection process.

Proposals will be reviewed and evaluated by the City of Fort Bragg and a recommendation for award of contract will be presented to the Fort Bragg City Council.

OTHER CONSIDERATIONS
The City of Fort Bragg reserves the right to reject any and all proposals. This Request for Proposals does not commit the City to award contract, pay any costs incurred in the preparation of proposals, or to procure or contract for supplies or services.

The City of Fort Bragg reserves the right to negotiate with any qualified source or to cancel, in part or in its entirety, this Request for Proposals, if it is in the best interest of the City to do so. The City may require the selected consultant to participate in negotiations, and submit such price, technical or other revisions of the proposal that may result from negotiations.

QUESTIONS
Questions should be directed to:

Tom Varga
City of Fort Bragg
416 North Franklin Street
Fort Bragg CA 95437
(707) 961-2823
E-mail: tvarga@fortbragg.com

ATTACHMENTS
Exhibit “A” – City’s standard Professional Services Agreement
Exhibit “B” – Proposed Project Schedule
Agenda Date: 1/8/2020  Version: 1  Status: Business

In Control: Public Works and Facilities Committee  File Type: Staff Report

Agenda Number: 3B.

Discussion of Capacity Fee Waivers in the Central Business District
BACKGROUND AND OVERVIEW:

At its September 23, 2019 City Council meeting, Council provided staff direction to develop a Development Impact Fee Deferral Program for Council approval. The Development Impact Fee Deferral Program was brought forward to City Council in advance of the full Business Development, Economic Development and Housing Development Incentives Policy Manual, so that the new program to defer water and wastewater capacity fees could be applied to a pending low income housing project. In addition, an incomplete part of the Policy Manual is called, “Central Business District Capacity Fee Forgiveness Program.” Today’s discussion can also be used to develop draft program for the Policy Manual.

On November 12, 2019, The City Council introduce Ordinance 954-2019 to add Chapter 15.36 – Deferral of Development Impact Fees (attached) to the municipal code. The Ordinance was adopted November 25, 2019. The chapter allows the deferral of water and waste water capacity fees for qualified projects. In addition to low-income residential projects, this program can be applied to commercial projects in the Central Business District (CBD). However as a fee deferral program, the fees must ultimately be paid back over a two or three year period with accrued interest. The accompanying City Council staff report provides a detailed background and analysis of fee deferral programs. It is attached for further reference.
At its November 25th meeting, Council asked the Public Works & Facilities Committee to consider the waiver of capacity fees for projects within the Central Business District that intensified land use. This intensification would be of a nature that triggered the payment of water or waste water capacity fees. The most likely source of such intensification would be the addition or creation of a restaurant and/or bar in a building where one had not already paid capacity fees for a restaurant and/or bar.

Briefly, development impact fees are one-time charges applied to new development or expansion to fund the increased needs for City infrastructure impacted by the service needs of new development. However, development impact and permit fees are often cited as a hurdle to development. In response, a number of cities and counties have created programs to provide for deferral of some of these fees, to encourage construction of residential and/or nonresidential development projects. The fact that development fees are generally accumulated over years and then used to pay for future projects makes it easier to defer their collection.

A more aggressive approach is to not just defer impact/capacity fees, but to waive them in part or entirely. Such a waiver reduces the collection of capacity fees. In turn, this shifts a portion of capital improvements to the ratepayers who make up the difference as a greater portion of the water or wastewater rate. With a large number of projects contributing their share of funding capital improvements, the proportionate burden for each project is smaller. Similarly, the share provided by the rate payers is smaller. Conversely, reducing the imposition of capacity fees increases these shares. The third source of funding, grants and loans, remains unchanged.

While the immediate discussion is intended to cover the CBD, larger policy matters come into play. First, restricting capacity fee waivers to just the CBD excludes other types of projects. Second, as capacity fees are waived, the remaining projects and ratepayers pay a greater portion of the cost for capital improvements. Given that water and waste water infrastructure are in need of extensive and costly upgrades or improvements this is also an important policy consideration. Third, can waivers be used as an incentive to accomplish other important goals?
Questions for the Committee consider include:

- What is the appropriate scope of capacity waivers; should other locations or land uses be included?
- If a waiver is desired, how much of the total obligation might be waived?
- What are the justifications for waivers?
- What is the appropriate blend of funding sources between development-based capacity fees, ratepayer contributions, and loans/grants?
- Should other options be considered? The estimates and assumptions for high cost capacity fees can be re-examined.
- Should the waiver of capacity fees be part of an incentive to install fire sprinklers in the CBD?

**RECOMMENDATION:**

The Committee is requested to consider the City Council’s request to examine the idea of capacity fee waivers for development in the Central Business District. Such a discussion can also help shape the City’s economic development policy(s). Finally, the potential consequences of these policy choices should be addressed.

After the Committee’s deliberation, the matter can be forwarded to the City Council with the Committee’s recommendations. The Committee can also return the matter to staff for further investigation and/or refinement.

**ATTACHMENTS:**

- Staff report, Introduction of Ordinance No. 954-2019 Adding Chapter 15.36 (Deferral of Development Impact Fees)
- Ordinance 954-2019, Chapter 15.36
AGENDA ITEM SUMMARY

TITLE:
Receive Report and Consider Introducing by Title Only and Waiving the First Reading of Ordinance No. 954-2019 Adding Chapter 15.36 (Deferral of Development Impact Fees) to Title 15 (Buildings and Construction) of the Fort Bragg Municipal Code

ISSUE:
At the September 23, 2019 City Council meeting, the City Council provided staff direction to develop a Development Impact Fee Deferral Program for Council approval. The Development Impact Fee Deferral Program was brought forward to City Council in advance of the full Business Development, Economic Development and Housing Development Incentives Policy Manual, so that the new program to defer water and wastewater capacity fees could be applied to the current Habitat for Humanity of the Mendocino Coast’s current project, which consists of two affordable housing units at 630 and 640 Dubois.

City Council provided direction at that meeting which has been incorporated into the proposed Development Impact Fee Deferral Program as set forth in proposed Ordinance 954-2019.

ANALYSIS:
Development fees generally fall into two categories: service fees and impact fees. Service fees cover the cost of staff time and overhead. These directly offset the cost of providing the service and by law must not exceed the reasonable cost to provide the service. Service fees include: plan review fees, building permit fees, grading fees and encroachment permits.

Development impact fees are one-time charges applied to new development and expansion to provide funding for the increased need for City infrastructure impacted by the service needs of new development. Fort Bragg collects three development impact fees and has a current moratorium on a fourth – Parking in Lieu Fees. Those currently collected are:
1. Water System Capacity Fee
2. Wastewater System Capacity Fee
3. General Plan Maintenance Fee

Development impact and permit fees are often cited as a hurdle to development, particularly in California. In response, a number of jurisdictions have created programs to provide for deferral of some of these fees, to encourage construction of residential and/or nonresidential development projects. The fact that development fees are generally accumulated over years then used to pay for future projects, as opposed to current expenses, makes it easier to defer their collection. Current accumulated balances for the City of Fort Bragg Development Impact Fees are set forth below:
At the September 23, 2019 meeting, City Council provided the following staff direction on development of a Development Impact Fee Deferral Program.

1. City Council concurred with implementing a water and wastewater Capacity Fee Deferral Program.  
2. City Council agreed to allow the General Plan Maintenance Fee to be deferred, but will address deferral when a review of that fee is brought back to City Council.  
3. City Council agreed that developers or owners must pay 20% of the Development Impact Fees to qualify for the program. However, affordable housing projects and nonprofits may qualify for deferral of 100% of the development impact fees.  
4. Residential housing projects with total development impact fees of less than $15,000 may defer payment of those fees until the finaling of the project.  
5. Other incentives will be discussed when the Business Development, Economic Development and Housing Development Incentives Policy Manual and General Plan Maintenance Fee is addressed by Council.  
6. Interest will be charged at the City’s investment rate, which is the amount the City would receive on its investments in the Local Area Investment Fund (LAIF). (This was 2.28% for the month of September, 2019.)  
7. Deferral period will be the staff recommended two- or three-year period.  
8. Affordable Housing Projects may defer interest until the project is finaled.  
9. No impact fees will be waived in part or in total.

Proposed Ordinance 954-2019 incorporates the above direction into a comprehensive program. The Ordinance is structured so that the City Council may add or remove an impact fee, such as the General Plan Maintenance Fee, from the program as fees are modified or added to the City’s Development Impact Fees.

The proposed Ordinance incorporates the definition of Affordable and Inclusionary Housing and Residential Development Project set forth in the City’s Inland Land Use and Development Code, so that the term is used consistently with other aspects of the development code. As written, the Ordinance provides for the option of collecting a fee to offset the cost of deferral fee program and has an expiration date of June 30, 2022, so staff and the City Council have an opportunity to review the program and its impacts and proactively extend it or allow it to automatically expire.

### Development Impact Fee Balance 06/30/2019*

<table>
<thead>
<tr>
<th>Development Impact Fee</th>
<th>Balance</th>
</tr>
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<tbody>
<tr>
<td>General Plan Maintenance</td>
<td>$ 254,812</td>
</tr>
<tr>
<td>Parking -In-Lieu</td>
<td>$ 33,571</td>
</tr>
<tr>
<td>Water System Capacity</td>
<td>$ 198,085</td>
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<tr>
<td>Wastewater System Capacity</td>
<td>$ 349,329</td>
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</tbody>
</table>

* Preliminary figures subject to audit and final adjustments.
RECOMMENDED ACTION:
Introduce by title only and waive the first reading of Ordinance No. 954-2019 adding Chapter 15.36 (Deferral of Development Impact Fees).

ALTERNATIVE ACTION(S):
1. Provide staff alternative direction on the text of the proposed change to the City Code.
2. Do not introduce the Ordinance.

FISCAL IMPACT:
Deferral of fees will impact the timing of revenue collection but if interest is charged at the current investment rate, which as of this report was 2.28%, the City will be compensated for the deferral. Capacity fees are built up over years and used for appropriate projects when funds are available and projects are necessitated. Delayed collections will likely have only minor impacts on the timing of projects and the City’s ability to offset the impact of growth on City infrastructure.

GREENHOUSE GAS EMISSIONS IMPACT:
If a Capacity Fee Deferral Program is successful and encourages development that would not otherwise have occurred, greenhouse gas emissions will be increased by the construction activities of the new projects.

CONSISTENCY:
At the City Council Goal Setting Retreat on March 27, 2019, the City Council established three goals which support allowing developers and property owners to defer payment of water system and wastewater system capacity fees.

3. Housing: Streamline permitting process and pursue creative approaches to fees.

IMPLEMENTATION/TIMEFRAMES:
If the proposed Ordinance 954-2019 is introduced on November 12, 2019 and adopted on November 25, 2019, it will become effective thirty (30) days later on December 25, 2019.

ATTACHMENTS:
1. Proposed Ordinance
2. Minutes of the 9-23-2019 City Council Meeting

NOTIFICATION:
1. N/A
BEFORE THE CITY COUNCIL OF THE CITY OF FORT BRAGG

AN ORDINANCE ADDING CHAPTER 15.36 (DEFERRAL OF DEVELOPMENT IMPACT FEES) TO TITLE 15 (BUILDINGS AND CONSTRUCTION) OF THE FORT BRAGG MUNICIPAL CODE

ORDINANCE NO. 954-2019

WHEREAS, the City of Fort Bragg (City) imposes capacity fees as a condition of development approval for the purpose of financing improvements to address the impacts of new development; and

WHEREAS, the City calculates and collects water and wastewater capacity fees at the time of issuance of a building permit for all development projects; and

WHEREAS, the City does not issue a building permit for a development project until all fees, including water and wastewater capacity fees have been paid in full; and

WHEREAS, the City Council adopted Resolution 2462-2001 on April 9, 2001 setting water capital improvement fees and establishing a means of adjusting the fees on an annual basis to prevent the charges from falling behind the costs of improvements; and

WHEREAS, The Fort Bragg Municipal Improvement District No. 1 (District) Board adopted Resolution No. ID203-2001 on April 9, 2001 setting wastewater capital improvement fees and establishing a means of adjusting the fees on an annual basis to prevent the charges from falling behind the costs of improvements; and

WHEREAS, the City Council and District Board regularly review the water and wastewater capacity fees and adjust those fees so that the charges stay current with the costs of improvements; and

WHEREAS, the City Council and the District Board, most recently adjusted the water and wastewater capacity fees by the change in Engineering News-Record 20-City Construction Cost Index on May 13, 2019, effective August 1, 2019; and

WHEREAS, the City and the Board recognize that the payment of fees represents a substantial financial commitment for many projects; and

WHEREAS, the City Council and the District Board desire to establish a capacity fee deferral program to allow for the consideration of deferring water and wastewater capacity fees when fiscally appropriate; and

NOW, THEREFORE, the City Council ordains as follows:

Section 1. Legislative Findings. The City Council hereby finds as follows:
1. The foregoing recitals are true and correct and are made a part of this Ordinance.
2. Adding Chapter 15.36 to the Municipal Code provides developers an opportunity to defer payment of water and wastewater capacity fees in order to ease a financial barrier to development and to further encourage development projects within the City limits.

3. The proposed Deferral of Development Impact Fees, modifies and restructures how certain development impact fees are collected but does not change the amount, the purpose for those fees, the projects which are funded by those fees, or the establishment or approval of the fees. The fees included in the deferral program fund capital projects necessary to maintain service within the existing service areas. Therefore, the proposed modification and restructuring of the water and wastewater capacity fees, are accordingly statutorily exempt from the California Environmental Quality Act CEQA as provided in Section 15273 of the State CEQA Guidelines.

Section 2.

TITLE 15 – BUILDING AND CONSTRUCTION

Chapter 15.36 entitled DEFERRAL OF DEVELOPMENT IMPACT FEES is hereby added:

CHAPTER 15.36
DEFERRAL OF DEVELOPMENT IMPACT FEES

Section
15.36.010 Purpose and intent
15.36.020 Definitions
15.36.030 Deferred fees
15.36.040 Fee deferral program
15.36.050 Approval of deferred fees
15.36.060 Program application
15.36.070 Interest
15.36.080 Security
15.36.090 Administrative charge
15.36.100 Expiration

15.36.010 PURPOSE AND INTENT.

The Fort Bragg City Council desires to encourage the construction of residential and nonresidential development projects within the City. The City Council finds that the existing requirements for payment of certain development impact fees for new development creates a barrier to such development by requiring developers to retain a significant amount of cash or in-kind funds to pay certain development impact fees upon issuance of a building permit. Pursuant to the foregoing, the City Council desires, by the adoption of this chapter, to ease this barrier by deferring the payment of certain development impact fees.

15.36.020 DEFINITIONS.

AFFORDABLE AND INCLUSIONARY HOUSING PROJECT. For a residential development project to be eligible for no interest from permit issuance to permit final and for deferral of
100% of developer impact fees, it must meet the Affordable and Inclusionary Housing Requirements as set forth in the Inland Land Use and Development Code Definitions Section 18.100.020.

**APPLICANT.** The owner or owners of record for the real property on which an approved development project is to be located.

**APPROVED DEVELOPMENT PROJECT.** A development project that has received final discretionary action by the City and which is in compliance with all Federal, State and local requirements, including, without limitation, environmental requirements due prior to issuance of a building permit.

**DEFERRED FEES.** Any development impact fees, as set forth in Section 15.36.030, that the City has agreed to defer pursuant to a fee deferral agreement. “Deferred fees” shall include any accrued interest, if applicable.

**FEE DEFERRAL AGREEMENT.** A standardized agreement satisfactory to the City and approved by the City Attorney, executed by and between the applicant and the City for the purpose of approving the deferral of certain deferred fees. The fee deferral agreement shall require the applicant to indemnify, defend and hold harmless the City and its officials, officers, agents and employees for any claims, causes of action or damages/cost arising from the City’s deferral of the deferred fees. A fee deferral agreement is specific to an approved development project and is nontransferable to another applicant or another approved development project.

**RESIDENTIAL DEVELOPMENT PROJECT.** For a residential development project to be eligible for no interest from permit issuance to permit final, regardless of the total deferred impact fees, it must meet the definition of Residential Development Project as set forth in the Affordable and Inclusionary Housing Requirements section in the Inland Land Use and Development Code Definitions Section 18.100.020.

### 15.36.030 DEFERRED FEES.

A. The City may defer any or all of the following development impact fees pursuant to the provisions of this chapter:

1. Water Capacity Fees
2. Wastewater Capacity Fees

B. This section provides the exclusive list of fees which may be deferred pursuant to this chapter. Any fees not provided in this section shall be paid pursuant to applicable Federal, State or local regulations including, without limitation, fees related to the California Environmental Quality Act.

### 15.36.040 FEE DEFERRAL PROGRAM.

A. An applicant with a qualified project may file an application with the Community Development Department to request deferral of impact fees for a project within city limits. The application shall be in a form approved by the director and shall include the following:

1. Copies of all approvals and entitlements for the development of the project;
2. A preliminary title report;
3. A copy of the tentative or final subdivision or parcel map identifying all units for which a deferral and/or waiver is sought; and
4. Any other data and information which may be deemed necessary by the director for proper consideration of the application.

B. Only impact fees imposed by the City may be approved for deferral. All impact fees imposed by other entities or agencies shall be paid in accordance with applicable statutes, resolutions, ordinances, and regulations. Approved impact fee deferrals for a qualified project shall not exceed 80% of the total amount of impact fees applicable to the project, except that an Affordable and Inclusionary Housing Project or a project where the Applicant is tax exempt under section 501(c)(3) of the Internal Revenue Code may defer 100% of the impact fees applicable to the project.

C. The following financing terms are available for a qualified project and a qualified Applicant:

1. Two-Year Program – To be eligible for a two-year deferral, the total deferred fees as set forth in Section 15.36.030, must be more than $15,000 in total, unless the project qualifies as a Residential Development Project. There shall be two equal annual installments plus interest as set forth in 15.36.070 and calculated on the unpaid balance of fees.

2. Three-year Program - To be eligible for a three-year deferral, the total deferred fees as set forth in Section 15.36.030, must be more than $100,000 in total. There shall be three equal annual installments plus interest as set forth in 15.36.070 and calculated on the unpaid balance of fees.

15.36.50 APPROVAL OF DEFERRED FEES.

A. No project shall be eligible for execution of a Fee Deferral Agreement unless all of the following conditions are met:

1. The project shall be located on property within the City of Fort Bragg.
2. The project shall have received the final discretionary approval by the City Council, Planning Commission, or staff as deemed appropriate.
3. The project shall have undergone all required environmental review and shall be in compliance with all requirements established by the environmental document prepared for the project.
4. All conditions of approval, as applicable at the time of permit issuance, shall have been met.
5. All payments of taxes and assessments on the property on which the project is located shall be current.
6. The applicant shall have no unpaid balances due to the City for the project or any other project or purpose.
7. The applicant and/or his, her, or its partners and affiliates on the project shall have been deemed by the City to present a low risk of non-payment of fees, if the City opts to conduct a risk assessment, which may include meeting the following criteria and any others the City deems necessary:
   a. The applicant and/or his, her, or its partners and affiliates on the project have not had a foreclosure on any of its or their properties in the last four years.
   b. The applicant and/or his, her, or its partners and affiliates on the project, and any companies in which any such person has held a controlling interest, have not filed for bankruptcy within the past four years.
   c. The applicant and/or his, her, or its partners and affiliates on the project have no outstanding civil judgments.

8. All fees imposed by a government agency other than the City either shall have been paid or shall have been the subject of a fee deferral agreement between the applicant and the agency imposing the fees.

B. The Fee Deferral Agreement shall be approved and executed by the City Manager or designee. All such approvals shall be based on the criteria in subsection A of this section, and may be withheld if the approval criteria are not met, or if the approval criteria are met and if the approving person or body finds that it is not in the City’s interest to approve a fee deferral agreement.

C. Upon execution of a Fee Deferral Agreement, the City shall record the Fee Deferral Agreement and any related security documents, if applicable, against the real property subject to the Fee Deferral Agreement in the amount of the deferred fees. Upon payment in full of the deferred fees, the City shall remove the lien from the subject property.

15.36.060 PROGRAM APPLICATION.

An application for deferral of development impact fees may be submitted concurrently with or in advance of any application for building permits for the approved development project. Notwithstanding any other provision of this code, in no event shall a building permit be issued until either of the following occurs:

A. Payment of all applicable fees due; or
B. Execution of a Fee Deferral Agreement.

15.36.070 INTEREST.

For all development projects for which a Fee Deferral Agreement has been approved and executed, interest shall accrue at a rate equal to the annual rate of interest earned by the City on the investment of pooled funds invested in the Local Area Investment Fund (LAIF) as calculated and published as an average monthly yield, computed on the unpaid amount from
the date of execution of the Fee Deferral Agreement or the most recent payment to the time of payment.

For Residential Development Projects for which a Fee Deferral Agreement has been approved and executed, interest shall only accrue at a rate equal to the annual rate of interest earned by the City on the investment of pooled funds, funds invested in the Local Area Investment Fund (LAIF) as calculated and published as an average monthly yield, from the date the building permit is finaled, computed on the unpaid amount from the date of execution of the Fee Deferral Agreement or the most recent payment to the time of payment.

15.36.080 SECURITY.

Execution and recordation of security instruments, in a form satisfactory to and approved by the city attorney, shall be required for all impact fee deferrals. The security instruments shall secure the total amount of deferred fees, including interest and penalties. Said security instruments shall be recorded prior to the issuance of any building permits for the qualified project and shall be secondary only to deeds of trust associated with acquisition or construction financing.

15.36.090 ADMINISTRATIVE CHARGE.

The City Council may, by resolution, establish a processing and administration fee to cover the reasonable costs of administering the fee deferral program established by this chapter. This processing and administration fee shall be placed in the general fund and shall provide a revenue source to cover the costs of preparing the fee deferral agreement and tracking the deferred fee payments.

15.36.100 EXPIRATION.

This chapter shall remain in effect until June 30, 2022, and shall thereafter be automatically repealed and of no further force and effect. The City Council may, at its sole discretion, extend the fee deferral program at any time prior to the expiration date set forth herein.

Section 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council of the City of Fort Bragg hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional.

Section 4. Effective Date and Publication. This ordinance shall be and the same is hereby declared to be in full force and effect from and after thirty (30) days after the date of its passage. Within fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause a summary of said Ordinance to be published as provided in Government Code §36933, in a newspaper of general circulation published and circulated in the City of Fort Bragg, along with the names of the City Council voting for and against its passage.
The foregoing Ordinance was introduced by Councilmember Norvell at a regular meeting of the City Council of the City of Fort Bragg held on November 12, 2019 and adopted at a regular meeting of the City of Fort Bragg held on November 25, 2019 by the following vote:

AYES: Councilmember Albin-Smith, Norvell, Peters and Mayor Lee.  
NOES: None.  
ABSENT: Councilmember Morsell-Haye.  
ABSTAIN: None.  
RECUSED: None.  

____________________________________  
William V. Lee,  
Mayor  

ATTEST:  
____________________________________  
June Lemos, CMC  
City Clerk  

PUBLISH: November 14, 2019 and December 5, 2019 (by summary).  
EFFECTIVE DATE: December 25, 2019.