



# 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*

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Monday, September 12, 2016

6:00 PM

Town Hall, 363 N. Main Street

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### MEETING CALLED TO ORDER

### PLEDGE OF ALLEGIANCE

### ROLL CALL

### AGENDA REVIEW

### 1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [16-358](#) Presentation of Proclamation Recognizing Ruth Sparks as the 2016 Jere Melo Foundation Volunteer of the Year  
*Attachments:* [17-2016 Jere Melo Volunteer of Year Proclamation](#)
- 1B. [16-352](#) Presentation of Proclamation Announcing September 2016 as National Preparedness Month in Fort Bragg  
*Attachments:* [18-2016 National Preparedness Month Proclamation](#)
- 1C. [16-347](#) Presentation by Farmers Market Manager Julie Apostolu and Nutrition Educator Petra Schulte Regarding the Fort Bragg Farmers Market "Market Match" Program  
*Attachments:* [Market Match Report City Council Sept 2016](#)

### 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. [16-363](#)** Receive Presentation from Sonoma Clean Power and Mendocino County Representatives Regarding the Possibility of the City of Fort Bragg Joining the Sonoma Clean Power Joint Powers Authority and Provide Direction to Staff

**Attachments:** [09122016 Oral Report SCP](#)  
[Sonoma Clean Power Presentation](#)

- 6B. [16-332](#)** Receive Report and Provide Direction to Staff Regarding Draft Cannabis Manufacturing Ordinance

**Attachments:** [09122016 Cannabis Manufacturing Ordinance](#)  
[FBMC 9.33 Draft Cannabis Manufacturing Ordinance](#)  
[FBMC 18.42.055 Cannabis Manufacturing - Specific Use Standards](#)

- 6C. [16-360](#)** Consider Request that City Council Oppose Measure AF - Mendocino Heritage Initiative

**Attachments:** [09122016 Measure AF](#)  
[Letter from No on Measure AF Committee](#)  
[Q&A - No on Measure AF](#)

## **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. [16-343](#) Adopt City Council Resolution Authorizing City Manager to Decline the Right of First Refusal to Purchase 435 N Whipple Unit B, an Inclusionary Housing Unit, and Instead Authorize Owner of 435 N Whipple Unit B to Sell the Unit, Subject to City Approval, to an Income Qualified Person with Preference to Essential Public Service Employees (Teachers, Firefighters, Police, etc.)

**Attachments:** [RESO - Inclusionary Housing Unit Sale](#)

- 7B. [16-365](#) Adopt City Council Resolution Authorizing City Manager to Sign Program Supplement Agreements with the California Department of Transportation

**Attachments:** [RESO Chestnut Street Project PSA signing](#)  
[Caltrans Letter 8-12-16 re Project 01-5088F15](#)  
[Caltrans Letter 8-12-16 re Project 01-5088R](#)

- 7C. [16-361](#) Adopt City Council Resolution Establishing Schedule for Standing Committee Meetings

**Attachments:** [RESO Committee Schedule](#)  
[FBMC 2.04.045](#)  
[RESO 3556-2012](#)

- 7D. [16-346](#) Reject Claim of Steve Bradley and the F/V Sound Adventure

**Attachments:** [Bradley Claim](#)  
[Bradley Claim Rejection Letter 2016-09-12](#)

- 7E. [16-355](#) Receive and File Minutes of June 22, 2016 Public Works and Facilities Committee Special Meeting

**Attachments:** [PWM 2016-06-22](#)

- 7F. [16-356](#) Receive and File Minutes of August 18, 2016 Public Works and Facilities Committee Meeting

**Attachments:** [PWM2016-08-18](#)

- 7G. [16-357](#) Receive and File Minutes of July 26, 2016 Community Development Committee Meeting

**Attachments:** [CDCM\\_07262016](#)

- 7H. [16-350](#) Approve Minutes of August 22, 2016

**Attachments:** [CCM2016-08-22](#)

## **8. CLOSED SESSION**

## **ADJOURNMENT**

*The adjournment time for all Council meetings is no later than 10:00 p.m. If the Council is still in session at*

10:00 p.m., the Council may continue the meeting upon majority vote.

**NEXT REGULAR CITY COUNCIL MEETING: 6:00 P.M., MONDAY, SEPTEMBER 26, 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 7, 2016.

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Brenda Jourdain, Administrative Assistant

**NOTICE TO THE PUBLIC:**

**DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:**

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection 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).*



# City of Fort Bragg

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## Text File

**File Number: 16-358**

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Mayor's Office

**In Control:** City Council

**File Type:** Proclamation

**Agenda Number:** 1A.

Presentation of Proclamation Recognizing Ruth Sparks as the 2016 Jere Melo Foundation  
Volunteer of the Year

PROCLAMATION

RECOGNIZING RUTH SPARKS

AS THE JERE MELO FOUNDATION VOLUNTEER OF THE YEAR

**WHEREAS**, Ruth Sparks has given generously of her time and efforts to this community since the 1990s; and

**WHEREAS**, Ruth remains positive, gracious, kind and patient at all times; and

**WHEREAS**, Ruth is a “world-betterer,” and all those who spend any time with her are soon rolling up their sleeves and calling other friends to volunteer to be part of a local event; and

**WHEREAS**, Ruth is willing and eager to work with any individual and/or organization in order to enhance the everyday lives of our residents and once in a lifetime experiences of our visitors; and

**WHEREAS**, Ruth is a member of the Fort Bragg Garden Club and has served on its board and many of its committees, and

**WHEREAS**, Ruth was the idea person behind the Sidewalk Gardens to Bragg About Project which has showcased local homeowners’ gardens and businesses over the past four years; and

**WHEREAS**, Ruth was a strong advocate of the Fort Bragg Rotary Club’s Read Aloud Project which teaches the value of reading to our children in school and at special events; and

**WHEREAS**, Ruth was instrumental in bringing together 22 other organizations to put on the New Pygmy Forest Rededication celebration sponsored by the Fort Bragg Garden Club; and

**WHEREAS**, Ruth is an invaluable asset to our community with the projects mentioned above being only a handful of programs, projects and events for which she has volunteered countless hours of her time; and

**WHEREAS**, Ruth was honored as the Jere Melo Foundation Volunteer of the Year at an award dinner that followed the Walk to Take Back Our Forests event.

**NOW, THEREFORE, I, Dave Turner**, Mayor of the City of Fort Bragg, on behalf of the entire City Council, do hereby recognize and honor **Ruth Sparks** for the many things she does for the community of Fort Bragg.

**SIGNED this 12<sup>th</sup> day of September, 2016.**

\_\_\_\_\_  
**DAVE TURNER, Mayor**

**ATTEST:**

\_\_\_\_\_  
**June Lemos, City Clerk**

No. 17-2016



# City of Fort Bragg

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## Text File

File Number: 16-352

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Mayor's Office

**In Control:** City Council

**File Type:** Proclamation

**Agenda Number:** 1B.

Presentation of Proclamation Announcing September 2016 as National Preparedness Month  
in Fort Bragg

*P R O C L A M A T I O N*  
**ANNOUNCING SEPTEMBER 2016 AS  
NATIONAL PREPAREDNESS MONTH IN FORT BRAGG**

**WHEREAS**, emergency preparedness is a priority for all of the citizens of Fort Bragg; and

**WHEREAS**, as proclaimed by President Obama on August 31, 2016, National Preparedness Month serves as a reminder that we all must take action to prepare, now and throughout the year, for the types of emergencies that could affect us where we live, work and also where we visit; and

**WHEREAS**, for residents living on the isolated Mendocino Coast, being prepared and organized is especially critical; and

**WHEREAS**, the Federal Emergency Management Agency (FEMA), through its Ready Campaign, has declared September as National Preparedness Month for the thirteenth year in a row; and

**WHEREAS**, FEMA's Ready Campaign has very practical and useful tools for individuals, families, organizations and businesses to assist in planning and preparing for emergencies; and

**WHEREAS**, residents of Fort Bragg and our neighboring communities are encouraged to establish emergency plans for themselves, their friends and loved ones to help when a disaster strikes; and

**WHEREAS**, the City of Fort Bragg takes an active role in our community's preparedness by providing resources and tools to assist in preparing for an emergency, holding events throughout the year, distributing press releases, executing social media campaigns and working to establish a Community Emergency Response Team (CERT) program on the Mendocino Coast;

**NOW, THEREFORE, I, Dave Turner**, Mayor of the City of Fort Bragg, on behalf of the entire City Council, do hereby proclaim the Month of September 2016, as National Preparedness Month in Fort Bragg.

**SIGNED** this 12<sup>th</sup> day of September, 2016.

\_\_\_\_\_  
**DAVE TURNER, Mayor**

**ATTEST:**

\_\_\_\_\_  
June Lemos, City Clerk

No. 18-2016



# City of Fort Bragg

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## Text File

File Number: 16-347

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Mayor's Office

**In Control:** City Council

**File Type:**  
Recognition/Announcements

**Agenda Number:** 1C.

Presentation by Farmers Market Manager Julie Apostolu and Nutrition Educator Petra Schulte  
Regarding the Fort Bragg Farmers Market "Market Match" Program

## **Federal grant increases fresh fruit and vegetable purchase at farmers market**

The federal Food Insecurity Nutrition Incentive (FINI) grant, awarded by the National Institute of Food and Agriculture (NIFA) USDA has partnered with Fort Bragg Farmers Market in offering market match dollars to its customers. The grant, awarded to the Ecology Center in 2015, was for two 12-month periods (April 2015 – March 2017) and started out with 30 farmers' market and non-profit partners, who offer Market Match at 230 sites throughout California. With the help of North Coast Opportunities, Fort Bragg Farmers Market manager Julie Apostolu was able to include our local farmers market in this federal matching program for the May 2016-April 2017 period offering Market Match healthy food SNAP (Supplemental Nutrition Assistance Program, formerly Food Stamps) incentives. The Market Match project purpose is to *increase the purchase of fruits and vegetables by low-income consumers participating in SNAP by providing incentives at the point of purchase.*

The food stamp matching program at the Fort Bragg Farmers' Market is a simple, low cost project that does amazing things on many levels. The program uses funds raised from the community to provide an incentive for CalFresh/EBT/Food Stamp users to shop at Fort Bragg Farmers Market. The federal program “matches” (i.e., doubles) a portion of the money customers commit to spend from their CalFresh/EBT/Food Stamp at the farmers market. Starting May 2016 EBT recipients received up to an additional \$10 when they spent \$10 or more of their food stamp money at the Fort Bragg Farmers Market. Now the matching money has increased to \$30 per week.

CalFresh/EBT/Food Stamp customers are our low income neighbors most susceptible to food insecurity, related stress and health strains. Less healthy eating adds to the burden. As a community we experience those stresses together. The current food subsidy system worsens the problem by (mostly) ignoring small farms producing healthy food.

The Market Match program provides several important benefits to both individuals and the community. The program allows SNAP users to stretch their federal benefits further each month. As one example, a customer using the program last summer at the Ukiah Farmers Market stated that it was *only* because of the match program that she was getting fresh produce at all. The program brings new CalFresh/EBT/Food Stamp customers to the farmers market every week. Our community gets healthier family by family. These new customers are spending money at the farmers market each week. As the program keeps running, word of mouth promotion brings in new people who have never been to a farmers' market before.

Just as important for our local economy, when EBT/Food Stamps are spent at the

Farmers' Market, it injects federal money into our county's local farm and ranch economy. Even a small increase in support can make a big difference to local farms. An Essex County, MA study found that if only 1% of locals shifted \$12 per week over the growing season to farm stands, farmers markets and Community Supported Agriculture (C.S.A), net income of county farmers would increase by 50%. Due to the multiplier effect, keeping more food dollars in the local economy also boosts income in our economy for everyone.

The program relies on volunteers and business sponsorships. The volunteer time is matched with \$20 per hour by the federal government and significantly increases funds for the Market Match. For the May 2016- April 2017 growing season four local businesses donated \$2,200, which were matched dollar for dollar by the federal grant. We are very grateful for the generous donations given by local businesses and volunteers donating their time to this worthy project.

Julie Apostolu will be giving specifics about the Market Match program during her September 12 City Council meeting presentation.

If you have additional questions about the Fort Bragg Farmer's Market Match program, please contact Julie Apostolu at 962-0297 and [forestlove@lanset.com](mailto:forestlove@lanset.com). For more information about the program visit <http://www.marketmatch.org>

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## Text File

File Number: 16-363

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Business

**In Control:** City Council

**File Type:** Report

**Agenda Number:** 6A.

Receive Presentation from Sonoma Clean Power and Mendocino County Representatives Regarding the Possibility of the City of Fort Bragg Joining the Sonoma Clean Power Joint Powers Authority and Provide Direction to Staff



**AGENCY:** City Council  
**MEETING DATE:** September 12, 2016

## **AGENDA ITEM SUMMARY**

**TITLE:**

**RECEIVE PRESENTATION FROM SONOMA CLEAN POWER AND MENDOCINO COUNTY REPRESENTATIVES REGARDING THE POSSIBILITY OF THE CITY OF FORT BRAGG JOINING THE SONOMA CLEAN POWER JOINT POWERS AUTHORITY AND PROVIDE DIRECTION TO STAFF**

**THIS WILL BE AN ORAL PRESENTATION**



Local. Renewable. Ours.

# Program Update and Q&A

Geof Syphers, CEO  
September 12, 2016

## Fort Bragg Has Options

Keep current situation with PG&E as only supply option

Join SCP in time for June 2017 service

Wait and join SCP later

## Timeline for June 2017 Service

Oct 10, 2016	Ordinances adopted
Nov 1, 2016	Update Implementation Plan and file with CPUC
Dec 31, 2016	CPUC certification and prelim. energy contracts
Feb 1, 2017	Ramp up outreach / Finalize energy contracts
Mar 15, 2017	Customer enrollment noticing begins
Apr 15, 2017	2 <sup>nd</sup> enrollment notices
Jun 1, 2017	Service begins

70 MW New California Solar

15 MW New Local Solar

50 MW Local Geothermal

46 MW New Calif Wind

\$890,000 paid to customers  
overproducing solar

\$3.5 million approved to  
support local programs

\$62 million in bill savings  
since program inception



## Primary Purposes:

Reduce greenhouse gas emissions

Provide competitive and stable rates

Support local renewables, efficiency and economy

Create opportunities through local control of rates and revenues



Local. Renewable. Ours.

## CleanStart

Default service

36% renewable power

Competitive rates

About half PG&E's emissions

## EverGreen

Optional service

100% renewable power

2.5 cents per kWh premium

100% local sources

## What are the Risks?

Must meet power demands of customers

- Short and Long term planning of load/demand

Matching of Supply and Demand

- Spot Market (uncertain)
- Short, medium, and long term contracts
- Owned Generation and Power Purchase Agreements

Estimation of Power Supply Risks

- Over or under estimation of demand

## What are the Risks?

### Regulatory Risks

- CPUC, CEC, CARB, etc.
- Legislature

### Contract Risks

- Contract defaults

## The Triple Firewall

General funds are not responsible for debts of SCPA:

First, California law permits JPA members to have no liability for debts and obligations of the separate entity created by the JPA

Second, the SCPA joint powers agreement did not require cities to become signatories to the JPA

Third, SCPA's energy contracts contain language that other party can only look to the assets of the separate JPA entity in case of default

## Process

Participating incorporated cities to pass resolution and ordinance authorizing service

Important to consider carefully, since decision should be considered permanent

SCPA's Board of Directors to complete JPA update and vote to accept new participants Oct 2016

## Local Control Over Customer Programs

Program can provide funds for local customer programs in efficiency, solar & more

Sonoma Clean Power is starting to promote electric vehicles powered by local renewables

Available program funds for Mendocino County is estimated to be \$500,000 per year







# City of Fort Bragg

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## Text File

File Number: 16-332

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Business

**In Control:** City Council

**File Type:** Staff Report

**Agenda Number:** 6B.

Receive Report and Provide Direction to Staff Regarding Draft Cannabis Manufacturing Ordinance



AGENCY:	City Council
MEETING DATE:	September 12, 2016
DEPARTMENT:	CDD
PRESENTED BY:	S. Perkins

## AGENDA ITEM SUMMARY REPORT

### **TITLE:**

**RECEIVE REPORT AND PROVIDE DIRECTION TO STAFF REGARDING DRAFT CANNABIS MANUFACTURING ORDINANCE**

### **ISSUE:**

The State of California has adopted the Medical Marijuana Regulation and Safety Act (MMRSA) and is now instituting a new regulatory and licensing system to regulate the cultivation, transportation, third party certification, manufacture and distribution of Medical Marijuana. The Act is comprised of three State legislative bills known as AB 243, AB 266 and SB 643. While the State is still drafting regulations to implement the Act and will not issue licenses under the Act until January 2018, many communities have started to review and develop local regulations regarding the various components of the Medical Marijuana supply chain. As a result of MMRSA, both the Public Safety Committee and City Council have discussed the regulation of cannabis businesses in the City of Fort Bragg and provided direction to staff, as follows:

**Public Safety Committee (December 9, 2015):** Received detailed report on MMRSA.

**Public Safety Committee (April 13, 2016):** Recommended that the City a) retain its current cultivation and dispensary ordinances as they stand; b) take a "wait-and-see" approach to developing new regulations for cannabis transport and delivery as the State crafts legislation; and c) develop recommendations for modifying the Municipal Code and the Land Use and Development Code so that City Council can deliberate on whether and how to permit cannabis manufacturing in Fort Bragg.

**City Council (May 9, 2016):** Directed staff to craft a draft ordinance to address cannabis manufacturing within City Limits.

**Public Safety Committee (June 29, 2016):** Reviewed a spectrum of policy options for the regulation of cannabis manufacturing, and provided recommendations to City Council for the development of a cannabis manufacturing ordinance which would provide for cannabis manufacturing while offsetting negative impacts the business could present to the community.

**City Council (July 25, 2015):** Reviewed Public Safety Committee recommendations and directed staff to draft an ordinance to regulating future cannabis manufacturing uses.

This report summarizes the Council's direction for regulating various aspects of cannabis manufacturing businesses and presents a draft ordinance for the Council's consideration.

### **RECOMMENDED ACTION:**

Provide direction to staff regarding contents of a draft ordinance allowing cannabis manufacturing businesses in the Light and Heavy Industrial Zoning Districts with an approved Use Permit, and subject to additional standards prescribed in the draft ordinance.

**ALTERNATIVE ACTION(S):**

1. No action. Under this alternative, no further actions would be taken to address cannabis manufacturing uses and the use would continue to be prohibited in Fort Bragg, until it is allowed under the regulations adopted to implement MMRSA at the State level.
2. Provide alternative and/or more specific direction regarding regulations addressing cannabis manufacturing uses.
3. Request additional information and/or analysis by staff.

**ANALYSIS:**

The City of Fort Bragg presently implements Municipal Code Chapter 9.30 and 9.32 for Medical Marijuana Dispensaries and Medical Marijuana Cultivation, respectively. If Council approves a new ordinance specific to cannabis manufacturing, it would reside both in the Municipal Code alongside the existing dispensary and cultivation ordinances and in the Land Use and Development Code.

Staff incorporated City Council’s recommendations for regulating future cannabis manufacturing uses into a draft ordinance, included as Attachment 1: Draft Cannabis Manufacturing Ordinance and Attachment 2 which identifies changes which would be made to the Land Use and Development Code to allow for a Use Permit approval with appropriate findings for this new use type. The following table summarizes the Council’s direction regarding policy questions.

Policy Question	Council Direction
Definitions: How should a cannabis manufacturing ordinance handle the potential for future legalization of cannabis for recreational uses?	Include generic language, such as cannabis manufacturing, and language that permits the use of cannabis in the manufacturing process as permitted by the State of California.
Zoning and Permitting: In which zoning districts should Commercial Cannabis Manufacturing be permitted?	Table 2-10 of ILUDC Section 18.24.030 should be revised, adding a cannabis manufacturing use, and allowing the new use in both the IL and IH zoning districts with an approved Use Permit.
Proximity to Sensitive Uses: Should Commercial Cannabis Manufacturing uses be prohibited within certain distances of sensitive uses (churches, schools, hospitals, etc.)?	Include as a Use Permit finding for approval for cannabis manufacturing uses that the design, location, size, and operating characteristics of the proposed activity are compatible with the existing and future land uses in the vicinity, and, specifically, with any church, park, day care, hospital, non-profit organization or residential use within 200 feet of the proposed use. The information would be used by the review authority (the Planning Commission) to determine the suitability of the project’s proximity to sensitive uses, and place conditions of approval on the Use Permit to mitigate impacts. Further, prohibit any cannabis manufacturing use from locating within 600 feet of any K-12 school.

<p>Use Restrictions: Should accessory uses or services be permissible for cannabis manufacturing uses?</p>	<p>A cannabis manufacturing ordinance should prohibit accessory retail or service uses in association with the primary industrial use.</p>
<p>Exterior Restrictions: Should a Commercial Cannabis Manufacturing ordinance limit outdoor displays or signage?</p>	<p>Prohibit cannabis manufacturers from displaying logos, art or signage that implies a cannabis-based activity.</p>
<p>Odor: How should a cannabis manufacturing ordinance regulate odor?</p>	<p>The cannabis manufacturing ordinance should reference odor regulations as they apply to all uses (Section 18.30.080(J)), and replicate the odor requirements of the marijuana cultivation ordinance.</p> <p>Applicants for cannabis manufacturing Use Permits should submit an odor control plan, which may include an odor absorbing ventilation and exhaust system as part of their application so that Staff can determine if the business will comply with odor control requirements.</p>
<p>Security: What measures should a cannabis manufacturing ordinance include to ensure adequate security is provided for these industrial uses?</p>	<p>A cannabis manufacturing ordinance should include application requirements that address the following:</p> <ul style="list-style-type: none"> <li>- Project consistency with the requirements of MMRSA</li> <li>- A security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry</li> <li>- A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions</li> <li>- A floor plan clearly illustrating the purpose and security of each room or area of operation</li> </ul> <p>These submissions would be reviewed to the satisfaction of the Police Department. No Use Permit application for cannabis manufacturing would be approved without approval of the security plans by the Police Department.</p>

<p>Manufacturing Operations: What should a cannabis manufacturing ordinance include to ensure safe and proper operation?</p>	<p>The application submission requirements for a cannabis manufacturing use should include detailed information on the business's operation, specifically:</p> <ol style="list-style-type: none"> <li>1. Security procedures (see security discussion above)</li> <li>2. Detailed operating procedures, which should include how the business will comply with MMRSA, safety and quality assurances, record keeping procedures, and product recall procedures</li> <li>3. Proposed hours of operation</li> <li>4. Solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive the solid waste produced by the cannabis manufacturing</li> <li>5. Product supply chain information (cultivation, testing, transportation, packaging and labeling)</li> <li>6. Odor prevention plan (see odor discussion above)</li> <li>7. Other information as required by the Director as necessary to ensure the project's compliance with local, state and federal regulations.</li> </ol>
<p>Infrastructure: How should a Commercial Cannabis Manufacturing ordinance address water and sewer usage and impacts?</p>	<p>Public Works staff should continue to review the water and sewer impacts of proposed projects, including cannabis manufacturing businesses, to identify Special Conditions that may be required to minimize impacts to the City's water and sewer systems.</p>

**FISCAL IMPACT:**

Preparation and processing of an ordinance to regulate medical marijuana manufacturing requires continued efforts by City staff and the City Attorney's office. If an ordinance is adopted by the City Council allowing cannabis manufacturing, the Council would need to establish appropriate fees to offset costs associated with the permitting process and any subsequent inspections or enforcement activities. If permitted, cannabis manufacturing would create new jobs. As a point of reference, RootOne Botanicals' business plan anticipates hiring more than 20 employees once running at full capacity.

**IMPLEMENTATION/TIMEFRAMES:**

Once the City Council reviews the draft ordinance, the matter will be brought back to City for introduction and then for adoption. If everything proceeds smoothly, the ordinance would be adopted in late 2016 or early 2017.

**ATTACHMENTS:**

1. Draft Cannabis Manufacturing Ordinance

**NOTIFICATION:**

Root One Botanicals, Jon McColley

**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:	_____		

## CHAPTER 9.33: CANNABIS MANUFACTURING

### Section

9.33.010	Purpose and intent
9.33.020	Definitions
9.33.030	Permit required
9.33.040	Applications
9.33.050	Time limit for filing application for permit
9.33.060	Term of permits and renewals
9.33.070	Fees
9.33.080	Investigation and action on application
9.33.090	Grounds for rejection of cannabis manufacturing use permit application
9.33.100	Appeal from Chief of Police decision to reject application
9.33.110	Processing of cannabis manufacturing use permit
9.33.120	Operating requirements
9.33.130	Minors
9.33.140	Display of permit
9.33.150	Registration of new employees
9.33.160	Transfer of permits
9.33.170	Suspension and revocation — notice
9.33.180	Suspension and revocation — grounds
9.33.190	Suspension and revocation — appeals
9.33.200	Suspension or revocation without hearing
9.33.210	Separate offense for each day
9.33.220	Public nuisance
9.33.230	Criminal penalties
9.33.240	Civil injunction
9.33.250	Administrative remedies
9.33.270	Severability

### § 9.33.010 PURPOSE AND INTENT.

It is the purpose and intent of this ordinance to regulate Cannabis Manufacturing in order to promote the health, safety, morals, and general welfare of the residents and businesses within the City.

### § 9.33.020 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words or phrases not specifically defined in this code shall have the meaning ascribed to them as defined in the following sources: Compassionate Use Act of 1996 (California Health and Safety Code Section 11362.5); Medical Marijuana Program Act (California Health and Safety Code Section 11362.7 through 11362.83); and Medical Marijuana Regulation and Safety Act of 2015 (enacted by Assembly Bill (AB) 243, AB 266 and Senate Bill 643).

**APPLICANT.** A person who is required to file an application for a permit under this chapter, including an

## Public Peace, Safety, and Morals

individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of a cannabis manufacturing use.

**CHIEF OF POLICE.** The Chief of Police of the City of Fort Bragg or the authorized representatives thereof.

**CHURCH.** A structure or leased portion of a structure which is used primarily for religious worship and related religious activities.

**CONTROLLED SUBSTANCES.** A drug, substance, or immediate precursor which is listed in any schedule in Cal. Health and Safety Code §§ 11054, 11055, 11056, 11057, or 11058.

**DRUG PARAPHERNALIA.** Shall have the same definition as Cal. Health and Safety Code § 11364.5, and as may be amended.

**CANNABIS.** Shall have the same definition as Cal. Health and Safety Code § 11018.

**CANNABIS MANUFACTURING.** A process where cannabis is transformed into a product (such as food, medicine, oil, clothing, textile, etc.) , and the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly.

**PERMITTEE.** The person to whom a cannabis manufacturing permit is issued.

**PERSON WITH AN IDENTIFICATION CARD.** Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

**PRIMARY CAREGIVER.** Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

**QUALIFIED PATIENT.** Shall have the same definition as Cal. Health and Safety Code §§ 11362.5 *et seq.*, and as may be amended.

**SCHOOL.** An institution of learning for minors, whether public or private, offering a regular course of instruction required by the California Education Code, or any child or day care facility. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

### § 9.33.030 PERMIT REQUIRED.

It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the City the operation of a cannabis manufacturing use unless the person first obtains and continues to maintain in full force and effect a cannabis manufacturing permit from the City as herein required.

### § 9.33.040 APPLICATIONS.

A. All applications for cannabis manufacturing permits shall be filed with the Chief of Police. The application shall be made under penalty of perjury.

B. Any application for a cannabis manufacturing permit shall include the following information:

1. The full name, present address, and telephone number of the applicant;
2. The address to which notice of action on the application and all other notices are to be mailed;
3. Previous addresses for the past five (5) years immediately prior to the present address of the applicant;
4. Written proof that the applicant is over 21 years of age;
5. Photographs for identification purposes (photographs shall be taken by the Police Department);

## Public Peace, Safety, and Morals

6. The cannabis business history of the applicant, including whether the person, in previously operating in this or another City, county, or state under permit has had a permit revoked or suspended and, if so, the reason therefore;

7. The name or names of the person or persons having the management or supervision of applicant's business;

8. Whether the person or persons having the management or supervision of applicant's business have been convicted of a crime(s), the nature of the offense(s), and the sentence(s) received therefore;

9. The names of all employees, independent contractors, and other persons who will work at the cannabis manufacturing use;

10. A security plan ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;

11. A sketch or diagram showing the interior configuration of the premises, including a statement of the total floor area occupied by the cannabis manufacturing use and the purpose and security of each room or area of operation;

12. A diagram illustrating the use and coverage of security cameras, security lighting, and necessary access restrictions;

13. Security measures ensuring the safety of employees and visitors from criminal activity, including theft and unauthorized entry;

14. Detailed operating procedures, which shall include the following:

a. Proposed hours of operation;

b. How the business will comply with applicable State regulations;

c. Product safety and quality assurances;

d. Record keeping procedures;

e. Product recall procedures;

f. A solid waste disposal plan, with certification that waste transport entities and disposal facilities have agreed to haul and receive solid waste produced by the cannabis manufacturing use.

g. Product supply chain information (cultivation, testing, transportation, packaging and labeling);

h. An odor prevention plan, illustrating how the use will be consistent with §17.30.080(J) and/or §18.30.080(J). The odor prevention plan may include an odor absorbing ventilation and exhaust system or other measures to ensure the use does not produce odors which are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; and

i. Other information as required by the Chief of Police as necessary to ensure the project's compliance with local, state and federal regulations.

14. Authorization for the City, its agents and employees to seek verification of the information contained within the application; and

15. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.

C. If the applicant has completed the application improperly, or if the application is incomplete, the Chief of Police shall, within ten (10) days of receipt of the original application, notify the applicant of the fact and, on request of the applicant, grant the applicant an extension of time of ten (10) days or more to submit a complete application.

D. The fact that an applicant possesses other types of state or City permits or licenses does not necessarily

## **Public Peace, Safety, and Morals**

exempt the applicant from the requirement of obtaining a cannabis manufacturing permit.

### **§ 9.33.050 TIME LIMIT FOR FILING APPLICATION FOR PERMIT.**

All persons who possess an outstanding business license heretofore issued for cannabis manufacturing must apply for and obtain a cannabis manufacturing permit within 90 days of the effective date of this ordinance. Continued operation of a cannabis manufacturing use without a permit more than 90 days after the effective date of this ordinance shall constitute a violation of this chapter.

### **§ 9.33.060 TERM OF PERMITS AND RENEWALS.**

Cannabis manufacturing permits issued under this chapter shall expire one (1) year following their issuance. Cannabis manufacturing permits shall be renewed by the Chief of Police for additional one (1)-year periods upon application by the permittee, unless the permit is suspended or revoked subject to § 9.33.180. Applications for renewal shall be made at least 45 days before the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in § 9.33.070. When made less than 45 days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on as provided herein for action upon applications for permits. The Chief of Police may deny an application for renewal based on any of the grounds referenced in §§ 9.33.090 and 9.33.180. An applicant aggrieved by the Chief of Police's decision to deny a renewal of a cannabis manufacturing permit may appeal pursuant to § 9.33.100.

### **§ 9.33.070 FEES.**

Every application for a cannabis manufacturing permit or renewal shall be accompanied by a nonrefundable fee, as established by resolution adopted by the City Council from time to time. This application or renewal fee is in addition to fingerprinting, photographing, and background check costs and shall be in addition to any other permit fee imposed by this code or other governmental agencies. Fingerprinting, photographing, and background check fees will be as established by resolution adopted by the City Council from time to time.

### **§ 9.33.080 INVESTIGATION AND ACTION ON APPLICATION.**

After the making and filing of the application for the cannabis manufacturing permit and the payment of the fees, the Chief of Police shall conduct a background check of the applicant and all employees and conduct an investigation of the application. After the background checks and investigation are complete, the Chief of Police shall either formally accept or reject the application in accordance with the provisions of this chapter.

### **§ 9.33.090 GROUNDS FOR REJECTION OF CANNABIS MANUFACTURING PERMIT APPLICATION.**

The grounds for rejection of a cannabis manufacturing permit application shall be one or more of the following:

A. The business or conduct of the business at a particular location is prohibited by any local or state law, statute, rule, or regulation;

B. The applicant has violated any local or state law, statute, rule, or regulation respecting the cannabis business;

C. The applicant has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application for a permit;

D. The applicant, his or her agent or employees, or any person who is exercising managerial authority on

## **Public Peace, Safety, and Morals**

behalf of the applicant has been convicted of a felony, or of a misdemeanor involving moral turpitude, or the illegal use, possession, transportation, distribution, or similar activities related to controlled substances, with the exception of marijuana related offenses for which the conviction occurred prior to passage of Proposition 215. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere;

E. The applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices;

F. An applicant is under 21 years of age;

G. The cannabis manufacturing use does not comply with the Title 18 (Land Use and Development Code); and/or

H. The required application or renewal fees have not been paid.

(Ord. 850, passed - -2005)

### **§ 9.33.100 APPEAL FROM CHIEF OF POLICE DECISION TO REJECT APPLICATION.**

The Chief of Police shall cause a written notice of his or her decision to reject a cannabis manufacturing permit application to be mailed to the applicant by certified U.S. mail, postage prepaid, return receipt requested, to the address provided by the applicant for sending of notices. An applicant aggrieved by the Chief of Police's decision to reject an application may appeal the decision in accordance with the procedures described in Chapter 1.08. If an appeal is not taken within such time, the Chief of Police's decision shall be final.

(Ord. 900, § 11, passed 12-12-2011)

### **§ 9.33.110 PROCESSING OF CANNABIS MANUFACTURING PERMIT.**

If an application is not rejected by the Chief of Police, it shall be forwarded to the Community Development Department for processing using the same permit process and requirements for a use permit as defined in Title 17 (Coastal Land Use and Development Code) and Title 18 (Land Use and Development Code).

### **§ 9.33.120 OPERATING REQUIREMENTS.**

A cannabis manufacturing use shall meet the following operating requirements for the duration of the use.

A. The design, location, size and operating characteristics of the cannabis manufacturing use shall comply with the findings and conditions of the Use Permit.

B. A cannabis manufacturing use shall maintain a current register of the names of all employees currently employed by the use.

C. The building entrance to a cannabis manufacturing use shall be clearly and legibly posted with a notice indicating that persons under the age of 21 are precluded from entering the premises unless they are qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

D. No cannabis or cannabis product shall be smoked, ingested, or otherwise consumed on the project site. The term "project site" includes the actual building, as well as any accessory structures, parking areas, or other immediate surroundings. The building entrance to a cannabis manufacturing use shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming marijuana on the premises or in the vicinity of the dispensary is prohibited.

E. No marijuana shall be grown or cultivated on the premises of the cannabis manufacturing use.

F. No cannabis manufacturing use shall hold or maintain a license from the State Department of Alcohol Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages. In addition, alcohol shall not be provided, stored, kept, located, sold, dispensed, or used on the premises of the dispensary.

## **Public Peace, Safety, and Morals**

G. No cannabis manufacturing use shall conduct or engage in the commercial sale of any product, good or service. The term “commercial sale” does not include the provision of cannabis on terms and conditions consistent with this chapter and applicable law.

H. No accessory uses shall be permitted in conjunction with a cannabis manufacturing use.

I. No cannabis manufacturing use shall sell or display any drug paraphernalia or any implement that may be used to administer cannabis.

J. A cannabis manufacturing use shall provide adequate security on the premises, including lighting and alarms, to ensure the safety of employees and visitors from criminal activity, including theft and unauthorized entry.

K. A cannabis manufacturing use shall provide the Chief of Police with the name, phone number, and email of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the cannabis manufacturing use..

L. A cannabis manufacturing use shall meet all the operating criteria for the manufacturing of cannabis as is required pursuant to State law.

### **§ 9.33.130 MINORS.**

A. It shall be unlawful for any permittee, operator, or other person in charge of any cannabis manufacturing use to employ any person who is not at least 21 years of age.

B. Persons under the age of 21 shall not be allowed on the premises of a cannabis manufacturing use unless they are a qualified patient or a primary caregiver and they are in the presence of their parent or legal guardian.

### **§ 9.33.140 DISPLAY OF PERMIT.**

Every cannabis manufacturing use shall display at all times during business hours the permit issued pursuant to the provisions of this chapter for cannabis manufacturing in a conspicuous place so that the same may be readily seen by all persons entering the cannabis manufacturing use.

### **§ 9.33.150 REGISTRATION OF NEW EMPLOYEES.**

A. As a further condition of approval of every cannabis manufacturing permit issued pursuant to this chapter, every owner or operator shall register every employee with the Police Department within five (5) business days of the commencement of the employee’s period of employment at the cannabis manufacturing use, in order to provide necessary information to conduct background checks.

B. Each employee shall be required to provide two (2) recent color passport-quality photographs and, at the discretion of the Chief of Police, shall allow himself or herself to be fingerprinted by the Police Department for purposes of identification.

C. Failure to register each new employee within five (5) days of the commencement of employment, or to maintain a current register of the names of all employees shall be deemed a violation of the conditions of the permit and may be considered grounds for suspension or revocation of the permit.

### **§ 9.33.160 TRANSFER OF PERMITS.**

A. A permittee shall not operate a cannabis manufacturing use under the authority of a cannabis manufacturing permit at any place other than the address of the cannabis manufacturing use stated in the application for the permit.

## **Public Peace, Safety, and Morals**

B. A permittee shall not transfer ownership or control of a cannabis manufacturing use or transfer a cannabis manufacturing permit to another person unless and until the transferee obtains an amendment to the permit from the Chief of Police stating that the transferee is now the permittee. The amendment may be obtained only if the transferee files an application with the Chief of Police in accordance with § 9.33.040, accompanies the application with a transfer fee in an amount set by resolution of the City Council, and the Chief of Police determines in accordance with § 9.33.090 that the transferee would be entitled to the issuance of an original permit.

C. No permit may be transferred when the Chief of Police has notified the permittee that the permit has been or may be suspended or revoked.

D. Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void, and the permit shall be deemed revoked.

### **§ 9.33.170 SUSPENSION AND REVOCATION — NOTICE.**

A. Any permit issued under the terms of this chapter may be suspended or revoked by the Chief of Police when it appears to him or her that the permittee has committed any one (1) or more of the acts or omissions constituting the grounds for suspension or revocation under this chapter.

B. No permit shall be revoked or suspended by virtue of this section until a hearing has been held by the Chief of Police. Written notice of the time and place of the hearing shall be served upon the person to whom the permit was granted at least five (5) days prior to the date set for the hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery to the permittee or by depositing it in the U.S. mail in a sealed envelope, postage prepaid, addressed to the permittee at the address provided by the permittee for sending of notices.

### **§ 9.33.180 SUSPENSION AND REVOCATION — GROUNDS.**

It shall be a ground for suspension or revocation of a permit if any permittee or person, his or her agent, or employee:

A. Does any act which violates any of the grounds set forth in § 9.33.090, which sets forth the grounds for rejection of an application for a permit for the cannabis manufacturing use;

B. Violates any other provision of this chapter or any local or state law, statute, rule, or regulation relating to his or her permitted activity;

C. Conducts the permitted business in a manner contrary to the peace, health, or safety of the public;

D. Fails to take reasonable measures to control the establishment's patrons' conduct resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the premises, traffic-control problems, or creation of a public or private nuisance, or obstruction of the business operation of another business;

E. Violates any provision of Title 15 of this code; or

F. Violates or fails to comply with the terms and conditions of the Use Permit.

### **§ 9.33.190 SUSPENSION AND REVOCATION — APPEALS.**

Any permittee aggrieved by the decision of the Chief of Police in suspending or revoking a permit may, within 10 calendar days, appeal the decision in accordance with the procedures described in Chapter 1.08. If a decision of the Chief of Police to suspend or revoke a permit is not appealed within ten (10) calendar days, the decision of the Chief of Police shall be final.

## **Public Peace, Safety, and Morals**

### **§ 9.33.200 SUSPENSION OR REVOCATION WITHOUT HEARING.**

If any person holding a permit or acting under the authority of the permit under this article is convicted of a misdemeanor in any court for the violation of any law which relates to his or her permit, the Chief of Police shall revoke the permit forthwith without any further action thereof, other than giving notice of revocation to the permittee. If a permit is summarily revoked pursuant to the provisions of this section, a permittee may, within ten (10) calendar days, appeal the revocation in accordance with the procedures described in Chapter 1.08. During the pendency of the appeal, the permit shall be deemed suspended. If the appeal is not taken within ten (10) days, the decision of the Chief of Police shall be final.

### **§ 9.33.210 SEPARATE OFFENSE FOR EACH DAY.**

Any person that violates any provision of this chapter shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

### **§ 9.33.220 PUBLIC NUISANCE.**

Any use or condition caused or permitted to exist in violation of any of the provisions of this chapter shall be and is hereby declared a public nuisance and may be abated by the City pursuant to Chapter 6.12 of the Fort Bragg Municipal Code.

### **§ 9.33.230 CRIMINAL PENALTIES.**

Any person who violates, causes, or permits another person to violate any provision of this chapter commits a misdemeanor.

### **§ 9.33.240 CIVIL INJUNCTION.**

The violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of City, create a cause of action for injunctive relief.

### **§ 9.33.250 ADMINISTRATIVE REMEDIES.**

In addition to the civil remedies and criminal penalties set forth above, any person that violates the provisions of this chapter may be subject to administrative remedies, as set forth by City ordinance.

### **§ 9.33.270 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, the decision shall not affect the validity of the remaining portions of the ordinance. The City Council of the City hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that one (1) or more sections, subsections, sentences, clauses, or phrases may be held invalid or unconstitutional.

## 18.42.055 – Cannabis Manufacturing

This Section establishes standards for cannabis manufacturing, where allowed by Article 2 (Zoning Districts and Allowable Land Uses). These standards apply in addition to other provisions of the Municipal Code, including but not limited to Chapter 9.33 (Cannabis Manufacturing).

- A. **Limitation on Location.** The design, location, size and operating characteristics of the cannabis manufacturing use shall be compatible with the existing and future land uses in the vicinity, and, specifically, with any church, park, day care, hospital, non-profit organization or residential use within 200 feet of the cannabis manufacturing use. Further, the cannabis manufacturing use shall not be located within six-hundred feet of any school.
- B. **Operating Standards.** Cannabis manufacturing uses shall comply with all of the following operating standards:
1. **Limitations on Use.** A cannabis manufacturing use shall comply with the following limitations: :
    - a) Cannabis manufacturing uses shall not conduct or engage in the retail sale of any product, good or service. Only wholesale activities are permitted.
    - b) Accessory retail and/or distribution uses other than wholesale sales shall not be permitted in conjunction with the cannabis manufacturing use.
    - c) No cannabis shall be grown or cultivated on the property of the cannabis manufacturing use.
    - d) No cannabis or cannabis product shall be smoked, ingested, or otherwise consumed on the property.
  2. **Notice to Entrants.** A cannabis manufacturing use building entrance shall be clearly and legibly posted with a notice indicating that persons under the age of twenty-one (21) are precluded from entering the premises unless they are in the presence of their parent or legal guardian. The building entrance shall be clearly and legibly posted with a notice indicating that smoking, ingesting or consuming cannabis on the property is prohibited.
  3. **Security.** A cannabis manufacturing use shall provide adequate security on the premises, including lighting and alarms, for the safety of employees and visitors and to minimize the potential for criminal activity, including theft and unauthorized entry.
  4. **Employee Register.** A cannabis manufacturing use shall maintain a current register of the names of all employees currently employed by the use, and shall provide the Chief of Police with the name, phone number, and email of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the cannabis manufacturing use. The register and contact information shall be current and up-to-date at all times.
  5. **Off-Site Effects.** No obnoxious odor or fumes shall be emitted that are perceptible without instruments by a reasonable person at the property line of the site.
  6. **State Law.** A cannabis manufacturing use shall meet all State law requirements for cannabis manufacturing, including all State law operating criteria.
  7. **Compliance with the Cannabis Manufacturing Ordinance.** As a condition of approval, the applicant shall comply with all the requirements of the Municipal Code, including but not limited to Chapter 9.33 (Cannabis Manufacturing). Such compliance will be confirmed in writing by the Police Chief prior to issuance of a business license for the facility.
- C. **Required Findings**  
In order to approve a Use Permit for a cannabis manufacturing use, the Planning Commission must make the following findings:
1. That the cannabis manufacturing use is compatible with the existing and future land uses in the vicinity, and, specifically, with any church, park, day care, hospital, non-profit organization or residential use within two-hundred

- (200) feet of the cannabis manufacturing use; and
2. That the cannabis manufacturing use will not be located within six-hundred (600) feet of any school.

DRAFT



# City of Fort Bragg

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

File Number: 16-360

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Business

**In Control:** City Council

**File Type:** Staff Report

**Agenda Number:** 6C.

Consider Request that City Council Oppose Measure AF - Mendocino Heritage Initiative



**AGENCY:** City Council  
**MEETING DATE:** September 12, 2016

## **AGENDA ITEM SUMMARY**

**TITLE:**

**CONSIDER REQUEST THAT CITY COUNCIL OPPOSE MEASURE AF - MENDOCINO HERITAGE INITIATIVE**

**THIS WILL BE AN ORAL DISCUSSION**

REC'D AUG 29 2016

**No on Measure AF Committee**

110 South Main Street Suite C

Willits, CA 95490

August 26, 2016

Mayor and City Council  
City of Fort Bragg  
416 N. Franklin Street  
Fort Bragg, CA 95437

RE: Request for endorsement of No on Measure AF

Dear Mayor and Councilmembers,

Mendocino County faces an important choice on the future of the marijuana industry. Commercial production was authorized by the legislature in January 2016 and will be expanded under Proposition 64 (the Parker initiative). But both statewide legal schemes allow local cities and counties a wide latitude to establish their own regulations for marijuana cultivation, processing and sales.

The Mendocino County Board of Supervisors has risen to this challenge and worked hard at crafting an ordinance that would authorize permits for commercial marijuana operations while protecting citizens from nuisance impacts and protecting the environment from harm. After months of public hearings, the Board referred a draft ordinance for environmental review with the expectation that it would receive further consideration early next year.

But this careful process didn't satisfy a group of marijuana growers who wanted to write the marijuana rules themselves. They collected enough signatures to qualify the "Mendocino Heritage Act" for the November ballot. It has been designated Measure AF and is 60 pages long.

Serious problems are common when regulations are written by the industry that's being regulated, and Measure AF is no exception. We believe that Measure AF should be rejected on these grounds alone--that it is an attempt to override the good-faith work by our democratically-elected representatives on the Board of Supervisors. Rather than reflect the needs of the entire community, Measure AF would serve the needs of marijuana growers alone.

In addition, there are seven specific flaws in Measure AF:

- Measure AF would allow growing in every residential zoning district, with grows of up to 1 acre of plant canopy.

- Measure AF would allow growing within 30 feet of a neighbor's property and within 100 feet of a neighbor's house, except in mobile home parks where there would be no setback requirements at all.
- Measure AF establishes a civil enforcement procedure that would be so weak and slow as to be non-existent.
- Measure AF would give marijuana recognition under the County's "Right to Farm" ordinance, meaning neighbors would be barred from complaining about odor.
- Measure AF would eliminate the 1000 foot separation under existing County Code between marijuana operations and youth-oriented facilities, churches and residential treatment centers, and Measure AF would reduce the marijuana separation from parks and schools to only 600 feet.
- Measure AF would allow an unlimited number of marijuana dispensaries in any commercial zoning without public process.
- Measure AF would recognize the use of explosive butane in manufacture of hash oil as a "principal permitted use" in any industrial zoning without public process, even though this dangerous practice has caused many fires.

These issues are discussed in detail in the enclosed document, "Questions and Answers About Measure AF."

The voters will decide the fate of Measure AF in November. It's unreasonable for the average voter to analyze a 60-page document and sort out conflicting advertising claims about it. So most voters will look to established bodies like yours for guidance.

An endorsement by the City of Fort Bragg is appropriate because this issue will affect everyone in Mendocino County--our suburban residents, our rural residents, and our children today and into the future.

We respectfully request that you consider endorsing a "No" vote on Measure AF and communicating that endorsement to our committee. We are available to discuss this issue in person and can be contacted at [NoOnMeasureAF@yahoo.com](mailto:NoOnMeasureAF@yahoo.com).

Sincerely,

NO ON MEASURE AF COMMITTEE

  
Hal Wagenet

  
Chris Neary

  
Ross Liberty

  
Mike Sweeney

enclosure

# No on Measure AF

## Questions and Answers

### **Where did Measure AF come from?**

Measure AF, the "Mendocino Heritage Act," was written by local marijuana growers who collected enough petition signatures to qualify for the November, 2016 ballot. It is 60 pages long. It repeals County Code Chapter 9.31 (Medical Marijuana Cultivation Regulation) and replaces it with a new Chapter 6.22 called "Lawful Cannabis Permits." It also amends the County Zoning Code to add a new Chapter 20.162(inland) and Chapter 20.514(coastal) to provide zoning to allow marijuana cultivation, processing, manufacturing and sales. The entire text is available at [https://mendocinoheritageinitiative.files.wordpress.com/2016/03/an-initiative-of-the-people-of-the-county-of-mendo\\_032216\\_v7.pdf](https://mendocinoheritageinitiative.files.wordpress.com/2016/03/an-initiative-of-the-people-of-the-county-of-mendo_032216_v7.pdf)

### **What are the problems with Measure AF?**

- **It would regulate the marijuana industry but it's written by the marijuana industry itself.**

The cultivation, processing and sale of marijuana are major economic activities but they have created many nuisance and environmental problems. These problems must be controlled by appropriate regulations and enforcement. The decisions about regulation should be made by the Board of Supervisors with consideration for all our citizens, not just marijuana entrepreneurs. The Board of Supervisors enacted the present Chapter 9.31 regulations and is working hard at revised rules. Measure AF would throw out everything the Board of Supervisors has done and instead enact a law written for the convenience of marijuana growers, allowing them to greatly expand operations with no effective limitations.

This is the worst way to make public policy. Laws should be written by the democratically elected representatives of the people, and not by a special interest group that would benefit by a marijuana free-for-all.

- **By replacing the sheriff with a slow and weak civil enforcement process, Measure AF would effectively eliminate any restrictions whatsoever.**

Measure AF says that marijuana operations will require a County permit with environmental standards, but it also says that “No violations of this Chapter shall be subject to criminal enforcement.” [Measure AF, Section 6.22.150(A)(1)]. Instead, various ordinary County departments are required to issue permits and, presumably, issue “administrative citations” for violations. But as long as a grower has applied for a permit, “No enforcement of provisions of this Chapter shall take place against a permit applicant while their application is pending.” [Ibid.] And if a citation is made, the fine is only \$100. After 60 days, the fine can go up to \$1,000. But any citation can be appealed and the “permittee shall be allowed to continue operating during the Appeals process.” [Section 6.22.150(D)(1)] In order to process an appeal, the County must hire a “hearing officer” who is independent of the department that issued the citation [Section 6.22.150(D)(1)(c)], and a hearing officer’s decision can be appealed to a court. The County currently uses a hearing officer procedure for code enforcement cases and it has proven to be extremely slow and expensive, costing the County around \$1,000 per day to hire hearing officers.

This weak scheme for enforcement would instantly be recognized as a joke by marijuana growers. History has shown that the only effective regulation comes from the sheriff, and with the sheriff prohibited from involvement, the permit rules of Measure AF would be a dead letter. Marijuana growers could do whatever they wanted and the public would have no recourse. A new “Green Rush” of would-be growers from outside the county would occur as the word got around that there was no effective enforcement of any rules in Mendocino County.

- **Measure AF would vastly increase the size of commercial marijuana grows and allow them in any zoning district.**

Presently County Code Chapter 9.31 limits marijuana growing to 25 plants per parcel unless a special permit, with many restrictions, is obtained from the sheriff, in which case up to 99 plants could be grown on parcels larger than 10 acres. Measure AF would throw out these limits and instead allow marijuana grows as follows:

2,500 square feet of plant canopy on parcels less than 1 acre

5,000 square feet of plant canopy on parcels of 1 acre to 5 acres

10,000 square feet of plant canopy on parcels of 5 acres to 20 acres

43,560 square feet of plant canopy on parcels larger than 20 acres  
[Measure AF, Sections 162.040(B) and 514.040(B)]

But since Measure AF would have no effective enforcement, these limits could be exceeded with impunity.

- **Measure AF would allow marijuana grows too close to neighbors**

The odor from large numbers of marijuana plants annoys or even sickens many people. Yet Measure AF would allow grows to reach as close as 30 feet from property lines and within 100 feet of a neighbor's house that's on "a parcel under separate ownership." [Measure AF, Section 6.22.060(B)(2&3)]. This doesn't protect mobile home parks which have many mobile homes occupying a single legal parcel. For them, there is no setback protection whatsoever because there are no legal parcel boundaries between the homes.

- **Measure AF would reduce or eliminate separations from places where children are present**

Youth and child advocates are extremely concerned that marijuana shouldn't be pushed onto children because it can seriously interfere with their learning and development. That's why current County Code Section 9.31 requires a 1000 foot setback of marijuana grows and dispensaries from any school, park, youth-oriented facility, church, or residential treatment center. Measure AF abolishes this setback requirement from youth-oriented facilities, churches, and residential treatment centers. Measure AF reduces the setback to parks and schools to 600 feet [Measure AF, Section 6.22.060(B)(1)].

- **Measure AF would block neighbors from complaining about marijuana odor**

Measure AF amends County Code Section 10A.13.010 to declare that "The commercial cultivation of cannabis, in accordance with all applicable state and local laws, ordinances and regulations, shall be considered an agricultural operation within the meaning of this Chapter." [Measure AF, Section 3] This means that marijuana grows would be protected by the County "Right to Farm" ordinance, which is designed to block nuisance complaints for impacts like odor.

The “Right to Farm” policy in County Code states: “No existing or future agricultural operation or any of its appurtenances, conducted or maintained for commercial purposes, and in a manner consistent with proper and accepted customs and standards, shall become or be a nuisance, private or public, for adjacent land uses in or about the locality thereof after the same has been in operation for more than three (3) years, when such action was not a nuisance at the time it began; provided that the provisions of this subsection shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural operation or its appurtenances.” [Mendocino County Code Section 10A.13.020].

- **Measure AF would allow an unlimited number of dispensaries in any commercial zoning**

Measure AF states that the County Health and Human Services Agency “shall” issue permits for marijuana dispensaries. [Measure AF, Section 6.22.090]. Dispensaries would be a “principal permitted use” (meaning they are allowed without the need for discretionary approval) in all commercial zoning. [Measure AF, Sections 162.040(L) and Section 514.040(L)]. As noted above, this means that unlimited numbers of marijuana dispensaries could be placed right next door to a youth-oriented facility, church or residential treatment center, and only 200 yards from schools and parks.

- **Measure AF would authorize butane processing of marijuana to make hash oil in any industrial zone**

Mendocino County is confronting a crisis of fires and explosions caused by the use of butane, a volatile and highly flammable solvent, to make marijuana into hash oil. Incredibly, Measure AF makes processing marijuana with volatile solvents “a principal permitted use in all zoning districts where General Industrial Use is a principal permitted use.” [Measure AF, Sections 162.040(F) and 514.040(F)]. “Volatile solvents” are defined as “explosive gases such as butane, propane, xylene, styrene, gasoline kerosene, O<sub>2</sub> or H<sub>2</sub>, or carcinogens, such as methanol, isopropyl alcohol, methylene chloride, acetone, benzene, toluene, and trichloroethylene.” [Measure AF, Section 6.22.020].

**Couldn't the Board of Supervisors amend Measure AF if it passes?**

No--not until June 1, 2018, and then only if amendments are “consistent with and further the purposes and intent of this Ordinance.” [Measure AF, Section 8]. Those “purposes” include recognizing marijuana as “an agricultural product” that the County Right to Farm Ordinance “conserves, protects and encourages.” This language opens the door to a lawsuit to fight any changes to Measure AF that marijuana growers don’t like.

**If Measure AF is defeated, will the Board of Supervisors enact an ordinance?**

The Board of Supervisors has a draft ordinance that is currently under environmental review for compliance with the California Environmental Quality Act (CEQA). This ordinance, if approved, would amend Chapter 9.31 to allow larger commercial marijuana cultivation in appropriate locations, subject to mandatory inspections to ensure compliance with health, safety and environmental rules. Unlike Measure AF, the proposed County ordinance would try to effectively protect neighbors and youth from harmful impacts. Its permit enforcement would have teeth, unlike the toothless Measure AF. However, if Measure AF passes, it would supersede and overrule any ordinance that the Supervisors might pass.

**Does the No on Measure AF Committee support the Supervisors’ proposed tax on marijuana?**

The Committee does not take a position on any other ballot measure.

**What policies on marijuana does the No on Measure AF Committee advocate?**

The Committee takes no position except to urge a “No” vote on Measure AF, and believes that local regulations should be enacted by the Board of Supervisors, not by the marijuana growers’ measure. The Board of Supervisors can be responsive to the needs of the entire community, and can freely amend regulations if circumstances require.

**Isn’t marijuana going to be legalized by the State?**

The Medical Marijuana Regulation and Safety Act (MMRSA), which was passed by the legislature and went into effect on January 1, 2016, specifically states that a local government permit is needed in addition to a state license. Proposition 64 (the Parker initiative) on the November 2016 ballot, would supersede the MMRSA by legalizing personal use and authorizing commercial cultivation. However, Proposition 64 specifically would specifically “allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older.” [Proposition 64, Section 3(m)]. All this means that Mendocino County retains the

obligation to establish local permit rules and zoning that apply to marijuana cultivation, processing, manufacturing and sales.



# City of Fort Bragg

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

## Text File

File Number: 16-343

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Consent Agenda

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:** 7A.

Adopt City Council Resolution Authorizing City Manager to Decline the Right of First Refusal to Purchase 435 N Whipple Unit B, an Inclusionary Housing Unit, and Instead Authorize Owner of 435 N Whipple Unit B to Sell the Unit, Subject to City Approval, to an Income Qualified Person with Preference to Essential Public Service Employees (Teachers, Firefighters, Police, etc.)

The City of Fort Bragg adopted an Inclusionary Housing ordinance in 2004. In 2006, Charles Dimock received approval by the Planning Commission for a Subdivision (DIV 3-06) and Design Review (DR 4-06) authorizing construction of three detached single family residences at 435 N. Whipple Street and division of the property into five condominium units. As part of the approval process, the project was required to comply with Land Use and Development Code Section 18.31.020(A)(1) which required that 20 percent of the total units (in this case one unit) be reserved for a low income household. The applicant entered into a recorded regulatory agreement with the City of Fort Bragg regarding the inclusionary housing unit (435 N Whipple Unit B). The agreement provides the City with a right of first refusal to purchase the affordable unit at the "Affordable Sales Price" within 60 days following the City's receipt of a written notice that the homeowner intends to sell. The homeowner has submitted written notice of his intent to sell the unit. The City is not in a position to purchase or manage this unit of affordable housing. However, in compliance with the regulatory agreement, the inclusionary unit must be sold to, and occupied by, a person or household whose income does not exceed 120 percent of the Area Median Income. Additionally, the purchaser of the inclusionary unit must be approved by the City of Fort Bragg and must agree to be bound by and honor the Subdivider's obligations and covenants pursuant to the regulatory agreement. The intent of the Inclusionary Housing Ordinance and the recorded regulatory agreement for 435 N Whipple Unit B can be achieved through the sale of this unit to a qualified person or household and the affordability of the unit will continue through 2038.

**RESOLUTION NO. \_\_\_\_-2016**

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL AUTHORIZING THE CITY MANAGER TO DECLINE THE RIGHT OF FIRST REFUSAL TO PURCHASE 435 N WHIPPLE UNIT B, AN INCLUSIONARY HOUSING UNIT, AND INSTEAD AUTHORIZE THE OWNER OF 435 N WHIPPLE UNIT B TO SELL THE UNIT, SUBJECT TO CITY APPROVAL, TO AN INCOME QUALIFIED PERSON WITH PREFERENCE TO ESSENTIAL PUBLIC SERVICE EMPLOYEES (TEACHERS, FIREFIGHTERS, POLICE, ETC.)**

**WHEREAS**, the City of Fort Bragg adopted an Inclusionary Housing ordinance in 2004; and

**WHEREAS**, in 2006, Charles Dimock received approval by the Planning Commission for a Subdivision (DIV 3-06) and Design Review (DR 4-06) authorizing construction of three detached single family residences at 435 N. Whipple street and division of the property into five condominium units;

**WHEREAS**, as part of the project review and approval process, the project was found in compliance with Land Use and Development Code Section 18.31.020(A)(1) which required that 20 percent of the total number of proposed dwelling units be reserved for low income residential unit, so long as the applicant complied with various Special Conditions of the permit including:

1. Prior to approval of the Final Map, the applicant shall submit an Inclusionary Housing Plan, consistent with Section 18.32.100 of the LUDC, that details how the provisions of Chapter 18.32 (Inclusionary Housing) of the LUDC shall be implemented for the proposed residential project. This Plan shall be reviewed by the Community Development Director and the City Attorney to ensure compliance with the City's Inclusionary Housing Program and the final map cannot be recorded unless and until the City Council approves the Inclusionary Housing Program.
2. Prior to issuance of building permits for any of the proposed residences, inclusionary housing agreements, resale restrictions, deed restrictions, and/or other documents, all of which shall be reviewed and approved by the City Attorney for consistency with the requirements of Chapter 18.32 of the LUDC, shall be recorded against the parcel(s) having the inclusionary unit.

**WHEREAS**, in compliance with these Special Conditions, Charles Dimock entered into a recorded regulatory agreement with the City of Fort Bragg regarding the inclusionary housing unit (435 N Whipple Unit B) of the project; and

**WHEREAS**, the recorded regulatory agreement provides the City with a right of first refusal to purchase the affordable unit at the "affordable Sales Price" within 60 days following the City's receipt of a written notice that the homeowner intends to sell; and

**WHEREAS**, the City is not in a position to purchase or manage this unit of affordable housing; and

**WHEREAS**, the property owner has submitted written notice of their intent to sell the property; and

**WHEREAS**, the unit must be sold to, and occupied by, a person or household whose income does not exceed 120 percent of the Area Median Income; and

**WHEREAS**, per the regulatory agreement, the purchaser of the inclusionary unit must be approved by the City of Fort Bragg and must agree to be bound by and honor the Subdivider’s obligations and covenants pursuant to the regulatory agreement;

**WHEREAS**, the regulatory agreement will remain in force for 30 years from the signature date of 2008 and thereby ensure ongoing affordability of the unit through 2038; and

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

1. The intent of the Inclusionary Housing Ordinance and the recorded regulatory agreement for 435 N Whipple Unit B can be achieved through the sale of this unit to a qualified person or household.
2. The affordability of the unit shall continue through 2038.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council does hereby authorize the City Manager to decline the City’s right of first offer to purchase 435 N Whipple Unit B.

**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 12<sup>th</sup> day of September 2016, by the following vote:**

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

\_\_\_\_\_  
**DAVE TURNER,**  
**Mayor**

**ATTEST:**

\_\_\_\_\_  
**June Lemos**  
**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: 16-365

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Consent Agenda

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:** 7B.

Adopt City Council Resolution Authorizing City Manager to Sign Program Supplement Agreements with the California Department of Transportation

On August 12, 2016, the City received two letters from the Department of Transportation (Caltrans) enclosing Program Supplement Agreements (PSAs) for federal funding of the Chestnut Street Corridor Project and the Safe Routes to School Project (see attached). The federal funds obligated for the Chestnut Street Corridor Project total \$975,500; federal funds obligated for the Safe Routes to School Project total \$26,000.

The Caltrans cover letters specifically instruct: "Attach your local agency's certified authorizing resolution that clearly identifies the project and the official authorized to execute the agreement." The signed PSAs and certified resolution must be returned to Caltrans within 90 days of receipt of the documents (by November 10, 2016) or the funds may be disencumbered and/or deobligated. Upon adoption of the attached resolution, the City Clerk will promptly return executed original PSAs along with a certified copy of the Resolution to Caltrans.

**RESOLUTION NO. \_\_\_\_-2016**

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL AUTHORIZING THE CITY MANAGER TO SIGN PROGRAM SUPPLEMENT AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION**

**WHEREAS**, the City of Fort Bragg is eligible to receive federal and/or State funding for certain Transportation Projects through the California Department of Transportation, to wit: Chestnut Street Corridor Project (Federal Aid Project No. 01-5088R) and Safe Routes to School Project (Federal Aid Project No. 01-5088F15); and

**WHEREAS**, Program Supplement Agreement documents need to be executed with the California Department of Transportation for these projects before such funds can be claimed; and

**WHEREAS**, the City of Fort Bragg wishes to delegate authority to execute these documents, and any other documents pertinent thereto, to the City Manager.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Fort Bragg does hereby authorize the City Manager to execute all Program Supplement Agreement documents and any amendments thereto with the California Department of Transportation.

**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 12<sup>th</sup> day of September, 2016, by the following vote:**

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

---

**DAVE TURNER,**  
**Mayor**

**ATTEST:**

---

**June Lemos**  
**City Clerk**

**DEPARTMENT OF TRANSPORTATION**

Division of Local Assistance  
1120 N STREET  
P.O. BOX 942874, MS# 1  
Sacramento, CA 94274-0001  
TTY 711  
(916) 654-3883  
Fax (916) 654-2408

**REC'D AUG 12 2016**

File : 01-MEN-0-FBG  
ATPLNI-5088(030)  
In Fort Bragg. Non-Infrastructure

August 11, 2016

Ms. Linda Ruffing  
City Manager  
City of Fort Bragg  
416 N. Franklin Street  
Fort Bragg, CA 95437

Dear Ms. Ruffing:

Enclosed are two originals of the Program Supplement Agreement No. 014-F to Administering Agency-State Agreement No. 01-5088F15 and an approved Finance Letter for the subject project. Please retain the signed Finance Letter for your records.

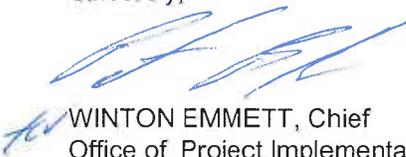
**Please note that federal funding will be lost if you proceed with future phase(s) of the project prior to getting the "Authorization to Proceed" with that phase.**

Please review the covenants and sign both copies of this Agreement and return both to this office, Office of Project Implementation - MS1 within 90 days from the receipt of this letter. If the signed Agreements are not received back in this office within 90 days, funds will be disencumbered and/or deobligated. Alterations should not be made to the agreement language or funding. ATTACH YOUR LOCAL AGENCY'S CERTIFIED AUTHORIZING RESOLUTION THAT CLEARLY IDENTIFIES THE PROJECT AND THE OFFICIAL AUTHORIZED TO EXECUTE THE AGREEMENT. A fully executed copy of the agreement will be returned to you upon ratification by Caltrans. No invoices for reimbursement can be processed until the agreement is fully executed.

The State budget authority supporting the encumbered funds is only available for liquidation up to specific deadlines. These deadlines are shown on the attached Finance letter as the "Reversion Date". Please ensure that your invoices are submitted at least 60 days prior to the reversion date to avoid any lapse of funds. If your agency is unable to seek reimbursement by this date you may request an extension through a Cooperative Work Agreement (CWA). A CWA is subject to the final approval of the State Department of Finance. If approved, the CWA may extend the deadline for up to two years.

Your prompt action is requested. If you have questions, please contact your District Local Assistance Engineer.

Sincerely,

  
WINTON EMMETT, Chief  
Office of Project Implementation - North  
Division of Local Assistance

Enclosure

c: DLA AE Project Files  
(01) DLAE - Suzanne Theiss

**PROGRAM SUPPLEMENT NO. F014**  
to  
**ADMINISTERING AGENCY-STATE AGREEMENT**  
**FOR FEDERAL-AID PROJECTS NO 01-5088F15**

**Adv Project ID**                      **Date:** August 3, 2016  
0116000142                      **Location:** 01-MEN-0-FBG  
**Project Number:** ATPLNI-5088(030)  
**E.A. Number:**  
**Locode:** 5088

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on \_\_\_\_\_ and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. \_\_\_\_\_ approved by the Administering Agency on \_\_\_\_\_ (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

**PROJECT LOCATION:**

In Fort Bragg. Non-Infrastructure

**TYPE OF WORK:** Safe Route to Schools

**LENGTH:** 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds	
	M3E2		LOCAL	OTHER
\$26,000.00	\$26,000.00		\$0.00	\$0.00

**CITY OF FORT BRAGG**

**STATE OF CALIFORNIA**  
Department of Transportation

By \_\_\_\_\_

By \_\_\_\_\_  
Chief, Office of Project Implementation  
Division of Local Assistance

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Attest \_\_\_\_\_

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer  Date 8/4/16 \$26,000.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT



**SPECIAL COVENANTS OR REMARKS**

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

D. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

E. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal

**SPECIAL COVENANTS OR REMARKS**

obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

F. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

G. As a condition for receiving federal-aid highway funds for PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at [www.sam.gov](http://www.sam.gov).

H. This PROJECT is programmed to receive Federal funding from the Active Transportation Program (ATP). Funding may be provided under one or more components. A component(s) specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the component(s) identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per component(s).

This PROGRAM SUPPLEMENT has been prepared to allow reimbursement of eligible PROJECT expenditures for the component(s) allocated. The start of reimbursable expenditures is restricted to the later of either 1) the effective date of the component specific allocation or the effective date of the federal obligation of funds.

**SPECIAL COVENANTS OR REMARKS**

I. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY also agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration and that STATE funds available for reimbursement will be limited to the amounts allocated by the California Transportation Commission and/or STATE.

J. Upon ADMINISTERING AGENCY request, the CTC and/or STATE may approve supplementary allocations, time extensions, and fund transfers between components. Funds transferred between allocated project components retain their original timely use of funds deadlines, but an approved time extension will revise the timely use of funds criteria for the component(s) and allocation(s) requested. Approved supplementary allocations, time extensions, and fund transfers between components made after the execution of this PROGRAM SUPPLEMENT will be documented and considered subject to the terms and conditions thereof. Documentation will consist of a Federal Highway Administration-approved "Authorization to Proceed" notification, a STATE approved Allocation Letter, Fund Transfer Letter, Time Extension Letter, and Finance Letter, as appropriate.

K. This PROJECT will be administered in accordance with the applicable CTC STIP guidelines and the Active Transportation Program guidelines as adopted or amended, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

L. The submittal of invoices for PROJECT costs shall be in accordance with the above-referenced publications and the following. The ADMINISTERING AGENCY shall invoice STATE for environmental & permits, plans specifications & estimate, and right-of-way costs no later than 180 days after the end of last eligible fiscal year of expenditure. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance, whichever occurs first, to make the final payment to the contractor and prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and payment.

M. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature and the encumbrance of funds under this Agreement. Funding and reimbursement are available only upon the passage of the State Budget Act containing these Federal funds.

N. This PROJECT is subject to the timely use of funds provisions enacted by the ATP Guidelines, as adopted or amended, and by approved CTC and State procedures as outlined below.

Funds allocated for the environmental & permits (E&P), plan specifications & estimate (PS&E), and right-of-way components are available for expenditure until the end of the second fiscal year following the year in which the funds were allocated.

**SPECIAL COVENANTS OR REMARKS**

Funds allocated for the construction component are subject to an award deadline and contract completion deadline. ADMINISTERING AGENCY agrees to award the contract within 6 months of the construction fund allocation and to complete and accept the construction within 36 months of award.

O. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to comply with all reporting requirements in accordance with the Active Transportation Program Guidelines, as adopted or amended.

2. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.

B. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.

C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.

D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.

E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.

F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and

**SPECIAL COVENANTS OR REMARKS**

subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and

**SPECIAL COVENANTS OR REMARKS**

maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contracts over \$10,000, or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.

**DEPARTMENT OF TRANSPORTATION**

Division of Local Assistance  
1120 N STREET  
P.O. BOX 942874, MS# 1  
Sacramento, CA 94274-0001  
TTY 711  
(916) 654-3883  
Fax (916) 654-2408



REC'D AUG 12 2016

File : 01-MEN-0-FBG

DEMO6L-5088(028)

In Fort Bragg: on the North Side of  
Chestnut Street from Franklin Street  
to Dana Street.

August 11, 2016

Ms. Linda Ruffing  
City Manager  
City of Fort Bragg  
416 N. Franklin Street  
Fort Bragg, CA 95437

Dear Ms. Ruffing:

Enclosed are two originals of the Program Supplement Agreement No. 013-N1 to Administering Agency-State Agreement No. 01-5088R and an approved Finance Letter for the subject project. Please retain the signed Finance Letter for your records.

**Please note that federal funding will be lost if you proceed with future phase(s) of the project prior to getting the "Authorization to Proceed" with that phase.**

Please review the covenants and sign both copies of this Agreement and return both to this office, Office of Project Implementation - MS1 within 90 days from the receipt of this letter. If the signed Agreements are not received back in this office within 90 days, funds will be disencumbered and/or deobligated. Alterations should not be made to the agreement language or funding. ATTACH YOUR LOCAL AGENCY'S CERTIFIED AUTHORIZING RESOLUTION THAT CLEARLY IDENTIFIES THE PROJECT AND THE OFFICIAL AUTHORIZED TO EXECUTE THE AGREEMENT. A fully executed copy of the agreement will be returned to you upon ratification by Caltrans. No invoices for reimbursement can be processed until the agreement is fully executed.

The State budget authority supporting the encumbered funds is only available for liquidation up to specific deadlines. These deadlines are shown on the attached Finance letter as the "Reversion Date". Please ensure that your invoices are submitted at least 60 days prior to the reversion date to avoid any lapse of funds. If your agency is unable to seek reimbursement by this date you may request an extension through a Cooperative Work Agreement (CWA). A CWA is subject to the final approval of the State Department of Finance. If approved, the CWA may extend the deadline for up to two years.

Your prompt action is requested. If you have questions, please contact your District Local Assistance Engineer.

Sincerely,



WINTON EMMETT, Chief  
Office of Project Implementation - North  
Division of Local Assistance

Enclosure

c: DLA AE Project Files  
(01) DLAE - Suzanne Theiss

**PROGRAM SUPPLEMENT NO. N013 Rev. 1**  
**to**  
**ADMINISTERING AGENCY-STATE AGREEMENT**  
**FOR FEDERAL-AID PROJECTS NO 01-5088R**

**Adv Project ID:** 0114000012  
**Date:** August 1, 2016  
**Location:** 01-MEN-0-FBG  
**Project Number:** DEMO6L-5088(028)  
**E.A. Number:**  
**Locode:** 5088

This Program Supplement hereby adopts and incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 09/14/07 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. \_\_\_\_\_ approved by the Administering Agency on \_\_\_\_\_ (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by the State of any funds derived from sources noted below obligated to this PROJECT, the Administering Agency accepts and will comply with the special covenants or remarks set forth on the following pages.

**PROJECT LOCATION:**

In Fort Bragg: on the North Side of Chestnut Street from Franklin Street to Dana Street.

**TYPE OF WORK:** Construct Pedestrian and Bike Trail

**LENGTH:** 0.0(MILES)

Estimated Cost	Federal Funds		Matching Funds	
			LOCAL	OTHER
\$1,262,914.00	M3E2	\$233,000.00		
	LY60	\$742,500.00	\$0.00	\$287,414.00

**CITY OF FORT BRAGG**

**STATE OF CALIFORNIA**  
**Department of Transportation**

By \_\_\_\_\_  
 Title \_\_\_\_\_  
 Date \_\_\_\_\_  
 Attest \_\_\_\_\_

By \_\_\_\_\_  
 Chief, Office of Project Implementation  
 Division of Local Assistance  
 Date \_\_\_\_\_

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer  Date 8/4/16 \$975,500.00

Chapter	Statutes	Item	Year	Program	BC	Category	Fund Source	AMOUNT



**SPECIAL COVENANTS OR REMARKS**

1. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

D. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

E. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal

**SPECIAL COVENANTS OR REMARKS**

obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

F. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

G. As a condition for receiving federal-aid highway funds for PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at [www.sam.gov](http://www.sam.gov).

H. This PROJECT is programmed to receive Federal funding from the Active Transportation Program (ATP). Funding may be provided under one or more components. A component(s) specific fund allocation is required, in addition to other requirements, before reimbursable work can occur for the component(s) identified. Each allocation will be assigned an effective date and identify the amount of funds allocated per component(s).

This PROGRAM SUPPLEMENT has been prepared to allow reimbursement of eligible PROJECT expenditures for the component(s) allocated. The start of reimbursable expenditures is restricted to the later of either 1) the effective date of the component specific allocation or the effective date of the federal obligation of funds.

**SPECIAL COVENANTS OR REMARKS**

I. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY also agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration and that STATE funds available for reimbursement will be limited to the amounts allocated by the California Transportation Commission and/or STATE.

J. Upon ADMINISTERING AGENCY request, the CTC and/or STATE may approve supplementary allocations, time extensions, and fund transfers between components. Funds transferred between allocated project components retain their original timely use of funds deadlines, but an approved time extension will revise the timely use of funds criteria for the component(s) and allocation(s) requested. Approved supplementary allocations, time extensions, and fund transfers between components made after the execution of this PROGRAM SUPPLEMENT will be documented and considered subject to the terms and conditions thereof. Documentation will consist of a Federal Highway Administration-approved "Authorization to Proceed" notification, a STATE approved Allocation Letter, Fund Transfer Letter, Time Extension Letter, and Finance Letter, as appropriate.

K. This PROJECT will be administered in accordance with the applicable CTC STIP guidelines and the Active Transportation Program guidelines as adopted or amended, the Local Assistance Procedures Manual (LAPM), the Local Assistance Program Guidelines (LAPG), and this PROGRAM SUPPLEMENT.

L. The submittal of invoices for PROJECT costs shall be in accordance with the above-referenced publications and the following. The ADMINISTERING AGENCY shall invoice STATE for environmental & permits, plans specifications & estimate, and right-of-way costs no later than 180 days after the end of last eligible fiscal year of expenditure. For construction costs, the ADMINISTERING AGENCY has 180 days after project completion or contract acceptance, whichever occurs first, to make the final payment to the contractor and prepare the final Report of Expenditures and final invoice, and submit to STATE for verification and payment.

M. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature and the encumbrance of funds under this Agreement. Funding and reimbursement are available only upon the passage of the State Budget Act containing these Federal funds.

N. This PROJECT is subject to the timely use of funds provisions enacted by the ATP Guidelines, as adopted or amended, and by approved CTC and State procedures as outlined below.

Funds allocated for the environmental & permits (E&P), plan specifications & estimate (PS&E), and right-of-way components are available for expenditure until the end of the second fiscal year following the year in which the funds were allocated.

**SPECIAL COVENANTS OR REMARKS**

Funds allocated for the construction component are subject to an award deadline and contract completion deadline. ADMINISTERING AGENCY agrees to award the contract within 6 months of the construction fund allocation and to complete and accept the construction within 36 months of award.

O. By executing this PROGRAM SUPPLEMENT, ADMINISTERING AGENCY agrees to comply with all reporting requirements in accordance with the Active Transportation Program Guidelines, as adopted or amended.

2. A. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.

B. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

C. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available by future Federal obligations will be encumbered on this PROJECT by use of a STATE-approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

D. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award and prior to the submittal of the ADMINISTERING AGENCY'S first invoice for the construction contract.

Failure to do so will cause a delay in the State processing invoices for the construction phase. Attention is directed to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

E. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations for Federal aid projects, or encumbrances for State funded projects, as well as to suspend invoice payments for any on-going or future project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

**SPECIAL COVENANTS OR REMARKS**

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

F. Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

G. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the District Local Assistance Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

H. As a condition for receiving federal-aid highway funds for the PROJECT, the

**SPECIAL COVENANTS OR REMARKS**

Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Exclusion List. Exclusions can be found at [www.sam.gov](http://www.sam.gov).

3. A. ADMINISTERING AGENCY shall conform to all State statutes, regulations and procedures (including those set forth in the Local Assistance Procedures Manual and the Local Assistance Program Guidelines, hereafter collectively referred to as "LOCAL ASSISTANCE PROCEDURES") relating to the federal-aid program, all Title 23 Code of Federal Regulation (CFR) and 2 CFR Part 200 federal requirements, and all applicable federal laws, regulations, and policy and procedural or instructional memoranda, unless otherwise specifically waived as designated in the executed project-specific PROGRAM SUPPLEMENT.
- B. Invoices shall be submitted on ADMINISTERING AGENCY letterhead that includes the address of ADMINISTERING AGENCY and shall be formatted in accordance with LOCAL ASSISTANCE PROCEDURES.
- C. ADMINISTERING AGENCY must have at least one copy of supporting backup documentation for costs incurred and claimed for reimbursement by ADMINISTERING AGENCY. ADMINISTERING AGENCY agrees to submit supporting backup documentation with invoices if requested by State. Acceptable backup documentation includes, but is not limited to, agency's progress payment to the contractors, copies of cancelled checks showing amounts made payable to vendors and contractors, and/or a computerized summary of PROJECT costs.
- D. Indirect Cost Allocation Plan/Indirect Cost Rate Proposals (ICAP/ICRP), Central Service Cost Allocation Plans and related documentation are to be prepared and provided to STATE (Caltrans Audits & Investigations) for review and approval prior to ADMINISTERING AGENCY seeking reimbursement of indirect costs incurred within each fiscal year being claimed for State and federal reimbursement. ICAPs/ICRPs must be prepared in accordance with the requirements set forth in 2 CFR, Part 200, Chapter 5 of the Local Assistance Procedural Manual, and the ICAP/ICRP approval procedures established by STATE.
- E. STATE will withhold the greater of either two (2) percent of the total of all federal funds encumbered for each PROGRAM SUPPLEMENT or \$40,000 until ADMINISTERING AGENCY submits the Final Report of Expenditures for each completed PROGRAM SUPPLEMENT PROJECT.
- F. Payments to ADMINISTERING AGENCY for PROJECT-related travel and subsistence (per diem) expenses of ADMINISTERING AGENCY forces and its contractors and subcontractors claimed for reimbursement or as local match credit shall not exceed rates authorized to be paid rank and file STATE employees under current State Department of Personnel Administration (DPA) rules. If the rates invoiced by ADMINISTERING AGENCY are in excess of DPA rates, ADMINISTERING AGENCY is

**SPECIAL COVENANTS OR REMARKS**

responsible for the cost difference, and any overpayments inadvertently paid by STATE shall be reimbursed to STATE by ADMINISTERING AGENCY on demand within thirty (30) days of such invoice.

G. ADMINISTERING AGENCY agrees to comply with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirement for Federal Awards.

H. ADMINISTERING AGENCY agrees, and will assure that its contractors and subcontractors will be obligated to agree, that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31, et seq., shall be used to determine the allowability of individual PROJECT cost items.

I. Every sub-recipient receiving PROJECT funds under this AGREEMENT shall comply with 2 CFR, Part 200, 23 CFR, 48 CFR Chapter 1, Part 31, Local Assistance Procedures, Public Contract Code (PCC) 10300-10334 (procurement of goods), PCC 10335-10381 (non-A&E services), and other applicable STATE and FEDERAL regulations.

J. Any PROJECT costs for which ADMINISTERING AGENCY has received payment or credit that are determined by subsequent audit to be unallowable under 2 CFR, Part 200, 23 CFR, 48 CFR, Chapter 1, Part 31, and other applicable STATE and FEDERAL regulations, are subject to repayment by ADMINISTERING AGENCY to STATE.

K. STATE reserves the right to conduct technical and financial audits of PROJECT WORK and records and ADMINISTERING AGENCY agrees, and shall require its contractors and subcontractors to agree, to cooperate with STATE by making all appropriate and relevant PROJECT records available for audit and copying as required by the following paragraph:

ADMINISTERING AGENCY, ADMINISTERING AGENCY'S contractors and subcontractors, and STATE shall each maintain and make available for inspection and audit by STATE, the California State Auditor, or any duly authorized representative of STATE or the United States all books, documents, papers, accounting records, and other evidence pertaining to the performance of such contracts, including, but not limited to, the costs of administering those various contracts and ADMINISTERING AGENCY shall furnish copies thereof if requested. All of the above referenced parties shall make such AGREEMENT, PROGRAM SUPPLEMENT, and contract materials available at their respective offices at all reasonable times during the entire PROJECT period and for three (3) years from the date of submission of the final expenditure report by the STATE to the FHWA.

L. ADMINISTERING AGENCY, its contractors and subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred PROJECT costs and matching funds by line item for the PROJECT. The financial management system of ADMINISTERING AGENCY, its contractors and all subcontractors shall conform to Generally Accepted Accounting Principles, enable the determination of incurred costs at

**SPECIAL COVENANTS OR REMARKS**

interim points of completion, and provide support for reimbursement payment vouchers or invoices set to or paid by STATE.

M. ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act of 2 CFR 200 if it expends \$750,000 or more in Federal Funds in a single fiscal year of the Catalogue of Federal Domestic Assistance.

N. ADMINISTERING AGENCY agrees to include all PROGRAM SUPPLEMENTS adopting the terms of this AGREEMENT in the schedule of projects to be examined in ADMINISTERING AGENCY's annual audit and in the schedule of projects to be examined under its single audit prepared in accordance with 2 CFR, Part 200.

O. ADMINISTERING AGENCY shall not award a non-A&E contract over \$5,000, construction contracts over \$10,000, or other contracts over \$25,000 [excluding professional service contracts of the type which are required to be procured in accordance with Government Code sections 4525 (d), (e) and (f)] on the basis of a noncompetitive negotiation for work to be performed under this AGREEMENT without the prior written approval of STATE. Contracts awarded by ADMINISTERING AGENCY, if intended as local match credit, must meet the requirements set forth in this AGREEMENT regarding local match funds.

P. Any subcontract entered into by ADMINISTERING AGENCY as a result of this AGREEMENT shall contain provisions B, C, F, H, I, K, and L under Section 2 of this agreement.



# City of Fort Bragg

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

## Text File

File Number: 16-361

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Consent Agenda

**In Control:** City Council

**File Type:** Resolution

**Agenda Number:** 7C.

Adopt City Council Resolution Establishing Schedule for Standing Committee Meetings  
The Public Works and Facilities Committee (PWFC) is a standing Council Committee that regularly meets on the third Thursday of the month at 3:00 PM. Vice Mayor Peters recently requested that the date and time of the PWFC meeting be changed to the fourth Wednesday of the month at 3:00 PM so as not to conflict with his work schedule. Section 2.04.040 of the Fort Bragg Municipal Code states, "The City Council may establish (and amend, from time to time) rules for the conduct of its proceedings by adoption of a resolution." The attached Resolution establishes the date, time, and location for each of the four standing Council Committees and allows the Council to update or amend the schedule by resolution when changes need to be made, for example after the Council reorganizes and the Mayor makes new committee assignments in January 2017.

**RESOLUTION NO. \_\_\_\_-2016**

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL ESTABLISHING SCHEDULE FOR  
STANDING COMMITTEE MEETINGS**

**WHEREAS**, Fort Bragg Municipal Code Section 2.04.045 entitled "Standing Committees Designated," establishes four standing committees of the Fort Bragg City Council, i.e., Community Development Committee, Finance and Administration Committee, Public Safety Committee and Public Works and Facilities Committee; and

**WHEREAS**, Resolution 3556-2012, Exhibit A, Article II, sets forth the duties to be performed by each of the Standing Committees; and

**WHEREAS**, a regular schedule of dates, times, and locations needs to be set for these standing committees which can be updated by resolution from time to time as availability of committee members changes; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Fort Bragg does hereby adopt the Schedule of Council Standing Committees, a copy of which is attached hereto and incorporated herein as Exhibit "A."

**The above and foregoing Resolution was introduced by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 12<sup>th</sup> day of September, 2016, by the following vote:**

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

---

**DAVE TURNER**  
**Mayor**

**ATTEST:**

---

**June Lemos**  
**City Clerk**

**EXHIBIT "A"**

**SCHEDULE OF COUNCIL STANDING COMMITTEES**

Committee	Meeting Date	Time	Location
Community Development Committee	4 <sup>th</sup> Tuesday of the month	3:00 PM	Town Hall
Finance & Administration Committee	1 <sup>st</sup> Wednesday of the month	3:00 PM	Town Hall
Public Safety Committee	2 <sup>nd</sup> Wednesday of the month	3:00 PM	Town Hall
Public Works & Facilities Committee	4 <sup>th</sup> Wednesday of the month	3:00 PM	Town Hall

**2.04.045 STANDING COMMITTEES DESIGNATED.**

---

A. There shall be four standing committees; each committee shall consist of two members of the City Council to be appointed by the Mayor.

B. The committees are as follows:

1. Community Development Committee;
2. Finance and Administration Committee;
3. Public Safety Committee; and
4. Public Works and Facilities Committee.

(Ord. 904 §2, passed 06-11-2012)

**RESOLUTION NO. 3556-2012**

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL ESTABLISHING CITY COUNCIL RULES OF PROCEDURE FOR CONDUCT OF CITY COUNCIL BUSINESS**

**WHEREAS**, certain rules of procedure for the conduct of City Council business have been included in Chapter 2.04 of the Fort Bragg Municipal Code (“Chapter 2.04”); and

**WHEREAS**, Chapter 2.04 has now been amended to remove certain procedural provisions relating to the conduct of the City Council’s business; and

**WHEREAS**, the procedural provisions that have been removed from Chapter 2.04 can be updated more flexibly and efficiently if those provisions are formalized in a resolution; and

**WHEREAS**, resolutions establishing the order of business and guidelines for the conduct of City Council meetings have been adopted in the past; and

**WHEREAS**, it is the recommendation of the City Council that the removed provisions of Chapter 2.04 and prior resolutions that established guidelines for certain City Council activities be consolidated into one comprehensive resolution governing the rules of procedure for conduct of City Council business; and

**NOW, THEREFORE, BE IT RESOLVED** that the following resolutions of the Fort Bragg City Council are hereby rescinded and revoked and shall no longer be in effect: Resolution 1910-92 adopted on July 27, 1992, Resolution 3183-2008 adopted on July 14, 2008 and Resolution 3253-2009 adopted on March 9, 2009.

**BE IT FURTHER RESOLVED** that the City Council of the City of Fort Bragg does hereby adopt the Rules of Procedures for conduct of City Council business, a copy of which is attached hereto and incorporated herein as Exhibit “A”.

The above and foregoing Resolution was introduced by Councilmember Gjerde, seconded by Councilmember Hammerstrom, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 9<sup>th</sup> day of July, 2012, by the following vote:

**AYES:** Councilmembers Courtney, Deitz, Gjerde, Hammerstrom, and Mayor Turner.  
**NOES:** None.  
**ABSENT:** None.  
**ABSTAIN:** None.



**DAVE TURNER,  
Mayor**

**ATTEST:**

  
Cynthia M. VanWormer, CMC  
City Clerk

## **ARTICLE I – MEETINGS**

### **Section 1. Regular Meetings**

Regular meetings of the City Council shall be as established in Fort Bragg Municipal Code Sections 2.04.010 and 2.04.020.

### **Section 2. Special Meetings**

- 2.1 A special meeting of the City Council may be called at any time by the Mayor or, in the Mayor's absence, by the Vice Mayor, or by a majority of the members of the City Council, by providing written notice in accordance with applicable laws to each member of the City Council and to each local newspaper of general circulation, radio or television station requesting notice in writing.
- 2.2 The notice described in Section 2.1, above, at least 24 hours before the time of the meeting as specified in the notice shall be posted in a location that is freely accessible to members of the public.
- 2.3 The call and notice shall specify the time and place of the special meeting and the business to be transacted.
- 2.4 No other business shall be considered at the special meeting by the City Council.
- 2.4 The written notice may be dispensed with as to any member of the City Council who, at or prior to the time the meeting convenes, files with the City Clerk a written waiver of notice of the meeting. The waiver may also be given by, telephone, fax or e-mail and, further, may be dispensed with as to any member of the City Council who is actually present at the meeting at the time it convenes.

### **Section 3. Order of Business**

- 3.1 **Agenda:** The order of business of each meeting shall be as contained in the Agenda prepared by the City Clerk. The Agenda shall be a listing by topic of the subjects which shall be taken up for consideration in the following order:

CALL TO ORDER  
PLEDGE OF ALLEGIANCE  
ROLL CALL  
AGENDA REVIEW  
MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS  
STAFF COMMENTS  
MATTERS FROM COUNCILMEMBERS  
PUBLIC HEARINGS  
CONDUCT OF BUSINESS  
PUBLIC COMMENTS ON NON-AGENDA AND CONSENT CALENDAR ITEMS  
    A. Non-Agenda Items  
    B. Consent Calendar Items  
CONSENT CALENDAR  
CLOSED SESSION  
ADJOURNMENT

- 3.2 **Urgency Items:** Urgency items can be handled at any meeting of the City Council upon proper notice and/or action by the City Council, in accordance with the provisions of Government Code section 54954.2, as amended from time to time.
- 3.3 **Conduct of Business / Public Hearings:**
- a. All speakers before the City Council shall proceed to the podium and wait to be recognized by the Presiding Officer. Additional information regarding addressing the City Council is found in Section 5 below.
  - b. Questions to staff from the public and staff response should be directed through the Mayor.
  - c. When a public hearing has been underway for a period of sixty (60) minutes, the Council shall vote on whether to continue to proceed with the hearing at that meeting or to continue the hearing to another meeting.
  - d. The City Manager may schedule special meetings for public hearings which are expected to be well attended.
- 3.4 **Public Comments:** The Council welcomes input from the public. However, the Council cannot take action or deliberate on matters brought before them under Public Comments. Additional information regarding addressing the City Council is found in Section 5 below.
- 3.5 **Council Committees:** The Council will make greater utilization of standing committees before matters appear on the agenda.
- 3.6 **Adjournment:** The adjournment time for all Council meetings shall be 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. Further, if it appears that the meeting will adjourn, the Council shall vote upon which items are to be continued to a future meeting.

#### **Section 4. Rules, Decorum and Order**

- 4.1 **Questions of Order:** The Mayor shall decide all questions of order.
- 4.2 **Interruption during discussion:** No member of the City Council shall be permitted to interrupt another during debate or discussion of any subject.

#### **Section 5. Addressing the City Council**

- 5.1 **Manner of Addressing the City Council:** Any member of the public desiring to address the City Council shall proceed to the podium and wait to be recognized by the Presiding Officer.

All remarks and questions shall be addressed to the Mayor or acting Mayor and not to any individual Councilmember, staff member or other person. No person shall enter into any discussion without being recognized by the Mayor or acting Mayor.

- 5.2 **Time Limitation:** 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.

### **Section 6. Motions**

- 6.1 **Motions - Generally:** All motions shall be reduced to writing, if any member of the City Council requires it, and when a motion has once been made and carried or lost, it shall be in order for a member voting in the majority, to move for a reconsideration; provided, that no more than one motion for reconsideration shall be entertained.
- 6.2 **Motions – Action:** After a motion has been made and seconded, regarding any thing or matter concerning and upon which the City Council has the right to act, then it shall be entertained by the City Council and shall be debatable, each member having the right to talk on the subject five (5) minutes, or more, except a motion to adjourn which is not debatable.
- 6.3 **Voting:**
- a. Every member of the City Council present, shall give his or her vote on every question or matter when put, except if he or she is disqualified from voting by operation of law, or unless the City Council for special reasons entered in the minutes, excuses him or her from voting on a particular matter then under consideration. Should a member abstain from voting, he or she shall state the reason for abstaining. The reason shall be recorded in the minutes of the meeting.
  - b. For votes taken on any ordinance, resolution, or amendment of any ordinance or resolution, and for all motions or resolutions for the payment of money, or ordering the doing of any act or thing that will result in the payment of money, the ayes and noes shall be taken and entered in the minutes, and at the desire of any member of the City Council, the ayes and noes shall be taken and entered in the minutes.

## **ARTICLE II – COMMITTEES**

1. **Duties of Standing Committees:** The standing committees named in Fort Bragg Municipal Code Section 2.04.045 shall each do and perform the duties as set forth below:
  - a. **Community Development Committee:** Exercises oversight for planning and community development functions. Reviews and makes recommendations concerning grant applications, annexation, and development review procedures. Liaison with other community development agencies and, for administrative purposes, with the Planning Commission.  
  
Primary staff support to this committee shall be the Community Development Director.
  - b. **Finance and Administration Committee:** The functions of this committee include: Reviews and approves warrants (bills); exercises oversight for administrative and finance staff functions, reviews and makes recommendations concerning debt financing, budgetary control, business licenses, investment policies, administrative procedures, public information, intergovernmental relations, personnel, cable television franchise agreement, records management, insurance, data processing, employee salary and benefit programs, purchasing, accounting, utility rates, and related matters.

Reviews proposed legislation and makes recommendations for Council policy consideration.

Primary staff support to this committee shall be the City Manager and Finance Director.

- c. Public Safety Committee: Exercises oversight for police, fire, building safety and disaster preparedness functions. Reviews and makes recommendations concerning departmental staffing levels, parking regulations, traffic safety (stop signs, etc.) and building code. Liaison with Rural Fire District and volunteer fire department. Reviews proposed legislation and makes recommendations for Council policy consideration.

In addition to the duties as set forth, the two Councilmembers appointed to this committee shall be designated as the City's representatives to the Fort Bragg Fire Protection Authority.

Primary staff support to this committee shall be the Chief of Police.

- d. Public Works and Facilities Committee: Exercises oversight for public works functions including street maintenance, parks, drainage, water and sewer. Reviews and makes recommendations concerning departmental staffing, use and maintenance of public buildings, prioritization of public works improvements, service extensions, engineering services and solid waste. Liaison with private utility companies. Reviewed proposed legislation and makes recommendations for Council policy consideration.

In addition to the duties as set forth the two Councilmembers appointed to this committee are hereby designated as the City's representatives to:

- 1) The County-City Coordinating Committee; and
- 2) The Mendocino County Solid Waste Joint Powers Authority (MSWMA), with one Councilmember designated as the MSWMA Board appointee and the second Councilmember designated as the alternate appointee to the MSWMA Board.

Primary staff support to this committee shall be the Public Works Director.

2. Reports of Committees: It shall be the duty of any committee of the City Council, to whom any subject or matter may be referred, to report thereon by providing a copy of the approved committee minutes at the next regular meeting of the City Council after approval.

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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: 16-346

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Consent Agenda

**In Control:** City Council

**File Type:** Consent Calendar

**Agenda Number:** 7D.

### Reject Claim of Steve Bradley and the F/V Sound Adventure

On August 12, 2016, the City received a claim from attorney C. Joseph Ou on behalf of Steve Bradley and the F/V Sound Adventure. The claim demanded indemnity from the City of Fort Bragg for the injuries to Florencio Hernandez Castaneda who allegedly was injured on or about March 5, 2013 when he slipped and fell on the Noyo Harbor docks. The claim was forwarded to Redwood Empire Municipal Insurance Fund (REMIF) for review and direction.

REMIF's General Manager reviewed the claim and recommended that it be placed on an agenda for City Council rejection, as the location of the incident is not within City Limits and is therefore not in the City's jurisdiction. A copy of the claim and the proposed rejection letter are attached for Council's review. If the claim is rejected by the City Council, the City Clerk will issue the Notice of Rejection and advise REMIF that the claim has been rejected.

Geoffrey Robb  
Peter A. Lindh  
Joshua E. Kirsch  
Michael J. Cummins  
Jennifer T. Sanchez  
Marker E. Lovell, Jr.  
Joshua A. Southwick  
Michelle L. Tommey  
Chelsea D. Yuan  
Marisa G. Huber  
C. Joseph Ou  
Christopher J. Sung

**GIBSON ROBB & LINDH LLP**  
201 Mission Street, Suite 2700  
San Francisco, CA 94105

Of Counsel  
Stanley L. Gibson

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Telephone (415) 348-6000

Facsimile (415) 348-6001

Writer's Direct Dial  
(415) 979-2337

cjou@gibsonrobb.com

August 10, 2016

**RECEIVED**

**AUG 12 2016**

**CITY OF FORT BRAGG  
CITY CLERK**

**Via U.S. Mail**

City of Fort Bragg  
City Clerk: June Lemos  
416 N. Franklin St.  
Fort Bragg, CA 95437

**Re: Notice of Claim: Florencio Hernandez Castaneda v. Steve Bradley**  
United States District Court - Northern District Court Case No. 3:16-cv-00746-JD  
GRL File No. 8004.27

Dear Ms. Lemos,

Please be advised that Plaintiff Florencio Hernandez Castaneda has filed the above subject action against Steve Bradley and the F/V Sound Adventure. Mr. Castaneda alleges that he was injured on or about March 5, 2013, when he slipped and fell on the Noyo Harbor docks.

On February 12, 2016, Mr. Castaneda filed his complaint the District Court for the Northern District of California, Case No. 3:16-cv-00746-JD, alleging Jones Act Negligence; Jones Act: Negligent Failure to Secure Maintenance & Cure; Maintenance and Cure: Failure to Inform; Unseaworthiness; and Maintenance & Cure: Ongoing Failure to provide. Mr. Castaneda is seeking damages in excess of \$1,000,000.00, including damages for: Compensable value of physical and emotional injuries, pain, and suffering, loss of wages and earning power, compensable value of medical treatment and related services, compensable value of the loss of life's pleasures, maintenance and cure benefits, prejudgment interest, and punitive damages.

Pursuant to the Government Claims Act, Govt. Code §§ 810-996.6, Steve Bradley and the F/V Sound Adventure hereby demands indemnity from the City of Fort Bragg/Noyo Harbor District for Mr. Castaneda's claim. Please contact this office regarding any issues to the filing of this claim.

Sincerely,

GIBSON ROBB & LINDH LLP



C. Joseph Ou

CJO/cll



## CITY OF FORT BRAGG

*Incorporated August 5, 1889*  
416 N. Franklin Street  
Fort Bragg, CA 95437  
Phone: (707) 961-2823  
Fax: (707) 961-2802

VIA CERTIFIED MAIL  
Return Receipt Requested  
#7014 1820 0002 1877 0967

September 12, 2016

Mr. C. Joseph Ou  
Gibson Robb & Lindh LLP  
201 Mission Street, Suite 2700  
San Francisco, CA 94105

**RE: Notice of Rejection of Claim by City of Fort Bragg  
Florencio Hernandez Castaneda v. Steve Bradley, et al.  
US District Court, Northern District, Case No. 3:16-CV-07746-JD**

Dear Mr. Ou:

NOTICE IS HEREBY GIVEN that the claim which you presented to the City of Fort Bragg on August 10, 2016 was rejected by the Fort Bragg City Council at its regular meeting on September 12, 2016, because the location of the alleged injury is not within the city limits of the City of Fort Bragg and therefore not under the City's jurisdiction.

Should you have any questions regarding the above notice, please do not hesitate to contact me at 707.961.1694.

Sincerely,

June Lemos  
City Clerk

cc: Mark Ferguson, REMIF  
Master File #472-16/A

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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: 16-355**

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Consent Agenda

**In Control:** City Council

**File Type:** Committee Minutes

**Agenda Number:** 7E.

Receive and File Minutes of June 22, 2016 Public Works and Facilities Committee Special Meeting



# City of Fort Bragg

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

## Meeting Minutes - Draft Public Works and Facilities Committee

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Wednesday, June 22, 2016

3:00 PM

City Hall Conference Room, 416 N. Franklin Street

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### Special Meeting

#### MEETING CALLED TO ORDER

Meeting called to order by Committee Member Turner at 3:11pm. Staff members present: Marie Jones, Crystal Prairie, Tom Varga, Scott Schneider.

Present: 2 - Dave Turner and Lindy Peters

#### ROLL CALL

#### APPROVAL OF MINUTES

Approve Minutes of May 19, 2016

Approved as presented.

#### PUBLIC COMMENTS ON NON-AGENDA ITEMS

#### CONDUCT OF BUSINESS

Consider Draft Regulations for Electric Personal Assistive Mobility Devices (EPAMDs)

Public Works Director Varga gave a brief overview of staff report and draft regulations.

There was discussion of only having EPAMDs on paved surface vs. gravel surface. Decision was made to remove section stating no use on gravel surface.

There was discussion of insurance requirements as well as business license requirements.

There was discussion of potential use of EPAMDs on sidewalks as well as having people on the roadway (or in bike lanes.)

Lynne Baumgartner talked about possible locations for tours for her potential business. Glass Beach Drive to trestle. Cemetery. Harold Street to Otis Johnson Park. Cedar Street to Timberwolf Stadium. Behind skate park. Coastal Trail is not an option at this point. 8 people is full tour. Pointed out that the Healdsburg example given in staff report was from 2003. Updated laws (2008) do mention EPAMDs. City can regulate, but regulations can not be less stringent than State.

Public works Director Varga read a letter from Alice and Douglas Chouteau against use of EPAMDs in Fort Bragg.

Direction was given to staff to send regulations to City Attorney's office and then bring to Council for approval.

### Receive Report and Discuss Special Events and Other Public Uses of Coastal Trail Property

Public Works Director Varga gave an overview of the staff report and draft guidelines. He also read an email from Alice and Douglas Chouteau in opposition to events on the Trail.

Chuck Greenberg stated the Kite Festival (benefiting Habitat for Humanity) needs to use amplified sound, as well as sell food at the event. There was discussion about adding that regulation to the Encroachment Permit process.

Community Development Director Jones mentioned that there is an area around the runway on the south trail that wasn't acquired with Coastal Conservancy dollars. It's 2 acres and could be used for different types of events that don't have to be regulated. It was clarified that Noyo Headlands Park is 92 acres. Coastal Conservancy only bought 35. The rest of the property was donated by GP. Research needs to be done to find out if all of the property has the deed restriction. The 100 person limit is problematic for things such as runs. The 4 hour limit also seems problematic. Change it to a case by case basis. TAC would get involved for an event over 100 people and an encroachment permit will be required. The Phase II Trail has several parts that will not be paid for with Coastal Conservancy dollars. A suggestion was made to break up regulations geographically (Site A - Coastal Conservancy Funded site and Site B - Non Coastal Conservancy funded site.) Start a three tier permit process. Different fees for non profit vs. commercial. There was discussion of the "non-refundable fee," versus a cleaning deposit. There was discussion about fees to be charged for a "for profit" event. Possible base fee of \$3,000 for all 5 acres with a lower fee for using less land, or have a lower base fee and take a percentage.

There was discussion of potentially setting up "fair grounds" at some point in the future. There was discussion of using the dog park for events as the property is not restricted by the Coastal Conservancy Deed Restriction.

Public Works Director Varga mentioned having similar regulations to the proposed for smaller events, and anything over 100 people would have to go through TAC. Anything that restricts access triggers a Coastal Development Permit. A suggestion was made that anything over 2,000 people goes to City Council for review.

Administrative Services Director Schneider stated the trail is a big asset that should be utilized and not overly restricted at this point. There was discussion about potential festivals and events that could happen in the future.

There was discussion about marketing the trail to draw people to Fort Bragg.

A suggestion was made that a "standing reservation" be held for events like Paul Bunyan Days and the Kite Festival.

Direction was given to staff to refine regulations based on discussion and bring back to committee at future date.

### Receive Oral Update from Staff on Departmental Activities

Summers Lane Reservoir excavation is mostly done. Building under drain currently.

Chestnut Street multi-use path Request for Authorization is in process. May be constructed by the

end of 2016.

Otis Johnson Park there will be maintenance during late June and possibly middle of July. Strong candidates for caretaker.

Independence Day weekend fireworks set up.

Water Tank Project CDBG application underway.

### **MATTERS FROM COMMITTEE / STAFF**

Committee Member Peters mentioned that there is narrow sidewalk on Chestnut where there are bushes encroaching on sidewalk and people have to go out in the street. Community Development Director Jones will pass along information for Code Enforcement letter.

### **ADJOURNMENT**

**Meeting adjourned at 4:55pm by Committee Member Turner.**



# City of Fort Bragg

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

## Text File

**File Number: 16-356**

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Consent Agenda

**In Control:** City Council

**File Type:** Committee Minutes

**Agenda Number:** 7F.

Receive and File Minutes of August 18, 2016 Public Works and Facilities Committee Meeting



# City of Fort Bragg

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

## Meeting Minutes Public Works and Facilities Committee

---

Thursday, August 18, 2016

3:00 PM

Town Hall, 363 N. Main Street

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### MEETING CALLED TO ORDER

Committee Member Turner opened the meeting at 3:07pm.

### ROLL CALL

Staff members present: Marie Jones, Tom Varga, Linda Ruffing, Fabian Lizarraga, Crystal Prairie, Scott Perkins. Also present: Fire Chief Steve Orsi.

Present: 1 - Dave Turner

Absent: 1 - Lindy Peters

### 1 APPROVAL OF MINUTES

1A. [16-327](#) Approve Minutes of June 22, 2016

Not approved

### 2 PUBLIC COMMENTS ON NON-AGENDA ITEMS

### 3 CONDUCT OF BUSINESS

3A. [16-328](#) Receive Report and Make Recommendations to City Council Regarding Adaptive Management of Coastal Parks

PW Director Varga spoke briefly about signs at Glass Beach Drive and removal of beach glass by visitors.

Nancy Fowler from Glass Beach Bed & Breakfast spoke about how famous Glass Beach is.

Committee Member Turner spoke about how famous Glass Beach is and options regarding the glass.

3B. [16-329](#) Receive Report and Discuss Replanting Vegetation in City Right-of-Way at North End of North Harrison Street

PW Director Varga read details of the staff report on this item.

Robert Cooney, 801 N. Harrison spoke in favor of the removal of the eucalyptus trees and against replanting anything tall. He also mentioned a drainage problem, a lot of water on his property.

John Shannon, who resides on north Harrison Street spoke in favor of the eucalyptus tree removal.

**3C. [16-331](#)** Receive Oral Update from Staff on Departmental Activities

Not dicussed.

**MATTERS FROM COMMITTEE / STAFF**

**ADJOURNMENT**

As a quorum could not be reached, the meeting was adjourned with no business being conducted. The next (special) meeting of the Public Works and Facilities Committee will be held on Wednesday, August 24, 2016 at 3:00pm at Town Hall, 363 N. Main Street, Fort Bragg. The meeting closed at 3:50 PM.

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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: 16-357

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Consent Agenda

**In Control:** City Council

**File Type:** Committee Minutes

**Agenda Number:** 7G.

Receive and File Minutes of July 26, 2016 Community Development Committee Meeting



# City of Fort Bragg

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

## Meeting Minutes Community Development Committee

---

Tuesday, July 26, 2016

3:00 PM

Town Hall, 363 N. Main Street

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### MEETING CALLED TO ORDER

Committee Member Deitz called the meeting to order at 3:00 PM.

### ROLL CALL

Present: 2 - Scott Deitz and Michael Cimolino

### 1. APPROVAL OF MINUTES

1A. [16-297](#) Approve Minutes of June 28, 2016

A motion was made by Committee Member Cimolino, seconded by Committee Member Deitz, that the Committee Minutes be approved for Council review. The motion carried by a unanimous vote.

Aye: 2 - Councilmember Deitz and Councilmember Cimolino

### 2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

### 3. CONDUCT OF BUSINESS

3A. [16-312](#) Receive Report and Provide Recommendation to City Council Regarding update to the Inland Land Use and Development Code (ILUDC) Land Use Tables

Associate Planner Perkins presented the staff report and reviewed the proposed updates to the Inland Land Use and Development Code land use tables. During the Discussion, Committee Members expressed their general disposition toward allowing more uses in the various zoning districts. Following the discussion, Committee Members specified additional changes to the land use tables.

Council Committee recommended bringing the land use tables as amended to City Council for full review August 22, 2016.

3B. [16-313](#) Receive Report and Provide Recommendation to Council Regarding Potentially Allowing the Use of Downtown Parking Spaces for Parklets

Community Development Director Jones presented a proposal for allowing the use of sidewalk or parking spaces to create parklets (amenities like seating, dining, or other

activities) in the downtown area. Committee Members expressed concerns about safety, maintenance, and these activities decreasing available parking in the downtown districts. Following the discussion, Committee Members requested staff to do additional research on the following:

1. Identify specific requirements that would need to be met to make an area appropriate for parklet placement
2. Designate places where this activity could be allowed/prohibited based on characteristics of the physical location
3. Get feedback from the Community and City Dialogue

**Committee Members recommended performing the additional research and bringing the revisions back to the Community Development Committee before bringing the matter to City Council.**

#### **4. MATTERS FROM COMMITTEE / STAFF**

Committee Member Deitz recommended opening a window of opportunity to allow business owners incentive to do improvements and maintenance on their property without it counting toward the fire sprinkler ordinance calculations. Community Development Director Jones announced the upcoming City Dialogue, August 3, 2016 from 5:00 to 7:00 PM.

#### **ADJOURNMENT**

**Committee Member Deitz adjourned the meeting at 4:18 PM.**

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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: 16-350

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**Agenda Date:** 9/12/2016

**Version:** 1

**Status:** Consent Agenda

**In Control:** City Council

**File Type:** Minutes

**Agenda Number:** 7H.

Approve Minutes of August 22, 2016



# City of Fort Bragg

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

## Meeting Minutes City Council

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

---

Monday, August 22, 2016

6:00 PM

Town Hall, 363 N. Main Street

---

### MEETING CALLED TO ORDER

Mayor Turner called the meeting to order at 6:00 PM.

### PLEDGE OF ALLEGIANCE

### ROLL CALL

**Present:** 5 - Vice Mayor Lindy Peters, Councilmember Michael Cimolino, Councilmember Scott Deitz, Councilmember Doug Hammerstrom and Mayor Dave Turner

### AGENDA REVIEW

#### 1. MAYOR'S RECOGNITIONS AND ANNOUNCEMENTS

- 1A. [16-318](#)** Presentation by California Recreation Alliance Director Sarah Huff Regarding Cleanup of Mendocino Coast Recreation and Park District Property on Highway 20

Sarah Huff gave a presentation on the California Recreation Alliance efforts to clean up the Mendocino Coast Recreation and Park District regional park property on Highway 20.

#### 2. STAFF COMMENTS

City Clerk Lemos announced that five persons have qualified as nominees for the two City Council seats that will be on the November 8, 2016 ballot: Curtis Bruchler, Rex Gressett, Will Lee, Scott Menzies and Bernie Norvell. Chief Lizarraga spoke about a recent presentation by Project Sanctuary on human trafficking. City Manager Ruffing announced upcoming meetings of the Community Development Committee (CDC), Public Works and Facilities Committee (PWFC) and a forum on Opioid use and abuse.

#### 3. MATTERS FROM COUNCILMEMBERS

Mayor Turner reported on the Mendocino Solid Waste Management Association board meeting and noted that Paul Bunyan Days is coming up in September. Vice Mayor Peters spoke on the National League of Cities and FAA rules relating to drone operation, the PWFC meeting, and AB 718 allowing rest in vehicles. Councilmember Cimolino spoke on the Lower Lake fire, the Coalition for Gang Awareness and Prevention, e-cigarettes, the opioid forum, and an Economic Development and Financing Corporation retreat. Councilmember Deitz thanked the candidates who are running for Council and spoke about the upcoming CDC meeting. Councilmember Hammerstrom remarked on National Night Out, the League of California Cities regional meeting, and events at Mendocino College.

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

- David Gurney spoke in favor of moving the Consent Calendar to earlier in the agenda.
- George Reinhardt commented on climate change and electric vehicle charging stations.
- Ann Rennacker remarked on EV charging stations and pygmy forest land.

#### **5. PUBLIC HEARING**

#### **6. CONDUCT OF BUSINESS**

- 6A. [16-334](#)** Receive Presentation Regarding Fort Bragg Police Department's Annual Report

Chief Lizarraga presented the Fort Bragg Police Department's annual report to the City Council.

**This Annual Report was received and filed.**

- 6B. [16-336](#)** Receive Recommendation from Community Development Committee and Provide Direction to Staff Regarding an Update to the Inland Land Use and Development Code

Associate Planner Perkins gave his staff report on updates to the Inland Land Use and Development Code (ILUDC).

Public Comment was received from Rex Gressett and Ann Rennacker.

Discussion: Councilmembers directed staff as follows:

• **Vacation Home Rentals**: All Councilmembers agreed with the detailed recommendations for vacation home rentals outlined in the staff report. The number of vacation home rental units should be established by Resolution so that the ILUDC does not need to be amended just to change the number. Council recommends three permits per property and ten permits in total.

**Mayor Turner recessed the meeting at 7:54 PM; the meeting was reconvened at 8:02 PM.**

• **Home Sharing**: The Council was unanimous in not allowing home sharing within the City of Fort Bragg.

• **Single Family Dwellings in Commercial Districts**: Council directed staff to come forward to the CDC with a plan that will include flexible parking rules, legalization of use, and limitation of quantity by resolution.

• **Brewery-Restaurants**: All Councilmembers agreed with allowing brewery/restaurant businesses in both the Central Business District and industrial zones.

• **Second Residential Units**: This matter was referred back to staff for preparation of GIS maps. Council directed that this item be discussed by the CDC and the Fire Marshal prior to returning to the full Council.

• **Signage**: Council unanimously approved revising signage regulations.

• **Miscellaneous Items**: The Council:

- \* was in favor of allowing tattoo services in all commercial zoning districts;
- \* recommended leaving the animal keeping regulations as they are;
- \* approved updating the land use table to allow more permitted uses in more districts to make Fort Bragg more business friendly;
- \* recommended a sign ordinance reorganization;
- \* was in favor of rezoning 471 South Whipple Street to residential; and
- \* approved map updates and other maintenance updates to the ILUDC.

This Staff Report was referred to staff for further action as directed by Council.

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

**7. CONSENT CALENDAR**

**Approval of the Consent Calendar**

Vice Mayor Peters requested that Item 7D be removed from the Consent Calendar for further discussion.

**A motion was made by Councilmember Hammerstrom, seconded by Councilmember Deitz, to approve the Consent Calendar with the exception of Item 7D. The motion carried by the following vote:**

**Aye:** 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

**7A. [16-317](#)** Adopt City Council Resolution Confirming the Continued Existence of a Local Drought Emergency in the City of Fort Bragg

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3926-2016

**7B. [16-319](#)** Adopt City Council Resolution Amending the City of Fort Bragg Conflict of Interest Code

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3927-2016

**7C. [16-324](#)** Adopt City Council Resolution Approving a Project Agreement with Superior Pump and Drilling, Inc. to Construct and Complete Two New Water Wells (Amount Not to Exceed \$34,778; Account No. 615-6004-0731)

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3928-2016

**7E. [16-333](#)** Adopt City Council Resolution Accepting the Bid of Southwest Pipeline & Trenchless Corp. as the Lowest Responsive Bid, Awarding the Contract for the 2016 Slip Line Project, City Project 2016-04, to Southwest Pipeline & Trenchless Corp. and Authorizing City Manager to Execute Contract (Amount Not to Exceed \$128,980; Account No. 714-4713-0751)

**This Resolution was adopted on the Consent Calendar.**

Enactment No: RES 3930-2016

**7F. [16-325](#)** Adopt Fort Bragg Municipal Improvement District Resolution Accepting Quote of Applied Marine Sciences, Awarding the Contract for Biological

Survey and Outfall Inspection Project (Project); to Applied Marine Sciences and Authorizing District Manager to Execute Contract (Amount Not to Exceed \$32,756; Account #710-4712-0319)

**This ID Resolution was adopted on the Consent Calendar.**

Enactment No: RES ID382-2016

- 7G. [16-338](#)** Receive and File Minutes of June 28, 2016 Community Development Committee Meeting

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

- 7H. [16-337](#)** Receive and File Minutes of June 29, 2016 Public Safety Committee Special Meeting

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

- 7I. [16-315](#)** Approve Minutes of July 25, 2016

**These Minutes were approved on the Consent Calendar.**

## **ITEMS REMOVED FROM CONSENT CALENDAR**

- 7D. [16-326](#)** Adopt City Council Resolution Approving Budget Amendment No. 2017-01 Amending the FY 2016/17 Budget to Appropriate Funds in the Amount of \$25,000 from the General Fund Unallocated Fund Balance to Account No. 421-4957-0731 to Cover Costs for Removal and Replacement of the Noyo Headlands Park Visitors Center Roof

Public Works Director Varga explained that the \$25,000 was an original estimate based on the public contracting code and prevailing wages. The bids are more likely to be in the \$15,000 range. Public Comment on this agenda item was received from David Gurney and Rex Gressett. Discussion: The Council was in general agreement that the amount of the Budget Amendment listed in the Resolution should be reduced from \$25,000 to \$15,000.

**A motion was made by Vice Mayor Peters, seconded by Councilmember Deitz, that this Resolution be adopted as amended, to reflect a reduction in the amount of appropriated funds from \$25,000 to \$15,000. The motion carried by the following vote:**

**Aye:** 5 - Vice Mayor Peters, Councilmember Cimolino, Councilmember Deitz, Councilmember Hammerstrom and Mayor Turner

Enactment No: RES 3929-2016

## **8. CLOSED SESSION**

### **ADJOURNMENT**

**Mayor Turner adjourned the meeting at 9:16 PM.**

\_\_\_\_\_  
DAVE TURNER, MAYOR

\_\_\_\_\_  
June Lemos, City Clerk

IMAGED (\_\_\_\_\_)