

## RESOLUTION NO. 3636-2013

**RESOLUTION OF THE FORT BRAGG CITY COUNCIL 1) AUTHORIZING THE CITY MANAGER TO PREPARE A LETTER TO CALTRANS AND FHWA INDICATING THE CITY REQUESTS THAT THE FUNDS FOR THE FORT BRAGG COASTAL RESTORATION & TRAIL PROJECT BE DE-OBLIGATED AND THAT THE FUNDS BE RE-OBLIGATED FOR A DIFFERENT BIKE PATH PROJECT IN FORT BRAGG; 2) APPROVING MINOR MODIFICATIONS TO THE FORT BRAGG COASTAL RESTORATION AND TRAIL PROJECT AND 3) ADOPTING REVISED MITIGATION MEASURES FOR THE MITIGATION MONITORING AND REPORTING PROGRAM FOR THE FORT BRAGG COASTAL RESTORATION AND TRAIL PROJECT ENVIRONMENTAL IMPACT REPORT**

**WHEREAS**, in 2006, the City of Fort Bragg received a federal appropriation in the amount of \$750,000 for planning, design and construction of the "Fort Bragg Bike Path"; and

**WHEREAS**, in 2009, the City of Fort Bragg began to prepare an Environmental Impact Report (EIR) pursuant to CEQA and an Environmental Assessment (EA) pursuant to NEPA for the Fort Bragg Coastal Restoration and Trail Project (Project); and

**WHEREAS**, in 2011, the City Council adopted resolution 3475-2011 a) certifying the Environmental Impact Report for the Fort Bragg Coastal Restoration and Trail Project; b) adopting the California Environmental Quality Act Findings; and c) adopting mitigation measures, and the Mitigation Monitoring And Reporting Program; and

**WHEREAS**, in 2011, the Planning Commission approved the Coastal Development Permit (CDP), Design Review Permit and Variance for the Project; and

**WHEREAS**, the City prepared an Administrative Draft of an Environmental Assessment ("Draft EA") in late 2011 for Caltrans review; and

**WHEREAS**, Caltrans has not taken action on the Draft EA; and

**WHEREAS**, the City has been awarded and/or appropriated \$7,460,172 in State and local funding for the Project; and

**WHEREAS**, the long and uncertain timeline for completion of the federal environmental review process may result in the City losing up to \$5,639,196 in State funding for the project; and

**WHEREAS**, if the City were to return the funds that have been spent from the federal appropriation to the federal government and actions were taken to de-obligate the funds, the Project could be constructed with State and local funding; and

**WHEREAS**, de-obligation of the federal funds would allow the project to proceed based on the certified EIR and approved CDP for the Project; and

**WHEREAS**, if the federal funds are retained, there is an unacceptable risk that the Project will fail to meet the timelines associated with its grant funding and the Project will not be constructed; and

**WHEREAS**, the federal appropriation may be re-obligated for an alternative bike path project within the City of Fort Bragg; and

**WHEREAS**, the Project is the subject of an Environmental Impact Report (EIR) that was prepared pursuant to the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15161 and certified by the Fort Bragg City Council on August 8, 2011 per City Council Resolution No. 3475-2011; and

**WHEREAS**, the action to de-obligate the Federal Appropriation is the subject of an Environmental Impact Report (EIR) Addendum prepared pursuant to the California Environmental Quality Act ("CEQA") and Title 14, the California Code of Regulations ("CEQA Guidelines"), Section 15164; and

**WHEREAS**, the EIR Addendum makes minor technical changes to the certified EIR to reflect changes to the mitigations and the Mitigation Monitoring and Reporting Program to remove references to NEPA-related documents; and

**WHEREAS** the City Council has considered the Addendum along with the EIR; and

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

1. The Final EIR and EIR Addendum address all environmental impacts of the Project to a level that is less than significant with mitigations; and
2. A prolonged environmental review process under NEPA may result in the City losing more than three-quarters of the grant funding for the Project; and
3. The federal appropriation amounts to less than 10% of all Project funding and is not sufficient to complete the Project; and
4. Proceeding with the federal process may result in no project through the loss of the State grant funds.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Fort Bragg has considered the EIR Addendum along with the EIR; and

**BE IT FURTHER RESOLVED** that the City Council of the City of Fort Bragg does hereby authorize the City Manager to prepare a letter to Caltrans and FHWA indicating the City requests that the funds for the Fort Bragg Coastal Restoration & Trail Project be de-obligated and that the funds be re-obligated for a different bike path project in Fort Bragg; and

**BE IT FURTHER RESOLVED** that the City Council of the City of Fort Bragg does hereby authorize City staff to: 1) incorporate additional native ethno-botanical plants into the restoration project; 2) provide for access by Native Americans to the Noyo Headland Preserve during non-marine mammal pupping periods; and 3) replace two, already approved, interpretive panels with two new panels providing information regarding Native American use of the site, and

**BE IT FURTHER RESOLVED** that the City Council does hereby modify mitigation measures AR/mm-2, AM/mm-4 and AR/mm-5 of the Mitigation and Monitoring Plan as follows:

*AR/mm-2: The City of Fort Bragg shall coordinate cultural resources mitigation with NEPA-lead agencies and DPR, as applicable.*

AR/mm-4

To minimize disturbance of archaeological resources within the District, the City shall implement the ~~Historic Property Treatment Plan~~ Phase III Data Collection Plan and undertake the following key mitigation measures:

Use fence and sign supports that minimize the depth and breadth of disturbance. Where feasible, eliminate "habitat protective" fencing, shown in the plans, where such fencing is not necessary to protect habitat.

Attach benches to asphalt pads with hardware that does not disturb cultural resource deposits

Place interpretive, safety, and habitat protection signage outside of cultural resource sites.

Realign primary trails, and/or realign/delete secondary trails to avoid sites P-23-4292, and P-23-4864.

Restoration efforts to include no scarification of gravel in P-23-4292.

Minimize depth of disturbance to three inches for restoration activities to avoid subsurface cultural resources.

AR/mm-5

Prior to construction of project components located within the District, the City of Fort Bragg shall complete a detailed research design for a Phase III (data recovery/treatment plan) archaeological investigation for potentially impacted sites within the District. The Phase III program shall be prepared by a qualified archaeologist in coordination with DPR, and shall be approved by the NEPA CEQA lead agency, as applicable.

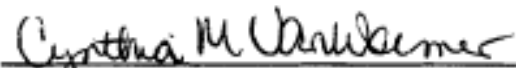
The above and foregoing Resolution was introduced by Councilmember Deitz, seconded by Councilmember Hammerstrom, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 8<sup>th</sup> day of July, 2013, by the following vote:

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



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 DAVE TURNER,  
 Mayor

ATTEST:



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 Cynthia M. VanWormer, MMC  
 City Clerk