

JOINT

RESOLUTION NO. 3120-2007

RESOLUTION OF THE FORT BRAGG CITY COUNCIL

and

RESOLUTION NO. R137-2007

RESOLUTION OF THE FORT BRAGG REDEVELOPMENT AGENCY

RESOLUTION OF THE FORT BRAGG REDEVELOPMENT AGENCY AND THE FORT BRAGG CITY COUNCIL APPROVING A COST ADVANCEMENT AGREEMENT WITH GEORGIA PACIFIC AND AUTHORIZING THE AGENCY EXECUTIVE DIRECTOR AND THE CITY MANAGER TO EXECUTE SAID AGREEMENT

WHEREAS, on January 8, 2007, the Fort Bragg Redevelopment Agency ("Agency") adopted resolutions authorizing the use of the Polanco Redevelopment Act (the "Polanco Act") process in the Fort Bragg Redevelopment Project Area; and

WHEREAS, the Agency Board also directed staff to initiate actions to allow for the use of the Polanco Act on the Georgia Pacific Mill Site (the "Mill Site"), but without committing any RDA funds for payment of costs incurred in using the Polanco Act; and

WHEREAS, Georgia Pacific ("GP"), as property owner of the Mill Site, has indicated a willingness to provide funds to pay for Agency costs incurred in using the Polanco Act, subject to an "annual cap" of \$150,000; and

WHEREAS, Agency staff has considered likely costs to be incurred by the Agency for environmental consultants, technical and consultative services from the Department of Toxic Substance Control ("DTSC"), legal services and staff time and has concluded that \$150,000 represents a reasonable estimate of annual expenditures for implementing and administering the Polanco Act on the Mill Site; and

WHEREAS, Agency staff has negotiated a Cost Advancement Agreement with GP that provides a mechanism for GP to advance funds to the Agency for the payment of costs incurred by the Agency in implementing and administering the Polanco Act, consistent with the procedures outlined in the associated Agenda Item Summary Report and as further described in Exhibit A, attached; and

WHEREAS, Agency staff expects that GP will execute the Cost Advancement Agreement in a form substantially consistent with Exhibit A, attached; and

WHEREAS, the Cost Advancement Agreement has certain covenants and obligations to which the City of Fort Bragg is bound, thus making the City of Fort Bragg a party to the Agreement;

NOW, THEREFORE, BE IT RESOLVED that the Board of the Fort Bragg Redevelopment Agency does hereby approve the Cost Advancement Agreement with GP in a

form as shown in Exhibit A, attached, and authorizes the Executive Director to execute said Agreement on behalf of the Agency, conditioned on its prior execution by GP.

BE IT FURTHER RESOLVED that the Fort Bragg City Council does hereby approve the Cost Advancement Agreement with GP in a form as shown in Exhibit A, attached, and authorizes the City Manager to execute said Agreement on behalf of the City, conditioned on its prior execution by GP.

The above and foregoing Resolution was introduced by Council/Agency Member Melo, seconded by Council/Agency Member Gjerde, and passed and adopted at a regular meeting of the City Council and Agency Board of the Fort Bragg Redevelopment Agency held on the 24th day of September, 2007, by the following vote:

AYES: Council/Agency Members Turner, Courtney, Gjerde, Melo, and Mayor Hammerstrom.
NOES: None.
ABSENT: None.
ABSTAIN: None.


DOUG HAMMERSTROM,
Mayor/Chair

ATTEST:


Cynthia M. VanWormer, CMC
City Clerk/Secretary

EXHIBIT A

COST ADVANCEMENT AGREEMENT

This Cost Advancement Agreement (“Agreement”) is made and entered into by and among the Fort Bragg Redevelopment Agency, a public body corporate and politic (“Agency”), the City of Fort Bragg, a municipal corporation (“City” and when referred to collectively with the Agency, “Fort Bragg”), and Georgia Pacific LLC (“GP”) in connection with the property located at 90 West Redwood Avenue, Fort Bragg, California (the “Mill Site”).

RECITALS

- A. GP conducted lumber-milling operations at the Mill Site until 2002. Environmental investigations conducted by GP after closure of the Mill Site identified certain petroleum and other contamination on the Mill site that will require remediation under California environmental requirements.
- B. The California Environmental Protection Agency, Department of Toxic Substances Control, issued a Site Investigation and Remediation Order for the Mill Site on February 16, 2007 (the “2007 DTSC Order”).
- C. The Mill Site is a key property identified for redevelopment in the Fort Bragg Redevelopment Plan (the “Plan”), and since 2003 Fort Bragg has been involved in a public planning process for reuse of the Mill Site the goal of which is to facilitate redevelopment of the site into a combination of residential, commercial/industrial, and recreational/open space uses that produce economic and aesthetic benefits to Fort Bragg.
- D. Fort Bragg has worked, and wants to continue working, with GP to bring about cleanup, redevelopment and reuse of the Mill Site, and its objectives in this regard are reflected in, among other places, the Statement of Position Regarding Reuse Of The Georgia-Pacific Mill Site adopted pursuant to Resolutions R115-2005 (Agency) and 2860-2005 (City).
- E. GP similarly has worked, and wants to continue working, with Fort Bragg to bring about cleanup, redevelopment and reuse of the Mill Site that produce economic benefits to GP consistent with GP’s ownership of the Mill Site.
- F. On January 8, 2007, the Agency adopted Resolution R131-2007 authorizing the Executive Director, or his/her designee, to utilize the Polanco Redevelopment Act (Cal. Health & Safety Code section 33459 *et seq.*, “the Polanco Act”) in the Fort Bragg Redevelopment Project Area (“Project Area”).
- G. The Polanco Act offers significant benefits to Fort Bragg through immunities available to the Agency and redevelopers, among others, for a release or releases covered in approved cleanup plans and may also offer benefits to GP. Additionally, the Polanco Act authorizes the Agency to work with state regulatory agencies to develop a schedule for site investigation and to allow cleanup to be completed in a manner that will coincide with the Mill Site reuse plans.

H. The Agency currently lacks sufficient resources to employ the Polanco Act and to work with the regulatory agencies toward timely cleanup and redevelopment of the Mill Site. The Agency Board did not authorize the expenditure of public funds to employ the Polanco Act. Accordingly, and on the terms and conditions stated herein, GP will advance funds to the Agency which the Agency will use pursuant to this Agreement and in connection with implementing the Polanco Act at the Mill Site.

THEREFORE, for mutual consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Environmental Investigation and Cleanup Plan Schedule and Process.

A. GP's Response Efforts. GP commits to engage qualified consultants and contractors to implement environmental investigation and clean up in accordance with the schedules included in Exhibit A attached hereto and incorporated herein, as it may be amended from time to time, and to standards that (a) support mutually beneficial redevelopment and reuse of the Mill Site and (b) comply with the 2007 DTSC Order.

B. Cooperation. GP and the Agency mutually commit to working together in good faith to bring about and implement an investigation and cleanup process consistent with the provisions stated in this Agreement. GP and its consultants and contractors will prepare various documents as anticipated in Exhibit A, and submit said documents to the Agency and DTSC concurrently for review and comments where comments are deemed appropriate. Where target dates for submittals provide sufficient time, the Agency will endeavor to have its technical consultant(s) confer informally with GP's technical consultants regarding any comments the Agency may have on such documents before submitting comments to third parties. GP will consider the Agency's comments in good faith but as between the Agency and GP, the Agency retains final control over any comments submitted on its behalf and GP retains final control over any documents concerning the Mill Site submitted on its behalf, whether pursuant to Exhibit A or otherwise. Nothing in this Agreement shall impair or interfere with the Agency's or the City's intention to fully comply with applicable laws and policies regarding the disclosure of public records and documents, or other public information.

C. Public Participation. GP agrees to work cooperatively with DTSC to conduct public participation activities in conjunction with the work anticipated in Exhibit A.

D. Polanco Compliance. The parties agree that while this Agreement is in effect, this Agreement fulfills GP's obligation to enter into an agreement pursuant to Health and Safety Code Section 33459.1(b)(2); Exhibit A satisfies the requirement for a schedule stated in Section 33459.1(b)(2); and the Agency will not exercise against GP in connection with the investigation and cleanup of the Mill Site any enforcement or cost recovery provisions of the Polanco Act or any other provision of law. GP and the City agree and covenant that while this Agreement is in effect, they will each forebear on the use of environmental enforcement or other judicial actions that may be available against the other; provided, however, that in the event either is named in a suit or enforcement proceeding initiated by an entity not party to this Agreement, the entity so named (i.e., GP or the City) will promptly meet with the other to discuss the suit or enforcement proceeding and thereafter may seek to involve the other in such suit or enforcement proceeding

(or in a related proceeding) by way of a third-party claim, cross claim, declaratory relief action, or other appropriate procedural mechanism.

2. Cost Advancement.

A. Parties' Expectations. Based on experience to date and Exhibit A, the parties anticipate that Fort Bragg's efforts in connection with, and their participation in, the environmental investigation and cleanup process in connection with contamination at or emanating from the Mill Site will be undertaken by and coordinated through the Agency, and that the Agency's costs for such activities (e.g., staff costs, technical consultant costs, legal services, and oversight costs paid pursuant to the Agency's anticipated Environmental Oversight Agreement ("EOA") with DTSC) will be, on average, approximately twelve thousand five hundred dollars (\$12,500.00) per month or one hundred fifty thousand dollars (\$150,000.00) per year. The parties agree that a reserve equal to three (3) months of such anticipated expenditures or thirty-seven thousand five hundred dollars (\$37,500.00) shall be maintained for such time as this Agreement remains in force and until Section 2.H becomes operative. Subject to the terms and conditions of this Agreement, including but not limited to this Section 2, GP agrees to provide the annual funding and reserve amount stated in this Section 2.A.

B. Mill Site Polanco Funding Account. Within 5 business days of the execution of this Agreement by the parties, the Agency will identify an account which will be used to receive, hold, and disburse the funding provided by GP pursuant to this Agreement (the "Mill Site Polanco Funding Account"). The Mill Site Polanco Funding Account will be maintained at an FDIC-insured bank or other fiduciary institution reasonably acceptable to GP. The Agency will draw funds deposited into the Mill Site Polanco Funding Account pursuant to this Agreement only for the purposes described herein. At the end of each fiscal quarter, Agency will provide GP with an accounting of the monies received and deposited into and withdrawn from the Mill Site Polanco Funding Account as further described in section 2.E, below.

No funds in the Mill Site Polanco Funding Account shall be pledged or otherwise encumbered in connection with any bond issuance or other financial transaction involving the City, the Agency, any joint powers authority involving either or both of them, or any other entity. GP shall have the right upon reasonable notice to inspect and copy, at its expense, any and all records pertaining to the Mill Site Polanco Funding Account, including but not limited to payments made from the Account and the invoices supporting such payments, provided, however, that in the case of invoices for legal services, the Agency may redact text protected from disclosure by the attorney-client privilege or provide the invoices without redaction but with the express assurance than in so doing it is not waiving any privilege that might otherwise attach to such invoices.

C. Initial Deposits By GP. Within five (5) business of the execution of this Agreement by all of the parties, GP will provide a check payable to the Agency in the amount of ten thousand dollars (\$10,000.00), and the Agency will promptly deposit GP's check into the Mill Site Polanco Funding Account. Within ten (10) business days of the execution of this agreement by all of the parties, GP will deposit an additional fifty thousand dollars (\$50,000.00) by wire transfer into the Mill Site Polanco Funding Account for total initial funding of sixty thousand dollars (\$60,000.00) for expenditures eligible to be paid by the Agency pursuant to this

Agreement. For purposes of this Agreement, "business days" excludes weekend days and legal holidays on which Fort Bragg's offices are officially closed.

D. Payments By the Agency. The Agency will use funds deposited into the Mill Site Polanco Funding Account pursuant to this Agreement to pay costs reasonably incurred by the Agency for activities related to environmental investigation and cleanup of the Mill Site or otherwise related to implementation of the Polanco Act at the Mill Site, including obligations incurred by the Agency in the EOA. Disbursement of funds deposited into the Mill Site Polanco Funding Account pursuant to this Agreement for the purposes described herein shall not require, nor be dependent upon, prior approval of GP; provided, however, the Agency shall not use, disburse, release or transfer any funds deposited into the Mill Site Polanco Funding Account pursuant to this Agreement for any other reason without the prior written consent of GP.

E. Additional Deposits by GP. On or about November 1, 2007 (which date the parties have selected as a reasonable point following the end of the first fiscal quarter during which this Agreement will be in effect), the Agency will provide GP with a written accounting of costs incurred pursuant to this Agreement by the Agency during the fiscal quarter ending September 30, 2007, payments made pursuant to this Agreement during the fiscal quarter ending September 30, 2007, and costs estimated to be incurred and paid in the upcoming fiscal quarter. Within ten (10) business days of receiving the Agency's report, the parties shall arrange for a "meet and confer" to review the Agency's submission and to agree on a budget for the upcoming fiscal quarter. The meet and confer process need not be lengthy or in person, and the parties may determine that the presumed \$12,500 per month figure recited in Section 2.A, above, is reasonable and proceed accordingly. Similar submissions and meet and confer meetings will occur quarterly thereafter for the duration of this Agreement (i.e., Agency submission followed by meet and confer session during the first half of each November, February, May, and August). In the event that the Mill Site Polanco Funding Account is also used as the account in which either the City or the Agency handles other funds deposited by GP in connection with the redevelopment of the Mill Site, the quarterly reporting provided for in this Section 2.E shall separately account for and document the deposits and expenditures pursuant to this Agreement and any other deposits into and expenditures from the Account.

The parties agree to work cooperatively and in good faith in this quarterly process to set mutually acceptable budgets for the Agency's work pursuant to this Agreement. In light of those budgets, and subject to the amounts stated in Section 2.A, above, GP will replenish the Mill Site Polanco Funding Account from time to time through additional wire transfers.

If at any point the Agency reasonably anticipates that it will encounter costs pursuant to this Agreement that (1) have not previously been addressed through the quarterly submission/meet and confer process and (2) cannot reasonably be addressed with the reserve stated in Section 2.A and the next quarterly submission/meet and confer session, the Agency will provide GP with a written explanation of the circumstances giving rise to such out of the ordinary course costs. The parties will thereafter promptly meet and confer to resolve the issue in a mutually acceptable fashion, but GP is not obligated by this Agreement to provide funds in excess of the annual amount stated in Section 2.A, above. If GP elects not to provide additional funds as requested by the Agency, or to the extent that there are insufficient funds to support continuing costs and expenses incurred by the Agency consistent with the terms of this

Agreement, the Agency shall have no further obligations under this Agreement until such time as additional funds from GP are deposited into the Mill Site Polanco Funding Account for the purposes described in this Agreement.

F. No Guarantee of Results. Agency makes no promise, representation or warranty, express or implied, regarding any aspect of the cleanup and reuse of the Mill Site except that (1) it will use good faith efforts to facilitate notices and confirmation of the immunities provided by the Polanco Act and (2) to the extent its consultants conclude that one or more steps in the cleanup process has been completed, the Agency will promptly notify DTSC of that conclusion. Agency and GP recognize that the Polanco Act has not been fully interpreted by the courts or any regulatory agency and may include some ambiguous terms. So both Fort Bragg and GP recognize and agree that none of them will have a cause of action against the other(s) if Polanco Act immunity on the Mill Site is limited or denied in any way by any decision or opinion of any court or any action of the North Coast Regional Water Quality Control Board, the State Water Resources Control Board, DTSC, or any other regulatory agency.

G. Authority and Obligations of Agency.

(i) The Agency will confer in good faith with GP regarding the selection of consultants and advisors engaged by the Agency pursuant to this Agreement, and the Agency further agrees that its consultants and advisors will have qualifications and experience comparable to consultants and advisors retained by other redevelopment agencies in California to perform comparable work. The compensation of Agency's consultants and advisors will likewise be similar, in kind and amount, to compensation received by individuals or firms similarly situated for substantially the same work. Subject to those limitations, the ultimate determination of which persons, companies or legal counsel the Agency retains to provide services shall remain solely with the Agency.

(ii) The advancement of funds for the Agency costs under this Agreement shall in no way influence the Agency's actions with respect to the review, processing or approval of agreements, permits or entitlements whether current or future, nor will it influence the Agency's comments or actions with respect to the Mill Site cleanup. GP is expressly prohibited from exercising any supervision or control over the work of Agency staff, Agency consultants or other Agency advisors.

(iii) Nothing in this Agreement or the parties' performance hereunder shall constitute or create any form of association, joint venture, or partnership for any purpose between the Agency and GP nor shall this Agreement or performance hereunder constitute or create a trust, express or implied for the benefit of GP or any other person. Agency will have no fiduciary duty to GP or any other person with respect to the Mill Site Polanco Funding Account except for its responsibility to exercise due care and use the funds deposited pursuant to this Agreement for the purposes specified in this Agreement.

H. Return of Unspent Funds. If, upon the completion of the Mill Site cleanup or earlier termination of this Agreement pursuant to Section 15, there are funds remaining in the Mill Site Polanco Funding Account that were deposited by GP pursuant to this Agreement but have not been expended or committed for expenditures authorized by this Agreement, Agency shall, within ninety (90) days, return any uncommitted funds and provide GP with a final accounting of the deposits and expenditures pursuant to this Agreement. GP shall not be entitled to interest on any funds returned.

3. Remedies.

In the event any party materially defaults under this Agreement, and such default is not remedied in a timely fashion following written notice to the defaulting party and a reasonable opportunity to cure the default condition(s), the non-defaulting party or parties may seek any and all relief available under applicable legal and/or equitable principles.

4. Time is of the Essence.

The parties agree that time is of the essence in performing under this Agreement.

5. Right of Entry.

While this Agreement is in force, GP hereby grants to the Agency and its employees, consultants, and contractors participating in the cleanup of the Mill Site or a portion of the Mill Site, a non-exclusive right of access to enter the Mill Site during normal business hours to observe environmental investigation and remediation work conducted by or on behalf of GP. Any Agency representatives entering the Site pursuant to this Section 5 to observe environmental investigation and remediation work conducted by or on behalf of GP shall be OSHA HAZWOPER-trained. The Agency agrees that except in exigent circumstances it will provide GP with five (5) business days notice prior to exercising its rights under this Section 5. Nothing in this paragraph is intended to, nor shall be construed to, limit in any way the right of entry or inspection that Agency may otherwise have by operation of any law provided that the Agency complies with the requirement(s) of such law.

In exercising its rights under this Section 5, the Agency agrees (1) to comply with the Access Protocol attached hereto as Exhibit B (and any successor Protocol required by DTSC or any other state or federal agency that asserts jurisdiction over the Mill Site unless DTSC or any other state or federal agency that asserts jurisdiction over the Mill Site confirms to GP in writing that the Agency is not subject to the Access Protocol or any successor Protocol), (2) not to unreasonably interfere with the business conducted on the Mill Site or any portion of the Mill Site and (3) to defend, indemnify, and hold GP harmless from any loss, damage, expense, claim or cause of action arising out of the Agency's exercise of its rights under this Section 5 of the Agreement except to the extent such loss, damage, expense, claim or cause of action is attributed to the negligence, gross negligence, or willful misconduct of GP. For purposes of interpreting the indemnification provision stated in this Section 5, the fact that hazardous materials are present on the Mill Site shall not constitute negligence, gross negligence, or willful misconduct of GP, and the Agency shall be solely responsible for ensuring that Agency employees, contractors, and other Agency representatives take appropriate steps to avoid or minimize any

loss, damage, expense, claims or causes of action potentially arising out of Agency's exercise of the access rights granted pursuant to this Section 5. To the extent that the Agency or its consultants undertakes any invasive testing, investigations or remediation, the Agency also will, to the extent practicable, restore the area of the Mill Site where such work took place to substantially the same condition that it was in prior to the Agency's work.

6. Survival of Terms.

The parties agree that the indemnity provision in Section 5, above, shall survive the expiration or termination of this Agreement.

7. Notices and Submission of Other Materials.

A. Notice. Any and all notices, reports, data or information required to be provided pursuant to this Agreement, shall be sent to the following representatives of the parties. Any notice required to be provided under this Agreement will be deemed sufficiently given when delivered personally or on the third business day after the notice is deposited in the United States mail, with first-class postage affixed, or the business day after the notice is sent for overnight delivery by established overnight courier, addressed to the parties as follows or upon sending a facsimile with confirmation of receipt sent to the following telephone numbers:

"Agency" Redevelopment Agency of the City of Fort Bragg
Attn: Linda Ruffing
Executive Director
City of Fort Bragg Redevelopment Agency
416 North Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Facsimile: (707) 961-2802

"Agency's Environmental Consultant"
Fugro West
Attn: Glenn Young
1000 Broadway, Suite 200
Oakland, CA 94607
Phone: (510) 268-0461
Facsimile: (510) 268-0137

"GP" Carol Stephens
Senior Director – Corporate Real Estate
133 Peachtree Street NE, 43rd floor
Atlanta, GA 30303
Phone: (404) 652-6420
Facsimile: (404) 584-1461

With Copies To:
Michael Davis, Esq.

Principal Counsel – Environmental
133 Peachtree Street NE, 43rd floor
Atlanta, GA 30303
Phone: (404) 652-7497
Facsimile: (404) 584-1461

Robert Doty, Esq.
Cox. Castle & Nicholson, LLP
555 California Street, 10th Floor
San Francisco, CA 94104
Phone: (415) 262-5115
Facsimile: (415) 392-4250

GP's Environmental Consultant
Bridgette DeShields
Blasland, Bouck & Lee, Inc.
1670 Corporate Circle, Suite 200
Petaluma, CA 94954
Phone: (707) 776-0865 ext. 17
Facsimile: (707) 776-0850

B. Reports, Plans and other Information. Concurrent with its submissions to DTSC, GP will provide to the Agency copies of whatever reports, data, workplans, cleanup plans or other information relating to the environmental contamination on the Mill Site or emanating from the Mill Site that GP provides to DTSC.

8. Assignment of Agreement.

No party may assign this Agreement, or any part thereof, without the prior express written consent of the other parties.

9. Modification, Waiver and Amendments.

Except as provided in Section 15 regarding termination, neither this Agreement nor any of its terms may be terminated, amended, modified or waived except by a written instrument executed by the parties.

10. Governing Law.

This Agreement will be governed by the laws of the State of California, excluding its choice of law provisions. Any and all litigation to enforce the terms of this Agreement or to pursue cost recovery under the Polanco Act must be brought in Mendocino County or the United States District Court for the Northern District of California.

11. Attorneys' Fees.

In any action or proceeding arising out of this Agreement the prevailing party shall be entitled to reasonable attorneys' fees and costs, with the exception of a suit to recover the costs of

environmental investigation or clean up brought by the Agency under the Polanco Act (Cal. Health & Safety Code § 33459.4) in which case attorneys' fees will be awarded according to statute.

12. Severability.

If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision will not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement will continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Agreement.

13. Counterparts, Effective Date and Facsimile Signatures.

This Agreement may be executed in counterparts, each of which is deemed to be an original, and all such counterparts constitute one and the same instrument. This Agreement shall be binding and effective as of the date it has been fully executed by all the parties, and facsimile copies of signatures shall be sufficient for purposes of executing this Agreement.

14. Agency Not Obligated.

Notwithstanding anything to the contrary contained in this Agreement, Agency has no obligation for the payment or expenditure of money under this Agreement unless there is a valid appropriation from which the expenditure may be made or there are sufficient funds in the Mill Site Polanco Funding Account pursuant to this Agreement. Nor is there any obligation for the Agency to investigate or clean up the Mill Site except as otherwise provided in Section 2.F above.

15. Term and Termination.

Any party may terminate this Agreement for any reason by giving sixty (60) days written notice. Upon issuance of a termination notice by the Agency or the City, or receipt of a termination notice from GP, Agency shall immediately cease and refrain from authorizing work to be paid from the Mill Site Polanco Funding Account and shall use its best efforts to terminate the EOA promptly (i.e., pursuant to Section 24 of Exhibit G of the EOA, the "Standard Provisions," or any comparable termination mechanism that may exist) so as to minimize further payments under that agreement. All funds deposited into the Mill Site Polanco Funding Account pursuant to this Agreement and not committed as of the Agency's receipt of a termination notice issued by GP, or not committed as of the Agency or City's issuance of a termination notice, shall be returned to GP no later than the 90th day after the effective date of the termination notice. Provided that the Agency acts promptly to terminate the EOA upon receipt or issuance of a termination notice under this Agreement, the Agency may retain funds sufficient to pay sums invoiced by, or owed to, DTSC but not yet paid under the EOA as of the termination of this Agreement. This Agreement will terminate automatically upon the issuance of a no-further action letter by all appropriate regulatory agencies having jurisdiction over the environmental status of the Mill Site.

Upon termination of this Agreement, any party may pursue against any other party any and all rights it may have under any federal, state or local law, ordinance, regulation or directive, and nothing in this Agreement shall be construed as a surrender, forfeit, waiver or compromise of any rights, including but not limited to rights arising under the Polanco Act.

16. Authorization to Bind Parties.

Each undersigned representative of the parties to this Agreement warrants and certifies that she or he is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind the party for whom she or he has executed this Agreement.

17. Integration.

This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement, notwithstanding any previous negotiations or agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each party is entering this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

18. GP Liabilities.

Except as specified in this Agreement, nothing herein shall constitute or be considered a satisfaction or release from liability for any condition or claim arising as a result of GP's past, current, or future operations. Nothing in the Agreement is intended or shall be construed to limit the rights of any of the parties with respect to claims arising out of or relating to the deposit or disposal at any other location of substances removed from the Mill Site. GP shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by Fort Bragg or by related parties in carrying out activities pursuant to the Agreement, nor shall GP be held as a party to any contract entered into by Fort Bragg or their agents.

19. Fort Bragg's Liabilities.

Except as specified in this Agreement, nothing in the Agreement shall constitute or be considered a satisfaction or release from liability for any condition or claim arising as a result of Fort Bragg's past, current, or future operations. Fort Bragg shall not be liable for any injuries or damages to persons or property resulting from acts or omissions by GP or by related parties in carrying out activities pursuant to the Agreement, nor shall Fort Bragg be held as a party to any contract entered into by GP or its agents.

20. Incorporation of Recitals.

The parties agree that the Recitals summarize certain significant aspects of the factual background upon which the parties have entered into this Agreement. The parties acknowledge the general accuracy of the Recitals and agree that the Recitals are material provisions of this Agreement and thus are relevant to the proper interpretation and enforcement of this Agreement.

21. No Party Deemed Drafter.

Each party represents and warrants that it has been represented by counsel in negotiating and entering into this Agreement and as such, no single party has drafted this Agreement. This Agreement will not be interpreted against either party as the drafting party.

IN WITNESS WHEREOF, GP, Agency, and City have executed this Agreement as of the dates below.

Fort Bragg Redevelopment Agency

Dated: _____, 2007

Linda Ruffing, Executive Director

APPROVED AS TO FORM:

ATTEST:

Michael Gogna, Agency Counsel

Cynthia VanWormer, CMC, Agency Clerk

The City of Fort Bragg

Dated: _____, 2007

Linda Ruffing, City Manager

APPROVED AS TO FORM:

ATTEST:

Michael Gogna, City Attorney

Cynthia VanWormer, CMC, City Clerk

Georgia Pacific LLC

Dated: _____, 2007

By:
Its:

JMD

APPROVED AS TO FORM:

Attorney for Georgia Pacific

21. No Party Deemed Drafter.

Each party represents and warrants that it has been represented by counsel in negotiating and entering into this Agreement and as such, no single party has drafted this Agreement. This Agreement will not be interpreted against either party as the drafting party.

IN WITNESS WHEREOF, GP, Agency, and City have executed this Agreement as of the dates below.

Dated: 9.25, 2007

Fort Bragg Redevelopment Agency

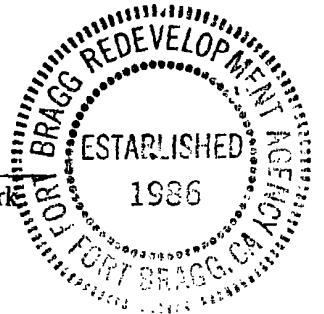
Linda Ruffing
Linda Ruffing, Executive Director

APPROVED AS TO FORM:

Michael Gogna
Michael Gogna, Agency Counsel

ATTEST:

Cynthia VanWormer
Cynthia VanWormer, CMC, Agency Clerk



Dated: 9.25, 2007

The City of Fort Bragg

Linda Ruffing
Linda Ruffing, City Manager

APPROVED AS TO FORM:

Michael Gogna
Michael Gogna, City Attorney

ATTEST:

Cynthia VanWormer
Cynthia VanWormer, CMC, City Clerk

Dated: _____, 2007

Georgia Pacific LLC

J. M. [Signature]
By: _____ JMD
Its: _____

APPROVED AS TO FORM:

[Signature]
Attorney for Georgia Pacific

EXHIBIT A

SCHEDULES

The parties to the Agreement agree to meet the attached schedules. Any and all modifications to the schedule contained in this Exhibit A must be made in writing and approved by all parties.

EXHIBIT A - Schedule for Coastal Trail Portion (Operable Unit A)

Step	Activity	Coastal Trail Segment	Notes
1	Initial Investigation	Completed	Summarized in CCR
2	Data Gaps Evaluation	Completed	Agency comments received February 2007
3	Site Investigation Work Plan	Submitted February 2007	
4	DTSC/Agency Review of Site Investigation Work Plan & modifications	Completed April 2007	
5	Risk Assessment Work Plan	July, 2007	Submitted and pending Agency review
6	DTSC/Agency Review of Risk Assessment Work Plan & modifications	Mid-September, 2007	
7	Site Investigation	Mid-August, 2007	Completed
8	Remedial Investigation/Risk Assessment Reports	Oct/Nov 2007	In process
9	DTSC/Agency Comments on RI/RA Report	Late-December, 2007	
10	Submit Cleanup Plan [RAP; Removal Action Workplan (RAW) or Interim Remedial Action document]	Mid-February, 2008	For RAW must be under \$1 million.
11	DTSC/Agency review of Plan & Revision	Mid-March, 2008	
12	Public Participation: RAP/RAW & Neg Dec for CEQA	Mid-June, 2008	Assumes a public review via fact sheet and public meeting
13	DTSC Issues Plan Approval and Interim Immunity Letter	Mid-June, 2008	
14	Coastal Development Permit - if necessary	Mid-July (Process concurrent w/RAP-RAW)	Assumes an amendment to current CDP
15	Cleanup Implementation	July-October, 2008	Assumes work can be completed in 4 months
16	Submit completion Report	Early December, 2008	
17	DTSC issues completion letter with Polanco Immunities	December 31, 2008	

EXHIBIT A - Schedule for Remainder of Site (Operable Units C through E)

Step	Activity	Status	Notes
Investigation Phase			
1	Initial Investigation	Completed	Summarized in CCR
2	Current Conditions Report (Data Gaps Evaluation)	Completed	Comments received 2/16/2007
3	Draft Field Sampling Work Plan	Within 120 days of receipt of CCR Comments	Submit first OU Work Plan in July 2007 and last OU Work Plan in Oct 2007
4	DTSC/Agency Review of Field Sampling Work Plan	Within 45 days of receipt of Draft Field Sampling Plan	Aug.-Nov. 2007
5	Final Field Sampling Work Plan	Within 30 days of receipt of agency comments on Draft	Sept -Dec 2007
6	Implement Field Sampling Work Plan	Dependent on scope of work plan, but approximately 7 months following finalization of Field Sampling Work Plan	The 7 months duration assumes two rounds of sampling, and two sampling work plans. Complete by mid- to late-2008
7	Proposed Approach for Risk Assessment (Draft Risk Assessment Work Plan)	Within 60 days of receipt of risk scoping meeting	Scoping meetings - Approach to Risk Assessment submitted in July 2007
8	DTSC/Agency Review of Risk Assessment Work Plan	Within 45 days of receipt of Draft Risk Assessment Work Plan	August 2007
9	Final Proposed Approach for Risk Assessment	Within 45 days of receipt of comments	Finalized by December 2007
10	Draft Remedial Investigation (RI) Report	Draft RI Within 45 days of completion of site investigation	Late 2008/early 2009
11	DTSC/Agency Comments on Draft RI Report	Within 45 days of receipt of Draft RI Report	Early 2009
12	Final RI Report	Within 45 days of receipt of agency comments on Draft RI Report	Early 2009
13	Draft Risk Assessment Report	Draft Risk Assessment within 45 days of submission of final RI Report	Early 2009
14	DTSC/Agency Comments on Risk Assessment Report	Within 35 days of receipt of Draft Risk Assessment	Spring 2009
15	Final Risk Assessment Report	Within 30 days of receipt of agency comments on Draft	Mid-2009
Remedial Phase			
Step	Activity	Status	Notes
16	Cleanup Plan (Remedial Action Plan (RAP)) Scoping	Within 30 days of completion of Final RI Report	Late 2008/Early 2009 and partially dependent on determination land uses per DTSC's 6/29/07 letter
17	Submit Draft Cleanup Plan (RAP with Feasibility Study included, or FS/RAP)	Within 90 days of Final Risk Assessment Report	Mid-2009 and partially depending on progress of treatability studies, if any
18	DTSC/Agency review of Draft FS/RAP	Within 45 days of receipt	Mid- to Late 2009
19	Submit Draft CEQA Document for DTSC/Agency review	Within 120 days of Draft Cleanup Plan (FS/RAP) submittal	Remediation CEQA document could be combined with Specific Plan's CEQA document
20	DTSC/Agency review of Draft CEQA Document	Within 30 days of receipt of Draft CEQA Document	Late 2009
21	Finalize DRAFT-FS/RAP and Draft CEQA Document	Within 30 days of receipt of agency comments on Draft CEQA Document	Late 2009/early 2010
22	Public Participation*: 45 days public review and hearing	45 days	Early 2010
23	Prepare Final CEQA Document (response to public comments)	Within 90 days after the close of the public comment period	Spring 2010
24	City of Fort Bragg certifies Final CEQA Document		Mid-2010
25	DTSC Approve Final Cleanup Plan [Final FS/RAP]	Within 30 days after Final CEQA Document certification	Mid-2010
26	DTSC issues conditional immunity letter	Within 60 days of DTSC approval of Final Cleanup Plan	
27	Remedial Design and Implementation Plan (RDIP)	Within 45 days after DTSC approval of Final RAP (may be phased)	
28	Permitting Completed (note, multiple permits)	Scope dependent (may be phased)	
29	RAP implementation	Scope dependent (may be phased)	
30	Submit completion Report	Within 60 days of completion of Final RAP Implementation (may be phased)	*Completion* is defined as receipt and validation of laboratory data, excluding long-term monitoring data, O&M and on-going risk management measures, if applicable
31	DTSC Issues completion letter with Polanco Immunities	Within 60 days of DTSC approval of Final Cleanup Plan completion (may be phased)	

* Note that other public participation activities will be conducted by DTSC throughout the process

EXHIBIT A - Schedule for Hotspot Removals (Operable Unit C)

Step	Activity	Status	Notes
1	Draft Ex-Situ Bioremediation Pilot Study Work Plan	Received April 2007	One round of revision for Pilot Study Work Plan.
2	Submit Draft Cleanup Plan [Feasibility Study / Removal Action Workplan (FS/RAW)]	Within 60 days of completion of Pilot Study Workplan implementation	After Pilot Study implementation from June to October 2007; if in excess of \$1M will be a RAP
3	DTSC/Agency review of Draft FS/RAW	Within 30 days after receipt of Draft FS/RAW	
4	Submit Draft CEQA Document	Within 60 days of completion of Pilot Study Workplan implementation	Likely would need to be Neg Dec as Cortese Listing or cost could prevent use of NOE
5	DTSC/Agency review of CEQA Document	30 days	
6	Finalize DRAFT-FS/RAW and CEQA documents	Within 45 days of receipt of agency comments on Draft (Late February 2008)	
7	Public Participation: 30 days public review and hearing	45 days for publication, comment period, etc.	
8	Approve RAW/Certify CEQA	20 days after close of public comment period (Early-May, 2008)	Land-farming would need to start by early May 2008
9	Permitting Completed	At least 30 days prior to Construction Season	
10	RAW implementation	Spring - Summer 2008	
11	Submit completion Report	Within 60 days of completion of RAW Implementation	"Completion" is defined as receipt and validation of laboratory data

EXHIBIT B
Site Access Protocol

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FORT BRAGG MILL SITE ACCESS PROTOCOL
March 22, 2007

The following protocol will be in effect immediately to assure the safety of all authorized visitors on the mill site, and to allow GP to schedule visits.

Visitors will be defined as those persons who are not employed by GP or its tenants, and are not a contractor or vendor of GP or BBL.

1. For site visitors, a written request must be submitted via email at least five (5) business days in advance to Carol Stephens (castephe@gapac.com). The email should include the purpose of the proposed visit, a description of the activities to be undertaken, the areas to be included in the visit, the names of the visitors and their affiliation, and the approximate time and duration of the requested visit. Carol Stephens will notify the DTSC two business days prior to approved visits.
2. Georgia-Pacific requires that all visitors be accompanied by a GP or BBL escort. Multiple visits in a similar timeframe may be combined.
3. Access will be restricted to Georgia-Pacific employees and tenants, City Wastewater Treatment Plant employees, City staff, consultants, contractors/vendors, and public agency personnel who have specific tasks to perform relating to the redevelopment and/or remediation projects. There will be no approvals for public access.
4. Visitors will not be allowed in areas where remedial investigations or removal actions are taking place.
5. GP reserves the right to refuse access to the mill site at any time.

The attached map clearly marks areas that are restricted from access except by Georgia-Pacific employees, consultants, contractors/vendors, and public agencies associated with the redevelopment and/or remediation projects. Individuals directly involved in investigation and remediation work in restricted areas or entering active work areas must be OSHA HAZWOPER-trained. Other activities within the restricted areas will be evaluated on a case-by-case basis to determine the appropriate training and other health and safety requirements.

The map also indicates approved areas for normal business access applicable to tenants, contractors/ vendors of tenants, and Wastewater Treatment Plant employees.