

RESOLUTION NO. 3853-2015

RESOLUTION OF THE FORT BRAGG CITY COUNCIL APPROVING A SALE AGREEMENT (SURPLUS EQUIPMENT) WITH GEORGIA-PACIFIC LLC FOR SALE OF THE VISITOR CENTER BUILDING TO THE CITY OF FORT BRAGG AND AUTHORIZING CITY MANAGER TO EXECUTE SAME

WHEREAS, the City of Fort Bragg ("City") is developing a park on approximately 93 acres on the western edge of the City adjacent to the Pacific Ocean on the following parcels: APNs 008-010-22/24/34/35, 008-020-10/11/12 & 018-430-04/08/10/11; and

WHEREAS, on January 12, 2015, the City Council certified a Subsequent Environmental Impact Report (EIR) for the Project pursuant to CEQA; Title 14, California Code of Regulations, Section 15000 et seq. ("CEQA Guidelines"); and the City's CEQA Implementation Procedures; and

WHEREAS, on January 12, 2015, the City Council approved Coastal Development Permit Amendment (CDP 10-10/14/14), Design Review Amendment (DR 11-10/14/14), Use Permit (USP 11-14), and Variance Amendment (VAR 2-11/14/14); and

WHEREAS, on March 30, 2015 the City Council directed staff to work with Georgia-Pacific LLC ("GP") to transfer their former Visitor Center building to the City for use as an Interpretive Center for the ocean and coastal environment; and

WHEREAS, the City has negotiated a Second Amendment to a License Agreement with GP to allow for relocation of the Visitor Center from GP's property to the City's Coastal Trail property; and

WHEREAS, the City has negotiated a Sale Agreement with Georgia-Pacific LLC to transfer the Visitor Center from GP to the City for the price of \$10.00; and

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

1. The Sale Agreement is necessary for the transfer and relocation of the Visitor Center to the Fort Bragg Restoration and Coastal Trail Project.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Fort Bragg, does hereby authorize the City Manager to execute the Sale Agreement (Surplus Equipment) with Georgia-Pacific LLC for the transfer of the Visitor Center to the City which is attached as "Exhibit A" and incorporated herein.

The above and foregoing Resolution was introduced by Councilmember Peters, 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 28th day of September 2015, by the following vote:

AYES: Councilmembers Peters, Cimolino, Deitz, Hammerstrom, and Mayor Turner.

NOES: None.

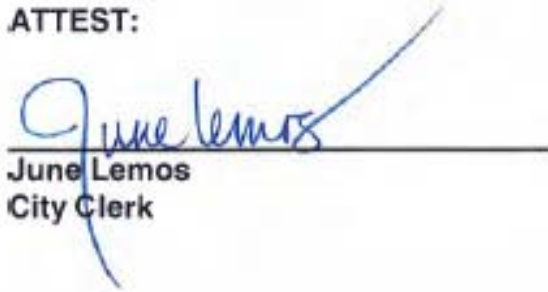
ABSENT: None.

ABSTAIN: None.



DAVE TURNER,
Mayor

ATTEST:



June Lemos
City Clerk

EXHIBIT A



SALE AGREEMENT - SURPLUS EQUIPMENT

THIS SALE AGREEMENT (the "Agreement"), dated July 08, 2015 is by and between "Seller" (as defined below) and "Buyer" (as defined below):

SELLER
NAME Georgia-Pacific LLC
BUSINESS ADDRESS 133 Peachtree Street NE
CITY / STATE / ZIP CODE Atlanta, GA 30303

BUYER
NAME City of Fort Bragg Community Development Dept
BUSINESS ADDRESS 416 North Franklin Street
CITY / STATE / ZIP CODE Fort Bragg, CA 95437

1. Buyer hereby purchases from Seller the following property (the "Property"):
 - The Visitor's Center (Chalet) - as identified on Exhibit A attached hereto, together with the associated decks, walkway, stairs, benches, fencing and wooden trash receptacle.
 - Various cull pine logs, located adjacent to Highway 1.

2. The purchase price is: ten dollars and no cents.
(\$10.00) (the "Purchase Price").

3. **WARNING!** ANY PORTION OF THE PROPERTY AND/OR ANY CONTAINER WHICH HOLDS THE PROPERTY WHICH BUYER MAY HEREAFTER RECEIVE FROM SELLER MAY BE OR MAY BECOME (BY CHEMICAL REACTION OR OTHERWISE), DIRECTLY OR INDIRECTLY, HAZARDOUS TO LIFE, TO HEALTH, OR TO PROPERTY BY REASON OF TOXICITY, FLAMMABILITY, EXPLOSIVENESS OR FOR OTHER SIMILAR OR DIFFERENT REASONS, DURING USE, HANDLING, CLEANING, RECONDITIONING, OR DISPOSAL. No additional specific warning shall be deemed to limit this broad warning, and if the additional specific warning is inadequate, all of the terms and conditions of sale hereinbelow set forth shall still apply, even if the inadequacy of the specific warning was due to negligence on Seller's part and no course of action on Seller's part shall be deemed to limit this broad warning.


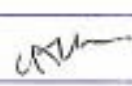
4. The terms and conditions of this sale shall be as follows:
 - (A) **NO WARRANTIES.** The Property is sold, "AS IS, WHERE IS, WITH ALL FAULTS." THERE ARE NO EXPRESS WARRANTIES EXCEPT THAT SELLER OWNS THE PROPERTY. NO WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTY OF MERCHANTABILITY OR WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, SHALL BE IMPLIED.
 - (B) **RISK OF LOSS.** Buyer assumes all risks of loss after delivery of the Property by Seller, in accordance with subparagraph 4(H) below.
 - (C) **INDEMNIFICATION.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, BUYER SHALL INDEMNIFY, DEFEND AND HOLD SELLER AND ITS OFFICERS, AGENTS, EMPLOYEES AND RELATED COMPANIES (COLLECTIVELY, "INDEMNITEES") HARMLESS FROM ANY LOSSES, COSTS, CLAIMS (INCLUDING CLAIMS OF BUYER'S EMPLOYEES), EXPENSES (INCLUDING ATTORNEYS' FEES AND COURT COSTS), SUITS, ACTIONS, JUDGMENTS FINES, PENALTIES OR DAMAGES OF EVERY NATURE AND DESCRIPTION (COLLECTIVELY, "LOSSES") ARISING OUT OF OR RESULTING FROM THE HANDLING, TRANSPORTATION, STORAGE, USE, RESALE OR DISPOSAL OF THE PROPERTY AFTER DELIVERY OF THE PROPERTY TO BUYER IN ACCORDANCE WITH SUBPARAGRAPH 4(H) BELOW, WHETHER OR NOT SUCH LOSSES ARE CAUSED BY THE NEGLIGENCE (SOLE OR CONCURRENT) OF INDEMNITEES, AND WHETHER OR NOT SUCH LOSSES ARISE OUT OF STRICT LIABILITY, NEGLIGENCE, WARRANTY OR ANY OTHER CAUSE OF ACTION. AS TO ANY CLAIM MADE BY INDEMNITEES HEREUNDER, BUYER EXPRESSLY WAIVES ANY INSULATION FROM LIABILITY OR IMMUNITY FROM SUIT WITH RESPECT TO INJURIES TO BUYER'S EMPLOYEES WHICH MAY BE EXTENDED TO BUYER AS A RESULT OF ANY PAYMENTS MADE BY BUYER TO SUCH EMPLOYEES UNDER ANY APPLICABLE WORKERS' COMPENSATION STATUTE OR SIMILAR LAW OR JUDICIAL DECISION.
 - (D) **WARNING BY BUYER.** Buyer shall give warning of any possible hazard to any person or persons to whom Buyer resells, gives or delivers the Property or whom Buyer can reasonably foresee may be exposed to such hazard whether or not the Property remains in the containers in which the Property was delivered to Buyer or Seller.
 - (E) **REMOVAL OF SELLER'S MARKS.** Buyer shall remove any and all of Seller's trademarks, labels, distinctive markings and designs which may appear on the Property, the packaging material or the container which holds the Property at the time of delivery of same to Buyer, and shall refrain from making any use of such trademarks, labels, distinctive markings and designs.
 - (F) **PAYMENTS.** All payments are to be made in full by certified check or cashiers check, upon execution of this Agreement and before shipment of the Property or pick-up by Buyer, unless otherwise set forth in this Agreement.
 - (G) **FORCE MAJEURE.** Seller shall not be liable for its failure to perform hereunder due to any contingency beyond its reasonable control, including, but not limited to, acts of God, fires, floods, wars, sabotage, accidents, labor disputes or shortages, governmental laws, ordinances, rules and regulations, whether valid or invalid (including, but not limited to priorities, requisitions, allocations, and price adjustment restrictions), inability to obtain material, equipment or transportation, and any other similar or different contingency which is beyond Seller's reasonable control.
 - (H) **DELIVERY TERMS.** Unless otherwise specified in this Agreement, the place of delivery of the Property to Buyer shall be at the Seller's premises where the Property is

located. Unless otherwise specified under subparagraph 4(O), Buyer shall be responsible for and shall pay all costs of preparing the Property for shipping and loading, and for transportation of the Property from Seller's premises on or before November 30, 2015 shall comply with all applicable laws, rules and regulations, and shall comply with all policies of Seller regarding visitor access and safety precautions.

- (I) **CONSEQUENTIAL DAMAGES.** IN NO EVENT AND UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES.
- (J) **TAXES.** Buyer shall pay, at the time of payment of the purchase price, all applicable sales or use taxes or other taxes, charges, or fees required to be paid or collected by Seller by reason of this sale, or provide Seller with a valid exemption certificate. In the event that buyer either fails to pay the taxes or other charges as agreed above or fails to provide a valid exemption certificate, Buyer shall indemnify and hold Seller harmless from any liability and expense by reason of such failure.
- (K) **INSURANCE.** Buyer shall not move, load, transport or otherwise handle the Property on Seller's premises without first having obtained insurance coverage satisfactory to Seller. Such insurance shall include Workers' Compensation, Employer's Liability, Commercial or Comprehensive General Liability and Comprehensive Automobile Liability insurance with such endorsements and in such amounts as Seller may require. Certificates of insurance evidencing the aforementioned insurance coverages shall be furnished to and shall be approved by Seller. Seller may, at its sole option, waive this insurance requirement by completing the Insurance Waiver below Seller's signature block.
- (L) **MODIFICATION.** Buyer understands and agrees that: (a) no modifications of the terms and conditions of sale set out in this Agreement shall be effective unless made by an authorized representative of Seller in writing and specifically referring to this Agreement; (b) no course of action on the part of Seller shall be deemed to modify the Warning or this Agreement; and (c) Seller's acknowledgment or acceptance of anything in writing from Buyer which is in conflict with the Warning or this Agreement and any subsequent delivery of items shall not constitute a modification or waiver of the Warning or this Agreement.
- (M) **GOVERNING LAW.** This instrument shall be construed according to the laws of the Delaware without regard to its conflict of law provisions.
- (N) **EXPORTING RESTRICTIONS.** Buyer shall obtain all export licenses and other government approvals which are required by applicable laws, rules or regulations, and certifies to Seller that Buyer shall not permit unauthorized export, diversion or trans-shipment of the Property in violation of any such license, approval or applicable law, rule or regulation. Buyer shall protect, defend, indemnify and hold Seller and its agents, employees and related companies harmless from any Losses arising out of Buyer's breach of this subparagraph 4(N).
- (O) **ADDITIONAL TERMS:**

In the event that Buyer is unable to relocate the Visitor's Center (Chalet) from the Seller's premises by the date stipulated in Paragraph 4(R) above, Buyer shall reimburse Seller, in full, for Seller's costs necessary for the removal of the Chalet.

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly authorized officers or other Representatives.

SELLER	BUYER
SIGNATURE 	SIGNATURE 
PRINT NAME Gerald A. Shirk	PRINT NAME Maria Jones
TITLE Vice President - Real Estate	TITLE Community Development Director

INSURANCE WAIVER - Must be initialed by authorized Seller representative.

Workers' Compensation		Commercial or Comprehensive General Liability	
Employer's Liability		Comprehensive Automobile Liability	

Exhibit A - Visitor Center and Related Improvements



Visitor Center



Visitor Center Arbor



Visitor Center fencing



Visitor Center Trash Can