



City of Trinidad

Posted: Friday, December 07, 2012

NOTICE AND CALL OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold its regular monthly meeting on
WEDNESDAY, DECEMBER 12, 2012 at 7:00 PM
in the Town Hall at 409 Trinity Street

- I. **CALL TO ORDER/ROLL CALL**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ADJOURN TO CLOSED SESSION** – *No closed session scheduled*
- IV. **APPROVAL OF AGENDA**
- V. **APPROVAL OF MINUTES** - 11-14-12 cc
- VI. **COUNCIL MEMBER REPORTS, INCLUDING COMMITTEE ASSIGNMENTS**
- VII. **ORAL STAFF REPORTS** - Specific Department Reports, Planning Commission
- VIII. **ITEMS FROM THE FLOOR**
(Three (3) minute limit per Speaker unless Council approves request for extended time.)

- IX. **CONSENT AGENDA**
 1. Staff Activities Report for November 2012
 2. Financial Status Reports for October 2012.
 3. Humboldt County Sheriff Activity Report, November 2012
 4. Retroactively authorize the City Manager to sign contract amendment for Luffenholtz Creek Sediment Reduction Project
 5. Resolution 2012-13; Adopting the Mitigated Negative Declaration for the Luffenholtz Creek Water Protection Project.
 6. Adopt CEQA Notice of Exemption for Trinidad Water Treatment Plant Improvement Project.
 7. Resolution 2012-14; Authorizing Signature of Funding Agreement and Related Documents Under Proposition 50 for Luffenholtz Source Water Protection Project.
 8. Schedule for Two Council Meetings in January

- X. **DISCUSSION/ACTION AGENDA ITEMS**
 1. Swearing into office Councilmember Julie Fulkerson for a second term.
 2. Resolution 2012-15; Recognizing the Public Service of Michael Morgan.
 3. Discussion/Decision regarding Tsurai Ancestral Society Notice of Violation and Intent to File Suit
 4. Discussion/Decision regarding Two Tier System for Payment of Employee Dependent Health Care Insurance
 5. Selection of Mayor and Mayor Pro Tem
 6. Appointment of Council members to various boards and commissions
 7. Consideration of mini-roundabout at Trinity and Edwards

- XI. **COUNCIL, STAFF, or PUBLIC REQUESTS FOR FUTURE AGENDA ITEMS**
- XII. **ADJOURNMENT**

APPROVAL OF MINUTES FOR:

November 14, 2012 CC:

Supporting Documentation follows with: 5 PAGES

MINUTES OF THE REGULAR MEETING OF THE TRINIDAD CITY COUNCIL
WEDNESDAY, NOVEMBER 14, 2012

I. CALL TO ORDER/ROLL CALL

- Mayor Bhardwaj called the meeting to order at 7:00PM. Council members in attendance: Morgan, Miller, Bhardwaj, Fulkerson. ***Councilmember Davies was absent.***
- City Staff in attendance: City Manager Karen Suiker, City Planner Trever Parker, City Attorney Andy Stunich, City Clerk Gabriel Adams.

II. PLEDGE OF ALLEGIANCE

III. ADJOURNMENT TO CLOSED SESSION

1. Government Code section 54956.9(b)(3): Pending Litigation
 - a. Tsurai Ancestral Society Liability Claims for Damages, etc against the City of Trinidad

IV. RECONVENE TO OPEN SESSION

Mayor Bhardwaj stated that no action was taken in closed session.

V. APPROVAL OF AGENDA

Motion (Fulkerson/Miller) to approve the agenda as submitted. Passed 4-0.

VI. APPROVAL OF MINUTES – September 26, 2012 cc2 & October 10, 2012 cc

Motion (Fulkerson/Miller) to approve the minutes as corrected. Passed 4-0.

VII. COMMISSIONERS REPORTS

Miller: Report on Donna Lin's health.

Fulkerson: Report on the Prosperity Network, RREDC.

Bhardwaj: HCAOG Meeting report and update on Tribal Membership issue.

VIII. STAFF REPORTS

City Manager Suiker: Highlighted items listed in her Staff Report – Streetlight at the corner of Scenic & Main will be installed this week. Azalea & Pacific Street project funds approved.

IX. ITEMS FROM THE FLOOR – None.

X. CONSENT AGENDA

1. Staff Activities Report for October 2012
2. Financial Status Reports for September 2012.
3. Humboldt County Sheriff Activity Report, October 2012
4. Second Reading: Ordinance 2012-04, Building Permit Fee Schedule Update
5. Proclamation 2012-06: Great American Smokeout
6. Agreement for Accounting and Financial Services

Motion (Miller/Fulkerson) to approve the consent agenda as submitted. Passed 4-0.

XI. AGENDA ITEMS

1. Discussion/Decision regarding Request to Remove Existing Conditions and Place New Conditions on the Trinidad Bay Bed & Breakfast ***Councilmember Morgan excused himself from the discussion.***

City Manager Suiker explained that the matter of removing conditions on the Trinidad Bay Bed and Breakfast was considered and approved by the Planning Commission in July 2010 as a recommendation to the City Council. The matter was then considered by the City Council in August 2010 with a resulting action "to deny Morgan's request to

have the conditions removed, and maintain the current requirements and conditions as placed on the B&B in 1985. However, if future water quality testing on the bluff yields negative septic impacts then the city may reconsider the request. Conditions will be enforced based on trust and good faith that the owner will comply. "

Mr. Morgan is once again requesting a modification of the previously approved use permit to remove/alter the conditions of approval, and he will be prepared to express his opinions at the meeting.

City Planner Trever Parker explained that with regard to the current two conditions, her July 2010 staff report advised as follows:

Condition (1): The condition to use a commercial linen service was not based on any real data or professional recommendation. The condition was intended to reduce the amount of water going into the system; however, there is no restriction to the property owner simply taking the laundry to his adjacent property and doing the wash there. This does not reduce the amount of water going into the ground in general.

Condition (2): The condition to cease business if the septic system fails is covered by other laws/regulations, and the Department of Health has no issue with removal of this condition.

The Planning Commission (with concurrence from the County Health Department), determined that there are other ways to protect the system than requiring a commercial linen service. For that reason, even though the two original conditions were recommended for removal, additional conditions were recommended to be put into place. Those three conditions were:

1. The property owner shall have the septic system inspected annually during the wet weather season and the results provided to Department of Health (DEH) each year. This inspection schedule may be modified under implementation of the City's On Site Wastewater Treatment System (OWTS) Management Program with written approval from DEH.
2. The owner recognizes that if the septic system fails, steps will be taken by the City and/or DEH to rectify the situation, which may include suspension of the Use Permit or temporary closure of the business until the system is repaired to the satisfaction of DEH.
3. The next annual inspection, to occur in the upcoming wet season, shall conform to the requirements for a performance inspection under the City's OWTS Management program verifying the function of the entire system, including the leachfield and confirming the presence or absence of an effluent filter. If an effluent filter is not already installed, one shall be installed at the time of inspection.

The proposed action tonight is to remove the current two conditions in favor of three new conditions as outlined in the July 8, 2010 staff report from Planner Parker and as restated above.

City Attorney Andy Stunich suggested that since there are only 3 Councilmembers seated, it may be more fair to Mr. Morgan to have the full Council present. Otherwise, a 3-0 vote will be required to take action.

Public comment included:

Ralph Faust – Attorney representing the Tsurai Ancestral Society

Read into the record a long statement prepared on behalf of the Tsurai Ancestral Society. The letter urged the Council to deny Mr. Morgan's request. He stated that the Bed & Breakfast is a threat to slope stability, it pollutes the groundwater, and there is no factual evidence that supports the activities at the business have no adverse effect on the bluff stability and health of the groundwater.

Tom Odom – Trinidad

The original cause of the controversy back when Paul Kirk applied to convert the residence to a Bed & Breakfast in the 1980's was not the septic system. The author of a town newsletter called Trinidad News & Views published his concerns that the business would become a house of drugs and prostitution, and stirred up the controversy. A well was drilled across the street on Edwards recently that didn't hit water. The existing springs on the bluff have been there long before the Bed & Breakfast existed. I appreciate the Tsurai's concerns, but the issues aren't consistent with the original intent of the conditions.

Jim Cuthbertson – Trinidad

If you don't repeal the conditions, then you should address all properties along the bluff to be fair. The proposed conditions are much better.

Ralph Faust - Attorney representing the Tsurai Ancestral Society

The basis for Morgan's request is economic hardship. The record is clear that the bluff is in danger. The point of the conditions is to protect public interest.

Pat Morales – Trinidad

Read a long letter into the record that stated, in summary, that 1) Morgan has not made a good faith effort to comply with the conditions, 2) the 2010 Staff report doesn't address erosion or bluff stability – which should be the highest priority, 3) the condition specifically states that a commercial linen service must be used, and 4) the health of the septic system has been compromised due to intense use.

Council comments included:

Fulkerson: Asked Morgan to explain the laundry process at the B&B. **Morgan** explained that he uses high-efficiency machines, has low-use statistics as compared with other residences in town, and has been unfairly singled out.

Miller: The proposed additional condition requires an annual inspection and performance test of the septic system. The current system is designed and performing better than required. It's an older system that's functioning at the level of modern standards. He's having it pumped and tested on his own accord.

Fulkerson: I believe Morgan is reasonable, and wants the best for the city, his business, and his property.

Miller: Water flow and bluff saturation is a major concern. However, that wasn't the city's primary concern back in 1985 when the conditions were placed on the B & B. Protecting the septic system from overuse was the primary concern. Staff has proposed additional conditions on the property that protects the system even more than they did before, and based on the statistics, the business's use does not seem excessive. Everyone should be encouraged to use less water, and proposing a 5 year low-flow appliance transition seems like the way to go.

Bhardwaj: This is a very difficult process. City representatives should be squeaky clean, and I'm hesitant to remove conditions. If we don't, however, it could create a separate set of problems. Less water into the bluff is our objective.

City Planner Parker explained that the current conditions are poorly written and hard to enforce. The proposed conditions are more black and white for septic protection and water quality concerns.

City Manager Suiker noted that the discussion should continue in January with low-flow appliance concerns addressed.

No decision was made. Discussion continued to January.

-2- Discussion/Decision regarding General Plan Update, Housing Element and Proposed Cultural/Historical Resources Element.

City Planner Trever Parker explained that from our June 2012 invoice (which was billed in July, so is part of this fiscal year) through October (not yet billed), Streamline time spent on the General Plan update is at a total of \$5,195 out of the \$20,000 budget allocated for this fiscal year. That means that we are actually under budget, though somewhat behind schedule. She also gave a brief update on the upcoming discussion items:

Circulation Element: The Planning Commission accepted the text of the Circulation Element in July, and recommended consideration by the City Council. However, the figures had not yet been finalized to their satisfaction. The Planning Commission and staff continued to work on those for the next month, and the figures were completed in August.

Noise and Public Safety Element: The text of this element is also complete and finalized, but the Planning Commission will continue to work on the figures over the next month or two. (Though there will not be a regular

meeting in November, since it would fall the Wednesday before Thanksgiving.) When this is done, I will forward both the Circulation and Noise & Safety Elements to the Council for review.

Housing Element: This is the last of the seven State required elements. Staff recommended, and the Planning Commission concurred, that the City should not try to develop a housing element fully in compliance with the Department of Housing and Community Development (HCD) standards at this point in time. This is the one element that is required to be certified by a State agency, but the standards go well beyond what is really necessary for a City with only 200 housing units (see attached memo for more information).

Cultural & Historic Resources Element: Since the early stages of our general plan update, staff has proposed a separate Cultural & Historic Resources element. This is not a required element, but these issues would have to be addressed somewhere in the general plan anyway. With some of the issues that have resurfaced lately related to the Tsurai Study Area (TSA), staff felt this would be a good time to start developing this important element. This will be a crucial first step in codifying the policies and recommendations of the Tsurai Management Plan (TMP) and moving toward implementation. This process will also provide a basis for a holistic approach to management and impact analysis that has been requested by the Tsurai Ancestral Society (TAS) and others. It will also include cultural resources and issues outside of the TAS, including Trinidad Head and others. I also feel that it is important to address more recent historic resources, including homes and other structures that are important to the community.

Public comment included:

Brad Twoomey – Trinidad

The word "shall" means mandatory. Be careful of wording in your land use and zoning ordinances.

The Council agreed on the importance of including the Tsurai and Yurok Tribes when drafting the Cultural & Historic Resources Element.

Motion (Miller/Bhardwaj) to concur with staff's proposed approach to both the Housing Element (option 2 to provide a Housing Element specific to the needs of the City that will cost approximately \$3500 and would show that the city made and effort at compliance) and the Cultural/Historic Resources Element. Passed 4-0.

3. Discussion/Decision regarding Request for City to Pay Costs for Tree Removal Permit, Land Trust Application #2012-08.

City Manager Suiker explained that the Trinidad Coastal Land Trust submitted an application for a use permit and Coastal Development Permit to remove a holly tree from their property and paid a \$750 deposit at the time of the request. This application was submitted to the City's Planner, and a six (6) page staff report was produced to address the zoning ordinance/General Plan consistency, slope stability, sewage disposal, landscaping and fencing, design review/view protection findings, and use permit findings all of which led to the staff recommendation to conditionally approve the project. The Planning Commission approved the project, including the condition to reimburse the City for all costs associated with processing the application.

The costs incurred by the City's Planner to date total \$895. There will be a bit more time from working on the minutes and copies, so the total project may come in at about \$950. The Land Trust has requested a refund of the \$750 deposit and presumably is requesting the City also absorb additional costs over and above that deposit.

As an outside consultant, the costs to the Planner need to be reimbursed in full, so simply waiving the fee is not an option. The question before the Council is whether to use City General Funds to refund costs already paid by the Land Trust and pay additional expenses beyond the deposit.

In view of the city's financial situation, staff cannot recommend the City absorb 100% of the costs, particularly in light of the precedent this sets, but the Council may wish to consider a reduction such as a 50/50 cost share in consideration of the organization's non-profit status.

Public comment included:

Ben Morehead – Trinidad Coastal Land Trust

The Land Trust is willing to accept any contribution. The Trinidad School benefited from the fee waiver when they built the greenhouse. We feel that the cost of processing the permit was higher than usual due to all the excess

deliberation and debates on whether a private landowner has a right to remove a non-native, invasive tree on their property.

Jim Cuthbertson – Trinidad

I'm not in favor of giving the Land Trust a break.

Brad Twoomey – Trinidad

Did Marilyn Sterling file an appeal? What's the status? **Suiker** explained that the appeal was not filed in a timely manner.

Council comments included:

Morgan: Since the sales tax measure passed, I support giving them a refund.

Bhardwaj: In general, I like to support community groups. However, tree removal is so controversial and I worry about setting precedence. I will vote not to give them a reduction or refund, but will donate my personal money to the Land Trust to help them offset the permit fees they had to pay.

Miller: Either way we vote, we're passing judgement on the merits of the project. I support giving the fee reduction.

Fulkerson: I support the Land Trust and Gallery, but can't support gifting public funds to this cause.

Motion (Miller/Morgan) to support a 50% fee reduction. Motion failed by the following vote:
2-Yes, Morgan/Miller. 2-No, Bhardwaj, Fulkerson.

XII. COUNCIL REQUEST FOR FUTURE AGENDA ITEMS

XIII. ADJOURNMENT

- Meeting ended at 9:50pm.

Submitted by:

Gabriele Adams
City Clerk

Approved by:

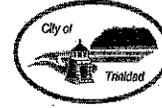
Kathy Bhardwaj
Mayor



CONSENT AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 5 PAGES

1. Staff Activities Report for November 2012



STAFF ACTIVITIES REPORT

Through November 2012

City Administration:

1. On-Site Waste Water Treatment (OWTS) Ordinance. Draft materials proposed to be mailed out to property owners were presented to the Council at the August meeting, and revisions suggested at that meeting have been incorporated. In accordance with action taken at the August meeting, Mayor Bhardwaj and Councilmember Miller provided additional review/revisions and the first round of information packets is being readied for mailing in January.

2. Library. The building construction is currently underway. Staff continues to negotiate with the North Coast Land Trust on a long term lease for the subject property. Development of an MOU with the County to provide library services within the new facility will be underway once the lease with the Land Trust has been completed.

3. Harbor Lease. The lease agreement for the submerged lands between the City and the Rancheria expired in January 2011, and staff continues efforts to work with the Rancheria to bring forward a new or extended lease.

4. Fees. Staff has embarked on a project to consolidate, review and update the various fees charged for city services, many of which have not been updated for years, and some of which are unclear and at times contradictory. Two such fee categories, building inspection services and business license fees were submitted for Council consideration at the October meeting. The matter of updating the fee for appeals to the City Council is currently under consideration. This will require notification to the Coastal Commission, a public hearing before the Planning Commission and a public hearing to consider the zoning ordinance amendment before the Council, followed by a full application to the Coastal Commission. The intended end result is to enable the City Council to set appeal fees by Resolution. The zoning ordinance amendment is proposed to be presented to Council for first reading in January.

5. Staff Recruitment. A recruitment is underway to fill the recently vacated position of Public Works Maintenance Worker, and the application period has now closed. The City received 30 applications of interest, and staff is now reviewing the applications, after which interviews will be conducted of the top candidates. This position is necessary to share in the duties of operating the water distribution system, and proper record keeping of chemicals used, maintaining city roads, buildings, cemetery and recreation areas and

sanitation facilities, mowing and debris removal in and near various city facilities, and sharing in on call emergency response duty with 2 other public employees.

6. Annual audit. The City's external auditor performed his fieldwork during the week beginning November 26, and it appears the city's financial house is in good order. Once the final audit report is issued, we will calendar an agenda report for Council review and consideration.

7. Streetlight replacement. The last streetlight project near Murphy's is awaiting manufacturer delivery of the arm and light which is tentatively anticipated mid-December. For other streetlights, staff is working with PG&E to obtain cost differential for scheduled replacement of streetlights using the same design as recently installed for the Gateway project. Three center bore wood lights are scheduled to be replaced by PG&E next year (on or near Van Wycke and Edwards). All other light replacements would be at city expense.

8. Disability Access Survey. In March of this year the Council authorized the submittal of a Grant Program Application for a disability access survey to be funded by the Public Agency Risk Sharing Authority of California (PARSAC). The grant was approved, and the project was on hold pending completion of the Gateway project because a number of disability access improvements were included in this project. Now that the Gateway project is complete, the survey is underway.

PLANNING ISSUES

1. General Plan. A status report on the General Plan update together with a request for Council concurrence on the proposed approach to both the Housing Element and Cultural/Historic Resources Element were considered by the Council at the November meeting. The Draft Circulation Element is ready for council review and a study session on this Element and an update on the status of the remaining General Plan Elements will be set for a second Council meeting in January.

2. Accessory Dwelling Unit (ADU)/Vacation Dwelling Unit (VDU) LCP Amendment. The City responded to an earlier request from the Coastal Commission staff for additional information in order to continue to process the application and to do their analysis. More recently we received another request for further clarification/information, and have responded to that second request and are now hopeful this matter can be considered by the Commission at their January meeting.

3. Civic Club Lighthouse Project. This project was conditionally approved by the Trinidad Planning Commission on August 15, 2012 and was subsequently appealed to the City Council. The Council met on September 26 and denied the appeal. A timely appeal of this decision was submitted to the California Coastal Commission and it is anticipated that this appeal will be heard at their January meeting.

4. Planning Commission Vacancies. Two Commissioner terms will expire at the end of December, 2012, and the vacancies are posted at town hall through December. Both Commissioners Pinske and Becker have indicated their willingness to continue to serve and an agenda item to consider filling the vacancies will be included for the January meeting.

Status of Grant Funded Programs

1. Project Name: Gateway Project

Source of Funds: Combination of Transportation Enhancement Funds, Federal High Risk Rural Roads Funds and local Proposition 1B funds

Status: The City-contracted portion of the project is complete and has been accepted by the Council at a prior meeting.

A project management review was recently conducted by a Transportation Engineer from the Federal Highway Administration, with no issues/concerns raised. As a result of this favorable review, we can be assured of successful cost recovery as well as the possibility of removal of sanctions imposed by our failure to properly document and administer the museum landscaping project which resulted in denial of funding.

2. Project Name: Turbidity Monitoring (SCADA upgrade)

Source of Funding: CA State Proposition (\$113,628)

Status: GHD is acting as the project manager. All equipment has been installed, and the final programming of the electronic components should be completed in the next month. The project is expected to be completed before the end of the year.

3. Project Name: Water Plant Improvement Project

Source of Funding: Safe Drinking Water Revolving Fund (\$193,100)

Status: The design of the water plant improvements is on track. A 90% design is almost complete and will be reviewed with City staff prior to submittal by the end of the year. The project is still on track to potentially be 100% grant funded by the California Department of Public Health Proposition 50 program. GHD is coordinating closely with CDPH on the technical review of the project components. A Notice of Exemption from CEQA for this project is covered under a separate agenda item.

4. Project Name: Luffenholtz Creek Sediment Reduction

Source of Funding: California Department of Public Health (\$1,670,720)

Status: The final draft plans, including specifications, were reviewed with the project team in early December. The Project team including GHD, RCAA, LACO, City Planner, and Green Diamond Resource Company is on track to submit the plans and CEQA documentation on schedule to secure the final funding agreement with CDPH. Following execution of the funding agreement in early 2013, the project can go out to bid for construction to take place in summer 2013. There is an agenda item included in the packet separately for adoption of a resolution authorizing the City Manager to execute the funding agreement and authorizing the City engineer for the project to sign budget and reimbursement forms. There is also a separate agenda item for adoption of a resolution to satisfy CEQA.

5. Project Name: Trinidad Pier Reconstruction (ASBS Project)

Source of Funding: CA State Proposition 84 (\$2,500,000)

Background: This is a Trinidad Rancheria project, in partnership with the City of Trinidad. The City has a grant from State Water Resources Control Board that will fund \$2.5 million of the estimated total cost of \$10 million for reconstruction of the Pier.

Status: The Trinidad Pier reconstruction is complete and the pier is open to the public. The remaining tasks for this grant are to complete the post-construction water quality monitoring and provide water pollution prevention education to the visitors, businesses and residents enjoying the pier and harbor.

6. Project Name: Storm Water Management Improvement

Source of Funding: CA State Proposition 84 (\$2,500,000)

Status: Planning for design of the stormwater system improvements is well underway. The Geotechnical Evaluation of the subsurface was completed and work on the hydrology and groundwater models of the City is underway. An informational City Council meeting about this project was held November 28, and included presentations of the Trinidad Subsurface Geotechnical Evaluation results and the pre project water quality monitoring report, as well as background information about the Trinidad Area of Special Biological Significance and the Trinidad Westhaven Coastal Watershed Plan. Staff is working with the North Coast Stormwater Coalition to organize a Low Impact Development workshop for the building trades, city and county officials and the public.

7. Project Name: Trinidad to Humboldt Bay Coastal Watershed Program

Source of Funding: Department of Conservation Watershed Coordinator Grant (\$293,910)

Status: Watershed Coordinator activities and accomplishments include continuing work to organize a January 2013 workshop for public officials, contractors and developers on

how to improve stormwater runoff management during and following construction; assisting the Coastal Ecosystems Institute to secure \$250,000 in grant funding awarded in October by the California Coastal Conservancy for multi-jurisdictional sea level rise adaptation planning; and working with Trinidad Bay Watershed Council to schedule meetings and plan future activities.

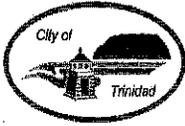
8. Project Name: Azalea & Pacific

Source of Funding: State Transportation Improvement (\$423,000)

State Transportation Improvement Funds were allocated by the California Transportation Commission at their meeting of October 24, 2012. We have received the resulting funding agreement to allow for cost recovery, and steps are now being taken leading to construction in the spring/summer of 2013. As is routine, PG&E, Suddenlink and AT&T have already been notified of the need to relocate their facilities within the public right-of-way that conflict with the construction of the project. Authorization to proceed to bid is anticipated to be calendared for the January council meeting.

Public Works Department

Managing the city's water supply has been an around-the-clock operation during recent extended periods of heavy rainfall, which causes turbid creek conditions. This has been especially problematic given the current vacancy (one of three positions), and scheduled time off during the Thanksgiving holiday was necessarily curtailed.



CONSENT AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 8 PAGES

2. Financial Status Reports for October 2012.

City of Trinidad
Statement of Revenues and Expenditures - GF Revenue
From 10/1/2012 Through 10/31/2012

		Current Month	Year to Date	Total Budget - Original	% of Budget
Revenue					
41010	PROPERTY TAX - SECURED	0.00	0.00	72,200.00	(100.00)%
41020	PROPERTY TAX - UNSECURED	0.00	0.00	3,025.00	(100.00)%
41040	PROPERTY TAX-PRIOR UNSECURED	0.00	0.00	60.00	(100.00)%
41050	PROPERTY TAX - CURRENT SUPPL	0.00	0.00	220.00	(100.00)%
41060	PROPERTY TAX-PRIOR SUPPL	0.00	0.00	200.00	(100.00)%
41070	PROPERTY TAX - FINES	0.00	0.00	1,000.00	(100.00)%
41110	PROPERTY TAX EXEMPTION	0.00	0.00	640.00	(100.00)%
41130	PUBLIC SAFETY 1/2 CENT	0.00	0.00	1,660.00	(100.00)%
41140	PROPERTY TAX - DOCUMENTARY RE	0.00	0.00	2,000.00	(100.00)%
41190	PROPERTY TAX ADMINISTRATION FE	0.00	0.00	(3,675.00)	(100.00)%
41200	LAFCO Charge	0.00	0.00	(600.00)	(100.00)%
41210	IN-LIEU SALES & USE TAX	0.00	0.00	23,620.00	(100.00)%
41220	IN LIEU VLF	0.00	0.00	26,520.00	(100.00)%
42000	SALES & USE TAX	21,800.00	47,523.66	190,000.00	(74.99)%
43000	TRANSIENT LODGING TAX	21,051.21	21,051.21	87,500.00	(75.94)%
47310	VEHICLE LICENSE COLLECTION	0.00	0.00	200.00	(100.00)%
49080	MOTOR VEHICLE FINES	0.00	0.00	720.00	(100.00)%
53010	COPY MACHINE FEE	19.00	22.00	50.00	(56.00)%
53020	INTEREST INCOME	4,459.65	11,175.42	20,000.00	(44.12)%
53090	OTHER MISCELLANEOUS INCOME	0.00	153.04	2,500.00	(93.88)%
54020	PLANNER- APPLICATION PROCESSIN	750.00	3,000.00	6,000.00	(50.00)%
54050	BLDG.INSP-APPLICATION PROCESSI	400.00	2,765.80	10,000.00	(72.34)%
54100	ANIMAL LICENSE FEES	0.00	54.00	100.00	(46.00)%
54150	BUSINESS LICENSE TAX	(45.00)	7,163.50	8,400.00	(14.72)%
54300	ENCROACHMENT PERMIT FEES	0.00	100.00	200.00	(50.00)%
56400	RENT - VERIZON	1,739.79	6,959.16	21,118.00	(67.05)%
56500	RENT - HARBOR LEASE	0.00	0.00	5,125.00	(100.00)%
56650	RENT - SUDDENLINK	1,100.89	2,206.09	3,920.00	(43.72)%
56700	RENT - TOWN HALL	420.00	1,950.00	10,000.00	(80.50)%
	Total Revenue	<u>51,695.54</u>	<u>104,123.88</u>	<u>492,703.00</u>	<u>(78.87)%</u>

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
201 - GFAdmin
From 10/1/2012 Through 10/31/2012

		Current Month	Year to Date	Total Budget - Original	% of Budget
Expense					
60000	INTERDEPARTMENTAL TRANSFER EXP	0.00	0.00	2,385.00	100.00%
60900	HONORARIUMS	250.00	1,000.00	3,000.00	66.67%
61000	EMPLOYEE GROSS WAGE	10,628.53	30,272.23	92,768.00	67.37%
61250	OVERTIME	0.00	0.00	500.00	100.00%
61470	FRINGE BENEFITS	69.24	207.72	0.00	0.00%
65100	DEFERRED RETIREMENT	416.59	1,180.33	3,657.00	67.72%
65200	MEDICAL INSURANCE AND EXPENSE	529.51	1,756.89	5,663.00	68.98%
65300	WORKMEN'S COMP INSURANCE	462.00	3,512.19	3,101.00	(13.26)%
65500	EMPLOYEE MILEAGE REIMBURSEMENT	51.87	214.87	1,200.00	82.09%
65600	PAYROLL TAX	849.46	2,419.66	7,377.00	67.20%
65800	Grant Payroll Allocation	(131.83)	(273.95)	0.00	0.00%
68090	CRIME BOND	0.00	525.00	525.00	0.00%
68200	INSURANCE - LIABILITY	0.00	9,400.30	9,919.00	5.23%
68300	PROPERTY & CASUALTY	0.00	3,705.00	4,466.00	17.04%
71110	ATTORNEY-ADMINISTRATIVE TASKS	2,442.00	6,638.85	20,000.00	66.81%
71130	ATTORNEY-LITIGATION	346.50	2,491.50	5,000.00	50.17%
71210	CITY ENGINEER-ADMIN. TASKS	0.00	398.00	1,500.00	73.47%
71310	CITY PLANNER-ADMIN. TASKS	0.00	13,815.50	38,600.00	64.21%
71400	BLDG.INSPECTOR-MEETINGS	340.00	349.12	0.00	0.00%
71410	BLDG INSPECTOR-ADMIN TASKS	0.00	910.00	10,000.00	90.90%
71420	BLDG INSPECTOR-PERMIT PROCESS	0.00	280.00	0.00	0.00%
71510	ACCOUNTANT-ADMIN TASKS	3,025.75	6,857.13	11,050.00	37.94%
71620	AUDITOR-FINANCIAL REPORTS	0.00	0.00	13,585.00	100.00%
72000	CHAMBER OF COMMERCE	0.00	0.00	4,000.00	100.00%
75110	FINANCIAL ADVISOR/TECH SUPPORT	0.00	680.00	1,200.00	43.33%
75170	RENT	650.00	2,600.00	8,190.00	68.25%
75180	UTILITIES	458.75	1,352.47	6,000.00	77.46%
75190	DUES & MEMBERSHIP	35.26	160.26	1,100.00	85.43%
75200	MUNICIPAL/UPDATE EXPENSE	0.00	4,672.30	6,827.25	31.56%
75220	OFFICE SUPPLIES & EXPENSE	294.02	974.77	5,500.00	82.28%
75240	BANK CHARGES	5.00	33.80	200.00	83.10%
75300	CONTRACTED SERVICES	0.00	0.00	1,000.00	100.00%
75990	MISCELLANEOUS EXPENSE	0.00	4.50	0.00	0.00%
76110	TELEPHONE	109.37	440.74	2,500.00	82.37%
76130	CABLE & INTERNET SERVICE	160.95	643.80	2,400.00	73.17%
76150	TRAVEL	0.00	0.00	1,500.00	100.00%
78100	STREET MAINT/REPAIR/SANITATION	7.82	7.82	0.00	0.00%
78120	STREET LIGHTING	0.00	9.53	0.00	0.00%
78160	BUILDING REPAIRS & MAINTENANCE	301.12	678.81	5,000.00	86.42%
78190	MATERJALS, SUPPLIES & EQUIPMEN	40.00	2,949.75	6,200.00	52.42%
	Total Expense	21,341.91	100,868.89	285,913.25	64.72%

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
301 - Police
From 10/1/2012 Through 10/31/2012

	<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>	
Expense					
61000	EMPLOYEE GROSS WAGE	528.32	1,562.68	4,694.00	66.71%
65300	WORKMEN'S COMP INSURANCE	28.00	212.86	157.00	(35.58)%
65400	UNEMPLOYMENT COMPENSATION	0.00	1,065.44	0.00	0.00%
65600	PAYROLL TAX	40.41	119.53	359.00	66.70%
65800	Grant Payroll Allocation	(5.74)	(5.74)	0.00	0.00%
75170	RENT	650.00	2,600.00	8,190.00	68.25%
75180	UTILITIES	158.86	620.59	2,410.00	74.25%
75220	OFFICE SUPPLIES & EXPENSE	21.05	542.45	200.00	(171.22)%
75300	CONTRACTED SERVICES	0.00	0.00	85,372.00	100.00%
75350	ANIMAL CONTROL	113.00	452.00	1,796.00	74.83%
76110	TELEPHONE	76.30	310.70	1,000.00	68.93%
	Total Expense	<u>1,610.20</u>	<u>7,480.51</u>	<u>104,178.00</u>	<u>92.82%</u>

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
401 - Fire
From 10/1/2012 Through 10/31/2012

		<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>
Expense					
60900	HONORARIUMS	150.00	600.00	1,800.00	66.67%
75180	UTILITIES	49.80	287.71	1,315.00	78.12%
75190	DUES & MEMBERSHIP	0.00	0.00	10.00	100.00%
75300	CONTRACTED SERVICES	0.00	145.00	128.00	(13.28)%
76110	TELEPHONE	15.79	33.83	100.00	66.17%
76140	RADIO & DISPATCH	0.00	0.00	618.00	100.00%
78100	STREET MAINT/REPAIR/SANITATION	0.00	25.73	0.00	0.00%
78140	VEHICLE FUEL & OIL	0.00	32.60	400.00	91.85%
78150	VEHICLE REPAIRS	112.56	112.56	3,000.00	96.25%
78150	BUILDING REPAIRS & MAINTENANCE	0.00	0.00	700.00	100.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	480.64	480.64	2,500.00	80.77%
78200	EQUIPMENT REPAIRS & MAINTENANC	105.00	105.00	750.00	86.00%
90000	Capital Reserves	0.00	0.00	10,000.00	100.00%
Total Expense		<u>913.79</u>	<u>1,823.07</u>	<u>21,321.00</u>	<u>91.45%</u>

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
501 - PW (Public Works)
From 10/1/2012 Through 10/31/2012

		<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>
Expense					
61000	EMPLOYEE GROSS WAGE	4,388.41	12,581.17	38,897.00	67.66%
61250	OVERTIME	0.00	0.00	1,500.00	100.00%
65100	DEFERRED RETIREMENT	442.98	1,272.73	3,943.00	67.72%
65200	MEDICAL INSURANCE AND EXPENSE	1,406.36	5,597.34	19,663.00	71.53%
65300	WORKMEN'S COMP INSURANCE	196.00	1,490.02	1,301.00	(14.53)%
65600	PAYROLL TAX	370.11	1,061.38	3,277.00	67.61%
65800	Grant Payroll Allocation	(25.75)	(493.04)	0.00	0.00%
71210	CITY ENGINEER-ADMIN. TASKS	2,695.00	3,375.00	4,800.00	29.69%
71250	CITY ENGINEER - PROJECT FEES	0.00	0.00	4,000.00	100.00%
71510	ACCOUNTANT-ADMIN TASKS	0.00	510.00	3,000.00	83.00%
75180	UTILITIES	0.00	485.51	0.00	0.00%
75300	CONTRACTED SERVICES	0.00	111.00	3,000.00	96.30%
75370	UNIFORMS/PERSONAL EQUIP.	90.66	90.66	0.00	0.00%
78100	STREET MAINT/REPAIR/SANITATION	1,850.00	2,206.68	5,000.00	55.87%
78120	STREET LIGHTING	342.04	1,123.35	5,000.00	77.53%
78130	TRAIL MAINTENANCE	0.00	385.99	1,000.00	61.40%
78140	VEHICLE FUEL & OIL	94.98	1,352.68	4,000.00	66.18%
78150	VEHICLE REPAIRS	21.65	31.31	2,500.00	98.75%
78190	MATERIALS, SUPPLIES & EQUIPMEN	0.00	2,749.84	7,795.00	64.72%
78200	EQUIPMENT REPAIRS & MAINTENANC	185.18	185.18	0.00	0.00%
90000	Capital Reserves	0.00	0.00	10,000.00	100.00%
Total Expense		<u>12,057.62</u>	<u>34,116.80</u>	<u>118,676.00</u>	<u>71.25%</u>

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
701 - Cemetery
From 10/1/2012 Through 10/31/2012

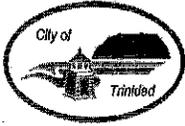
		Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
	Revenue				
53020	INTEREST INCOME	0.00	0.00	2,000.00	(100.00)%
58100	CEMETERY PLOT SALES	0.00	3,645.00	6,000.00	(39.25)%
	Total Revenue	<u>0.00</u>	<u>3,645.00</u>	<u>8,000.00</u>	<u>(54.44)%</u>
	Expense				
61000	EMPLOYEE GROSS WAGE	647.64	1,857.39	5,762.00	67.76%
65100	DEFERRED RETIREMENT	77.71	222.87	691.00	67.75%
65200	MEDICAL INSURANCE AND EXPENSE	183.51	730.44	2,543.00	71.28%
65300	WORKMEN'S COMP INSURANCE	28.00	212.86	193.00	(10.29)%
65600	PAYROLL TAX	55.48	159.11	493.00	67.73%
65800	Grant Payroll Allocation	(9.11)	(69.49)	0.00	0.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	18.43	18.43	500.00	96.31%
	Total Expense	<u>1,001.66</u>	<u>3,131.61</u>	<u>10,182.00</u>	<u>69.24%</u>
	Net Income	<u>(1,001.66)</u>	<u>513.39</u>	<u>(2,182.00)</u>	<u>(123.53)%</u>

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
601 - Water
From 10/1/2012 Through 10/31/2012

	Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
Revenue				
53020	0.00	0.00	9,000.00	(100.00)%
53090	0.00	72.26	1,000.00	(92.77)%
57100	24,470.04	98,918.99	265,700.00	(62.77)%
57300	0.00	0.00	4,500.00	(100.00)%
57500	(1,098.19)	(4,372.00)	8,000.00	(154.65)%
Total Revenue	23,371.85	94,619.25	288,200.00	(67.17)%
Expense				
61000	10,054.44	28,744.89	89,127.00	67.75%
61250	0.00	0.00	2,000.00	100.00%
65100	1,164.73	3,330.93	10,332.00	67.76%
65200	3,060.96	12,183.29	41,993.00	70.99%
65300	448.00	3,405.76	2,980.00	(14.29)%
65600	858.52	2,454.56	7,609.00	67.74%
65800	Grant Payroll Allocation (148.53)	(1,226.70)	0.00	0.00%
68090	0.00	175.00	0.00	0.00%
68200	0.00	5,061.70	5,341.00	5.23%
68300	0.00	1,995.00	2,405.00	17.05%
71110	0.00	0.00	500.00	100.00%
71210	0.00	0.00	5,000.00	100.00%
71510	1,629.25	3,693.12	7,000.00	47.24%
71620	0.00	0.00	7,315.00	100.00%
72100	0.00	141.05	200.00	29.48%
75180	1,332.86	5,264.69	13,500.00	61.00%
75190	35.26	125.26	900.00	86.08%
75220	778.00	1,118.17	2,200.00	49.17%
75230	0.00	435.54	1,284.00	66.08%
75240	0.00	20.00	100.00	80.00%
75280	112.55	112.55	500.00	77.49%
75990	0.00	0.00	250.00	100.00%
76110	88.11	429.67	900.00	52.26%
76130	49.00	147.00	620.00	76.29%
76160	0.00	0.00	2,475.00	100.00%
78100	0.00	22.45	0.00	0.00%
78140	55.27	608.73	2,500.00	75.65%
78150	21.64	358.59	2,000.00	82.07%
78160	0.00	30.50	2,000.00	98.47%
78170	0.00	69.00	350.00	80.29%
78190	0.00	2,324.62	6,505.00	64.26%
78200	0.00	415.90	1,000.00	58.41%
79100	410.00	940.00	4,500.00	79.11%
79120	0.00	1,244.78	12,000.00	89.63%
79130	0.00	0.00	4,000.00	100.00%
79150	0.00	90.60	30,000.00	99.70%
79160	0.00	46.54	10,000.00	99.53%
90000	Capital Reserves 0.00	0.00	15,000.00	100.00%
Total Expense	19,950.06	73,763.19	294,386.00	74.94%
Net Income	3,421.79	20,856.06	(6,186.00)	(437.15)%

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
204 - IWM
From 10/1/2012 Through 10/31/2012

		Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
Revenue					
46000	GRANT INCOME	0.00	0.00	5,000.00	(100.00)%
47600	BLUE BAG SALES	312.50	1,328.50	3,600.00	(63.10)%
47650	RECYCLING REVENUE	1,511.75	9,412.28	33,060.00	(71.53)%
	Total Revenue	<u>1,824.25</u>	<u>10,740.78</u>	<u>41,660.00</u>	<u>(74.22)%</u>
Expense					
61000	EMPLOYEE GROSS WAGE	647.65	1,857.43	5,762.00	67.76%
65100	DEFERRED RETIREMENT	77.70	222.81	691.00	67.76%
65200	MEDICAL INSURANCE AND EXPENSE	183.51	730.44	2,543.00	71.28%
65300	WORKMEN'S COMP INSURANCE	28.00	212.86	193.00	(10.29)%
65600	PAYROLL TAX	55.49	159.12	493.00	67.72%
65800	Grant Payroll Allocation	(9.11)	(69.49)	0.00	0.00%
75120	WASTE RECYCLING PICKUP/DISPOSA	4,320.00	5,600.00	18,000.00	68.89%
75130	GARBAGE	0.00	1,009.00	0.00	0.00%
75140	BLUE BAG PURCHASES	825.00	825.00	3,600.00	77.08%
78100	STREET MAINT/REPAIR/SANITATION	440.30	955.00	6,500.00	85.31%
78120	STREET LIGHTING	76.30	76.30	0.00	0.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	0.00	542.55	1,000.00	45.74%
78210	Advertising Outreach & Project	0.00	0.00	100.00	100.00%
	Total Expense	<u>6,644.84</u>	<u>12,121.02</u>	<u>38,882.00</u>	<u>68.83%</u>
	Net Income	<u>(4,820.59)</u>	<u>(1,380.24)</u>	<u>2,778.00</u>	<u>(149.68)%</u>



CONSENT AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

3. Humboldt County Sheriff Activity Report, November 2012

Humboldt County Sheriff's Office

Trinidad Activity

November 2012

Administrative Assignment	1
Agency Assist	1
Alarm	5
Assault	1
Burglary	1
Disturbance	1
Drunk in Public	2
Follow Up Details	2
Investigations (MISC)	1
Pedestrian Contact	1
Parking Complaint	1
Patrol Checks (including foot patrol)	10
Suspicious Circumstances	1
Traffic Hazard	1
Traffic Stop	2
Trespassing	1
Vandalism	1
Welfare Check	1

Please note these numbers indicate the type of call dispatched and do not reflect what the disposition was.



CONSENT AGENDA ITEM 4

SUPPORTING DOCUMENTATION FOLLOWS WITH: 2 PAGES

4. Retroactively authorize the City Manager to sign contract amendment for Luffenholtz Creek Sediment Reduction Project

CONSENT AGENDA ITEM

Date: December 12, 2012

Item: RETROACTIVELY AUTHORIZE CITY MANAGER TO SIGN CONTRACT FOR SERVICES AMENDMENT WITH LACO FOR THE LUFFENHOLTZ CREEK SEDIMENT REDUCTION PROJECT

Background: In June 2012, the city council authorized the City Manager to sign a Proposition 50 Funding Letter of Commitment (LOC) for the Luffenholtz Creek Sediment Reduction Project. The City must complete the project design, CEQA equivalent process, and bid preparation by December 14, 2012 in order to receive a Funding Agreement from CDPH.

At the October 10 City Council meeting, the council approved a \$24,200 contract for services for LACO Associates to complete geotechnical investigations and survey work. A November 15 project review meeting identified that additional survey data that must be collected by LACO. The attached Contract Amendment No. 1 for this work provides a \$2,400 increase in fees, bringing the total contract cost to \$26,600. This is well under the \$35,000 for this work in the approved CDPH grant project budget. The cost for this contract will be reimbursed by the Prop 50 Source Water Protection funding from CDPH, assuming that a final funding agreement is executed. The risk of a funding agreement not being executed is low given the fact that the funding Letter of Commitment requirements are substantially complete and pending Council approval on several items at the December 12 meeting. Signing the contract amendment was brought to the city as an urgent item because the additional survey work was needed before November 30 in order to meet the December 14 funder deadline. The council is therefore being asked to authorize the City Manager to sign the contract amendment after the fact.

Staff Recommendation:

1) Retroactively authorize City Manager to sign the contract for services amendment no. 1 with LACO and Associates for the Luffenholtz Creek Sediment Reduction Project (GDRCo Road Realignment).

Attachments: LACO Contract for Engineering Services Amendment No. 1

LACO

PROJECT NO. 7674.00

ENGINEERING SERVICES AGREEMENT AMENDMENT No. 1

Date Initiated: November 16, 2012

Client: City of Trinidad

Project: City of Trinidad: Green Diamond Road Realignment

Project Manager: Bryan E. Dussell

Project Location: Trinidad, California

Description of Amended Scope of Services

- Provide additional topographic survey data as requested by GHD in email correspondence dated November 6, 2012, and November 16, 2012.

Description and Scope of Services Not Provided

- As described in our original agreement dated October 2, 2012

Time & Materials Estimated Fee: \$2,400

Payment Terms: Net 45

Retainer: \$waived

Reason and Justification for Amendment

- Additional survey is required due to alignment design changes initiated by GDRCo

Prevailing Wage rates do apply to this project.

Authorizations

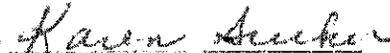
By executing this Engineering Services Agreement Amendment, the undersigned CLIENT authorized LACO Associates to proceed with the amended services in accordance with the scope, timing and fees, or estimated fees, as shown above. The terms and conditions of our original agreement, dated the 2nd day of October, 2012, remain in effect unless modified above.

SIGNED



LACO Associates
PO Box 1023
Eureka, CA 95502
(707) 443-5054
(707) 443-0553 Fx
Principal: Christopher J. Watt
PM: Bryan E. Dussell

SIGNED



DATE

11-21-2012

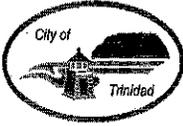
CLIENT: City of Trinidad

Address: PO Box 390
Trinidad, California 95570

Phone No.: 707 677-0223

Fax No.: 707 677-3759

Email: rpricehall@trinidad.ca.gov



CONSENT AGENDA ITEM 5

SUPPORTING DOCUMENTATION FOLLOWS WITH: 14 PAGES

5. Resolution 2012-13: Adopting the Mitigated Negative Declaration for the Luffenholtz Creek Water Protection Project.

The Complete 173 Page Mitigated Negative Declaration document is available online at www.trinidad.ca.gov, and a paper copy is available at the Town Hall for public review.

CONSENT AGENDA

Date: December 12, 2012

Item: Adopt Resolution 2012-13 making findings and adopting a Mitigated Negative Declaration for the Luffenholtz Creek Source Water Protection Project

Background:

In December 2010, the City Council approved Resolution 2010-16 supporting the submittal of a Grant Application for Proposition 50 Funds for the Luffenholtz Creek Source Water Protection Project (the Project). This project will improve water quality at the City's water intake by reducing turbidity due to high sediment loads in Luffenholtz Creek through treatments of unpaved roads on Green Diamond Resource Company (GDRCo) land in the upper watershed. The Council authorized the City Manager to sign a letter of commitment securing \$1,670,720 in grant funds from the California Department of Public Health (CDPH) Proposition 50 Source Water Protection Grant Program in June of 2012. The City must complete the project design and California Environmental Quality Act (CEQA) process by December to secure a Final Funding Agreement from CDPH. The 90% plans are complete and will be submitted by the second week of December. This agenda item is for the concurrence and adoption of a Mitigated Negative Declaration for the Project in order to comply with CEQA.

The California Department of Fish and Game (CDFG), acting as Lead Agency under CEQA, adopted an Initial Study / Mitigated Negative Declaration (MND) for a Master Agreement for Timber Operations (MATO) and Road Management Waste Discharge Requirements on May 10, 2010. The MND covered GDRCo property in Northern California, including their property in Luffenholtz Creek. The proposed improvements in the City's Project match the sediment reduction work already planned in Luffenholtz Creek Watershed by GDRCo, and are covered in the MND adopted by CDFG for management of road related discharge.

The City of Trinidad is a responsible Agency under CEQA as the City is proposing to carry out the Project, and has discretionary approval power through approval of the funding agreement with CDPH. As a responsible Agency, the City may use the existing MND prepared by the lead Agency, CDFG. A responsible Agency complies with CEQA by considering the MND prepared by the lead agency and reaching its own conclusions on whether and how to approve the project, and then files a Notice of Determination in the same manner as a lead agency.

Though specific noticing, public hearings, findings, resolutions, etc. are not required by CEQA for a Responsible Agency, the City needs to demonstrate compliance with CEQA to the granting agency. In addition, the City wants to have full transparency in its decision making process. Therefore, this item has been noticed in accordance with CEQA. In addition, staff is recommending that the Council adopt Resolution 2012-13 in order to formalize its findings pursuant to CEQA. Once a decision has been reached, a Notice of Determination (NOD) will be filed with the County Clerk. This will complete the City's obligations under CEQA. The Resolution and NOD will be submitted to the CA Dept. of Public Health to verify CEQA compliance and meet the grant requirements.

Proposed Action: Adopt Resolution 2012-13 which makes findings that the Luffenholtz Creek Source Water Protection Project is within the scope of and concurs with the Initial Study / Mitigated Negative Declaration (MND) for a Master Agreement for Timber Operations and Road Management Waste Discharge Requirements and adopts the Mitigated Negative Declaration prepared by the Department of Fish and Game.

Attachments: Resolution 2012-13; Mitigated Negative Declaration for a Master Agreement for Timber Operations.



RESOLUTION 2012-13

A RESOLUTION OF THE TRINIDAD CITY COUNCIL THAT THE LUFFENHOLTZ SOURCE WATER PROTECTION PROJECT IS WITHIN THE SCOPE OF AND CONCURRING WITH THE MITIGATED NEGATIVE DECLARATION PREPARED AND ADOPTED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME FOR A MASTER AGREEMENT FOR TIMBER OPERATIONS AND ROAD MANAGEMENT WASTE DISCHARGE REQUIREMENTS FOR GREEN DIAMOND RESOURCE COMPANY

WHEREAS, the City of Trinidad obtains its water from Luffenholtz Creek, and the watershed is primarily owned by Green Diamond Resource Company; and

WHEREAS, the City of Trinidad applied for a Source Water Protection Grant from the California Department of Public Health funded by Proposition 50 to implement sediment reduction projects, known as the Luffenholtz Source Water Protection Project (hereinafter 'Project'), in the Luffenholtz Creek watershed to reduce sediment loading to the City's water intake; and

WHEREAS, the Project is subject to the provisions of the California Environmental Quality Act, and the City is serving as a Responsible Agency pursuant to §15381 of the CEQA Guidelines; and

WHEREAS, the California Department of Fish and Game was the Lead Agency in preparing and adopting a Mitigated Negative Declaration pursuant to CEQA for a Master Agreement for Timber Operations and Road Management Waste Discharge Requirements for Green Diamond Resource Company; and

WHEREAS, City staff have reviewed the Master Agreement for Timber Operations and Road Management Waste Discharge Requirements for Green Diamond Resource Company and have found that the Project is consistent with and within the scope of the preceding document; and

WHEREAS, the City Council has independently considered the Mitigated Negative Declaration at a duly noticed public hearing; and

WHEREAS, the City Council finds that on the basis of information documented in the Mitigated Negative Declaration and supporting Initial Study, the project, as mitigated and conditioned, will not have any significant adverse environmental impacts; and

WHEREAS, the City Council desires to approve and carry out the project in order to reduce sediment loads in Luffenholtz Creek.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Trinidad does hereby adopt Resolution No. 2012-13 and certifies that the Mitigated Negative Declaration reflects proper assessment of the environmental impacts of the Luffenholtz Source Water Protection Project and that the environmental impacts of the project will be less than significant.

PASSED, APPROVED AND ADOPTED this 12th day of December, 2012 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Attest:

Gabriel Adams
Trinidad City Clerk

Kathy Bhardwaj
Mayor

INITIAL STUDY/MITIGATED NEGATIVE DECLARATION

FOR A

Master Agreement for Timber Operations

AND A

**Road Management Waste Discharge
Requirements**

FOR

**Green Diamond Resource Company
Northern California Timberlands**

MAY 10, 2010

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- Section 1 - Project Title**
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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

DETERMINATION

Environmental Checklist

- Aesthetics**
- Agriculture Resources**
- Air Quality**
- Biological Resources**
- Cultural Resources**
- Geology, Soils and Seismicity**
- Greenhouse Gas Emissions**
- Hazards and Hazardous Materials**
- Hydrology and Water Quality**
- Land Use and Land Use Planning**
- Mineral Resources**
- Noise**
- Population and Housing**
- Public Services**
- Recreation**
- Transportation and Traffic**
- Utilities and Service Systems**
- Mandatory Findings of Significance**

Appendix A. Draft Master Agreement for Timber Operations

Appendix B. Draft Road Management Waste Discharge Requirements

Appendix C. Tables of Fish, Wildlife and Plant Resources on Green Diamond Ownership

Appendix D. California Natural Diversity Database Summary Tables of Sensitive Natural Communities Potentially Occurring on the Green Diamond Ownership

Map 1: Green Diamond Resource Company Lands and Potential Expansion Areas

Web Links: Green Diamond Resource Company Aquatic Conservation Plan, Final Environmental Impact Statement , Maps

Initial Study/Mitigated Negative Declaration

May 10, 2010

- 1. Project Title:** Master Agreement for Timber Operations (MATO or "Agreement") and Road Management Waste Discharge Requirements (RMWDRs) for Green Diamond Resource Company's Northern California Timberlands
- 2. Lead Agency Name and Address:** California Department of Fish and Game
601 Locust Street
Redding, CA 96001
- 3. Contact Person and Phone Number:** William Condon
Senior Environmental Scientist
Department of Fish and Game
707-441-2064
- 4. Project Location:** Green Diamond's commercial timberlands in portions of Del Norte, Humboldt and Trinity counties in northern California
- 5. Project Sponsor's Name and Address:** Green Diamond Resource Company
P.O. Box 68
Korbel, CA 95550-0068
- 6. General Plan Designation(s):** Various.
- 7. Zoning Designation(s):** Various. Mostly Timberland Production Zone (TPZ)

8. Project Description

8.1 Project Overview

This Initial Study/Mitigated Negative Declaration (IS/MND) analyzes the potential environmental effects of management and conservation activities that Green Diamond Resource Company (Green Diamond) proposes to undertake on its timberland ownership pursuant to programmatic authorizations by the California Department of Fish and Game (Department) and the North Coast Regional Water Quality Control Board (NCRWQCB). These activities include road construction, repair and maintenance, upgrading, decommissioning and instream restoration. Green Diamond seeks approval of this Project to allow Green Diamond to fully implement the conservation measures required by its Aquatic Habitat Conservation Plan (AHCP) and the terms and conditions of the associated federal Incidental Take Permit (ITP) previously approved by the National Marine Fisheries Service on June 12, 2007.¹ To the extent that the AHCP measures could substantially affect aquatic resources and water quality, they require Department and NCRWQCB agreement and authorization.

Under California Environmental Quality Act (CEQA) Guidelines Section 15378, the term "Project" refers to the whole activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term "Project" does not mean each separate governmental approval. Accordingly, the Project for CEQA purposes encompasses all the State permits and approvals necessary for Green Diamond to implement the requirements of its AHCP that pertain to road construction, maintenance and repair, decommissioning and upgrading. Green Diamond's objectives are to obtain a Master Agreement for Timber Operations (MATO or "Agreement") with the Department (for a term of 50 years) and Road Management Waste Discharge Requirements (RMWDRs) from the NCRWQCB to address the requirements of California Fish and Game Code (FGC) Section 1600 *et seq.* and the California Water Code that may apply to the AHCP Road Implementation Plan and the Road Maintenance and Inspection Program.

The Department has determined that FGC Section 1600 *et seq.* applies to road construction and maintenance activities near stream crossings. It is unlawful for any person or entity to substantially divert or obstruct the natural flow, or substantially change the bed, channel, or bank of any river, stream, or lake and to use any material from the streambeds, without the person or entity first notifying the Department of that activity and, if that activity may substantially and adversely affect an existing fish or wildlife resource, enter into a streambed alteration agreement with the Department.

Due to the scope of activities necessary in the course of managing the complexities of Green Diamond's operations, including the commitments of the AHCP, Green Diamond and the Department have determined that it is mutually beneficial to enter into an Agreement. Under the Agreement (see Appendix A), all planned projects requiring notification pursuant to FGC Section 1602 would be covered, including: bank stabilization; obstruction (natural and unnatural) and sediment removal; vegetation removal; crossing maintenance; road upgrading and decommissioning; water drafting; maintenance of water diversion sites; deposit or disposal of materials; installation of new instream facilities; and biological surveys and relocation of species. These activities would be performed as specified under the limitations and measures listed in Section 11

¹ The Department issued a Consistency Determination (CD) on the federal ITP on March 24, 2008, in which the Department determined that the ITP, with additional minimization and mitigations measures contained in the Minor Modification to the biological opinion, was consistent with the California Endangered Species Act (CESA) for incidental take of coho salmon.

of the Agreement, "Conditions Necessary for Protection of Fish and Wildlife Resources from Impacts of Authorized Activities Subject to this Agreement (Conditions)."

Similarly, in consultation with NCRWQCB representatives, Green Diamond determined that it would be preferable to obtain programmatic coverage for its road-related activities that could result in regulated discharges of sediment to waters of the State, rather than applying for such coverage on a project-by-project basis.

8.2 Authority and Reference

Pursuant to Public Resources Code (PRC) Section 21080 of CEQA, this IS/MND has been prepared to evaluate the potential impacts to resources resulting from alterations to the bed, bank, and/or channel of streams and diversion of water from streams over which the Department has jurisdiction, as well as potential impacts on water quality and beneficial uses. This IS/MND documents the conclusion that potential impacts to aquatic resources and water quality that could result from the Project are less than significant in that measures have been incorporated into the Project proposal that would reduce all identified potential significant effects to a less than significant level (CEQA Guidelines 15369.5).

Under the CEQA review and approval process, the Department is the Lead Agency. The NCRWQCB is a Responsible Agency under CEQA, in that it must permit the Project covered by this IS/MND. Other State agencies may be Responsible Agencies if their statutory mandate covers other areas of interest that may be affected by this Document and they may issue permits in reliance on the IS/MND. For example, this might include the California Department of Forestry and Fire Protection (Cal Fire). Other interested agencies, such as the California Geological Survey, and local agencies, such as County governments or Resource Conservation Districts with jurisdiction over potentially affected resources, could be involved as commenting agencies. Although as lead agency the Department must examine all potential environmental impacts, its review does not preclude responsible agencies and other agencies from commenting on their areas of expertise or jurisdiction, nor from enforcing regulations under their authorities.

8.3 Project Description

As noted above in Section 8.1, this Project consists of (1) the establishment of a Master Agreement for Timber Operations (Appendix A to this IS/MND) between the Department and Green Diamond to provide a system of notification for and authorization of lake or streambed alteration and water diversion activities and (2) the issuance of RMWDRs (Appendix B to this IS/MND) by the NCRWQCB that would regulate potential discharges to watercourses associated with these activities. As further noted in Section 8.1, all planned actions and activities requiring notification pursuant to FGC Section 1602 would be covered.

The Agreement incorporates Conditions (Section 11 of Appendix A) that are designed to mitigate, minimize or avoid impacts, therefore protecting and/or restoring public trust resources that may be affected by such activities. These Conditions are similar to those commonly used in nearly all lake or streambed alteration agreements and enhanced in many situations to comply with the AHCP and the Department's CD for the AHCP, Green Diamond's HCP for the northern spotted owl (NSO HCP), as well as other existing species-specific protocols and measures agreed upon by Green Diamond and

the Department.² They are designed around a unified goal and procedures under which future projects will be reviewed, specified and/or inspected over an ownership, rather than on an individual project (i.e. Timber Harvesting Plan) basis.

The current employed lake or streambed alteration agreement process examines stream crossing activities, usually in conjunction with individual Timber Harvesting Plans (THP), and culminates in agreements prepared individually for each THP. No reductions in avoidance or minimization of, or mitigation for, impacts to fish or wildlife resources that occur under agreements prepared for THPs will occur under the proposed Agreement. This Project involves streamlining the review and issuance of agreements on Green Diamond lands. Green Diamond will not have to wait for THP approval to undertake activities requiring notification pursuant to FGC Section 1602. This entire Agreement ensures a systematic improvement to watercourse crossings that will improve the condition of beneficial uses of water, through specific implementation and monitoring, and will further facilitate the implementation of Green Diamond's Road Management Plan under the AHCP.

There are two key components of the Road Management Plan: (1) the Road Implementation Plan and (2) the Road Maintenance and Inspection Program. The objective of the Road Implementation Plan (AHCP Section 6.2.3.2) is to carry out a systematic road upgrading and decommissioning program using the Plan's road assessment and prioritization system (AHCP Section 6.2.3.1). The strategy under the AHCP differs from the past approach of conducting road work, which was on a THP-by-THP basis. The AHCP approach compartmentalizes the Green Diamond ownership into Road Work Units, or groupings of sub-watersheds. These Road Work Units were prioritized for potential upgrading and decommissioning based on a priority ranking system of providing the greatest sediment reduction and conservation benefits to aquatic resources. The intent of the AHCP is to conduct scheduled road assessments and road treatments by prioritized Road Work Units, as well as THPs, as necessary to comply with State regulations.

The Road Maintenance and Inspection Program (AHCP Section 6.2.3.9) requires (1) annual inspections and maintenance of all mainline and appurtenant roads to THPs and (2) on a 3-year rotating schedule of secondary roads within Routine Maintenance Areas. The inspections are conducted in accordance with the process outlined in AHCP Section 6.2.3.9.5.

The objectives of the Road Maintenance and Inspection Program and their related responsibilities placed on Green Diamond are distinct from those of the road upgrading program (contained in the Road Implementation Plan). The objectives of the Road Maintenance and Inspection Program depend on whether or not the road being maintained and inspected has been upgraded under the AHCP. For all roads that have been upgraded under the Road Implementation Plan, the Road Maintenance and Inspection Program is designed to keep these upgraded roads in a "low risk" category.

In contrast, for roads that have not yet been upgraded or decommissioned under the Road Implementation Plan, the objectives of the Road Maintenance and Inspection Program are to minimize the risk of significant road failures and to control significant chronic sources of sediment discharges from these roads until the point at which the

² Agreement Section 11 Conditions for non-fish aquatic vertebrate resources (subsection B.2.1) and the willow flycatcher (subsection B.2.12) are provided as additional mitigations to the Project, but are included in the Agreement for purposes of having all Conditions to the Project listed in one location for easier referencing and accessing by Green Diamond (including its field operators) and the Department.

entire road can be upgraded or decommissioned according to the prioritization schedule in AHCP Section 6.2.3.1.1.

Both the Road Implementation Plan and the Road Maintenance and Inspection Program require stream alteration at numerous project sites that cause regulated discharges of sediment to watercourses. Currently, however, Green Diamond primarily maintains and repairs road sites associated with THPs because consistent with Green Diamond's primary purpose of managing its lands for timber production, the regulatory authorities and permitting pertaining to stream alteration and discharges to watercourses have been focused on THPs, which is consistent with Green Diamond's primary purpose of managing its lands: for timber production. The Agreement and RMWDRs will provide programmatic regulatory coverage for THP-related sites as well as for non-THP sites in a comprehensive approach that will provide consistency in application of measures and procedures as well as efficiency and flexibility in operations and regulatory reviews.

The AHCP was designed to manage Green Diamond's road network by systematically and efficiently upgrading, decommissioning and maintaining roads to achieve the greatest conservation benefits using a landscape-based approach. Green Diamond has agreed to spend \$2.5 million per year (2002 dollars) for the first 15 years of the implementation of the AHCP to accelerate the repair of high- and moderate-priority road sites. At present, Green Diamond has restricted its spending of these dollars on roads within or associated with THPs because Green Diamond has sought Section 1602 and water quality discharge authorizations only through the THP review and approval process. The Agreement and RMWDRs will provide the flexibility and a process to identify sites across the landscape that will provide the greatest conservation benefits by (1) fixing sites with the greatest potential sediment savings and (2) deferring improvements on those sites with low risk of failure until the road is upgraded, decommissioned or the risk of failure of the site is elevated.

The AHCP describes a comprehensive system of prioritization that is designed to determine which sites will have the highest probability for risk of failure. This concept is in concert with a high, moderate, and low rating system developed by Pacific Watershed Associates. For purposes of establishing consistent recommendations for repair or replacement of stream crossings during road maintenance activities under AHCP Section 6.2.3.9.5.1 and priorities for that work under AHCP Section 6.2.3.9.5.3, a process was developed to identify and rate sites that pose an extreme risk of imminent failure (e.g. likely to fail before the next scheduled maintenance period). The Agreement and RMWDRs will provide the regulatory authorization for repair of all categories of road sites (upgrading, decommissioning, and maintenance) across the landscape through a proactive approach that provides significantly more environmental protection and biological benefits than is possible under the current THP/1600/General WDR process. These authorizations will greatly reduce the probability of catastrophic road crossing failures that would, in turn, cause significant sediment delivery to streams. Full implementation of the AHCP's Road Implementation Plan and Road Maintenance and Inspection Program is essential to the success of the conservation strategy and the protection and enhancement of resources addressed by this Project.

The Agreement specifies performance and prescriptive measures required to protect fish and wildlife resources, as well as other public trust resources. These Conditions (Section 11 of Appendix A) include conservation measures that address: crossing types; time of operation; permanent crossings; temporary crossings; fish passage; culvert crossings; fords; water drafting, flow bypass and drafting site maintenance; erosion and sediment control; bank stabilization; road decommissioning; obstruction and sediment removal;

vegetation removal and control; deposition and disposal of materials; equipment use, petroleum and other pollution control; and geology.

The RMWDRs (Appendix B) are intended to provide separate coverage for discharge sources on the mainline and secondary road system inventoried and treated under Green Diamond's Road Management Plan. Other discharge sources associated with THPs, such as failing skid trail crossings, watercourse diversions within THP harvest units, or sediment sources on tertiary or unmaintained roads will continue to be inventoried and regulated under the *General Waste Discharge Requirements For Discharges Related to Timber Harvest Activities On Non-federal Lands in the North Coast Region* (GWDR) or other Regional Water Board authorities. To this end, the RMWDRs are intended to complement the GWDR (Order No. R1-2004-0030). The RMWDRs also do not supersede Resolution No. R1-2006-0042, *Waste Discharge Requirements for Timber Harvesting Plan Activities Conducted by or on Land Owned by the Green Diamond Resource Company in the South Fork Elk River Watershed* or Order No. R1-2006-0043, *Watershed-wide Waste Discharge Requirements for Timber Harvesting Plan Activities Conducted by or on Land Owned by the Green Diamond Resource Company in the South Fork Elk River Watershed*, which contain, among other things, specific provisions for the inventory and repair of controllable sediment discharge sources and require adherence to erosion control plans and a master treatment schedule in the South Fork Elk River Watershed.

The proposed Agreement and the RMWDRs formalize the responsibilities of each of the parties. Green Diamond will submit on or about March 1st of each calendar year an Annual Work Plan to the Department and the NCRWQCB showing the locations, current status and planned activities for that operational year. The Department and the NCRWQCB will review the planned activities by May 1st. If the Department and the NCRWQCB determine that any planned activities do not meet the requirements of the Agreement and RMWDRs, they will notify Green Diamond that those specified activities do not qualify for coverage under the Agreement and RMWDRs. The parties may meet to clarify the measures described in the Annual Work Plan and if the Department and the NCRWQCB are satisfied with the clarification, the planned activities may proceed.

8.4 Project Area

The Project Area for the Agreement and the RMWDRs includes all commercial timberland acreage on the west slopes of the Klamath Mountains and the Coast Range of California in Del Norte and Humboldt counties where Green Diamond owns lands or harvesting rights that are covered by the AHCP. This area is currently 401,260 acres, and is subject to adjustment as Green Diamond buys and sells property (see Map 1).

The Project Area for the Agreement also includes Green Diamond acreage outside the AHCP area, primarily on the east slopes of the Klamath Mountains and Coast Range in Del Norte, Humboldt, and Trinity counties. This area is approximately 26,996 acres, and is subject to adjustment as Green Diamond buys and sells property. The area is currently operated under standard forest practices under the California Forest Practice Rules (CFPRs).

During the term of the Agreement and RMWDRs, Green Diamond may elect to add commercial timberlands consisting of fee lands and harvesting rights to the Project Area for coverage. The potential expansion area where commercial timberlands may be added shall be limited to Del Norte, Humboldt, and Trinity Counties and must be within 1) the 11 Hydrographic Planning Areas (HPAs) defined by the AHCP; 2) lands west of the Trinity River between the confluence of the Klamath River and the confluence of the South Fork Trinity River; 3) lands west of the South Fork Trinity River; 4) lands within Elk

Creek, Del Norte County, tributary to the Illinois River, Oregon; and 5) lands within the Mad River watershed upstream of the Mad River HPA (see Map 1). Based upon the analysis of these areas, it is presumed that all commercial timberlands within these potential expansion areas share similar relevant characteristics and, therefore, will not likely require additional Conditions necessary to protect water quality and other biological resources beyond that analyzed in connection with the original Project Area.

8.5 Authorized Activities

The following general types of activities (Project Activities, or Authorized Activities) may be performed in accordance with the terms and conditions of the Agreement and RMWDRs. For purposes of clarification, Project Activities will be carried out only within riparian areas, stream crossings, and roadways associated with road maintenance operations within the Project Area.

1. **Obstruction and Sediment Removal**—removal of silt, sand, sediment, debris, trash, rubbish, flood-deposited woody and herbaceous vegetation, fallen trees, branches, and other obstructions that reduce a facility's flow and bedload/debris passage capacity and/or endanger a facility. As provided in the Agreement, a "facility" means bridges, culverts, fords, vented fords, and temporary crossings (collectively referred to as "watercourse crossings") and their associated road approaches, ditches, and adjacent channels; bank stabilization structures, temporary dams, diversion structures, and water drafting sites.
2. **Vegetation Removal**—removal of vegetation that directly reduces a facility's capacity and/or endangers a facility, including overhanging branches or tree limbs.
3. **Bank Stabilization at Facilities**—construction, installation, repair, improvement and maintenance of bank stabilization structures that are continuous with a facility, such as rock rip-rap or gabions.
4. **Bank Stabilization Structures**—construction, installation, repair, improvement and maintenance of existing bank stabilization structures, such as rock rip-rap or gabions.
5. **Maintenance of Watercourse Crossings and Road Approaches**—removal, repair, replacement, maintenance, upgrading, or decommissioning existing watercourse crossings and road approaches to facilities.
6. **New Facilities**—Installation and subsequent maintenance and repair under specific circumstances identified in the Agreement
7. **Water Drafting**—Drafting and use of water at existing facilities and into water trucks for road dust abatement, road maintenance, road construction, decommissioning, surfacing, herbicide mixing, and prescribed fuel reduction burning, subject to valid legal permits and regulation.
8. **Water Drafting Intake Maintenance**—maintenance of improvement of existing site access and water drafting intake sites, including bank stabilization and fill material removal to maintain or increase capacity.

9. Water Diversion—diversion of stream flow and isolation and dewatering of work sites during road construction, upgrading, maintenance, and decommissioning of watercourse crossings.
10. Deposition and Disposal of Material—deposition or disposal of soil fill, debris, waste, or other materials where it is prevented from passing into waters of the State.
11. Decommissioning—decommissioning of facilities.
12. Instream Restoration—installation, repair, replacement, maintenance, and upgrading of instream restoration structures.

8.6 Unauthorized Activities

The Agreement does not cover:

1. Any activity that could take as defined under CESA or the federal Endangered Species Act (ESA), except as provided for in the AHCP ITP, CD, or Green Diamond's NSO HCP ITP (as originally issued in 1992 and amended in 2007) and subject to FGC Section 3503.5.

Any work on a facility in immediate proximity of an unstable area (defined in the CFPR, Title 14, California Code of Regulations [CCR], Section 895.1) that has not been evaluated by a Professional Geologist and the risk of adverse environmental impacts has been minimized through development of site-specific measures and procedures.

8.7 Environmental Baseline

Environmental review pursuant to CEQA analyzes the difference in the environment between baseline conditions and the likely conditions that would result if the Project were approved and implemented. The environmental analysis is restricted to those effects that result from the incremental increase in activity or the actions that would result from Project implementation. The Department has determined the physical environmental conditions in the Project Area as they exist to date as in part affected by implementation of the AHCP measures within individual THPs (subject to the NCRWQCB's General Waiver and individual lake or streambed alteration agreements), constitute the baseline physical conditions by which a determination will be made as to whether any Project-related impact is significant.

Environmental Factors Potentially Affected

The environmental factors checked below would be potentially affected by this Project, as indicated by the checklist and corresponding discussion on the following pages. "Project" or "proposed project" or "proposed actions or activities" in any of the checklists below means the Project, and hereafter, "Project" includes the Project Activities under it.

- | | | |
|--|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture Resources | <input type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural Resources | <input type="checkbox"/> Geology, Soils and Seismicity |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards and Hazardous Materials | <input type="checkbox"/> Hydrology and Water Quality |
| <input type="checkbox"/> Land Use and Land Use Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population and Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation and Traffic | <input type="checkbox"/> Utilities and Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION

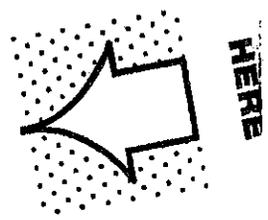
On the basis of this initial study:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect; 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, no further environmental documentation is required.

Mark Stopher
Signature

5/18/2010
Date

Mark Stopher
Acting Regional Manager
California Department of Fish and Game





CONSENT AGENDA ITEM 6

SUPPORTING DOCUMENTATION FOLLOWS WITH: 4 PAGES

6. Adopt CEQA Notice of Exemption for Trinidad Water Treatment Plant Improvement Project.

CONSENT AGENDA

Date: December 12, 2012

Item: Adopt a CEQA Notice of Exemption for the Trinidad Water Treatment Plant Improvement Project.

Background:

The City of Trinidad is undertaking a project to improve the existing City Water Treatment Plant to meet Safe Drinking Water Act (SDWA) standards. The project was presented to the City Council in June of 2012, and has not changed significantly since then. The improvement project includes the following items:

- Flocculation and Settling System to remove solids from the treatment train, prior to the existing pressure filters which will reduce the turbidity load to the pressure filters, and allow them to operate more effectively, resulting in water that meets SDWA turbidity standards.
- New Wet Well Pumps sized for a maximum flow of 175 gallons per minute which will meet State filter loading rate standards.
- Chlorine Contact Pipe to increase the time water is in contact with chlorine before the first water connection to allow the City to reduce the amount of chlorine added to meet contact time requirements.
- Chlorine Booster Pump Station will be added at the storage tank site to allow supplemental chlorine to be added in the winter when water tends to stay in the storage tanks longer and lose its required residual.
- Additional Improvements to address aging plant infrastructure will include upgrading of electrical controls and improving the backwash water return system.

The proposed improvements consist of minor additions and modifications to the existing developed water treatment and storage facilities, and will not cause significant impacts to sensitive environmental resources. Thus, the project is categorically exempt from CEQA under Section 15301 as well as under CCR Title 22 Section 60101.

Proposed Action: Adopt the CEQA Notice of Exemption for the Trinidad Water Treatment Plant Improvement Project, and authorize the City Manager to sign and file the Notice of Exemption with the County Clerk and State Clearinghouse.

Attachments: CEQA Notice of Exemption

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: Humboldt
825 5th Street Eureka
California 95501

From: (Public Agency): City of Trinidad
P.O. Box 390
Trinidad, CA 95570

(Address)

Project Title: Trinidad Water Treatment Plant Improvement Project

Project Applicant: City of Trinidad

Project Location - Specific:

Trinidad Water Treatment Plant Site at 1300 Block of Westhaven Drive, and Storage Tank Site (see Figure A1)

Project Location - City: Near Trinidad Project Location - County: Humboldt

Description of Nature, Purpose and Beneficiaries of Project:

The proposed project includes: a high rate settling clarifier, carbon filter, backwash system improvements, chlorine contact pipe, and chlorine booster pump station at water tank site (Figure A2) . The purpose is to bring the system into compliance with safe drinking water act standards.

Name of Public Agency Approving Project: City of Trinidad

Name of Person or Agency Carrying Out Project: City of Trinidad

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: CCR Class 1, Section 15301
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project consists of minor additions and modifications to existing developed water treatment and storage facility and would not cause significant impacts to sensitive environmental resource. As such, the project qualifies for a Class 1 Categorical Exemption under CEQA, Section 15301 and CCR, Title 22, Section 60101.

Lead Agency
Contact Person: Karen Suiker Area Code/Telephone/Extension: (707) 677-0223

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: _____

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

Humboldt County

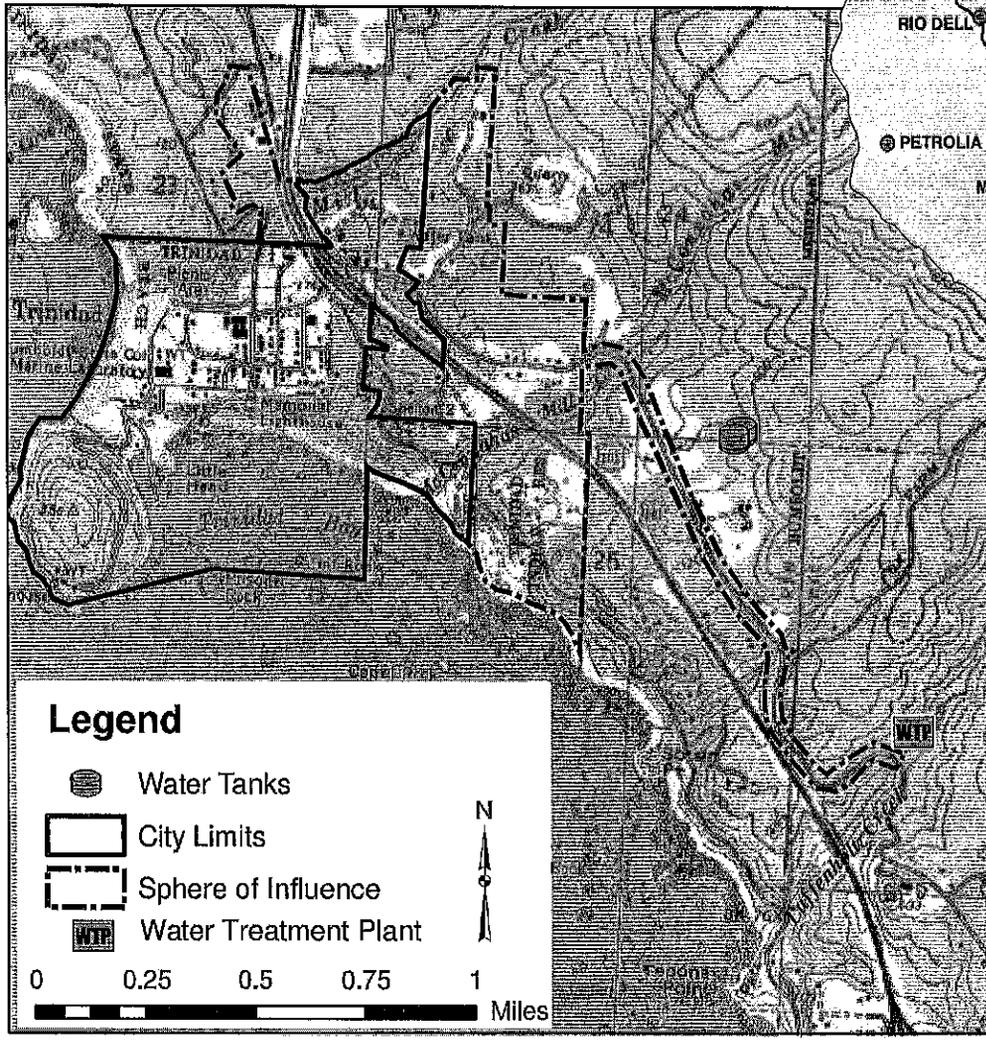
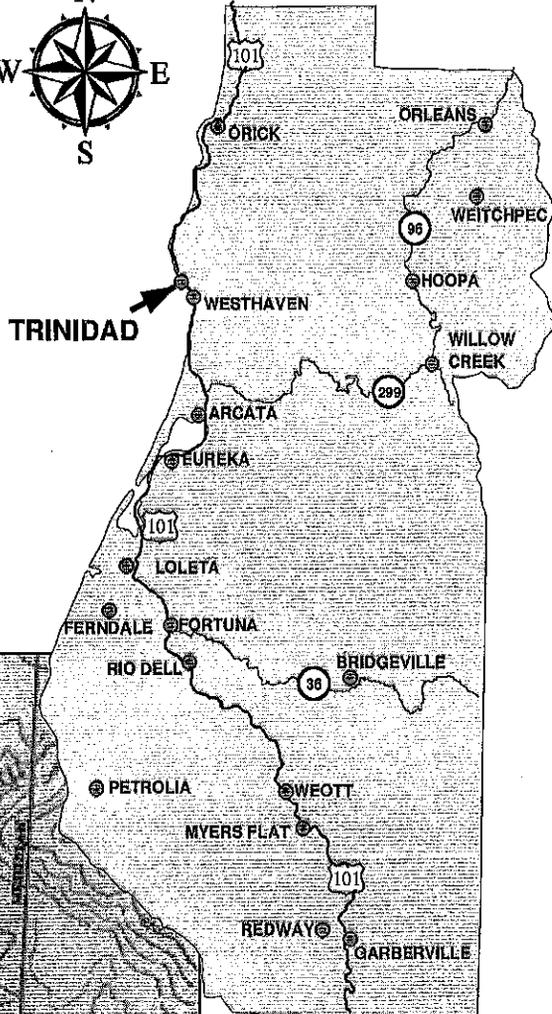
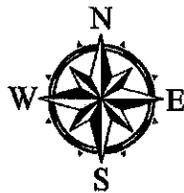
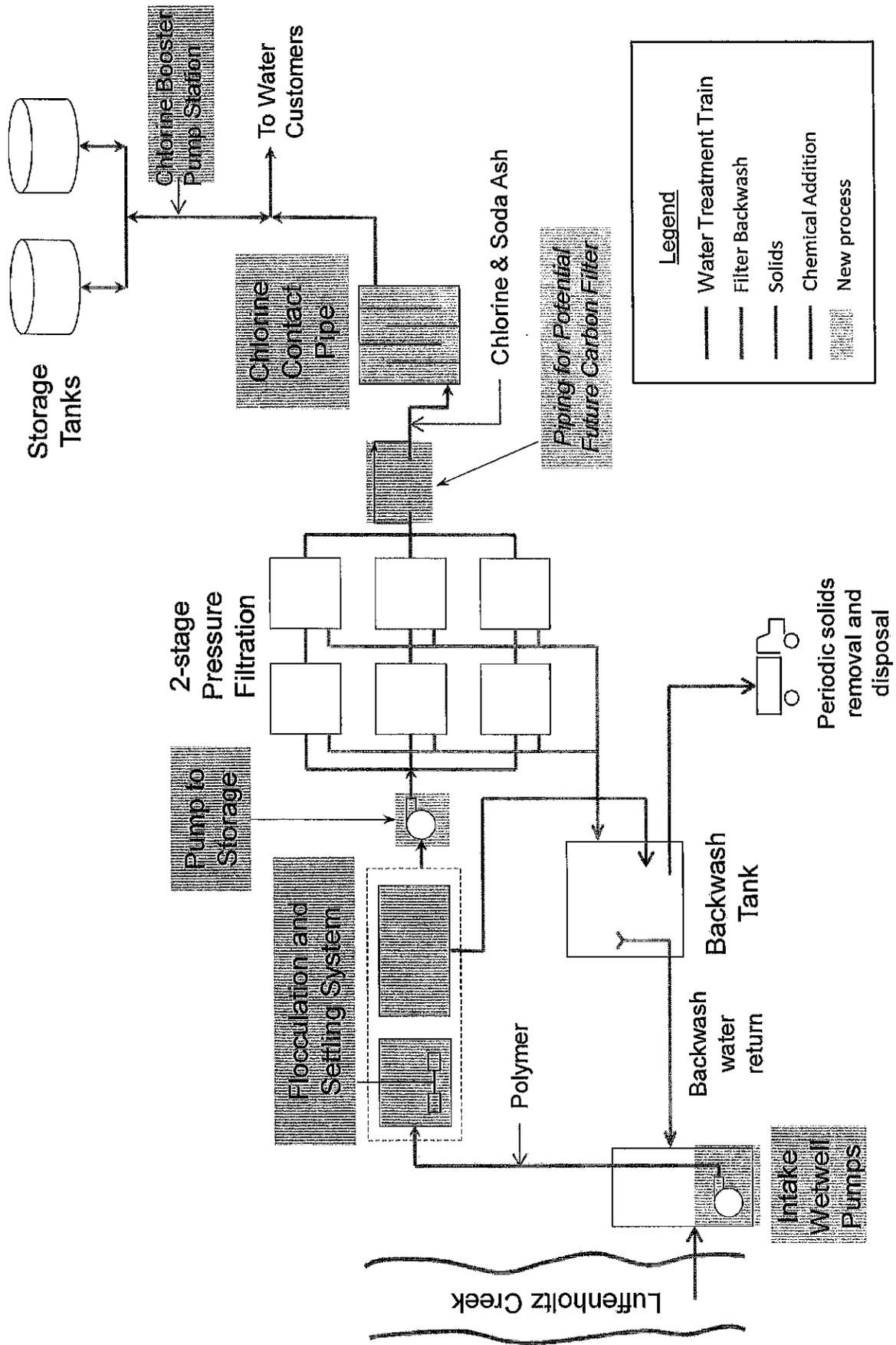


Figure A1
Location Map
City of Trinidad

Figure A2: Proposed Water Treatment Plant Upgrade





CONSENT AGENDA ITEM 7

SUPPORTING DOCUMENTATION FOLLOWS WITH: 3 PAGES

7. Resolution 2012-14; Authorizing Signature of Funding Agreement and Related Documents Under Proposition 50 for Luffenholtz Source Water Protection Project.

CONSENT AGENDA

Date: December 12, 2012

Item: Adopt Resolution 2012-14 Authorizing Signature of a Funding Agreement and Related Documents for Funding Under Proposition 50, The Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002.

Background:

In December 2010, the City Council approved Resolution 2010-16 supporting the submittal of a Grant Application for Proposition 50 Funds for the Luffenholtz Creek Source Water Protection Project (the Project). This project will improve water quality at the City's water intake by reducing turbidity due to high sediment loads in Luffenholtz Creek through treatments of unpaved roads on Green Diamond Resource Company (GDRC) land in the upper watershed. The Council authorized the City Manager to sign a letter of commitment securing \$1,670,720 in grant funds from the California Department of Public Health (CDPH) Proposition 50 Source Water Protection Grant Program in June of 2012. The City is on track to complete the design and CEQA for the Project which is required before CDPH can process a Final Funding Agreement. This agenda item authorizes the City Manager to sign the funding agreement once it is complete and authorizes the City Manager or City Clerk to approve claims for reimbursement. The resolution also authorizes GHD to execute the budget expenditure and summary and to certify the project is complete.

Proposed Action: Adopt Resolution 2012-14 authorizing the City Manager to sign a funding agreement with CDPH and authorizing the City Manager or City Clerk to approve claims for reimbursement, and authorizing GHD to execute the budget expenditure and summary and certify the project is complete.

Attachments: Resolution 2012-14



RESOLUTION 2012-14

RESOLUTION AUTHORIZING SIGNATURE OF A FUNDING AGREEMENT AND RELATED DOCUMENTS FOR FUNDING UNDER THE PROPOSITION 50, THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002.

WHEREAS, on January 30, 2011 the City of Trinidad submitted an application to the California Department of Public Health for \$1,670,720; and

WHEREAS, on June 18, 2012, the California Department of Public Health issued a Letter of Commitment (LOC) to City of Trinidad, which established conditions for the issuance of a Funding Agreement under the Proposition 50 Program for project number P50-1210018-136, subject to terms and conditions; and

WHEREAS, in the said LOC, the potential grant was established as \$1,670,720, subject to terms and conditions; and

WHEREAS, on January 31, 2012, City of Trinidad adopted a project budget totaling \$1,670,720; and

WHEREAS, prior to the California Department of Public Health executing said Funding Agreement, City of Trinidad is required to pass a resolution authorizing an officer to execute said Funding Agreement and amendments, designating a person or persons to approve claims for reimbursement, designating a person or persons (at least one of whom must be a registered engineer) to sign the Budget and Expenditure Summary, designating a person or persons (at least one of whom must be a registered engineer) to sign Certification of Project Completion, and designating a person to sign the Final Release form.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED, that the City Manager is hereby authorized to sign WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002 (Proposition 50) Funding Agreement and any amendments thereto, and

BE IT FURTHER RESOLVED AND ORDERED, that the City Manager or City Grant Administrator is hereby authorized to approve Claims for Reimbursement under the Proposition 50 Program for project number P50-1210018-136; and

BE IT FURTHER RESOLVED AND ORDERED, that City's Licensed Engineer, GHD Inc., a registered engineer, is hereby authorized to execute the Budget and Expenditure Summary under the Proposition 50 Program for project number P50-1210018-136; and

BE IT FURTHER RESOLVED AND ORDERED, that the City Manager, is hereby authorized to sign the Final Release Form under the Proposition 50 Program for project number P50-1210018-136; and

BE IT FURTHER RESOLVED AND ORDERED, that City's Licensed Engineer, GHD Inc., a registered engineer, is hereby authorized to certify that the project is complete and ready for final review.

BE IT FURTHER RESOLVED AND ORDERED, the authority granted hereunder shall be deemed retroactive. All acts authorized hereunder and performed prior to the date of this Resolution are hereby ratified and affirmed. The California Department of Public Health is authorized to rely upon this Resolution until written notice to the contrary, executed by each of the undersigned, is received by the California Department of

Public Health. The California Department of Public Health shall be entitled to act in reliance upon the matters contained herein, notwithstanding anything to the contrary contained in the formation documents of City of Trinidad or in any other document.

Passed and adopted this 12th day of December, 2012, by the following vote:

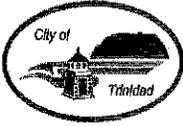
Ayes:
Noes:
Abstain:
Absent:

Attest:

Gabriel Adams
City Clerk

Kathy Bhardwaj
Mayor

DRAFT



CONSENT AGENDA ITEM 8

SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

8. Schedule for Two Council Meetings in January

CONSENT AGENDA ITEM

Date: December 12, 2012

Item: Schedule two council meetings in January

Background:

Due to a large number of agenda items to be considered by the Council in January, two meetings are recommended to be scheduled at this time, with the second meeting focusing on planning issues.

Tentative agenda items and their proposed consideration follow:

First meeting in January

Swearing in of new councilmember Maria Bauman

Appointments to Commissions/Boards

Final Trinidad Head Committee Report

Consider appointment to Planning Commission vacancies

Approval of bid solicitation for Azalea & Pacific

Consider agreement for Personnel Policy update

Consider reclassification of roads as major collectors

Consider Chamber of Commerce request for additional TOT allocation

Holly Tree permit reimbursement request

Second meeting in January

Consideration of Bed & Breakfast Conditional Use Permit conditions

General Plan Update and consideration of Circulation Element

First reading of zoning ordinance amendment regarding appeal fees

Proposed Action:

Schedule second council meeting on January 23, 2013



AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 0 PAGES

8. Swearing into office Councilmember Julie Fulkerson for a second term.



AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

2. Resolution 2012-15; Recognizing the Public Service of Michael Morgan.



RESOLUTION 2012-15

ACKNOWLEDGING THE PUBLIC SERVICE OF MIKE MORGAN

WHEREAS, Mike Morgan has served as a Trinidad City Council Member from 2008 to 2012; and

WHEREAS, Mike Morgan served as the City's member to the Humboldt Visitors and Convention Bureau; and kept the council and community apprised of tourism trends and opportunities; and

WHEREAS, Mike Morgan represented the City on the Indian Gaming Committee where he successfully advocated for funding that awarded the Trinidad Volunteer Fire Department a new pumper truck along with an additional rescue vehicle; and

WHEREAS, Mike Morgan nurtured the ADU and VDU Ordinance process, and helped initiate the General Plan Update process as a member of the Planning Commission; and

WHEREAS, Mike Morgan attended countless council sessions, balanced budget brainstorms, closed sessions, proper public hearings; participated fully and asked the tough questions; and

WHEREAS, Mike Morgan took great pride in representing and protecting the public's interests; and

WHEREAS, Mike Morgan was not afraid of getting his hands dirty or paint on his clothes while working on the renovation of Trinidad Town Hall; and

WHEREAS, Mike Morgan, exemplifying his commitment to public service, reached the rank of Captain while serving on the Trinidad Volunteer Fire Department;

NOW, THEREFORE BE IT RESOLVED, THAT the City Council of Trinidad congratulates and thanks, Mike Morgan for his years of service to the citizens of Trinidad and to the future well-being of the community.

PASSED UNANIMOUSLY AND ADOPTED BY THE TRINIDAD CITY COUNCIL of Humboldt County of the State of California this 12th day of December, 2012.

Attest:

Gabriel Adams
Trinidad City Clerk

Kathy Bhardwaj
Mayor



AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 11 PAGES

3. Discussion/Decision regarding Tsurai Ancestral Society Notice of Violation and Intent to File Suit

DISCUSSION/ACTION AGENDA

Date: December 12, 2012

Item: Tsurai Ancestral Society Notice of Violation and Intent to File Suit

Background: On November 15, 2012 the City received a Notice of Violation and Intent to File Suit from an attorney representing the Tsurai Ancestral Society (TAS), and staff responded by letter of November 28. It is not clear if the Notice of Violation represents a claim against the City, but in the event it does, the standard procedure is to reject the claim.

Also attached is a Motion for Summary Judgment which was granted in favor of the Civic Club in 2004 regarding some of the principal issues being raised again by the TAS.

Proposed Action: Reject the claim filed by the attorney representing the Tsurai Ancestral Society

Attachments:

November 9, 2012 letter from attorney representing the TAS

November 28, 2012 response from City Manager

April 12, 2004 Motion of Summary Judgment granted in favor of the Civic Club

CITY OF TRINIDAD

P.O. Box 390
409 Trinity Street
Trinidad, CA 95570
(707) 677-3876
Fax: (707) 677-3759

Karen Suiker, City Manager



November 28, 2012

Mr. David J. Weinsoff
138 Ridgeway Avenue
Fairfax, California 94930

Re: Your Notice of Violations and Intent to File Suit

Dear Mr. Weinsoff:

This is in response to your letter dated November 9, which was received by the City of Trinidad on November 15, 2012. That letter addresses events ranging in time from 1992-1997. The City's Attorney advises that the statute of limitations has run for any possible right your client would have to address such matters that are now fifteen to twenty years old. This response will therefore focus on the more current issue of the project undertaken by the Civic Club.

With respect to your contention that the City of Trinidad violated the Coastal Act, the City was not involved in the work performed by the Civic Club, other than advice given by the City's Building Official that a proposed fence replacement project would not require a building permit. The City was not aware that the project was subsequently expanded to include removal of soil, and I personally issued a stop order when I learned of the expanded project and advised the Civic Club that a Coastal Development Permit would be required. A permit application was thereafter submitted, the project was subsequently approved by the Planning Commission, after which it was appealed to the City Council and subsequently approved by the City Council. The City cannot now reverse a decision made through the mandatory public process because your client has threatened to file suit over the matter. Furthermore, the issuance of the Coastal Development Permit has been appealed to the Coastal Commission, and the decision lies with that agency.

Please understand that the City of Trinidad values the Tsurai Ancestral Society (TAS) and its members as important community members. The City has time and time again demonstrated, in words and in actions, its willingness to cooperate in addressing issues involving the Tsurai Village site. This has been demonstrated by the City paying 100% for an agreed-upon facilitator to mediate issues between the City and the TAS. This has been demonstrated by both the Mayor and another Councilmember recently meeting with TAS representatives. This has been demonstrated by the Mayor and I recently meeting with TAS representatives to discuss wording of signage to be installed on the protected property. This has been demonstrated by offering, through the agreed-upon facilitator, to consider, through its annual budget process, a specific budget appropriation that would be spent as directed by the TAS to protect and preserve and improve the Village Site area.

Please know that there are an increasing number of community members who would much prefer the City's limited resources be spent on improvements to City infrastructure to benefit all the community members, including the TAS, as opposed to spending limited resources on continued legal battles with no apparent end in sight, at great expense to the City, but with no apparent expense to the TAS. For that reason I am seeking your assistance to encourage your clients to be reasonable in their demands so as not to contribute to further community divide and/or foster ill will from other community members. I want the city staff and its elected officials to be able to defend the need to expend energy and resources protecting and preserving the Tsurai Village Site, and this is becoming more difficult in the face of what some might consider frivolous litigation or threats of litigation. Thank you for your understanding and your efforts to encourage peace and harmony, especially in such a small community where virtually everyone is a close neighbor.

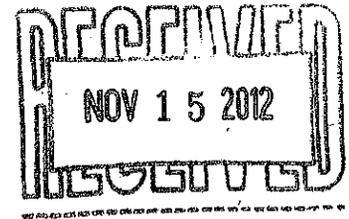
If your letter constitutes a claim against the City, the next meeting of the City Council at which point the Council can consider and accept or reject any such claim, will be at its next regular monthly meeting to be held December 12. In the meantime, if there is any added information or clarification or consideration of the City's previous offer as reiterated here, please advise before that date and I will be sure it will be considered by the Council at their meeting.

Very truly yours,

Karen B. Suiker
City Manager

Cc: Members of the City Council
City Attorney
Mr. Axel Lindgren
Trinidad Civic Club

LAW OFFICE OF
DAVID J. WEINSOFF
138 Ridgeway Avenue
Fairfax, California 94930
tel. 415-460-9760 fax. 415-460-9762
weinsoff@ix.netcom.com



Via Certified Mailing – Return Receipt

November 9, 2012

Mayor Kathy Bhardwaj
City of Trinidad
409 Trinity Street
Trinidad, CA 95570

City Manager Karen Suiker
City of Trinidad
409 Trinity Street
Trinidad, CA 95570

Ms. Susan Morton
Agent for Service of Process
Trinidad Civic Club
638 N. Westhaven Drive
Trinidad, CA 95570

Ms. Patricia Fleschner
Trinidad Civic Club
P.O. Box 295
Trinidad, CA 95570

Dear Mayor Bhardwaj, Mayor Pro-Tem Julie Fulkerson, Councilman Tom Davies
Councilman Dwight Miller, Councilman Mike Morgan, City Manager Suiker, and Ms. Morton
and Ms. Fleschner:

Re: Notice of Violations and Intent to File Suit

Dear Sir/Madam:

This Notice is provided on behalf of the Tsurai Ancestral Society (“Society”), a California non-profit corporation. The Society is informed and believes that the City of Trinidad (“City”) and the Trinidad Civic Club (“Civic Club”) have failed and are failing to comply with the requirements in the California Coastal Act (Public Resources Code § 30000 *et seq.*) governing public access (Public Resources Code § 30210 *et seq.*), protection of archaeological or paleontological resources (Public Resources Code § 30244), mandating minimization of adverse

impacts (Public Resources Code § 30253), and applying for, obtaining, and complying with the terms and conditions of a coastal development permit (Public Resources Code § 30600 *et seq.*). The specific alleged violations of the Coastal Act include, but are not limited to, the following:

1. On or about 1992 the City and the Civic Club constructed a fence to block the Tsurai Lineal Descendant's Traditional Path to the Tsurai Village;
2. On our about 1994, the City improperly installed a handicap ramp and undertook landscaping on property the City believed was Edwards Street, Trinity Lighthouse, City of Trinidad, Assessor's Parcel Number 42-091-04, but was, on information and belief, actually Assessor's Parcel Number 42-091-05, part of the Tsurai Study Area;
3. On or about 1997, the City by quitclaim deed transferred a portion of the Tsurai Study Area to the Civic Club. This transfer of land blocked the Axel Lindgren Memorial Trail from its traditional pathway leading to the Memorial Lighthouse. Following the City's action, the City and/or the Civic Club constructed an unpermitted western access trail connecting to the Axel Lindgren Memorial Trail;
4. On or about May, 2012 the Civic Club unearthed and removed without a coastal development permit approximately six and on-half (6.5) cubic yards of soil from the area of the lighthouse.

The Coastal Act, in addition to the Chapter 3 "Coastal Resources Planning and Management Policies" governing "public access" (Article 2), "land resources" (Article 5) and "development" (Article 6), which the Society allege the City and the Civic Club to have violated, requires that all non-exempt development in the coastal zone be appropriately permitted. Investigation by the Society has determined that the City and/or Civic Club's actions as described above are development within the California Coastal Act and that there is no applicable exemption from the Act for these activities. The City and/or the Civic Club must either obtain a coastal development permit(s) for the actions described above or remove them.

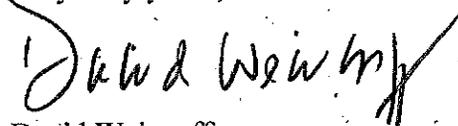
The Society is providing you with notice that following the expiration of thirty (30) days from the date of receipt of this NOTICE, it intends to file suit in Humboldt County Superior Court against the City and/or the Civic Club for failure to comply with the requirements of the Coastal Act. During this 30-day notice period, the Society is willing to discuss resolution of the violation(s) identified in this NOTICE. However, if you wish to pursue such discussions in the absence of litigation, it is suggested that those discussions be initiated within the next ten (10) days.

The Society has retained this office as well as Ralph Faust, Esq. to represent it in this matter. All communications should be addressed to:

David Weinsoff, Esq.
Law Office of David J. Weinsoff
138 Ridgeway Avenue
Fairfax, California 94930
Tel: (415) 460-9760

The Society looks forward to discussing this matter with you.

Very truly yours,

A handwritten signature in black ink that reads "David Weinsoff". The signature is written in a cursive style with a large initial "D" and a long, sweeping underline.

David Weinsoff

1 LAW OFFICES OF THOMAS BECKER
By: THOMAS BECKER, State Bar No. 079589
2 427 F Street, Suite 220
Eureka, CA 95501
3 Telephone: 707 441-9171
Telefax: 707 441-9172
4

5 Attorneys for Defendant Trinidad Civic Club
6
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF HUMBOLDT

10 JOHN FRAME and THE TSURAI)
ANCESTRAL SOCIETY,)
11 Plaintiffs,)
12)
13)
14 v.)
15 CITY OF TRINIDAD,)
et al.,)
16 Defendants.)
17

Case No. DR980359
DEFENDANT TRINIDAD CIVIC CLUB'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT, OR IN THE
ALTERNATIVE, FOR SUMMARY
ADJUDICATION
(CCP 437c(b))
Date: April 12, 2004
Time: 4:00 p.m.
Dept: Courtroom Eight/Judge Feeney
Trial: May 10, 2004

18 Defendant Trinidad Civic Club ("Civic Club") submits the following points and authorities
19 in support of motion for summary judgment, or in the alternative, for summary adjudication of
20 causes of action asserted against the Civic Club in the third amended complaint in intervention filed
21 herein by the Tsurai Ancestral Society ("Society").

22 **SUMMARY OF MOTION**

23 The complaint in intervention of the Society has been amended to result in the Society's third
24 amended complaint, alleging three causes of action, only two of which apply to the Civic Club. The
25 Society's first cause of action is for breach of deed restrictions that encumber title to the Trinidad
26 Memorial Lighthouse owned by the Civic Club. The Society's third cause of action against the Civic
27

1 Club is for alleged violation of rights of religious freedom. The charging allegations in both the first
2 cause of action and the third cause of action are based on the location of the "traditional trail" which
3 passes westerly around the Trinidad Memorial Lighthouse rather than going through the lighthouse.
4 This "diversion" was approved in court proceedings in 92DR0104 on July 23, 1997.

5 The trail in question was completed in its current location in July of 1997. The Society's first
6 complaint in intervention was filed on December 26, 2002. The statute of limitations for filing the
7 complaint for breach of a deed restriction is five years (CCP § 336 (b)). Claims for violation of
8 religious freedoms can be derived only from two sources: 42 USCA § 1983, which has a maximum
9 three year statute of limitations; and, the Unruh Civil Rights Act, Civil Code § 51, et seq., which also
10 has a three year statute of limitations. While the third cause of action also alleges a violation of the
11 American Indian Religious Freedom Act (42 USC § 1996) that act provides no judicially enforceable
12 right or cause of action to an individual (*Moneybeads v. United States* (D. Ariz. 1989) 730 F.Supp.
13 1515, 1519). Since the trail was obviously and openly constructed more than 5-1/2 years prior to the
14 complaint filed by the Society against the Civic Club, the third amended complaint must be
15 summarily adjudicated against the Society.

16 PLEADINGS APPLICABLE TO THIS MOTION

17 It is not the purpose of this memorandum to describe the tortuous pleadings involved in this
18 litigation, but rather to focus strictly upon the Civic Club's litigation with the Society. The Society
19 filed its complaint in intervention on December 26, 2002. The Society's complaint was twice
20 subjected to demurrers and motions to strike by the City of Trinidad and the Civic Club, resulting in
21 a third amended complaint served by the Society on June 30, 2003. The complaint was answered by
22 the Civic Club on August 7, 2003. Statutes of limitation were alleged in the second affirmative
23 defense of that answer.

24 SUMMARY JUDGMENT STANDARD

25 A motion for summary judgment shall be granted if all the papers submitted show that there
26 is no triable issue as to any material fact and that the moving party is entitled to a judgment as a
27

1 matter of law (CCP § 437c(c)). Once a defendant has shown that one or more of the elements of
2 plaintiff's case has not been established, the burden shifts to the plaintiff to show the existence of a
3 triable issue of fact (*Herberg v. California Institute of the Arts* (2002) 101 Cal.App.4th 142, 148; see
4 also cases cited therein).

5 **FACTUAL BACKGROUND**

6 It should be no surprise the genesis of this factual dispute arises from the settlement which
7 occurred in the case of *Frame v. City of Trinidad*, 92DR0104.¹ The Frame/City of Trinidad
8 settlement agreement required that a new trail be constructed from the Memorial Lighthouse to the
9 beach so as to possibly lessen the impact on Mr. Frame's property by providing an alternative public
10 trail in addition to the trail behind Mr. Frame's house (*Id.*).

11 There was public controversy as to the location of this new trail from the start. Some wanted
12 the "western trail" location; others the "hogback trail". California Environmental Quality Act
13 compliance and public hearings presented both locations for debate. The Yurok Tribe supported the
14 hogback trail which was ultimately constructed by that tribe. The State decided on the hogback
15 location. The Civic Club appealed that location to the Coastal Commission, but its appeal was
16 unsuccessful. The matter drifted on, and finally, in 1997, the trail was constructed by the Yurok
17 Tribe and that work was supervised by Axel R. Lindgren. Axel R. Lindgren was then the head of
18 The Tsurai Ancestral Society. Axel R. Lindgren is the now deceased father of Axel Lindgren, III,
19 and of Kelly Lindgren. Axel R. Lindgren now directs and manages the Society.

20 When the hogback trail reached the lighthouse, there was another public dispute; that is,
21 when the trail ended at Edwards Street, was it to go directly through the lighthouse (as the Society is
22 now suing to accomplish) or around and to the west of the lighthouse, as the trail is now constructed.
23 There were court proceedings in *Frame v. City of Trinidad* 92DR0104 on this issue. The issue was
24

25 ¹ Unless otherwise noted, the evidence supporting this factual background is
26 specifically cited in the Civic Club's separate statement of undisputed facts in support of this motion
27 for summary judgment.

1 widely reported in the press. It was decided by the Honorable Harold Neville, Jr. that the end of the
2 trail was to be constructed westerly and around the lighthouse. That ruling occurred July 23, 1997,
3 and the work completing the trail in that location was finished in a few days. About 5-1/2 years
4 later, the Society decided to sue, alleging that the location of the trail around the lighthouse was
5 inappropriate.

6 ARGUMENT

7 The statute of limitations for a breach of a restriction in a deed is five years from the date of
8 discovery of the breach:

9 Within five years: . . .

10 (b) An action for violation of a restriction, as defined in Section 784 of the Civil
11 Code. The period prescribed in this subdivision runs from the time the person seeking
12 to enforce the restriction discovered or, through the exercise of reasonable diligence,
13 should have discovered the violation. . . .

(Code of Civil Procedure § 336 (b).)

14 A "restriction" as referred to in section 336 (b) is a limitation on the use of real property
15 contained in a deed, a covenant in a deed or an equitable servitude in a deed (Civil Code § 784).
16 Such a restriction is exactly the basis of the Society's first cause of action (see, Ex. A to Civic Club's
17 Statement of Undisputed Facts).

18 The third cause of action for violation of religious freedom is based on constitutional claims
19 which are recognized as a basis for the Federal Civil Rights Act, 14 USCA 1983; and the Unruh
20 Civil Rights Act (Civil Code §§ 51, 52. The statute of limitations for both the Unruh Civil Rights
21 Act and 42 USCA § 1983 is at most, three years under Code of Civil Procedure § 338 (a)² *Rossiter*
22 *v. Benoit* (1979) 88 Cal.App.3d 706, 716). Other California cases have applied the one year statute
23 of limitations for personal injury (CCP § 340 (c); now CCP § 335.1) to statutory actions for violation

24
25 ² If a penalty or forfeiture were sought by the Society against the Civic Club, then the
26 statute of limitations would be one year (CCP § 340 (a)). CCP § 338 (a) covers actions "based on a
27 liability *created* by statute, other than a penalty or forfeiture".

1 of constitutional rights (*Jackson v. Cedars-Sinai Medical Center* (1990) 220 Cal.App.3d 1315,
2 1324).

3 **CONCLUSION**

4 It is respectfully submitted that applicable statutes of limitation bar all actions alleged by the
5 Society against the Civic Club and the motion for summary judgment should be granted in favor of
6 the Civic Club, dismissing the complaints of the Society against it.

7 Dated: January 29, 2004

Respectfully submitted,

8 LAW OFFICES OF THOMAS BECKER

9
10 By: _____
11 THOMAS BECKER
12 Attorneys for Defendant TRINIDAD CIVIC CLUB



AGENDA ITEM 4

SUPPORTING DOCUMENTATION FOLLOWS WITH: 2 PAGES

4. Discussion/Decision regarding Two Tier System for Payment of Employee Dependent Health Care Insurance

DISCUSSION/ACTION AGENDA

Date: December 12, 2012

Item: Establish a Two-Tier System for Payment of Employee Dependent Health Care Insurance

Background: The City's adopted Employee Policies & Procedures provide for the City to pay the full premium for medical and dental insurance coverage for all full-time employees, his/her spouse or legal partner, and dependent children. The City's current cost for medical insurance is \$3,322 per month for five full time employees; \$2,209 per month for its employee dependents for a total of \$5,531 per month (\$66,371/year). The city additionally pays the full premium for dental insurance and also provides an annual \$200 allowance as reimbursement of vision care expenses incurred by the employee, his/her spouse or legal partner, or by dependent children.

Most entities provide for a shared cost for employee dependent health care plans. A survey of 6 local public entities (including Trinidad) is attached, which shows Trinidad stands alone in paying 100% of dependent care coverage. Out of the 120 groups insured through our insurance agency (George Petersen Insurance), only 4 pay for some portion of dependent coverage, and only one other besides Trinidad pays for 100% of dependent coverage. Since current employees were hired with the understanding of such coverage, there is no thought to recommending a change for them. Rather, as is becoming more and more common in the public sector arena, a two-tier approach is recommended whereby employees hired after December 1 would contribute toward their dependent coverage, with the city still paying 100% of the employee health care coverage. A 70% city/30% employee cost share for dependent coverage is recommended. Dependent coverage for the city's current employees (which is not proposed to be changed) ranges from \$0 (no dependents) to \$1,071/month for a family. A 30% cost share within this range would be \$0 for an employee with no dependents, to \$321 per month for an employee with a spouse and any number of children under the age of 26.

With the current vacancy comes the opportunity to revisit the city's benefits. It should be noted that current employees are opposed to any plan that would provide a different benefit package based on date of hire. Their thinking is that all employees should be treated equally in this regard.

Proposed Action: Approve a 70% city/30% employee cost share for employee dependent health care coverage for employees hired after December 1, 2012.

Attachments: Survey of local entities



AGENDA ITEM 5

SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

5. Selection of Mayor and Mayor Pro Tem

DISCUSSION/ACTION AGENDA

Date: December 12, 2012

Item: SELECTION OF MAYOR AND MAYOR PRO TEM

Background: City of Trinidad Ordinance 97-01 provides as follows:

“As soon as practicable after each general election at which one or more persons are elected to the City Council, the Council members shall vote and select one of their own to serve as Mayor, and one to serve as Mayor Pro Tem.

The persons so elected shall serve until the next regularly scheduled Council election, or until removed by a majority vote of the Council. “

Proposed Action:

Select a Mayor and Mayor Pro Tem from one of your own.



AGENDA ITEM 6

SUPPORTING DOCUMENTATION FOLLOWS WITH: 7 PAGES

6. Appointment of Council members to various boards and commissions

DISCUSSION/ACTION AGENDA

Date: December 12, 2012

Item: Appointment of Council Members to Various Boards and Commissions

Background: Members of Trinidad's City Council represent the City on various committees, boards and commissions. A summary of such boards and commissions and current representation is as shown on the attachment.

The last time this was considered in December 2010 and carried forward to January 2011, the Mayor took the lead role in gathering individual requests for specific service and recommending individuals for the appointments.

Staff Recommendation: Discuss the process, and authorize the Mayor and City Manager to gather individual requests and compile a list of recommended appointments for Council consideration at the January 2012 City Council meeting.

Attachment: Summary of Current Boards and Commissions and Assigned Representative(s)

Current Committee Assignments*

COMMITTEE	REP
Trinidad Gateway	Dwight
BLM Gateway	Tom
Joint Committee Park/Library/Museum	Kathy
Planning Commission Liaison	Tom
HCOAG Humboldt County Association of Governments	Kathy
Humboldt Mayors	Kathy
HTA Humboldt Transit Authority	Julie
Tsurai Mngmnt. Plan Implementation	Mike / Dwight
RCEA Redwood Coast Energy Authority	Julie
RREDC Redwood Regional Economic Development Corp.	Julie
Humboldt Waste Management Authority	Dwight
Indian Gaming Funds	Kathy
ASBS Projects Committee	Tom
Imagine Humboldt!	Julie
HCCVB Humboldt County Convention & Visitors Bureau	Mike
Humboldt County Hazard Mitigation	Mike
OES Office of Emergency Services	Mike

Dwight

BLM/Gtwy
Tsurai
Waste

Julie

RREDC
HTA
Imagine
- Alt.

Kathy

HCOAG
Jnt. Cmtee
Mayors
Gaming

Mike

Tsurai
OES
HazMit
HCCVB

Tom

Trinidad Gtwy
ASBS
RCEA

Committee appointments for Trinidad City Council members

Committee & Function	Mtg. Time	Mtg. Place	members	Current appointee	Comments
Humboldt Waste Mngmt. Authority: Oversees county waste collection & disposal (hazardous, solid & food waste)	6:30 2 nd Thursday	Eureka City Hall	Arcata, Blue Lake, Eureka, Ferndale, Rio Dell, County	Currently we are not a member	Decisions have a big county-wide financial impact.
Planning-Commission Liaison: Keep PC and CC apprised of each other's related activities, communicate between groups	3 rd Wed. 7 PM + as needed	Town Hall	Commission members and Trever Parker	Bhardwaj	Requires prep time & study of packet.
Humboldt Area Council of Govts. (HCOAG): County-wide transportation planning and programming	4 th Thurs. 7 PM	Eureka City Hall	Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, Trinidad, County	Bhardwaj Alternate: Morgan	Big packet, many important county-wide decisions. Reps are usually Mayor and Mayor Pro-Tem)
Tsurai Management Plan Implementation Committee: Implement Management Plan	Quarterly or as needed or requested by members.	Trinidad	City, Tsurai Ancestral Society, Yurok Tribe, Coastal Conservancy	Miller & Morgan	This committee was negotiating for property transfer & is currently inactive. May change focus to improvements on TSA site per Management Plan
ASBS Projects Committee: plan and implement projects to clean up the ASBS (Stormwater and Pier project)	TBA	TBA	Stormwater project: City, Winzler & Kelly, Trever, & Pier Project: City, Rancheria, their design and engineering companies &	Davies	This committee is being developed

Committee appointments for Trinidad City Council members

Committee & Function	Mtg. Time	Mtg. Place	Members	Current appointee	Comments
Redwood Regional Economic Developmnt Corp. (RREDC): Administers loans and grants to improve business & job opportunities in Humboldt county	6:30 4th Monday	Eureka	Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, Trinidad, Humboldt County, McKinleyville, Orick, Redway, Willow Creek, Hoopa, Orleans, Manila, Humboldt Bay Municipal Water District, Humboldt Harbor Commission, College of the Redwoods	Fulkerson	
Humboldt Transit Authority: Oversees county-wide transit services Trinidad to Garberville	9AM 3 rd Wed.	Eureka	Trinidad, Arcata, Eureka, Fortuna, Rio Dell, County	Fulkerson	
Redwood Coast Energy Authority Board (RCEA): Develop & implement sustainable energy projects in Humboldt county	3:00 3 rd Monday	517 5 th Eureka	Arcata, Blue Lake, Eureka, Ferndale, Fortuna, Rio Dell, Trinidad, County, Humboldt Bay Municipal Water District	Davies	
BLM Gateway Project: protect the diversity of life on coastline and offshore rocks by education and community cooperation	Quarterly or as needed	Trinidad or Arcata	Trinidad, Native Plants, Trinidad Library, HSU Marine Lab, BLM, Trinidad Land Trust, Yurok Tribe, Tsurai Ancestral Society, State Parks and Fish and Game, Rancheria	Miller	

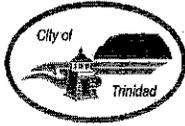
Committee appointments for Trinidad City Council members

Committee & Function	Mtg. Time	Mtg. Place	members	Current appointee	Comments
Humboldt County Convention and Visitors Bureau (HCCVB): Promotes Tourism in Humboldt County	Bimonthly Lunch meeting	Varies	Governments and businesses throughout Humboldt County	Morgan	
Humboldt County Hazard Mitigation Committee: County-wide effort to reduce risk and plan for efficient recovery from natural disasters.	2X year or as needed	varies	26 planning partners include local governments, fire departments, hospitals, etc.	Morgan	
Joint Committee for Park/Museum/Library: Plan, implement and coordinate Park, Museum & Library projects.	Inactive	Trinidad	City, Museum, Library, Land Trust Contractor	Bhardwaj	May become active once more when Library starts construction
Imagine Humboldt: County-wide planning for the next 40 years.	Nov, Jan, April	TBA		Fulkerson	This committee is being developed
Trinidad Gateway Project: Design & implement beautification projects for town entry	Concluded	Town Hall	Rancheria, Tsurai, Yurok Tribe, Council, Planning Commission, Community	Davies	2 hour meeting
Office of Emergency Services (OES): prepares for natural disasters, coordinating efforts of first responders.	Bi-monthly, 1 PM	Eureka	County, cities, service districts, medical providers, Ham radio, HSU, weather service, Fish & Game, etc.	Morgan	1 hour meeting

Committee appointments for Trinidad City Council members

Committee & Function	Mtg. Time	Mtg. Place	members	Current appointee	Comments
Indian Gaming Funds: Distribute funds to local communities and projects to offset casino impacts	When funding is available -	Board of Supervisors		Bhardwaj	This committee meets when the state sends Gaming money.
Humboldt Mayors Committee: Recommends candidates for appointments	As needed	Eureka City Hall	Arcata, Eureka, Blue Lake, Rio Dell, Fortuna, Ferndale, Trinidad	Bhardwaj	

Committee appointments for Trinidad City Council members



AGENDA ITEM 7

SUPPORTING DOCUMENTATION FOLLOWS WITH: 6 PAGES

7. Consideration of mini-roundabout at Trinity and Edwards

DISCUSSION/ACTION AGENDA

Date: December 12, 2012

Item: Consideration of a Mini-Roundabout at the Intersection of Trinity and Edwards Streets

Background: During an earlier discussion of traffic control options at the intersection of Trinity and Edwards, the concept of a mini-roundabout at that location was brought up with some interest. Funding for project planning, programming and monitoring is available to the various entities through the Humboldt County Association of Governments (HCAOG), and in November of 2011, \$5000 was allocated to the City of Trinidad to study the feasibility of such a concept. Because of other priorities, the project was placed on hold. Now that the Gateway project is complete, consideration can again be given to this study. If the Council is interested in proceeding with such a study, the City could contract with GHP to survey city properties and determine if sufficient public lands exist to consider such a traffic infrastructure within the city's right of way. Such a study would not commit the City to eventual construction.

If the Council is not interested in proceeding with such a study, staff would notify HCAOG that the funds can be reverted for other planning purposes.

Staff Recommendation: Consider whether to proceed with a study of a mini-roundabout at Trinity and Edwards, and if so, authorize the City Manager to execute the attached agreement with GHD for this purpose.

Attachment: Proposed Agreement with GHD



**Agreement Between
City of Trinidad and GHD
PROJECT STUDY REPORT (PSR)**

**FOR THE
TRINITY AND EDWARDS STREET INTERSECTION**

JANUARY 31, 2012

INTRODUCTION

This scope of services relates to a prime agreement between the City of Trinidad and GHD Inc. (formerly Winzler & Kelly) dated August 5th, 2004. All provisions of the prime agreement apply to this scope of services unless otherwise stated in this scope of services.

GHD assisted the City of Trinidad in securing a \$5,000 Planning, Programming, and Monitoring (PPM) funds for preliminary planning and development of a Project Study Report (PSR) for improvements to the intersection of Trinity Street and Edwards Street. The subject intersection, located adjacent to the historic Trinidad Lighthouse, is a high traffic area which was identified by the City Council as a priority intersection based on safety concerns related to the ambiguous through traffic movement, and potential vehicle/pedestrian conflicts. The City Council has identified a mini-roundabout as the possible improvement to make the intersection safer for vehicular traffic and safer and more accessible for pedestrians and bicycles.

SCOPE OF SERVICES

The following tasks define the scope of services to be performed.

Task 1. Collect Field Traffic Data and Develop Traffic Engineering Calculations

Under this task GHD will collect existing AM and PM peak period turn movement counts at the intersection of Trinity Street and Edwards Street. This information will be used to develop intersection level of service (LOS) calculations for both the existing traffic volumes and future traffic volumes as indicated in the City's General Plan. Using this data, the relationship between the existing traffic volumes and future projected traffic volumes will be analyzed to determine if a mini-roundabout is suitable for the intersection.

Task 2. Conceptual Mini-Roundabout Design

Under this task GHD will develop concept level plan for a mini-roundabout at the intersection of Trinity Street and Edwards Street. The conceptual plan view will include basic geometric layout, identify areas where landscape treatment could take place, show pedestrian crossings and sidewalks/walkways connecting the street crossings to the existing pedestrian facilities, bicycle treatments, pavement striping, and indication of edge of pavement or placement of curbs, and the ability to fit within the existing right-of-way. The design speed of the roundabout will be presented based on available design criteria and



guidelines. A vehicle turn simulation (vehicle swept path) analysis will be generated and the resulting design vehicle turn movements will be presented.

Task 3. Project Study Report (PSR) Development

Under this task GHD will develop a Project Study Report (PSR) for the proposed mini-roundabout. The PSR will include: a brief project description, environmental status, cost breakdown, the condition of the existing facility, project timeline.

DELIVERABLES AND REVIEW

GHD will submit the PSR and conceptual design plan to the City in draft format for review and comment within approximately 6 weeks of receiving a signed Task Order. The final PSR and conceptual design plan will be submitted to the City and the Humboldt County Association of Governments (HCAOG) within approximately 4 weeks of receiving comments from the City on draft submittal.

GENERAL ASSUMPTIONS / EXCLUSIONS

This scope of services is based on the tasks described above which are anticipated for the project

This proposal is based on the following assumptions:

- Topographic and Boundary Survey is not included in this scope of services.
- Available existing survey and Right-Of-Way mapping will be obtained from the City or based on assessor parcel maps, which are only suitable for planning level design.
- The City's General Plan includes a population growth rate required to project future traffic volumes.
- The City will complete their review of the PSR and prepare any comments they have within one week of receipt.
- Proposal assumes up to one meeting with City staff to discuss the PSR and conceptual roundabout.
- Additional services not identified in this scope can be provided with a scope and budget amendment.
- Concept drawings will be developed in Autocad 2011 (2010 version format) and provided as 11x17 hardcopy and PDF electronic files.

COMPENSATION

GHD will complete the above scope of services for a lump sum fee of **\$5,000**.

Invoices will be prepared monthly and are due and payable within 30 days of the date of the invoice. Finance charges of 1-1/2% per month will be applied to all outstanding balances.



AGREED

Karen Suiker
Trinidad City Manager

Date

 1/31/12

Steve Allen

Date

GHD Inc.

City of Trinidad Accounting Tracking Number

Trinidad City Manager

From: Josh Wolf [JoshWolf@w-and-k.com]
Sent: Monday, October 03, 2011 11:23 AM
To: Trinidad City Manager
Subject: Mini-Roundabout

Karen,

Here is an example picture of a mini-roundabout. The size of the middle circle would vary based on required car/truck turning movements, and available right-of-way. The middle circle is also typically raised/domed and be constructed as stamped/colored asphalt or concrete.



Exhibit 1-8. Typical mini-roundabout.

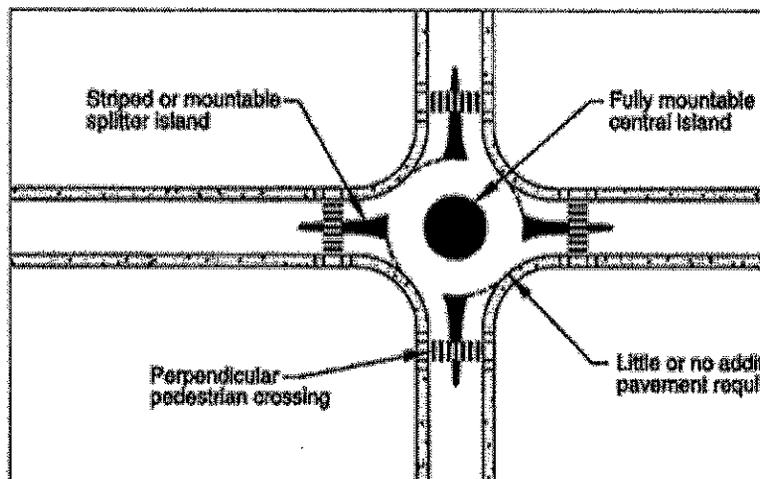
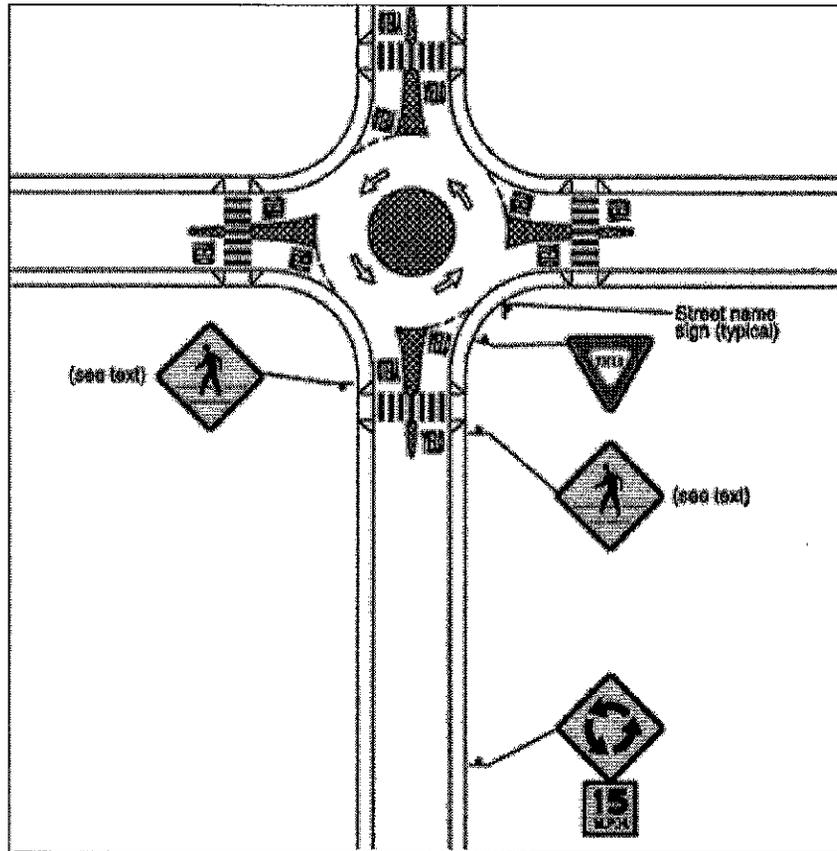


EXHIBIT 7-18 GIVES A SAMPLE SIGNING PLAN FOR A MINI-ROUNDBOULT.

Exhibit 7-18. Sample signing plan for a mini-roundabout.



Thanks,



Josh Wolf, PE | Civil Engineer

Winzler & Kelly
718 Third Street
Eureka, CA 95501

Tel: 707.443.8326 | Fax: 707.444.8330 | Cell: 707.599.8078
www.w-and-k.com

Electronic files are provided only for convenience. Any conclusions or information obtained or derived from such electronic files will be at user's sole risk. If there is a discrepancy between the information provided by Winzler & Kelly contained in electronic files and printed copies, the printed copies shall govern.