

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Director of Public Works/City Engineer via City Manager

SUBJECT: Addition of Chapter 8.17 “Reusable Bags” to Municipal Code
(Continued from February 19, 2013 meeting)

DATE: March 4, 2013

City Council Goals:

To develop plans and pursue opportunities to protect natural resources. (#8)

To promote intergovernmental opportunities that enhances services and/or reduces cost of operations and services to city residents. (#10)

Purpose:

To obtain Council’s approval for adopting a new Chapter to the Brisbane Municipal Code that will generally ban the free distribution of single-use plastic bags by retail businesses. The requested action is consistent with the community’s values of being environmentally progressive, and making decisions that are propelled by stewardship of the environment.

Recommendation:

1. Open the Public Hearing and take comments.
2. Close the Public Hearing.
3. Motion to make the findings required pursuant to section 15096 of the CEQA Guidelines for the addition and adoption of Chapter 8.17 to the Municipal Code.
(Note: the Council has two alternative methods available to complete this action – these are described later under CEQA ADOPTION.)
4. Motion to introduce Ordinance No. 580, waiving first reading, adding Chapter 8.17 “Reusable Bags” to the Municipal Code.
(Note: there are two versions of the Ordinance available for Council to select – the Ordinance selected will be based on the CEQA adoption methodology selected.)

Background:

This item was continued from the City Council's regularly scheduled meeting of February 19, 2013. The original staff report from that meeting is attached in its entirety.

Since the original Council meeting, staff has contacted the County of San Mateo's Environmental Health Division (County Health) and forwarded a list of questions raised at the February meeting. Staff also requested that County Health directly contact each of four local retailers (Julie's Carroll's, Brisbane Hardware, Midtown Market) and explain how the ordinance might impact them, and answer any questions they might have on the implementation of this ordinance.

Staff has also requested a representative from County Health be available to answer questions at this Council meeting.

Discussion:

ALTERNATIVES

CEQA ADOPTION

1. As identified in the original proposal for Ordinance No. 580 (Attachment A), the necessary CEQA findings would be made as part of the ordinance. The advantage of this approach is that the required adherence to CEQA is located within the ordinance, and easily found by interested parties.
2. An alternative to the above would be to make the necessary CEQA findings by separate resolution. If the Council were to choose this method, then they would adopt Resolution No. 2013-05, and either this evening or at some later date, adopt some version of "Revision 1" of Ordinance No. 580 (the revised ordinance and resolution are enclosed as Attachments B and C). The advantage to this approach is that the Resolution can be adopted separate from the Ordinance. The disadvantages are that if the Ordinance undergoes significant changes, then it may be necessary to void the Resolution, conduct new environmental review, and pass an updated Resolution. Obviously, the CEQA findings would not be found with the Ordinance under this approach. Finally, if this method is selected, the Notice of Determination required by CEQA guidelines could not be published until action is finally taken on the project (that is, adoption of the ordinance).

EFFECTIVE DATE

1. As presently written, both versions of the Ordinance propose that the effective date be ninety days after its passage and adoption. This seems to be an adequate amount of time to inform retailers that will be affected.
2. The County's Ordinance was written to be effective on April 22, 2013, which coincides with the celebration of Earth Day. Selecting this alternate date is not recommended, as with the dates for final approval of the city's ordinance

unknown, selecting this date could result in an inadequate amount of time for public outreach to affected retailers.

EXEMPTIONS

1. Neither version of the Ordinance contains an exemption or appeal process for affected businesses. An alternative would be to create a new Section 8.17.070, with language as proposed below:

§8.17.070 Exemptions.

Retail establishments will be exempted from the provisions of this chapter if the City Manager or his/her designee finds that due to the nature of the business where a specialty bag is provided for point of sale purchases there are no suitable alternatives to Single-use carry-out bags, or the imposition of the requirements of this chapter would cause undue hardship. When an establishment is granted an exemption, notice of such exemption will be provided to the enforcement authority identified in §8.17.030. No such exemptions shall be granted until regulations are in place to guide the City Manager or his/her designee in applying this exemption.

Fiscal Impact:

Adopting this ordinance will not have a material impact on the City's budget because as presently proposed San Mateo County will provide enforcement of the ordinance requirements.

Measure of Success


An apparent reduction of single-use bag trash within the city, its waterways, and the surrounding bay and environment.

Attachments:

- A. Ordinance No. 580 – original proposal, CEQA findings made herein
- B. Ordinance No. 580 – revision 1, CEQA findings made in Resolution No. 2013-05
- C. Resolution No. 2013-05
- D. City Staff Report (including attachments) from February 19, 2013 meeting



Director of Public Works/City Engineer



City Manager

A copy of supporting materials provided to the City Manager and Council Persons in connection with this agenda item is available for public inspection and copying at 50 Park Place, City of Brisbane Department of Public Works, Brisbane, CA, 94005. Telephone: (415) 508-2130.

ORDINANCE NO. 580

**AN ORDINANCE OF THE CITY OF BRISBANE
ADDING CHAPTER 8.17 (REUSABLE BAGS) OF
TITLE 8 (HEALTH AND SAFETY) TO THE
MUNICIPAL CODE**

The City Council of the City of Brisbane does hereby ordain as follows:

SECTION 1. MUNICIPAL CODE AMENDMENT. Chapter 8.17 of the Municipal Code, entitled “Reusable Bags,” is hereby added as follows:

**Chapter 8.17
REUSABLE BAGS**

Sections:

8.17.010	Findings and Purpose
8.17.020	Definitions
8.17.030	Enforcement
8.17.040	Single-use carry-out bag
8.17.050	Recordkeeping and Inspection
8.17.060	Administrative Fine
8.17.070	Severability

§8.17.010 Findings and Purpose.

The City Council of the City of Brisbane finds that:

- A. The use of single-use carryout bags by consumers at retail establishments is detrimental to the environment, public health and welfare.
- B. The manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions.
- C. Single-use carryout bags contribute to environmental problems, including litter in storm-drains, creeks, the bay and the ocean.
- D. Single-use carryout bags provided by retail establishments impose unseen costs on consumers, local governments, the state and taxpayers and constitute a public nuisance.

E. The City of Brisbane has a substantial interest in protecting its residents and the environment from negative impacts from plastic carryout bags.

F. On October 23, 2012 the San Mateo County Board of Supervisors approved an Environmental Impact Report (“EIR”) and adopted an ordinance banning single-use carryout bags from stores, while requiring stores that provide reusable bags to charge customers ten cents (\$.10) per bag initially and (\$.25) after January 1, 2015.

G. The County’s EIR specifically analyzed the possibility of 24 cities (18 cities within San Mateo County and six cities in Santa Clara County), including the City of Brisbane, adopting the County’s ordinance within their own jurisdictions.

H. On November 6, 2012, San Mateo County adopted Reusable Bag Ordinance No. 04637 banning single-use carryout bags from stores, while requiring stores to provide reusable bags.

I. The City of Brisbane intends this Ordinance to fall within the scope of the County’s EIR and has therefore modeled this Ordinance on the County’s ordinance.

J. The City Council does find and declare that it should restrict the single use carry-out bags as set forth in this ordinance.

§8.17.020 Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them in this Section:

A. "Customer" means any person obtaining goods from a retail establishment.

B. "Garment Bag" means a travel bag made of pliable, durable material with or without a handle, designed to hang straight or fold double and used to carry suits, dresses, coats, or the like without crushing or wrinkling the same.

C. "Nonprofit charitable re-user" means a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than fifty percent of its revenues from the handling and sale of those donated goods or materials.

D. "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.

E. "Prepared food" means foods or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. "Prepared food" does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.

F. "Public eating establishment" means a restaurant, take-out food establishment, or any other business that receives ninety percent or more of its revenue from the sale of prepared food to be eaten on or off its premises.

G. "Recycled paper bag" means a paper bag provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment that contains no old growth fiber and a minimum of forty percent post-consumer recycled content; is one hundred percent recyclable; and has printed in a highly visible manner on the outside of the bag the words "Reusable" and "Recyclable," the name and location of the manufacturer, and the percentage of post-consumer recycled content.

H. "Retail establishment" means any commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the customer; and is located within or doing business within the geographical limits of the City of Brisbane. "Retail establishment" does not include public eating establishments or nonprofit charitable re-users.

I. "Reusable bag" means either a bag made of cloth or other machine washable fabric that has handles, or a durable plastic bag with handles that is at least 2.25 mil thick and is specifically designed and manufactured for multiple reuse. A garment bag may meet the above criteria regardless of whether it has handles or not.

J. "Single-use carry-out bag" means a bag other than a reusable bag provided at the check stand, cash register, point of sale or other point of departure, including departments within a store, for the purpose of transporting food or merchandise out of the establishment. "Single-use carry-out bags" do not include bags without handles provided to the customer: (1) to transport prepared food, produce, bulk food or meat from a department within a store to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a reusable bag or recycled paper bag

§8.17.030 Enforcement.

The County of San Mateo's Environmental Health Division, its officers, employees and agents are hereby authorized to enforce, on behalf of the City of Brisbane, this Chapter and any amendments thereto, within the jurisdictional boundaries of the City of Brisbane. Such enforcement authority includes, but is not limited to, the collection of fees and fines, and the authority to hold hearings and issue administrative fines for violations of this Chapter within the geographical limits of the City of Brisbane.

§8.17.040 Single-use carry-out bag.

A. No retail establishment shall provide a single-use carry-out bag to a customer, at the check stand, cash register, point of sale or other point of departure for

the purpose of transporting food or merchandise out of the establishment except as provided in this section.

B. On or before December 31, 2014 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of ten cents.

C. On or after January 1, 2015 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of twenty-five cents.

D. Notwithstanding this section, no retail establishment may make available for sale a recycled paper bag or a reusable bag unless the amount of the sale of such bag is separately itemized on the sale receipt.

E. A retail establishment may provide one or more recycled paper bags at no cost to any of the following individuals: a customer participating in the California Special Supplement Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code; a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code; and a customer participating in CalFresh pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the California Welfare and Institutions Code.

§8.17.050 Recordkeeping and Inspection.

Every retail establishment shall keep complete and accurate record or documents of the purchase and sale of any recycled paper bag or reusable bag by the retail establishment, for a minimum period of three years from the date of purchase and sale, which record shall be available for inspection at no cost to the County during regular business hours by any County employee authorized to enforce this part. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the retail establishment address. The provision of false information including incomplete records or documents to the County shall be a violation of this Chapter.

§8.17.060 Administrative Fine.

A. Grounds for Fine. A fine may be imposed upon findings made by the Director of the Environmental Health Division, or his or her designee, that any retail establishment has provided a single-use carry-out bag to a customer in violation of this Chapter.

B. Amount of Fine. Upon findings made under subsection A., the retail establishment shall be subject to an administrative fine in an amount not to exceed the

amounts set forth in section 1.14.030 of the Brisbane Municipal Code as penalties for an infraction.

C. Separate Violations. Each day that a retail establishment has provided single-use carry-out bags to a customer constitutes a separate violation.

D. Fine Procedures. Notice of the fine shall be served on the retail establishment. The notice shall contain an advisement of the right to request a hearing before the Director of the Environmental Health Division or his or her designee contesting the imposition of the fine. The grounds for the contest shall be that the retail establishment did not provide a single-use carry-out bag to any customer. Said hearing must be requested within ten days of the date appearing on the notice of the fine. The decision of the Director of the Environmental Health Division shall be based upon a finding that the above listed ground for a contest has been met and shall be a final administrative order, with no administrative right of appeal.

E. Failure to Pay Fine. If said fine is not paid within 30 days from the date appearing on the notice of the fine or of the notice of determination of the Director of the Environmental Health Division or his or her designee after the hearing, the fine shall be referred to a collection agency.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional..

SECTION 3. CEQA REVIEW. On October 23, 2012, the County of San Mateo County adopted a Program Environmental Impact Report (“EIR”) that analyzed the impacts of this reusable bag ordinance if adopted in cities throughout the County of San Mateo as well as neighboring jurisdictions. The EIR was adopted pursuant to the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* (“CEQA”) and the CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 *et seq.* It is incorporated by reference herein.

Pursuant to Section 15096 of the CEQA Guidelines, the City of Brisbane acts as a responsible agency for adoption of this ordinance within the City of Brisbane. Upon independent review of the EIR and all the evidence before it, the City Council makes the following findings:

- 1) The Final Program Environmental Impact Report (“Final Program EIR”) is complete, correct, adequate, and prepared in accordance with CEQA, 14 California Code of Regulations section 15000 et seq. (“CEQA Guidelines”).
- 2) On the basis of the Initial Study, Notice of Preparation, Final Program EIR, and public comment received by both the County of San Mateo and the City of Brisbane, there is no substantial evidence that the project as proposed will have a significant effect on the environment.
- 3) Adoption of this ordinance and analysis of the EIR reflects the independent judgment of the City Council of the City of Brisbane.
- 4) None of the conditions listed in CEQA Guidelines section 15162(a) are applicable to adoption of this Ordinance, and adoption of this Ordinance is an activity that is part of the program examined by the County’s Final Program EIR and is within the scope of the project described in the County’s Final Program EIR.
- 5) A Notice of Determination shall be filed pursuant to CEQA Guidelines sections 15094 and 15096.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect ninety (90) days after its passage and adoption.

* * * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Raymond C. Miller, Mayor

ATTEST:

Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:

Harold S. Toppel, City Attorney

ORDINANCE NO. 580

**AN ORDINANCE OF THE CITY OF BRISBANE
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§8.17.010 Findings and Purpose.

The City Council of the City of Brisbane finds that:

- A. The use of single-use carryout bags by consumers at retail establishments is detrimental to the environment, public health and welfare.
- B. The manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions.
- C. Single-use carryout bags contribute to environmental problems, including litter in storm-drains, creeks, the bay and the ocean.
- D. Single-use carryout bags provided by retail establishments impose unseen costs on consumers, local governments, the state and taxpayers and constitute a public nuisance.

E. The City of Brisbane has a substantial interest in protecting its residents and the environment from negative impacts from plastic carryout bags.

F. On October 23, 2012 the San Mateo County Board of Supervisors approved an Environmental Impact Report (“EIR”) and adopted an ordinance banning single-use carryout bags from stores, while requiring stores that provide reusable bags to charge customers ten cents (\$.10) per bag initially and (\$.25) after January 1, 2015.

G. The County’s EIR specifically analyzed the possibility of 24 cities (18 cities within San Mateo County and six cities in Santa Clara County), including the City of Brisbane, adopting the County’s ordinance within their own jurisdictions.

H. On November 6, 2012, San Mateo County adopted Reusable Bag Ordinance No. 04637 banning single-use carryout bags from stores, while requiring stores to provide reusable bags.

I. The City of Brisbane intends this Ordinance to fall within the scope of the County’s EIR and has therefore modeled this Ordinance on the County’s ordinance.

J. The City Council does find and declare that it should restrict the single use carry-out bags as set forth in this ordinance.

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E. "Prepared food" means foods or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. "Prepared food" does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.

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§8.17.030 Enforcement.

The County of San Mateo's Environmental Health Division, its officers, employees and agents are hereby authorized to enforce, on behalf of the City of Brisbane, this Chapter and any amendments thereto, within the jurisdictional boundaries of the City of Brisbane. Such enforcement authority includes, but is not limited to, the collection of fees and fines, and the authority to hold hearings and issue administrative fines for violations of this Chapter within the geographical limits of the City of Brisbane.

§8.17.040 Single-use carry-out bag.

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the purpose of transporting food or merchandise out of the establishment except as provided in this section.

B. On or before December 31, 2014 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of ten cents.

C. On or after January 1, 2015 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of twenty-five cents.

D. Notwithstanding this section, no retail establishment may make available for sale a recycled paper bag or a reusable bag unless the amount of the sale of such bag is separately itemized on the sale receipt.

E. A retail establishment may provide one or more recycled paper bags at no cost to any of the following individuals: a customer participating in the California Special Supplement Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code; a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code; and a customer participating in CalFresh pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the California Welfare and Institutions Code.

§8.17.050 Recordkeeping and Inspection.

Every retail establishment shall keep complete and accurate record or documents of the purchase and sale of any recycled paper bag or reusable bag by the retail establishment, for a minimum period of three years from the date of purchase and sale, which record shall be available for inspection at no cost to the County during regular business hours by any County employee authorized to enforce this part. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the retail establishment address. The provision of false information including incomplete records or documents to the County shall be a violation of this Chapter.

§8.17.060 Administrative Fine.

A. Grounds for Fine. A fine may be imposed upon findings made by the Director of the Environmental Health Division, or his or her designee, that any retail establishment has provided a single-use carry-out bag to a customer in violation of this Chapter.

B. Amount of Fine. Upon findings made under subsection A., the retail establishment shall be subject to an administrative fine in an amount not to exceed the

amounts set forth in section 1.14.030 of the Brisbane Municipal Code as penalties for an infraction.

C. Separate Violations. Each day that a retail establishment has provided single-use carry-out bags to a customer constitutes a separate violation.

D. Fine Procedures. Notice of the fine shall be served on the retail establishment. The notice shall contain an advisement of the right to request a hearing before the Director of the Environmental Health Division or his or her designee contesting the imposition of the fine. The grounds for the contest shall be that the retail establishment did not provide a single-use carry-out bag to any customer. Said hearing must be requested within ten days of the date appearing on the notice of the fine. The decision of the Director of the Environmental Health Division shall be based upon a finding that the above listed ground for a contest has been met and shall be a final administrative order, with no administrative right of appeal.

E. Failure to Pay Fine. If said fine is not paid within 30 days from the date appearing on the notice of the fine or of the notice of determination of the Director of the Environmental Health Division or his or her designee after the hearing, the fine shall be referred to a collection agency.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional..

SECTION 3. CEQA REVIEW. The necessary CEQA review and associated findings are located in City of Brisbane Resolution No. 2013-05.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect ninety (90) days after its passage and adoption.

* * * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2013, by the following vote:

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AYES:
NOES:
ABSENT:
ABSTAIN:

Raymond C. Miller, Mayor

ATTEST:

Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:

Harold S. Toppel, City Attorney

RESOLUTION NO. 2013-05

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE
MAKING CEQA FINDINGS FOR ADOPTION OF CHAPTER 8.17 (REUSABLE BAGS)
OF TITLE 8 (HEALTH AND SAFETY) TO THE MUNICIPAL CODE**

WHEREAS, the use of single-use carryout bags by consumers at retail establishments is detrimental to the environment, public health and welfare; and

WHEREAS, the manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions; and

WHEREAS, single-use carryout bags contribute to environmental problems, including litter in storm-drains, creeks, the bay and the ocean; and

WHEREAS, the City of Brisbane has a substantial interest in protecting its residents and the environment from negative impacts from plastic carryout bags; and

WHEREAS, the San Mateo County Board of Supervisors approved an Environmental Impact Report (“EIR”), and on November 6, 2012 adopted Ordinance No. 04637 banning single-use carryout bags from stores, while requiring stores that provide reusable bags to charge customers ten cents (\$.10) per bag initially and (\$.25) after January 1, 2015; and

WHEREAS, the County’s EIR specifically analyzed the possibility of 24 cities (18 cities within San Mateo County and six cities in Santa Clara County), including the City of Brisbane, adopting the County’s ordinance within their own jurisdictions; and

WHEREAS, the San Mateo County Board of Supervisors’ October 23, 2012 “CEQA Findings of Fact for the Reusable Bag Ordinances” found that their Ordinance will not result in any significant effect on the environment, will not be growth-inducing, and will not result in significant irreversible changes to the environment; and

WHEREAS, the City of Brisbane intends for the adoption of Chapter 8.17 to fall within the scope of the County’s EIR and has therefore modeled this Chapter on the County’s Ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brisbane as follows:

1. The City Council does find and declare that it should restrict the use of single use carry-out bags as set forth in proposed Brisbane Municipal Code Chapter 8.17.

2. On October 23, 2012, the County of San Mateo County adopted a Program Environmental Impact Report (“EIR”) that analyzed the impacts of restricting the use of single use carry-out bags in cities throughout the County of San Mateo as well as neighboring jurisdictions. The EIR was adopted pursuant to the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* (“CEQA”) and the CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 *et seq.* It is incorporated by reference herein.

3. Pursuant to Section 15096 of the CEQA Guidelines, the City of Brisbane acts as a responsible agency for adoption of this ordinance within the City of Brisbane. Upon independent review of the EIR and all the evidence before it, the City Council makes the following findings:

- a) The Final Program Environmental Impact Report (“Final Program EIR”) is complete, correct, adequate, and prepared in accordance with CEQA, 14 California Code of Regulations section 15000 *et seq.* (“CEQA Guidelines”).
- b) On the basis of the Initial Study, Notice of Preparation, Final Program EIR, and public comment received by both the County of San Mateo and the City of Brisbane, there is no substantial evidence that the project as proposed will have a significant effect on the environment.
- c) Adoption of Chapter 8.17 of the Brisbane Municipal Code and analysis of the EIR reflects the independent judgment of the City Council of the City of Brisbane.
- d) None of the conditions listed in CEQA Guidelines section 15162(a) are applicable to adoption of this Chapter, and adoption of this Chapter is an activity that is part of the program examined by the County’s Final Program EIR and is within the scope of the project described in the County’s Final Program EIR.
- e) A Notice of Determination shall be filed pursuant to CEQA Guidelines sections 15094 and 15096.

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Raymond C. Miller, Mayor

I hereby certify that the foregoing Resolution No. 2013-05, was duly and regularly adopted at a regular meeting of the Brisbane City Council on March 4, 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Sheri Marie Spediacci, City Clerk

City of Brisbane

Agenda Report

TO: Honorable Mayor and City Council

FROM: Director of Public Works/City Engineer via City Manager

SUBJECT: Addition of Chapter 8.17 "Reusable Bags" to Municipal Code

DATE: February 19, 2013

City Council Goals:

To develop plans and pursue opportunities to protect natural resources. (#8)

To promote intergovernmental opportunities that enhances services and/or reduces cost of operations and services to city residents. (#10)

Purpose:

To obtain Council's initial approval for adopting a new Chapter to the Brisbane Municipal Code that will generally ban the free distribution of single-use plastic bags by retail businesses. The requested action is consistent with the community's values of being environmentally progressive, and making decisions that are propelled by stewardship of the environment.

Recommendation:

1. Open the Public Hearing and take comments.
2. Close the Public Hearing.
3. Motion to make the findings required pursuant to section 15096 of the CEQA Guidelines for the addition and adoption of Chapter 8.17 to the Municipal Code.
4. Motion to introduce Ordinance No. 580, waiving first reading, adding Chapter 8.17 "Reusable Bags" to the Municipal Code.

Background:

Plastic and Paper Shopping Bag Background

Plastic Shopping Bags are heavily used and then discarded in the garbage and landfills in California. One estimate states that almost all of the 400 plastic shopping bags that are used each second in the state are not recycled. These plastic bags create litter and can adversely affect marine life if they find their way into waterways and bodies. Plastic bags

are a common litter item found in creek, lagoon, and bay cleanups. Recycling facilities have problems with material that comes into their facilities in plastic bags. The City of San Jose no longer collects plastic bags at curbside for recycling because the single-use plastic carryout bags interfere with the recycling facility's machinery and often jams the screens used to separate materials, which is expensive to repair.

Supporters of plastic bag bans encourage shoppers to bring reusable bags with them when shopping. A reusable bag is said to have the potential to replace over 600 single-use plastic bags over its lifetime, significantly reducing plastic bag litter. Paper bags are also viewed as "problematic", taking 14 million trees each year in the United States to produce a year's supply of paper bags for retail use. In comparison, reusable bags reduce litter and conserve natural resources.

Opponents of legislative proposals and local ordinances to ban plastic bags at retail businesses say there are several reasons why these bans should not be passed. The opponents say that the vast majority of plastic bags in the United States are made from ethane which is a waste by-product from domestically produced natural gas. If the ethane is not used to make plastic bags it has to be burned off to be disposed. The industry says that the death of sea birds and sea mammals are caused by "discarded nets" at sea not plastic bag debris. Plastic bags (and all other bags) do not "clog up" landfills – these bags only make up 0.4% of landfill material. Paper bags cause 3.3 times more greenhouse gas (GHG) emissions into the environment than plastic bags do. Promoting the use of reusable bags is not expected to reduce the potential indirect impact of the recommended ordinances to GHG emissions below the level of significance.

Some stores now offer recycling of plastic bags when returned to the store. Ordinances that do not include a paper bag fee of at least 25 cents per bag do not discourage the use of paper bags and encourage the use of reusable bags.

California Plastic Bag Ordinances

Twenty (20) cities in California (Carpinteria, Dana Point, Calabasas, Encinitas, Fairfax, Long Beach, Laguna Beach, Ojai, Pasadena, Los Angeles, Malibu, Manhattan Beach, Monterey, Oakland, Palo Alto, San Francisco, San Jose, Sunnyvale, Santa Monica and recently Millbrae) and 6 California counties (Alameda, Los Angeles, Marin, Santa Clara, Santa Cruz and San Luis Obispo) have ordinances that ban the use of plastic bags and in some cases all single use shopping bags in their communities. If all of the San Mateo County cities and Santa Clara County cities adopt the County ordinance, there would be a total of 43 California cities and 7 Counties that have adopted single use bag ordinances.

Interest in San Mateo County

In San Mateo County, several cities have been exploring an Ordinance Banning Single Use Plastic Shopping Bags over the last year, including the neighboring cities of South San Francisco and Daly City. Late last year, the County began work on the development of a Model Single Use Bag Ordinance and a multi-agency Environmental Impact Report. A letter from County Supervisor Carole Groom requesting City interest in this program generally drew positive responses from cities in the County.

At a meeting held in January 2012 by County Environmental Health Director Dean Peterson, 14 of the 20 cities in the County were in attendance, with most expressing their support for a Model Ordinance in the County. After the meeting, additional cities have contacted the County, leading them to include all 18 cities that have retail establishments in their cities (Atherton and Hillsborough do not) for a Model County Plastic Bag Ban Ordinance. Cities in Santa Clara County asked to be included, and ultimately 6 cities were. Below is a list of cities participating:

Participating Municipalities, in Addition to the County of San Mateo, in the Program EIR		
San Mateo County		Santa Clara County
• Belmont	• Millbrae	• Milpitas
• Brisbane	• Pacifica	• Cupertino
• Burlingame	• Portola Valley	• Los Gatos
• Colma	• Redwood City	• Los Altos
• Daly City	• San Bruno	• Campbell
• East Palo Alto	• San Carlos	• Mountain View
• Foster City	• San Mateo	
• Half Moon Bay	• South San Francisco	
• Menlo Park	• Woodside	

Discussion:

Proposed Ordinance

The proposed ordinance would:

Prohibit the free distribution of Single-Use Carryout Plastic Bags by all Retail Businesses;

Require retail establishments to charge customers for recycled paper bags and reusable bags at the point of sale (The minimum charge would be 10 cents per bag until December 31, 2014 and 25 cents per bag thereafter);

Allow stores to sell Paper Bags if they are made of at least 40 percent post-consumer recycled content (higher recycled content is problematic since fibers become too short to bind together);

Require retailers to keep a record of paper bags that are sold to customers;

Allow “protective” plastic or paper bags, without handles, for items such as meat, fresh produce, prepared food, and prescription medication. Garment bags are also exempt;

Exempt customers purchasing food with WIC and Cal Fresh food stamps;

Exclude restaurants, take-out food establishments, or any other business that receives 90% of its revenue from the sale of prepared food to be eaten on or off premises;

Exclude charitable re-use organizations; and

Provide for fines in the amounts specified in Brisbane Municipal Code section 1.14.030.

A benefit to working with the County and other cities is that retailers in San Mateo County would have a uniform standard to follow. The County is offering to perform the education, outreach and enforcement of the Model Ordinance. Staff believes that the possibility of a uniform ordinance, outreach, implementation and enforcement (if needed) will be very compelling to retailers in Brisbane. The benefits of a multi-agency standard ordinance, the avoidance of the cost of a City-specific EIR process, and County-funded outreach, implementation and enforcement outweigh any benefits to the City pursuing an ordinance on its own.

Outreach

Public advertisement for the County scoping meetings for the EIR and for the availability of the draft EIR for comment was significant, and as noted in the staff report attachments, the California Grocers Association is aware of and supports a consistent approach countywide to this issue. Early in the process of considering our participation, Brisbane staff did consult with the Brisbane Chamber of Commerce and were advised that its members did not have significant concerns regarding the proposal.

Dean Peterson, San Mateo County Director of Environmental Health, briefed the city’s Open Space and Ecology Committee on the status of the County’s Ordinance on December 11, 2012. The Committee voted unanimously to recommend that the City Council adopt the County’s Reusable Bag ordinance.

If the proposed City ordinance is favorably introduced, city staff will provide an updated information sheet to local businesses through the business registration renewal process, and by hand or email delivery to local store managers. Outreach by the County is expected to continue through April of this year.

CEQA Analysis

Explanation of the Process

The County prepared and certified a Program Environmental Impact Report for the proposed ordinance. The Final Program EIR examined the potential environmental impacts associated with the adoption of the proposed ordinance in the Program EIR Study Area, which consists of the County, the 18 cities within the County, and the six neighboring cities listed above. Prior to the preparation of the Draft Program EIR, scoping meetings were held throughout the County. The Draft Program EIR was issued with a 45-day public review period, from June 22, 2012 to August 6, 2012. The Final Program EIR, which incorporates the Draft Program EIR by reference, as well as responses to comments received on the Draft Program EIR, was issued with a 10-day public review period from August 31, 2012 to September 10, 2012. Due to the size of these documents, they are not included as attachments to this staff report but are available online on the Bag Ban webpage on the San Mateo County Environmental Health website at the following address: <http://smchealth.org/BagBan>

A Program EIR is appropriate where, as here, there is a series of actions that can be characterized as one large project and are related in connection with the issuance of rules or regulations that govern the conduct of a continuing program. (CEQA Guidelines 15168(a).) For the City of Brisbane to be able to use the Program EIR as the CEQA analysis of any impacts from the adoption of the proposed ordinance for the City, the City Council must find that (1) the proposed ordinance is within the scope of the program examined in the program EIR, and (2) no new effects not examined in the program EIR will occur and no new mitigation measures are required. (CEQA Guideline §15168(c)(1)-(2).)

Findings in the Program EIR

The Final Program EIR estimated the volume of current plastic bag usage within the Study Area at 552 million bags per year. With the proposed ordinance's regulations in effect, it is estimated that 95 percent of that volume would be replaced by a combination of paper (165,879,409) and reusable (6,911,642) bags, leaving 27 million plastic bags still used each year. In certifying the Final Program EIR, the County Board of Supervisors found the following impacts from adopting the proposed ordinance by the Board of Supervisors:

Air Quality: (1) A beneficial impact associated with the reduction in emissions due to a reduction in the total number plastic bags manufactures; and (2) A less than significant impact associated with an increase in emissions resulting from increased truck trips to deliver recycled paper and reusable carryout bags to local retailers.

Biological Resources: A beneficial impact associated with the reduction in the amount of single-use plastic bags entering the coastal and bay habitat as litter.

Greenhouse Gas (GHG) Emissions: A less than significant impact associated with GHG emissions due to an increase in the manufacturing of single-use paper bags.

Hydrology/Water Quality: (1) A beneficial impact associated with a reduction in the amount of litter and waste entering storm drains; and (2) A less than significant impact due to an increase in the use of chemicals associated with an increase in production of recyclable paper bags.

Utilities and Service Systems: (1) A less than significant impact due to increased water usage resulting from washing of reusable bags; (2) A less than significant impact due to increased wastewater generation resulting from the washing of reusable bags; and (3) A less than significant impact due to an increase in solid waste generation resulting from increased usage of paper bags.

None of the impacts require mitigation because they are all either beneficial or less than significant.

Recommended Findings

Staff recommends that the City Council use its independent judgment to make the following findings (all as delineated in Section 3 of proposed Ordinance 580), based on substantial evidence in the record:

Pursuant to Section 15096 of the CEQA Guidelines, the City of Brisbane acts as a responsible agency for adoption of this ordinance within the City of Brisbane. Upon independent review of the EIR and all the evidence before it, the City Council makes the following findings:

- 1) The Final Program Environmental Impact Report (“Final Program EIR”) is complete, correct, adequate, and prepared in accordance with CEQA, 14 California Code of Regulations section 15000 et seq. (“CEQA Guidelines”), and the public comment period; and
- 2) On the basis of the Initial Study, Notice of Preparation, Final Program EIR, and public comment received by both the County of San Mateo and the City of Brisbane, there is no substantial evidence that the project as proposed will have a significant effect on the environment; and
- 3) Adoption of this ordinance and analysis of the EIR reflects the independent judgment of the City Council of the City of Brisbane; and
- 4) None of the conditions listed in CEQA Guidelines section 15162(a) are applicable to adoption of this Ordinance, and adoption of this Ordinance is an activity that is part of the program examined by the County’s Final Program EIR and is within the scope of the project described in the County’s Final Program EIR.
- 5) A Notice of Determination shall be filed pursuant to CEQA Guidelines sections 15094 and 15096.

ALTERNATIVES

The following three alternative courses of action are available to the City Council for the single use bag ordinance:

1. Adopt the ordinance, but make the effective date April 22, 2013 (Earth Day, 2013) in conformance with the County's effective date for the unincorporated areas. The ordinance is presently drafted with an effective date of ninety (90) days after passage and adoption to allow for public outreach.
2. Adopt the ordinance with changes. This alternative is not recommended for two reasons. First, it will require the City to prepare a Subsequent or Supplemental EIR, which is expensive and time-consuming. Second, the City could expect opposition from retailers who prefer uniform, countywide regulations.
3. Not adopt the ordinance and continue to allow the use of plastic bags by retailers. This option will prevent the City from meeting the goals of reducing trash from the storm drain system by 40% before July 1, 2014, 70% by 2017, and 100% by 2020, as required under the Municipal Regional Stormwater NPDES Permit, also known as the Municipal Regional Permit (MRP). In addition, Brisbane would be an island within the surrounding cities and un-incorporated areas where plastic bags would still be available. This is contrary to correspondence received by the County from the Grocer's Association, which would prefer uniform regulations Countywide.

Fiscal Impact:

Adopting this ordinance will not have a material impact on the City's budget since San Mateo County would provide enforcement of the ordinance requirements.

Measure of Success

An apparent reduction of single-use bag trash within the city, its waterways, and the surrounding bay and environment.

Attachments:

- A. Ordinance No. 580
- B. Executive Summary from San Mateo County Draft PEIR
- C. San Mateo County Ordinance No. 04637
- D. Board of Supervisors CEQA Findings of Fact for Reusable Bag Ordinance
- E. Support Letter – California Grocers Association to Supervisor Tissier
- F. Support Letter – Board of Supervisors to City of Brisbane
- G. Support Letter – SFB RWQCB Asst Executive Officer to City of Brisbane

Web addresses for Environmental Documents:

San Mateo County Single Use Bag Ban Ordinance Draft PEIR:

http://smchealth.org/sites/default/files/docs/EHS/SanMateoCountySingleUseBagBanOrdinance_DEIR%5B1%5D.pdf

San Mateo County Reusable Bag Ordinance (Formerly Single Use Bag Ban Ordinance) Final PEIR:

<http://smchealth.org/sites/default/files/docs/EHS/SanMateoCountyReusableBagOrdinanceFinalProgramEIR.pdf>

Director of Public Works/City Engineer

City Manager

A copy of supporting materials provided to the City Manager and Council Persons in connection with this agenda item is available for public inspection and copying at 50 Park Place, City of Brisbane Department of Public Works, Brisbane, CA, 94005, Telephone: (415) 508-2130.

ORDINANCE NO. 580

**AN ORDINANCE OF THE CITY OF BRISBANE
ADDING CHAPTER 8.17 (REUSABLE BAGS) OF
TITLE 8 (HEALTH AND SAFETY) TO THE
MUNICIPAL CODE**

The City Council of the City of Brisbane does hereby ordain as follows:

SECTION 1. MUNICIPAL CODE AMENDMENT. Chapter 8.17 of the Municipal Code, entitled "Reusable Bags," is hereby added as follows:

**Chapter 8.17
REUSABLE BAGS**

Sections:

8.17.010	Findings and Purpose
8.17.020	Definitions
8.17.030	Enforcement
8.17.040	Single-use carry-out bag
8.17.050	Recordkeeping and Inspection
8.17.060	Administrative Fine
8.17.070	Severability

§8.17.010 Findings and Purpose.

The City Council of the City of Brisbane finds that:

- A. The use of single-use carryout bags by consumers at retail establishments is detrimental to the environment, public health and welfare.
- B. The manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions.
- C. Single-use carryout bags contribute to environmental problems, including litter in storm-drains, creeks, the bay and the ocean.
- D. Single-use carryout bags provided by retail establishments impose unseen costs on consumers, local governments, the state and taxpayers and constitute a public nuisance.

E. The City of Brisbane has a substantial interest in protecting its residents and the environment from negative impacts from plastic carryout bags.

F. On October 23, 2012 the San Mateo County Board of Supervisors approved an Environmental Impact Report ("EIR") and adopted an ordinance banning single-use carryout bags from stores, while requiring stores that provide reusable bags to charge customers ten cents (\$.10) per bag initially and (\$.25) after January 1, 2015.

G. The County's EIR specifically analyzed the possibility of 24 cities (18 cities within San Mateo County and six cities in Santa Clara County), including the City of Brisbane, adopting the County's ordinance within their own jurisdictions.

H. On November 6, 2012, San Mateo County adopted Reusable Bag Ordinance No. 04637 banning single-use carryout bags from stores, while requiring stores to provide reusable bags.

I. The City of Brisbane intends this Ordinance to fall within the scope of the County's EIR and has therefore modeled this Ordinance on the County's ordinance.

J. The City Council does find and declare that it should restrict the single use carry-out bags as set forth in this ordinance.

§8.17.020 Definitions.

When used in this Chapter, the following words shall have the meanings ascribed to them in this Section:

A. "Customer" means any person obtaining goods from a retail establishment.

B. "Garment Bag" means a travel bag made of pliable, durable material with or without a handle, designed to hang straight or fold double and used to carry suits, dresses, coats, or the like without crushing or wrinkling the same.

C. "Nonprofit charitable re-user" means a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than fifty percent of its revenues from the handling and sale of those donated goods or materials.

D. "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.

E. "Prepared food" means foods or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. "Prepared food" does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.

F. "Public eating establishment" means a restaurant, take-out food establishment, or any other business that receives ninety percent or more of its revenue from the sale of prepared food to be eaten on or off its premises.

G. "Recycled paper bag" means a paper bag provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment that contains no old growth fiber and a minimum of forty percent post-consumer recycled content; is one hundred percent recyclable; and has printed in a highly visible manner on the outside of the bag the words "Reusable" and "Recyclable," the name and location of the manufacturer, and the percentage of post-consumer recycled content.

H. "Retail establishment" means any commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the customer; and is located within or doing business within the geographical limits of the City of Brisbane. "Retail establishment" does not include public eating establishments or nonprofit charitable re-users.

I. "Reusable bag" means either a bag made of cloth or other machine washable fabric that has handles, or a durable plastic bag with handles that is at least 2.25 mil thick and is specifically designed and manufactured for multiple reuse. A garment bag may meet the above criteria regardless of whether it has handles or not.

J. "Single-use carry-out bag" means a bag other than a reusable bag provided at the check stand, cash register, point of sale or other point of departure, including departments within a store, for the purpose of transporting food or merchandise out of the establishment. "Single-use carry-out bags" do not include bags without handles provided to the customer: (1) to transport prepared food, produce, bulk food or meat from a department within a store to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a reusable bag or recycled paper bag

§8.17.030 Enforcement.

The County of San Mateo's Environmental Health Division, its officers, employees and agents are hereby authorized to enforce, on behalf of the City of Brisbane, this Chapter and any amendments thereto, within the jurisdictional boundaries of the City of Brisbane. Such enforcement authority includes, but is not limited to, the collection of fees and fines, and the authority to hold hearings and issue administrative fines for violations of this Chapter within the geographical limits of the City of Brisbane.

§8.17.040 Single-use carry-out bag.

A. No retail establishment shall provide a single-use carry-out bag to a customer, at the check stand, cash register, point of sale or other point of departure for

the purpose of transporting food or merchandise out of the establishment except as provided in this section.

B. On or before December 31, 2014 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of ten cents.

C. On or after January 1, 2015 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of twenty-five cents.

D. Notwithstanding this section, no retail establishment may make available for sale a recycled paper bag or a reusable bag unless the amount of the sale of such bag is separately itemized on the sale receipt.

E. A retail establishment may provide one or more recycled paper bags at no cost to any of the following individuals: a customer participating in the California Special Supplement Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code; a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code; and a customer participating in Calfresh pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the California Welfare and Institutions Code.

§8.17.050 Recordkeeping and Inspection.

Every retail establishment shall keep complete and accurate record or documents of the purchase and sale of any recycled paper bag or reusable bag by the retail establishment, for a minimum period of three years from the date of purchase and sale, which record shall be available for inspection at no cost to the County during regular business hours by any County employee authorized to enforce this part. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the retail establishment address. The provision of false information including incomplete records or documents to the County shall be a violation of this Chapter.

§8.17.060 Administrative Fine.

A. Grounds for Fine. A fine may be imposed upon findings made by the Director of the Environmental Health Division, or his or her designee, that any retail establishment has provided a single-use carry-out bag to a customer in violation of this Chapter.

B. Amount of Fine. Upon findings made under subsection A., the retail establishment shall be subject to an administrative fine in an amount not to exceed the

amounts set forth in section 1.14.030 of the Brisbane Municipal Code as penalties for an infraction.

C. Separate Violations. Each day that a retail establishment has provided single-use carry-out bags to a customer constitutes a separate violation.

D. Fine Procedures. Notice of the fine shall be served on the retail establishment. The notice shall contain an advisement of the right to request a hearing before the Director of the Environmental Health Division or his or her designee contesting the imposition of the fine. The grounds for the contest shall be that the retail establishment did not provide a single-use carry-out bag to any customer. Said hearing must be requested within ten days of the date appearing on the notice of the fine. The decision of the Director of the Environmental Health Division shall be based upon a finding that the above listed ground for a contest has been met and shall be a final administrative order, with no administrative right of appeal.

E. Failure to Pay Fine. If said fine is not paid within 30 days from the date appearing on the notice of the fine or of the notice of determination of the Director of the Environmental Health Division or his or her designee after the hearing, the fine shall be referred to a collection agency.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Brisbane hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases may be held invalid or unconstitutional..

SECTION 3. CEQA REVIEW. On October 23, 2012, the County of San Mateo County adopted a Program Environmental Impact Report ("EIR") that analyzed the impacts of this reusable bag ordinance if adopted in cities throughout the County of San Mateo as well as neighboring jurisdictions. The EIR was adopted pursuant to the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* ("CEQA") and the CEQA Guidelines, California Code of Regulations, Title 14, Section 15000 *et seq.* It is incorporated by reference herein.

Pursuant to Section 15096 of the CEQA Guidelines, the City of Brisbane acts as a responsible agency for adoption of this ordinance within the City of Brisbane. Upon independent review of the EIR and all the evidence before it, the City Council makes the following findings:

- 1) The Final Program Environmental Impact Report ("Final Program EIR") is complete, correct, adequate, and prepared in accordance with CEQA, 14 California

Code of Regulations section 15000 et seq. ("CEQA Guidelines"), and the public comment period; and

- 2) On the basis of the Initial Study, Notice of Preparation, Final Program EIR, and public comment received by both the County of San Mateo and the City of Brisbane, there is no substantial evidence that the project as proposed will have a significant effect on the environment; and
- 3) Adoption of this ordinance and analysis of the EIR reflects the independent judgment of the City Council of the City of Brisbane; and
- 4) None of the conditions listed in CEQA Guidelines section 15162(a) are applicable to adoption of this Ordinance, and adoption of this Ordinance is an activity that is part of the program examined by the County's Final Program EIR and is within the scope of the project described in the County's Final Program EIR.
- 5) A Notice of Determination shall be filed pursuant to CEQA Guidelines sections 15094 and 15096.

SECTION 4. EFFECTIVE DATE. This Ordinance shall be in full force and effect ninety (90) days after its passage and adoption.

* * * *

The above and foregoing Ordinance was regularly introduced and after the waiting time required by law, was thereafter passed and adopted at a regular meeting of the City Council of the City of Brisbane held on the _____ day of _____, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Raymond C. Miller, Mayor

ATTEST:

Sheri Marie Spediacci, City Clerk

APPROVED AS TO FORM:

Harold S. Toppel, City Attorney

EXECUTIVE SUMMARY

This section summarizes the characteristics of the proposed ordinance and the significant environmental impacts, mitigation measures, and residual impacts associated with the proposed Single Use Bag Ban Ordinance.

PROJECT SYNOPSIS

Project Sponsor

County of San Mateo Health System
Environmental Health Services
2000 Alameda de las Pulgas, Suite 100
San Mateo, CA 94403
Contact: Dean D. Peterson, Director
(650) 372-6200

Project Characteristics

The proposed Single Use Bag Ban Ordinance ("Proposed Ordinance") would regulate the use of paper and plastic single-use carryout bags within the participating municipalities. Participating municipalities include the County of San Mateo and 24 cities in San Mateo and Santa Clara Counties (see full list of participating municipalities in Section 2.0, *Project Description*). For the purposes of this Program EIR, the geographical limits of unincorporated San Mateo County and all of the participating municipalities listed above shall be known as the "Study Area". The Proposed Ordinance would apply to all retail establishments located within the limits of the Study Area, including those selling clothing, food, and personal items directly to the customer. It would not apply to restaurants. The Proposed Ordinance would (1) prohibit the free distribution of single-use carryout paper and plastic bags and (2) require retail establishments to charge customers for recycled paper bags and reusable bags at the point of sale. The minimum charge would be ten cents (\$0.10) per paper bag until December 31, 2014 and twenty-five cents (\$0.25) per paper bag on or after January 1, 2015.

The intent of the Proposed Ordinance is to reduce the environmental impacts related to the use of single-use carryout bags, and to promote a shift toward the use of reusable bags. It is anticipated that by prohibiting single-use plastic carryout bags and requiring a mandatory charge for each paper bag distributed by retailers, the Proposed Ordinance would provide a disincentive to customers to request paper bags when shopping at regulated stores and promote a shift to the use of reusable bags by retail customers, while reducing the number of single-use plastic and paper bags within the Study Area.

Single-use plastic carryout bags are defined as bags made from petroleum or bio-based plastic that are less than 2.25 mils thick (0.00225 inches). The Proposed Ordinance would prohibit retailers from distributing both petroleum and bio-based single-use carryout plastic bags at the point of sale. The Proposed Ordinance would not prohibit the distribution of plastic "product bags", as defined, which includes bags without handles provided to a customer (1) to transport prepared food, produce, bulk food or meat from a department within a store to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or



merchandise that could damage or contaminate other food or merchandise when placed together in a reusable bag or recycled paper bag. The Proposed Ordinance would not apply to restaurants and other food service providers, allowing them to provide plastic bags to customers for prepared take-out food intended for consumption off of the food provider's premises.

As noted above, the Proposed Ordinance would require regulated retailers to impose a mandatory charge for each paper carryout bag provided. Retail establishments would be required to keep a complete and accurate record (including documents of the purchase and sale of any recycled paper bag or reusable bag) for a minimum period of three years from the date of purchase and sale. The record must be available for inspection during regular business hours by any County employee authorized to enforce this part at no cost to the County. The charge would be retained by the affected stores to compensate the stores for increased costs related to compliance with the Proposed Ordinance, actual costs associated with providing recyclable paper carryout bags or reusable bags, and costs associated with a store's educational materials or education campaign encouraging the use of reusable bags.

PROJECT OBJECTIVES

The County of San Mateo's and the participating cities' objectives for the Proposed Ordinance include:

- Reducing the amount of single-use plastic bags in trash loads (e.g., landfills), in conformance with the trash load reduction requirements of the NPDES Municipal Regional Permit
- Reducing the environmental impacts related to single-use plastic carryout bags, such as impacts to biological resources (including marine environments), water quality and utilities (solid waste)
- Deterring the use of paper bags by customers in the respective jurisdictions
- Promoting a shift toward the use of reusable carryout bags by retail customers in the respective jurisdictions
- Avoiding litter and the associated adverse impacts to stormwater systems, aesthetics and the marine environment (San Francisco Bay and the Pacific Ocean)

ALTERNATIVES

As required by CEQA, the EIR examines a range of alternatives to the proposed project that feasibly attain most of the basic project objectives. These alternatives are described and evaluated in Section 6.0, *Alternatives*. Studied alternatives include:

- *Alternative 1: No Project* - The no project alternative assumes that the Single Use Bag Ban Ordinance would not occur. The existing retail establishments would continue to provide single-use bags free of charge to the customers.



- *Alternative 2: Ban on Single-Use Plastic Bags at all Retail Establishments - This alternative would prohibit all retail establishments in the Study Area from providing single-use plastic bags to customers at the point of sale, including restaurants and other retailers not covered by the Proposed Ordinance.*
- *Alternative 3: Mandatory Charge of \$0.25 for Paper Bags - This alternative would continue to prohibit retail establishments (except restaurants) in the Study Area from providing single-use plastic bags to customers at the point of sale, but would increase the mandatory charge for single-use paper bags from \$0.10 to \$0.25.*
- *Alternative 4: Ban on Both Single-use Plastic and Paper Carryout Bags - This alternative would prohibit all retail establishments (except restaurants) in the Study Area from providing single-use plastic and paper carryout bags to customers at the point of sale.*

SUMMARY OF SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Table ES-1 includes a brief description of the environmental issues relative to the Proposed Ordinance, the identified significant environmental impacts, proposed mitigation measures, and residual impacts. Impacts are categorized by classes. Class I impacts are defined as significant, unavoidable adverse impacts which require a statement of overriding considerations to be issued pursuant to the *CEQA Guidelines* §15093 if the project is approved. Class II impacts are significant adverse impacts that can be feasibly mitigated to less than significant levels and which require findings to be made under Section 15091 of the *CEQA Guidelines*. Class III impacts are considered less than significant impacts, and Class IV impacts are beneficial impacts.



Table ES-1 Summary of Significant Environmental Impacts, Mitigation Measures, and Residual Impacts		
Impact	Mitigation Measures	Significance After Mitigation
AIR QUALITY		
Impact AQ-1 With a shift toward reusable bags, the Proposed Ordinance is expected to substantially reduce the number of single-use carryout bags, thereby reducing the total number of bags manufactured and the overall air pollutant emissions associated with bag manufacture, transportation and use. Therefore, air quality impacts related to alteration of processing activities would be Class IV, <i>beneficial</i> .	Mitigation is not required.	The impact would be beneficial without mitigation.
Impact AQ-2 With an expected increase in the use of recyclable paper bags, the Proposed Ordinance would generate air pollutant emissions associated with an incremental increase in truck trips to deliver recycled paper and reusable carryout bags to local retailers. However, emissions would not exceed BAAQMD operational significance thresholds. Therefore, operational air quality impacts would be Class III, <i>less than significant</i> .	Mitigation is not required.	Impacts would be less than significant without mitigation.
BIOLOGICAL RESOURCES		
Impact BIO-1 Although the Proposed Ordinance would incrementally increase the number of recycled paper and reusable bags within the Study Area, the reduction in the amount of single-use plastic bags would be expected to reduce the overall amount of litter entering the coastal and bay habitat, thus reducing litter-related impacts to sensitive wildlife species and sensitive habitats. This is a Class IV, <i>beneficial, effect</i> .	Mitigation is not required.	The impact would be beneficial without mitigation.
GREENHOUSE GAS EMISSIONS		
Impact GHG-1 The Proposed Ordinance would increase the number of recyclable paper bags used in the Study Area. Implementation of the Proposed Ordinance would incrementally increase GHG emissions compared to existing conditions. However, emissions would not exceed thresholds of significance. Impacts	Mitigation is not required.	The impact would be less than significant without mitigation.



Table ES-1 Summary of Significant Environmental Impacts, Mitigation Measures, and Residual Impacts		
Impact	Mitigation Measures	Significance After Mitigation
would be Class III, <i>less than significant</i> .		
Impact GHG-2 The Proposed Ordinance would not conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of GHGs. Impacts would be Class III, <i>less than significant</i> .	Mitigation is not required.	The impact would be less than significant without mitigation.
HYDROLOGY/WATER QUALITY		
Impact HWQ-1 The Proposed Ordinance would incrementally increase the number of recycled paper and reusable bags used in the Study Area, but the reduction in the overall number of single-use plastic bags used in the Study Area would reduce the amount of litter and waste entering storm drains. This would improve local surface water quality, a Class IV, <i>beneficial</i> , effect.	Mitigation is not required.	The impact would be beneficial without mitigation.
Impact HWQ-2 A shift toward reusable bags and potential increase in the use of recyclable paper bags could potentially increase the use of chemicals associated with their production, which could degrade water quality in some instances and locations. However, bag manufacturers would be required to adhere to existing regulations, including NPDES Permit requirements, AB 258, and the California Health and Safety Code. Therefore, impacts to water quality from altering bag processing activities would be Class III, <i>less than significant</i> .	Mitigation is not required.	Impacts would be less than significant without mitigation.
UTILITIES AND SERVICE SYSTEMS		
Impact U-1 The increase of reusable bags within the Study Area as a result of the Proposed Ordinance would incrementally increase water demand due to washing of reusable bags by a negligible amount. However, sufficient water supplies are available to meet the demand created by reusable bags. Therefore, water supply impacts would be Class III, <i>less than significant</i> .	Mitigation is not required.	Impacts would be less than significant without mitigation.
Impact U-2 Water use associated with washing reusable bags would increase negligibly in the Study Area resulting in an increase in wastewater	Mitigation is not required.	Impacts would be less than significant without mitigation.



**Table ES-1
 Summary of Significant Environmental Impacts,
 Mitigation Measures, and Residual Impacts**

Impact	Mitigation Measures	Significance After Mitigation
<p>generation. Projected wastewater flows would remain within the capacity of the wastewater collection and treatment system of the Study Area, and would not exceed applicable wastewater treatment requirements of the RWQCB. Impacts would be Class III, <i>less than significant</i>.</p>		
<p>Impact U-3 The Proposed Ordinance would alter the solid waste generation associated with increased paper bag use in the Study Area. However, projected future solid waste generation would remain within the capacity of regional landfills. Impacts would therefore be Class III, <i>less than significant</i>.</p>	<p>Mitigation is not required.</p>	<p>Impacts would be less than significant without mitigation.</p>



ORDINANCE NO. 04637
BOARD OF SUPERVISORS, COUNTY OF SAN MATEO,
STATE OF CALIFORNIA

* * * * *

**ORDINANCE ADDING CHAPTER 4.114 (REUSABLE BAGS) OF TITLE 4
(SANITATION AND HEALTH) OF THE SAN MATEO COUNTY ORDINANCE
CODE RELATING TO REUSABLE BAGS**

The Board of Supervisors of the County of San Mateo, State of California,
ORDAINS as follows

SECTION 1. Chapter 4.114 "Reusable Bags," consisting of Sections 4.114.010 through 4.114.080, of Title 4 of the San Mateo County Ordinance Code is hereby added as follows:

4.114.010 Findings and purpose

The Board of Supervisors finds and determines that:

- (a) The use of single-use carryout bags by consumers at retail establishments is detrimental to the environment, public health and welfare.
- (b) The manufacture and distribution of single-use carryout bags requires utilization of natural resources and results in the generation of greenhouse gas emissions.
- (c) Single-use carryout bags contribute to environmental problems, including litter in stormdrains, creeks, the bay and the ocean.
- (d) Single-use carryout bags provided by retail establishments impose unseen costs on consumers, local governments, the state and taxpayers and constitute a public nuisance.

This Board does, accordingly, find and declare that it should restrict the single use carry-out bags

4.114.020 Definitions

- A. "Customer" means any person obtaining goods from a retail establishment.
- B. "Garment Bag" means a travel bag made of pliable, durable material with or

ATTACHMENT C

without a handle, designed to hang straight or fold double and used to carry suits, dresses, coats, or the like without crushing or wrinkling the same.

C. "Nonprofit charitable reuser" means a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than fifty percent of its revenues from the handling and sale of those donated goods or materials.

D. "Person" means any natural person, firm, corporation, partnership, or other organization or group however organized.

E. "Prepared food" means foods or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. "Prepared food" does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.

F. "Public eating establishment" means a restaurant, take-out food establishment, or any other business that receives ninety percent or more of its revenue from the sale of prepared food to be eaten on or off its premises.

G. "Recycled paper bag" means a paper bag provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment that contains no old growth fiber and a minimum of forty percent post-consumer recycled content; is one hundred percent recyclable; and has printed in a highly visible manner on the outside of the bag the words "Reusable" and "Recyclable," the name and location of the manufacturer, and the percentage of post-consumer recycled content.

H. "Retail establishment" means any commercial establishment that sells perishable or nonperishable goods including, but not limited to, clothing, food, and personal items directly to the customer; and is located within or doing business within the geographical limits of the County of San Mateo. "Retail establishment" does not include public eating establishments or nonprofit charitable reusers.

I. "Reusable bag" means either a bag made of cloth or other machine washable fabric that has handles, or a durable plastic bag with handles that is at least 2.25 mil thick and is specifically designed and manufactured for multiple reuse. A garment bag may meet the above criteria regardless of whether it has handles or not.

J. "Single-use carry-out bag" means a bag other than a reusable bag provided at the check stand, cash register, point of sale or other point of departure, including departments within a store, for the purpose of transporting food or merchandise out of the establishment. "Single-use carry-out bags" do not include bags without handles provided to the customer: (1) to transport prepared food, produce, bulk food or meat from a department within a store to the point of sale; (2) to hold prescription medication dispensed from a pharmacy; or (3) to segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a reusable

bag or recycled paper bag

4.114.030 Implementation Date

This Chapter shall not be implemented until April 22, 2013.

4.114.040 Single-use carry-out bag

A. No retail establishment shall provide a single-use carry-out bag to a customer, at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this section.

B. On or before December 31, 2014 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of ten cents.

C. On or after January 1, 2015 a retail establishment may only make recycled paper bags or reusable bags available to customers if the retailer charges a minimum of twenty-five cents.

D. Notwithstanding this section, no retail establishment may make available for sale a recycled paper bag or a reusable bag unless the amount of the sale of such bag is separately itemized on the sale receipt.

E. A retail establishment may provide one or more recycled paper bags at no cost to any of the following individuals: a customer participating in the California Special Supplement Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code; a customer participating in the Supplemental Food Program pursuant to Chapter 10 (commencing with Section 15500) of Part 3 of Division 9 of the California Welfare and Institutions Code; and a customer participating in CalFresh pursuant to Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the California Welfare and Institutions Code.

4.114.050 Recordkeeping and Inspection

Every retail establishment shall keep complete and accurate record or documents of the purchase and sale of any recycled paper bag or reusable bag by the retail establishment, for a minimum period of three years from the date of purchase and sale, which record shall be available for inspection at no cost to the County during regular business hours by any County employee authorized to enforce this part. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be available at the retail establishment address. The provision of false information including incomplete records or documents to the County shall be a violation of this Chapter.

4.114.060 Administrative fine

(a) Grounds for Fine. A fine may be imposed upon findings made by the Director of the Environmental Health Division, or his or her designee, that any retail establishment has provided a single-use carry-out bag to a customer in violation of this Chapter.

(b) Amount of Fine. Upon findings made under subsection (a), the retail establishment shall be subject to an administrative fine as follows:

- (1) A fine not exceeding one hundred dollars (\$100.00) for a first violation;
- (2) A fine not exceeding two hundred dollars (\$200.00) for a second violation;
- (3) A fine not exceeding five hundred dollars (\$500) for the third and subsequent violations;
- (4) Each day that a retail establishment has provided single-use carry-out bags to a customer constitutes a separate violation.

(c) Fine Procedures. Notice of the fine shall be served on the retail establishment. The notice shall contain an advisement of the right to request a hearing before the Director of the Environmental Health Division or his or her designee contesting the imposition of the fine. The grounds for the contest shall be that the retail establishment did not provide a single-use carry-out bag to any customer. Said hearing must be requested within ten days of the date appearing on the notice of the fine. The decision of the Director of the Environmental Health Division shall be based upon a finding that the above listed ground for a contest has been met and shall be a final administrative order, with no administrative right of appeal.

(d) Failure to Pay Fine. If said fine is not paid within 30 days from the date appearing on the notice of the fine or of the notice of determination of the Director of the Environmental Health Division or his or her designee after the hearing, the fine shall be referred to a collection agency.

4.114.070 Severability

If any provision of this Chapter or the application of such provision to any person or in any circumstances shall be held invalid, the remainder of this Chapter, or the application of such provision to person or in circumstances other than those as to which it is held invalid, shall not be affected thereby.

4.114.080 Enforcement

The Environmental Health Division is hereby directed to enforce this Chapter within an incorporated area of the County of San Mateo if the governing body of that incorporated area does each of the following:

(a) Adopts, and makes part of its municipal code:

- (1) Chapter 4.114 of Title 4 in its entirety by reference; or
- (2) An ordinance that contains each of the provisions of this Chapter; and

(b) Authorizes, by ordinance or resolution, the Environmental Health Division to enforce

the provision of the municipal code adopted pursuant to subsection (a) of this section, such authorization to include, without limitation, the authority to hold hearings and issue administrative fines within the affected incorporated area of the public entity.

SECTION 2. SEVERABILITY. If any provision(s) of this ordinance is declared invalid by a court of competent jurisdiction, it is the intent of the Board of Supervisors that such invalid provision(s) be severed from the remaining provisions of the ordinance and that those remaining provisions continue in effect.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be effective thirty (30) days from the passage date thereof.

**CEQA FINDINGS OF FACT
OF THE COUNTY OF SAN MATEO
BOARD OF SUPERVISORS**

**FOR THE
REUSABLE BAG ORDINANCES**

October 23, 2012

ATTACHMENT D

1. OVERVIEW AND INTRODUCTION

These findings are made with respect to the "Project Approvals" (as defined below) for the Reusable Bag Ordinances (the "Project") to be adopted by the County of San Mateo (the "County") and various municipalities in the County and in Santa Clara County and state the findings of the Board of Supervisors (the "Board") of the County relating to the potential environmental effects of the Project.

The following findings are required by the California Environmental Quality Act ("CEQA"), Public Resources Code Sections 21081, 21081.5 and 21081.6, and Title 14, California Code of Regulations (the "CEQA Guidelines") Sections 15091 through 15093, for the Project.

Pursuant to Public Resources Code Section 21081 and CEQA Guidelines Section 15091, no public agency shall approve or carry out a project where an Environmental Impact Report ("EIR") has been certified, which identifies one or more significant impacts on the environment that would occur if the Project is approved or carried out, unless the public agency makes one or more findings for each of those significant impacts, accompanied by a brief explanation of the rationale of each finding. The possible findings, which must be supported by substantial evidence in the record, are:

- a. Changes or alterations have been required in, or incorporated into, the Project that mitigate or avoid the significant impact on the environment.
- b. Changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.
- c. Specific economic, legal, social, technological or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

For those significant impacts that cannot be mitigated to below a level of significance, the public agency is required to find that the specific overriding economic, legal, social, technological, or other benefits of the Project outweigh the significant impacts on the environment. As discussed in detail below, the Project would not result in any significant unavoidable effects; all potential impacts identified by Draft Program EIR and Final Program EIR are either beneficial or less than significant such that no mitigation measures are required.

The Project EIR determines that no significant impacts on the environment would occur if the Project is approved or carried out and only identifies impacts that would be considered less than significant without need for mitigation and impacts that would be considered beneficial to the environment. Findings for each of the

impacts considered less than significant or beneficial, as accompanied by a brief explanation of the rationale of each finding, are provided below.

2. PROJECT DESCRIPTION

The proposed Reusable Bag Ordinances (“Proposed Ordinances”) would regulate the use of paper and plastic single-use carryout bags within the participating municipalities. Participating municipalities include the County of San Mateo and 24 cities in San Mateo and Santa Clara Counties:

Participating Municipalities, In Addition to the County of San Mateo, In the Program EIR		
San Mateo County		Santa Clara County
• Belmont	• Millbrae	• Milpitas
• Brisbane	• Pacifica	• Cupertino
• Burlingame	• Portola Valley	• Los Gatos
• Colma	• Redwood City	• Los Altos
• Daly City	• San Bruno	• Campbell
• East Palo Alto	• San Carlos	• Mountain View
• Foster City	• San Mateo	
• Half Moon Bay	• South San Francisco	
• Menlo Park	• Woodside	

For the purposes of the Program EIR, the geographical limits of unincorporated San Mateo County and all of the participating municipalities listed above shall be known as the “Study Area.” The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County’s Ordinance by each municipality in the Study Area, where the Proposed Ordinances would apply to all retail establishments located within the limits of the Study Area, including those selling clothing, food, and personal items directly to the customer. The Proposed Ordinances would not apply to restaurants or non-profit charitable reuse organizations. The Proposed Ordinances would (1) prohibit the free distribution of single-use carryout paper and plastic bags and (2) require retail establishments to charge customers for recycled paper bags and reusable bags at the point of sale. The minimum charge would be ten cents (\$0.10) per recycled paper bag until December 31, 2014, and twenty-five cents (\$0.25) per paper bag on or after January 1, 2015.

For the County, the Project Sponsor is the Environmental Health Services Division of the County of San Mateo Health System, where Dean D. Peterson, Director, is the project applicant.

3. PROJECT APPROVALS

The Project Approvals constitute the "Project" for purposes of CEQA and CEQA Guidelines Section 15378 and these determinations of the Board.

For unincorporated San Mateo County, the Proposed Ordinance would require an amendment to the San Mateo County Ordinance Code with discretionary approval by the San Mateo County Board of Supervisors. The following approvals would be required:

- Certification of the Final Program EIR (Board of Supervisors)
- Adoption of an Ordinance amending the Ordinance Code (Board of Supervisors)

Subsequent to adoption of the Ordinance, the County would file a Notice of Determination (NOD), as set forth in Section 21152 of the California Public Resources Code, with the San Mateo County Clerk.

For each of the 24 participating agencies, the Proposed Ordinances would require an amendment to the city's municipal code with discretionary approval by the municipality's city council. The following approvals would be required for each municipality:

- Consider the Final Program EIR (City Council)
- Adoption of an Ordinance amending the Ordinance Code (City Council)

Subsequent to adoption of the Ordinance, each municipality would file a Notice of Determination (NOD) similar to the NOD to be filed by the County as lead agency after its adoption of the Ordinance.

4. PROJECT OBJECTIVES

The County of San Mateo's and the participating cities' objectives for the Proposed Ordinances include:

- Reducing the amount of single-use plastic bags in trash loads (e.g., landfills), in conformance with the trash load reduction requirements of the National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit.
- Reducing the environmental impacts related to single-use plastic carryout bags, such as impacts to biological resources (including marine environments), water quality and utilities (e.g., solid waste).
- Minimizing the use of paper bags by customers in the participating jurisdictions.

- Promoting a shift toward the use of reusable carryout bags by retail customers in the participating jurisdictions.
- Avoiding litter and the associated adverse impacts to stormwater systems, aesthetics and the marine environment (San Francisco Bay and the Pacific Ocean).

5. RECORD OF PROCEEDINGS

For purposes of CEQA and these findings, the Record of Proceedings for the Project shall include, at a minimum, the following documents:

- The Notice of Preparation ("NOP") and all other public notices issued by the County in conjunction with the Project;
- The Single Use Bag Ban Ordinance Draft Program EIR (June 2012) and Reusable Bag Ordinance (formerly Single Use Bag Ban Ordinance) Final Program EIR (August 2012) and all documents cited or referred to therein;
- All comments submitted by agencies or members of the public during the 45-day public comment period for the Draft Program EIR;
- All comments and correspondence submitted to the County with respect to the Project, in addition to timely comments on the Draft Program EIR;
- All findings and resolutions adopted by County decision makers in connection with the Project, and all documents cited or referred to therein;
- All reports, studies, memoranda, staff reports, maps, exhibits, illustrations, diagrams or other planning materials relating to the Project prepared by the County or by consultants to the County, the applicant, or responsible or trustee agencies and submitted to the County, with respect to the County's compliance with the requirements of CEQA and with respect to the County's actions on the Project;
- All documents submitted to the County by other public agencies or members of the public in connection with the Project, up through the close of the public hearing on October 23, 2012;
- Minutes, as available, of all public meetings and public hearings held by the County in connection with the Project;
- Any documentary or other evidence submitted to the County at such information sessions, public meetings, and public hearings;

- Matters of common knowledge to the County, including, but not limited to, those cited above; and
- Any other materials required to be in the Record of Proceedings by Public Resources Code Section 21167.6, subdivision (e).

The custodian of the documents comprising the Record of Proceedings is the County's Planning and Building Department, whose office is located at 455 County Center, Second Floor, Redwood City, CA 94063.

The Board has relied on all of the documents listed above in reaching its decision on the Project.

6. PROCEDURAL HISTORY

The County released an NOP of an EIR for the Project on April 6, 2012.

Rincon Consultants, Inc., prepared a Draft Program EIR entitled "Single Use Bag Ban Ordinance Draft Program EIR" under the direction of the County Planning and Building Department. The Draft Program EIR consists of the Draft Program EIR and Appendices, consisting of Appendix A through F. The Draft Program EIR is dated June 2012.

A Notice of Completion and copies of the Draft Program EIR were delivered to the State Clearinghouse (SCH No. 2012042013) on June 22, 2012. The Draft Program EIR was circulated for a duly noticed 45-day public review period that began on June 22, 2012 and ended on August 6, 2012.

A Notice of Availability (NOA) of the Draft Program EIR was posted by the County Clerk on June 22, 2012, and published in the *San Mateo County Times* and *San Jose Mercury News* (both newspapers of general circulation serving the area in which the Project is located). The NOA of the Draft Program EIR was also sent by mail and/or electronic mail to interested parties (those who had provided comments on the NOP) and participating agencies. An electronic link to the Draft Program EIR in ".pdf" format was posted on the County's website and copies of the Draft Program EIR were made available for review at the County of San Mateo Planning and Building Department and at the following libraries in the Study Area:

Serramonte Main Library
40 Wembley Drive
Daly City, CA 94015

San Mateo Main Library
55 West Third Avenue
San Mateo, CA 94402

Millbrae Library
1 Library Avenue
Millbrae, CA 94030

Redwood City Downtown Library
1044 Middlefield Road
Redwood City, CA 94063

Half Moon Bay Library
620 Correas Street
Half Moon Bay, CA 94019

Los Gatos Public Library
Town Civic Center
100 Villa Avenue
Los Gatos, CA 95030

Mountain View Library
585 Franklin Street
Mountain View, CA 94041

Milpitas Library
160 North Main Street
Milpitas, CA 95035

The County's Planning Commission held an informational public hearing on July 11, 2012, to receive comments on the Draft Program EIR.

The County of San Mateo Planning and Building Department prepared a Final Program EIR entitled "Reusable Bag Ordinance (formerly Single Use Bag Ban Ordinance) Final Program EIR." Pursuant to Section 15132 of the California Environmental Quality Act (CEQA) Guidelines, this Final Program EIR consists of (a) revisions to the Draft Program EIR, (b) a list of persons and organizations that commented on the Draft Program EIR, (c) comments received on the Draft EIR, (d) the County's responses to significant environmental points raised in the review and consultation process, and (e) any other information added by the County. The Final Program EIR is dated August 2012.

The Final Program EIR was released and distributed to public agencies and other commenters on the Draft Program EIR and for public review, on August 31, 2012, more than 10 days in advance of the scheduled date of consideration of the document for certification by the County Board of Supervisors. Although not required by CEQA, a notice was sent by electronic mail to interested parties (those who had provided comments on the Draft EIR) and participating agencies. Copies of the Final Program EIR were made available for review at the County of San Mateo Planning and Building Department and at libraries listed above, and an electronic link to the Final Program EIR in ".pdf" format was posted on the County's website.

Copies of the Draft Program EIR and Final Program EIR, including appendices, studies, documents and reports referenced EIRs are available for public review at the Planning and Building Department, 455 County Center, Second Floor, Redwood City, CA 94063. Copies of the Draft Program EIR and Final Program EIR can also be viewed online at the following website:
<http://www.co.sanmateo.ca.us/portal/site/planning>.

The County Board of Supervisors held a public hearing on October 23, 2012 to consider the Draft Program EIR and Final Program EIR. At the conclusion of the Board of Supervisors public hearing of October 23, 2012, the Board of Supervisors certified the Final Program EIR (which incorporates the Draft Program EIR, as corrected).

7. FINDINGS OF FACT

The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County's Ordinance by each municipality in the Study Area. The following references to "Proposed Ordinance" refer to the adoption of an individual Ordinance in each participating agency of the Final Program EIR:

A. IMPACTS DECLARED TO BE BENEFICIAL (NO MITIGATION REQUIRED)

Air Quality Impacts:

- Impact AQ-1: With a shift toward reusable bags, the Proposed Ordinance is expected to substantially reduce the number of single-use carryout bags, thereby reducing the total number of bags manufactured and the overall air pollutant emissions associated with bag manufacture, transportation and use. Therefore, air quality impacts related to alteration of processing activities would be Class IV, beneficial, effect.

Biological Resource Impacts:

- Impact BIO-1: Although the Proposed Ordinance would incrementally increase the number of recycled paper and reusable bags within the Study Area, the reduction in the amount of single-use plastic bags would be expected to reduce the overall amount of litter entering the coastal and bay habitat, thus reducing litter-related impacts to sensitive wildlife species and sensitive habitats. This is a Class IV, beneficial, effect.

Hydrology and Water Quality Impacts:

- Impact HWQ-1: The Proposed Ordinance would incrementally increase the number of recycled paper and reusable bags used in the Study Area, but the reduction in the overall number of single-use plastic bags used in the Study Area would reduce the amount of litter and waste entering storm drains. This would improve local surface water quality, a Class IV, beneficial, effect.

B. IMPACTS DECLARED TO BE LESS THAN SIGNIFICANT (NO MITIGATION REQUIRED)

The Board finds that the environmental impacts identified in the Final Program EIR as being "less than significant" or as having "no impact" have been described and analyzed accurately and are less than significant or will

have no impact for the reasons described in the Final Program EIR. Reference should be made to the Draft Program EIR and Final Program EIR for a more complete description of the findings regarding these impacts.

Specifically, the Board makes the following findings as to the following impacts:

Air Quality Impacts:

- Impact AQ-2: With an expected increase in the use of recyclable paper bags, the Proposed Ordinance would generate air pollutant emissions associated with an incremental increase in truck trips to deliver recycled paper and reusable carryout bags to local retailers. However, emissions would not exceed Bay Area Air Quality Management District (BAAQMD) operational significance thresholds. Therefore, operational air quality impacts would be Class III, less than significant.

Impacts Related to Greenhouse Gas Emissions:

- Impact GHG-1: The Proposed Ordinance would increase the number of recyclable paper bags used in the Study Area. Implementation of the Proposed Ordinance would incrementally increase GHG emissions over existing levels. However, emissions would not exceed thresholds of significance. Therefore, impacts would be Class III, less than significant.
- Impact GHG-2: The Proposed Ordinance would not conflict with any agency's applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs. Impacts would be Class III, less than significant.

Hydrology and Water Quality Impacts:

- Impact HWQ-2: A shift toward reusable bags and potential increase in the use of recyclable paper bags could potentially increase the use of chemicals associated with their production, which could degrade water quality in some instances and locations. However, bag manufacturers would be required to adhere to existing regulations, including NPDES Permit requirements, AB 258, and the California Health and Safety Code. Therefore, impacts to water quality from increasing bag processing activities would be Class III, less than significant.

Impacts to Utilities and Service Systems:

- Impact U-1: The increase of reusable bags within the Study Area as a result of the Proposed Ordinance would incrementally increase, by a negligible amount, water demand due to washing of reusable bags. However, sufficient water supplies are available to meet the negligible increase in demand created by reusable bags. Therefore, water supply impacts would be Class III, less than significant.
- Impact U-2: Water use associated with washing reusable bags would increase negligibly in the Study Area, resulting in an increase in wastewater generation. However, projected wastewater flows would remain within the capacity of the wastewater collection and treatment system of the Study Area, and would not exceed applicable wastewater treatment requirements of the RWQCB. Impacts would be Class III, less than significant.
- Impact U-3: The Proposed Ordinance would alter the solid waste generation associated with increased paper bag use in the Study Area. However, projected future solid waste generation would remain within the capacity of regional landfills. Impacts would therefore be Class III, less than significant.

8. ALTERNATIVES

The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County's Ordinance by each municipality in the Study Area. The following references to "Proposed Ordinance" refer to the adoption of an individual Ordinance in each participating agency of the Final Program EIR:

As noted above, the Project would not result in any significant unavoidable effects. All potential impacts identified by Draft Program EIR and Final Program EIR are either beneficial or less than significant such that no mitigation measures are required. In order to select and analyze alternatives that would avoid or substantially lessen any of the Project's identified less than significant adverse environmental effects, the following environmental topics for which less than significant effects were identified in Final Program EIR were considered:

- Air Quality: Pollutant emissions from paper bag manufacture and delivery.
- Greenhouse Gas Emissions: Emissions from paper bag manufacture, delivery, and degradation.
- Hydrology and Water Quality: Litter in storm drains and waterways associated with plastic and paper bags.

- Utilities and Service Systems: Water use from the manufacture of plastic and paper bags and cleaning of reusable bags, as well as wastewater generation from the cleaning of reusable bags. Solid waste from the disposal of plastic, paper and reusable bags.

The following four alternatives are evaluated in the Final Program EIR:

- Alternative 1: No Project

The no project alternative assumes that the Reusable Bag Ordinance is not adopted or implemented. Single-use plastic and paper carryout bags would continue to be available free-of-charge to customers at most retail stores throughout the Study Area. In addition, reusable carryout bags would continue to be available for purchase by retailers. Thus, it is assumed that the use of carryout bags at Study Area retail stores would not materially change compared to current conditions.

- Alternative 2: Ban on Single-Use Plastic Bags at all Retail Establishments

Similar to the proposed Reusable Bag Ordinance, this alternative would prohibit Study Area retailers from providing single-use plastic carryout bags to customers at the point of sale and create a mandatory \$0.10 charge per paper bag until December 31, 2014, and twenty-five cents (\$0.25) per paper bag on or after January 1, 2015. However, under this alternative, the Ordinance would apply to all categories of retail establishments, including restaurants and non-profit, charitable retailers. As a result, under this alternative, no single-use plastic carryout bags would be distributed at the point of sale anywhere within the Study Area.

- Alternative 3: Mandatory Charge of \$0.25 for Paper Bags

This alternative would continue to prohibit Study Area retail establishments from providing single-use plastic bags to customers at the point of sale, but would increase the mandatory charge for a single-use paper bag from \$0.10 to \$0.25 initially rather than on or after January 1, 2015. As a result of the \$0.15 mandatory charge increase per paper bag, it is anticipated that this alternative would further and more quickly promote the use of reusable bags since customers would be deterred from purchasing paper bags due to the additional cost.

- Alternative 4: Ban on Both Single-Use Plastic and Paper Carryout Bags

This alternative would prohibit all Study Area retail establishments (except restaurants and non-profit, charitable retailers) from providing single-use plastic and paper carryout bags to customers at the point of sale. It is

anticipated that by also prohibiting paper carryout bags, this alternative would significantly reduce single-use paper carryout bags within the Study Area, and further promote the shift to the use of reusable bags by retail customers. By banning both single-use plastic and paper bags, customers would be forced to use reusable carryout bags. This is expected to increase the number of reusable bags purchased within the Study Area.

A. ALTERNATIVES ELIMINATED FROM CONSIDERATION

The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County's Ordinance by each municipality in the Study Area. The following references to "Proposed Ordinance" refer to the adoption of an individual Ordinance in each participating agency of the Final Program EIR:

CEQA requires that all alternatives considered be described, but it does not require a full analysis of alternatives that are infeasible, that do not meet the Project objectives, or that do not potentially reduce environmental impacts. Alternatives considered but eliminated from further consideration for these reasons are addressed in Section 6.5 of the Draft Program EIR and are summarized below.

- Additional litter removal programs, education efforts, enforcement for littering, and recycling programs for plastic bags: This alternative was rejected because it does not achieve the Ordinance's objectives, including reducing the use of paper bags and promoting a shift toward the use of reusable bags.
- Ban Styrofoam (polystyrene) in addition to banning single-use plastic carryout bags: This alternative would not achieve the Proposed Ordinance's objectives of reducing the environmental impacts related to single-use plastic bags or reduce any of the Proposed Ordinance's environmental effects. Environmental impacts related to polystyrene use are outside the scope and objectives of the proposed action.
- Ban single-use plastic carryout bags, but not charge for paper bags at retailers in the Study Area: This alternative was rejected because it would not reduce customers' use of paper bags, which have greater impacts related to air quality, GHG emissions, and water quality than plastic bags on a per bag basis. In addition, this alternative would not achieve the Proposed Ordinance's objective of promoting a shift toward the use of reusable carryout bags by retail customers to as great a degree as would occur with the Proposed Ordinance.
- Ban the use of single-use plastic carryout bags by retailers (except restaurants), with the exception of plastic bags made with bio-

degradable or compostable additives: This alternative was rejected from consideration because the environmental impacts associated with using biodegradable and compostable additives are uncertain at this time. Researchers at California State University Chico Research Foundation tested the degradation of biodegradable bags in composting conditions, and found that they did not degrade (CIWMB 2007; Green Cities California MEA, 2010). Furthermore, these bags reduce the quality of recycled plastics when introduced into the recycling stream and so must be kept separate to avoid contaminating the recycling stream (CIWMB 2007; Green Cities California MEA, 2010). Therefore, it is unclear what environmental impacts may be associated with switching to plastic bags made with biodegradable additives or water-soluble bags. In addition, this alternative would not achieve the objectives of reducing the amount of single-use plastic bags in trash loads (e.g., landfills), in conformance with the trash load reduction requirements of the NPDES Municipal Regional Permit, promoting a shift toward the use of reusable carryout bags by retail customers, and avoiding litter and the associated adverse impacts to stormwater systems, aesthetics and the marine environment (San Francisco Bay and the Pacific Ocean).

- **Ban the use of single-use plastic carryout bags by retailers (except restaurants) and apply the ban to “doggie waste cleanup” bags at public parks**: While plastic “doggie waste cleanup” bags may have certain impacts to the environment, it is assumed that these types of bags represent only a very small percentage of total plastic bag use. In contrast, the use of these types of bags promote the proper disposal of solid waste and benefit water quality in reducing sources of stormwater pollution. Thus, while this alternative would further reduce the overall number of plastic bags produced and used, it would not promote a shift toward the use of reusable carryout bags by retail customers in the Study Area and could potentially increase impacts to stormwater systems. Environmental impacts related to plastic “doggie waste cleanup” bag use in the Study Area are outside the scope and objectives of the Proposed Ordinance.
- **Implement an action targeting litter from homeless encampments near water bodies**: This alternative would not achieve the objectives of reducing the amount of single-use plastic bags in trash loads (e.g., landfills), in conformance with the trash load reduction requirements of the NPDES Municipal Regional Permit and promoting a shift toward the use of reusable carryout bags by retail customers.
- **Require retailers to offer incentives for customers to use reusable bags (such as paying customers) rather than banning single-use bags**: While this alternative may deter some customers from using single-

use plastic and paper bags, it may not promote the shift to reusable carryout bags by retail customers as effectively and would place a financial burden on the Study Area retailers.

B. FINDINGS REGARDING PROJECT ALTERNATIVES

CEQA only requires public agencies to make findings regarding the feasibility of project alternatives in limited circumstances. Public Resources Code Section 21081(a) provides that a public agency may not approve a project unless it makes findings, with respect to each significant project effect, that (1) mitigation has been required to reduce the significant effect, (2) mitigation to reduce the significant effect is within the jurisdiction of another public agency and should be adopted by that agency, and (3) that "[s]pecific economic, legal, social, technological, or other considerations . . . make infeasible the mitigation measures or alternatives identified in the environmental impact report." (Pub. Res. Code § 21081(a), emphasis added, see also CEQA Guidelines § 15091(a).)

In Mira Mar Mobile Community v. City of Oceanside (CH Oceanside) (2004) 119 Cal.App.4th 477, 490, the Court of Appeals confirmed that, where the city found that the only adverse impact of a project could be avoided through the imposition of mitigation measures, "it was not required to make any findings regarding the feasibility of proposed alternatives." (Citing *Rio Vista Farm Bureau Center v. County of Solano* (1992) 5 Cal.App.4th 351, 379 ["CEQA does not require the agency to consider the feasibility of environmentally superior project alternatives identified in the EIR if described mitigation measures will reduce environmental impacts to acceptable levels"], *Laurel Heights Improvement Ass'n v. Board of Supervisors* (1988) 47 Cal.3d 376, 402, and *Laurel Hills Homeowners Ass'n v. City Council* (1978) 83 Cal.App.3d 515, 521.)

The Project would not result in any significant unavoidable effects. All potential impacts identified by Draft Program EIR and Final Program EIR are either beneficial or less than significant such that no mitigation measures are required. Accordingly, the County is not required to make findings regarding the feasibility of the alternatives considered in the EIR.

C. SUMMARY OF SIGNIFICANT UNAVOIDABLE IMPACTS

Section 15126.2(b) of the CEQA Guidelines requires that an EIR describe any significant impacts which cannot be avoided. Based on the analysis contained in the Final Program EIR, implementation of the Project would not result in any significant unavoidable environmental impacts.

D. GROWTH-INDUCING IMPACTS OF THE PROJECT

The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County's Ordinance by each municipality in the Study Area. The following references to "Proposed Ordinance" refer to the adoption of an individual Ordinance in each participating agency of the Final Program EIR:

Section 15126.2(d) of the CEQA Guidelines requires a discussion of the ways in which a proposed action could be growth inducing. This includes ways in which the Project would foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment.

Based on the analysis contained in the Draft Program EIR, the Project would not be growth inducing as it would not affect long-term employment opportunities or increase the region's population. Employment patterns in the region would not be affected, as there are no known plastic bag manufacturing facilities in the Study Area. In addition, recyclable paper bag use is anticipated to increase incrementally. However, similar to plastic bag manufacturing, employment patterns in the region would not be affected by the Proposed Ordinance, as there are no known paper bag manufacturing plants in the Study Area. However, it should be noted that there is a paper bag manufacturing plant in Buena Park, California. Also, demand for reusable bags can be anticipated to increase. Nevertheless, incremental increases in the use of paper and reusable bags in the region are not anticipated to significantly affect long-term employment at these facilities or increase the region's population.

Revenues generated by sales of paper bags would remain with the affected stores. The Proposed Ordinance would not affect economic growth and therefore would not be significant.

No improvements to water, sewer, and drainage connection infrastructure would be necessary for Project implementation. No new roads would be required. Because the Proposed Ordinance would not include any physical development or construction activities and would not involve the extension of infrastructure into areas that otherwise could not accommodate growth, it would not remove an obstacle to growth.

For these reasons, the Project would not result in significant growth-inducing impacts.

E. SIGNIFICANT IRREVERSIBLE CHANGES TO THE ENVIRONMENT

The Program EIR assumes the adoption of the Proposed Ordinance by the County and adoption of ordinances that are identical or materially similar to the County's Ordinance by each municipality in the Study Area. The following references to "Proposed Ordinance" refer to the adoption of an individual Ordinance in each participating agency of the Final Program EIR:

Section 15126.2(c) of the State CEQA Guidelines states that significant irreversible environmental changes associated with a project shall be discussed, including the following:

- (1) Uses of non-renewable resources during the initial and continued phases of the Project that may be irreversible because a large commitment of such resources makes removal or non-use thereafter unlikely;
- (2) Primary impacts and, particularly, secondary impacts (such as highway improvement that provides access to a previously inaccessible area), which generally commit future generations to similar uses; and
- (3) Irreversible damage that could result from environmental accidents associated with the Project.

The intent of the Proposed Ordinance is to reduce the environmental impacts related to the use of single-use carryout bags, and to promote a shift toward the use of reusable bags. As an Ordinance, the Project would not include development of any physical structures or involve any construction activity. Therefore, the Proposed Ordinance would not alter existing land uses or cause irreversible physical alterations related to land development or resource use. To the contrary, the express purpose of the Ordinance is to reduce the wasteful use of resources and associated environmental impacts. Therefore, the Project, as proposed, would not result in significant irreversible environmental changes.

12. SUMMARY

Based on the foregoing findings and the information contained in the record, it is determined that:

All potential effects on the environment due to the Project are either less than significant, such that no mitigation is required, or beneficial to the environment.

13. INCORPORATION BY REFERENCE

The Final Program EIR is hereby incorporated into these findings in its entirety. Without limitation, this incorporation is intended to elaborate on the basis for determining the significance of impacts and the comparative analysis of alternatives.

14. RECIRCULATION NOT REQUIRED

Minor changes to the Draft Program EIR have been made since its publication as a result of comments received from organizations and individuals on the document. Staff-initiated changes include minor corrections and clarification to the text to correct typographical errors. None of the changes affect the analysis or conclusions of the Draft Program EIR.

The changes to the Draft Program EIR do not require recirculation of the Program EIR because they do not result in any increased environmental effects that would alter or modify the conclusions of significance contained in the Draft Program EIR. The corrections and additions do not identify any new significant impacts, and, therefore, do not require additional mitigation measures or alternatives to the proposed Project. These are minor changes that do not require recirculation of the EIR (CEQA Guidelines Section 15088.5(b)).

15. CERTIFICATION OF FINAL ENVIRONMENTAL IMPACT REPORT

The Board finds that it has reviewed and considered the Final Program Environmental Impact Report in evaluating the Project, that the Final Program Environmental Impact Report is an accurate and objective statement that fully complies with CEQA and the CEQA Guidelines, and that the Environmental Impact Report reflects the independent judgment of the Board.

The Board declares that no significant new impacts or information as defined by CEQA Guidelines Section 15088.5 have been received by the Board after the circulation of the Draft Program Environmental Impact Report that would require recirculation. All of the information added to the Final Program Environmental Impact Report merely clarifies, amplifies or makes insignificant modifications to an already adequate EIR pursuant to CEQA Guidelines Section 15088.5(b).

The Board of Supervisors of the County of San Mateo hereby certifies the Final Program Environmental Impact Report for the Project is adequate and complete in that it addresses the environmental effects of the Project and fully complies with the requirements of CEQA and CEQA Guidelines. The Final Program Environmental Impact Report is composed of:

- The backup file material for the Project.
- The Notice of Preparation.

- The Initial Study and the studies it relies upon.
- The Draft Environmental Impact Report dated June 2012.
- The comments on the Draft Program Environmental Impact Report and responses thereto as contained in the Final Program EIR dated August 2012.
- The staff report for the public hearings before the Planning Commission held on July 11, 2012 and September 12, 2012.
- The staff report for the public hearing before the Board of Supervisors held on October 23, 2012.
- The minutes of the hearings and all documentary and other testimonial evidence submitted thereat.
- The Statement of Facts and Findings in support thereof.

Findings

CEQA Compliance: As the decision-making body for the Project, the Board has reviewed and considered the information contained in the findings and supporting documentation. The Board determines that the findings contain a complete and accurate reporting of the environmental impacts associated with the Project. The Board finds that the EIR was prepared in compliance with CEQA and applicable State and County Guidelines and that the County complied with CEQA's procedural and substantive requirements, such that the public was provided meaningful opportunity to comment regarding potential environmental effects of the Project. The 45-day public review period for the Draft Program EIR was June 22, 2012 to August 6, 2012. The 10-day public review period for the Final Program EIR was August 31, 2012 to September 10, 2012. The EIR concludes that the Project, as proposed, will result in impacts considered less than significant or beneficial to the environment.

Review by the Decision Making Body Prior to Approval: The Final Program EIR was prepared and reviewed under the supervision and directions of the County of San Mateo's Planning and Building Department staff. The Board is the final decision-making body for approval of the Project. The Board has received and reviewed the Final Program Environmental Impact Report prior to certifying the Final Program Environmental Impact Report and prior to making any decision to approve or disapprove the Project.

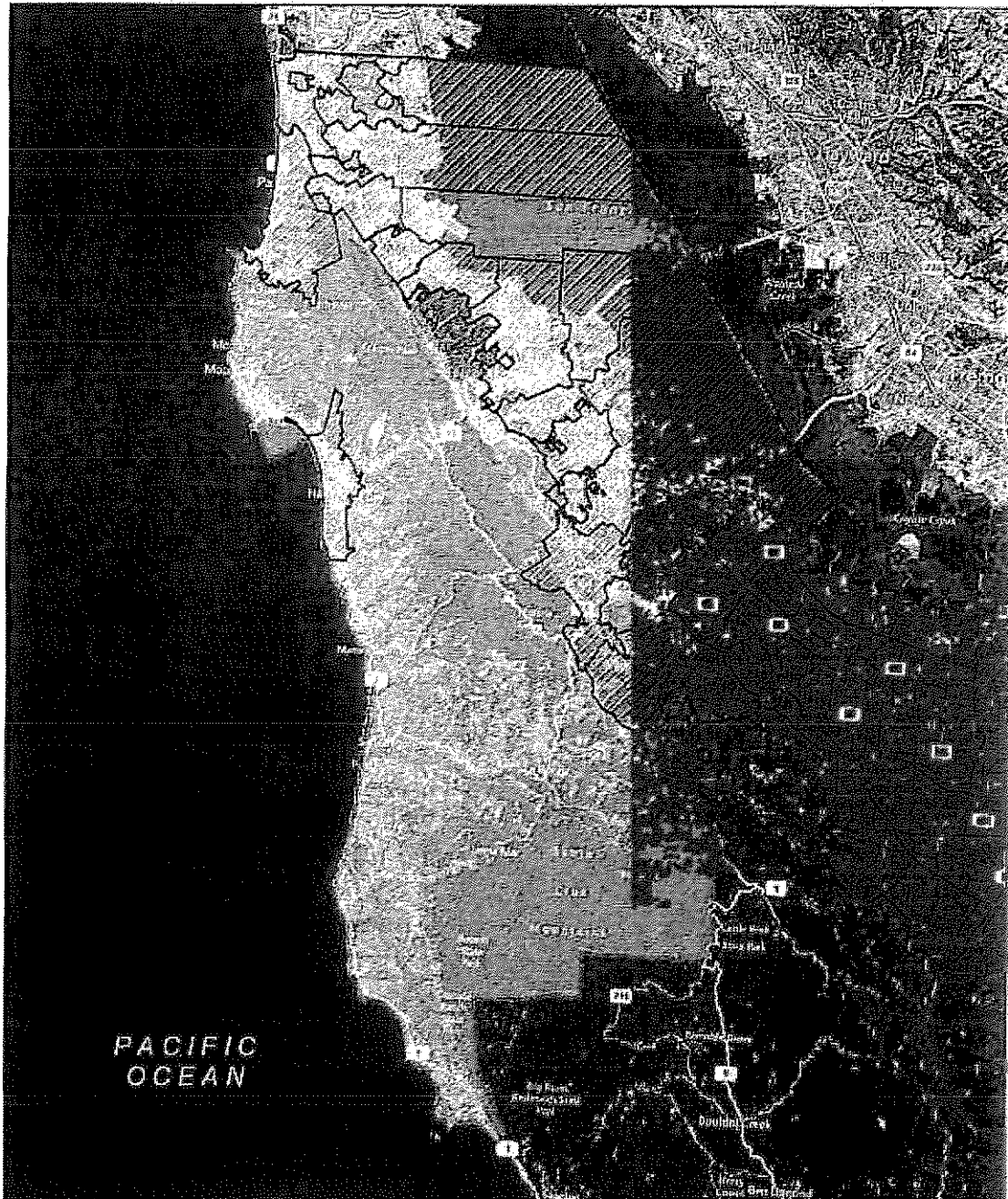
Independent Judgment of Lead Agency: The Final Program Environmental Impact Report reflects the County's independent judgment. Public Resources Code Section 21082.1 requires any environmental impact report or draft environmental impact report, prepared pursuant to the requirements of this division, to be prepared directly by, or under contract to, a public agency. The County has exercised independent judgment in accordance with this section retaining its own environmental consultant and directing the consultant in preparation of the Draft and Final Program Environmental Impact Report.

Conclusions: The Project would not result in any significant unavoidable effects. All potential impacts identified by Draft Program EIR and Final Program EIR are either beneficial or less than significant such that no mitigation measures are required.


16. RESOLUTION ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM

All potential impacts identified by Draft Program EIR and Final Program EIR are either beneficial or less than significant such that no mitigation measures are required. Therefore, no mitigation monitoring program is required or necessary.

PASSED, APPROVED AND ADOPTED, this ____ day of _____, 2012.



Bing Maps Hybrid. (c) 2010 Microsoft Corporation and its data suppliers. Additional baselayer data from San Mateo County Information Services Department, May 2012.

 Project Location
(San Mateo County)

 Participating City* in
San Mateo County

*Cities not Included in Study Area:
Atherton and Hillsborough

Aerial Map of County of San Mateo and Participating Cities in San Mateo County

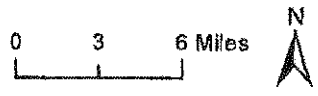
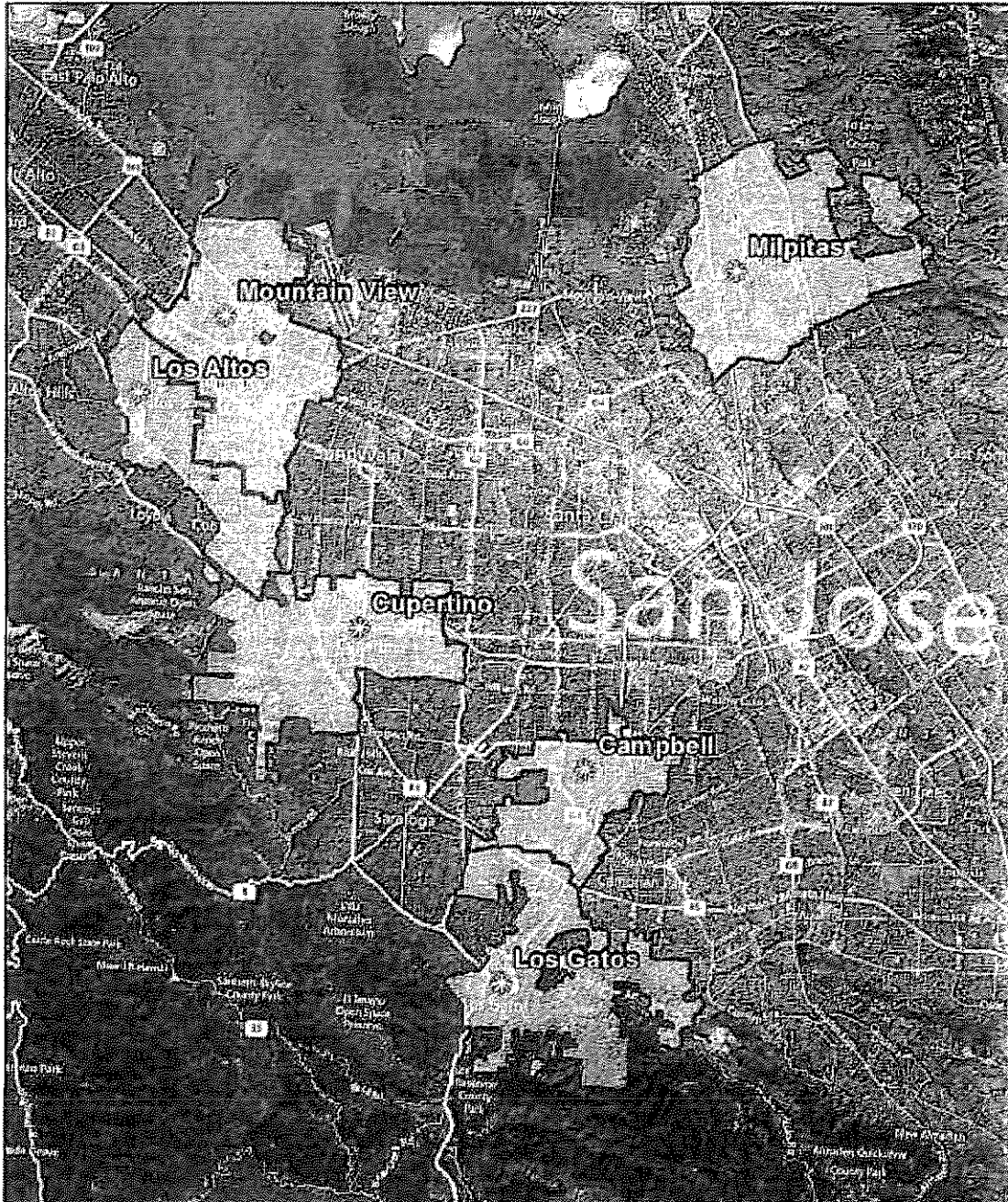



Figure 2-1


County of San Mateo

County of San Mateo Single Use Bag Ban Ordinance Program EIR
Section 2.0 Project Description



Bing Maps Hybrid. (c) 2010 Microsoft Corporation and its data suppliers. Additional base layer data from San Mateo County Information Services Department, May 2012.

 Project Location
(Participating City Boundary
in Santa Clara County)

0 1.25 2.5 Miles




Aerial Map of
Participating Cities in
Santa Clara County

Figure 2-2

October 22, 2012



The Honorable Adrienne J. Tissier
Chair, San Mateo County Board of Supervisors
400 County Center
Redwood City, CA 94063

RE: Single-Use Carryout Bag Ordinance

Supervisor Tissier,

On behalf of the California Grocers Association, I write to inform you of our comfort implementing the ordinance regulating the distribution of single-use carryout bags as presented on the October 23 agenda. It is critical carryout bag regulations meet their intended environmental goals, respect consumers, and minimize impacts on retailers. We believe the ordinance as proposed meets these tests. We also strongly encourage all jurisdictions participating in the Final EIR to pursue this same ordinance in order to maximize the environmental gain and avoid competitive disadvantages for retailers.

The California Grocers Association is a non-profit, statewide trade association representing the food industry since 1898. CGA represents approximately 500 retail member companies operating over 6,000 food stores in California and Nevada, and approximately 300 grocery supplier companies. Retail membership includes chain and independent supermarkets, convenience stores and mass merchandisers. CGA members include a number of grocery companies operating in San Mateo County.

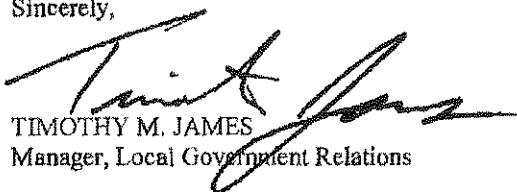
The policy of banning single-use plastic bags and allowing recyclable paper bags for a charge has shown to encourage reusable bag use, provide consumers no-cost and low-cost carryout options, and minimize operational and financial impacts to retailers. Over 60 California jurisdictions have passed this type of ordinance including all jurisdictions in Alameda and San Luis Obispo Counties, the Counties of Los Angeles, Marin and Santa Cruz, as well as the Cities of San Jose, Sunnyvale, Millbrae and San Francisco.

By banning single use plastic bags and placing a charge on single use paper bags consumers are encouraged to use reusable bags while still retaining a choice at checkout. Industry experience in California has shown within a year after ordinance implementation over 90% of consumers bring a reusable bag to the store or take no bag at all from the store.

We believe it is critical all jurisdictions participating in the Final EIR adopt the same carryout bag ordinance in order avoid a patchwork of regulation. Industry experience has shown inconsistent regulation confuses consumers and creates competitive disadvantages for retailers operating near neighboring jurisdictions, as well as for retailers with multiple store locations in different jurisdictions. With grocery companies averaging a 1% profit margin any unnecessary impact, such as a regulatory disadvantage, can have dramatic negative impacts.

Thank you for your consideration and please consider CGA a partner to encourage reusable bag use.

Sincerely,



TIMOTHY M. JAMES
Manager, Local Government Relations

cc: Members, San Mateo County Board of Supervisors
Mr. Dean D. Peterson PE, REHS, Director Environmental Health
Participating Municipalities in the Final Environmental Impact Report

Board of Supervisors



COUNTY OF SAN MATEO

COUNTY GOVERNMENT CENTER • REDWOOD CITY • CALIFORNIA 94063-1662
WEB PAGE ADDRESS: <http://www.co.sanmateo.ca.us>

BOARD OF SUPERVISORS

DAVE PINE
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ADRIENNE TISSIER

John L. Mattbie
COUNTY MANAGER/
CLERK OF THE BOARD

(650) 363-4653
FAX: (650) 599-1027

October 29, 2012

Honorable Cliff Lentz, Mayor
City of Brisbane
50 Park Lane
Brisbane, CA 94005

Re: Reusable Bag Ordinance

Dear Mayor Lentz,

We're pleased to inform you that on October 23rd, the Board of Supervisors certified a Program EIR analyzing the environmental impacts of a reusable bag ordinance in San Mateo and parts of Santa Clara counties. The Board took the additional step of adopting a reusable bag ordinance applicable to retail establishments within unincorporated San Mateo County. This ordinance will become effective April 22nd, 2013.

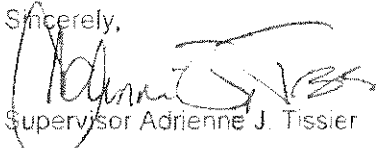
In order to maximize the environmental benefits outlined in the EIR, and to provide affected retailers the certainty of a regionally consistent set of regulations, we are hopeful that your city will adopt a reusable bag ordinance applicable to retail establishments within your city's jurisdiction. If each participating agency adopts the ordinance analyzed by the EIR, more than 500 million plastic bags will be taken out of circulation each year, benefitting the region's air quality, biological resources, hydrology, and water quality.

As a participating agency to the Program EIR, your city may use it to adopt the county's ordinance by reference, in compliance with CEQA. No additional environmental studies or analyses are required. To assist you with this process, please find enclosed the County's adopted ordinance, a sample resolution, and a checklist to ensure compliance with CEQA.

If you have any questions or concerns, please don't hesitate to contact either of our offices or the County's Environmental Health Director, Dean Peterson at (650) 372-6222.

Thank you very much for being a partner in this important regional environmental effort.

Sincerely,


Supervisor Adrienne J. Tissier


Supervisor Carole Groom

Cc: Cy Bologoff

ATTACHMENT F

Breault, Randy

From: Mumley, Thomas@Waterboards [Thomas.Mumley@waterboards.ca.gov]

Sent: Monday, February 04, 2013 9:14 AM

To: Breault, Randy

Subject: RE: Support letter for single use bag ban

Randy – this email provides Regional Water Board staff support for the City of Brisbane’s effort to restrict single use shopping bags. As you know, the Regional Municipal Stormwater Permit issued by the Regional Water Board in October 2009 requires municipalities to reduce trash loads by 40 percent by 2014, 70 percent by 2017, and 100 percent by 2022. The Board has not mandated specific control measures other than a minimum number of full trash capture devices and has not approved load reduction credits for specific types of control measures. However, the Board expects municipalities to determine which measures they will implement in a timely and measurable manner to attain the load reduction requirements. Although single use bag restrictions are not mandated and do not have approved trash load reduction credits, we have acknowledged plastic bags and foam foodware are prevalent and persistent components of the trash load, and restrictions on their use will likely result in substantial trash load reductions.

Tom

Thomas Mumley
Assistant Executive Officer
thomas.mumley@waterboards.ca.gov
510 622-2395

ATTACHMENT G

2/8/2013