



AGENDA

SAN RAFAEL CITY COUNCIL – MONDAY, APRIL 6, 2020

REGULAR MEETING AT 7:00 P.M.

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Executive Order N-29-20, the City of San Rafael will no longer offer an in-person meeting location for the public to attend. This meeting will be streamed through YouTube Live. Comments submitted via YouTube Live must be submitted according to the directions located on the YouTube video description. The City is not responsible for any interrupted service. To ensure the City Council receives your comments, submit written comments to the City Clerk prior to the meeting. For more information regarding real-time public comments, please visit our Live Commenting Pilot page at <https://www.cityofsanrafael.org/live-commenting-pilot/>. Additionally, the video will be streamed to our website at www.cityofsanrafael.org/meetings.

Want to listen to the meeting and comment in real-time over the phone? Contact the City Clerk's office at 415-485-3066 or by email to lindsay.lara@cityofsanrafael.org to learn more about participation by telephone.

Any member of the public who needs accommodations should contact the City Clerk (email lindsay.lara@cityofsanrafael.org or phone at 415-485-3066) who will use their best efforts to provide reasonable accommodations to provide as much accessibility as possible while also maintaining public safety in accordance with the City procedure for resolving reasonable accommodation requests.

OPEN SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

1. None.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

2. Closed Session: -None.

OPEN TIME FOR PUBLIC EXPRESSION – 7:00 PM

The public is welcome to address the City Council at this time on matters not on the agenda that are within its jurisdiction. Please be advised that pursuant to Government Code Section 54954.2, the City Council is not permitted to discuss or take action on any matter not on the agenda unless it determines that an emergency exists, or that there is a need to take immediate action which arose following posting of the agenda. Comments may be no longer than two minutes and should be respectful to the community.

CITY MANAGER'S REPORT:

3. City Manager's Report:

CONSENT CALENDAR:

The opportunity for public comment on consent calendar items will occur prior to the City Council's vote on the Consent Calendar. The City Council may approve the entire consent calendar with one

action. In the alternative, items on the Consent Calendar may be removed by any City Council or staff member, for separate discussion and vote.

4. Consent Calendar Items:

a. **Planning Commission Vacancies**

Call for Applications to Fill One Four-Year Term to the End of June 2024 and One Unexpired Four-Year Term to the End of June 2021 on the Planning Commission Due to the Expiration of Term of Barrett Schaefer and the Resignation of Jeffrey Schoppert (CC)
Recommended Action – Approve staff recommendation

b. **Fire Chief Appointment**

Resolution Authorizing the Mayor and City Manager to Execute an Employment Agreement with Darin M. White to Serve as the City of San Rafael Fire Chief (CM)
Recommended Action – Adopt Resolution

c. **999 3rd St - BioMarin R&D Buildings / Whistlestop Senior Center / Eden Senior Housing**

i. Second Introduction and Final Adoption of Ordinance 1980: An Ordinance of the City of San Rafael Approving an Amendment (ZO18-003) to San Rafael Municipal Code Section 14.16.190.A (Height Bonus) to Establish a New 20-Foot Height Bonus for the 999 3rd Street Property
Recommended Action – Final Adoption of Ordinance 1980

ii. Second Introduction and Final Adoption of Ordinance 1981: An Ordinance of the City of San Rafael Adopting An Amended Planned Development (PD) Rezoning (ZC18-002) for the San Rafael Corporate Center (SRCC) Planned Development, Including the Rescission of the PD 1936 District, By Adoption of a New PD District to: 1) Allow Expansion of the Current SRCC PD District By Incorporating the 118,099 Sq. Ft. of the 999 3rd Street Property Into The Boundaries; And 2) Update Pd District Regulations To Incorporate Revised Parking Standards And Development Regulations To Allow The Development Of Two 72-Foot Tall, Four-Story Research and Development Buildings (APN 011-265-01 AND 013-021-34, 35, 50, 51, 52, 53, 54 & 55,)
Recommended Action – Final Adoption of Ordinance 1981

iii. Second Introduction and Final Adoption of Ordinance 1982: An Ordinance of the City of San Rafael Adopting a Development Agreement (DA19-001) for the San Rafael Corporate Center (750-790 Lindaro Street and 781-791 Lincoln Avenue and 999 3rd Street) to Expand the Allowable Development and Overall Land Area to Include Two Research and Development Buildings Totaling 207,000 Square Feet and to Define the Agreement Terms (APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)
Recommended Action – Final Adoption of Ordinance 1982

- d. **Community Development Block Grant (CDBG)**
Resolution Recommending Community Development Block Grant (CDBG) Project Funding for the Fiscal Year 2020-21 to the Marin County Board of Supervisors (ED)
Recommended Action – Adopt Resolution

- e. **Hazardous Waste Collection Program Agreement Extension**
Resolution Approving and Authorizing the City Manager to Execute a One-Year Extension of the Amended Hazardous Waste Collection Program Agreement with the Marin Recycling and Resource Recovery Association (MRRRA) (FD)
Recommended Action – Adopt Resolution

- f. **Hazardous Waste Program Funding Agreement Extension**
Resolution Approving and Authorizing the City Manager to Execute a One-Year Extension of the Amended Hazardous Waste Program Funding Agreement with the Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA) (FD)
Recommended Action – Adopt Resolution

- g. **Childcare Portable Building Replacement**
Resolution Approving and Authorizing the City Manager to Execute a Professional Services Agreement with Loving Campos Associates, Architects, Inc. for Architectural and Engineering Design Services Associated with the Childcare Portable Building Replacement Project In An Amount Not to Exceed \$165,840 (PW)
Recommended Action – Adopt Resolution

- h. **Senate Bill 1: 2020-21 Projects**
Resolution Approving the FY 2020-21 Projects List for Senate Bill 1: The Road Repair and Accountability Act (PW)
Recommended Action – Adopt Resolution

PUBLIC HEARINGS:

- 5. Public Hearings:
 - a. **190 Mill Street – Homeward Bound of Marin Emergency Shelter and Supportive Housing**
 - i. Resolution Adopting an Initial Study/Mitigated Negative Declaration and Approving a Mitigation Monitoring and Reporting Program
Recommended Action – Adopt Resolution

 - ii. Resolution Approving a General Plan Map Amendment (GPA19-01) to Change the Existing Light Industrial/Office (LI/O) Land Use Designation of the Site to High-Density Residential (HDR) Land Use Designation
Recommended Action – Adopt Resolution

- iii. Consideration of An Ordinance Approving a Zoning Map Amendment (ZC19-001) to Modify the Existing Canal Core Industrial/Office (CCI/O) Zoning Classification of the Site at 190 Mill Street to High-Density Residential Zoning Classification (HR1)
Recommended Action – Pass Ordinance to Print
- iv. Resolution Approving Use Permit (UP19-014) for a New Emergency Shelter to Replace Existing Shelter to be Demolished; and Consideration of Concessions to Exceed 60% Maximum Lot Coverage and 36-Foot Maximum Building Height for HR1 District
Recommended Action – Adopt Resolution
- v. Resolution Approving Fee Waiver (P20-001) for Planning Application Fees Associated with the Project
Recommended Action – Adopt Resolution

COUNCILMEMBER REPORTS / REQUESTS FOR FUTURE AGENDA ITEMS:
(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

- 6. Councilmember Reports:

SAN RAFAEL SUCCESSOR AGENCY:

- 1. Consent Calendar: - None.

ADJOURNMENT:

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request.



SAN RAFAEL CITY COUNCIL STAFF REPORT

Department: City Clerk

Prepared by: Lindsay Lara, City Clerk

City Manager Approval: _____

TOPIC: PLANNING COMMISSION VACANCIES

SUBJECT: CALL FOR APPLICATIONS TO FILL ONE FOUR-YEAR TERM TO THE END OF JUNE 2024 AND ONE UNEXPIRED FOUR-YEAR TERM TO THE END OF JUNE 2021 ON THE PLANNING COMMISSION DUE TO THE EXPIRATION OF TERM OF BARRETT SCHAEFER AND THE RESIGNATION OF JEFFREY SCHOPPERT

RECOMMENDATION:

It is recommended that the City Council call for applications to fill one four-year term to the end of June 2024 and one unexpired four-year term to the end of June 2021.

BACKGROUND:

The [Planning Commission](#) consists of citizen volunteers appointed by the City Council to make decisions or advise the City Council on land use and property development issues. The Commission assures that new development is consistent with our long-range General Plan, State laws and other public policies that advance the interests of our community. [Meetings](#) are held on the second and fourth Tuesday of each month at 7:00 p.m. in the San Rafael Council Chambers, 1400 Fifth Avenue, San Rafael, CA 94901.

ANALYSIS:

On March 9, 2020, Jeff Schoppert submitted his letter of resignation. On June 30, 2020 the term of Barret Schaefer is set to expire, and he has informed the City he will not be reapplying. The board is composed of seven San Rafael residents who are appointed by the City Council to four-year terms. By approving this item, staff will be able to release a Call for Applications for eligible and interested community members to apply. Once applications are received and reviewed, the City Clerk's Office will schedule a special City Council meeting where the City Council will interview candidates and make a selection to appoint candidates to the Planning Commission.

FISCAL IMPACT: There is no fiscal impact associated with this item.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

RECOMMENDED ACTION: It is recommended that the City Council call for applications to fill one four-year term to the end of June 2024 and one unexpired four-year term to the end of June 2021.

ATTACHMENT:

1. Application Materials
2. Resignation Letter



Two Vacancies Planning Commission

Applications to serve on the San Rafael Planning Commission to fill **one four-year term to the end of June 2024 and one expired term to the end of June 2021**, may be obtained our website at: <https://www.cityofsanrafael.org/boards-commissions/>. The deadline for filing applications is **Tuesday, April 28, 2020, at 5:00 p.m.**

There is no compensation paid to Board Members. Members must comply with the City's ethics training requirement of AB 1234, and reimbursement policy. See attached information.

ONLY RESIDENTS OF THE CITY OF SAN RAFAEL MAY APPLY

The Planning Commission regularly meets on the second and fourth Tuesdays of every month at 7:00 p.m. in the Council Chambers, City Hall.

The Planning Commission prepares and adopts long-term general plans for physical development projects within the City of San Rafael, and reports on the design and improvements of proposed subdivisions.

Interviews of applicants will be scheduled on a date and time to be determined.

An excerpt from the San Rafael Municipal Code re: Planning Commission membership, terms of commissioners, powers and duties, etc., is also attached.

NOTE: All Planning Commissioners are required to file Fair Political Practices Commission Conflict of Interest Statements, which are open to public review.
[Government Code Section 87200]

Lindsay Lara
City Clerk
City of San Rafael

Dated: April 7, 2020



Boards and Commissions Application

Applicant Information

Full Name: _____

*Address: _____

Street Address *Apartment/Unit #*

City *State* *ZIP Code*

*Phone: _____ *Email _____

Resident of San Rafael for _____ years.

Employer: _____

Occupation: _____

Business Address: _____

Street Address *Apartment/Unit #*

City *State* *ZIP Code*

Education

Supplemental Questions

Participation in the following civic activities:

Member of the following civic organizations:

My reasons for wanting to serve are:

Describe possible areas in which you may have a conflict of interest with the City:

Demographics (Optional)

The demographic information you choose to provide is **VOLUNTARY** and **OPTIONAL** and refusal to provide it will not subject you to any adverse treatment. This information will be considered confidential, kept separate from your application and will not be used for evaluating applications or making appointments. The City of San Rafael will use this information solely to conduct research and compile statistical reports regarding the composition of its Board and Commission applicants.

Ethnicity:

- American Indian or Alaska Native: a person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.
- Asian: a person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
- Black or African American: a person having origins in any of the black racial groups of Africa.
- Hispanic or Latino: a person of Cuban, Mexican, Chicano, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race.
- Native Hawaiian or Other Pacific Islander: a person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- White: a person having origins in any of the original peoples of Europe, the Middle East, or North Africa.
- Two or More Races: a person who primarily identifies with two or more of the above race/ethnicity categories.

To which gender to your most identify?

- Male
- Female
- Nonbinary or Third Gender
- Prefer to self-describe
- Prefer not to say

How old are you?

- Under 18
- 18-24 years old
- 25-34 years old
- 35-44 years old
- 45-54 years old
- 55-64 years old
- 65-74 years old
- 75+ years old

Signature

Signature: _____ Date: _____

Filing Deadline:

Date: Tuesday, April 28, 2020
Time: 5:00 p.m.

Mail to:

City of San Rafael, Dept. of City Clerk
City Hall, 1400 Fifth Avenue, Room 209
San Rafael, CA 94903

*Information kept confidential, to the extent permitted by law.

Chapter 2.16 BOARDS AND COMMISSIONS

2.16.040 Planning Commission--Creation--Membership.

There is created a planning commission for the city, consisting of seven members, not officials of the city, appointed by the mayor with the approval of the city council. (Ord. 505).

2.16.050 Terms of Planning Commission Members.

Of the members of the Commission first appointed, two shall be appointed for the terms of one year; two for the terms of two years; two for the terms of three years; and one for the term of four years. Their successors shall be appointed for terms of four years; if a vacancy occurs otherwise than by expiration of term it shall be filled by appointment for the unexpired portion of the term. (Ord. 505).

2.16.060 Advisory Members of Planning Commission.

Advisory members of the Commission shall be the city manager, the city attorney, and the city engineer. The advisory members shall not have the power to vote and their terms shall correspond to their respective official tenure. (Ord. 505).

2.16.070 Chairman and Secretary of Planning Commission.

The Commission shall elect a chairman from its appointed members, and may also elect a secretary who may be an employee of the city. (Ord. 505).

2.16.080 Meetings and Quorum of Planning Commission.

At least one regular meeting shall be held each month on a date selected by the Commission. Four of the appointed members of the Commission shall be required to constitute a quorum for the transaction of the business of the Commission. (Ord. 527: Ord. 505).

2.16.090 Removal from Planning Commission.

Any appointed member of the Commission may be removed by the mayor with the approval of the city council or by a majority vote of the council. (Ord. 505).

2.16.100 Compensation of Planning Commission.

All members of the Commission shall serve as such without compensation. (Ord. 505 (part)).

2.16.110 Powers and Duties of Planning Commission.

It shall be the function and duty of the Planning Commission to prepare and adopt, in accordance with and as provided by the Conservation and Planning Act of the state of California, comprehensive long-term general plans for the physical development of the city of San Rafael, and of any land outside the boundary thereof which bears relation to the city. The plans may be comprised of the following or other and additional plans and maps which may in Commission's judgment relate to the physical development of the city:

streets and highway plan

parking plan
recreation plan
public buildings plan
transit plan

The Planning Commission shall be charged with the duty of making investigations, reports on the design and improvements of proposed subdivisions, and shall have such powers in connection therewith as are outlined in the Subdivision Map Act of the state of California, and the subdivision regulations adopted by the city of San Rafael.

It shall be the duty of the members of the Planning Commission, including advisory members and members of its staff, to inform themselves on matters affecting the functions and duties of the Commission and all planning matters, and, to that end, when authorized by a majority of the Commission, may attend planning conferences, or meetings of planning executives, hearings on planning legislation or matters affecting the master plan or any part thereof, and the reasonable traveling expenses incidental to the attendances shall be charges upon the funds allocated to the Commission.

The Planning Commission shall endeavor to promote public interest and understanding of plans developed, and the regulations relating thereto. It shall be part of its duty to consult with and advise the public officials, agencies, public utilities companies, school boards, civic and other organizations, and with the citizens generally in relation to carrying out the plans.

The Commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be a public record. (Ord. 913 (part), 1968: Ord. 505 (part)).

NOTICE TO BOARD & COMMISSION APPLICANTS

REGARDING ETHICS TRAINING

On January 1, 2006, a new law became effective that requires two (2) hours of ethics training of the local legislative bodies by January 1, 2007. This new law defines a local legislative body as a "Brown Act" governing body, whether permanent or temporary, decision-making or advisory, and created by formal action of the City Council. In other words, any person serving on a City Council, Board, Commission, or Committee created by the Council is subject to this ethics training requirement. After this initial class, training will be required every two years.

Ethics training can be accomplished by taking a 2-hour class, self-study, or an on-line class. You may seek reimbursement for taking any authorized ethics class. The city staff member that is assigned to your committee can help you with the reimbursement process.

After you have completed the ethics class, the original certificate needs to be given to the City Manager's Office for record-keeping, with a copy kept for your records.

AB 1234 (Salinas). Local Agencies: Compensation and Ethics

Chapter 700, Statutes of 2005

This law does the following:

- **Ethics Training:** Members of the Brown Act-covered decision-making bodies must take two hours of ethics training every two years, if they receive compensation or are reimbursed expenses. The training can be in-person, on-line, or self-study. For those in office on 1/1/06, the first round of training must be completed by 1/1/07.
- **Expense Reimbursement -- Levels:** Local agencies which reimburse expenses of members of their legislative bodies must adopt written expense reimbursement policies specifying the circumstances under which expenses may be reimbursed. The policy may specify rates for meals, lodging, travel, and other expenses (or default to the Internal Revenue Service's (IRS) guidelines). Local agency officials must also take advantage of conference and government rates for transportation and lodging.
- **Expense Reimbursement -- Processes:** Local agencies, which reimburse expenses, must also provide expense reporting forms; when submitted, such forms must document how the expense reporting meets the requirements of the agency's expense reimbursement policy. Officials attending meetings at agency expense must report briefly back to the legislative body at its next meeting.

Jeffrey S. Schoppert
[REDACTED]
San Rafael, California 94903
[REDACTED]
[REDACTED]

BY EMAIL (Gary.Phillips@cityofsanrafael.org)

Hon. Gary O. Phillips
Mayor
City of San Rafael
City Hall, Room 203
1400 Fifth Avenue
San Rafael, CA 94901

Re: San Rafael Planning Commission

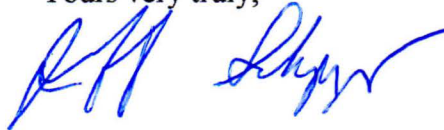
Dear Mayor Phillips:

I am sorry to tell you I am resigning my position as planning commissioner for the City of San Rafael, effective immediately. I will no longer be living in the City and will thus not meet the qualifications for holding that position.

My tenure on the commission has been one of the most rewarding and satisfying experiences of my adult life. The City has a wonderfully talented, wise, and supportive staff and I will sorely miss my interactions with them. I thank you for the trust placed in me and for presenting me with the opportunity to serve the city and community in which I spent the bulk of my professional career and much of my personal life.

I wish you and the entire City the best in the future.

Yours very truly,



Jeffrey S. Schoppert

cc: (by email)

Lindsay Lara (Lindsay.Lara@cityofsanrafael.org)
Paul Jensen (Paul.Jensen@cityofsanrafael.org)
Raffi Boloyan (Raffi.Boloyan@cityofsanrafael.org)



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: CITY MANAGER

**Prepared by: Shibani Nag, Director of Employee Experience and Culture
Andrew Hening, Director of Homeless Planning and Outreach**

City Manager Approval:

TOPIC: FIRE CHIEF APPOINTMENT

SUBJECT: RESOLUTION AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AN EMPLOYMENT AGREEMENT WITH DARIN M. WHITE TO SERVE AS THE CITY OF SAN RAFAEL FIRE CHIEF

RECOMMENDATION:

Adopt Resolution to Execute an Employment Agreement with Darin M. White to serve as the City's Fire Chief.

BACKGROUND:

In November of 2019, Fire Chief Christopher Gray retired after 12 years of service to the City of San Rafael. At that time, Battalion Chief Robert Sinnott assumed the role of Interim Fire Chief, and the City launched a formal recruitment in partnership with executive search firm Bob Murray & Associates. The position received 30 applications from candidates across the United States.

ANALYSIS:

Following this nationwide search, the City of San Rafael is pleased to announce that the hiring committee, which included the Fire Department, City Manager's Office, and the City Council, have selected Darin M. White to serve as San Rafael's next Fire Chief.

Chief White comes to San Rafael after serving as the Fire Chief for the City of Oakland, overseeing 25 fire stations and 60,000 annual emergency calls. A thirty-year veteran of the fire service, Chief White has been serving as Acting and then Interim Fire Chief since January of 2017. He oversees the Medical Services Division, the Fire Prevention Bureau, the Support and Services Division, the Fiscal and Human Resources Divisions, Field Operations, and the Emergency Management Services Division.

Chief White began his career in the fire service with the Port of Oakland in 1987 as a Commercial Aircraft Re-fueler with back up firefighting duties and eventually became an airport firefighter in July of 1990. He joined the Oakland Fire Department in 1998.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

Chief White holds a Bachelor of Science degree in Fire and Emergency Service Administration, an Associate Science degree in Fire Service Technology, and this month he will complete his pursuit of a Master of Science in Leadership with an Emphasis in Disaster Preparedness and Executive Fire Leadership.

The City of San Rafael has a history of employment contracts for its Fire Chiefs and Police Chiefs. Attached to this report, for your consideration, is an employment agreement between Darin M. White and the City of San Rafael. If approved, White's appointment would take effect April 15, 2020. Chief Sinnott will continue to lead and support the department in the interim. The City would like to thank Chief Sinnott for his exemplary service in the Interim role and welcome Chief White.

FISCAL IMPACT:

The employment agreement has been reviewed by Chief White, the City Attorney, the Finance Director, and the City Manager's Office. This document establishes an initial annual salary of \$193,824. Chief White will receive the benefits provided to all the other department directors, which includes health and dental insurance, leave accruals, plus life and long-term disability insurance. The compensation package will require no new appropriations from the General Fund.

OPTIONS:

- Approve the Resolution to execute the employment agreement as presented.
- Modify the agreement and make that a part of approving the Resolution.
- Don't approve the Resolution.

RECOMMENDATION:

Adopt Resolution as presented.

ATTACHMENTS:

1. Resolution
2. Attachment to Resolution: Employment Agreement between City of San Rafael and Darin M. White

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE MAYOR AND CITY MANAGER TO EXECUTE AN EMPLOYMENT AGREEMENT WITH DARIN M. WHITE TO SERVE AS THE CITY OF SAN RAFAEL FIRE CHIEF

WHEREAS, Following the retirement of the City's Fire Chief, the City of San Rafael entered an executive search partnership with Bob Murray and Associates to initiate a nationwide recruitment search for the City's next Fire Chief; and

WHEREAS, The Human Resources department, in collaboration with the City Manager's office created an end-to-end recruitment approach and process; and

WHEREAS, An official recruitment brochure was shared with over 180 potential candidates in the recruitment database made available to the City of San Rafael. The City received 30 qualified applications for consideration; and

WHEREAS, On February 10th 2020, the City of San Rafael held two group panel interviews consisting of internal and external leaders to assess the knowledge, skills, abilities and culture fit of the ten final candidates; and

WHEREAS, A final offer of employment was extended and accepted by Darin M. White, as the City's next Fire Chief of San Rafael.

NOW THEREFORE LET IT BE IT RESOLVED, by the City Council of the City of San Rafael that the MAYOR, CITY MANAGER and CITY CLERK are authorized to execute, on behalf of the City of San Rafael, an agreement with Darin M. White to serve as the Fire Chief for the City of San Rafael, a copy of which is hereby attached and by this reference made a part hereof.

I, LINDSAY LARA, Clerk of the City of San Rafael, California, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of the City of San Rafael held on the 6th day of April 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**FIRE CHIEF EMPLOYMENT AGREEMENT
BETWEEN THE CITY OF SAN RAFAEL AND DARIN M. WHITE**

THIS AGREEMENT is made and entered into this 21st day of February, 2020, by and between the City of San Rafael, a municipal corporation ("City"), and Darin M. White ("White" or "Fire Chief"). In this Agreement, the City and White may each be referred to individually as a "Party", and collectively as the "Parties."

RECITALS

- A) The City desires to employ White as its Fire Chief and has conferred with him and performed all necessary pre-employment background and reference checks required for appointment to this highly sensitive and important City position.
- B) White possesses the necessary education, experience, skills and judgment to serve as the City's Fire Chief.
- C) The Parties desire to enter into and execute this Agreement pursuant to the authority of and subject to the provisions contained Article VI, Section 11 of the City's Charter, the City's Municipal Code, California Government Code Section 53260 et seq., and all other applicable law.

NOW THEREFORE, the Parties agree as follows:

AGREEMENT

- 1) EMPLOYMENT - The City hereby offers to employ White as its Fire Chief, and White accepts such employment on the terms and conditions set forth hereafter.

- 2) TERM - The Agreement shall become effective on April 15, 2020 and continue until such time as thereafter terminated pursuant to the terms and provisions set forth hereafter. Although Article VI, Section 11 of the City's Charter provides that the appointment of the Fire Chief shall be for a four-year term, for convenience and certainty in City's operations the City Council hereby approves automatic renewal of the four-year term until such time as the Fire Chief separates from City employment, as otherwise provided in this Agreement.

- 3) COMMITMENTS AND UNDERSTANDINGS
 - A) Fire Chief's Commitments
 - (1) Duties & Authority
 - (a) The Fire Chief shall serve under the sole direction and

supervision of the City Manager during the full term of the Fire Chief's employment with the City.

(b) Throughout the duration of the Fire Chief's employment with City and the term of this Agreement, the Fire Chief shall perform all the duties and functions specified and set forth in Article III, Section 19 of the City's Charter and Section 2.08.190 of the San Rafael Municipal Code, pertinent provisions of the California Government Code, and all applicable City policies and procedures, adopted and/or approved by the City Council and/or City Manager. The Fire Chief shall administer and enforce Fire Department policies established by the City Council and/or City Manager and promulgate rules and regulations as necessary to implement such policies.

(2) Hours of Work

(a) The Fire Chief is an exempt employee in City government; however, it is expressly agreed to and understood by White that he is expected to engage in all hours of work necessary to fulfill the obligations of the position. The position does not have set hours of work and the Fire Chief is expected to be available at all times throughout his term of employment, weekdays and weekends included.

(b) It is recognized that the Fire Chief must devote a substantial amount of time to the business of the City outside of the City's customary business hours. Therefore, the Fire Chief's schedule of work each day and week shall vary in accordance with the work required to be performed by him. The Fire Chief shall spend sufficient hours on site to perform all of his assigned duties, all of the time.

(c) The Fire Chief shall not spend more than 12 hours per month teaching, consulting, speaking, or involved in any other non-City connected business or venture without the express prior written consent of the City Manager.

(3) Disability or Inability to Perform

(a) In the event the Fire Chief becomes mentally and/or physically incapable of performing his functions and duties, taking into account reasonable accommodation, and the City Manager reasonably determines that such incapacity will continue for more than six (6) months after the date of his determination, the City Council may, upon recommendation of the City Manager, terminate the Fire Chief. Any such determination by the City Manager shall be provided to the Fire Chief in writing prior to or concurrently with the City Manager's recommendation to the City Council. If the City

Council does elect to terminate the Fire Chief due to such determined incapacity, the Fire Chief shall be entitled to receive all severance benefits provided in Section 6.C below.

B) City Commitments

(1) The City shall provide the Fire Chief with the compensation, incentives and benefits specified in this Agreement, as may be from time to time amended.

(2) The City shall directly pay, or provide the Fire Chief reimbursement for, all actual documented business expenses incurred in connection with all official City business conducted by the Fire Chief.

(3) The City agrees to directly pay, on behalf of the Fire Chief, or reimburse the Fire Chief for the professional dues, subscriptions, travel and subsistence expenses which may be necessary for the Fire Chief's full participation in national, regional, state, and/or local associations, and/or organizations necessary and/or desirable for the Fire Chief's continued professional growth and advancement, including, but not limited to, governmental groups and committees upon which the Fire Chief serves or may serve as a member. The City will also provide direct City payment or expense reimbursement for instructional courses, institutes and/or seminars that are necessary for career professional development of the Fire Chief. All such fees/expenses shall be required to be documented to the reasonable satisfaction of City prior to payment or reimbursement hereunder.

C) Mutual Commitments

(1) Performance Evaluation

(a) Annual performance evaluations constitute an important method for the City Manager and Fire Chief to ensure effective communication between them relating to City Manager job expectations and Fire Chief performance. The City Council and City Manager recognize that for the Fire Chief to respond to their needs and expectations, and for the Fire Chief to grow in performance on the job, he needs to be advised concerning evaluation of his performance at regular intervals. To assure that he receives this information, the City Manager shall conduct an evaluation of the Fire Chief's performance *at least* once each year.

4) COMPENSATION - The City agrees to provide the following initial compensation to the Fire Chief during the term of the Agreement:

A) Compensation & Required Employer Costs

(1) Base Salary

(a) The annual salary for the position of Fire Chief shall be established by Resolution of the City Council. The annual salary, on appointment, is hereby set at \$193,824. This salary may be adjusted via adoption of a separate Salary Resolution, commencing on or before each fiscal year, and shall be reflected in the salary range identified in said Salary Resolution, from time to time amended and adopted throughout the term of this Agreement.

(2) Required Employer Costs - the following costs shall be paid by City on behalf of the Fire Chief:

(a) Federal Insurance Contributions Act (FICA) (if applicable).

(b) Medicare.

(c) Unemployment Compensation.

(d) The cost of any fidelity or other bonds required by law for the Fire Chief.

(e) The cost to defend and indemnify the Fire Chief as provided in Section 7.C below.

(f) Workers Compensation.

B) Benefits

(1) Holidays - The Fire Chief shall be entitled to paid holidays in accordance with the Council approved provisions of the Salary and Benefit Plan for the Unrepresented Executive Management Group of City.

(2) Leave Allowance

(a) The Fire Chief shall receive the same vacation accrual and benefits as provided to the Unrepresented Executive Management class of City employees. The Fire Chief will accrue 21 (twenty-one) days of vacation per year, which accrual shall increase in accordance with the City of San Rafael's policy for the Unrepresented Executive Management class of City employees. For purposes of calculating this vacation accrual, the City shall deem White to have been employed by the City for a period of ten (10) years commencing on the effective date of this Agreement. The Fire Chief shall be credited with 30 days of vacation leave as of the effective date of this Agreement. The Fire Chief shall be paid for any unused accrued vacation upon either voluntary or involuntary termination of his employment.

(b) The Fire Chief shall receive the same sick leave accrual and benefits as provided to the Unrepresented Executive

Management class of City employees. White shall be credited with 270 hours of "Credited Sick Leave" as of the effective date of this Agreement. Any unused Credited Sick Leave shall be applied toward service credit at the time of White's retirement, subject to pertinent and related retirement provisions, specified by the Marin County Employee Retirement Association (MCERA). White shall not have the right to receive cash compensation for unused Credited Sick Leave. Before using Credited Sick Leave during his employment with the City, White shall be required to exhaust any and all accrued City Sick Leave benefits he may then have.

(c) The Fire Chief shall be entitled to administrative leave each year consistent with the then in effect leave provided to the Unrepresented Executive Management class of City employees.

(3) Automobile - The Fire Chief shall be provided an automobile for his use in connection with City-related business and/or City-related or approved functions during, before, and/or after normal work hours. The automobile shall be of a type and model consistent with policies established by the City's Fleet Advisory Board and shall also be subject to advance approval of the City Manager. The City shall maintain such automobile for the Chief in such manner and to such standards that it is always in a safe and reliable condition for the Fire Chief's use and shall pay all fuel and associated maintenance costs of that vehicle.

(4) Uniform and Boot Allowance - The Fire Chief will receive a uniform allowance for each six (6) months of service ending June 30 and December 31. The uniform allowance shall be the sum of \$805 (\$1,620 per year). A pro-rated portion of the allowance may be given for the first and last six (6) months of service based upon the approval of the City Manager or designee. In addition, the Fire Chief shall be entitled to a maximum of \$160 every two years for a boot allowance. The Fire Chief is responsible for purchasing his own safety boots and for submitting a receipt to City for reimbursement. The boots must be purchased for City use only and must adhere to all department safety requirements. The Uniform and Boot Allowance amounts shall be adjusted during the term of this Agreement to coincide with the Uniform and Boot Allowance amounts defined in the San Rafael Fire Chief Officers' Association Memorandum of Understanding.

(5) Benefits that Accrue to Other Employees - The Fire Chief shall be entitled to all benefits, rights, and privileges accorded to safety City Department Directors, including, but not limited to, group health and dental insurance, except as otherwise provided in this Agreement. To the extent the benefits contained herein exceed the benefits provided to the Unrepresented Executive Management Group employees of the City, this Agreement shall control.

5) OTHER EMPLOYMENT BENEFITS

A) Pension - Marin County Employee Retirement Association (MCERA)

(1) The Fire Chief shall be considered a safety employee as the position relates to the Marin County Employee Retirement Association (MCERA). The Fire Chief will be responsible for paying the full cost of the employee contribution rate as established by MCERA. In addition, as provided in the Salary Resolution for the Unrepresented Executive Management class of City employees, the Fire Chief will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by MCERA. The City shall pay the remainder of the City's share for participation in the Marin County Employee Retirement Association.

(2) Internal Revenue Code Compliance - All provisions of Section 5.A shall be subject to all applicable provisions and limitations of the Internal Revenue Code and its related adopted regulations, as the same may be amended from time to time. No requirement of any provision of Sections 5.A and 5.B shall be effective if it would violate any provision of the Internal Revenue Code or its related regulations, and the inability of the City to effectuate such requirements for such reasons shall not constitute a breach of this Agreement.

B) Insurance

(1) Disability Insurance. Long-Term Disability insurance shall be provided in such amount as is consistent with that provided to other City Department Directors as identified in the Unrepresented Executive Management Group controlling documents

(2) Life Insurance. Term life insurance shall be provided at the Department Director level as identified in the Unrepresented Executive Management Group controlling documents

(3) Retiree Health Insurance. The City shall provide retiree health insurance for the Fire Chief, so long as the Fire Chief retires from the Marin County Employees Retirement Association (MCERA) within 120 days following termination of his employment with City and further that the Fire Chief complies with all then applicable MCERA retirement laws and regulations. The Fire Chief shall receive the same retiree health insurances as provided to the Unrepresented Management class of City employees as defined in the Unrepresented Executive Management Salary Resolution.

6) SEPARATION

A) Resignation/Retirement - The Fire Chief agrees to provide the City at least 60 days advance written notice of his determination to resign, including the effective date of such resignation, unless the Parties hereto otherwise agree in writing to a different notice provision. If the Fire Chief retires from full time public

service with the City of San Rafael, then he may provide six (6) months' advance notice if he chooses. The Fire Chief's actual retirement date shall be mutually agreed to and established.

B) Termination & Removal

(1) It is expressly understood, the entry into this Agreement notwithstanding, that the Fire Chief is an at-will employee of the City, serving at all times throughout his tenure with City at the pleasure of the City Council, as provided in Article VI, Section 11 of the City's Charter and Government Code Section 36506.

(2) The City Council may remove the Fire Chief at any time, with or without cause, by a majority vote of its members. Notice of such termination shall be provided to the Fire Chief in writing.

(3) Given the at-will nature of the position of Fire Chief, an important element of this Agreement pertains to the subject of termination. It is in the interest of both the City and the Fire Chief that any separation of the Fire Chief from City be accomplished in a dignified and businesslike manner.

C) Severance Pay

(1) In the event the Fire Chief is terminated not for cause by the City Council during a time when the Fire Chief continues to be willing and able to perform his duties under this Agreement, then, and in that event, the City agrees to pay the Fire Chief a lump sum cash payment in an amount equal to six (6) months' base salary.

(2) All payments required under Sections 6.C (1), are subject to and shall be interpreted to comply with the limitations set forth in Government Code Section 53260.

D) Involuntary Resignation

(1) In the event that the City Council requests that the Fire Chief resign, then he shall resign, and he shall be entitled to receive the severance benefits provided in Section 6.C above.

E) Separation for Cause

(1) Notwithstanding the provisions of Section 6.C, the Fire Chief may be terminated for cause. As used in this Section, "cause" shall mean one or more the following:

- (a) Conviction of a felony;
- (b) Conviction of a misdemeanor;
- (c) A plea of nolo contendere to any felony or misdemeanor;
- (d) Any act constituting a knowing and intentional violation of Section 7.B below, or conflict of interest codes adopted by or

followed by City;

(e) Abuse of drugs or alcohol that materially affects the performance of the Fire Chiefs duties; or

(f) Repeated and protracted unexcused absences from the Fire Chief's duties

(2) In the event the City terminates the Fire Chief for cause, then the City may terminate this Agreement immediately, and the Fire Chief shall be entitled to only the compensation accrued up to the date of such termination, payments required by Section 6.F below, and such other termination benefits and payments as may be required by law. The Fire Chief shall not be entitled to any severance benefits provided by Section 6.C in these circumstances.

F) Payment for Unused Leave Balance

(1) On separation from City employment, the Fire Chief shall be paid for all unused accrued leave allowances provided in Section 4.B

(2) above. Accumulated leave balances shall be paid at the Fire Chief's monthly salary rate on the effective date of separation.

7) MISCELLANEOUS PROVISIONS

A) Amendments - This Agreement may be amended at any time but only by mutual written agreement of the City and the Fire Chief.

B) Conflict of Interest

(1) The Fire Chief shall not engage in any business or transaction or have a financial or other personal interest or association, direct or indirect, which is in conflict with the proper discharge of his official duties or which would tend to impair independence in the performance of his official duties.

(2) The Fire Chief shall also be subject to the conflict of interest provisions of the California Government Code and any conflict of interest code applicable to the Fire Chief's employment with the City.

(3) The Fire Chief is responsible for submitting to the City Clerk the appropriate Conflict of Interest Statements at the time of appointment, annually thereafter, and at the time of separation from the position.

C) Indemnification

(1) The City shall defend, hold harmless and indemnify the Fire Chief from any claim, demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring within the course and scope of the Fire Chiefs performance of his duties as Fire Chief, pursuant to and in accordance with Government Code sections 995 through 996.6 and Government Code section 825.

Should the Fire Chief be sued for damages in an action in which it is alleged that the complained of act(s) arise out of the performance of his duties, the City shall provide a legal defense for the Fire Chief in such suit and indemnify the Fire Chief from any judgment rendered against him; provided however that such indemnity shall not extend to any judgment for damages arising out of any proved willful wrongdoing on his part. This indemnification shall extend beyond termination of employment and the otherwise expiration of this Agreement, to provide protection for any such acts undertaken or committed in the Fire Chiefs capacity as Fire Chief while in the employment of City, regardless of whether the notice of filing of a lawsuit occurs during or following employment with the City. This indemnity provision shall survive the termination of the Agreement and is in addition to any other rights or remedies that the Fire Chief may have under the law.

(2) The City and all parties claiming under or through it, hereby waives all rights of subrogation and contribution against the Fire Chief, for all matters while he is acting within the scope of the Fire Chiefs duties, from all claims, losses and liabilities arising out of or incident to activities or operations performed by him, or by him on behalf of the City, or any party affiliated with or otherwise claiming under or through him, regardless of any prior, concurrent, or subsequent active or passive negligence by the Fire Chief.

D) Severability - If any clause, sentence, part, section, or portion of this Agreement is determined by a court of competent jurisdiction to be illegal or unenforceable, such clause, sentence, part, section, or portion so found shall be regarded as though it were not part of this Agreement and the remaining parts of this Agreement shall be fully binding and enforceable by the Parties hereto.

E) Jurisdiction and Venue - This Contract shall be construed in accordance with the laws of the State of California, and the Parties agree that venue shall be in Marin County, California.

F) Entire Agreement - This Contract represents the entire agreement of the Parties, and no representations have been made or relied upon except as expressly set forth herein. This Contract may be amended or modified only by a written, fully executed agreement executed by the Parties.

G) Notice - Any notice, amendments, or additions to this Agreement, including change of address of either party during the term of this Agreement, which the Fire Chief or the City shall be required, or may desire, to make shall be in writing and shall be sent by prepaid first-class mail or hand delivered to the respective Parties as follows:

If to the City:

City Manager
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901

With a copy to the City Attorney

If to the Fire Chief:

Fire Chief
City of San Rafael
1400 Fifth Avenue
San Rafael, CA 94901

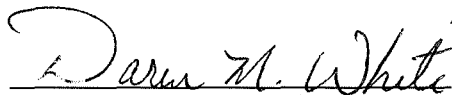
EXECUTION:

IN WITNESS WHEREOF, the City of San Rafael has caused this Agreement to be duly executed by its Mayor, its City Manager, and the Fire Chief, and duly attested by its City Clerk, the day and year first written above.

EMPLOYER - CITY OF SAN RAFAEL

FIRE CHIEF

By: _____
Gary O. Phillips, Mayor


Darin M. White, Fire Chief

By: _____
Jim Schutz, City Manager

ATTEST:

Lindsay Lara, City Clerk

APPROVED AS TO FORM:

Robert F. Epstein, City Attorney

FIRE CHIEF EMPLOYMENT AGREEMENT
Between the City of San Rafael and
Darin M. White
Dated April 15, 2020

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ORDINANCE NO. 1980

AN ORDINANCE OF THE CITY OF SAN RAFAEL APPROVING AN AMENDMENT (ZO18-003) TO SAN RAFAEL MUNICIPAL CODE SECTION 14.16.190.A (HEIGHT BONUS) TO ESTABLISH A NEW 20-FOOT HEIGHT BONUS FOR THE 999 3RD STREET PROPERTY

WHEREAS, in 1992, the City of San Rafael adopted Section 14.16.190 of Title 14 (Zoning Ordinance) of the San Rafael Municipal Code (SRMC) via Ordinance No. 1625; and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) and Whistlestop/Eden Housing submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18006) for the development of two 72-foot tall, four-story Research and Development buildings and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 133,099 sq. ft. parcel at 999 3rd Street; and

WHEREAS, the maximum height bonus for development in the Second/Third Mixed Use (2/3MUE) District is 12 feet based on the provision of the following public amenities;

- a. Affordable housing, consistent with SRMC Section 14.16.030 (Affordable housing);
- b. Public parking, providing it is consistent with the downtown design guidelines;
- c. Skywalks over Second or Third Streets, with the approval of the traffic engineer, and the recommendation of the design review board;
- d. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe; and

WHEREAS, the project application for the total BioMarin development includes a request to amend SRMC Section 14.16.190 to increase the allowable maximum height bonus for the 118,099 sq. ft. BioMarin portion of the 999 3rd Street property from 12 feet to 20 feet based on the provision of one or more of the following public amenities:

- a. Affordable housing (minimum 60 units);
- b. Privately owned public plaza (5,000 sq. ft. or more in size);
- c. Community facility (e.g. senior center, 10,000 sq. ft. or more in size);
- d. Pedestrian crossing safety improvements at adjacent intersections;
- e. Donation of funds for development of bike lanes; and

WHEREAS, the proposed request for additional height bonus requires an amendment to the General Plan (Exhibit 10 Height Bonus) and the City Council has approved that General Plan Amendment in conjunction with the review of the planning applications for the proposed project; and

WHEREAS, following the initial filing of the BioMarin/Whistlestop/Eden Housing planning applications, the City commenced with environmental review of the project. Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of the project, which included: a) the publication of a Notice of Preparation (NOP) in February 2019 for the purpose of scoping the topic areas of study for the preparation of an Environmental Impact Report; b) the preparation and publication of a Draft Environmental Impact Report (DEIR) in August 2019, which included a 45-day public review

process and Planning Commission public hearing for commenting on the DEIR; and c) the preparation of a Final Environmental Impact Report (FEIR) by responding to all comments made and submitted on the DEIR; and

WHEREAS, the FEIR assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2020 to allow for the maximum Height Bonus for the subject property. The FEIR finds that the proposed amendment to the General Plan will not result in a significant impacts, resulting from the change in height bonus provisions and would not be in potential conflict with San Rafael General Plan 2020 Land Use Element Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-10 (*Planned Development*), LU-9 (*Intensity of Nonresidential Development*), LU-14 (*Land Use Compatibility*), Neighborhood Element Policies NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*) and NH-8 (*Parking*), which are adopted for the purpose of avoiding or mitigating the physical, environmental effect of new development; and

WHEREAS, the FEIR states that there is a conflict with the San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), because of the significant and unavoidable traffic impacts to the local circulation network, which would result from the proposed project, however, these are not related to the additional height of the buildings, but from the intensity of the use; and

WHEREAS, in considering the application to amend SRMC Section 14.16.190, the City Council has reviewed and considered the proposed project benefits against the unavoidable, adverse environmental effects from the impacts to the circulation network. By separate resolutions, consistent with CEQA Guidelines Section 15063 and consistent with San Rafael General Plan 2020 Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), the City Council has: 1) certified the FEIR; and 2) adopted CEQA Findings of Fact; and Statement of Overriding Considerations and approved an Exception to the Circulation Element Policy C-5 (*Level of Service*), and a Mitigation Monitoring and Reporting Program (MMRP) to ensure that required mitigation measures are incorporated into project action; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly noticed public hearing on the Project, including this Zoning Ordinance Text Amendment (ZO18-003), along with a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006), accepting all oral and written public testimony and the written report of the Community Development Department Planning staff and closed said hearing on that date; and

WHEREAS, on January 28, 2020, the Planning Commission adopted Resolution No. 20-04, recommending to the City Council approval of the proposed amendment to SRMC Section 14.16.190; and

WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

WHEREAS, on March 23, 2020, the City Council held a duly noticed public hearing to review the proposed amendment to the Zoning Ordinance and considered all oral and written public testimony and the written report of the Community Development Department; and

WHEREAS, on March 23, 2020, by adoption of separate two resolutions, the City Council certified the FEIR, adopted CEQA findings of fact, adopted a statement of overriding consideration and approved the Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on March 23, 2020, the City Council, by adoption of separate Resolutions, approved a General Plan Amendment (GPA18-001), Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006); and

WHEREAS, the City Council makes the following findings, pursuant to SRMC Section 14.27.060 for adoption of the amendment to SRMC Section 14.16.190 set forth in Exhibit A, attached and incorporated herein by reference:

1. The proposed amendment would be generally consistent with the related elements, goals, policies or programs of the San Rafael General Plan 2020 in that:
 - a. Although the proposed amendment conflicts with San Rafael General Plan 2020 Land Use Element Policy LU-2 (*Development Timing*) and Circulation Element Policy C-5 (*Traffic Level of Service*), which are adopted for the purpose of avoiding or mitigating a physical, environmental effect associated with traffic, the Planning Commission has determined, through adoption of a separate resolution of CEQA Findings of Fact and Statement of Findings of Overriding Consideration, that the benefits of the General Plan amendment outweigh the unavoidable, adverse environmental effects of the action. These findings conclude that the amendment would be consistent with and implement Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which acknowledge that the City Council may approve an action that would exceed the LOS standards set by Policy C-5, if the City Council finds that the benefits of the project to the community outweigh the traffic impacts. The findings in the resolution approving the General Plan Amendment are reaffirmed herein to support this action to amend the San Rafael Zoning Ordinance.
 - b. This Ordinance would be consistent with and implement San Rafael General Plan 2020 Neighborhood Element Program NH-40, which encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the San Rafael Corporate Center.

As drafted, overall, the amendment would be consistent with: a) Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second Third Mixed Use District Design Considerations*), by promoting a high quality mixed-use development in the downtown designated areas; b) Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business Areas*) by broadening, with limited application, the uses that are permitted in areas that are designated for general commercial and office land uses.

- c. The public health, safety and general welfare are served by the adoption of the proposed amendment to San Rafael Municipal Code, which would modify the permitted maximum Height Bonus for the portion of the 999 3rd Street property to be included in the newly modified San Rafael Corporate Center PD District (PD-1936) in that:
 - d. This Ordinance would be consistent with and implement San Rafael General Plan Land Use Element LU-9 (*Intensity of Nonresidential Development*), with an appropriate development intensity based on consistency with the following factors: site resources and constraints, traffic and access, potentially hazardous conditions, adequacy of infrastructure, and City design policies.
 - e. This Ordinance would be consistent with and implement San Rafael General Plan Neighborhoods Policy NH-40 (*Second Third Mixed Use District*). Program NH-40, which is specific to the Second/Third Mixed Use District in the downtown area, as it encourages the redevelopment of the project site with a mix of uses that would also extend the uses of the SRCC.
 - f. This Ordinance would permit a project that will provide desired public benefits and amenities, including: Affordable housing (minimum 60 units), a privately-owned public plaza (5,000 sq. ft. or more in size), a community facility (e.g. senior center, 10,000 sq. ft. or more in size), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area.
 - g. This Ordinance would not be growth inducing nor would it be precedent setting as the property and proposed square footage addition would be consistent with the development standards and land uses included in the existing San Rafael Corporate Center. The development of the proposed project at this location would be in the public interest in that it would further the policies of the General Plan by developing an infill property within the downtown area of San Rafael. In summary, as the proposed amendments would not result in similar development increases for other areas of San Rafael, the action would not be precedent setting or growth-inducing.
2. The public health, safety and general welfare are served by adoption of the proposed Zoning Ordinance amendments, in that: a) an Environmental Impact Report has been prepared and certified, consistent with the California Environmental Quality Act (CEQA) and considered the proposed height bonus allowance, b) City department and regulatory agencies have been provided copies of plans and asked to provide input on the proposed project, including the amendment to the height bonus table;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1. Findings

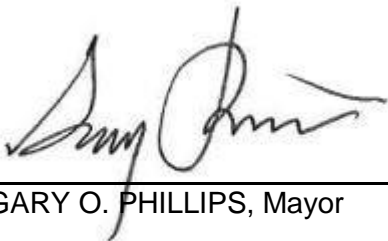
The City Council of the City of San Rafael hereby determines and finds that all of the facts and statements contained in the recitals herein and the findings of Planning Commission Resolution 20-05, adopted January 28, 2020, recommending to the City Council adoption of this Ordinance, are true and correct.

DIVISION 2. Amendment

The City Council of the City of San Rafael hereby approves and adopts the amendments to Section 14.16.190 of SRMC Title 14 (Zoning Ordinance), as presented in Exhibit A, attached hereto and incorporated herein by reference.

DIVISION 3. Publication; Effective Date

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.



GARY O. PHILLIPS, Mayor

ATTEST:



LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1980 was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 23rd day of March 2020 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Colin, Gamblin, McCullough and Mayor Phillips

NOES: Councilmembers: None

ABSENT: Councilmembers: None

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 6th day of April 2020.



LINDSAY LARA, City Clerk

Exhibit A
Amendment to San Rafael Municipal Code (SRMC) Title 14 – Zoning

The following section of the San Rafael Municipal Code (SRMC) Title 14 – Zoning is hereby amended to provide a new maximum height bonus of 20 feet for the 999 3rd Street property, including public amenities, as shown with the new (underlined) and modified (~~strike thru~~), as follows

Section 14.16.190.A – Height Bonus

- A. Downtown Height Bonuses. A height bonus may be granted by a use permit approved by the planning commission in the following downtown zoning districts. No more than one height bonus may be granted for a project.
1. In the Fourth Street retail core, a twelve-foot (12') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public courtyards, plazas and/or passageways, with the recommendation of the design review board that the public improvements are consistent with downtown design guidelines;
Public parking, providing it is not facing Fourth Street and it is consistent with the downtown design guidelines.
 2. In the Lindero district, on lots south of Second Street and fronting Lindero Street, a twenty-four-foot (24') height bonus for any of the following:
 - a. Park area adjacent to Mahon Creek, accessible to the public and maintained by the property owner;
 - b. Community facility, ten thousand (10,000) square feet or more in size. The facility must be available to the public for cultural and community events, and maintained and operated by the property owner.
 3. In the Second/Third mixed use east district, a twelve-foot (12') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public parking, providing it is consistent with the downtown design guidelines;
 - c. Skywalks over Second or Third Streets, with the approval of the traffic engineer, and the recommendation of the design review board;
 - d. Mid-block passageways between Fourth Street and parking lots on Third Street, with the recommendation of the design review board that the design is attractive and safe.
 4. On the 999 3rd Street Property, a twenty-foot (20') height bonus for any of the following:
 - a. Affordable housing (minimum 60 units)
 - b. Privately owned public plaza (5,000 sq. ft. or more in size)
 - c. Community facility (e.g. senior center, 10,000 sq. ft. or more in size)
 - d. Pedestrian crossing safety improvements at adjacent intersections
 - e. Donation of funds for development of bike lanes;
 - 4.5. In the West End Village, a six-foot (6') height bonus for any of the following:
 - a. Affordable housing, consistent with Section 14.16.030 (Affordable housing);
 - b. Public parking, providing it is consistent with the downtown design guidelines;

- c. Public passageways, with the recommendation of the design review board that the public passageway serves an important public purpose and is attractive and safe.

5.6. In the Second/Third mixed use west district, on lots located on the north side of Third Street

and east of C Street, an eighteen-foot (18') height bonus for the following:

- a. Public parking, providing it is consistent with the downtown design guidelines.

****No changes to Sections B OR C OF SRMC 14.16.190****

Marin Independent Journal

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San Rafael, CA 94903
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2070419

CITY OF SAN RAFAEL
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CITY CLERK, ROOM 209
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

03/28/2020

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 30th day of March, 2020.



Signature

PROOF OF PUBLICATION

Legal No. **0006474249**

SUMMARY OF ORDINANCE NO. 1980

AN ORDINANCE OF THE CITY OF SAN RAFAEL APPROVING AN AMENDMENT (2018-003) TO SAN RAFAEL MUNICIPAL CODE SECTION 14.16.190.A (HEIGHT BONUS) TO ESTABLISH A NEW 20-FOOT HEIGHT BONUS FOR THE 999 3RD STREET PROPERTY

This Summary concerns a proposed Ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1980, which will amend the City of San Rafael Zoning Ordinance, Title 14 of the San Rafael Municipal Code, as detailed in the complete text of Ordinance No. 1980. Ordinance No. 1980 is scheduled for adoption by the San Rafael City Council at its regular meeting of April 6, 2020. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

This Ordinance amends the Zoning Ordinance of the City of San Rafael by amending Section 14.16.190.A (Height Bonus) to establish a new 20 ft height bonus with projects that provide certain specified amenities, which allows the BioMarin project to build 2 buildings upto a 72 ft tall based on the project providing: 1) Affordable housing, 2) Privately owned public plaza, 3) Community facility, 4) Pedestrian crossing safety improvements at adjacent intersections and 5) Donation of funds for development of bike lanes.

For a complete copy of the text of the Ordinance amending the Municipal Code, please contact the City Clerk at (415) 485-3066 or the Community Development Department, Planning Division at (415) 485-3085. Copies of the Ordinance containing this Municipal Code amendment are also available for public review by contacting the City Clerk's office by email to Lindsay.lara@cityofsanrafael.org

LINDSAY LARA,
San Rafael City Clerk

Dated: 03/26/2020

No. 349 March 28, 2020

ORDINANCE NO. 1981

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADOPTING AN AMENDED PLANNED DEVELOPMENT (PD) REZONING (ZC18-002) FOR THE SAN RAFAEL CORPORATE CENTER (SRCC) PLANNED DEVELOPMENT, INCLUDING THE RESCISSION OF THE PD 1936 DISTRICT, BY ADOPTION OF A NEW PD DISTRICT TO: 1) ALLOW EXPANSION OF THE CURRENT SRCC PD DISTRICT BY INCORPORATING THE 118,099 SQ. FT. OF THE 999 3RD STREET PROPERTY INTO THE BOUNDARIES; AND 2) UPDATE PD DISTRICT REGULATIONS TO INCORPORATE REVISED PARKING STANDARDS AND DEVELOPMENT REGULATIONS TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT BUILDINGS (APN 011-265-01 AND 013-021-34, 35, 50, 51, 52, 53, 54 & 55,)

WHEREAS, in February 1998, the San Rafael City Council adopted a Planned Development District (PD-1721) approving a Master Plan for the development of a 406,000 square foot office park on a 15.54-acre site located south of Second Street in Downtown San Rafael (the "SRCC Property"). The PD-1721 District established zoning and standards for development of the subject property with the San Rafael Corporate Center office park (SRCC), consisting of five buildings (totaling 406,000 square feet), two parking structures, surface parking, campus landscaping and publicly accessible park area along Mahon Creek; and

WHEREAS, in August 2000, the City Council adopted an amendment to the Planned Development (PD-1721) District to approve changes in the zoning district development standards in order to accommodate multi-tenant use of the SRCC. The amended Planned Development District was rezoned to PD-1754; and

WHEREAS, in October 2011, the City Council adopted an amendment to the Planned Development (PD-1754) District to expand the allowed land uses for the SRCC to include medical use and research and development and allowed the adopted parking standard of 3.3 parking spaces per 1,000 in the Master Plan (instead of 4.4 parking spaces per 1,000 sq. ft. for medical office). The amended Planned Development District was rezoned to PD-1901; and

WHEREAS, in October 2015, the City Council adopted an amendment to the Planned Development (PD-1901) District approving a 72,396 square foot, 54-foot tall, four-story office building at 755 Lindaro Street on the western parcel surface parking lot (Parcel 1) and a six story expansion of the previously approved and built parking structure at 788 Lincoln Ave. (Parcel 8) of the SRCC. The build-out of the approved campus totals 478,396 sq. ft. allowed by the PD 1936. The amended Planned Development District, PD-1936, is the zoning currently governing the SRCC Property; and

WHEREAS, between 2000 and today, the SRCC Property has been developed in various phases. The last office building (5th of 6 entitled) and the second parking garage approved were constructed in 2015-2016 under the terms of the Planned Development (PD-1901) District. The build-out of the approved campus totals 400,700 sq. ft., which is 5,300 sq. ft. less than the 406,000 sq. ft. allowed by the PD 1901; and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin) submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Planned Development (PD) Rezoning (ZC18-002), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small

Subdivision (S18-001), and Sign Program Amendment (SP18-006) for the development of two 72-foot tall, four-story Research and Development buildings for BioMarin and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building for Whistlestop/EDEN Housing on a 133,099 sq. ft. parcel at 999 3rd Street (the “Project”); and

WHEREAS, the total development for BioMarin includes a request to incorporate 118,099 square feet of the 999 3rd Street property into the existing SRCC Property’s PD District. The total site area of the proposed campus would be 795,021 sq. ft.; and

WHEREAS, the application to incorporate the portion of 999 3rd Street into the SRCC campus and development of the two new buildings at 999 3rd Street, create a blended FAR amongst all SRCC properties, and use a shared parking arrangement requires an Amendment to the PD-1936 District; and

WHEREAS, on March 12, 2019, the Planning Commission held an appropriately noticed public scoping hearing on the Notice of Preparation (NOP) for the preparation of an Environmental Impact Report (EIR) to assess the impacts of the Project. The Planning Commission directed staff to prepare an EIR for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) to address the following issues, Aesthetics, Air Quality, Biological Resources, Cultural resources, Geology and Soils, Greenhouse Gas Emissions, Energy, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Public Services, Recreation, Transportation, Tribal Cultural Services, Utilities, and Project Alternatives; and

WHEREAS, the DEIR was completed and a Notice of Completion (NOC) was filed and the DEIR made available and circulated for a 45-day public comment period, beginning on August 9, 2019 and closing on September 23, 2019; and

WHEREAS, on September 24, 2019, the Planning Commission held a duly noticed public hearing to accept comments on the DEIR and directed staff to prepare a Final Environmental Impact Report (FEIR); and

WHEREAS, the Final EIR was prepared and released for public review on January 10, 2020; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly noticed public hearing on the Project, including this Planned Development Rezoning (ZC18-002), along with a General Plan Amendment (GPA18-001), Zoning Ordinance Text Amendment (ZO18-003), Development Agreement (DA19-001), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001) and Sign Program Amendment (SP18-18-006), accepting all oral and written public testimony and the written report of the Community Development Department Planning staff; and

WHEREAS, on January 28, 2020, the Planning Commission considered the responses to comments contained in the FEIR and recommended to the City Council, by Resolution No. 20-01, certification of the Final EIR in that it complies with all requirements of CEQA; and

WHEREAS, on January 28, 2020, the Planning Commission adopted Resolution No. 20-05, recommending to the City Council approval of the proposed Planned Development Rezoning; and

WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

WHEREAS, on March 23, 2020, the City Council held a duly noticed public hearing to review the application to amend the PD-1936 Zoning District and considered all oral and written public testimony and the written report of the Community Development Department; and

WHEREAS, on March 23, 2020, by adoption of separate two resolutions, the City Council certified the FEIR for the Project, adopted CEQA findings of fact, adopted a statement of overriding consideration and approved the Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, as required by San Rafael Municipal Code (SRMC) Sections 14.07.090 and 14.27.060, in support of amending the Zoning Ordinance to rescind the existing Planned Development (PD) District (PD-1936) and Second/Third Mixed Use East (2/3 MUE) District, as shown on the map contained in Exhibit "B" and further described in Exhibit "C," and to establish a new PD District as outlined in Exhibit "A" (San Rafael Corporate Center Master Plan), which exhibits are attached and incorporated herein by reference, the City Council makes the following findings:

1. As proposed and conditioned, approval of this PD Amendment to expand the allowable uses to include an additional 207,000 square feet of laboratory and general office uses in two 72-foot tall, four-story buildings, on 118,099 square feet of 999 3rd Street, would be consistent with the applicable goals and policies of the San Rafael General Plan 2020 and in conformance with the provisions of the PD-1936 District, as amended. Specifically:
 - a. As proposed, the laboratory and office land uses are consistent with General Plan Land Use Element Policies LU-23 (*Land Use Map and Categories*), LU-10 (i), LU-9 (*Intensity of Nonresidential Development*), LU-12 (*Building Heights*), LU-14 (*Land Use Compatibility*) in that these uses would be: allowable under the adopted Lindero Office land use designation; compatible with the current land uses allowed under the PD-1936 District adopted for this site; and compatible with existing land uses found in the surrounding area. In addition, by separate action, the City Council has approved a height bonus and an accompanying General Plan amendment.
 - b. Although the proposed Project will conflict with Circulation Element Policies C-5 (*Traffic Level of Service Standards*), the City Council has adopted by separate Resolution a waiver to the LOS standards for this Project consistent with C-5e, based on a finding that the benefits of the Project outweigh the impacts.
 - c. The Project would be consistent with C-7 (*Circulation Improvements Funding*) and C-12 (*Transportation Demand Management*) in that the office use component would be subject to the adopted citywide traffic mitigation fees which would be used to fund long-term transportation improvements; and the Project would not change the current City requirement and obligation of the office park owner to implement transportation demand measures such as encouraging tenants, through incentives, to carpool and use public transit.

- d. As proposed, the laboratory and office land uses would be consistent with General Plan Neighborhood Element Policies NH-15 (*Downtown Vision*), NH-16 (*Economic Success*), NH-38 (*Lindero Office District*) and NH-8 (*Parking*) in that they would: facilitate additional employment and future economic success in the Downtown area; promote build-out of the San Rafael Corporate Center project by allowing a land use that is appropriate and marketable; allow compatible land uses that would fill current and long-term projected vacancies in general and administrative office space; and promote a reasonable reduction in required parking supported by the Project's proximity to Downtown, the Bettini Transit Center and the SMART rail stations.
 - e. As proposed, the laboratory and office land uses would be consistent with the General Plan Community Design Element Policy CD-21 (*Parking lot landscaping*) in that: the uses proposed will have an approved landscaping plan that will provide shade cover and adequate screening of vehicles within parking lot areas.
 - f. As proposed, the laboratory and office land uses would be consistent with the General Plan Sustainability Element Policies SU-1 (*Land Use*) and SU-2 (*Promote Alternative Transportation*), and the adopted Climate Change Action Plan in that: the uses are proposed within an existing and approved development office park that is close to public transit and Downtown; the project proposes a reduction in the amount of required parking for the medical use component, thus reducing thermal gain and shared parking; and the additional mix in land uses would facilitate the implementation of transportation demand measures such as encouraging tenants, through incentives, to carpool and use public transit.
 - g. The approval of additional laboratory and office land uses would be consistent with Our Vision of Downtown San Rafael in that it would further promote new businesses and employment in the Downtown area.
 - h. The approval of laboratory and office land uses would be consistent with the PD-District, as amended by this PD rezoning.
2. The proposed additional laboratory and office uses would not be detrimental to the health, safety or general welfare of the residents or community in that:
 - a. These uses would be compatible with the currently approved and operating administrative, laboratory, and general office uses. These uses would be compatible with surrounding and immediate land uses and development.
 - b. These uses would be consistent and not in conflict with the deed restriction recorded for the San Rafael Corporate Center, which permits commercial and office land uses but prohibits use and development with residential and day care land uses. No residential uses would be included on the 118,099 sq. ft. land area addition to the San Rafael Corporate Center.
 - c. The addition of these land uses would realize the development of a vacant downtown parcel that is contemplated for laboratory and general office uses. The Corporate Center is adequately served by local facilities and utilities and the proposed land uses would be an extension of the ongoing operations.
 3. The proposed addition of laboratory and general office land uses will result in a reduction in parking ratio requirements currently adopted in the San Rafael Corporate Center Master Plan (3.3 spaces/1,000 square feet). The initial approval of the San Rafael Corporate Center found that this development has been designed to adequately address the automobile, bicycle and pedestrian traffic systems. Consistent with SRMC Section

14.18.040B, the Project has been studied for parking needs for laboratory, office, and amenities uses at this location finding that the use of the proposed parking standard for the office park is reasonable, appropriate and adequate in that:

- a. The proposed parking standard of 3.0 parking spaces per 1,000 square feet of gross square feet (GSF) for office, 1.5 parking spaces per 1,000 square feet of GSF for laboratory/research and development, and 1.0 spaces per 1,000 GSF of amenities is equitable and logical based on the parking study demand and usage on the existing BioMarin campus and studies and usage for other biotech campuses around the Bay Area as documented in the parking demand study for the proposed project.
 - b. The approvals and agreements established for the San Rafael Corporate Center will require a parking contingency plan should the office park be used for multi-tenants or converted from laboratory land uses. The project owner will be required to demonstrate available parking upon sale of the property or conversion from BioMarin (a single tenant) to multi-tenant uses.
 - c. The San Rafael Corporate Center is in immediate proximity to the Bettini Transit Center (major transit hub for Marin County) and the Downtown San Rafael SMART rail station. The immediate access to mass transit reduces parking demand, which appropriately supports lower parking standards.
4. The proposed uses are found to be appropriate in area, location and overall planning for the purpose intended, and the design and development standards create a non-residential environment of sustained desirability and stability given that the Project is located on a centralized, downtown, vacant, infill-parcel contemplated for development in the General Plan along a major arterial road. The proposed uses are consistent with the surrounding development and the existing BioMarin campus at the San Rafael Corporate Center. The proposed Project uses high quality design materials and has been reviewed by the Design Review Board for recommendation of approval. The proposed Project will allow for growth of a major employer in the downtown area.
 5. The applicant demonstrates that public facilities are provided to serve the anticipated population as documented in the Final EIR for the proposed Project and based on review by City departments for Code consistency regarding sewer, water, and other utilities. The proposed project is located in the downtown area of San Rafael where existing infrastructure is already in place to serve the Project site.
 6. The development is improved by deviations from typical zoning ordinance property development and parking standards given that it functions as a campus for a large biotechnology company and promotes high quality design, including clustering, landscaping, and parking sharing across the campus, and allows for flexibility of height and FAR standards.
 7. The auto, bicycle, and pedestrian traffic system is adequately designed for circulation needs and public safety and emergency vehicle access is provided to serve the proposed development based on review by City departments including Police and Fire. The proposed access points have been reviewed by City departments for Code consistency. Improvements to the bike and pedestrian networks in the surrounding area are included as part of the Project. Although the Project deviates from Level of Service standards as documented by the Final EIR for the proposal, the project has been approved by separate actions, including a Exception to LOS standards and a

statement of overriding considerations for circulation impacts which remain significant and unavoidable impacts.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1. Amendment of Map.

The Zoning Map of the City of San Rafael, California, adopted by reference by Section 14.01.020 of the San Rafael Municipal Code is amended by reclassifying the following real property from PD-1936 (Planned Development District 1936) and Second/Third Mixed Use East (2/3MUE) District to PD (Planned Development Ordinance No. _____ District. Said property so reclassified is located at 999 3rd Street (portion of), 750, 770, 775 and 790 Lindaro Street and 781, 788 and 791 Lincoln Avenue, designated as County Assessor's Parcel No's (APN): 011-265-01 (portion of) and 013-021-34, -35, -50, -51, -52, -53, -54 & -55, as shown on the map attached as Exhibit "B" and described in Exhibit "C", which are attached and incorporated by reference.

DIVISION 2. Conditions.


Any development of this property shall be subject to the conditions outlined Exhibit "A", the *San Rafael Corporate Center Master Plan*, which is attached hereto and made a part hereof.

DIVISION 3. Severability.

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Council hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, or phrase be declared invalid.

DIVISION 4. Publication; Effective Date.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.



GARY O. PHILLIPS, Mayor

ATTEST:



LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1981 was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 23rd day of March 2020 and ordered passed to print by the following vote, to wit:

AYES: COUNCILMEMBERS: Bushey, Colin, Gamblin, McCullough and Mayor Phillips

NOES: COUNCILMEMBERS: None

ABSENT: COUNCILMEMBERS: None

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the City Council to be held on the 6th day of April 2020.



LINDSAY LARA, City Clerk

Exhibit A: Development Standards

Exhibit B: PD Map

Exhibit C: Property Description (Meets & Bounds)

Exhibit A

San Rafael Corporate Center Master Plan

(Formerly Ordinance 1721, 1754, 1901, and 1936 Fair, Isaac Office Park Master Plan)
(ZC18-002)

INTENT

The San Rafael Corporate Center (formerly Fair, Isaac Office Park and currently known as BioMarin San Rafael Campus) Master Plan is based on the plans (Development Plan) approved for the Environmental and Design Review Permit (ED97-24, ED14-097 and ED18-087), Master Use Permit (UP14-052 and UP18-034) and Tentative Maps (TS97-1 and S18-001), approved by the City Council on February 17, 1998, August 7, 2000, December 5, 2011, October 19, 2015, and March 16, 2020.

LAND USES

This office park permits a maximum of 715,500 sq. ft. of building area within 8 buildings approved for the following uses: administrative office, general office, research/development uses, and accessory uses and parking.

1. Administrative and General Office Use. Administrative and general office uses as defined by San Rafael Municipal Code Title 19 (Zoning).
2. Research and Development Use. Research and development use is defined as a use engaged in scientific, medical or technological research with limited product testing and production. This use excludes full production of industrial type manufacturing and generally operates similar to and characteristic of low-intensity, general office use. Medical laboratories established for research (as opposed to labs providing testing services for patients/visitors) would be defined as a research and development use.
3. Uses determined to be incidental or accessory to the above-listed land uses shall be permitted, as determined to be appropriate by the Community Development Director.

In addition to the above buildings, the office park permits accessory parking structures to support the proposed development. Requirements and conditions for all uses in the office park shall be consistent with Master Use Permit UP14-052 and UP19-034. Residential and day care land uses are prohibited by recorded deed restriction.

DEVELOPMENT STANDARDS

The following standards shall apply to all development of the San Rafael Corporate Center (formerly Fair, Isaac Office Park and currently known as BioMarin San Rafael Campus):

1. Maximum floor area ratio:	0.90 blended maximum floor area ratio, per Development Plan approved under the office park Master Use Permit (UP18-034) and Environmental and Design Review Permit (ED18-087).
2. Building Height:	<u>Proposed buildings</u> - Maximum 54 feet, plus an 20-foot building height bonus for the two new buildings at 999 3 rd St, based on

	<p>provision of public benefit as addressed below..</p> <p><u>Existing Buildings</u> - Maximum 54 feet plus a 24 foot height bonus previously granted by City for existing buildings within the campus (750 Lindaro St, 770 Lindaro St, 790 Lindaro St and 791 Lincoln Ave on the Central Parcel). Master Use Permit (UP14-052) (applicable to the Original SRC Property in the Lindaro Office land use district) and Environmental and Design Review Permit (ED14-097), as shown in General Plan Exhibit 10. The building height bonuses requires public benefit provisions as addressed below.</p>
<p>3. Landscaping:</p>	<p>Landscaping shall be consistent with the Development Plan approved under the office park Environmental and Design Review Permits (ED14-097 and ED18-087).</p>
<p>4. On-site Parking:</p>	<ul style="list-style-type: none"> • 3.0 parking spaces per 1,000 gross square feet of office area, • 1.5 spaces per 1,000 gross square feet of research/development area, and • 1.0 spaces per 1,000 gross square feet of amenity area. <p>Compliance with and monitoring of on-site parking shall be enforced through the conditions of the approval required by the office park Master Use Permit (UP14-097 and UP18-034).</p> <p><u>Parking Contingency:</u> BioMarin will incorporate the following provisions into an enforceable deed restriction for the entire project site, Western parcels, Central parcels, Eastern Parcel and northern Parcel (except the portion transferred to Whistlestop/Eden Housing):</p> <ol style="list-style-type: none"> a. Changes in tenancy or use (type of use of change to multiple tenants, rather than single tenant), expansion of use(s), or expansion of floor area that create a parking demand that is more than five (5) percent greater than the number of required parking spaces approved under the current Planned Development (PD) District shall provide additional automobile parking, bicycle parking, and loading space as required by this Planned Development (PD) District and/or demonstrate to the satisfaction of the City that an enhanced Transportation Demand Management Program will meet the increased parking demand. b. Existing parking shall be maintained, but may be replaced in a reconstructed parking facility. c. A change in occupancy is not considered a change in use if the parking demand of the new occupant is essentially the same as that for the occupant approved with Planned Development (PD) District).

5. Building Coverage	Building coverage shall be consistent with the Development Plan approved under the office park Environmental and Design Review Permit (ED14-097 and ED18-087).
6. Public Benefits:	<p>The existing SRCC development received height bonus for four (4) of the buildings noted above in exchange for certain public benefits, including provision of a privately maintained park with public access adjacent to Mahon Creek and conference/meeting room available to the public. (UP14-052)</p> <p>In addition for the new development of the three buildings (755 Lindaro, and two buildings at 999 3rd St), subdivision and transfer of 15,000 sq ft of land to Whistlestop at the 999 3rd St site, a 6,000 sq ft “front porch” plaza open to the public and 3,000 sq ft retail space are to be provided in the 999 3rd St building as required by the Development agreement set forth in the office park Use Permit (UP18-034).</p> <p>Other public benefits required for the Development Agreement, 18 ft height bonus for the two buildings at 999 3rd St, Statement of Overriding Considerations to CEQA Impacts are required as described in DA19-001</p>
7. Development Phasing	The three unbuilt buildings and expansion of the Lincoln Ave garage are to be phased within the 10-year term of the Development Agreement (DA). See DA19-001 and UP18-034.
8. Park Facility	The office park development shall provide a privately maintained park with public access adjacent to Mahon Creek as set forth in the office park Use Permit (UP14-052 and UP18-034)
9. Minor Additions/ Accessory Structures	Minor accessory structures or minor additions to the building that are determined to be accessory to the primary use and minimal in impact as determined by the Community Development Director, may be considered through review and approval of a Environmental and Design Review Permit, without an amendment to the PD District.

DESIGN STANDARDS

All buildings, structures, site improvements, landscaping, parking and exterior lighting shall be consistent with the Development Plan and conditions of approval for the office park Environmental and Design Review Permit.

- ED14-097 and ED17-057 shall govern the new building design at 755 Lindaro St and the expansion to the Lincoln Ave parking garage; and
- ED18-087 shall govern the design of the two new buildings at 999 3rd St.

TERM

This PD District and project approvals include a Development Agreement, as authorized by the California Government Code Section 65864 et seq., therefore this PD shall be approved for the term as defined by the Development Agreement, as long as there is compliance with all requirements and obligations of the Development Agreement.

Exhibit B PD Boundary Map



Exhibit C

Legal Description

"Western Parcel" (APN 013-012-38 AND 39) Reference PARCEL TWO

A portion of that certain parcel of land described in the deed from F. M. Neely and Sara Neely, his wife, to PG&E recorded December 12, 1922 in Volume 11 of Official Records at page 209, Marin County Records and being more particularly described as follows:

Beginning at the intersection of the southerly boundary line of the city street known as Second Street, with the westerly boundary line of the city street known as Lindaro Street and running thence along said westerly boundary:

- (1) south 06°45'00" west 299.22 feet; thence
- (2) south 08°53 '00" west 405.54 feet
to a point in the northerly boundary line of the Northwestern Pacific Railroad Right
of Way; thence along said northerly boundary line
- (3) north 54°38'00" west 396.88 feet; thence leaving said northerly
boundary line
- (4) north 06°38'05" east 238.95 feet; thence
- (5) south 83°33'00" east 241.53 feet to a point herein for
convenience called Point "A"; thence
- (6) north 06°38'05" east 273.54 feet to a point in the southerly
boundary line of said Second Street, thence running along said southerly
boundary line.
- (7) south 83°33'00" east 123.00 feet, more or less, to the point
of beginning.

The bearings used are based on the Record of Survey filed for record May 10, 1985 in Book 20 of Surveys at page 47, Marin County Records.

Reserving therefrom the following easements over and across those certain portions
of the Parcel Two:

1. The "Exclusive Gas Meter Easement";
2. The "Nonexclusive Gas Meter Easement";
3. The "West Parcel Slurry Wall Easement";
4. The "Area SA Extraction Trench Easement";
5. The "Area SB Extraction Trench Easement"; and
6. The "West Parcel Electric Facilities Easement"; which are more particularly
described as follows:

Exclusive Gas Meter Easement

Beginning at a point in the easterly boundary line of the parcel of land hereinbefore described and designated PARCEL TWO, being also the westerly boundary line of said Lindaro Street, from which the southeast corner of said PARCEL TWO bears south 08°53'00" west 329.67 feet; thence leaving said easterly boundary line:

- (1) north 81°07'00" west 30.00 feet; thence
- (2) north 08°53'00" east 30.00 feet; thence
- (3) south 81°07'00" east 30.00 feet to a point in said easterly boundary;
thence along said easterly boundary line
- (4) south 08°53'00" west 30.00 feet to the point of beginning.

Nonexclusive Gas Meter Easement

Beginning at the southwest corner of the parcel of land hereinbefore described and designated Exclusive Gas Meter Easement and running thence

- (1) north 81°07'00" west 20.00 feet; thence
- (2) north 08°53 '00" east 50.00 feet; thence
- (3) south 81 °07'00" east 50.00 feet; more or less,
to a point in the easterly boundary line of said PARCEL TWO, being also the westerly boundary line of said Lindaro Street; thence along said easterly boundary line.

(4) south 08°53 '00" west 20.00 feet
to the northeast corner of said Exclusive Gas Meter Easement; thence along the northerly boundary line of said Exclusive Gas Meter Easement

- (5) north 81°07'00" west 30.00 feet
to the northwest corner of said Exclusive Gas Meter Easement; thence along the westerly boundary line of said Exclusive Gas Meter Easement
- (6) south 08°53 '00" west 30.00 feet to the point of beginning.

West Parcel Slurry Wall Easement

A strip of land of the uniform width of 20 feet extending from the general northerly boundary line of said PARCEL TWO, southerly to the southwesterly boundary line of said PARCEL TWO and lying 10 feet on each side of the line described as follows:

Beginning at a point in the general northerly boundary line of said PARCEL TWO, from which said Point "A" bears south 83°33'00" east 216.93 feet; thence leaving said general northerly boundary line

- (1) south 06°29'15" west 206.97 feet; thence
- (2) on a tangent curve to the left with a radius of 100.00 feet and tangent at the northerly terminus thereof to the preceding course, an arc distance of 5-8.23 feet, more or less, to a point in the southwesterly boundary line of said PARCEL TWO.

Area SA Extraction Trench Easement

Beginning at said Point "A" and running thence along the general westerly boundary line of said PARCEL TWO

- (1) north 06°38'05" east 273.54 feet

to a point in the northerly boundary line of said PARCEL TWO, being also the southerly boundary line of said Second Street, thence along said northerly boundary line
(2) south 83°33'00" east 19.63 feet; thence leaving said northerly boundary line
(3) south 05°41 '35" west 457.82 feet; thence
(4) north 84°18'25" west 27.16 feet; more or less,
to a point in the southerly prolongation of the general westerly boundary line of said PARCEL TWO; thence
(7) north 06°38'05" east 184.60 feet, more or less, to the point of beginning. Area

5B Extraction Trench Easement

A strip of land of the uniform width of 16 feet extending westerly from the easterly boundary of said PARCEL TWO, and lying 8 feet on each side of the line described as follows:

Beginning at a point in the easterly boundary line of said PARCEL TWO, being also the westerly boundary line of said Lindaro Street, from which the southeast corner of PARCEL TWO bears south 08°53 '00" west 157.56 feet; thence leaving said easterly boundary line
(1) north 80°40'14" west 135.97 feet to a point within the boundary lines of PARCEL TWO.

West Parcel Electric Facilities Easement and the Substation Access Easement

That portion of said PARCEL TWO lying westerly and southwesterly of a line described as follows:

Beginning at said Point "A" and running thence along the southerly prolongation of the general westerly boundary line of said PARCEL TWO
(1) south 06°38'05" west 269.32 feet; thence
(2) south 54°38'00" east 125.95 feet, more or less,
to a point in the easterly boundary line of said PARCEL TWO.

**"CENTRAL PARCEL"
(APN 013-021-51, 52, 53, 54 AND 55)**

Reference: PARCEL ONE

The 8.280 acre parcel of land as shown upon the Record of Survey filed for record May 10, 1985 in Book 20 of Surveys at page 47, Marin County Records. Reserving therefrom the following easements over and across those certain portions of the Parcel One:

- A. The "Central Parcel Slurry Wall Easement";
- B. The "Central Parcel Extraction Trench Easement"; and
- C. The "Central Parcel Electric Facilities

Easement"; which are more particularly described as follows:

Central Parcel Slurry Wall Easement

A strip of land of the uniform width of 20 feet extending from the westerly boundary line of the parcel of land hereinbefore described and designated PARCEL ONE easterly and northerly to the northerly boundary line of said PARCEL ONE and lying 10 feet on each side of the line described as follows:

Beginning at a point in the westerly boundary line of said PARCEL ONE, from which a rebar and cap stamped "LS 4545", herein for convenience called Point "B", accepted as marking the northeasterly terminus of a course in the westerly boundary line of the 8.280 acre parcel of land as shown upon said Record of Survey filed for record May 10, 1985, which course as shown upon said map has a bearing of S8°53' wand a length of 421.24 feet, bears north 08°53 '00" east 364.35 feet; thence leaving said westerly boundary line•

- (1) south 76°44'52" east 70.89 feet; thence
- (2) south 84°17'14" east 32.74 feet; thence
- (3) south 79°31'32" east 111.67 feet; thence
- (4) south 76°52'26" east 104.19 feet; thence
- (5) north 87°55'06" east 104.33 feet; thence
- (6) north 62°01'36" east 31.14 feet; thence
- (7) north 46°27'46" east 23.10 feet; thence
- (8) north 33°08'08" east 12.71 feet; thence
- (9) north 19°37'58" east 36.67 feet; thence
- (10) north 00°14'58" east 46.69 feet; thence
- (11) north 10°10'31" west 41.35 feet; thence
- (12) north 06°57'47" west 97.03 feet; thence
- (13) north 04°56'07" west 42.24 feet; thence
- (14) north 03°58'51" east 124.15 feet; thence
- (15) north 09°00'19" east 35.36 feet; thence
- (16) north 08°34'17" east 106.14 feet; thence
- (17) north 07°26'47" east 107.63 feet, more or less,

to a point in the northerly boundary line of said PARCEL ONE.

Central Parcel Extraction Trench Easement

A strip of land of the uniform width of 16 feet extending easterly from the westerly boundary line of said PARCEL ONE, and lying 8 feet on each side of the line described as follows:

Beginning at a point in the westerly boundary line of said PARCEL ONE, from which Point "B" bears north 08°53 '00" east 249.70 feet; thence leaving said westerly boundary line.

(1)-south 80°42'05" east 14.39 feet; thence

(2) south 79°43'14" east 64.83 feet

to a point within the boundary lines of PARCEL ONE.

Central Parcel Electric Facilities Easement

That portion of said PARCEL ONE, lying easterly and southerly of the general easterly boundary line of the strip of land hereinbefore described and designated Central Parcel Slurry Wall Easement.

**"EASTERN
PARCEL" (APN
013-021-50)**

All that certain real property situated in the City of San Rafael, County of Marin, State of California, described as follows:

PARCEL ONE:

BEGINNING at a point in the Southerly line of Second Street distant 496.5 feet Easterly from the point of intersection of the said Southerly line of Second Street with the Easterly line of Lindaro Street; thence running Easterly along said line of Second Street

140.1 feet to the Southerly line of the San Rafael and San Quentin Turnpike or Toll Road, now known as Francisco Boulevard; thence Southerly and Easterly along said line of said Turnpike 90 feet; thence leaving said Turnpike and running South $14^{\circ}59'$ West 153.5 feet; thence North $38^{\circ}41'$ West 278.3 feet to the point of beginning.

EXCEPTING THEREFROM all that portion there of lying within the lines of Lincoln Avenue.

AND FURTHER EXCEPTING any portion of the above described property which may have been tidelands in the bed of any tidal slough below the elevation of ordinary high tide.

PARCEL TWO:

BEGINNING at the point of intersection of the Southerly line of Second Street, with the Easterly line of Petaluma Avenue (now known as Lincoln Avenue); thence Easterly along the Southerly line of Second Street 6/10 of a foot to the most Westerly corner of that certain lot or parcel of land which was conveyed by John W. Mackay and James L. Flood to the City of San Rafael, by Deed dated June 5, 1893 and recorded in Book 26 of Deeds at Page 238, Marin County Records; thence along the Southwesterly line of said lot, South $38^{\circ}04'$ ¹ East 278.3 feet to the most Southerly corner of said lot; thence along the Easterly line of said lot, North $14^{\circ}59'$ ¹ East 153.6 feet to the Southerly line of the Toll Road; thence Easterly along the Southerly line of the Toll Road 6.6 feet to the Westerly bank of the said tidal canal South $11^{\circ}04'$ ¹ West 289 feet; thence continuing along said Westerly bank on the arc of a circle having a radius of 441.7 feet, 462.3 feet to the said Easterly line of Petaluma Avenue; thence Northerly along the said Easterly line of Petaluma Avenue 702.8 feet to the point of beginning.

EXCEPTING THEREFROM all that portion thereof as contained in the Deed from the City of San Rafael, a municipal corporation, to Pacific Gas and Electric Company, a California corporation, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, and re-recorded November 29, 1961 in Book 1519 of Official Records at Page 608, Marin County Records.

ALSO EXCEPTING THEREFROM all that portion thereof described as follows: A STRIP OF LAND, 10 feet in width, lying Southeasterly of and contiguous to the Southeasterly boundary of that certain parcel of land described in the Deed from the City of San Rafael, a municipal corporation, to Pacific Gas and Electric Company, a California corporation, recorded

October 18, 1961 in Book 1507 of Official Records at Page 381, and re-recorded November 29, 1961 in Book 1519 of Official Records at Page 508, Marin County Records.

ALSO EXCEPTING THEREFROM all that portion thereof lying within the lines of Lincoln Avenue.

AND FURTHER EXCEPTING any portion of the above described property which may have been tidelands in the bed of any tidal slough below the elevation of ordinary high tide.

PARCEL THREE

AN EASEMENT for sanitary sewer purposes described as follows:

A STRIP of land of the uniform width of 20 feet, the centerline of which is described as follows:

COMMENCEMENT at a point on the Easterly line of Lindaro Street at the Intersection of two courses bearing South 7° 15' West and South 8° 15' West, as said courses are shown upon that map entitled, "Map of a Portion of Lindaro Street, City of San Rafael, Marin County, California", filed for record March 2, 1937 in Volume 2 of Official Surveys, at Page 83, Marin County Records; thence North 8° 53' East 32.92 feet to the true point of beginning; thence Southeasterly perpendicular to the aforementioned Easterly line, 315.00 feet; thence along a tangent curve to the left, through a central angle of 510 00' 00" having a radius of 215.00 feet, an arc distance of 191.37 feet; thence North 47° 53' East 70 feet, more or less, to the termination of the easement and also the Westerly line of Lincoln Avenue, described as an arc 194.78 feet long in a Deed from the City of San Rafael to the Pacific Gas and Electric Company, recorded October 18, 1961 in Book 1507 of Official Records at Page 381, Marin County Records.

PARCEL FOUR

That certain real property situate in the City of San Rafael, County of Marin, State of California, more particularly described as follows:

COMMENCING at the intersection of the southerly line of Second Street with the easterly line of Lincoln Avenue, said point being located South 50°10'00" East 0.32 feet from a lead plug and tag RE5561 set in a concrete sidewalk, and as shown on the Record of Survey Map filed May 10, 1985 in Book 20 of Surveys at Page 47,- Marin County Records;

thence along said southerly line of Second Street South 83°33'00" East 140.70 feet to the southwesterly line of Francisco Boulevard;

thence leaving the southerly line of Second Street and along said southwesterly line of Francisco Boulevard, South 51°37'29" East 98.68 feet to the westerly line of Parcel4, conveyed to the San Rafael Redevelopment Agency by deed recorded October 30, 1997, in Document No. 97-062019;

thence along said westerly line South 11°32'07" West 95.76 feet to the True Point of Beginning;

thence continuing along said westerly line South 11°32'07" West 189.48 feet; thence on a curve to the right tangent to the preceding course having a radius of 441.70 feet through a central angle of 36°01'12", an arc length of 277.68 feet to the easterly line of aforementioned Lincoln Avenue;

thence along said easterly line of Lincoln Avenue on a curve to the left whose radius point bears North 60°08'08" East 473 feet, through a central angle of 01°17'20", an arc length of 10.64 feet;

thence leaving said easterly line of Lincoln Avenue on a curve to the left whose radius point bears North 31°36'30" West, a distance of 315.00 feet, through a central angle of 50°24'27", an arc length of 277.33 feet;

thence North 12°06'01" East 102.01 feet;

thence North 06°19'27" East 109.66 feet;

thence leaving the westerly line of said tidal slough North 80°50'15" West 13.96 feet to the Point of Beginning.

Said Parcel contains an area of 0.24 acres, more or less.

**"NORTHERN
PARCEL"
(Portion of APN
011-265-01)**

PARCEL 1 (2402-06-0520)

The parcel of land conveyed by Allan Lee and others to the San Rafael Gas and Electric Light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated March 22, 1888 and recorded in Book 7 of Deeds at page 532, Marin County Records, and therein described as follows:

“BEGINNING at the Northwesterly corner of lot number One (1) in block number forty one (41) as the same is marked shown and numbered on the Plat of the Town Site of the Town of San Rafael made by Hiram Austin and filed in the office of the County Recorder of said County of Marin on the 14th day of October 1873 running thence easterly along said southerly line of Third Street as shown on said plat two hundred (200) feet, thence at right angles southerly One hundred and fifty (150) feet, thence at right angles Westerly parallel with the southerly line of Third Street two hundred (200) feet to the easterly line of a Street marked on said plat, thence Northerly along the Easterly line of said last mentioned street one hundred and fifty (150) feet to the point of beginning.”

PARCEL 2 (2402-06-0526)

The parcel of land conveyed by Will Brooks to the San Rafael Gas and Electric Light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated November 10, 1893 and recorded in Book 28 of Deeds at page 88, Marin County Records, and therein described as follows:

“COMMENCING at a point on the South side of Third Street distant one hundred and ninety five 4/12 feet Easterly from A Street thence running South at right angles to Third Street three hundred and eight feet to Second Street one hundred and ninety five 4/12 feet east from A Street thence running Easterly along Second Street one hundred and Sixty eight feet thence North by West to a point distant three hundred and ten 4/12 feet from A Street Easterly and one hundred and eighty one feet South from Third Street thence North in a line parallel to A Street one hundred and eighty one feet to Third Street thence West along Third Street one hundred and fifteen feet to the place of beginning.”

EXCEPTING THEREFROM that portion thereof described in the deed from Pacific Gas and Electric Company to the City of San Rafael recorded April 10, 1912 in Book 142 of Deeds at page 439, Marin County Records.

PARCEL 3 (2402-06-0525)

The parcel of land conveyed by Edward B. Mahon to the San Rafael Gas and Electric light Company, predecessor in interest of Pacific Gas and Electric Company, by deed dated December 6, 1899 and recorded in Book 58 of Deeds at page 210, Marin County Records, and therein described as follows:

“BEGINNING at the South West corner of the lot occupied by the San Rafael Gas & Electric Light Company’s gas works said point being on the East line of Court Street and distant 150 feet South

from the South line of Third Street thence from said beginning point, running S. 6 3/4° W. along the East line of Court Street (150) One hundred and fifty feet, thence Easterly, parallel with Third Street (300) Three hundred feet, to the West line of a Street called Lindaro Street, thence North along the West line of Lindaro Street (150) One hundred & fifty feet to the North boundary line of Lot 2 in Block 41, as per Map of Town site of the Town of San Rafael filed Oct. 14th 1873 in the County Recorder's Office of said Marin County, running thence Westerly along said boundary line (300) three hundred feet to the point of beginning."

PARCEL 4 (2402-06-0523)

The parcel of land conveyed by the City of San Rafael to Pacific Gas and Electric Company by deed dated November 22, 1910 and recorded in Book 132 of Deeds at page 279, Marin County Records, and therein described as follows:

"Commencing at a point formed by the intersection of the southerly line of Third Street with the westerly line of Court Street, and running thence easterly and along said line of Third Street sixty-six (66) feet, more or less, to the easterly line of Court Street, thence at a right angle southerly and along said easterly line of Court Street three hundred and ten (310) feet, more or less, to the northerly line of Second Street, thence at a right angle westerly and along said last mentioned line sixty-six (66) feet, more or less, to the westerly line of Court Street, and thence northerly and along said last mentioned line three hundred and ten (310) feet, more or less, to the southerly line of Third Street and the point of commencement."

PARCEL 5 (2402-06-0524)

The parcel of land conveyed by Peter Williams and Emma Williams to Pacific Gas and Electric Company by deed dated June 17, 1911 and recorded in Book 136 of Deeds at page 174, Marin County Records, and therein described as follows:

"Commencing at the intersection of the south line of Third Street with the west line of Lindaro Street and running thence westerly along the south line of Third Street one hundred feet, thence southerly parallel with Lindaro Street one hundred and fifty feet; thence at right angles easterly one hundred feet to the west line of Lindaro Street, thence northerly along the said west line of Lindaro Street one hundred and fifty feet to the place of commencement."

Marin Independent Journal

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CITY OF SAN RAFAEL
CITY OF SAN RAFAEL
CITY CLERK, ROOM 209
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

PROOF OF PUBLICATION (2015.5 C.C.P.)

STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

03/28/2020

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 30th day of March, 2020.



Signature

PROOF OF PUBLICATION

Legal No. **0006474251**

SUMMARY OF ORDINANCE NO. 1981

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADOPTING AN AMENDED PLANNED DEVELOPMENT (PD) REZONING (ZC18-002) FOR THE SAN RAFAEL CORPORATE CENTER (SRCC) PLANNED DEVELOPMENT, INCLUDING THE REVISION OF THE PD 1936 DISTRICT, BY ADOPTION OF A NEW PD DISTRICT TO: 1) ALLOW EXPANSION OF THE CURRENT SRCC PD DISTRICT BY INCORPORATING THE 118,099 SQ. FT. OF THE 999 3RD STREET PROPERTY INTO THE BOUNDARIES; AND 2) UPDATE PD DISTRICT REGULATIONS TO INCORPORATE REVISED PARKING STANDARDS AND DEVELOPMENT REGULATIONS TO ALLOW THE DEVELOPMENT OF TWO 72-FOOT TALL, FOUR-STORY RESEARCH AND DEVELOPMENT BUILDINGS (APN 011-265-01 AND 013-021-34, 35, 50, 51, 52, 53, 54 & 55)

This Summary concerns a proposed Ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1981, which will amend the City of San Rafael Zoning Map, adopted by reference by Section 14.01.020 of the San Rafael Municipal Code as detailed in the complete text and accompanying maps of Ordinance No. 1981. Ordinance No. 1981 is scheduled for adoption by the San Rafael City Council at its regular meeting of April 6, 2020. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

This Ordinance amends the Zoning Map of the City of San Rafael to reclassify certain real property located at 999 3rd St (APN 011-265-01) and 750, 755, 770, 775 and 790 Lindaro St and 781, 788 and 791 Lincoln Ave (APN's 013-021-34, 35, 50, 51, 52, 53, 54 & 55) in the City of San Rafael, Marin County, California, from Second Third/Mixed Use East (2/MUE) Zoning District and Planned Development (PD-1936) District to Planned Development (PD-1981) District. PD-1981 establishes development standards and land use regulations that would allow the expansion of the current San Rafael Corporate Center PD District to the 999 3rd St site and the construction of two new research and development/office buildings at 999 3rd St, and maintains the previously approval of a 1) new 72,396 sq ft office building at 755 Lindaro St, and 2) 6 story expansion to the existing 6 story parking garage at 788 Lincoln Ave.

For a complete copy of the text of the Ordinance amending the Municipal Code, please contact the City Clerk at (415) 485-3066 or the Community Development Department, Planning Division at (415) 485-3085. Copies of the Ordinance containing this Municipal Code amendment are also available for public review by contacting the City Clerk's office by email to Lindsay.lara@cityofsanrafael.org.

LINDSAY LARA,
San Rafael City Clerk

Dated: 03/26/2020

No. 350 March 28, 2020

ORDINANCE NO. 1982

**AN ORDINANCE OF THE CITY OF SAN RAFAEL ADOPTING A DEVELOPMENT AGREEMENT (DA19-001) FOR THE SAN RAFAEL CORPORATE CENTER (750-790 LINDARO STREET AND 781-791 LINCOLN AVENUE AND 999 3rd STREET) TO EXPAND THE ALLOWABLE DEVELOPMENT AND OVERALL LAND AREA TO INCLUDE TWO RESEARCH AND DEVELOPMENT BUILDINGS TOTALING 207,000 SQUARE FEET AND TO DEFINE THE AGREEMENT TERMS
(APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)**

WHEREAS, in February 1998, the San Rafael City Council adopted a Planned Development Zoning District (PD-1721) approving a Master Plan for the development of a 406,000 square foot office park on a 15.54-acre site located south of Second Street in Downtown San Rafael. Concurrent with this action, the City Council adopted Ordinance No. 1722 approving a Development Agreement with Fair, Isaac and Company, Inc., the initial project developer, who was planning to be the single tenant for the office park. The Development Agreement included specific terms, conditions and requirements agreed to by both the City and Fair, Isaac for a 10-year build-out of the "San Rafael Corporate Center" office park; and

WHEREAS, in August 2000, the City Council adopted Ordinance No. 1755, approving the first amendment to the Development Agreement to approve changes in the property ownership (Equity Office) and to the development standards in order to accommodate multi-tenant use of the San Rafael Corporate Center. Since 2000, the office park ownership has changed and subsequent amendments to the Development Agreement were adopted to reflect the ownership changes; and

WHEREAS, in December 2011, the City Council adopted Ordinance No. 1902, approving a second amendment to the Development Agreement for the San Rafael Corporate Center to expand the allowable land uses to include medical office and research and development; and

WHEREAS, since 2000, nearly all of the approved San Rafael Corporate Center office park campus has been developed and occupied by administrative and professional office and R& D businesses. To date, five of the six office approved office/R& D buildings and two parking structures have been built, along with surface parking, campus landscaping and the publicly accessible park area. and

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin), in conjunction with Whistlestop/Eden Housing, submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA18-001), Zoning Text Amendment (ZO18-003), Planned Development (PD) Amendment (ZC18-002), Master Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Development Agreement (DA19-001), Small Subdivision (S18-001), and Sign Program Amendment (SP18-18-006) for the development of two 72-foot tall, four-story laboratory/research and development buildings, totaling 207,000 sq. ft., and a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 133,099 sq. ft. parcel at 999 3rd Street (the "Project"); and

WHEREAS, the total development for BioMarin includes a request to include 118,099 square feet of the 999 3rd Street property to be incorporated into the existing San Rafael

Corporate Center (SRCC) PD District. The total site area of the amended SRCC campus would be 795,021 sq. ft.; and

WHEREAS, the project application for BioMarin includes a request to modify the existing Floor Area Ratio (FAR) for the 118,099 square feet of the 999 3rd Street property from 1.50 to 0.90 and a request to modify the existing FAR for the SRCC from 0.75 to 0.90. The total FAR of 0.90 for the newly amended SRCC would allow the two proposed buildings, totaling 207,000 sq. ft., of the BioMarin project to be included in the total allowed campus development of 715,519 sq. ft.; and

WHEREAS, a Development Agreement has been requested by BioMarin to establish a 10-year time frame for the approvals and to freeze the development application and impact fees for a period of 10 years for the BioMarin component of the Project; and BioMarin has offered the City a series of public benefits as consideration for the Development Agreement; and

WHEREAS, a Development Agreement has been drafted to incorporate the proposed terms and obligations for both parties; and

WHEREAS, the proposed Development Agreement has been processed in accordance with the requirements set forth in City Council Resolution No. 6089, which establishes the City's rules and regulations for the consideration of Development Agreements; and

WHEREAS, on January 28, 2020, the Planning Commission held a duly noticed public hearing on the environmental documents and applications and for the Project, including this Development Agreement, accepting all oral and written public testimony and the written report of the Community Development Department Planning staff. The Planning Commission considered the responses to comments contained in the FEIR and recommended to the City Council, by Resolution No. 20-01, certification of the Final EIR in that it complies with all requirements of CEQA. The Planning Commission also recommended to the City Council, by Resolution No. 20-02, adoption of Statement of Overriding Considerations and Approval of the Mitigation Monitoring and Reporting Plan (MMRP); and

WHEREAS, on January 28, 2020, the Planning Commission adopted Resolution No. 20-06, recommending to the City Council approval of the proposed Development Agreement, with one modification, to not eliminate a condition of approval, previously imposed on the 755 Lindaro/Lincoln Garage expansion, requiring the creation of a pedestrian connection to SMART on the backside of the Lincoln Avenue garage, along the west side of Mahon Creek; and

WHEREAS, on January 28, 2020, the Planning Commission also adopted the following Resolutions, recommending to the City Council:

- Approval of a General Plan amendment (GPA18-001) (Resolution No. 20-03)
- Adoption of a Zoning Ordinance text amendment (ZO18-003) (Resolution No. 20-04)
- Adoption of a Planned Development Rezoning (ZC18-002) (Resolution No. 20-05),
- Approval of a Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006) (Resolution No 20-07); and

WHEREAS, on February 28, 2020, a Notice of Availability for the FEIR/Response to Comments was mailed to interested persons and property owners and occupants within 500 feet of the property and to all responsible, trustee and other public agencies that commented on

the DEIR, informing them of the City Council hearing for final action. A Notice of Availability was also published in the Marin Independent Journal on Saturday, February 29, 2020 and the site was posted with public hearing signs; and

WHEREAS, on March 23, 2020, the City Council held a duly noticed public hearing to review the proposed Development Agreement and considered all oral and written public testimony and the written report of the Community Development Department; and

WHEREAS, on March 23, 2020, by adoption of separate two resolutions, the City Council certified the FEIR, adopted CEQA findings of fact, adopted a statement of overriding consideration and approved the Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on March 23, 2020, the City Council, by adoption of separate Resolutions, approved a General Plan Amendment (GPA18-001), Use Permit (UP18-034), Environmental and Design Review Permit (ED18-087), Small Subdivision (S18-001), and Sign Program Amendment (SP18-006); and

WHEREAS, on March 23, 2020, the City Council, by adoption of separate Ordinances, approved a Zoning Ordinance Text Amendment (ZO18-003) and Planned Development Rezoning (ZC18-002); and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department.

WHEREAS, the City Council makes the following findings, pursuant to City Council Resolution No. 6089, for approval of the Development Agreement and incorporated herein by reference:

Development Agreement Findings (DA19-001)

1. The proposed Development Agreement is consistent with the policies, general land uses and programs specified in the General Plan and other applicable specific plan given that the proposed office and research and development uses within the BioMarin campus would be consistent with the 2/3 MUE general plan land use designation, the proposed floor area ratio and height of the building are consistent with the FAR and height standards, with the inclusion of a General Plan amendment, which has been adopted by separate City Council resolution. The Development Agreement, and the approvals vested therein, would be consistent with:
 - a. Circulation Element Policy C-5D (*Evaluation of Project Merits*) and Program C-5c (*Exception Review*), which acknowledge that the City may approve an action that would exceed the LOS standards set by Policy C-5, if the City finds that the benefits of the project to the community outweigh the traffic impacts.
 - b. Neighborhood Element Policy NH-40 (*Second Third Mixed Use District*) and NH-41 (*Second Third Mixed Use District Design Considerations*), by promoting a high-quality mixed-use development in the downtown designated areas;
 - c. Economic Vitality Element Policies EV-2 (*Seek, Retain and Promote Businesses that Enhance San Rafael*), EV-4 (*Local Economic and Community Impacts*), EV-8 (*Diversity of our Economic Base*), and EV-13 (*Business Areas*) by broadening, with

limited application, the uses that are permitted in areas that are designated for general commercial and office land uses.

2. The Development Agreement, and the approvals vested therein, is compatible with the uses authorized in the regulations prescribed for the land use district in which the property is located, with an amendment to the PD zoning district which has been adopted by separate City Council resolution, in that:
 - a. This action would be consistent with and implement San Rafael General Plan Land Use Element LU-9 (*Intensity of Nonresidential Development*), with an appropriate development intensity based on consistency with the following factors: site resources and constraints, traffic and access, potentially hazardous conditions, adequacy of infrastructure, and City design policies;
 - b. The proposed blended 0.90 Floor Area Ratio will reduce the existing 999 3rd Street FAR but raise the existing SRCC FAR from 0.75 to 0.90. The net change will result in a total floor area that will be an increase in 30,678 sq. ft. for the newly modified total Project area.
 - c. This action would not be growth inducing nor would it be precedent setting as the property and proposed square footage addition would be consistent with the development standards and land uses included in the existing San Rafael Corporate Center. The development of the proposed Project at this location would be in the public interest in that it would further the policies of the General Plan by developing an infill property within the downtown area of San Rafael. In summary, the Development Agreement would not result in similar development increases for other areas of San Rafael and would not be precedent setting or growth-inducing.
3. The Development Agreement, and the approvals vested therein, is in conformity with public convenience, general welfare and good land use practice in that the proposed Project would provide desired public benefits and amenities as described in the adopted modification of General Plan Exhibit 10, including: Affordable housing (67 senior affordable units), a privately-owned public plaza (approximately 6,000 sq. ft.), a community facility (18,000 sq. ft. senior center), pedestrian crossing safety improvements at adjacent intersections, and donation of funds for development of bike lanes. These public benefits would be consistent with other public benefit requirements for height bonuses for developments in the downtown area.
4. The Development Agreement will not be detrimental to the health, safety and general welfare, given that the City Council has certified an EIR assessing potential environmental impacts and most potential impacts can be reduced to less than significant levels with mitigation measures, and, by separate resolution, has adopted a statement of overriding considerations to four potential significant unavoidable impacts to land use and transportation associated with the development of the Project.
 - a. The City Council has balanced the economic, legal, social, and technological benefits of the proposed project against its unavoidable environmental impacts when determining to approve the project. The project benefits outweigh the unavoidable adverse environmental effects and are considered “acceptable” and a statement of overriding considerations has been adopted and supported by substantial evidence in the record;

- b. In support of CEQA Guidelines Section 15063 the San Rafael General Plan 2020 includes Circulation Element Policy C-5D (Evaluation of Project Merits) and Program C-5c (Exception Review), which permits the City to authorize an exception to the City-adopted traffic standards by weighing the community benefits of a project against the potential for the project to deviate from the City-adopted level of service (LOS) traffic standards;

WHEREAS, the City Council has considered the Planning Commission's recommendation to retain the previously imposed requirement for a new path behind the Lincoln Avenue parking garage, but finds that the elimination of this requirement is appropriate and warranted based on: 1) the totality of the benefits offered by the Development Agreement, which capture increased funding for pedestrian and bicycle improvements in the area; and 2) the Council's finding that the proposed new path would be duplicative with two other existing pedestrian paths within two hundred feet (Mahon Creek path along the eastern bank of Mahon Creek and Lincoln Avenue sidewalk), which provide similar and equal public access from Lincoln Avenue to 2nd Street and the Bettini Transit Center.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1. Findings.

The City Council hereby determines and finds that all of the facts and statements contained in the recitals herein, and the findings of Planning Commission Resolution No. 20-06, adopted January 28, 2020, recommending to the City Council adoption of this Ordinance, are true and correct.

DIVISION 2. Approval of Development Agreement.

The City Council hereby approves the Development Agreement, between with BioMarin (California Corporate Center Acquisition, LLC, a Delaware limited liability company "CCCA") and the City of San Rafael concerning the San Rafael Corporate Center project planned for the subject property at 999 3rd Street and the existing San Rafael Corporate Center Campus, a copy of which is on file in the office of the City Clerk. and the Council authorizes the Mayor and the City Clerk to execute said Development Agreement on behalf of the City and to take any other actions necessary to complete this transaction.

DIVISION 3. Publication; Effective Date.

This Ordinance shall be published once, in full or in summary form, before its final passage, in a newspaper of general circulation, published, and circulated in the City of San Rafael, and shall be in full force and effect thirty (30) days after its final passage. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.



GARY O. PHILLIPS, Mayor

ATTEST:



LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1982 was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 23rd day of March 2020 and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Colin, Gamblin, McCullough and Mayor Phillips

NOES: Councilmembers: None

ABSENT: Councilmembers: None

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 6th day of April 2020.



LINDSAY LARA, City Clerk

Marin Independent Journal

4000 Civic Center Drive, Suite 301
San Rafael, CA 94903
415-382-7335
legals@marinij.com
2070419

CITY OF SAN RAFAEL
CITY OF SAN RAFAEL
CITY CLERK, ROOM 209
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901
SAN RAFAEL, CA 94915-1560

PROOF OF PUBLICATION (2015.5 C.C.P.)


STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

03/28/2020

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 30th day of March, 2020.



Signature

PROOF OF PUBLICATION

Legal No. **0006474254**

SUMMARY OF ORDINANCE NO. 1982

AN ORDINANCE OF THE CITY OF SAN RAFAEL ADOPTING A DEVELOPMENT AGREEMENT (DA19-001) FOR THE SAN RAFAEL CORPORATE CENTER (750-790 LINDARO STREET AND 781-791 LINCOLN AVENUE AND 999 3rd STREET) TO EXPAND THE ALLOWABLE DEVELOPMENT AND OVERALL LAND AREA TO INCLUDE TWO RESEARCH AND DEVELOPMENT BUILDINGS TOTALING 207,000 SQUARE FEET AND TO DEFINE THE AGREEMENT TERMS (APN's: 011-265-01, 013-012-38 and -39 and 013-021-50, -51, -52 -53, -54, -55)

This Summary concerns a proposed Ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1982, which will approve a Development Agreement as detailed in the complete text of Ordinance No. 1982. Ordinance No. 1982 is scheduled for adoption by the San Rafael City Council at its regular meeting of April 6, 2020. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

This Ordinance establishes a Development Agreement between the City of San Rafael and BioMarin (California Corporate Center Acquisition, LLC, a Delaware limited liability company "CCCA") associated with the proposal to build two new, 4 story (72 ft tall) research and development/office buildings at 999 3rd St, and the previously approved 72,396 sq. ft. office building at 755 Lindaro St and a six story expansion to the Lincoln Ave garage. The Development Agreement would establish a 10 year time frame on project the approvals and freezes application and impact fees at current rates, in exchange for a series of public benefits.

For a complete copy of the text of the Ordinance amending the Municipal Code, please contact the City Clerk at (415) 485-3066 or the Community Development Department, Planning Division at (415) 485-3085. Copies of the Ordinance containing this Municipal Code amendment are also available for public review by contacting the City Clerk's office by email to Lindsay.lara@cityofsanrafael.org.

LINDSAY LARA, San Rafael City Clerk

Dated: 03/26/2020

No. 351 March 28, 2020



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Economic Development

**Prepared by: Danielle O'Leary
Director of Economic Development & Innovation**

City Manager Approval: _____

TOPIC COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

**SUBJECT COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDING
RECOMMENDATIONS FOR FISCAL YEAR 2020-21**

RECOMMENDATION

Adopt a resolution recommending CDBG funding for Fiscal Year 2020-21 to the Marin County Board of Supervisors (BOS) for the San Rafael Planning Area.

BACKGROUND

The Community Development Block Grant (CDBG) program is a federally-funded program of the U.S. Department of Housing and Urban Development (HUD) that provides funding for housing, community facilities, and human services.

Federal regulation requires at least 85% of the funds must be spent on housing and capital projects, and up to 15% may be spent on public services. The City Council has the option to adjust the public service percentage on an annual basis. However, it cannot exceed 15% of San Rafael's grant. For example, the City Council could choose to allocate 0% of the CDBG allocation to public services.

In San Rafael, examples of CDBG-funded projects have included development of affordable housing, ADA sidewalk accessibility improvements, and a wide range of public services. The funds are divided into three activity categories consisting of:

- 1.) Housing
- 2.) Capital Projects
- 3.) Public Services

In 2017, the City entered into a cooperation agreement with the County of Marin regarding the management of the CDBG program. Under this agreement, Marin County is divided into three local planning areas. Funding recommendations are overseen by a Countywide Priority Setting Committee (PSC) made up of City and Town Council members, a County Supervisor, and community members representing members of the protected classes (race, color, national origin, religion, sex, familial status, or disability) under fair housing laws.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

Because San Rafael has a population of over 50,000 residents, under the cooperation agreement, the City may choose to assume responsibilities for making its own recommendations for funding projects in the San Rafael Planning Area (consisting of the City and the surrounding unincorporated areas) to the Countywide Priority Setting Committee (PSC).

Since 1999, when San Rafael reached 50,000 in population, the City Council has elected to assume responsibility for making funding recommendations for CDBG applications in the San Rafael Planning Area. After the City Council makes its recommendations, the PSC recommends them to the Board of Supervisors (BOS), which has final approval authority prior to sending the recommendations to HUD.

CDBG Funding Update – Federal

Funds for the County of Marin's 2020-2021 CDBG program funding cycle comes from the Fiscal Year 2021 federal budget, which runs from October 1, 2020 to September 30, 2021, and allocated on a formula basis to entitled cities and counties. County of Marin represents the entitled jurisdiction covering the City of San Rafael. The County of Marin's CDBG program allocation is \$1,594,625.

This grant, combined with income received by the program, brings San Rafael's allocation to \$509,963 (sum of "San Rafael recommended Funds" in Attachment 2). A total allocation maximum of \$96,634 can be used for public services, a minimum of \$210,080 must be spent on housing, and the remaining \$203,249 can be spent on either housing or capital projects.

Required Community Outreach and Analysis

HUD also requires all entitlement communities who are administering CDBG programs to conduct periodic assessments of need in the community to inform how federal grant funding should be spent, including CDBG and HOME Investment Partnerships Program (HOME) funds.

The two (2) primary reports required are the Consolidated Plan (ConPlan) and the Analysis of Impediments to Fair Housing Choice (AI). The findings from community outreach and analysis for both of these studies have informed the priorities for allocating funding recommendations within this staff report. To learn more about the AI and ConPlan processes and findings, see Attachment 3.

Federal Grant Program Enhancements

Through the ConPlan outreach process, two common themes arose that informed program enhancements:

- 1.) Increase minimum grant size to \$15K per year.
- 2.) Conduct application cycles every 2 years.

These two enhancements increase impact of funded organizations and enables nonprofit partners to better plan their programs. While applications are only received every two years, funding allocations must be approved annually based on the past performance of the project and expected funding allocated by HUD.

Evaluation Guidelines

All project applications are evaluated based on their ability to meet HUD's national objective thresholds, the PSC's enhanced thresholds for evaluating projects, and the standard project evaluation criteria as listed below:

National Objective Thresholds:

- Benefit low-and-moderate-income persons.

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 3

- Prevent or eliminate blight or meet other community development needs for low-and moderate-income persons.

PSC Enhanced Thresholds:

- Support projects that Affirmatively Further Fair Housing and have the commitment and capacity to engage in Affirmative Marketing¹.
- Prioritize projects that serve members of the protected classes as defined by HUD.
- Prioritize projects that serve low-income persons.

Project Evaluation Criteria:

- Readiness--can awarded funds be completely expended during the grant year?
- Sustainability—does the organization have the capacity to sustain a project or program beyond this federal funding period?
- Effectiveness and Accountability—does the organization have the capacity and track record to effectively conduct the project and administer federal funds?
- Prioritize greatest impact.

In addition to the criteria set forth by HUD, the ConPlan and AI process, the Countywide Priority Setting committee established priorities for funding CDBG and HOME housing projects:

- 1.) Family Housing²
- 2.) Land trust model in eastern Marin that provides home ownership opportunities (Eastern Marin is defined as all of the areas in Marin, except West Marin).

The PSC also established the following priorities for CDBG funds allocated to public service projects:

1. **Basic Health Services**—includes services that prevent or treat medical conditions for individuals who are uninsured, under-insured, or people with low incomes who cannot afford their deductible. Programs and services include preventive health such as immunizations, well-childcare, periodic health evaluations for adults, voluntary family planning services, children's eye and ear examinations conducted to determine the need for vision and hearing correction, and hygiene services. Services may also include medically necessary emergency health care, inpatient and outpatient treatment, diagnostic laboratory and diagnostic and therapeutic radiologic services, and prescription drugs.
2. **Children, Youth and Parent Support Services**—includes services that address disparities in access to early childhood education and the high costs of childcare, targeting low-income families. Programs and services include supporting childcare

¹ Affirmative Marketing is targeted outreach about program opportunities to groups of people otherwise least likely to apply for or receive those opportunities. Given Marin's history of segregation, the protected class populations typically included in Affirmative Marketing are Black/African American, Asian/Pacific Islander, and Latinx. Programs that do not conduct broad affirmative marketing are less competitive in the allocation process. An example of a less competitive application this cycle is Canal Alliance. While they serve the Latinx population the program does not affirmatively market to other protected classes.

² Family Housing has been identified as a need to both the AI and ConPlan. In addition, HUD is requiring Marin's CDBG and HOME grant funding to contribute to the creation of at least 100 new family housing units by 2022. Applications for projects not creating family housing this year are Whistlestop and Homeward Bound.

scholarships, student extracurricular activities, parent engagement and training, therapeutic services, teacher’s salaries, transportation and home visitations.

3. **Housing Support Services**—includes services that assist individuals in accessing stable housing, prevent discrimination in housing choice, and aid renters in maintaining stable housing. Programs and services include but are not limited to fair housing counseling, legal support, housing locators, down payment and rental assistance.

ANALYSIS

The CDBG funding recommendations for FY20-21 have been vetted through the Countywide Priority Setting Committee that consists of one County Supervisor, a representative from each of the City and Town Councils, as well as seven community members representing six regions spanning Marin and an at-large member representing the County.

In early May, the Board of Supervisors will hold a final public hearing on the recommendations from the Countywide (PSC), and in mid-May, the County will send its annual list of projects to the US Department of Housing and Urban Development (HUD).

Seven (7) housing projects submitted applications for funding from the San Rafael Planning Area. The seven projects have a funding request of \$3,421,545. Five (5) of the seven projects will benefit the entire County, a subset of services and units will serve San Rafael residents.

There were also two (2) projects based in San Rafael with a total funding request of \$611,545 (Bridge Housing – Centertown at \$345,000 + San Rafael Rotary Manor at \$266,545 – See Attachment 2). The combined requests for both the San Rafael specific project and the San Rafael portion of the Countywide projects is \$1,491,170.

Funding Recommendations

HOUSING PROJECTS

PSC recommends the following housing applications, totaling \$258,001 in available CDBG grant funds. Based on Council feedback, from the March 23, 2020 Council meeting, Habitat for Humanity’s Redwood Blvd. Homes allocation has been revised to reflect 39% of the Countywide allocation, and the remaining difference of \$13,732 has been reallocated to Bridge Housing’s Centertown Apartments rehabilitation.

Organization	FY 20-21 San Rafael Requested	FY 20-21 San Rafael PSC Recommendation	Countywide Request	Expected Countywide Funding **
Eden Housing, Inc. (CHDO) <i>Whistlestop Healthy Aging Campus</i>	\$591,300	-	\$1,500,000	\$442,612
Habitat for Humanity Greater San Francisco, Inc. <i>Redwood Blvd. Homes</i>	\$98,550	\$84,347	\$250,000	\$216,275
Homeward Bound of Marin <i>Predevelopment and Construction of Veterans and Workforce Housing in Novato</i>	\$49,275	-	\$125,000	\$0***
Marin Center For Independent Living <i>Residential Access</i>	\$30,000	\$9,922	\$60,000	\$30,922

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 5

<i>Modification Program</i>				
Marin Housing Authority Residential Rehabilitation Loan Program (RLP)	\$110,500	\$100,000	\$425,000	\$230,095
Bridge Housing Centertown Apartments	\$345,000	\$63,732	\$795,000	\$500,000
San Rafael Rotary Manor Rotary Manor Window Rehabilitation	\$266,545	-	\$266,545	\$0
Grand Totals	\$1,491,170	\$258,001	\$3,421,545	\$1,419,904

* Countywide request

** The Expected Countywide Funding includes anticipated recommendations for all Planning Areas and HOME.

*** This project will be considered for a higher allocation in FY 2021-22

CAPITAL PROJECTS

Five (5) applications for capital projects were received—four (4) Countywide projects and one (1) serving San Rafael only. The Countywide projects benefiting the entire County, including services for San Rafael residents, have a funding request of \$798,355.

The one (1) project based in San Rafael has a total funding request of \$270,000.

Recommended for Funding

PSC recommends funding requests for capital projects totaling \$155,328 in CDBG monies. Based on Council feedback, from the March 23, 2020 Council meeting, Marin City Community Development Corporation’s allocation has been revised to reflect 39% of the Countywide allocation, and the remaining difference of \$20,000 has been reallocated to City of San Rafael Canal Area Pump Station Improvements.

Organization	FY 20-21 San Rafael Request	FY 20-21 San Rafael PSC Recommendation	Countywide Request	Expected Countywide Funding **
Community Action Marin CAM Community Intake/Welcome Ctr.	\$29,536	\$10,000	\$98,455	\$35,000
Homeward Bound of Marin Building a Gender-Neutral Bathroom at the New Beginnings Center Shelter	withdrawn	-	withdrawn	-
Marin City Community Development Corporation Empowerment Clubhouse Pre-Construction and Development	\$109,161	\$60,000	\$279,900	\$151,041
Marin City Community Services District Manzanita Center Facility Master Plan	\$30,000	-	\$150,000	-
City of San Rafael Department of Public Works Canal Area Pump Station Improvements	\$270,000	\$85,328	\$270,000	\$65,328***
Grand Totals	\$438,697	\$155,328	\$798,355	\$251,369

* *Countywide request*

** *The Expected Countywide Funding includes anticipated recommendations for all Planning Areas.*

*** *This project will be considered for a higher allocation in FY 2021-22*

PUBLIC SERVICE PROJECTS

Based on County estimates, the City is expected to receive an allocation of approximately \$96,634 for public services in 2020-21. This 15% allocation is based on the total funding available including entitlements, program income and any reprogrammed funds. Whereas, the overall allocation to each planning area is a percentage of these totals, less the allowed administration allocation. Due to this, the amount available for Public Services is higher than a straight 15% of San Rafael allocation allotment.

A total of 18 applications for public service funding were submitted—16 Countywide projects with a portion of services going to San Rafael residents and two (2) serving San Rafael only.

Recommended for Funding

PSC recommends funding requests for public service projects totaling \$96,634 in CDBG monies, the maximum allowed by HUD. Based on Council feedback, from the March 23, 2020 Council meeting, Fair Housing Advocates of Northern California's allocation has been revised to reflect 39% of the Countywide allocation, and the remaining difference of \$6,500 has been reallocated to City of San Rafael Pickleweed Preschool.

Organization	FY 20-21 San Rafael Requested	FY 20-21 San Rafael PSC Recommendation	Countywide Request	Expected Countywide Funding **
10,000 Degrees <i>Financial Aid Awareness and Completion Campaign</i>	\$15,300	-	\$30,000	-
Community Action Marin <i>CAM Economic Opportunity and Safety Net Services</i>	\$15,000	-	\$50,000	-
Covia Foundation <i>Home Match Marin</i>	\$12,900	\$8,000	\$30,000	\$15,000
Early Vibes Inc. <i>The Turn</i>	\$2,500	-	\$25,000	-
Fair Housing Advocates of Northern California <i>Fair Housing Counseling and Education</i>	\$31,500	\$25,000	\$75,000	\$64,000
Family & Children's Law Center <i>Domestic Violence Legal Services for Low Income Families</i>	\$6,750	\$6,750	\$15,000	\$15,000
Hannah Project Partnership for Academic Achievement <i>Hannah Freedom School</i>	\$6,260	-	\$31,300	\$15,000
House of Life Ministries <i>Family First</i>	\$6,600	-	\$22,000	-
Jewish Family and Children's Services <i>Jewish Family and Children's</i>	\$9,900	-	\$30,000	-

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 7

<i>Services, Skyview Day Club Financial Assistance Program</i>				
<i>Legal Aid of Marin Keeping Marin Residents in their Homes</i>	\$20,400	\$20,384	\$40,000	\$32,640
<i>Marin City Community Services District MCCSD Manzanita Center Free Youth Recreation Programs</i>	\$3,000	-	\$30,000	-
<i>Performing Stars of Marin After School and Summer Enrichment Programming of Low-Income Marin County Youth</i>	\$750	-	\$15,000	\$15,000
<i>Project Avary Support Service for Children of Incarcerated Parents</i>	\$7,500	-	\$15,000	-
<i>RotaCare Bay Area RotaCare Clinic of San Rafael</i>	\$16,000	\$15,000	\$20,000	\$15,000
<i>Spahr Center Readiness for Housing Program</i>	withdrawn	-	withdrawn	-
<i>Women's Rights and Peace of Bay Area Korean Education Project (KEP)</i>	\$7,500	-	\$15,000	-
<i>Canal Alliance University Prep (UPI)</i>	\$30,000	-	\$30,000	-
<i>City of San Rafael, Library and Recreation Department Pickleweed Preschool</i>	\$49,440	\$21,500	\$49,440	\$15,000
Grand Totals	\$241,300	\$96,634	\$522,740	\$186,640

* *Countywide request*

** *The Expected Countywide Funding includes anticipated recommendations for all Planning Areas.*

A list of all the applications that were submitted for the San Rafael Planning Area and Countywide projects serving San Rafael is provided in Attachment 2. This attachment also includes staff recommendations for allocating all of San Rafael's CDBG funds and the total expected allocations including funding from the other planning areas. The applications for all funding can be accessed online via these links:

Housing project applications:

https://www.marincounty.org/-/media/files/departments/cd/federal-grants/2020_21/applications-received/202022-housing-applications3.pdf?la=en

Community Infrastructure/Capital project applications:

https://www.marincounty.org/-/media/files/departments/cd/federal-grants/2020_21/applications-received/202022-community-infrastructure_capital-improvement-applications3.pdf?la=en

Public Services project applications:

https://www.marincounty.org/-/media/files/departments/cd/federal-grants/2020_21/applications-received/202022-public-services-applications1.pdf?la=en

FISCAL IMPACT:

There is no direct cost or revenue impact generated by the recommended action as the City is directing HUD funds to specific projects. Allocating funds to potential City projects may allow City general and capital funds to be allocated to other priorities.

OPTIONS:

1. Make allocations of CDBG funding as recommended by staff.
2. Make different allocations of CDBG funding. (Funds may be shifted within categories, but the Public Service category cannot exceed \$96,634.)
3. Let the Countywide Priority Setting Committee provide a recommendation for the San Rafael Planning Area funding requests.
4. Provide direction to staff.

ACTION REQUIRED:

1. Adopt Resolution recommending CDBG project funding for the FY 2020-21 CDBG program to the Marin County Board of Supervisors.

ATTACHMENTS

- | | |
|--------------|---|
| Attachment 1 | City of San Rafael Resolution CDBG Project Funding for FY 2020-21 |
| Attachment 2 | Attachment to Resolution: 2020-21 CDBG Project Allocations |
| Attachment 3 | Required Community Outreach and Analysis |
| Attachment 4 | PSC 2020-2021 Roster |
| Attachment 5 | 2020-2022 CDBG Application Guidelines |

RESOLUTION NO. _____

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL RECOMMENDING
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT FUNDING FOR
THE FISCAL YEAR 2020-21 TO THE MARIN COUNTY BOARD OF SUPERVISORS**

BE IT RESOLVED by the Council of the City of San Rafael as follows:

WHEREAS in June 1999, the City Council revised the Cooperation Agreement with the County of Marin for Community Development Block Grant (CDBG) funds whereby the City remained in the County system; and

WHEREAS in December 1999, the City devised a project selection process and established allocation priorities for CDBG projects; and

WHEREAS on April 6, 2020, in accordance with the adopted project selection process the City Council reviewed the submitted applications;

NOW, THEREFORE IT IS HEREBY RESOLVED that the City Council recommends to the Marin County Board of Supervisors that the \$509,963 in CDBG funds available for allocation by the City of San Rafael be distributed to the projects and in the amounts as shown on the attached Attachment 2 subject to adjustments necessary to accommodate any changes in the final allocation given to the County of Marin by the federal Department of Housing and Urban Development (HUD).

I, LINDSAY LARA, City Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City held on the 6th day of April 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

Lindsay Lara, City Clerk

Attachment 2

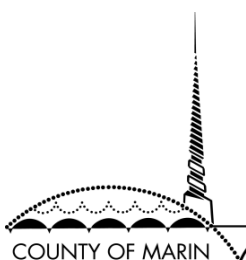
PROJECT #	PROJECT SPONSOR	PROJECT NAME	SAN RAFAEL SPECIFIC FUNDING REQUEST	SAN RAFAEL RECOMMENDED FUNDS	EXPECTED COUNTYWIDE FUNDING*
Housing					
CH-1-2020	Eden Housing, Inc. (CHDO)	Whistlestop Healthy Aging Campus	\$591,300	-	\$442,612
CH-2-2020	Habitat for Humanity Greater San Francisco, Inc.	Redwood Blvd. Homes	\$98,550	\$8498,347079	\$216,275
CH-3-2020	Homeward Bound of Marin	Predevelopment and Construction of Veterans and Workforce Housing in Novato	\$49,275	-	\$0
CH-4-2020	Marin Center For Independent Living	Residential Access Modification Program	\$30,000	\$9,922	\$30,922
CH-5-2020	Marin Housing Authority	Residential Rehabilitation Loan Program (RLP)	\$110,500	\$100,000	\$230,095
SH-1-2020	Bridge Housing	Centertown Apartments	\$345,000	\$6350,732000	\$500,000
SH-2-2020	San Rafael Rotary Manor	Rotary Manor Window Rehabilitation	\$266,545	-	\$0
San Rafael Housing Subtotal			\$1,491,170	\$258,001	\$1,419,904

Capital					
CC-1-2020	Community Action Marin	CAM Economic Opportunity and Safety Net Services	\$29,536	\$10,000	\$35,000
CC-2-2020	Homeward Bound of Marin	Building a Gender-Neutral Bathroom at the New Beginnings Center Shelter	\$8,750	-	-
CC-3-2020	Marin City Community Development Corporation	Empowerment Clubhouse Pre-Construction and Development	\$109,161	\$6080,000	\$151,041
CC-4-2020	Marin City Community Services District	Manzanita Center Facility Master Plan	\$30,000	-	-
SC-1-2020	City of San Rafael Department of Public Works	Canal Area Pump Station Improvements	\$270,000	\$865,328	\$65,328
San Rafael Capital Subtotal			\$447,447	\$155,328	\$251,369

Attachment 2

PROJECT #	PROJECT SPONSOR	PROJECT NAME	SAN RAFAEL FUNDING REQUEST	SAN RAFAEL RECOMMENDED FUNDS	EXPECTED COUNTYWIDE FUNDING*
Public Services					
CS-1-2020	10,000 Degrees	Financial Aid Awareness and Completion Campaign	\$15,300	-	-
CS-2-2020	Community Action Marin	CAM Community Intake and Welcome Center	\$15,000	-	-
CS-3-2020	Covia Foundation	Home Match Marin	\$12,900	\$8,000	\$15,000
CS-4-2020	Early Vibes Inc.	The Turn	\$2,500	-	-
CS-5-2020	Fair Housing Advocates of Northern California	Fair Housing Counseling and Education	\$31,500	\$2534,000500	\$64,000
CS-6-2020	Family & Children's Law Center	Domestic Violence Legal Services for Low Income Families	\$6,750	\$6,750	\$15,000
CS-7-2020	Hannah Project Partnership	Hannah Freedom School	\$6,260	-	\$15,000
CS-8-2020	House of Life Ministries	Family First	\$6,600	-	-
CS-9-2020	Jewish Family and Children's Services	Jewish Family and Children's Services, Skyview Day Club Financial Assistance	\$9,900	-	-
CS-10-2020	Legal Aid of Marin	Keeping Marin Residents in their Homes	\$20,400	\$20,384	\$32,640
CS-11-2020	Marin City Community Services District	MCCSD Manzanita Center Free Youth Recreation Programs	\$3,000	-	-
CS-12-2020	Performing Stars of Marin	After School and Summer Enrichment Program	\$750	-	-
CS-13-2020	Project Avary	Support Service for Children of Incarcerated Parents	\$7,500	-	-
CS-14-2020	RotaCare Bay Area	RotaCare Clinic of San Rafael	\$16,000	\$15,000	\$15,000
CS-15-2020	Spahr Center	Readiness for Housing Program	\$56,749	-	Withdrawn
CS-16-2020	Women's Rights and Peace of Bay Area	Korean Education Project (KEP)	\$7,500	-	-
SS-1-2020	Canal Alliance	University Prep (UP!)	\$30,000	-	-
SS-2-2020	City of San Rafael, Library And Recreation	Pickleweed Preschool	\$49,440	\$2145,5900	\$15,000
San Rafael Public Services Subtotal			\$298,049	\$96,634	\$171,640

* The Expected Countywide Funding includes anticipated recommendations for all Planning Areas and HOME.



**Required Community Outreach and Analysis:
2020 Analysis of Impediments to Fair Housing Choice &
2020-24 Consolidated Plan**

2020 Analysis of Impediments to Fair Housing Choice: Summary of Key Findings, Conclusions, and Recommendations

The U.S. Department of Housing and Urban Development (HUD) requires jurisdictions receiving federal grant funds for housing and community development to certify that they are taking actions to affirmatively further fair housing (AFFH). Under both the CDBG and HOME programs, the County is required to certify whether it, and the participating cities and towns, are taking actions and documenting those actions that affirmatively further fair housing. Affirmatively furthering fair housing means, according to HUD, "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics."

From 2016 to 2019, County staff engaged with over 2,700 individual residents, community groups, nonprofits, youth, and County employees, among others, to develop a comprehensive understanding of housing challenges in Marin and to hear recommendations for addressing those housing challenges. The recommendations and findings contained in this report are a direct result of the County's robust community engagement process and its commitment to setting locally-determined fair housing priorities and goals.

A Community Advisory Group and Steering Committee were formed to analyze local, demographic data and engage in comprehensive discussions about race, segregation and integration patterns in Marin, and why where you live matters. The groups reviewed and discussed data on homeowners and renters in Marin, legal and illegal housing advertisement, the cost of housing in Marin, household incomes, the results of the County's 2015 Rental Housing Survey, and anticipated housing needs as the number of adults age 60 and over in Marin continues to grow.

The 2020 Analysis of Impediments to Fair Housing Choice provides information on the current population and housing needs of Marin County, with an emphasis and focus on the needs of racial and ethnic minorities, families with children, persons with disabilities, and other members of the protected classes.

The general conclusion is that whether assessed on a national, regional or local level, where you live matters - particularly for people of color, those with disabilities, families and other members of the protected classes. A person's zip code can predict their life expectancy, their ability to attend good schools, opportunities for employment, transportation options and quality housing.

The County’s goal is to increase, expand and maintain its affordable housing inventory and to increase opportunities for housing choice for low income residents, people of color, people with disabilities and residents who have specifically been impacted by historic government policies and practices that created segregated communities in Marin and who continue to be marginalized today. To that end, after years of community engagement and changes in the County’s development codes, zoning policies, funding strategies and collaborations with cities and towns, four overarching priorities were identified to address impediments to fair housing choice:

- Community opposition;
- Cost of developing affordable housing and the lack of available land for development;
- Lack of affordable housing, particularly family rental housing;
- Lack of homeownership, particularly for African Americans.

Impediment #1 - Community Opposition to Affordable Housing

Through the County’s community engagement and outreach process, which included the County’s Community Advisory Group, Steering Committee, and voices from individual residents, local groups, organizations, and nonprofits, among others, community opposition was identified as the number one reason for the lack of affordable housing development in the County, particularly for families and in areas outside of minority concentration. Opposition to any new housing development can arise in all neighborhoods of the County, but it is especially the case in majority White neighborhoods, and particularly when the proposed development is affordable rental housing for families. The opposition is often based primarily on common growth issues such as traffic congestion, perceived threats to open space preservation, water demand versus supply, and increased school enrollment. However, opposition can also reflect underlying fears of reduced property values, safety concerns, the misperceptions of the type of housing that would be created, and the stereotyped impressions of the people who will occupy the housing.

An increased understanding about affordable rental housing and the positive impact it has on individuals, families, and the community at large is instrumental to gaining wider community support. The more informed the public, local government, County staff, and elected officials are about the need for affordable rental housing and the benefits of avoiding housing insecurity and homelessness, the more leverage supporters will have to advance the development of affordable rental homes.

Recommendations

1. Provide ongoing community engagement to educate, include and inform residents about the challenges with housing in Marin, and to highlight the County’s prior achievements in developing affordable housing and addressing racial disparities in housing choice.
2. Develop strategies and talking points to address opposition for development including the impact on schools, water, transportation and traffic.
3. Include and expand the number of participants who engage in discussions about barriers to fair housing and disparities in access and opportunities in Marin’s communities, and provide opportunities to advance recommendations to address housing challenges in the County.
4. In keeping with the County’s 2019 Voluntary Compliance Agreement with the Department of Housing and Urban Development, prioritize the development and funding for rental housing for families, particularly in areas outside of minority concentration.

Impediment #2 - The Cost of Developing Affordable Housing

The cost of developing affordable housing in Marin is prohibitive even after accounting for funding from grants, loans, direct and indirect subsidies, tax credits and private donors. While many Marin communities require that developers of multi-unit housing set aside a percentage of units as affordable housing, and the County's Housing Trust Fund provides financial assistance to help affordable housing developers create and preserve affordable housing for low and very-low income households, some cities and towns do not have inclusionary policies or affordable housing impact fees, and for some jurisdictions, the housing trust account balances are too low to be useful. In addition, in-lieu fees which, in some cases may be paid by developers instead of constructing affordable housing, do not reflect the actual cost of building affordable housing in the County.

Recommendations

1. The County should consider ways to provide a local dedicated source of funding for affordable housing. Options could include bonds, local sales tax, transit occupancy tax, vacant home tax or other measure to raise funds that create and preserve local affordable housing for low-income households, veterans, seniors, teachers, first responders, persons with disabilities, and those experiencing homelessness.
2. The County should work with cities and towns to pool in-lieu fees to increase funds available for affordable housing and determine whether to increase the amount of in-lieu fees to better reflect the actual cost of affordable housing development.
3. The County, cities and towns should consider a sub-regional approach for the allocation of housing (Regional Housing Needs Allocation), to share resources and possibly units to increase collaboration and production of housing.
4. The County should work with cities and towns to adopt inclusionary housing policies to bolster funds available to support affordable housing.
5. The County should encourage cities and towns to reduce or waive fees for affordable housing.

Impediment #3 - Lack of Affordable Housing Sites

Developers and members of the community are unaware of potential affordable housing sites across the County. Because of this lack of knowledge, opportunities to purchase land or properties may reduce the availability for affordable housing development.

Recommendations

1. Prepare and publicize available and easily obtainable maps of all incorporated and unincorporated vacant and underutilized parcels in Marin. Housing sites identified by the County, cities and towns in their respective Housing Elements could be the basis for this information. Additional potential housing sites should also be considered when preparing the maps.
 - a. Provide public updates and market to affordable housing developers, and
 - b. Prioritize the VCA commitment to 100 units for family housing for these parcels.
2. Identify underutilized parcels in the County to acquire, convert and develop into affordable housing.
 - a. Post/advertise information on the County's website and update continuously.
 - b. Identify whether parcels are privately or publicly held and if there are any public right of ways.
3. Create a public database of potential sites that can be updated regularly.

- 4. As part of the County’s next Housing Element, consider rezoning sites to increase density to accommodate multi-family housing in areas outside of areas of minority concentration to further local housing goals and to comply with State housing law, and consider objective development and design standards for housing development projects that qualify for streamlined permit review.

Impediment # 4 - Lack of Opportunities for Home Ownership by People of Color and On-going Concerns of Gentrification

The price of housing in Marin is unaffordable for most residents, but because of historic, discriminatory practices and government policies, African Americans – in particular, people who lived in Marin City during the Marinship years -- have been particularly affected by policies that have created segregated communities with limited access to opportunities.

In addition, gentrification of some Marin communities is forcing people of color and low-income residents to be priced out of their own neighborhoods. Designating land for the purpose of developing affordable housing that will remain affordable in perpetuity will create opportunities for home ownership while acknowledging and affirmatively furthering fair housing. Transforming racially and ethnically concentrated areas of poverty into areas of opportunity can preserve existing affordable housing and protect existing residents from displacement.

Recommendations

Work with communities to provide resources to support a community land trust for low income residents of Marin that create opportunities for affordable housing and home ownership, with specific inclusion for African Americans with historic connections to Marin City. Model after the Community Land Trust of West Marin (CLAM) to ensure long-term housing affordability.

2020-24 Consolidated Plan: Summary of Key Findings

The Consolidated Plan (ConPlan) is a five (5) year strategic plan that identifies goals for federal funding programs provided through HUD, including the Community Development Block grant program (CDBG) and the HOME Investment Partnerships Program (HOME). The ConPlan provides a framework for identifying priorities and programs to address affordable housing, community development needs, and public services for extremely low-up to moderate-income families, persons with disabilities, seniors, and youth.

Understanding the needs of a community is critical to planning the use of federal grant funds. As part of the 2020-24 Consolidated Planning process, Housing and Federal Grants staff (Staff) engaged the community using various methods to gather information about housing, community spaces and infrastructure, and public service needs in Marin. In addition, staff reached out to other jurisdictions implementing federal grant programs to learn smart practices to improve impact and effectiveness of Marin County’s federal grants program. Results from the community engagement and interview process shall guide future planning and program design for the County of Marin’s federal grants program.

Over the course of six (6) months County staff engaged the community in four ways: a community survey, service provider survey, community meetings, and interviews.

Methodology

Community Survey



Online and paper surveys available in English, Spanish, and Vietnamese were used to gather community input to inform funding priorities. Surveys were disseminated in partnership with local nonprofit service and housing providers and County departments including Health and Human Services and the Marin County Free Library. To enhance and encourage participation staff attended numerous community events, including weekly Health Hubs organized through the Marin Community Clinics in both Novato and San Rafael, the Canal Alliance food pantry, and events put together by local organizations, including Community Action Marin, the Marin Organizing Committee, and Performing Stars. A total of 322 surveys were collected, with 229 in English, 92 in Spanish, and one (1) in Vietnamese.

Service Provider Survey

An online service provider survey was distributed to over 50 organizations in Marin County. Twenty-five (25) surveys were completed by organizations that provide a wide range of services including childcare, senior, parent support, case management, basic health, and food security services. Survey respondents were asked about their biggest demand for services, funding gaps, and demographic information about their service population.



Community Meetings



In collaboration with Marin Health and Human Services, over the course of four (4) months staff lead seven (7) community meetings and focus groups to gather data. The meetings were held across the County including in Marin City, Kentfield, Novato, San Rafael, West Marin and one meeting in the Canal Neighborhood of San Rafael was held entirely in Spanish. Nearly 300 people participated in these meetings.

Interviews

Staff reached out to 15 local government entities in Marin for interviews to garner insights into client and service trends, funding available, and demand for services. Of the interviews requested staff were able to conduct 11 interviews—two (2) cities, eight (8) County departments/divisions, and one (1) community service district.



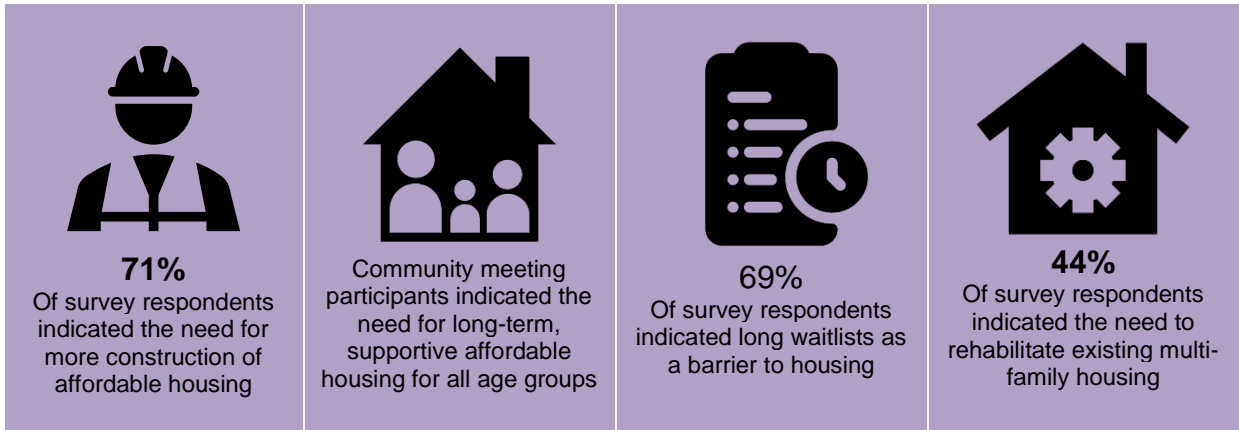
In addition, staff did outreach to nine (9) neighboring jurisdictions that administer federal grant programs similar to Marin's. Of those, five (5) neighboring jurisdictions were interviewed to identify trends and practices that could be applied to Marin's program.

Findings

Data from community surveys, service provider surveys, community meetings, and interviews with jurisdictions were synthesized into the priorities listed below. Respondents involved in the engagement process discussed concerns and provided specific comments about issues related to housing, community infrastructure, and public services. These concerns are articulated here as general findings that will be used to inform priorities. For example, comments regarding a leaking roof in a community center were included in a statement about improving and creating new community centers.

Housing

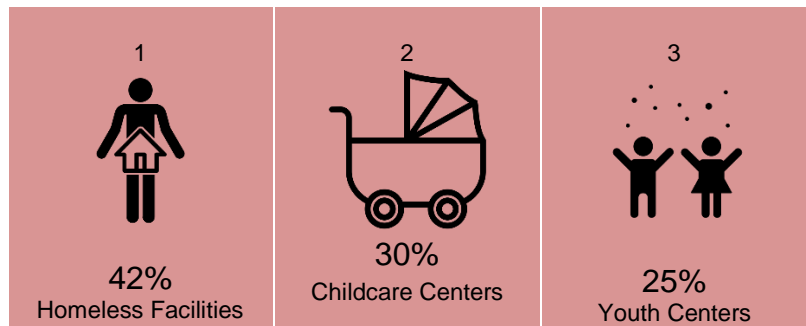
The findings related to housing focused on constructing, rehabilitating, and preserving affordable housing that could fit the needs of all demographics. The most commonly referenced populations included: families, single individuals, seniors, and populations in need of supportive housing. Most comments specifically related to rehabilitation of existing affordable housing focused on addressing substandard conditions. Respondents commented on the lack of housing affordable to extremely low-income households, and long and inaccessible waitlists.



Top Four Identified Housing Needs from Community Survey

Community infrastructure

Related to community infrastructure comments ranged from references to specific rooms and buildings, to discussions about infrastructure systems in cities and towns. Many respondents found that communities lacked new and improved community centers for all age ranges, social groups,



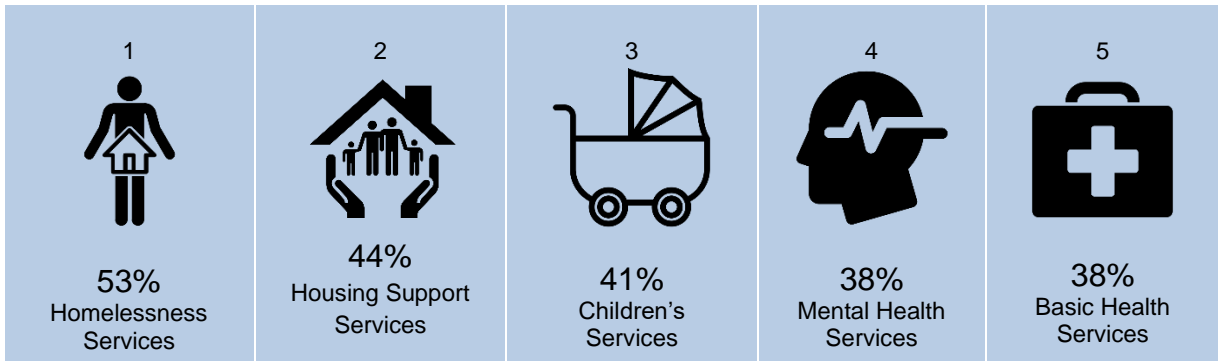
Top Three Identified Community Infrastructure Needs from Community

and needs, including childcare facilities, youth centers, senior centers, and LGBTQ centers. Additionally, respondents showed interest in more informal community gathering spaces. Respondents stated that their communities lack well maintained parks and public spaces, as well as homeless shelters/facilities. Most respondents mentioned the importance of protecting communities from natural disasters by improving infrastructure. Finally, transportation infrastructure improvements were mentioned in most surveys and comments, more specifically related to transit route frequency and reliability and safety measures such as adequate sidewalks and lighting were noted.

Public Services

The findings summarized for public services demonstrate the range of diverse needs in Marin County. One of the services discussed most frequently was “homeless services.” Homeless services fit under a larger classification of services that benefit those who are homeless and in danger of becoming homeless. Several of the services mentioned in the findings below are intended to serve these populations. Therefore, homeless services can

translate into a wide array of services. For example, housing support services and legal services were two of the most commonly mentioned needs, and these services can support populations that are homeless or in danger of becoming homeless. Services for families including children’s services and parent support services were mentioned in most surveys and community meetings. Respondents specified that basic health services for all age ranges were needed throughout the county. Services for very specific populations including seniors and domestic violence victims were mentioned in a majority of survey responses and at several community meetings. Food security was listed as a priority for vulnerable populations. Language acquisition and education along with job training and microenterprise



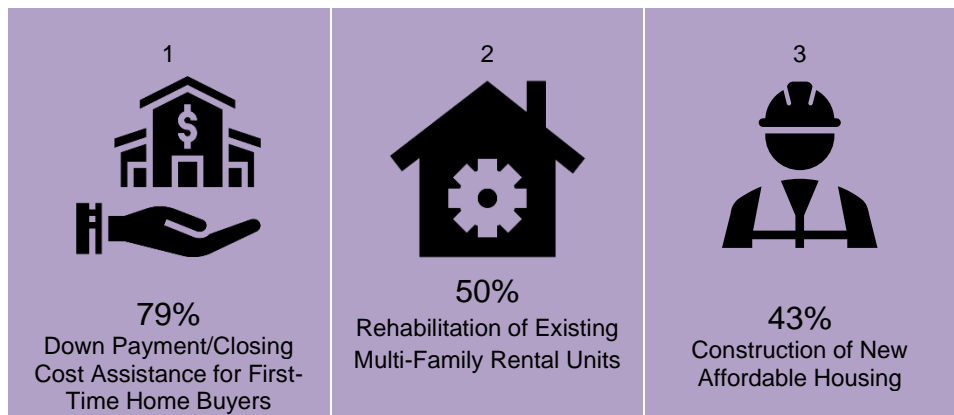
business support were mentioned in many responses regarding public service needs.
Top Five Identified Public Service Needs from Community Survey

Community-Specific Needs

A few of Marin’s federal grant program’s target populations and communities including Marin City, West Marin, and Marin’s Spanish speaking population expressed their community-specific needs and priorities at their respective community meetings. The community survey data was disaggregated by community to allow Staff to pinpoint and highlight these priorities.

Marin City Housing

Marin City’s housing priorities differ from overall survey respondents and indicates a need for more financial assistance for first-time home buyers, rehabilitation of existing multi-family rental



Top Three Identified Housing Needs from Community Survey Amongst Marin City

housing, and some construction of new affordable housing. This community faces gentrification and displacement pressures which may explain why rehabilitating and securing homeownership for existing residents is a priority over the development of new housing in the community.

Community Infrastructure

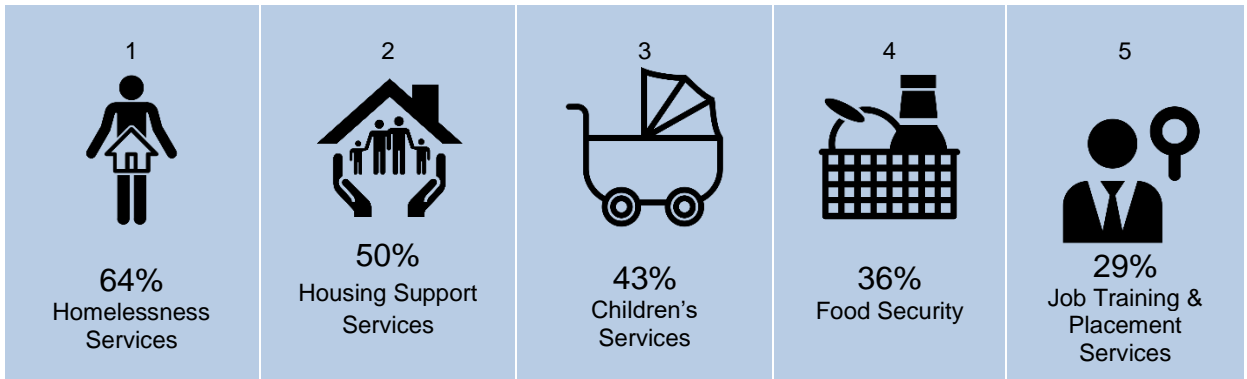
With regards to community infrastructure, like overall respondents, Marin City residents also indicated a priority to focus on homeless facilities/shelters, followed by an interest in more community gardens and gathering spaces, and improvements to nonprofit facilities.



Top Three Identified Community Infrastructure Needs from Community Survey Amongst Marin City Residents

Public Services

Public service priorities in Marin City follows a similar trend to the County as a whole. However, after homelessness services, housing support services and children’s services—Marin City’s specific needs for food security and employment readiness are highlighted.



Top Five Public Service Needs from Community Survey Amongst Marin City Residents

West Marin Housing

West Marin’s housing needs are largely related to the need for more housing, specifically affordable housing, through the construction of more housing and the purchase of land to allow

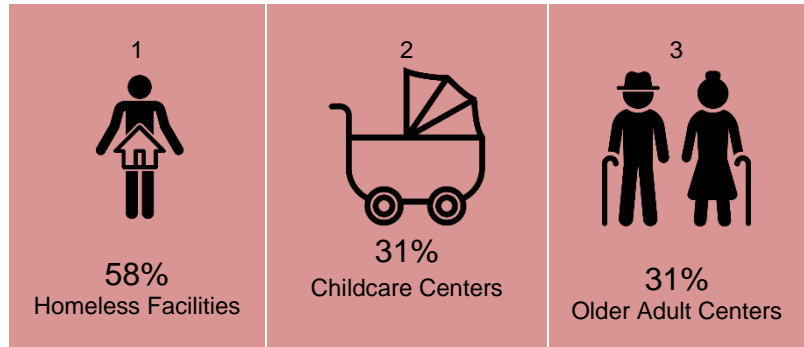


Top Three Identified Housing Needs from Community Survey Amongst West Marin

for more development of affordable housing. West Marin residents also highlighted the need for more financial assistance to first-time home buyers.

Community Infrastructure

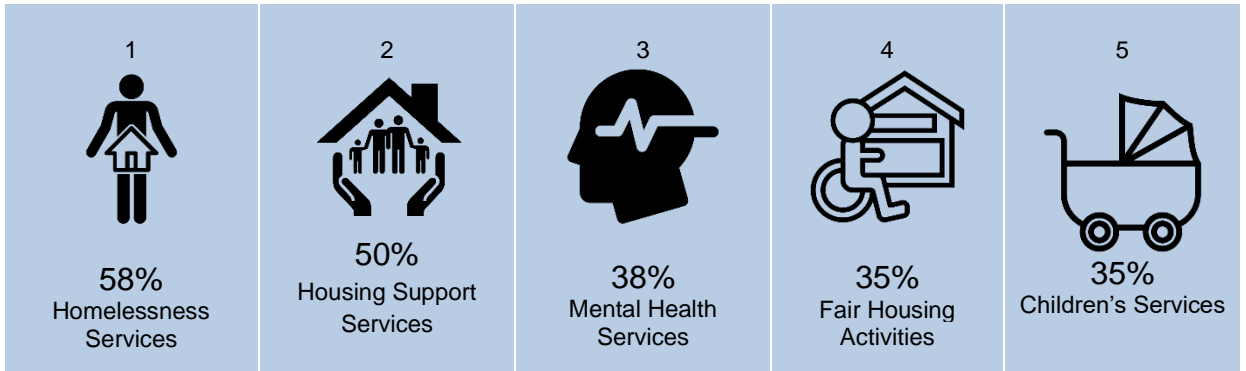
With regards to community infrastructure, West Marin residents indicated the need for facilities across age groups and needs. After homeless shelters/facilities, West Marin highlighted the need for childcare centers and older adult centers.



Top Three Identified Community Infrastructure Needs from Community Survey Amongst West Marin Residents

Public Services

Public service needs in West Marin are also similar to the County: beyond homelessness services, housing support services, and children’s services—West Marin expressed priorities related to mental health services and fair housing activities.

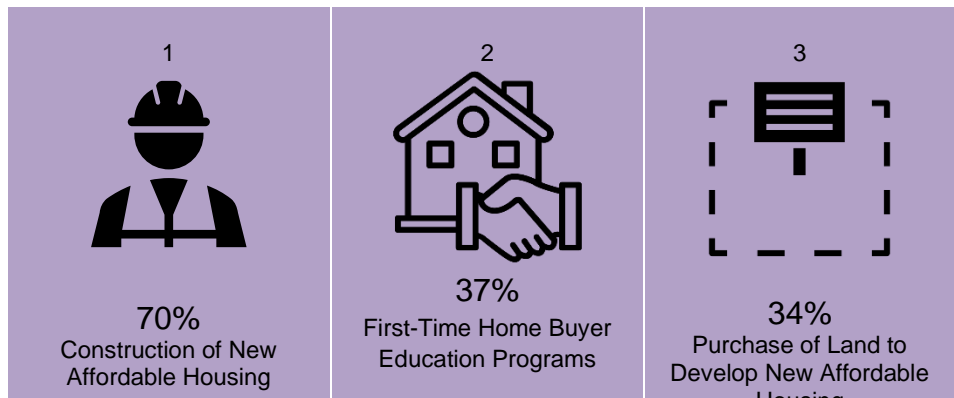


Top Five Public Service Needs from Community Survey Amongst West Marin Residents

Spanish-Speaking Respondents

Housing

Spanish speaking respondents indicated a need for more affordable housing, through the construction of more housing and the purchase of land to allow for more

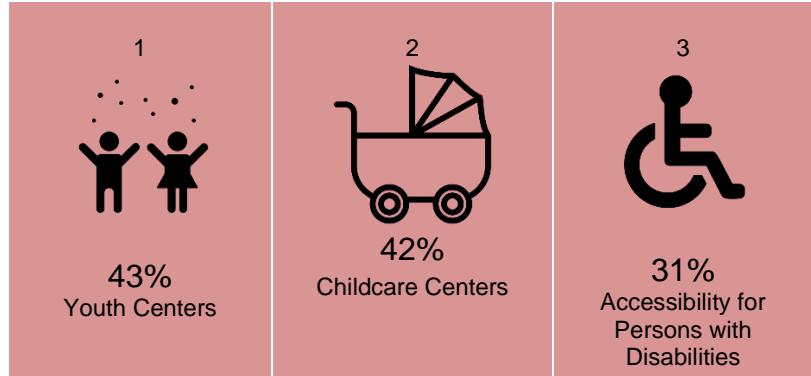


Top Three Identified Housing Needs from Community Survey Amongst Spanish-Speaking Residents

development. Spanish speaking respondents also indicated the need for more education programs for first-time home buyers, highlighting the need for housing education programs in Spanish.

Community Infrastructure

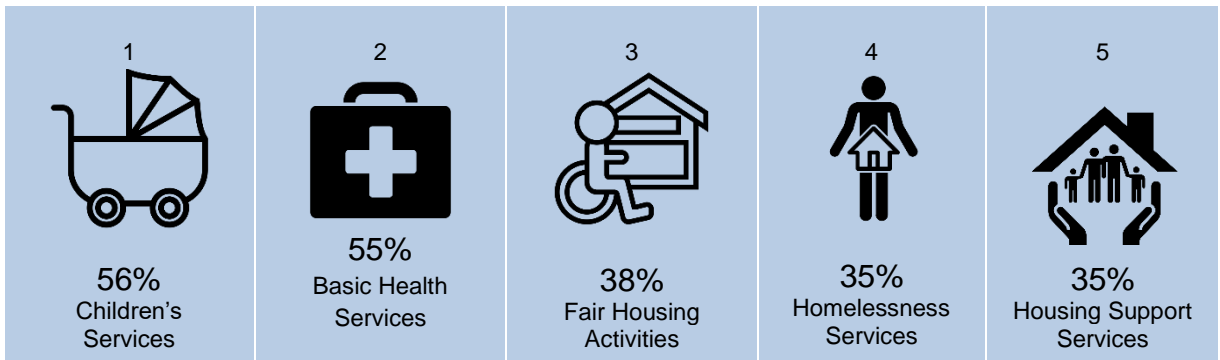
Spanish speaking residents of Marin County also pinpointed the need for youth centers, childcare centers and the need for accessible facilities for persons with disabilities. This highlights the community’s consistent priority around improved or new community gathering spaces, especially for youth in the Canal neighborhood of San Rafael.



Top Three Identified Community Infrastructure Needs from Community Survey Amongst Spanish-Speaking Residents

Public Services

Public service priorities amongst Spanish-speaking residents in Marin shows a need for children’s services, basic health services, fair housing activities, homelessness services, and housing support services. It is critical to note that many survey respondents in Spanish indicated that they are a one income household, largely due to the high cost of childcare.



Top Five Public Service Needs from Community Survey Amongst Spanish-Speaking Residents

2020-2021 Countywide Priority Setting Committee

Name	Affiliation
Claire McAuliffe	City of Belvedere
Vacant	City of Larkspur
Stephanie Moulton-Peters	City of Mill Valley
Denise Athas	City of Novato
John Gamblin	City of San Rafael
Joe Burns	City of Sausalito
Judy Arnold	County of Marin
David Kunhardt	Town of Corte Madera
Barbara Coler	Town of Fairfax
Alexis Fineman	Town of San Anselmo
Holli Their	Town of Tiburon
Cathy Cortez	At-Large Community Representative
Moses Gittens	Lower Ross Community Representative
Veda Florez	Novato Community Representative
Peggy Woodring	San Rafael Community Representative
Sylvia Bynum	Southern Marin Community Representative
PJ Feffer	Upper Ross Community Representative
Jorge Martinez	West Marin Community Representative

2020-22 COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME PROGRAM APPLICATION GUIDELINES

Application logistics:

Application Process and Timing

- Applications will be open on **Monday, January 6, 2020**.
- Application Preparation (Bidders Conference): Wednesday, January 15th, 2020 at the Marin County Civic Center, Board of Supervisors Chambers, 3501 Civic Center Drive, Room 330, San Rafael, CA 94903
 - 1:00 P.M. to 2:00 P.M. - Public Service Projects
 - 2:30 P.M. to 3:30 P.M. - Community Infrastructure/Capital and Housing Projects
- Applications will be due on **Thursday, February 6, 2020, no later than 5:00 PM. POSTMARKS WILL NOT BE ACCEPTED.**
- Federal Grants staff will review applications in February and March.
- Public hearings for each of the three Planning Areas to determine recommendations will be held March-April 2020.
- The Board of Supervisors will hold the final public hearing to confer recommendations on all of the applications in May and transmit the recommendations to HUD.

Application submittal

Submissions may be made via online, email, mail, or in person to one of the addresses below.

- Emailed applications should be sent to this address **ONLY**: federalgrants@marincounty.org
- Mailing address/physical address (if dropping off application):
County of Marin
3501 Civic Center Drive #308
San Rafael, CA 94903
Attn: Federal Grants

Application Content

- *****NEW***** Transitioning from a one (1) year application cycle to a two (2) year application cycle.
- The minimum grant size is \$15,000 per year.
- Organizations may only apply for **one project** in each category of funding. (Ex. An organization may apply for funding under the Public Service category and the Community Infrastructure/Capital category.
- **Only complete applications submitted on time will be considered for funding.**
- Complete applications include the **application document, project budget, and organization budget.**

Average Grant Size

- Public service grants are typically awarded between \$15,000 and \$30,000.
- Community Infrastructure/Capital improvement grants range from \$15,000 to \$150,000, depending on the project scope.
- Housing grants vary from \$30,000 to \$500,000, depending on the project scope.

Eligible Applicants and Projects

- Applicants must either be a nonprofit, government entity, or have a fiscal sponsor that is a nonprofit or government entity. Individuals are not eligible for funding.
- To ensure affordable housing is dispersed through the county, CDBG and HOME funds cannot be used for housing projects in the Canal Neighborhood of San Rafael or Marin City.
- To learn more about eligible and ineligible activities, review these guides to eligible CDBG activities and eligible HOME activities.

Notice of Funding Availability: Community Development Block Grant (“CDBG”) and Home Investment Partnership Program (“HOME”) For 2020-22 funding cycle

The Marin County Community Development Agency’s Federal Grants Division is pleased to announce the opening of the application period for the CDBG and HOME programs.

Overview

Federal funding through the Community Development Block Grant (CDBG) program provides communities with resources to address a wide range of unique community development needs. The CDBG entitlement program allocates annual grants to larger cities and urban counties to develop thriving communities by providing funding to assist in the creation of affordable housing, a suitable living environment, and expanded economic opportunities for low and moderate-income persons. The Home Investment Partnerships Program (HOME) funds the creation, preservation, and rehabilitation of affordable housing for low income households. The programs are managed by the Federal Department of Housing and Urban Development (HUD).

National objectives for funding

Each activity funded by CDBG must meet one of the following national objectives for the program. Each application must clearly state which objective the proposed project addresses.

- Benefit low and moderate-income persons.
- Prevention or elimination of slums or blight.
- Address community development needs having a particular urgency because existing conditions pose a serious and immediate threat to the health or welfare of the community for which no other funding is available.

Priority Setting Committee local thresholds for funding

All applications are assessed using the following as thresholds for funding:

- Support projects that Affirmatively Furthering Fair Housing and have the commitment and capacity to engage in Affirmative Marketing.
- Prioritize projects that serve members of the protected classes as defined by HUD (race, color, religion, national origin, sex, disability, and familial status).
- Prioritize projects that serve low-income persons.

Evaluation Criteria:

All applications are assessed on the following baseline criteria:

- Readiness—can awarded funds be completely expended during the grant year.
- Sustainability—does the organization have capacity to sustain a project or program beyond this federal

funding period?

- Effectiveness and Accountability—does the organization have the capacity and track record to effectively conduct the project and administer federal funds?
- Prioritize greatest impact.

The Countywide Priority Setting Committee has approved funding priorities for CDBG Housing and Public Services dollars that considers projects in the following categories first:

Funding priorities for CDBG Housing funds:

- Family Housing
- Land trust model in eastern Marin¹ that provides home ownership opportunities

Funding priorities for CDBG Public Service funds:

- Basic Health Services – includes services that prevents or treats medical conditions for individuals who are un-insured, under-insured, or people with low-incomes who cannot afford their deductible. Programs and services include but are not limited to preventative health such as immunizations, well-child care from birth, periodic health evaluations for adults, voluntary family planning services, children’s eye and ear examinations conducted to determine the need for vision and hearing correction, and hygiene services. Services may also include medically necessary emergency health care, inpatient and outpatient treatment, diagnostic laboratory and diagnostic and therapeutic radiologic services, and provision of prescription drugs.
- Children, Youth, and Parent Support Services – includes services that address disparities in access to early childhood education and high costs of childcare county wide targeting low-income families. Programs and services include but are not limited to supporting childcare scholarships, student extracurricular activities, parent engagement and training, therapeutic services, teacher’s salaries, transportation, and home visitations.
- Housing Support Services – includes services that assists individuals in accessing stable housing, prevent discrimination in housing choice, and aids renters in maintaining stable housing. Programs and services include but are not limited to fair housing counseling, legal support, housing locators, down payment and rental assistance.

While this priority list does not preclude the funding of other types of projects, it provides staff with further direction when evaluating applications that meet both the national and local baseline thresholds.

Project budgets:

Public Services:

Project budgets for all public service project applications should cover a 1-year time period only. Year two funding allocations will be based on the 1-year budget in relation to outcomes achieved and HUD funding levels.

Community Infrastructure/Capital and Housing:

Project budgets for community infrastructure/capital and housing project applications should be developed spanning a two-year time period, with specific outcomes and line items associated with each

¹ Eastern Marin in this case is defined as all of the areas of Marin, except for West Marin

year. If your project has received planning approvals, has an environmental review on file, and is ready to move forward in a 1-year time frame please indicate so.

Income verifying clients:

All applicants are required to income qualify beneficiaries of services provided with CDBG and HOME funds. Under CDBG regulations HUD presumes the following groups to be low-income and income verification is not required: abused children, battered spouses, the elderly, adult persons with serious disabilities, individuals who are homeless, illiterate persons, and migrant farm workers. Removal of architectural barriers to assist seniors and adults with severe disabilities would fall under this category of Presumed Benefit.

Key changes for 2020-22 fiscal year

- Transitioning from a one (1) year application cycle to a two (2) year application cycle.²
- The minimum grant size is \$15,000 per year.
- CDBG housing funds will first prioritize projects that provide Family Housing and/or Land trust model in eastern Marin that provides home ownership opportunities
- CDBG public service funds will first prioritize projects that provide Basic Health Services; Children, Youth, and Parent Support Services; and Housing Support Services
- Staff will pursue reprogramming of funds for projects that do not make substantial progress in the initial funding year.

Marin County CDBG Program Overview

All of the eleven cities and towns in Marin County and the County of Marin participate in the CDBG program through a cooperation agreement. The cooperation agreement is renewed every three years. The cooperation agreement allows Marin County to be defined as an “urban county”, having a population of over 200,000, and to receive a direct CDBG funding allocation. Novato and San Rafael are eligible to receive CDBG funding as entitlement cities because their populations exceed 50,000 persons. However, both cities have chosen to continue with the cooperation agreement to assure that Marin meets the population standard for urban counties and continue to receive CDBG funding.

The total CDBG allocation for Marin County has been about \$1.4 Million dollars annually and HOME is about \$700,000. Staff is anticipating the 2020-21 allocation will be similar to 2019-20. Staff will make their funding recommendations based on the 2019-20 allocation.

Marin County Allocation Formula:

The program is administered by staff in the Marin County Community Development Agency. Federal regulations limit the amount of administrative costs to 20% of the available grant funds. In addition, public services are limited to 15% of available grant funds. 40% of funds are allocated to housing and the remaining 25% of funding is available for community infrastructure/capital improvement projects and/or housing.

HOME funds are used exclusively for affordable housing serving low and very low-income.

The County is divided into three (3) planning areas: Novato, San Rafael, and County Other. Each planning area receives a portion of the overall allocation based on an analysis of 2010 Census Data looking at population,

² Staff reserve the right to open the application in 2021-22, if deemed necessary.

the extent of poverty, and the extent of housing overcrowding, with the provision that the extent of poverty be counted twice. For fiscal year 2020-21, the Novato planning area will receive 23.68% of funds, the San Rafael planning area will receive 39.42% of funds, and the County Other planning area will receive 36.9% of funds.

Selection Process:

The Novato City Council and San Rafael City Council hold public hearings on all applications for their respective planning areas and make a funding recommendation to the Board of Supervisors.

The Countywide Priority Setting Committee makes funding recommendations for the County Other planning area and HOME Program funding to the Board of Supervisors.

Requirements for Grant Disbursement:

All recipients will be required to enter into a contract with the County of Marin. This contract will include:

- Scope of service and use of funds.
- Expected outcomes.
- Compliance with certain administrative requirements and accounting records.
- Agreement to affirmatively further fair housing and conduct affirmative marketing.
- Non-discrimination.

All projects will require Federal **environmental review** clearance (NEPA). This is required even for projects that are not subject to CEQA. The Housing and Federal Grants Division is responsible to conduct the environmental review. Awardees should note that project funds may not be spent until the environmental review has been completed.

All community infrastructure/capital projects and some housing projects will be subject to the Federal Davis-Bacon Act regarding prevailing wages for construction workers. Davis Bacon often has standards that differ from California prevailing wage standards.

CDBG will place a lien on all community infrastructure/capital and housing improvement projects. This lien must be repaid if the property is ever sold. The lien amount is not fixed and will be calculated as the amount of CDBG funding to the current value. The lien will increase as the value of the property rises. This lien has no time limit. The lien can be assumed by another nonprofit.

HOME will establish regulatory agreements dictating the affordability of the property and/or HOME units.

Commonly Used Terms

Affirmatively Furthering Fair Housing: Taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. Public service projects can affirmatively further fair housing by providing access to opportunities and by transforming racially and ethnically concentrated areas of poverty into areas of opportunity.

Affirmative Marketing: Through an affirmative marketing plan, a housing and service provider indicates what special efforts they will make to reach out to potential tenants or applicants who might not normally seek housing or services in their project and identify those least likely to apply and market to them.

Community Housing Development Organization (CHDO), is a private nonprofit, community-based organization that has staff with the capacity to develop affordable housing for the community it serves. To qualify for designation as a CHDO, the organization must meet certain requirements pertaining to their legal status, organizational structure, and capacity and experience. At least 15% of HOME funds must be allocated to CHDOs. A minimum requirement to be a CHDO is that at least one-third of the board membership are either low-income, residents of low-income neighborhoods, or are elected as representatives of low-income neighborhood organizations.

Community Development Block Grant (CDBG): funds local community development activities such as affordable housing, anti-poverty programs, and infrastructure development.

Demographics: HUD changed the data collection requirements regarding race/ethnicity categories during program year 2002-2003. These changes reflect Office of Management and Budget 1997 standards establishing that “Hispanic” is not a race category, but an ethnic category that cuts across all races. Those who are White, Black, Asian, Pacific Islander, American Indian, or a multi-race may also be counted as being of Hispanic ethnicity. As such, when asking the individual/household to select a race category, the individual/household must also state whether they are of Hispanic ethnicity. For example, an individual/household of Mexican descent would likely state their race as either American Indian or White, and would also fall under the category of “also Hispanic.”

Federal Grants Division: Staffed by the Marin County Community Development Agency, Federal Grants provides Marin communities with resources to address a wide range of unique community development needs. Federal funds are awarded to non-profits which provide community development activities, anti-poverty programs and affordable housing for low and moderate households throughout Marin County. Oversight is provided by the Priority Setting Committee, made up of appointed community members as well as elected officials from the County, cities and towns.

HOME Investment Partnerships Program (HOME): funds a wide range of activities including building, buying, and/or rehabilitating affordable housing for low-income people. HOME projects must match every dollar of HOME funds used with 25 cents from nonfederal sources, which may include donated materials or labor, the value of donated property, proceeds from bond financing, and other resources.

HUD: US Department of Housing and Urban Development

Protected classes: Under federal anti-discrimination law, a protected class is a group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. The following characteristics are protected by the Federal Fair Housing Act: race, color, religion, national origin, sex, disability, and familial status (This last term refers to the presence of at least one child under 18 years old, and also protects prospects and tenants who are pregnant or in the process of adopting a child).

Public Services: CDBG funds can be used for activities that benefit low- and moderate-income people, such as child care, health care, job training, recreation programs, education programs, public safety services, fair housing activities, services for senior citizens, services for homeless persons, drug abuse counseling and treatment, energy conservation counseling and testing, and homebuyer down payment assistance. To be eligible for funding public services must be either a new service; or provide a quantifiable increase in the level

of a service. No more than 15% of CDBG funds can be used for public services.

Rehabilitation: CDBG funds may be used to finance the costs of rehabilitation as shown below.

Residential—Residential property, whether privately or publicly owned. This includes manufactured housing when such housing constitutes part of the community’s housing stock.

Commercial/industrial—Commercial or industrial property, but where such property is owned by a for-profit, rehabilitation under this category is limited to exterior improvements of the building and the correction of code violations.

Other—Nonprofit-owned, nonresidential buildings and improvements that are not considered to be public facilities or improvements under §570.201(c) of the CDBG program regulations.

Construction of Housing: Under this category, CDBG funds may be used in certain specified circumstances to finance the construction of new permanent residential structures. Eligible uses include acquisition of sites, clearance of toxic contaminants of property to be used for the new construction of housing, site improvements to publicly-owned land to enable the property to be used for the new construction of housing, provided the improvements are undertaken while the property is still in public ownership and the cost of disposing of real property, acquired with CDBG funds, which will be used for new construction of housing.

Davis-Bacon: The Davis–Bacon Act of 1931 is a United States federal law that establishes the requirement for paying the local prevailing wages on public works projects for laborers and mechanics.

NEPA: The National Environmental Policy Act (NEPA) is a United States environmental law that promotes the enhancement of the environment and established the President's Council on Environmental Quality (CEQ). Staff must complete environmental review for all CDBG funded projects.

Income Limits - 2019 HUD INCOME LIMITS

Household Size	1	2	3	4	5	6	7	8
Extremely Low (0-30%)	\$33,850	\$38,700	\$43,550	\$48,350	\$52,250	\$56,111	\$60,000	\$63,850
Very Low-Income (30+-50%)	\$56,450	\$64,500	\$72,550	\$80,600	\$87,050	\$93,500	\$99,950	\$106,400
Low-Income (50+-80%)	\$90,450	\$103,350	\$116,250	\$129,150	\$139,500	\$149,850	\$160,150	\$170,500
Moderate-Income (80+-120%)	\$114,900	\$131,350	\$147,750	\$164,150	\$177,300	\$190,450	\$203,550	\$216,700

SOURCE: U.S. Department of Housing and Urban Development



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: FIRE

Prepared by: David Catalinotto, Environmental
Management Coordinator

City Manager Approval: _____

A handwritten signature in black ink, appearing to be the initials 'DS' or similar, written over a horizontal line.

TOPIC: HAZARDOUS WASTE COLLECTION PROGRAM AGREEMENT EXTENSION

SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE-YEAR EXTENSION OF THE AMENDED HAZARDOUS WASTE COLLECTION PROGRAM AGREEMENT WITH THE MARIN RECYCLING AND RESOURCE RECOVERY ASSOCIATION (MRRRA)

RECOMMENDATION: Adopt the resolution and the extension of the Hazardous Waste Program Funding Agreement.

BACKGROUND:

On September 14, 1995, the City and MRRRA entered into the original Hazardous Waste Collection Program Agreement which allowed for the creation of the permanent Household Hazardous Waste Facility and the Conditionally Exempt Small Quantity Generator (CESQG) Program.

The Hazardous Waste Collection Program Agreement was originally adopted to prevent household hazardous waste (HHW) and CESQG waste from ending up in landfills, being illegally dumped into water ways, causing injury to residents and sanitation workers, and causing fires. The City, Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA), MRRRA, and all municipalities in Marin County, except Novato, collaborated in an effort to collect and properly dispose of HHW and prevent it from becoming a danger to the public and the environment. The hazardous waste collection program has been extremely successful and diverts thousands of pounds of hazardous waste per week.

The original 1995 Collection Agreement was amended by the City and the JPA in 2012. On January 26, 2012, the Amended Hazardous Waste Collection Program Agreement went into effect. The amendments to the Agreement included: new definitions, specific responsibilities for City and MRRRA, a new Door-to-Door Universal Waste Pick-up Program, a term length to continue through the Fiscal Year 2020, compensation and rental expenses, employee qualifications, specific additional State-mandated documentation, a certified audit of MRRRA records, and a requirement for MRRRA to operate within the approved budget.

FOR CITY CLERK ONLY

File No.:

Council Meeting:

Disposition:

ANALYSIS:

Staff has collaborated with MRRRA and the JPA to extend the Agreement for one year (with automatic one-year renewals incorporated if necessary) via a First Amendment. This approach allows for alignment with the City's funding agreement with the JPA, which also is being considered for a one-year term extension.

The JPA requests that the City approve the extension to the collection agreement before its planned April 23, 2020 Executive Committee meeting in order to ensure that renewal of the funding agreement occurs before the June 30, 2020 termination date. Failure to approve an extension in a timely fashion could result in suspension of the Household Hazardous Waste collection program for Marin residents outside Novato.

FISCAL IMPACT:

The City will continue to be reimbursed for the costs of the services provided under this extended Agreement pursuant to the Amended Hazardous Waste Funding Agreement with the Marin County Hazardous and Solid Waste Management Joint Powers Authority being considered for a one-year term extension by Separate Resolution.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt resolution as presented.
2. Adopt resolution with modifications.
3. Take no action and allow the agreement to expire.

RECOMMENDED ACTION:

Adopt the Resolution

ATTACHMENTS:

1. Resolution
2. Draft First Amendment to Amended Hazardous Waste Collection Program Agreement

RESOLUTION NO. _____

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND
AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE-YEAR
EXTENSION OF THE AMENDED HAZARDOUS WASTE COLLECTION
PROGRAM AGREEMENT WITH THE MARIN RECYCLING AND RESOURCE
RECOVERY ASSOCIATION (MRRRA)**

WHEREAS, on September 5, 1995, pursuant to Resolution No. 9448, the City Council approved and entered into a Hazardous Waste Collection Program Agreement (“Collection Agreement”), dated September 14, 1995, with Marin Recycling and Resource Recovery Association (“MRRRA”), for the establishment and operation of a permanent household hazardous waste collection facility and a conditionally exempt small quantity generator waste collection facility at 565 Jacoby Street in San Rafael; and

WHEREAS, on January 17, 2012, pursuant to Resolution No. 13282, the City Council approved and entered into the Amended Hazardous Waste Collection Program Agreement (“Amended Agreement”) dated January 26, 2012, with MRRRA, pursuant to which the company is operating the permanent collection facility for Approved Hazardous Waste at 565 Jacoby Street; and

WHEREAS, the Amended Agreement is set to terminate on June 30, 2020, and the parties desire to extend the term of the Agreement by one year and to provide for optional one-year renewals; and

WHEREAS, the City Council approves the waiver of competitive bidding with respect to this Agreement pursuant to San Rafael Municipal Code Section 2.55.070 in order to allow MRRRA to continue to provide the City with the required services at its modernized facility at 565 Jacoby Street, in compliance with its funding agreement with the California Integrated Waste Management Board;

NOW THEREFORE, BE IT RESOLVED that the San Rafael City Council authorizes and empowers the City Manager to execute in the name of the City of San Rafael a First Amendment to the Amended Hazardous Waste Collection Program Agreement with the Marin Recycling and Resource Recovery Association, extending the term of the agreement by one year, with optional automatic one-year renewals, in a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Council finds that the actions taken by this Resolution are exempt from review under the California Environmental Quality Act (CEQA), pursuant to Article 5, Section 15061(b) (3) of the CEQA Guidelines because there is no possibility that they will have a significant effect on the environment as provided by CEQA. The City Clerk is hereby directed to file the necessary Notice of Exemption as provided under CEQA.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on the 6th day of April 2020 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**FIRST AMENDMENT
TO AMENDED HAZARDOUS WASTE COLLECTION PROGRAM AGREEMENT**

This First Amendment is entered into as of the ____ day of _____, 2020, by and between the City of San Rafael, a Charter City ("City"), and the Marin Recycling and Resource Recovery Association, a California Corporation ("Company").

WHEREAS, the City holds a permit from Marin County Certified Unified Program Agency (CUPA) permitting the continuance of the Marin County Permanent Household Hazardous Waste Facility ("HHWF") and Conditionally Exempt Small Quantity Generator ("CESQG") programs, originally undertaken by the City pursuant to a variance permit issued by the California Department of Toxic Substances Control on October 18, 1993; and

WHEREAS, City and Company entered into a Hazardous Waste Collection Program Agreement ("Collection Agreement"), dated September 14, 1995, for the establishment and operation of a permanent household hazardous waste collection facility and a conditionally exempt small quantity generator waste collection facility at 565 Jacoby Street in San Rafael; and

WHEREAS, on January 26, 2012, the City and Company entered into an Amended Hazardous Waste Collection Program Agreement ("Amended Agreement"), attached hereto as Exhibit C, pursuant to which Company is operating the permanent collection facility for Approved Hazardous Waste at 565 Jacoby Street; and

WHEREAS, the Amended Agreement is set to terminate on June 30, 2020, and the parties desire to extend the term of the Agreement as set forth in this First Amendment to Amended Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the parties agree as follows:

1. Section 4, Subsection A of the Amended Agreement (Term) is hereby amended in its entirety to read as follows:

4. **Term of Agreement and Termination**

- A. The term of this Agreement shall commence upon March 1, 2012, and shall continue to June 30, 2021, unless terminated earlier as provided in Section 11, Subparagraph G. hereafter. Upon expiration of the original term or any renewal term, this Agreement shall automatically be renewed for a one (1) year period unless, at least one hundred and eighty (180) days prior to the renewal date, either party provides to the other written notice of its desire not to automatically renew this Agreement.

2. Except as otherwise provided herein, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date set forth above.

CITY OF SAN RAFAEL

**MARIN RECYCLING & RESOURCE
RECOVERY ASSOCIATION**

Jim Schutz
City Manager

Joseph J. Garbarino
Chairman of the Board

ATTEST:

APPROVED AS TO FORM:

Lindsay Lara
City Clerk

Jenna Brady
Legal Counsel for Marin Recycling &
Resource Recovery Association

APPROVED AS TO FORM:

City Attorney



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: FIRE

Prepared by: David Catalinotto, Environmental
Management Coordinator

City Manager Approval: _____

TOPIC: HAZARDOUS WASTE PROGRAM FUNDING AGREEMENT EXTENSION

SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE-YEAR EXTENSION OF THE AMENDED HAZARDOUS WASTE PROGRAM FUNDING AGREEMENT WITH THE MARIN COUNTY HAZARDOUS AND SOLID WASTE MANAGEMENT JOINT POWERS AUTHORITY (JPA)

RECOMMENDATION: Adopt the resolution approving the extension of the Hazardous Waste Program Funding Agreement

BACKGROUND:

On November 18, 1996, the City and the Marin County Hazardous and Solid Waste Management Joint Powers Authority (JPA) entered into the Hazardous Waste Funding Agreement, which allowed for the funding of the [Marin Household Hazardous Waste \(HHW\) Facility](#) and the Conditionally Exempt Small Quantity Generator (CESQG) program.

The original agreement was amended in 2012. On January 26, 2012, the Amended Hazardous Waste Program Funding Agreement went into effect. Amendments to the Agreement included: new definitions; other HHW programs, including a Door-to-Door Universal Waste Pick-Up Program and Toxic Away Days in West Marin; JPA guidelines for funding the HHW Program and the CESQG Program; and a term length to continue through June 30, 2020.

ANALYSIS:

Staff has collaborated with JPA staff to extend the agreement for one year (with automatic one-year renewals incorporated if necessary) via a First Amendment. As the JPA is currently conducting an Organizational Assessment and Zero Waste Plan Update project, this approach allows the JPA to consider its larger goals and potential desired updates to this Agreement in concert with other potential changes. Additionally, the extension will allow the incoming Fire Chief to have time to provide input.

The JPA requests that the City approve the extension to the funding agreement before its planned April 23, 2020 Executive Committee meeting in order to ensure its renewal before the June 30, 2020

FOR CITY CLERK ONLY

File No.:

Council Meeting:

Disposition:

termination date. Failure to approve an extension in a timely fashion could result in suspension of the Household Hazardous Waste collection program for Marin residents outside Novato.

FISCAL IMPACT:

The agreement provides for reimbursement of all of the City's costs under the Amended Hazardous Waste Collection Program Agreement with the Marin Recycling & Resource Recovery Association, which also is being considered for a one-year term extension. These costs also include the City's costs for the City Environmental Management Coordinator's time in monitoring the Agreement and other administrative expenses. The First Amendment will allow for continuity of operations and continued reimbursement of City costs.

OPTIONS:

The City Council has the following options to consider on this matter:

1. Adopt resolution as presented.
2. Adopt resolution with modifications.
3. Take no action and allow the agreement to expire.

RECOMMENDED ACTION:

Adopt the Resolution

ATTACHMENTS:

1. Resolution
2. Draft First Amendment to Amended Hazardous Waste Program Funding Agreement

RESOLUTION NO. _____

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A ONE-YEAR EXTENSION OF THE AMENDED HAZARDOUS WASTE PROGRAM FUNDING AGREEMENT WITH THE MARIN COUNTY HAZARDOUS AND SOLID WASTE MANAGEMENT JOINT POWERS AUTHORITY (JPA)

WHEREAS, the City Council adopted Resolution No. 9741 on November 18, 1996, authorizing the City Manager to execute a Household Hazardous Waste Agreement with the Marin County Hazardous and Solid Waste Joint Powers Authority (JPA), providing for the disposal at the City’s approved facility of household hazardous waste and conditionally exempt small quantity generator waste; and

WHEREAS, Section 4 of the agreement obligates the JPA to impose and collect fees to cover the City of San Rafael’s budgeted cost for the acceptance and management of hazardous wastes; and

WHEREAS, the City entered into the Amended Hazardous Waste Collection Program Agreement (“Collection Agreement”) dated January 26, 2012, with Marin Recycling & Resource Recovery Association (“Company”) pursuant to which Company is operating the permanent collection facility for Approved Hazardous Waste at 565 Jacoby Street in the City of San Rafael, originally undertaken pursuant to the Hazardous Waste Program Collection Agreement between the City and Company, dated September 14, 1995; and

WHEREAS, the JPA and the City entered into the Hazardous Waste Program Funding Agreement (“Agreement”), dated July 1, 1996 and an Amended Hazardous Waste Program Funding Agreement (“Amended Agreement”) in 2012, pursuant to which the City accepted for disposal at the Hazardous Household Waste Facility of Approved Hazardous Waste generated within the boundaries of the member jurisdictions of the JPA in accordance with the City’s Collection Agreement with the Company, and implemented other Household Hazardous Waste programs within the unincorporated areas of Marin County; and

WHEREAS, the Amended Agreement is set to terminate on June 30, 2020, and the parties desire to extend the term of the Amended Agreement by one year, with optional automatic one-year renewals;

NOW THEREFORE, BE IT RESOLVED that the San Rafael City Council authorizes and empowers the City Manager of the City of San Rafael to execute in the name of the City of San Rafael a First Amendment to the Amended Hazardous Waste Program Funding Agreement, extending the term of the agreement by one year, with optional automatic one-year renewals, in a form approved by the City Attorney.

BE IT FURTHER RESOLVED that the City Council of the City of San Rafael finds that the actions taken by the Resolution are exempt from review under the California Environmental Quality Act (CEQA), pursuant to Article 5, Section 15061(b) (3) of the CEQA Guidelines because there is no possibility that they will have a significant effect on the environment as provided by CEQA. The City Clerk is hereby directed to file the necessary Notice of Exemption as provided under CEQA.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on the 6th day of April 2020 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**FIRST AMENDMENT
TO AMENDED HAZARDOUS WASTE PROGRAM FUNDING AGREEMENT**

This First Amendment is entered into as of the ____ day of _____, 2020, by and between the City of San Rafael, a Charter City ("City"), and the Marin County Hazardous and Solid Waste Management Joint Powers Authority ("JPA").

WHEREAS, the City holds a permit from Marin County Certified Unified Program Agency (CUPA) permitting the continuance of the Marin County Permanent Household Hazardous Waste Facility ("HHWF") and Conditionally Exempt Small Quantity Generator ("CESQG") programs, originally undertaken by the City pursuant to a variance permit issued by the California Department of Toxic Substances Control on October 18, 1993; and

WHEREAS, the City entered into the Amended Hazardous Waste Collection Program Agreement ("Collection Agreement") dated January 26, 2012, with Marin Recycling & Resource Recovery Association ("Company"), attached hereto as Exhibit C, pursuant to which Company is operating the permanent collection facility for Approved Hazardous Waste at 565 Jacoby Street in the City of San Rafael, originally undertaken pursuant to the Hazardous Waste Program Collection Agreement between the City and Company, dated September 14, 1995; and

WHEREAS, the JPA and City entered into the Hazardous Waste Program Funding Agreement ("Agreement"), dated July 1, 1996, pursuant to which the City accepted for disposal at the HHWF of Approved Hazardous Waste generated within the boundaries of the member jurisdictions of the JPA identified in Exhibit B to the Agreement in accordance with the City's Collection Agreement with the Company, and performed other HHW programs within the unincorporated areas of Marin County; and

WHEREAS, the JPA and City entered into an "Amended Hazardous Waste Program Funding Agreement" dated January 26, 2012 (the "Amended Agreement") which made certain amendments to the Agreement to clarify funding, documentation and new programs and extended the term of the Agreement; and

WHEREAS, the Amended Agreement is set to terminate on June 30, 2020, and the parties desire to extend the term of the Amended Agreement as set forth in this First Amendment to the Amended Agreement; and

WHEREAS, the City Council of the City and the governing board of the JPA, have given prior approval to enter into this Amended Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, the parties agree as follows:

1. Section 8, Subsection A of the Amended Agreement (Term of Agreement and Termination) is hereby amended in its entirety to read as follows:

8. **Term of Agreement and Termination**

- A. The term of this Agreement shall commence upon March 1, 2012, and shall expire on June 30, 2021, unless terminated earlier as provided in Subparagraph B. hereafter. Upon expiration of the original term or any renewal term, this Agreement shall automatically be renewed for a one (1) year period unless, at least one hundred and eighty (180) days prior to the renewal date, either party provides to the other written notice of its desire not to automatically renew this Agreement.

2. The Amended Hazardous Waste Collection Program Agreement (“Collection Agreement”) dated January 26, 2012, with Marin Recycling & Resource Recovery Association (“Company”) attached hereto as Exhibit C is hereby added to the Agreement as Exhibit C.

3. Except as otherwise provided herein, all terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date set forth above.

CITY OF SAN RAFAEL

**MARIN COUNTY HAZARDOUS AND
SOLID WASTE MANAGEMENT JOINT
POWERS AUTHORITY**

Jim Schutz
City Manager

Garrett Toy
Board Chair

ATTEST:

APPROVED AS TO FORM:

Lindsay Lara
City Clerk

Jenna Brady
Counsel for Marin County Hazardous and
Solid Waste Management JPA

APPROVED AS TO FORM:

City Attorney



SAN RAFAEL CITY COUNCIL AGENDA REPORT	
Department: Public Works	
Prepared by: Bill Guerin, Director of Public Works	City Manager Approval:

File No.: 06.01.238

TOPIC: CHILDCARE PORTABLE BUILDING REPLACEMENT

SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH LOVING CAMPOS ASSOCIATES, ARCHITECTS, INC. FOR ARCHITECTURAL AND ENGINEERING DESIGN SERVICES ASSOCIATED WITH THE CHILDCARE PORTABLE BUILDING REPLACEMENT PROJECT IN AN AMOUNT NOT TO EXCEED \$165,840

RECOMMENDATION: Adopt a resolution approving and authorizing the City Manager to execute a professional services agreement with Loving Campos Associates, Architects, Inc. (LCA) for architectural and engineering design services associated with the Childcare Portable Building Replacement project.

BACKGROUND: The City of San Rafael has provided on-site childcare services in the Miller Creek School District since the early 1980s. The City has established a program, in cooperation with the school district, to install portable classrooms on school campuses for these on-site programs. Additionally, the City has provided a facility at Pickleweed Park. The advantages of portable buildings are that they provide enough permanent classroom space for childcare and sufficient square footage to meet licensing requirements while saving on rental costs and offering a less expensive alternative to new building construction.

Replacement of three portable buildings is recommended at Mary Silveira Elementary School (located in Marinwood), Miller Creek Elementary School (located in Lucas Valley), and Pickleweed Park as the structures have far exceeded their 20-year lifespan and cannot feasibly be modernized. In January 2020, Department of Public Works staff issued a Request for Proposals (RFP) to several architectural firms.

The Division of the State Architect (DSA) oversees and approves all school construction projects. The approval of this agreement is urgent due to the need to coordinate the design of the three structures with the DSA so that complete designs can be prepared for fabrication of portable buildings in time to be placed on the campuses during the summer break in 2021.

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

ANALYSIS: On January 24, 2020, Public Works received three proposals from qualified firms. Proposals were evaluated by City staff based on criteria specified in the RFP including, but not limited to, understanding of the Scope of Work, previous experience with similar projects, especially coordination with the Division of State Architect (DSA), qualified personnel, and familiarity with City and federal procedures for project delivery. Upon review of the proposals, staff found LCA to be the most qualified consultant for this project. Based on a preliminary schedule from LCA, we anticipate construction during summer 2021 following DSA approval.

FISCAL IMPACT: The consultant's fee of \$165,840 will be paid for from the Childcare Fund (Fund #208). Upon completion of the design and DSA approval, a construction cost estimate will be produced.

OPTIONS:

1. Adopt the resolution approving and authorizing the City Manager to execute a professional services agreement with LCA.
2. Do not accept the proposal from LCA and provide further direction to staff.

RECOMMENDATION: Adopt the resolution.

ATTACHMENTS:

1. Resolution
2. Agreement and corresponding Exhibit A

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH LOVING CAMPOS ASSOCIATES, ARCHITECTS, INC. FOR ARCHITECTURAL AND ENGINEERING DESIGN SERVICES ASSOCIATED WITH THE CHILDCARE PORTABLE BUILDING REPLACEMENT PROJECT IN AN AMOUNT NOT TO EXCEED \$165,840.

WHEREAS, the Library and Recreation Department manages the City’s Childcare program; and

WHEREAS, portable buildings located at the Miller Creek Elementary School, Mary Silveira Elementary School and Pickleweed Park are more than 20 years old and in need of replacement; and

WHEREAS, funding for the project-associated consulting work is available through the City’s Childcare Fund #208; and

WHEREAS, City staff has determined that design services from qualified consultants are required for this project to prepare plans, specification, estimates and coordinate with the Division of State Architect (DSA) for approval of work on school district property; and

WHEREAS, in response to the request for proposals (RFP), the Department of Public Works received three proposals; and

WHEREAS, staff has reviewed the proposals and identified Loving Campos Associates, Architects, Inc. (“LCA”) to be the most qualified firm; and

WHEREAS, the proposal from LCA was found to be complete and within industry standards.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL

RESOLVES as follows:

1. The City Council hereby approves and authorizes the City Manager to execute a Professional Services Agreement with Loving Campos Associates, Architects, Inc. for architectural and engineering design services associated with the Childcare Portable Building Replacement Project in an amount not to exceed \$165,840, in the form included in the Staff Report for this resolution, subject to final approval as to form by the City Attorney.

2. Funds totaling \$165,840 will be appropriated for this project from the Childcare Fund (Fund#208).
3. The Director of Public Works is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City on the 6th day of April 2020, by the following vote, to wit:

AYES: **COUNCILMEMBERS:**

NOES: **COUNCILMEMBERS:**

ABSENT: **COUNCILMEMBERS:**

LINDSAY LARA, City Clerk

**AGREEMENT FOR PROFESSIONAL SERVICES
FOR ARCHITECTURAL CONSULTING SERVICES FOR THE CITY DAYCARE PORTABLE
BUILDING REPLACEMENT**

This Agreement is made and entered into this ____ day of _____, 20__, by and between the CITY OF SAN RAFAEL (hereinafter "CITY"), and LOVING CAMPOS ASSOCIATES, ARCHITECTS, INC., a California corporation dba LCA Architects (hereinafter "CONSULTANT").

RECITALS

WHEREAS, the CITY has determined that professional architectural and engineering consulting services are required in connection with Department of State Architect (DSA) permitting coordination and procurement, and portable building installation support services associated with City Daycare Portable Building Replacement Project; and

WHEREAS, the CONSULTANT has agreed to render such services;

AGREEMENT

NOW, THEREFORE, the parties hereby agree as follows:

1. **PROJECT COORDINATION.**

A. **CITY'S Project Manager.** David Nicholson is hereby designated the PROJECT MANAGER for the CITY and said PROJECT MANAGER shall supervise all aspects of the progress and execution of this Agreement.

B. **CONSULTANT'S Project Director.** CONSULTANT shall assign a single PROJECT DIRECTOR to have overall responsibility for the progress and execution of this Agreement for CONSULTANT. Loren Gachen is hereby designated as the PROJECT DIRECTOR for CONSULTANT. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute PROJECT DIRECTOR, for any reason, the CONSULTANT shall notify the CITY within ten (10) business days of the substitution.

2. **DUTIES OF CONSULTANT.**

CONSULTANT shall perform the duties and/or provide services as described as Tasks 1-2 and A, B, C, and D in CONSULTANT'S proposal dated January 28, 2020 and marked as Exhibit "A", attached hereto, and incorporated herein.

3. **DUTIES OF CITY.**

CITY shall pay the compensation as provided in Paragraph 4, and perform the duties described in Exhibit A, attached hereto.

4. **COMPENSATION.**

For the full performance of the services described herein by CONSULTANT, CITY shall pay CONSULTANT as follows:

On a time and materials basis for services rendered at the hourly rates shown in the LCA Architects 2020 Hourly Fee Schedule included in Exhibit A attached hereto, with a total not-to-exceed amount of \$165,840.00 for costs and services of CONSULTANT provided under this Agreement.

Payment will be made monthly upon receipt by PROJECT MANAGER of itemized invoices submitted by CONSULTANT.

5. TERM OF AGREEMENT.

The term of this Agreement shall be for three (3) years commencing upon the date of execution of this Agreement and ending on the last day of the 36th month from the Agreement date above. Upon mutual agreement of the parties, and subject to the approval of the City Manager the term of this Agreement may be extended for an additional period of up to one (1) year.

6. TERMINATION.

A. **Discretionary.** Either party may terminate this Agreement without cause upon thirty (30) days written notice mailed or personally delivered to the other party.

B. **Cause.** Either party may terminate this Agreement for cause upon fifteen (15) days written notice mailed or personally delivered to the other party, and the notified party's failure to cure or correct the cause of the termination, to the reasonable satisfaction of the party giving such notice, within such fifteen (15) day time period.

C. **Effect of Termination.** Upon receipt of notice of termination, neither party shall incur additional obligations under any provision of this Agreement without the prior written consent of the other.

D. **Return of Documents.** Upon termination, any and all CITY documents or materials provided to CONSULTANT and any and all of CONSULTANT's documents and materials prepared for or relating to the performance of its duties under this Agreement, shall be delivered to CITY as soon as possible, but not later than thirty (30) days after termination.

7. OWNERSHIP OF DOCUMENTS.

The written documents and materials prepared by the CONSULTANT in connection with the performance of its duties under this Agreement, shall be the sole property of CITY. CITY may use said property for any purpose, including projects not contemplated by this Agreement.

8. INSPECTION AND AUDIT.

Upon reasonable notice, CONSULTANT shall make available to CITY, or its agent, for inspection and audit, all documents and materials maintained by CONSULTANT in connection with its performance of its duties under this Agreement. CONSULTANT shall fully cooperate with CITY or its agent in any such audit or inspection.

9. ASSIGNABILITY.

The parties agree that they shall not assign or transfer any interest in this Agreement nor the performance of any of their respective obligations hereunder, without the prior written consent of the other party, and any attempt to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

10. INSURANCE.

A. **Scope of Coverage.** During the term of this Agreement, **CONSULTANT** shall maintain, at no expense to **CITY**, the following insurance policies:

1. A commercial general liability insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) aggregate, for death, bodily injury, personal injury, or property damage.

2. An automobile liability (owned, non-owned, and hired vehicles) insurance policy in the minimum amount of one million dollars (\$1,000,000) dollars per occurrence.

3. If any licensed professional performs any of the services required to be performed under this Agreement, a professional liability insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) aggregate, to cover any claims arising out of the **CONSULTANT's** performance of services under this Agreement. Where **CONSULTANT** is a professional not required to have a professional license, **CITY** reserves the right to require **CONSULTANT** to provide professional liability insurance pursuant to this section.

4. If it employs any person, **CONSULTANT** shall maintain worker's compensation insurance, as required by the State of California, with statutory limits, and employer's liability insurance with limits of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease. **CONSULTANT's** worker's compensation insurance shall be specifically endorsed to waive any right of subrogation against **CITY**.

B. **Other Insurance Requirements.** The insurance coverage required of the **CONSULTANT** in subparagraph A of this section above shall also meet the following requirements:

1. Except for professional liability insurance or worker's compensation insurance, the insurance policies shall be specifically endorsed to include the **CITY**, its officers, agents, employees, and volunteers, as additional insureds (for both ongoing and completed operations) under the policies.

2. The additional insured coverage under **CONSULTANT'S** insurance policies shall be "primary and noncontributory" with respect to any insurance or coverage maintained by **CITY** and shall not call upon **CITY's** insurance or self-insurance coverage for any contribution. The "primary and noncontributory" coverage in **CONSULTANT'S** policies shall be at least as broad as ISO form CG20 01 04 13.

3. Except for professional liability insurance or worker's compensation insurance, the insurance policies shall include, in their text or by endorsement, coverage for contractual liability and personal injury.

4. By execution of this Agreement, **CONSULTANT** hereby grants to **CITY** a waiver of any right to subrogation which any insurer of **CONSULTANT** may acquire against **CITY** by virtue of the payment of any loss under such insurance. **CONSULTANT** agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not **CITY** has received a waiver of subrogation endorsement from the insurer.

5. If the insurance is written on a Claims Made Form, then, following termination of this Agreement, said insurance coverage shall survive for a period of not less than five years.

6. The insurance policies shall provide for a retroactive date of placement coinciding with the effective date of this Agreement.

7. The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of CITY (if agreed to in a written contract or agreement) before CITY'S own insurance or self-insurance shall be called upon to protect it as a named insured.

8. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to CITY or any other additional insured party. Furthermore, the requirements for coverage and limits shall be: (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the CONSULTANT under this agreement.

C. **Deductibles and SIR's.** Any deductibles or self-insured retentions in CONSULTANT's insurance policies must be declared to and approved by the PROJECT MANAGER and City Attorney and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or CITY or other additional insured party. At CITY's option, the deductibles or self-insured retentions with respect to CITY shall be reduced or eliminated to CITY's satisfaction, or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claims administration, attorney's fees and defense expenses.

D. **Proof of Insurance.** CONSULTANT shall provide to the PROJECT MANAGER or CITY'S City Attorney all of the following: (1) Certificates of Insurance evidencing the insurance coverage required in this Agreement; (2) a copy of the policy declaration page and/or endorsement page listing all policy endorsements for the commercial general liability policy, and (3) excerpts of policy language or specific endorsements evidencing the other insurance requirements set forth in this Agreement. CITY reserves the right to obtain a full certified copy of any insurance policy and endorsements from CONSULTANT. Failure to exercise this right shall not constitute a waiver of the right to exercise it later. The insurance shall be approved as to form and sufficiency by PROJECT MANAGER and the City Attorney.

11. INDEMNIFICATION.

A. Except as otherwise provided in Paragraph B., CONSULTANT shall, to the fullest extent permitted by law, indemnify, release, defend with counsel approved by CITY, and hold harmless CITY, its officers, agents, employees and volunteers (collectively, the "City Indemnitees"), from and against any claim, demand, suit, judgment, loss, liability or expense of any kind, including but not limited to attorney's fees, expert fees and all other costs and fees of litigation, (collectively "CLAIMS"), arising out of CONSULTANT'S performance of its obligations or conduct of its operations under this Agreement. The CONSULTANT's obligations apply regardless of whether or not a liability is caused or contributed to by the active or passive negligence of the City Indemnitees. However, to the extent that liability is caused by the active negligence or willful misconduct of the City Indemnitees, the CONSULTANT's indemnification obligation shall be reduced in proportion to the City Indemnitees' share of liability for the active negligence or willful misconduct. In addition, the acceptance or approval of the CONSULTANT'S work or work product by the CITY or any of its directors, officers or employees shall not relieve or reduce the CONSULTANT'S indemnification obligations. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from CONSULTANT'S performance of or

operations under this Agreement, **CONSULTANT** shall provide a defense to the **City Indemnitees** or at **CITY'S** option reimburse the **City Indemnitees** their costs of defense, including reasonable attorneys' fees, incurred in defense of such claims.

B. Where the services to be provided by **CONSULTANT** under this Agreement are design professional services to be performed by a design professional as that term is defined under Civil Code Section 2782.8, then, to the extent permitted by law including without limitation, Civil Code sections 2782, 2782.6 and 2782.8, **CONSULTANT** shall indemnify and hold harmless the **CITY** and its officers, officials, and employees (collectively **City Indemnitees**) from and against damages, liabilities or costs (including incidental damages. Court costs, reasonable attorney's fees as may be determined by the Court, litigation expenses and fees of expert witnesses incurred in connection therewith and costs of investigation) to the extent they are caused by the negligence, recklessness, or willful misconduct of **CONSULTANT**, or any subconsultants, or subcontractor or anyone directly or indirectly employed by them, or anyone for whom they are legally liable (collectively **Liabilities**). Such obligation to hold harmless and indemnify any indemnity shall not apply to the extent that such **Liabilities** are caused in part by the negligence or willful misconduct of such **City Indemnitee**.

C. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement, and shall survive the termination or completion of this Agreement for the full period of time allowed by law.

12. **NONDISCRIMINATION.**

CONSULTANT shall not discriminate, in any way, against any person on the basis of age, sex, race, color, religion, ancestry, national origin or disability in connection with or related to the performance of its duties and obligations under this Agreement.

13. **COMPLIANCE WITH ALL LAWS.**

CONSULTANT shall observe and comply with all applicable federal, state and local laws, ordinances, codes and regulations, in the performance of its duties and obligations under this Agreement. **CONSULTANT** shall perform all services under this Agreement in accordance with these laws, ordinances, codes and regulations. **CONSULTANT** shall release, defend, indemnify and hold harmless **CITY**, its officers, agents and employees from any and all damages, liabilities, penalties, fines and all other consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

14. **NO THIRD PARTY BENEFICIARIES.**

CITY and **CONSULTANT** do not intend, by any provision of this Agreement, to create in any third party, any benefit or right owed by one party, under the terms and conditions of this Agreement, to the other party.

15. **NOTICES.**

All notices and other communications required or permitted to be given under this Agreement, including any notice of change of address, shall be in writing and given by personal delivery, or deposited with the United States Postal Service, postage prepaid, addressed to the parties intended to be notified. Notice shall be deemed given as of the date of personal delivery, or if mailed, upon the date of deposit with the United States Postal Service. Notice shall be given as follows:

TO CITY's Project Manager:

David Nicholson
City of San Rafael
111 Morphew Street
San Rafael, CA 94901

TO CONSULTANT's Project Director:

Loren Gachen, AIA
LCA Architects
590 Ygnacio Valley Rd, Ste 310
Walnut Creek, CA 94596

16. INDEPENDENT CONTRACTOR.

For the purposes, and for the duration, of this Agreement, **CONSULTANT**, its officers, agents and employees shall act in the capacity of an Independent Contractor, and not as employees of the **CITY**. **CONSULTANT** and **CITY** expressly intend and agree that the status of **CONSULTANT**, its officers, agents and employees be that of an Independent Contractor and not that of an employee of **CITY**.

17. ENTIRE AGREEMENT -- AMENDMENTS.

A. The terms and conditions of this Agreement, all exhibits attached, and all documents expressly incorporated by reference, represent the entire Agreement of the parties with respect to the subject matter of this Agreement.

B. This written Agreement shall supersede any and all prior agreements, oral or written, regarding the subject matter between the **CONSULTANT** and the **CITY**.

C. No other agreement, promise or statement, written or oral, relating to the subject matter of this Agreement, shall be valid or binding, except by way of a written amendment to this Agreement.

D. The terms and conditions of this Agreement shall not be altered or modified except by a written amendment to this Agreement signed by the **CONSULTANT** and the **CITY**.

E. If any conflicts arise between the terms and conditions of this Agreement, and the terms and conditions of the attached exhibits or the documents expressly incorporated by reference, the terms and conditions of this Agreement shall control.

18. SET-OFF AGAINST DEBTS.

CONSULTANT agrees that **CITY** may deduct from any payment due to **CONSULTANT** under this Agreement, any monies which **CONSULTANT** owes **CITY** under any ordinance, agreement, contract or resolution for any unpaid taxes, fees, licenses, assessments, unpaid checks or other amounts.

19. WAIVERS.

The waiver by either party of any breach or violation of any term, covenant or condition of this Agreement, or of any ordinance, law or regulation, shall not be deemed to be a waiver of any other term, covenant, condition, ordinance, law or regulation, or of any subsequent breach or violation of the same or other term, covenant, condition, ordinance, law or regulation. The subsequent acceptance by either party of any fee, performance, or other consideration which may become due or owing under this Agreement, shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, condition, covenant of this Agreement or any applicable law, ordinance or regulation.

20. COSTS AND ATTORNEY'S FEES.

The prevailing party in any action brought to enforce the terms and conditions of this Agreement, or arising out of the performance of this Agreement, may recover its reasonable costs (including claims administration) and attorney's fees expended in connection with such action.

21. CITY BUSINESS LICENSE / OTHER TAXES.

CONSULTANT shall obtain and maintain during the duration of this Agreement, a **CITY** business license as required by the San Rafael Municipal Code **CONSULTANT** shall pay any and all state and federal taxes and any other applicable taxes. **CITY** shall not be required to pay for any work performed under this Agreement, until **CONSULTANT** has provided **CITY** with a completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification).

22. SURVIVAL OF TERMS.

Any terms of this Agreement that by their nature extend beyond the term (or termination) of this Agreement shall remain in effect until fulfilled and shall apply to both Parties' respective successors and assigns.

23. APPLICABLE LAW.

The laws of the State of California shall govern this Agreement.

24. COUNTERPARTS AND ELECTRONIC SIGNATURE.

This Agreement may be executed by electronic signature and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one document. Counterpart signature pages may be delivered by telecopier, email or other means of electronic transmission.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day, month and year first above written.

CITY OF SAN RAFAEL

CONSULTANT

JIM SCHUTZ, City Manager

By: 

Name: CARL CAMPOS

Title: CEO

ATTEST:

[If CONSULTANT is a corporation, add signature of second corporate officer]

LINDSAY LARA, City Clerk

APPROVED AS TO FORM:

ROBERT F. EPSTEIN, City Attorney

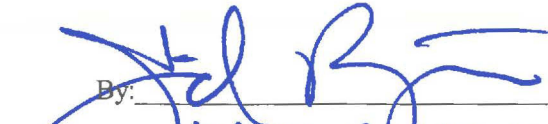
By: 
Name: DAVID BOBSTAD
Title: PRESIDENT

EXHIBIT A

February 10, 2020

Scope of Services

In general, this project comprises portable classroom replacement at three sites with similar scopes of work. The Dixie site has an existing 48'x40' American Modular portable building with a main classroom, an office, a kitchen and two restrooms. This portable will be replaced in-kind. The Mary Silveira site also has an existing 48'x40' American Modular portable building with a main classroom, an office, a kitchen and a quiet room. This portable building will be replaced with a slightly different floor plan to include a cubby room and smaller quiet room. The Pickleweed Park portable building is 24'x40' comprising a main classroom and a kitchen. The replacement portable will have a similar plan, but with a smaller kitchen space than existing.

The Consultant's scope of work shall comprise four (4) tasks as set forth below:

Task 1: DSA Permitting Coordination and Procurement

1. The Consultant shall perform a peer review of all necessary contract documents (i.e., plans, specifications, etc.) in order to obtain DSA approval for this project. Part of this peer review shall include providing professional feedback/comments to the manufacturer on portable building plans, specifications, and any other documents required for review by the DSA.
2. The Consultant shall prepare and submit any necessary documents, applications, etc. to obtain DSA approval for all three portable buildings in time to maintain the manufacture and installation schedule herein. The Consultant shall ensure that all DSA, City, or other third party furnished comments are incorporated into a revised set of plans and contract documents ready for resubmittal to DSA. The Consultant shall coordinate with the portable classroom manufacturer and DSA until such time that DSA approves the application package in its entirety.
3. The Consultant shall deliver a high-quality product within budget and on schedule.
4. The Consultant shall meet periodically with the City to discuss the project, discuss design and DSA requirements, and review needed alternatives. For cost estimation, a minimum of three meetings shall be anticipated (Preliminary meeting with Engineering, field meeting with City Facilities Staff, and DSA process meeting).

Deliverables:

- DSA approvable manufacturer's plans, specifications, and any other document required by DSA for DSA and City approval.
- Licensed architect stamp on building plans & specifications in compliance with DSA.
- Draft and Final DSA permitting application package for submittal to DSA.
- Meeting agendas and minutes for all design and coordination meetings.

Task 2: Portable Installation Support Services

1. The Consultant shall assist City staff in managing the process of procurement, delivery and installation of new modular buildings and accompanying facilities (e.g. foundation, sewer, plumbing, electrical, fire alarm, etc.) to ensure DSA compliance.
2. The Consultant shall attend a pre-construction meeting.
3. The Consultant shall assist City staff with stakeholder coordination, as directed by the City, throughout the Portable procurement and installation process.
4. The Consultant shall accompany DSA inspectors on their inspections and provide the City with an email summary of meeting minutes.
5. The Consultant shall be available to assist City staff on responding to Requests for Information (RFI) in association with the design and installation of the buildings and DSA requirements. For estimating purposes, the Consultant may assume responding to six RFIs.

6. If requested by the City, the Consultant shall review and provide recommendations regarding any contract change orders.
7. The Consultant shall perform a field review of the project and prepare a substantial completion punch list for items needing completion for final DSA and City Community Services compliance and acceptance.
8. The Consultant shall meet periodically with the City and/or stakeholders, to discuss the project. For cost estimation, a minimum of six on-site field meetings shall be anticipated in conjunction with weekly phone calls with City staff.

Deliverables:

- Responses to RFIs, change order requests, etc.
- Attend meetings/conference calls.
- City staff assistance on coordination of procurement, delivery, and installation with all stakeholders.
- Develop final punchlist for DSA final approval.

Note that if time constraints associated with acquiring DSA approval, procurement on the new Portables and/or installation of the new Portables warrants reducing the scope of work to one Portable over the 2020 summer break and the other two over the 2021 summer break, the City prefers the Mary Silveira building as the highest priority for summer 2020.



January 28, 2020

David Nicholson, P.E.
City of San Rafael
Department of Public Works, Engineering/CIP
111 Morphew Street
San Rafael, CA 94901

RE: Consulting Services for Replacement/Procurement of The After-School/Daycare Portable Buildings @ Dixie and Mary Silveira Elementary Schools and Pickleweed Park, San Rafael

Dear David:

I am pleased to submit our proposal for professional design and engineering services. This agreement is based on City of San Rafael Request for Proposal Scope of Services Tasks 1-2, dated January 2020.

Task	Hours/Rate	Fee
1.1 Peer Review (3 sites)	12 hrs/\$195	\$2,340.00
1.2a DSA Pre-Application Mtgs	24 hrs/\$195	\$4,680.00
1.2b Prepare DSA Submittal*	120 hrs/\$195	\$23,400.00
1.2c DSA Approval Processing**	120 hrs/\$195	\$23,400.00
1.4 City Coordination Mtgs (5)	20 hrs/\$195	\$3,900.00
2. Installation Support Services***	72hrs/\$195	\$14,040.00

TOTAL \$71,760.00

*assumes current topographic survey and site plan (CAD) showing all buildings w/ DSA application numbers noted and applicable buildings closed with certification by DSA and existing utility layouts.

**assumes portable manufacturer supplies pre-certified structure eligible for "over the counter" review and approval.

***assumes 2 months duration for construction and 6 meetings with City.

Based on uncertainty regarding the availability of site and utility drawings, adequacy of fire protection/alarm @ Pickleweed Park, and City's request/response to RFI dated January 21, 2020, we recommend consideration of the following additional services not defined in Request for Proposal.

Task	Hours/Rate	Fee
A. Civil Engineering Services to develop Site, Utility & Grading Plans for basic DSA Submittal and/or ADA upgrades required for approval. (allowance)*		\$60,000.00
B. Fire Protection/Alarm for Pickleweed Park (allowance)		\$3,500.00
C. Bidding Assistance	120hrs/\$195	\$23,400.00
D. DSA Closeout & Certification (8 hrs/site)	24hrs/\$195	\$4,680.00

*assumes current topographic survey and site plan (CAD) showing all buildings w/ DSA application numbers noted and applicable buildings closed with certification by DSA is not available.

Reimbursables: Defined per attached **Exhibit A**. | BUDGET: \$2,500.00

Fee Exclusions

- Site surveying including topographic, boundary and utility location
- Structural Engineering
- Third Party Cost Estimating
- Construction Management (additional service offered by LCA, awarded later date)
- Agency Review and Permit Fees
- Geotechnical Engineering
- Contaminated Soils Remediation
- Hazardous Material Abatement
- Destructive Testing
- Resolution of unforeseen conditions
- Record Drawings
- Any consultant, engineer, or discipline not specifically identified in this proposal.

Fee Schedule Notes

- A. These fees will be billed in keeping with the progress of our work and are due and payable (with no retention) within 30 days upon the client's receipt of billing invoice from LCA Architects.
- B. This fee quote is good for 30 days.

- C. Additional Services:** Services in addition to the basic scope of work shall be provided on an hourly basis or a mutually agreed upon fixed fee. The rates and multipliers for additional services shall be per the Hourly Fee Rate Schedules attached as **Exhibit A**.
- D.** Project Fee based on the Scope of Services as defined in the Request for Proposals for Consulting Services for Replacement/Procurement of The After-School/Daycare Portable Buildings @ Dixie and Mary Silveira Elementary Schools and Pickleweed Park, San Rafael. Services not defined in this RFP are excluded.

Fee Exclusions

- Construction Management (additional service offered by LCA, awarded later date)
- Agency Review and Permit Fees
- Geotechnical Engineering
- Contaminated Soils Remediation
- Hazardous Material Abatement
- Destructive Testing
- Resolution of unforeseen conditions
- Record Drawings
- Any consultant, engineer, or discipline not specifically identified in this proposal.

Thank you for the opportunity to be of service. This proposal represents an estimate based on our interpretation of desired Scope of Work and is open to further definition and negotiation. If this proposal is acceptable to you, please sign below and return a copy. Please call me if you have any questions.

Best regards,



Carl E. Campos, CEO & Architect
LCA Architects Inc. | CA License C10482

CEC:dky;prps150

AGREED AND ACCEPTED:

Authorized Signature

Date

Please sign and return one copy of this agreement to initiate these services.

**EXHIBIT A
LCA ARCHITECTS, INC.
2020 HOURLY FEE SCHEDULE***

DESCRIPTION	HOURLY RATE
<i>Principal</i>	\$220.00
<i>Associate</i>	\$190.00 to \$200.00
<i>Project Manager</i>	\$200.00
<i>Construction Manager</i>	\$155.00 to \$190.00
<i>Project Architect</i>	\$135.00 to \$190.00
<i>Quality Control Manager</i>	\$195.00
<i>Specifications Writer</i>	\$195.00
<i>Job Captain</i>	\$125.00 to \$135.00
<i>Designer</i>	\$125.00 to \$180.00
<i>CAD Tech</i>	\$125.00 to \$145.00
<i>Project Coordinator</i>	\$120.00 to \$135.00
<i>Administration/Research/Presentations</i>	\$90.00 to \$125.00
<i>Clerical</i>	\$120.00
<i>Architectural Animation</i> – Preparation of computer generated views, renderings and simulations of architectural interiors and exteriors. Preparation of video “fly-by’s,” walkthrough’s, and other simulations.	\$175.00/hr.
<i>Expert Witness</i> – Review of documents, meetings, site visits, telephone conferences, administration of the documents and materials, research, deposition, testimony, court appearances, and travel time.	\$500.00/hr.
<i>Perspective Sketches and Renderings, Visual Simulations</i>	On a Per Drawing Basis
<i>Mileage (outside of the Walnut Creek area)</i> <i>**as adjusted by IRS guidelines</i>	0.575/mile**
<i>Copies, prints, CADD plots, photography, preparing and compiling .pdf sets, scanning, colored print mounting, long distance phone calls, postage, express mail, and travel outside the Walnut Creek area will be billed on a reimbursable basis: at cost plus 15%.</i>	
<i>Overtime</i> - If overtime is required by staff, to meet a customer’s timing request, additional hourly fee charges may apply. California employment law will apply.	

* Effective 01/01/2020. Subject to change quarterly.



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

**Prepared by: Bill Guerin,
Director of Public Works**

City Manager Approval:

TOPIC: SENATE BILL 1: 2020-21 PROJECTS

SUBJECT: RESOLUTION APPROVING THE FY 2020-21 PROJECTS LIST FOR SENATE BILL 1: THE ROAD REPAIR AND ACCOUNTABILITY ACT

RECOMMENDATION: Adopt a resolution approving the FY 2020-21 projects list for Senate Bill 1: The Road Repair and Accountability Act, and appropriating funding for listed projects.

BACKGROUND: For years, California’s streets and roads have been tremendously underfunded, and municipalities and agencies have deferred needed maintenance on State and local roads. The State gasoline tax (a percentage tax on each gallon of gas purchased) is the largest source of funding for local road maintenance and infrastructure projects and two major factors have contributed to a loss in revenue over the years statewide; (1) gas prices have fallen significantly and remained low since 2013, and (2) vehicles are becoming more fuel efficient.

Former California Governor Jerry Brown signed Senate Bill 1: The Road Repair and Accountability Act on April 28, 2017 to address the need for additional funding for transportation and infrastructure in California. Senate Bill 1:

- Increases per gallon fuel excise taxes
- Increases diesel fuel sales taxes and vehicle registration fees
- Provides for inflationary adjustments to tax rates in future years

Senate Bill 1 requires cities and counties to provide basic annual project reporting to the California Transportation Commission (CATC) for all projects that will utilize the new SB 1 Road Maintenance and Rehabilitation Account (RMRA) funding.

In addition, prior to receiving RMRA funds for the fiscal year, a city or county must submit to the Commission a list of projects proposed to be funded with new RMRA funds. The proposed projects must be included in a city or county budget that is adopted by the applicable city council or county board of supervisors at a regular public meeting. The approval of this resolution is urgent since the deadline to submit the list of eligible projects for the 2020-21 fiscal year to the CATC is on May 1, 2020.

At the conclusion of each fiscal year in which RMRA funds are received and expended, cities must submit documentation to the CATC that includes the following information for each completed RMRA project:

- A description including location;
- Total cost;

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

- Completion date; and
- Estimated useful life of the improvement.

ANALYSIS: Senate Bill 1 nearly doubled the revenues the City of San Rafael receives from the State for road infrastructure and transportation improvement projects, from roughly \$1.1 million per year to \$2.2 million. The additional funding available is factored into the project planning in the Capital Improvement Program (CIP).

Per the state guidelines, RMRA funds may be used towards “Complete Street” components, in addition to direct repairs to streets. These include pedestrian and bicycle safety projects, transit facilities, and drainage and stormwater capture projects in conjunction with any other allowable project.

The following table summarizes our RMRA funds received and spent to date for specified projects:

<i>FY 2017-18 Received</i>	<i>\$356,507</i>
<i>FY 2017-18 Spent*</i>	<i>\$16,094</i>
<i>FY 2018-19 Received</i>	<i>\$1,112,230</i>
<i>FY 2018-19 Spent*</i>	<i>\$77,267</i>
<i>FY 2019-20 Received (proj.)</i>	<i>\$1,003,873</i>
<i>FY 2019-20 Spent (proj.)**</i>	<i>\$1,888,729</i>
<i>FY 2020-21 Avail. RMRA Reserve</i>	<u><u><i>\$490,520</i></u></u>

**FY 2017-18 and FY 2018-19 RMRA funds were expended on the design of the Lincoln Avenue Curb Ramps project, design of the Merrydale pathway connector, and design of resurfacing Smith Ranch Road.*

***FY 2019-20 RMRA funds will be expended on the remaining design contracts for Lincoln Avenue Curb Ramps, Merrydale Pathway design, and construction of resurfacing Smith Ranch Road.*

Staff anticipates to the City will receive \$1,106,233 in FY 2020-21 in RMRA funding. The FY 2020-21 funds will be utilized for the **Francisco Blvd East Resurfacing** project and **Bungalow Avenue Resurfacing** project.

See Attachment 1 for descriptions and detail for the FY 2020-21 RMRA project list.

FISCAL IMPACT: RMRA revenues will be deposited into Gas Tax Fund (#206), and projects will be expended from the Gas Tax Fund (#206). Expenditure details for all RMRA projects will be submitted to the State on an annual basis per the Road Repair and Accountability Act guidelines.

Finally, there is a Maintenance of Effort (MOE) requirement with receiving RMRA funding. Pursuant to Streets and Highways Code Section 2036, a city or county must annually expend from its general fund for street, road, and highway purposes an amount not less than the annual average of its expenditures from its general fund during fiscal years 2009–10, 2010–11, and 2011–12. If a city or county fails to meet the MOE in a fiscal year, they can make it up in the following fiscal year.

The following are the City's general fund expenditures in street and road repair for the three fiscal years used for the MOE:

	FY 2009-10	FY 2010-11	FY 2011-12	AVERAGE
Annual street and road expenditures	\$3,286,015	\$2,131,621	\$3,516,476	\$2,978,037

Figures are based on the numbers reported to the State Controller's Office in the annual streets and roads report. The City has satisfied the MOE requirement for RMRA funds as streets and roads expenditures are currently higher than their FY 2009-10 to FY 2011-12 average.

OPTIONS:

1. Adopt the resolution which approves FY 2020-21 projects list funded by Senate Bill 1.
2. Do not adopt the resolution and direct staff to revise the list of RMRA-funded projects.
3. Do not adopt the resolution and provide direction to staff.

RECOMMENDATION:

Adopt a resolution approving the FY 2020-21 projects list for Senate Bill 1: The Road Repair and Accountability Act, and appropriating funding for listed projects.

ATTACHMENTS:

1. Resolution including FY 2020-21 Project List
2. Estimated RMRA funding for San Rafael (California City Finance)

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL APPROVING
THE FY 2020-21 PROJECTS LIST FOR SENATE BILL 1: THE ROAD REPAIR AND
ACCOUNTABILITY ACT**

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and signed into law by the Governor in April 2017 in order to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of San Rafael are aware of the projects proposed for funding in our community and of which projects have been completed each fiscal year; and

WHEREAS, prior to receiving funding from the Road Maintenance and Rehabilitation Account (RMRA) created by SB 1, the City Council must adopt a resolution listing all San Rafael projects proposed to receive RMRA funding, including a description and the location of each proposed project, a proposed schedule for the project's completion, and the estimated useful life of the improvement; and

WHEREAS, the City will receive an estimated \$1,134,079 in RMRA funding in Fiscal Year 2020-21 from SB 1; and

WHEREAS, the funding from SB 1 for Fiscal Year 2020-21 will help the City to maintain and rehabilitate streets and roads, essential roadway drainage projects, and bicycle and pedestrian improvements throughout the City this year; and

WHEREAS, without revenue from SB 1, the City, would have otherwise been unable to fund these important transportation improvements and projects; and

WHEREAS, the SB 1 project list, and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will all have significant positive co-benefits statewide;

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of San Rafael, State of California, as follows:

1. The foregoing recitals are true and correct.
2. The City Council hereby approves the Fiscal Year 2020-21 list of projects planned to be funded with SB 1 revenues, as follows:

Smith Ranch Road and Lucas Valley Road Resurfacing

Project Description: The project will remove and replace the top 4” of asphalt, install new roadway striping, and minor electrical work at the traffic signals. Installation of new wheelchair ramps will be installed to comply with federal law. This project is a high priority due to the existing asphalt having exceeded its useful lifespan. Once completed, the useful life of this newly paved asphalt is approximately 20 years.

Project Location: The project will resurface Lucas Valley/Smith Ranch Roads from Los Gamos Dr on the west to Redwood Highway on the east, including the roadway under Highway 101.

Proposed Schedule for Completion: Fall, 2020. The majority of the roadway falls within Caltrans property (due to Highway 101), the City is coordinating with both the adjacent private developer, Caltrans, and the County for approval and adjustments to the signalized intersection.

Francisco Blvd East Resurfacing

Project Description: The project will involve the full resurfacing of Francisco Blvd East. The project will remove and replace the top 4” of asphalt and install new roadway striping. Once completed, the useful life of this newly paved asphalt is approximately 20 years.

Project Location: The project will resurface Francisco Blvd East from Vivian Street to Grand Avenue

Proposed Schedule for Completion: Construction will take place spring-summer 2021.

Bungalow Avenue Resurfacing

Project Description: The project will remove and replace the top 3” of asphalt over the existing concrete road, install new roadway striping, and storm drain structures Installation of new wheelchair ramps at Woodland Avenue will be installed to comply with federal law. This project is a high priority due to the existing asphalt having exceeded its useful lifespan. Once completed, the useful life of this newly paved asphalt is approximately 20 years.

Project Location: The project will resurface Bungalow Avenue from Woodland Avenue and Picnic Avenue.

Local Streets and Roads - Projected FY2020-21 Revenues

Based on State Dept of Finance statewide revenue projections January 2020

Estimated January 2020

	Highway Users Tax Acct (HUTA) ⁽¹⁾ Streets & Highways Code					TOTAL HUTA	Road Mntnc Rehab Acct ⁽⁷⁾	TOTAL
	Sec2103 ⁽⁵⁾	Sec2105 ⁽³⁾	Sec2106 ⁽³⁾	Sec2107 ⁽³⁾	Sec2107.5 ⁽⁴⁾			
MADERA COUNTY								
CHOWCHILLA	166,154	107,723	40,335	128,607	4,000	446,819	353,977	800,796
MADERA	588,826	381,756	130,730	455,764	7,500	1,564,577	1,254,445	2,819,022
MARIN COUNTY								
BELVEDERE	19,043	12,346	12,702	14,739	1,000	59,830	40,569	100,399
CORTE MADERA	89,070	57,747	41,761	68,942	3,000	260,520	189,756	450,276
FAIRFAX	68,449	44,378	33,204	52,981	2,000	201,012	145,825	346,838
LARKSPUR	111,508	72,295	51,072	86,310	3,000	324,184	237,559	561,743
MILL VALLEY	130,099	84,347	58,786	100,699	3,000	376,932	277,164	654,096
NOVATO	479,747	311,037	203,878	371,335	7,500	1,373,496	1,022,061	2,395,558
ROSS	22,394	14,519	14,093	17,333	1,000	69,338	47,708	117,047
SAN ANSELMO	114,380	74,157	52,264	88,533	3,000	332,334	243,678	576,012
SAN RAFAEL	532,327	345,126	225,697	412,033	7,500	1,522,683	1,134,079	2,656,763
SAUSALITO	65,745	42,625	32,082	50,888	2,000	193,340	140,065	333,405
TIBURON	82,997	53,810	39,241	64,242	2,000	242,290	176,819	419,108
MARIPOSA COUNTY								
MENDOCINO COUNTY								
FORT BRAGG	66,295	42,981	32,103	51,314	2,000	194,693	141,236	335,929
POINT ARENA	4,105	2,661	6,490	3,177	1,000	17,433	8,745	26,178
UKIAH	144,469	93,665	64,299	111,822	4,000	418,255	307,780	726,035
WILLITS	44,291	28,716	23,041	34,282	1,000	131,330	94,359	225,689
MERCED COUNTY								
ATWATER	278,992	180,880	79,383	215,946	6,000	761,200	594,369	1,355,569
DOS PALOS	49,123	31,848	17,932	38,022	2,000	138,925	104,652	243,577
GUSTINE	52,164	33,819	18,745	40,376	2,000	147,104	111,130	258,234
LIVINGSTON	131,304	85,129	39,902	101,632	3,000	360,967	279,733	640,700
LOS BANOS	371,439	240,817	104,097	287,502	6,000	1,009,855	791,321	1,801,176
MERCED	772,258	500,682	211,248	597,745	7,500	2,089,433	1,645,233	3,734,666
MODOC COUNTY								
ALTURAS	25,062	16,249	11,911	20,880	1,000	75,101	53,393	128,494
MONO COUNTY								
MAMMOTH LAKES	72,997	47,327	58,018	1,908,519	2,000	2,088,861	155,514	2,244,375
MONTEREY COUNTY								
CARMEL-BY-THE-SEA	35,346	22,916	14,257	27,359	1,000	100,878	75,302	176,180
DEL REY OAKS	15,372	9,967	8,913	11,899	1,000	47,151	32,750	79,900
GONZALES	76,924	49,873	25,382	59,541	2,000	213,720	163,881	377,602
GREENFIELD	159,656	103,510	47,518	123,577	4,000	438,261	340,133	778,394
KING CITY	130,533	84,629	39,726	101,035	3,000	358,923	278,090	637,013
MARINA	203,521	131,950	59,254	157,530	5,000	557,256	433,585	990,841
MONTEREY	252,201	163,511	72,279	195,209	6,000	689,199	537,293	1,226,492
PACIFIC GROVE	140,808	91,291	42,475	108,988	4,000	387,562	299,980	687,542
SALINAS	1,443,248	935,708	390,958	1,117,105	10,000	3,897,020	3,074,721	6,971,741
SAND CITY	3,520	2,282	5,742	2,724	1,000	15,267	7,498	22,765
SEASIDE	299,435	194,134	84,917	231,769	6,000	816,256	637,922	1,454,178
SOLEDAD	231,199	149,894	66,660	178,953	6,000	632,706	492,550	1,125,256



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: COMMUNITY DEVELOPMENT

Paul A. Jensen

Prepared by: Paul Jensen (JA)
Community Development Director

City Manager Approval: _____ *AS*

TOPIC: 190 MILL STREET – HOMEWARD BOUND OF MARIN EMERGENCY SHELTER AND SUPPORTIVE HOUSING

SUBJECT: ENVIRONMENTAL REVIEW, LEGISLATIVE ACTIONS AND PROJECT APPROVALS TO ALLOW THE DEMOLITION OF EXISTING EMERGENCY SHELTER BUILDING AND THE CONSTRUCTION OF A NEW FOUR-STORY BUILDING WITH NEW EMERGENCY SHELTER AND 32 AFFORDABLE, SUPPORTIVE HOUSING UNITS ON PROPERTY LOCATED AT 190 MILL STREET (APN: 014-192-12).

RECOMMENDATION:

It is recommended that the City council take the following actions in order:

- i. Adopt a Resolution adopting an Initial Study/Mitigated Negative Declaration and approving a Mitigation Monitoring And Reporting Program;
- ii. Adopt a Resolution approving a General Plan Map Amendment (GPA19-01) to change the existing light industrial/office (LI/O) land use designation of the site to high-density residential (HDR) land use designation;
- iii. Introduce and pass to print an Ordinance approving a Zoning Map Amendment (ZC19-001), to modify the existing Canal Core Industrial/Office (CCI/O) zoning classification of the site at 190 Mill Street to High-Density Residential zoning classification (HR1);
- iv. Adopt a Resolution approving Use Permit (UP19-014) for a new emergency shelter to replace existing shelter to be demolished; and consideration of concessions to exceed 60% maximum lot coverage and 36-foot maximum building height for HR1 district; and
- v. Adopt a Resolution approving fee waiver (P20-001) for planning application fees associated with the project.

EXECUTIVE SUMMARY:

The project is a request from Homeward Bound for amendments to the San Rafael General Plan 2020 Exhibit 12 - Land Use Map and the Zoning Map; a Use Permit amendment for a 60-bed emergency shelter that would replace their emergency shelter currently located at 190 Mill Street which has operated

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

at the site since 1986, with a request for concessions permitted under State density bonus law to allow project to exceed coverage and height standards; and a request for fee waiver for all planning and building permit fees pursuant to City Council Resolution 11025. The requested amendments would also facilitate the development of 32 new supportive housing units that would provide housing in the extremely low-income category.

The State has recently adopted legislation intended to accelerate housing production and in some cases obligates municipalities to establish streamlined “by right” processes for review of qualifying affordable housing projects. The by-right process would allow certain affordable housing projects to be evaluated using previously adopted objective standards. The intent is to streamline the review of such projects, which will significantly reduce soft costs and the processing time for developers/applicants. The City has begun exploring the creation and adoption of “By-Right” Objective Standards; however, none exist at this time. In the meantime, the City has received an application from Homeward Bound of Marin for the entitlements described above, and this project can serve as a pilot for the “by-right” zoning process mandated by the State.

The project was considered by the Planning Commission on February 25, 2020. The staff report and video streaming from the February 25, 2020 Planning Commission hearing may be viewed [here](#) by clicking the “control” key while left clicking each link. The Planning Commission expressed support for the project and recommended approval of the requested entitlements including the request for concessions. The requested amendments and use permit are consistent with General Plan policies and Zoning Ordinance development standards with the exception of the requested concessions.

Lastly, time is of the essence on this project. Homeward Bound is a non-profit organization that relies on State and Federal funding, as well as other sources to finance project design, permitting and construction. There are several very critical grant and funding program deadlines that are approaching, which require confirmation of local jurisdiction approval. If the deadlines for filing cannot be met by Homeward Bound, the project would be delayed until the next cycle of available funding, which may not be until 2021. By holding a public hearing and considering action on this date (April 6), Homeward Bound will be able to meet these deadlines.

BACKGROUND:

Recent Legislation Supporting the Production of Affordable Housing

In 2017, the State adopted a number of State Bills related to housing and housing production, some of which obligate municipalities to establish streamlined “by right” processes for review of qualifying affordable housing projects. Two relevant bills establishing this legislation include Assembly Bill 2162 ([AB 2162](#)), adopted in 2018 and Senate Bill 2 (SB 2). Details of these bills are provided in the [Planning Commission Staff Report dated February 25, 2020](#).

In summary, [AB 2162](#) broadens the requirements of Government Code Section 65583, requiring that supportive housing projects must be considered through a ministerial “by right” process without discretionary review. The process is intended to remove the discretionary review process and the requirement for CEQA review. Another important element of Section 65583 is that it requires local agencies to establish zones where emergency shelters are allowed as a permitted use, and to identify zones where emergency shelters can be permitted through a use permit. However, the use permit process may only apply previously adopted objective performance standards. The City has adopted such standards under San Rafael Municipal Code (SRMC) Section 14.16.115, which would be applied to this project.

SB 2

On March 28, 2019, California Housing and Community Development Department (HCD) launched the SB 2 Planning Grants Program (PGP) to provide local municipalities with financial assistance for updating planning documents that streamline the review process and accelerate housing production. On October 30th, 2019, the City was awarded \$310,000 in grant funding to fund four planning projects, including a supportive housing pilot project at 190 Mill Street and the creation of objective standards to be used to evaluate certain types of projects through a streamlined process. The 190 Mill street project will serve as a pilot project for a by-right process for supportive housing projects.

The City is continuing to work with a consultant on developing a list of objective standards that could be used to evaluate all projects that qualify for by-right ministerial review. As part of the development of objective standards, the City will also explore developing an overlay zone within certain areas that have a high-density residential classification, with the intent of creating a streamlined review for such projects which will significantly reduce soft costs and the process timing for developers/applicants.

Mill Street Center – 190 Mill Street

Homeward Bound has operated the emergency shelter for homeless adults at 190 Mill Street since 1986 and currently has between 40-55 beds available on a nightly basis. Mill Street Center is Marin County's only year-round emergency shelter. In April 2019, Homeward Bound submitted applications for the proposed project which would include expansion of the emergency shelter, and with approval of the requested entitlements, would allow development of the site with permanent supportive housing. Please see the project description section of this report for more details for the proposed project.

Project Description:

The project consists of amendments to the San Rafael General Plan 2020 Exhibit 12 - Land Use Map and the Zoning Map, and a Use Permit that would allow the development of a new building that would contain 32 permanent supportive housing units and a 60-bed emergency shelter that would replace the existing emergency shelter that has operated at the site since 1986. The project requires adoption/approval of the following:

General Plan Amendment to modify the existing Light Industrial/Office (LI/O) land use designation of the site and extend the high-density residential (HDR) land use designation to the north and east such that it would encompass the 190 Mill Street property.

Zoning Map Amendment to modify the existing Canal Core Industrial/Office (CCI/O) zoning classification of the site and extend the existing high-density residential zoning (HR1) of the adjacent site such that it would encompass the 190 Mill Street property.

A Use Permit to allow expansion of the existing emergency shelter, which would increase the number of beds to 60. The shelter would serve both men and women in separate dormitory-style rooms, and meals would be served nightly by volunteers from a network of churches and community groups. For more details about the emergency shelter expansion please refer to [Planning Commission Staff Report dated February 25, 2020](#).

Request for concessions permitted under State density bonus law to allow a 66% lot coverage where a maximum of 60% is the standard and to allow a 48-foot building height where a 36-foot building height is the standard.

Request for fee waivers. The applicant has requested waiver of Planning and Building Permit Fees, as is allowed by City Council Resolution 11025 which was adopted in 2001 and amended in 2002. Fee waivers of more than \$2,000.00 for affordable housing projects must be approved by the City Council.

By-Right Development

If the requested amendments described above are approved, the applicant would seek a “by-right” approval of the 32-unit supportive housing and emergency shelter building. The supportive housing units would be intended to support chronically homeless individuals identified and placed into housing through the County’s Coordinated Entry system, which utilizes a ‘Housing First’ model that targets people with the longest periods of homelessness and focuses on moving them into housing as quickly as possible to improve their quality of life, decrease healthcare costs, and reduce the number of people on the streets. Residents will be further prioritized using criteria that take into account extreme medical need and frequent use of emergency services. For more information about the by-right development please refer to [Planning Commission Staff Report dated February 25, 2020.](#)

ANALYSIS:

A complete analysis of the project’s consistency with the applicable plans, regulations and policies can be found in the [February 25, 2020 Staff Report to the Planning Commission.](#)

San Rafael General Plan 2020 Consistency:

The project has been reviewed for consistency with the San Rafael General Plan 2020. A complete analysis of the applicable goals and policies of *all* elements of the General Plan was provided as Exhibit [3](#) (*General Plan Consistency Table*) to the February 25, 2020 staff report to the Planning Commission. The amendments would further the General Plan goals of providing much needed housing, particularly for special needs individuals. Staff has evaluated the project and found it to be consistent with the applicable San Rafael General Plan 2020 Policies and Programs.

Zoning Ordinance Consistency:

The project has been reviewed for consistency with SRMC Title 14, the San Rafael Zoning Ordinance. A complete analysis of the pertinent regulations (requirements, standards and criteria) was provided in the February 25, 2020 report to the Planning Commission. The project would need to be evaluated through a ministerial review process using adopted objective standards. The City has not adopted objective design standards; however, with exception of the requested building height and lot coverage concessions the objective development standards that apply to multi-family residential projects will be applied to the project. The applicant has demonstrated project compliance with the relevant objective development standards as shown on proposed project plans.

Request for Concessions:

State planning and zoning law allows a developer to seek a density bonus from a local jurisdiction, including any concessions, incentives, or waivers of development standards. (Government Code Section 65655(a)). In addition, AB 2162 makes clear that supportive housing projects that qualify as a “use by-right” may request concessions without triggering a discretionary process. The applicant is requesting two concessions, as outlined below:

Building Height

The height limit for the HR1 District is 36 feet. The maximum height of the proposed building is 45.75 feet measured to the top of the flat roof. The applicant is requesting an increase in maximum building height to up to 48 feet as a concession for providing a 100% affordable housing project. The height “bonus” would allow all habitable space to be located above the base flood elevation (BFE) of 10 feet (datum NAVD88) established by FEMA. The first level below the 10-foot BFE would be limited to parking, access,

storage, trash and recycling. The emergency shelter would be located on Level 2, and two floors of single room occupancy (SRO) supportive housing units would be located on levels 3 and 4.

Lot Coverage

The lot coverage limit for the HR1 District is 60%, which translates to 8,100 square feet for the 13,500 square-foot parcel. The applicant is requesting a concession to exceed the lot coverage limit that would allow for a 66% lot coverage (8,893 square feet). This concession is forced by the dimensions and overall width of the parking structure and the required width of the proposed stair enclosures.

The Planning Commission recommended approval of the requested concessions to allow increased building height and lot coverage because it is consistent with General Plan Policies, including those that allow concessions for developments that provide affordable housing, and it is consistent with State law regarding density bonuses and supportive housing. In addition, based on Staff's review of the applicant's *pro forma* for the project, the concessions are justified, especially when considering the costs associated with FEMA requirements to elevate habitable space above BFE and the need for using waterproof construction materials.

Use Permit for Emergency Shelter:

The project site is currently zoned Core Canal Industrial/Office District (CCI/O), where permanent emergency shelters are permitted subject to approval of a Use Permit and subject to the development and performance standards contained in Section 14.16.115 of the Municipal Code. These performance standards are consistent with the objective standards found in AB 2162. As discussed earlier in this report, a Use Permit was originally approved for the existing emergency shelter in 1986, and it was amended in 1993 to allow for a modest expansion, increased day services, and an increase in the maximum number beds.

Permanent emergency shelters are also permitted in the proposed HR1 District subject to approval of a Use Permit, and subject to the objective performance standards contained in Section 14.16.115. The applicant has demonstrated compliance with the above objective performance standards as shown on proposed project plans and as conditioned.

Fee Waiver

The applicant has submitted a request for a fee waiver of all building and planning application fees pursuant to City Council Resolution 11025. The requested fee waivers would significantly reduce soft costs for the applicant. A more detailed discussion is provided in the Fiscal Impact Section.

The project is a 100% affordable housing project. As such this project is not subject to traffic impact fees nor housing in lieu fees.

Planning Commission Review

On December 10, 2019, the Planning Commission held a Study Session to consider the project at 190 Mill Street along with other possible City-Initiated legislative changes that might apply to other affordable housing projects within certain high-density properties. The Planning Commission expressed support for the 190 Mill Street project but suggested that the legislative changes being contemplated needed additional evaluation. The Planning Commission recommended that City-Initiated projects be tabled until a list of objective development standards is ready for consideration.

The 190 Mill Street project was formally reviewed by the Planning Commission on February 25, 2020. The staff report and video streaming from the February 25, 2020 Planning Commission hearing may be viewed [here](#) by clicking the "control" key while left clicking each link. Following a public hearing, the Commission adopted four resolutions recommending approval of the project to the City Council. In

response to public comments, the Planning Commission directed planning staff to consult with the Department of Public Works regarding opportunities for right-of-way improvements to enhance pedestrian safety in the vicinity of the project, especially with regard to sidewalks and lighting. The Commission recommended that the information be forwarded to the City Council for consideration during review of the project.

As recommended by the Planning Commission, planning staff met with the Department of Public Works (DPW) staff to discuss the extent of off-site improvements that may be required for this project, as well as any improvements planned in the project vicinity that address pedestrian safety. The following is a summary of the key points of that discussion for the Council's consideration:

Department of Public Works Input on Frontage Improvements for Pedestrian Safety:

- All properties adjacent to streets are required to maintain the sidewalk under Section 11.60 of the San Rafael Municipal Code. In-fill projects must provide frontage improvements (including sidewalk, curb and gutter and repaving of roadway width (to centerline) as required under Chapter 11.34 of the Municipal Code. These improvements will be required as part of the building permit submittal.
- The City will review the conditions of the frontage at the time of permit issuance, as the physical condition or standards could change. Based on a preliminary review of the 190 Mill Street frontage, it appears that the curb ramp and driveway apron will need to be replaced to meet ADA requirements.
- When repaving is required, any affected crosswalks need to comply with current standards.

Other Pedestrian Improvements:

In addition, there are two pedestrian and bicycle improvements that are or will be under way as part of the [Francisco Boulevard East Sidewalk Widening Project](#), which is expected to be completed in Spring 2021; and the [Canal Crosswalk Project](#), which is anticipated to start construction during 2020/2021.

California Environmental Quality Act (CEQA):

The proposed supportive housing component of the project requires amendments to General Plan 2020 as well as an amendment to the Zoning Map to provide for a high-density residential land use designation. General Plan and Rezoning actions are not categorically exempt from the California Environmental Quality Act (CEQA). An Initial Study (IS) was completed for the project, which resulted in preparation of a Mitigated Negative Declaration (MND). The Initial Study/Mitigated Negative Declaration (IS/MND) was circulated for a 20-day public review period that began on January 2, 2020 and concluded on January 22, 2020. The IS/MND was distributed to the Planning Commission and City Council under a separate cover at the start of the review period and a copy of the document can be found [here](#).

The IS/MND concluded that the proposed project would result in potentially significant impacts in Cultural Resources, Geology and Soils, and Tribal Resources. The IS/MND, along with copies of all studies used in preparing the Initial Study, are provided on the project webpage at www.cityofsanrafael.org/190mill. The project impacts would be mitigated to a less-than-significant level through implementation of recommended mitigation measures or through compliance with existing Municipal Code requirements or City standards. Recommended measures are summarized in the Mitigation Monitoring and Reporting Plan (MMRP) (Attachment 1). To date, the City has received one comment on the IS/MND, from Marin Environmental Housing Collaborative stating that based on their review of the IS/MND, there is little cause for concern because the proposal is an in-fill project, and it appears that any potential significant impacts to Cultural Resources, Geology and Soils, and Tribal Cultural Resources can be mitigated.

The resolution adopting the Mitigated Negative Declaration and approving the Mitigation Monitoring and Reporting Program is attached as Attachment 1.

COMMUNITY OUTREACH:

Notice of public hearings on the project for the Design Review Board and Planning Commission (15-day review), the Initial Study/Mitigated Negative Declaration (CEQA) public comment period/Planning Commission hearing (20-day review), and the City Council hearing (15-day review) were conducted in accordance with the public review period and noticing requirements contained in Chapter 29 of the Zoning Ordinance. All notices of public meeting or hearing on the project were mailed to all property owners and occupants within a 400-foot radius of the site and the representing neighborhood groups (Canal Neighborhood) at least 15-30 days prior to each meeting or hearing. In addition, notice of each meeting/hearing was posted at two locations on the site (one facing Mill Street and one facing Harbor Street) at least 15-30 days prior to each meeting or hearing. Notices were also sent to neighboring jurisdictions, utilities, and service agencies in accordance with the Planning Division's Procedures Manual for General Plan Amendments. In addition, an offer of Tribal Consultation was made to the local Tribe (Federation Indians of Graton Rancheria); however, the City did not receive a response from the local Tribe requesting consultation.

All public comments received to date are included as Exhibit 7. Comments received subsequent to distribution of this staff report will be forwarded to the City Council by separate cover.

Based on the written and verbal comments submitted to date, the public is generally supportive of the proposed project. Comments in opposition focused mostly on the supportive housing component of the project and the potential increase in parking demand and traffic congestion, and general pedestrian safety in the Canal neighborhood; and concerns about potential privacy impacts on the adjacent apartments at 575 Canal Street were also raised.

FISCAL IMPACT:

The costs associated with processing the planning applications of this type are borne by the applicant and are subject to 100% cost recovery of staff time. An initial deposit amount of \$30,473.00 was submitted by the applicant. However, the applicant is requesting a fee waiver of both the Planning Application Fee and the Building Permit Fees. An analysis of the fiscal impact of approving the fee waiver is described below:

Planning Application fees

Planning application fees are based on an estimate of time needed to process the planning application. Fees collected are billed to on a fully-burdened hourly rate. The proposed project required payment of \$30,473.00 in deposit-based fees as follows:

Application Type	Fee*
General Plan Amendment	\$ 8,646.00
Zoning Amendment	\$ 7,176.00
Use Permit	\$ 4,305.00
Environmental Review	\$10,346.00
Total Fees	\$30,473.00

**Fee is deposit based billed at an hourly rate*

Due to an influx in planning application submittals, the City retained the help of an outside planning consultant to assist with processing this application. The total amount of the contract set aside \$55,545.00 which included contingency fees.

As mentioned earlier in the report, this project serves as a supportive housing, by-right pilot project, for which the City received funding in fall of 2019 from the SB2 Planning Grants Program (PGP). This grant set aside \$75,000 to adapt the required planning documents for this project to create objective standards used to evaluate certain types of projects through a streamlined process. Due to the increased public benefit by adapting these planning documents, the state grant funding is intended to offset the fiscal impact of a planning fee waiver for this project. Due to this offset, staff recommends approval of the planning fee waiver. If a fee waiver is granted, the applicant will be refunded the full amount of fees paid.

Building Permit Fees

The fee waiver request for building permit fees is not a part of the City Council recommended action in this staff report. Staff will evaluate the fee waiver for building permit fees at a later date for two reasons:

1. Building permit fees are based on valuation of the project and cannot be calculated until a building permit is submitted.
2. The applicant has indicated that they will be making a funding request from the City's Affordable Housing Trust Fund to provide gap funding for their project. Staff is actively working with the applicant to identify State and Federal funding opportunities, which, if successfully awarded, would change the gap funding request from the applicant.

The project is exempt from traffic mitigation fees because 100% of the residential units are affordable to low income residents. The property owner will be responsible for the cost of all utility connections (sewer, water, gas/electric), and all public improvements along the property frontage.

OPTIONS:

The City Council has the following options:

1. Approve the applications and fee waiver request as presented (*staff recommendation*)
2. Approve the applications with certain modifications, changes or additional conditions of approval.
3. Continue the applications to allow the applicant to address any of the Council's comments or concerns
4. Deny the project and direct staff to return with a revised Resolutions.

RECOMMENDED ACTION:

Staff recommends that the City Council:

1. Adopt the Resolution (Attachment 1) Adopting the Initial Study/Mitigated Negative Declaration and Approving the Mitigation Monitoring and Reporting Program (MMRP);
2. Adopt the Resolution (Attachment 2) Adopting the general plan map amendment (GPA19-001) to change the existing light industrial/office (LI/O) land use designation of the site to high-density residential (HDR) land use designation;
3. Introduce and pass to print the Ordinance (Attachment 3) for Zoning Map Amendment;
4. Adopt the Resolution (Attachment 4) approving the Use Permit for a new emergency shelter to replace the existing shelter to be demolished; and consideration of concessions to exceed 60% maximum lot coverage and 36-foot maximum building height for HR1 District; and
5. Adopt the attached Resolution (Attachment 5) approving Fee Waiver for Planning Application Fees associated with the project.

ATTACHMENTS:

1. Resolution Adopting a Mitigated Negative Declaration and Approving the Mitigation Monitoring and Reporting Program
2. Resolution Adopting a General Plan Amendment
3. Ordinance for Zoning Map Amendment
4. Resolution Conditionally Approving the Use Permit and Concessions for the Project
5. Resolution Approving Fee Waiver Request
6. Fee Waiver Request from Homeward Bound of Marin
7. Public comments
8. Public Hearing Notice

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL ADOPTING
AN INITIAL STUDY/ MITIGATED NEGATIVE DECLARATION AND
APPROVING THE MITIGATION MONITORING AND REPORTING
PROGRAM FOR A GENERAL PLAN AMENDMENT (GP19-001) AND
ZONING AMENDMENT (ZC19-001) ON A 13,500 SQUARE-FOOT PARCEL
LOCATED AT 190 MILL STREET (HOMEWARD BOUND OF MARIN
SUPPORTIVE HOUSING AND EMERGENCY SHELTER) (APN: 014-192-12)**

WHEREAS, on April 26, 2019, Paul Fordham, on behalf of the property owner Homeward Bound of Marin, submitted applications for a General Plan Amendment (GPA19-001) to change the existing LI/O land Use designation to High-Density Residential (HDR) Land Use Designation, Zoning Map Amendment (ZO19-001) to change the existing Canal Core Industrial/Office (CCI/O) zoning classification to the high-density residential zoning (HR1) zoning classification, and Use Permit (UP19-014) for a new emergency shelter to replace the existing shelter; and

WHEREAS, on December 10, 2019, the Planning Commission held a duly noticed Study Session on the proposed project, accepting all oral and written public comments and the written report of the Department of Community Development; and

WHEREAS, as required by the California Environmental Quality Act (CEQA) Guidelines, staff determined that the request for amendments to the General Plan and Zoning maps is defined as a 'project,' making it subject to environmental review. Pursuant to CEQA Guidelines Section 15063, an Initial Study was prepared to determine the potential environmental impacts of the project; and

WHEREAS, as demonstrated in the preparation of an Initial Study, all potentially significant effects on the environment identified in the IS/MND can be mitigated to less-than-significant levels with implementation of the recommended mitigation measures; including impacts to Cultural Resources, Geology and Soils, and Tribal Resources. Therefore, consistent with CEQA Guidelines Section 15070, the Initial Study supports and recommends the adoption of a Mitigated Negative Declaration; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared, which outlines the procedures/steps and requirements for implementing all mitigation measures identified in the IS/MND. The MMRP is attached as Attachment A; and

WHEREAS, the subject site was posted with a public notice regarding the Mitigated Negative Declaration prepared for this project and notices were published in a local newspaper of general circulation in the area and mailed to surrounding property owners within 400 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups pursuant to CEQA Guidelines Section 15072; and

WHEREAS, copies of the Initial Study/Mitigated Negative Declaration were made available for a 20-day review period by pertinent agencies and interested members of the public, commencing on January 2, 2020 and concluding on January 22, 2020; and

WHEREAS, the City has evaluated the comments received from public agencies, utilities, organizations, special interest groups and persons who have reviewed the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and determined that no changes or modifications were deemed necessary to the Initial Study/Mitigated Negative Declaration; and

WHEREAS, on February 25, 2020, the Planning Commission held a public hearing on the proposed project, the planning applications associated with the Homeward Bound of Marin Supportive Housing and Emergency Shelter Project at 190 Mill Street and the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, accepting all oral and written public testimony and the written report of the Department of Community Development. On a vote of 6-0-1 (Commissioner Lubamersky Abstained), the Planning Commission adopted a Resolution 20-08, recommending that the City Council adopt the IS/MND and the approve a Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, on April 6, 2020, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department of the City of San Rafael.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael does hereby adopt the Mitigated Negative Declaration and approves the Mitigation Monitoring and Reporting Program as presented in Attachment "A" attached hereto and incorporated herein by reference, based on the findings that:

- a) The City Council exercised its independent judgment in evaluating the Mitigated Negative Declaration and the Mitigated Negative Declaration has been considered in conjunction with comments received during the public review period and at the Planning Commission hearing. Based on this review, the City Council finds and determines that: 1) there is no substantial evidence that the project will have a significant impact on the environment; and 2) revisions have been made to the project and have been included in the project as mitigation measures which reduce the potential impacts to a less-than-significant level.
- b) A Mitigation Monitoring and Reporting Program has been prepared for adoption to ensure implementation of, and compliance with, all conditions required to mitigate any impact to a level of less than significant. All mitigation measures have also been included as conditions of the project's approval in the separate Resolution.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council held on the 6th day of April 2020, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Attachment A

Mitigation Monitoring and Reporting Program

Attachment A

MITIGATION MONITORING AND REPORTING PROGRAM

MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN RAFAEL, CA

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
CULTURAL RESOURCES					
<p>Mitigation Measure CULT-1: Protect Archaeological Resources Identified during Construction: The project sponsor shall ensure that construction crews stop all work within 100 feet of the discovery until a qualified archaeologist can assess the previously unrecorded discovery and provide recommendations. Resources could include subsurface historic features such as artifact-filled privies, wells, and refuse pits, and artifact deposits, along with concentrations of adobe, stone, or concrete walls or</p>	<p>Require as a condition of approval.</p> <p>Project sponsor designates qualified professional pursuant to NAHC requirements and obtains approvals from appropriate agencies prior to issuance of building permits.</p>	<p>Planning Division</p> <p>Planning/ Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Project sponsor to halt work immediately upon discovery of unknown resources</p> <p>Planning/Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile and dalt points), midden (culturally derived darkened soil containing heat-affected rock, artifacts, animal bones, and/or shellfish remains), and/or groundstone implements (such as mortars and pestles). (Checklist Item V.b.)</p>	<p>Require as a condition of approval.</p> <p>Project sponsor designates qualified professional</p>	<p>Planning Division</p> <p>Planning/ Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Project sponsor to halt work immediately upon discovery</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	

File #: GPA19-001/ZC19-001
 Title: Resolution Recommending Adoption of Mitigated Negative Declaration
 Exhibit: 2a Attachment A

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
funerary objects discovered during soil-disturbing activities according to applicable State laws. Such treatment includes work stoppage and immediate notification of the Marin County Coroner and qualified archaeologist, and in the event that the Coroner's determination that the human remains are Native American, notification of NAHC according to the requirements in PRC Section 5097.98. NAHC would appoint a Most Likely Descendant ("MLD"). A qualified archaeologist, the Project proponent, County of Marin, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any	pursuant to NAHC requirements and obtains approvals from appropriate agencies prior to issuance of building permits.		of unknown resources Planning/Building Division verifies appropriate approvals obtained prior to issuance of building permit		

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.S[d]). The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters. (Checklist Item V.c.)</p>	<p>Require as a condition of approval.</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval</p>	<p>Deny project</p>	
<p>GEOLOGY AND SOILS</p>		<p>Department of</p>	<p>Public Works/ Building Division</p>	<p>Deny issuance of</p>	
<p>Mitigation Measure GE0-1: Prior to a grading or building permit submittal, the project sponsor shall prepare a design-</p>					<p>File #: GPA19-001/<u>ZC19-001</u> Title: <u>Resolution Recommending Adoption of Mitigated Negative Declaration</u> Exhibit: 2a <u>Attachment A</u></p>

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer. Minimum mitigation includes design of new structures in accordance with the provisions of the current California Building Code or subsequent codes in effect when final design occurs. Recommended seismic design coefficients and spectral accelerations shall be consistent with the findings presented in Section 5.1 of the January 8, 2018, Miller Pacific report. (Checklist Item VII.a.ii.)</p>	<p>Project sponsor prepares a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submits report to City Engineer.</p>	<p>Public Works (City Engineer)</p>	<p>verifies appropriate design level report prior to issuance of building permit.</p>	<p>building permit</p>	
<p>Mitigation Measure GE0-2: Prior to a grading or building</p>	<p>Require as a condition of approval.</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval</p>	<p>Deny project</p>	

File #: GPA19-001/ZC19-001
 Title: Resolution Recommending Adoption of Mitigated Negative Declaration
 Exhibit: 2a Attachment A

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
permit submittal, the project sponsor shall prepare a site drainage system prepared by a qualified and licensed civil engineer and submit the report to the City Engineer. The site drainage system will demonstrate the ability to collect surface water and discharge into an established storm drainage system. The project Civil Engineer or Architect is responsible for designing the site drainage system and, an erosion control plan shall be developed prior to construction per the current guidelines of the City of San Rafael Public Works Department (DPW) Grading and Construction Erosion and Sediment Control Plan Permit	Project sponsor prepares a design-level drainage system prepared by a qualified and licensed civil engineer and submit report to City Engineer.	Department of Public Works (City Engineer)	Public Works/ Building Division verifies appropriate design level report prior to issuance of building permit.	Deny issuance of building permit	

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>Application Package and the Regional Water Quality Control Board standards. (Checklist Item VII.b.)</p>					
<p>Mitigation Measure GE0-3: Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a "qualified paleontologist" shall be an individual with the</p>	<p>Require as a condition of approval. Project sponsor designates qualified paleontologist, consult with agencies prior to issuance of building permits.</p>	<p>Planning Division Building Division</p>	<p>Incorporate as condition of project approval Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil or bedrock, all ground-disturbing activities within 25 feet shall be halted. Planning/Building Division contacted and</p>	<p>Deny project Suspend/halt building permit</p>	

File #: GPA19-001/ZC19-001
Title: Resolution Recommending Adoption of Mitigated Negative Declaration
Exhibit: 2a Attachment A

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule appropriate agencies alerted to discoveries.	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.</p> <p>If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the</p>					

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California</p>					

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.</p>					
<p>The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:</p>					
<p>"The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted</p>					

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse,</p>					

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5." (Checklist Item VII.f.)</p>					
TRIBAL CULTURAL RESOURCES					
<p>Mitigation Measure TRIBAL-1: Implementation of the unanticipated discovery measures outlined in Section V(b) and (d) above, address the potential discovery of previously unknown resources within the project area. If significant tribal cultural resources are identified</p>	<p>Require as a condition of approval.</p> <p>Project sponsor designates qualified professional pursuant to NAHC requirements and</p>	<p>Planning Division</p> <p>Planning/ Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Project sponsor to halt work immediately upon discovery of unknown resources</p> <p>Planning/Building Division verifies</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	

File #: GPA19-001/ZC19-001
 Title: Resolution Recommending Adoption of Mitigated Negative Declaration
 Exhibit: 2a Attachment A

Attachment A

**MITIGATION MONITORING AND REPORTING PROGRAM
HOMEWARD BOUND OF MARIN SUPPORTIVE HOUSING AND EMERGENCY SHELTER - 190 MILL STREET, SAN
RAFAEL, CA**

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
onsite, all work would stop immediately within 50 feet of the resource(s) and the project applicant would comply with all relevant State and City policies and procedures prescribed under PRC Section 21074. (Checklist Item XVIII.a.i. and ii.)	obtains approvals from appropriate agencies prior to issuance of building permits.		appropriate approvals obtained prior to issuance of building permit		

RESOLUTION NO. _____

**RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL
ADOPTING AN AMENDMENT (GPA19-001) TO THE SAN RAFAEL GENERAL
PLAN 2020 LAND USE ELEMENT EXHIBIT 12- LAND USE MAP TO
CHANGE EXISTING LI/O LAND USE DESIGNATION OF THE SUBJECT
PROPERTY LOCATED AT 190 MILL STREET (APN 014-192-12) TO HIGH-
DENSITY RESIDENTIAL (HDR) LAND USE DESIGNATION**

WHEREAS, in November 2004, the City of San Rafael adopted the San Rafael General Plan 2020 and certified the supporting Final Environmental Impact Report for the plan; and

WHEREAS, on April 26, 2019, Homeward Bound of Marin submitted project applications to the City of San Rafael Community Development Department for a General Plan Amendment (GPA19-001) for property at 190 Mill Street, a Zoning Map Amendment (ZO19-001) to change the existing Canal Core Industrial/Office (CCI/O) zoning classification to the high-density residential zoning (HR1) zoning classification, and a Use Permit (UP19-001) for a new emergency shelter to replace the existing shelter; and

WHEREAS, on April 29, 2019, in accord with California Government Code Section 65352.3(a), specifically, the directive of Senate Bill 18 (SB 18), the Community Development Department staff sent an offer for tribal consultation to the representatives of the Federated Indians of the Graton Rancheria (Federated Indians). Tribal consultation is required for all projects that propose an amendment to the local General Plan. The purpose of the tribal consultation is to consult with the local tribe representatives on potential impacts to Native American places, features and objects described in Section 5097.9 and 5097.993 of the California Public Resources Code. The prescribed 90-day period was observed for the Federated Indians to respond to the offer, but the City received no response; and

WHEREAS, following the initial filing of the Homeward Bound of Marin applications for 190 Mill Street, the City commenced with environmental review of the project. Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of the project, which included the preparation and publication on January 2, 2020 of an Initial Study and Mitigated Negative Declaration (IS/MND) and a Notice of Public Review and Intent to Adopt a Mitigated Negative Declaration; and

WHEREAS, the IS/MND assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2020 to change the existing Light Industrial/Office (LI/O) land use designation of the property to high-density residential (HDR) land use designation. The IS/MND finds that the proposed amendment to the General Plan will not result in significant impacts; and

WHEREAS, on February 25, 2020, the San Rafael Planning Commission held a duly noticed hearing to consider the General Plan Amendment (GPA19-001), Zoning Amendment (ZC19-001), and Use Permit (UP19-001) applications, and accepted and considered all oral and written public testimony and the written report of Planning staff; and

WHEREAS, on February 25, 2020, following a public hearing and deliberation on the project, the Planning Commission voted 7-0 to adopt Planning Commission Resolution 20-09 recommending that the City Council approve General Plan Amendment application GPA19-001 amending the San Rafael General Plan 2020 Land Use Map; and recommending approval of a Mitigation Monitoring and Reporting Program (“MMRP”) for the project; and

WHEREAS, on April 6, 2020, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, on April 6, 2020, by adoption of a separate resolution, the City Council adopted the IS/MND and approved an MMRP for the project; and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based is the Community Development Department.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael does hereby approve General Plan Amendment GPA19-001, amending the San Rafael General Plan 2020 Land Use Map Exhibit 12 as follows:

Modify **Exhibit 12** in the General Plan 2020 Land Use Element to change the existing Light Industrial/Office (LI/O) land use designation of the 190 Mill Street site to the High-Density Residential (HDR) land use designation. This would extend the HDR land use designation of properties to the north and east such that it would encompass the 190 Mill Street property. The proposed modified General Plan Exhibit 12 is shown as **Attachment A**.

BE IT FURTHER RESOLVED, that the amendment is based on and supported by the following findings:

1. The public interest would be served by the adoption of the proposed amendment to Land Use Element Exhibit 12, which would change the existing Light Industrial/Office (LI/O) land use designation of the 190 Mill Street site to the High-Density Residential (HDR) land use designation in that:
 - a. This action would be consistent with and implement San Rafael General Plan 2020 Housing Element Policy H-9 (*Special Needs*) which supports the project’s added affordable housing in the very-low and low-income categories including housing that supports the homeless population.

- b. This action would be consistent with and implement San Rafael General Plan 2020 Housing Element Policy H-9d (*Housing for Extremely Low Income Households*), which supports funding opportunities that support the development of housing affordable to extremely low-income households including funding for projects that will facilitate the construction of multifamily and supportive housing.
 - c. This action would be consistent with and implement San Rafael General Plan 2020 Housing Element Policy H-10 (*Innovative Housing Approaches*) and H-10c (*Single Room Occupancy (SRO) Units*) in that these policies support opportunities for innovative housing approaches that increase the availability of low- and moderate-income housing and promote construction of SRO apartments by eliminating SRO's from density limits, allowing a reduction in parking standards and encourage linkages to social services for this type of housing.
 - d. This action would be consistent with and implement San Rafael General Plan 2020 Housing Element Policy H-12 (*Residential Care Facilities and Emergency Shelters*) which encourages a dispersion of residential care facilities and emergency shelters and discourages an over concentration of residential care facilities and shelters for the homeless in any given area. This policy also recognizes the value of eliminating governmental constraints in the operation or construction of transitional, supportive, and emergency housing, consistent with State law.
 - e. This action would accommodate the construction of a new, permanent emergency shelter to replace the existing emergency shelter that is need of upgrading.
 - f. This action would provide the opportunity for residential uses that are compatible with the adjacent residential and light industrial uses.
 - g. This action would not be growth inducing as the property is already served by all necessary utilities and no expansion of infrastructure would be required for land uses permitted under the HDR land use category to occupy the site.
2. The proposed amendment to Land Use Element Exhibit 12 would be generally consistent with the related elements, goals, policies or programs of the San Rafael General Plan 2020 as a whole in that:
- a. This action would be consistent with and implement San Rafael General Plan 2020 Governance Element Policy G-2 (*Variety of Housing*), which supports the creation and retention of a wide variety of housing types serving people of all economic levels.
 - b. This action would be consistent with and implement San Rafael General Plan 2020 Governance Element Policies G-3 (*Housing Agencies*), G-18 (*Support for Special Needs Groups*), and G-18a (*Collaboration with Local Agencies*) which encourage collaboration and support of housing agencies, non-profits and other organizations that provide shelter,

housing, and related services to very low-, low-, and moderate-income households as well as emergency shelter and supportive housing for the homeless and those with special needs.

- c. This action would be consistent with and implement San Rafael General Plan 2020 Governance Element Policy G-18c (*Zoning Allowance*), which encourages zoning allowance for group homes, transitional housing and treatment facilities, and recognizes the use of SB 2 funds in support of transitional and supportive housing projects.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council held on the 6th day of April 2020, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

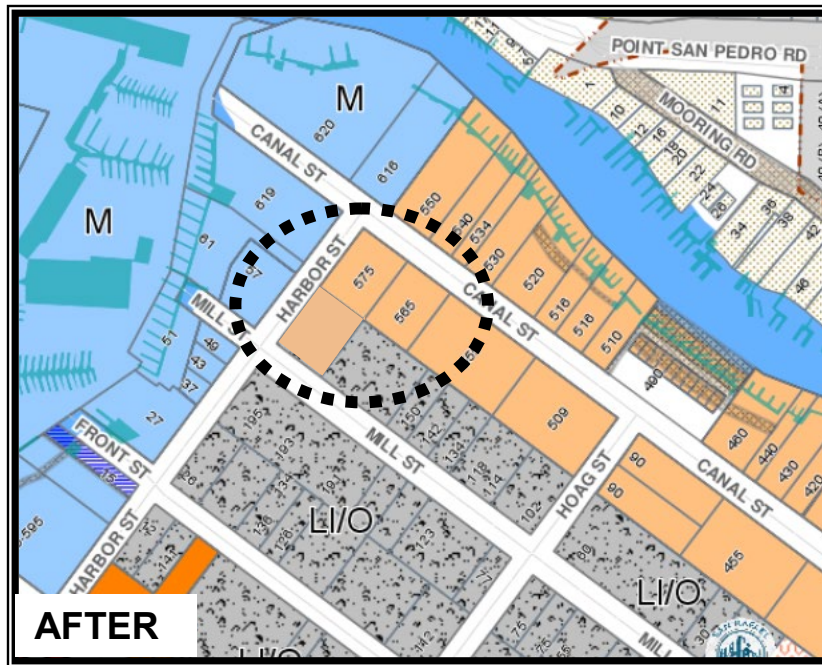
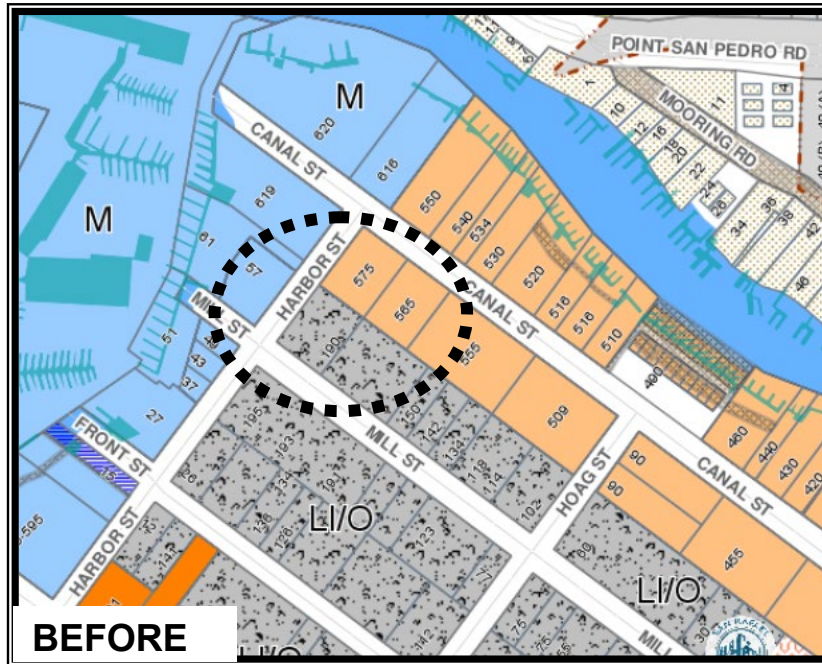
ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Attachment A

General Plan 2020 Exhibit 12 – Land Use Map

Attachment A
General Plan 2020 Exhibit 12 – Land Use Map



ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING THE ZONING MAP OF THE SAN RAFAEL MUNICIPAL CODE TO CHANGE THE EXISTING CANAL CORE INDUSTRIAL/OFFICE (CCI/O) ZONING CLASSIFICATION TO THE HIGH-DENSITY RESIDENTIAL ZONING (HR1) ZONING CLASSIFICATION FOR PROPERTY LOCATED AT 190 MILL STREET (APN 014-192-12)

WHEREAS, on April 26, 2019, Homeward Bound of Marin, the owner of property at 190 Mill Street, submitted applications for a General Plan Amendment (GPA19-001) to change the existing LI/O land Use designation to High-Density Residential (HDR) Land Use Designation, Zoning Map Amendment (ZO19-001) to change the existing Canal Core Industrial/Office (CCI/O) zoning classification to the high-density residential zoning (HR1) zoning classification, and Use Permit (UP19-014) for a new emergency shelter to replace the existing shelter on the property, and these applications are being processed concurrently; and

WHEREAS, the 190 Mill Street site is located within the Core Canal Industrial Office (CCI/O) Zoning District which does not allow residential development; and

WHEREAS, following the initial filing of the Homeward Bound of Marin applications for 190 Mill Street, the City commenced with environmental review of the project. Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of the project, which included the preparation and publication of an Initial Study and Mitigated Negative Declaration (IS/MND) and publication of a Notice of Public Review and Intent to Adopt a Mitigated Negative Declaration on January 2, 2020; and

WHEREAS, the IS/MND assesses the environmental impacts of the proposed amendment to change the existing Canal Core Industrial/Office (CCI/O) Zoning Classification to the High-Density Residential Zoning (HR1) Zoning Classification. The IS/MND finds that the proposed Zoning Map amendment will not result in significant impacts; and

WHEREAS, on February 25, 2020, the Planning Commission, through the adoption of separate resolutions, recommended to the City Council adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, approval of General Plan Map Amendment (GPA19-001), adoption of a Zoning Ordinance Map Amendment (ZO19-001), and approval of Use Permit (UP19-001); and

WHEREAS, on April 6, 2020, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written

public testimony and the written report of the Department of Community Development; and

WHEREAS, on April 6, 2020, by adoption of a separate resolutions, the City Council adopted the IS/MND, approved a Mitigation Monitoring and Reporting Program (MMRP), and approved a General Plan Map Amendment (GPA19-001); and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department; and

WHEREAS, as required by San Rafael Municipal Code Section 14.27.060, the City Council makes the following findings in support of an ordinance to amend the Zoning Map to change the existing Canal Core Industrial/Office (CCI/O) Zoning Classification to the High-Density Residential (HR1) Zoning Classification for the property located at 190 Mill Street, which would extend the HR1 Zoning District on properties to the north and east such that it would encompass the 190 Mill Street property, as shown on the map contained in Exhibit "A" and further described in in Exhibit "B":

1. The proposed amendment to the Zoning Map would be generally consistent with the elements, goals, policies or programs of the San Rafael General Plan 2020 as a whole in that:
 - a. This action would be consistent with and implement San Rafael General Plan 2020 Governance Element Policy G-2 (*Variety of Housing*), which supports the creation and retention of a wide variety of housing types serving people of all economic levels.
 - b. This action would be consistent with and implement San Rafael General Plan 2020 Governance Element Policies G-3 (*Housing Agencies*), G-18 (*Support for Special Needs Groups*), and G-18a (*Collaboration with Local Agencies*) which encourage collaboration and support of housing agencies, non-profits and other organizations that provide shelter, housing, and related services to very low-, low-, and moderate-income households as well as emergency shelter and supportive housing for the homeless and those with special needs.
 - c. This action would be consistent with and implement San Rafael General Plan 2020 Governance Element Policy G-18c (*Zoning Allowance*), which encourages zoning allowance for group homes, transitional housing and treatment facilities, and recognizes the use of SB 2 funds in support of transitional and supportive housing projects.
2. The public interest would be served by the adoption of the proposed amendment to change the existing Canal Core Industrial/Office (CCI/O) Zoning Classification to the High-Density Residential (HR1) Zoning Classification for the property in that:

- a. This action would be consistent with and implement San Rafael General Plan 2020 Housing Element Policy H-9 (*Special Needs*) which supports the added affordable housing in the very-low and low-income categories including housing that supports the homeless population.
- b. This action would be consistent with and implement San Rafael General Plan 2020 Housing Element Policy H-9d (*Housing for Extremely Low Income Households*), which supports funding opportunities that support the development of housing affordable to extremely low-income households including funding for projects that will facilitate the construction of multifamily and supportive housing.
- c. This action would be consistent with and implement San Rafael General Plan 2020 Housing Element Policy H-10 (*Innovative Housing Approaches*) and H-10c (*Single Room Occupancy (SRO) Units*) in that these policies support opportunities for innovative housing approaches that increase the availability of low- and moderate-income housing and promote construction of SRO apartments by eliminating SRO's from density limits, allowing a reduction in parking standards and encourage linkages to social services for this type of housing.
- d. This action would be consistent with and implement San Rafael General Plan 2020 Housing Element Policy H-12 (*Residential Care Facilities and Emergency Shelters*) which encourages a dispersion of residential care facilities and emergency shelters, and discourages an over concentration of residential care facilities and shelters for the homeless in any given area. This policy also recognizes the value of eliminating governmental constraints in the operation or construction of transitional, supportive, and emergency housing, consistent with State law.
- e. This action would accommodate the construction of a new, permanent emergency shelter to replace the existing emergency shelter that is need of upgrading.
- f. This action would provide the opportunity for residential uses that are compatible with the adjacent residential and light industrial uses.
- g. This action would not be growth inducing as the property is already served by all necessary utilities and no expansion of infrastructure would be required for uses permitted under the HR1 Zoning District.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES HEREBY ORDAIN AS FOLLOWS:

DIVISION 1. Findings

The City Council of the City of San Rafael hereby determines and finds that all of the facts and statements contained in the recitals herein and the finding of

Planning Commission Resolution 20-10, adopted February 25, 2020, recommending to the City Council adoption of this Ordinance are true and correct.

DIVISION 2. Approval

The City Council of the City of San Rafael hereby approves and adopts the amendment to SRMC Title 14 Zoning Map as presented in Exhibit A attached hereto and incorporated herein by reference.

DIVISION 3. Publication

A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, Marin County, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk a certified copy of the full text of this Ordinance, along with the names of those Councilmembers voting for or against the Ordinance.

GARY O. PHILLIPS, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of San Rafael, held on the 6th day of April 2020 and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 20th day of April 2020.

LINDSAY LARA, City Clerk

Exhibits:

- A. Rezoning Map
- B. Legal Property Description

Exhibit A
San Rafael Zoning Map

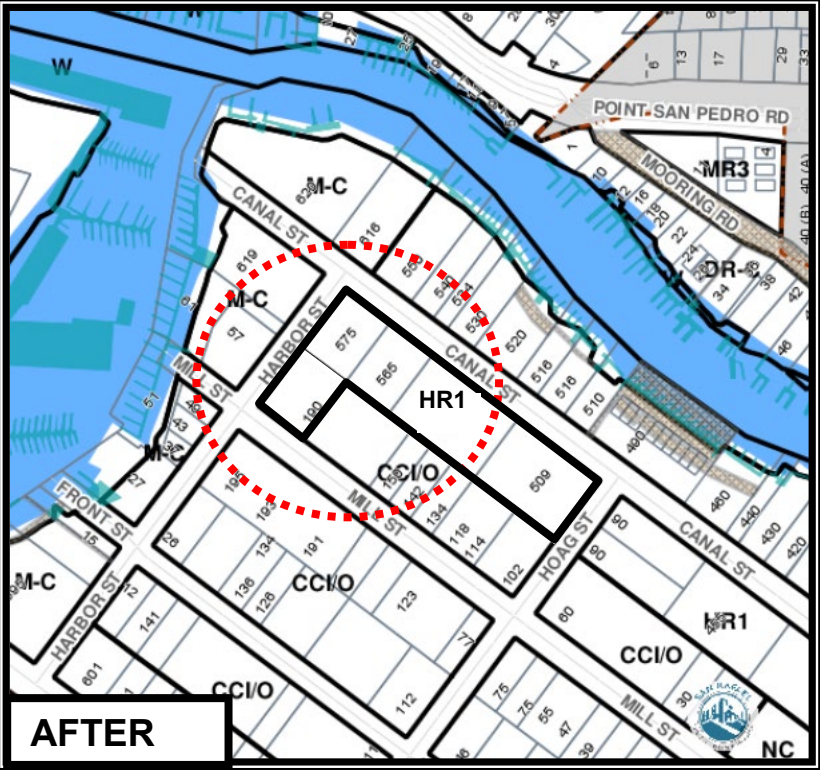
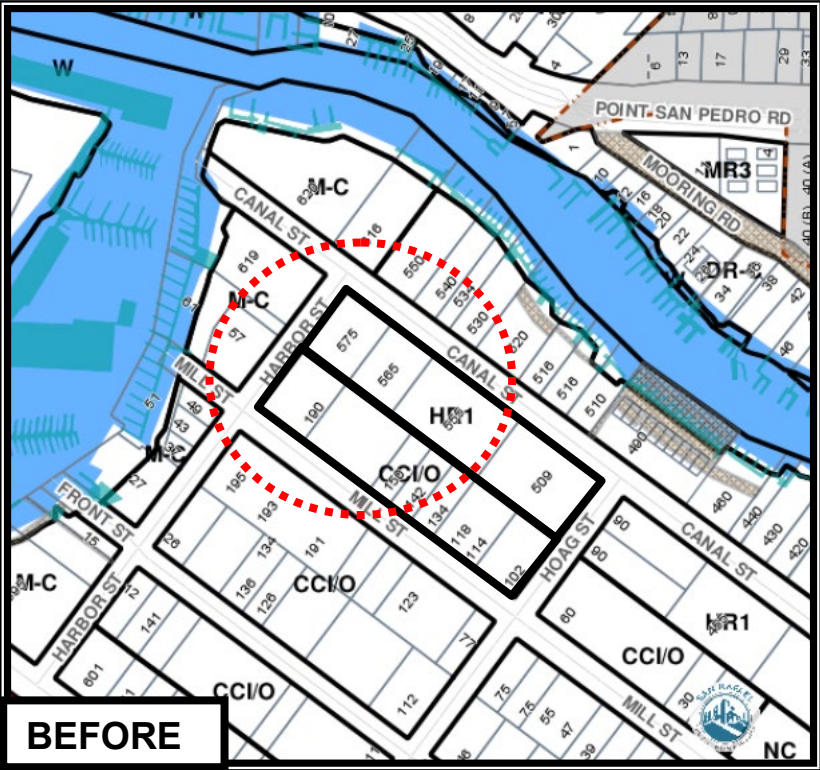


Exhibit B

Legal Property Description

RESOLUTION NO.

**RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL
CONDITIONALLY APPROVING A USE PERMIT (UP19-014) TO ALLOW THE
OPERATION OF A PERMANENT EMERGENCY SHELTER IN A NEW
BUILDING TO BE CONSTRUCTED ON PROPERTY LOCATED AT 190 MILL
STREET AND CONCESSIONS FOR HEIGHT AND LOT COVERAGE
(APN: 014-192-12)**

WHEREAS, Homeward Bound of Marin has operated a permanent emergency shelter at 190 Mill Street with an approved Use Permit since 1986; and

WHEREAS, on April 26, 2019, Homeward Bound of Marin submitted project applications for 190 Mill Street to the City of San Rafael Community Development Department, including an application for a Use Permit (UP19-014) to allow the operation of a permanent emergency shelter in a new building that would house the new shelter and 32 affordable supportive housing units at property located at 190 Mill Street; and

WHEREAS, on April 26, 2019, Homeward Bound of Marin submitted a request to the City of San Rafael Community Development Department for concessions for building height and lot coverage under Density Bonus provisions of the San Rafael Municipal Code and consistent with State law; and

WHEREAS, the project applications for 190 Mill Street include a General Plan Amendment (GPA19-001) to change the existing Light Industrial/Office (LI/O) land use designation to the high-density residential (HDR) land use designation; and a Zoning Map Amendment (ZC19-001) to change the existing Canal Core Industrial/Office (CCI/O) Zoning Classification to the High-Density Residential Zoning (HR1) Zoning Classification; and

WHEREAS, following the initial filing of the Homeward Bound of Marin applications for 190 Mill Street, the City commenced with environmental review of the project. Consistent with the California Environmental Quality Act (CEQA) Guidelines and the City of San Rafael Environmental Assessment Procedures Manual, the appropriate steps were followed to complete environmental review of the project, which focused primarily on the amendments to the Zoning Map and General Plan 2020 Land Use Map referenced above; and

WHEREAS, an Initial Study and Mitigated Negative Declaration (IS/MND) was prepared and a Notice of Public Review and Intent to Adopt a Mitigated Negative Declaration was published on January 2, 2020; and

WHEREAS, Assembly Bill 2162, which amends California Government Code Section 65583 relating to land use, specifies that while a local government may require a use permit and apply certain written objective standards to emergency shelters, the permit processing and application of standards applied to such permits shall not be deemed to be discretionary acts within the meaning of the CEQA; and

WHEREAS, State planning and zoning law allows a developer for an affordable housing project to seek a density bonus, including any concessions, incentives, or waivers of development standards, from the local government (Government Code Section 65655(a)), and Homeward Bound is requesting concessions for building height and lot coverage; and

WHEREAS, on February 25, 2020, the San Rafael Planning Commission held a duly noticed public hearing to consider Use Permit (UP19-014) to allow a permanent emergency shelter, and to consider concessions for building height and lot coverage associated with the affordable supportive housing project. The Planning Commission considered all oral and written public testimony and the written report of the Community Development Department, and following deliberation on the project, voted 6-1-0 (Commissioner Lubamersky Voted No) to adopt Planning Commission Resolution No. 20-11 to recommend approval of the Use Permit (UP19-014) and concessions for building height and lot coverage; and

WHEREAS, on April 6, 2020, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, on April 6, 2020, by adoption of a separate resolution, the City Council adopted the IS/MND and approved a Mitigation Monitoring and Reporting Program (MMRP); and

WHEREAS, the custodian of documents which constitute the record of proceedings upon which this decision is based, is the Community Development Department.

NOW, THEREFORE BE IT RESOLVED that the San Rafael City Council does hereby approve Use Permit application (UP19-014) and the requested concessions, to allow the operation of a permanent emergency shelter, based on the following findings and with the following conditions:

Findings for UP19-014

- A. The proposed use is in accord with the general plan, the objectives of the zoning ordinance, and the purposes of the district in which the site is

located in that the use is located within the High Density Residential (HDR) General Plan Land Use Designation and HR1 (High Density Residential) Zoning District. This Land Use category is intended to provide a variety of opportunities for high-density multifamily residential development.

General Plan Consistency:

The permanent emergency shelter use is consistent with the goals and policies of San Rafael General Plan 2020 as a whole, and the use specifically supports and implements the following:

1. **Housing Element Policy H-9** (*Special Needs*) which supports the added affordable housing in the very-low and low-income categories including housing that supports the homeless population.
2. **Housing Element Policy H-9d** (*Housing for Extremely Low Income Households*), which supports funding opportunities that support the development of housing affordable to extremely low-income households including funding for projects that will facilitate the construction of multifamily and supportive housing.
3. **Housing Element Policy H-10** (*Innovative Housing Approaches*) and **H-10c** (*Single Room Occupancy (SRO) Units*) in that these policies support opportunities for innovative housing approaches that increase the availability of low- and moderate-income housing and promote construction of SRO apartments by eliminating SRO's from density limits, allowing a reduction in parking standards and encourage linkages to social services for this type of housing.
4. **Housing Element Policy H-12** (*Residential Care Facilities and Emergency Shelters*) which encourages a dispersion of residential care facilities and emergency shelters and discourages an over concentration of residential care facilities and shelters for the homeless in any given area. This policy also recognizes the value of eliminating governmental constraints in the operation or construction of transitional, supportive, and emergency housing, consistent with State law.

Zoning Consistency:

This use is located in the High-Density Residential District (HR1) District, which is intended to provide a variety of opportunities for high-density multifamily residential development. The proposed emergency shelter is a residential use that is permitted in the HR1 District with approval of a Use Permit pursuant to San Rafael Municipal Code ("SRMC") Section 14.04.040.

- B. The proposed use, together with the conditions applicable thereto, will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity, or to the general welfare of the city because the project is subject to adherence to the

performance standards addressed in the findings and the conditions below, which would among other measures require on-site management and security, fully enclosed refuse storage areas that are adequate for the proposed use, adequate security lighting, and adequate parking for the shelter staff, service providers and volunteers. In addition, the provider is required to have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to ensure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.

- C. The proposed use complies with the applicable provisions of SRMC Title 14, the Zoning Ordinance. The emergency shelter meets the following development and performance standards, as required by SRMC Section 14.16.115.C:
1. On-site management and on-site security shall be provided during hours when the emergency shelter is in operation.
 2. Adequate external lighting shall be provided for security purposes (i.e., one (1) foot-candle at all doors and entryways and one-half ($\frac{1}{2}$) foot-candle at walkways and parking lots). The lighting shall be stationary, directed away from adjacent properties and public rights-of-way, and of intensity compatible with the surrounding area.
 3. The development provides common facilities for the exclusive use of the residents and staff, including a shared kitchen, dining room, lounge, outdoor terraces, and offices for counseling and other support services.
 4. Parking and outdoor facilities provide adequate security for staff, service providers, and volunteers.
 5. A fully enclosed refuse storage area located in the enclosed garage area is provided that is large enough to accommodate a standard-sized trash bin, and an additional enclosure for recycling bins.
 6. The agency or organization operating the shelter shall comply with the following requirements:
 - a. Shelter shall be available to residents for no more than six (6) months. No individual or household may be denied emergency shelter because of an inability to pay.
 - b. Staff and services shall be provided to assist residents to obtain permanent shelter and income.
 - c. The provider shall have a written management plan including, as applicable, provisions for staff training, neighborhood outreach, security, screening of residents to ensure compatibility with services provided at the facility, and for training, counseling, and treatment programs for residents.
 7. The emergency shelter is not within proximity to any other existing or planned emergency homeless shelter.

8. The facility shall maintain at all times in good standing all city and/or state licenses, if required by these agencies for the owner(s), operator(s), and/or staff on the proposed facility.
9. The maximum number of beds or clients permitted to be served (eating, showering and/or spending the night) nightly shall not exceed the occupancy limit established by the California Building Code.

Findings for Concessions

- A. The Project complies with the City's affordable housing requirement, pursuant to SRMC Section 14.16.030, by providing 100% of the 32 supportive housing units as "affordable" or Below-Market-Rate (BMR) units. All 32 of the affordable units would be affordable at Extremely Low or Very Low-income levels.
- B. By meeting the City's affordable housing requirement of at least 20%, the project is eligible for up to 3 concessions and unlimited waivers under the State Density Bonus law.
- C. The project proposes two (2) discretionary concessions/waivers:
 1. To achieve the proposed 32 supportive housing units, a Concession is requested to allow a 6% increase in lot coverage, from the maximum 60% permitted in HR1 District to 66% lot coverage; and
 2. To achieve the proposed building height, a Concession is requested for proposed height increase from maximum height of 36 feet allowed in the HR1 District to a 48-foot maximum building height.
- D. The additional lot coverage and the additional building height are considered major concessions (SRMC Section 14.16.030.H.3.b.v) and therefore are subject to approval of the City Council and require that the applicant demonstrate through a financial *pro forma* that the concessions are needed to make the project financially feasible.
- E. Based on SRMC Section 14.16.030.H.2, the City may, at its sole discretion, grant a density bonus exceeding the State's minimum requirements where the applicant agrees to construct a greater number of affordable housing units than required pursuant to SRMC Section 14.16.030(B)(2). If such additional density bonus is granted by the city and accepted by the applicant, the additional density bonus shall be considered an additional concession or incentive for purposes of Government Code Section 65915. Given that the project proposes 100% of the 32 supportive housing units as affordable, the City finds that the 100% affordability provides a significant public benefit.
- F. Based on the fact that the project provides all 32 supportive housing units as affordable units to extremely low and very low income households and

is supported by the financial *pro forma* that demonstrates that the concessions are necessary to make the 100% affordable housing project feasible, the City hereby grants the concessions/waivers (increased lot coverage and increased building height) as requested by the project.

Conditions of Approval for UP19-014

1. This Use Permit approves the operation of a permanent emergency shelter within a new building to be constructed on the property located at 190 Mill Street. The building techniques, materials, elevations, and appearance of the project, as shown on plans presented to the Planning Commission on February 25, 2019, shall be the same as required for issuance of a Building Permit except as modified by these conditions of approval.
2. These conditions of approval shall be included on the first sheet of plans submitted for a building permit. The applicant shall comply with all applicable requirements of the San Rafael Municipal Code and of the implementing zone classification of HR1 (High Density Residential) Zoning District, as permitted by and consistent with State law.
3. This Use Permit does not approve any signs proposed for the project site. A separate sign permit and fee will be required for any signage for the new building.
4. Minor modifications or revisions to the project shall be subject to review and approval by the Community Development Department, Planning Division. Modifications deemed not minor by the Community Development Director shall require review and approval by the original decision-making body.
5. The applicant shall comply with all applicable requirements of the City, County, State, and other responsible agencies. This Use Permit shall run with the land.
6. The applicant shall comply with Performance Standards outlined under Section 14.16.115.C of the San Rafael Municipal Code.
7. This Use Permit shall become null and void if not vested within two (2) years from the date of approval, unless a time extension is granted before that date. Vesting shall include issuance of necessary building permits or commencement of operations.
8. The applicant shall comply with San Rafael Sanitation District (SRSD) requirements outlined in their memo dated May 17, 2019, which includes the following:

- a. Prior to issuance of Building Permit, the applicant shall pay the appropriate sewer connection fees for new plumbing fixtures.
 - b. All sanitary sewer-related work shall be performed in accordance with SRSD Standards, including installation of backflow preventer.
 - c. The applicant shall provide sanitary drains for the trash and recycling areas. All refuse areas shall be covered and graded to drain independently of all surrounding non-refuse areas.
9. The applicant shall comply with Fire Department Standard Conditions of approval as noted in Memorandum dated May 3, 2019, which includes the following:
- a. The design and construction of all site alterations shall comply with the 2016 California Fire Code (“CFC”) and City of San Rafael Ordinances and Amendments.
 - b. The applicant shall coordinate submittal of plans for the following fire protection systems prior to installation:
 - i. Fire Sprinkler Plans
 - ii. Fire Standpipe Plans
 - iii. Fire Alarm Plans
 - iv. Kitchen Hood Automatic Fire-Extinguisher System Plans
 - c. A recessed mounted Knox Box (#3200 Series) is required at the primary point of first response to the building. Plans for building permit submittal shall show location of Knox Box on plans. The Knox Box shall be clearly visible upon approach to the main entrance from the fire lane, and shall be installed between 72” to 78” above finish grade.
 - d. A Knox key switch for driveway or access road automatic gates.
 - e. All fire apparatus and access requirements must be met.
 - f. Adequate water supply serving the Fire Protection System shall be verified with Marin Municipal Water District.
 - g. The applicant shall provide exit signage, panic hardware, and emergency backup lighting for all required exit doors.
 - h. Applicant shall provide fire extinguishers per CFC requirements.
10. The applicant shall comply with Department of Public Works (DPW) Standard Conditions of approval as noted in Memorandum dated May 28, 2019, which includes the following:
- a. Any work within the Right-of-Way shall require an encroachment permit and would include outdoor license review by DPW.
 - b. Prior to occupancy of new building, an elevation certificate and floodproofing certificate shall be submitted to the Department of Public Works.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting

of the San Rafael City Council held on the 6th day of April 2020, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

RESOLUTION NO.

RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL WAIVING PAYMENT OF FEES FOR APPLICATIONS ASSOCIATED WITH HOMEWARD BOUND EMERGENCY SHELTER AND SUPPORTIVE HOUSING PROJECT LOCATED AT 190 MILL STREET (MILL STREET CENTER) (APN: 014-192-12)

WHEREAS, Homeward Bound of Marin has operated a permanent emergency shelter at 190 Mill Street with an approved Use Permit since 1986; and

WHEREAS, on April 26, 2019, Homeward Bound of Marin submitted project applications to the City of San Rafael Community Development Department for a new emergency shelter and 32 supportive housing units at 190 Mill Street; and

WHEREAS, the applications submitted include a General Plan Amendment (GPA19-001) to change the existing LI/O land Use designation to High-Density Residential (HDR) Land Use Designation, Zoning Map Amendment (ZO19-001) to change the existing Canal Core Industrial/Office (CCI/O) zoning classification to the high-density residential zoning (HR1) zoning classification, and a Use Permit (UP19-014) for a new emergency shelter to replace the existing shelter; and

WHEREAS, City Council Resolution No. 11025 established a policy for evaluating requests for fee waivers for certain projects, including affordable housing projects; and

WHEREAS, on December 28, 2018, Homeward Bound of Marin submitted a letter to the City of San Rafael Community Development Department requesting a waiver for fees associated with the above referenced applications for Emergency Shelter and Supportive Housing Project at 190 Mill Street; and

WHEREAS, on January 2, 2019, the City responded to Homeward Bound of Marin, advising Homeward Bound that the request for a fee waiver would be processed along with other the project entitlements; and

WHEREAS, on April 6, 2020, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, on April 6, 2020, by adoption of a separate resolution, the City Council adopted the IS/MND and approved a Mitigation Monitoring and Reporting Program (MMRP); and

NOW, THEREFORE BE IT RESOLVED that the San Rafael City Council does hereby waive the requirement for payment of Planning Division application fees associated with the Homeward Bound of Marin Emergency Shelter and Supportive Housing Project at 190 Mill Street with the finding that the waiver is consistent with the requirements of Resolution No. 11025 establishing policies for consideration of fee waivers in that:

1. Homeward Bound of Marin is a non-profit organization;
2. Homeward Bound of Marin operates the only permanent emergency shelter for homeless adults at 190 Mill Street, which provides much needed emergency shelter for the County's homeless population;
3. The proposed new facility will expand the number of emergency shelter beds and provide 32 permanent supportive housing units and services for high-needs people experiencing homelessness;
4. The 32 permanent supportive housing units will be available in the extremely low-income housing category;

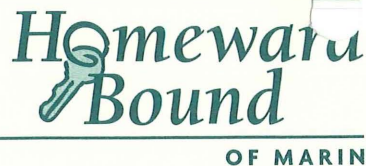
I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council held on the 6th day of April 2020, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk



December 18, 2018

Paul Jensen - Community Development Director
City of San Rafael
1400 Fifth Avenue, Top Floor
San Rafael, CA 94901

Dear Paul,

Homeward Bound of Marin proposes upgrading and improving the existing Mill Street Center by expanding the current emergency shelter structure while also adding 32 units of affordable supportive housing.

Pursuant to Resolution 11025, we respectfully request a full waiver of the impact fees for this project.

Working with Frederic Divine Architects and an experienced general contractor to carry out the work, our plan for Mill Street Center is to replace the worn and outdated structure with an expanded facility fully integrated with new affordable supportive housing units and 24/7 on-site behavioral and social services. This will meet the community need for newly developed, site-based, affordable permanent supportive housing units to serve extremely low-income chronically homeless individuals in Marin.

We gratefully acknowledge the support of this development from the City of San Rafael, and request that the City authorize the waiver of fees for this project, including fees for Public Facilities, Traffic Impact, and Residential Development.

Thank you for considering this request to help rebuild Marin's only emergency shelter for homeless adults and develop new critically-needed affordable housing units. Please let us know if you have any questions or need additional information.

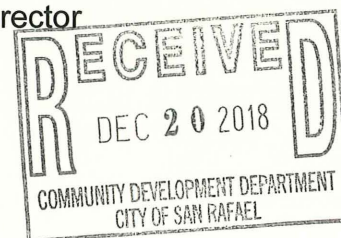
Sincerely,

A handwritten signature in blue ink that reads "Mary Kay Sweeney".

Mary Kay Sweeney
Executive Director

A handwritten signature in black ink that reads "Paul Fordham".

Paul Fordham
Deputy Executive Director



Alicia Giudice

From: mark kline <tin.pin.tommy@gmail.com>
Sent: Sunday, January 5, 2020 6:11 PM
To: Alicia Giudice
Cc: Feng Xue
Subject: 190 Mill street

Alicia Giudice,

I have concerns about this project. I have lived at 575 Canal Street for 30 years and like the privacy I have. We have 5 apartments facing south and by your plans, there will be 15 windows on the north side, all of which will be above the fence you plan to install. We would all lose our privacy. My other concern is littering. I take care of this building and frequently find people from Homeward bound in our carport. I ask them to leave but know it is only temporary, and then I get to pick up their trash. Now you are planning to triple the amount of people there. I see that as tripling my chores. I realize the homeless situation is a problem but I am not happy with your solution. I plan to attend your meeting on the 28th.

Thank You,
Mark Kline
575 Canal St. Apt 3
San Rafael, Ca
94901-4186

Alicia Giudice

From: Michael Dinger <vw.van.works@gmail.com>
Sent: Sunday, January 19, 2020 7:04 PM
To: Alicia Giudice
Subject: Emergency Shelter & Supportive Housing 190 Mill Street San Rafael

Hello Alicia Giudice,

I'm writing you today in response to the mail I received end of November 2019 regarding the planned extension of the homeless shelter on 190 Mill St in San Rafael. I'm the owner of an Automotive Repair shop across the shelter, very familiar with the daily routine of the homeless shelter and all the happenings regarding the facility. I visited the City's website and the project of the Planning Division which raised in my opinion quite some concerns. I understand the shortage of housing for homeless people but a shelter this size in this industrial area I believe is out of context and a more peaceful environment is required for the people in need.

- Mill Street is an industrial area with a lot of automotive traffic due to the businesses there
- The size of the shelter and the planned height is not permitted in an area like Mill Street
- I'm very concerned about accidents with the amount of people leaving the facility and the traffic on the street
- also the parking situation on the street will not cover enough space for the extended staff,
 - + volunteers
 - + homeless who own a car
 - + supported housing people who own a car
 - + emergency vehicles who frequently visit the shelter which will increase with the over 100 people there
 - + delivery vehicles to supply such a place
- according to the building planned there will be insufficient space available
- we, who conduct business on Mill Street and work on customer cars need to follow parking guidelines the City of San Rafael put in place to free up space, how will adding this large building help with that
- I witness almost every day that people coming to the shelter leave their accumulated belongings or trash on the street and often, if not accepted in the shelter, try or brake into parked cars on the street or neighborhood to find a place to stay, please see the police reports related to that
- also I find more often discharge of fecal matter any kind on the street, how will this change when more people are drawn into the area and then can't be sheltered
- is the utility system capable of handling a building like that, floods of the Canal Area might compromise these systems

I would appreciate a response and consider my thoughts not against a shelter. I trying to attend the meeting on the 28th of January

Best Regards

Michael Dinger
Valley Wagonworks
193 Mill St.
San Rafael, CA 94901
Shop: (415) 457-5628
Email: vw.van.works@gmail.com

Alicia Giudice

From: Dana Phillips <danamphillips@yahoo.com>
Sent: Saturday, January 18, 2020 10:27 PM
To: Alicia Giudice
Subject: Mill Street expansion

Hello,

I am glad that the Mill Street shelter is expanding.

I read a story of a working developmentally disabled homeless woman who posted on next door during last year, that she had to call Mill Street every day just to hope to get a bed. Some days she was denied.

Also the homeless who are camping in places like Gold Hill need to be told there is a shelter bed for them, so they can't camp just anywhere. Having a shelter for them will reduce the frequency of their trespassing, it has been a problem with homeless people sometimes wandering through my yard late at night, looking for a place to camp or to use drugs. This week a homeless woman was walking around in my bushes for some non-reason she gave, where if she had a shelter bed, she would have more awareness of available services to get off whatever she was using. Looked like she had come from Gold Hill on her bicycle.

Please approve and assist Mill Street's expansion.

Thank you,
Dana Phillips

Alicia Giudice

From: Rick Simanek <rick.simanek@gmail.com>
Sent: Friday, January 17, 2020 3:13 PM
To: Alicia Giudice
Cc: Claudia Gardner
Subject: 190 Mill Street

Hello Alicia Giudice,

I am responding to the City of San Rafael notice about the planned project at 190 Mill Street. I have reviewed the information provided on line project website "cityofsanrafael.org/homeward bound". I find the size of the proposed building to be too large. I also find the increase number of beds/housing units to be too large. I object to this plan of allowing a hotel to be built within our light industrial area. What follows below are my thoughts and comments on some of the issues and concerns about this expansion of the existing emergency homeless shelter.

Physically, this project building is too large. A)The 4 story building covers most of the site. Such a large ratio of structure to land use is not permitted by the City in our area. If an industrial or office building was proposed for this site, much more open space would be required. B) In addition to "green space", off street, meaning on site ,parking would be required.. The interior parking shown on the drawings would not be adequate for staff, volunteers, service providers, vendors, visitors, emergency police and paramedic services, and maintenance personnel. C) There may not be enough capacity of the utilities on Mill Street that would be required to operate this large building. Has anyone checked the capacity for : water service, including stand by fire sprinkler system ; sanitary sewer; electrical and gas service; telephone and data service.

The expansion of beds/ housing units is too large. Perhaps the operators of this 24/7/365 hotel may be able to serve their clients with in the walls of their building. I do not believe that the City is ready to serve our community if the expansion to 92 beds/units is allowed. I ask you to contact your police and fire departments for an evaluation of this increase. The data of incidents on Mill Street should give strong indications of what would be expected with an increase and the require increase in police patrols/calls and paramedic responses. I would also ask you to contact your Public Works group for an evaluation of increased street and trash removal services.

Another issue would be increased traffic congestion in this area during construction and operation. Traffic meaning both vehicle and pedestrian. There is no lay down space on site for heavy construction materials. Likewise, during operations there are street access concerns

over the expanded hotel personnel and users. I believe that as congested as Mill Street is now, this planned expansion will make the congestion worse. This will be very noticeable in the morning and evenings. In our area of the Canal, new parking regulations have been put into practice. Restrictions on time limits and painted parking spaces have helped free up some of this congestion. A lot more new folks would seem to make congestion worse.

As you can tell, my concerns and comments deal with everything planned being too large. I ask the Study Session to consider these thoughts. If the project is made smaller, that would be good. Perhaps take off the 4th floor. Perhaps include more onsite parking. Perhaps, add a second story to the existing shelter. For any new work, I do suggest increased perimeter lighting for the project site and Mill and Harbor streets. If “permanent supportive housing units” are to be allowed, upgraded lighting and many more support services will be a necessity. That would make it a real hotel, which does not fit this neighbor.

I offer these thoughts as one who has worked on Mill Street since 1985 and who now owns property there.

Alicia, Please let me know that you have received this email. I hope to attend the Tuesday 1/28/2020 7 pm meeting on this subject.

Thank you, Rick Simanek 1/17/2020 3:15 pm

Alicia Giudice

From: marinmehc@gmail.com
Sent: Wednesday, January 15, 2020 9:47 AM
To: Alicia Giudice
Cc: Larry Kennings; mksweeney@hbofm.org
Subject: Mill Street Shelter - Initial Study/Mitigated Negative
Attachments: MEHC_HomewardBound_Mill_Street.pdf

Dear Ms. Giudice,

We are attaching a letter re: the new plans for the shelter at 190 Mill Street in San Rafael.

Thank you,



Lisel Blash
Housing Specialist
Marin Environmental Housing Collaborative
marinmehc.org
415-305-5493



January 15, 2020

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Lisel Blash,
Housing Specialist

P.O. Box 9633
San Rafael CA 94912
www.MarinMEHC.org

San Rafael Planning Commission
c/o Alice Giudice, Project Planner
1400 Fifth Avenue, Room 203
San Rafael, CA 94901

Dear Commissioners & Ms. Giudice:

Marin Environmental Housing Collaborative (MEHC) is a consortium of advocates building support for projects and policies that advance affordable housing as well as environmental integrity and social justice.

We are writing in regard to Homeward Bound's Supportive Housing and Emergency Shelter on Mill Street in San Rafael. We have read the Draft Initial Study/Mitigated Negative Declaration and see little cause for concern. This is an urban infill project on a site that has been used as a shelter for many years. It appears that any potential significant impacts to Cultural Resources, Geology and Soils, and Tribal Cultural Resources can be mitigated.

While the site is in a flood zone that will be impacted by sea level rise, it is unlikely that this project could be sited elsewhere in Marin due to the community's historic resistance to homeless shelters and affordable housing. The addition of a soft floor for staff parking increase the number of on-site parking spaces from 12 to 18 and raise the living space above flood level. This infill site is conveniently located near to shopping, services, and public transportation—all vital for residents who are likely to be car-free.

MEHC supports this project because it will provide 32 units of permanent supportive housing that will address an identified gap in permanent supportive housing for the homeless, who have significant barriers to obtaining and maintaining housing, in addition to providing year-round shelter beds that are so desperately needed. This project will have minimal environmental impact.

We urge you to approve the requested General Plan Amendment, Zoning Amendment, and Use Permit for this project.

Sincerely,

David Levin
Co-Chair

Sami Mericle
Co-Chair

Alicia Giudice

From: Kate Sudar Sprague <sprague.kate@gmail.com>
Sent: Tuesday, January 28, 2020 4:16 PM
To: Alicia Giudice
Subject: Re: 190 Mill Street

Hi Alicia,

Thank you for the update! I will see if I can make the meeting.

Since I sent my message, I have been reflecting a lot on housing in San Rafael, especially regarding shelter housing. My husband and I believe strongly in making more housing available, especially in the Bay Area and Marin. Because of that, it would be hypocritical of me to be against the Mill Street extension, especially since the property is already owned and in use for the same purpose. I do think this is an opportunity for the city to focus on some specific resources to the Canal neighborhood, and I spoke earlier today with Kate Colin and Mary Kay Sweeney about the same issues.

Thank you again for your time.

Best,
Kate Sprague

On Mon, Jan 27, 2020 at 4:35 PM Alicia Giudice <Alicia.Giudice@cityofsanrafael.org> wrote:

Kate, thanks for your email. I wanted to let you know that this item is being continued to the February 11, 2020 Planning Commission meeting.

Thanks

Alicia Giudice, AICP | City of San Rafael

Senior Planner

1400 5th Avenue, 3rd floor

San Rafael, CA 94901

415-485-3092



SAN RAFAEL
THE CITY WITH A MISSION

From: Kate Sudar Sprague <sprague.kate@gmail.com>
Sent: Wednesday, January 22, 2020 5:05 PM
To: Alicia Giudice <Alicia.Giudice@cityofsanrafael.org>
Subject: 190 Mill Street

Hello,

I am writing to express my concern about the extension to the homeless shelter at 190 Mill Street. Homelessness is a massive problem for San Rafael and California in general. The shelter on Mill Street provides much needed shelter to many people who otherwise would be sleeping on the streets. However, increasing the capacity of that shelter would only overload the already impacted neighborhood in the Canal.

As a resident of the Canal neighborhood, I regularly see garbage, littering, dumping, and parking issues. Adding 32 units and 60 emergency beds will further exacerbate the problem of too many people in too small an area. It is well-known that the pedestrian and bike access to the Canal neighborhood is unsafe and inadequate, so adding more people to that thoroughway is another unnecessary burden.

Adding an extension to the Mill Street shelter would continue to isolate the Canal neighborhood with too many people and not enough resources. It would continue to burden the Canal neighborhood unduly, putting the problems "out of sight and out of mind" of other San Rafael (and Marin) residents. The physical segregation of the area has made it easier for other San Rafael neighborhoods and residents to remain unburdened and unaware of the conditions in the Canal.

Grouping so many resources for underserved populations in the greater Canal area - such as the community clinic - further compounds the problems of our neighborhood. It is no wonder we deal with parking issues exceeding anywhere else in San Rafael; or litter, garbage, and dumping that would be untenable in other neighborhoods; or traffic regularly resulting in 1-mile commutes that take 20 minutes.

San Rafael is a large city; how is it possible that there is no better place for this shelter? I would invite any interested city employees or elected officials to visit our neighborhood and walk around with those of us living with these daily realities. I believe we can work together to come up with better solutions that offer housing units and emergency beds to those most vulnerable among us without overburdening further the Canal.

Thank you for your time,

Kate Sprague

50 Sonoma St

CITY OF SAN RAFAEL
NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION AND
NOTICE OF ONLINE PUBLIC HEARING

You are invited to view and participate online the City Council hearing on the following project:

ONLINE PUBLIC HEARING DATE/TIME/PLACE: **Monday, April 6, 2020 at 7:00 P.M. COVID-19 ADVISORY NOTICE** Consistent with Executive Orders No.-25-20 and No. N-29-20 from the Executive Department of the State of California and the Marin County March 16, 2020 Shelter in Place Order, the San Rafael City Council meeting of April 6, 2020 will not be physically open to the public and the meeting will be streamed live to YouTube at <https://www.youtube.com/channel/UCaQDIHi5fD6sByZUw5FOg9A>. Instructions on how to participate online, will be available on the YouTube channel.

PROJECT LOCATION: **190 Mill Street, San Rafael**

PROJECT DESCRIPTION: Request for the following: a) General Plan (GP) and Zoning Map Amendment to extend the existing adjacent High Density Residential (HDR) GP Land Use and respective High Density Residential (HDR1) Zoning district boundary to include this site; b) Use Permit for expansion of the existing emergency shelter to allow up to 60 beds; and c) request for Fee Waiver Pursuant to Resolution 11025. In addition, the proposed development would include construction of a 24,042 square foot building that would also include construction of by-right supportive housing development of 32 units. APN: 014-192-12; Core Canal Industrial/Office (CCI/O) District; Homeward Bound owners/applicant; File No(s):. GPA19-001/ZC19-001/UP19-001/P20-001

As required by State law (California Environmental Quality Act) this project is subject to a review of potential environmental impacts. An assessment of potential impacts (Initial Study) has been completed. The Initial Study concludes that the project has the potential to result in significant environmental effects. However, the Initial Study finds that the potentially significant impacts can be reduced or eliminated by requiring and implementing recommended measures. The Initial Study recommends the adoption of a Mitigated Negative Declaration, which includes the recommended mitigation measures. Pursuant to the provisions of the California Environmental Quality Act Guidelines, the Initial Study/Negative Declaration was made available for a 20-day public review period, which ended January 21, 2020.

AVAILABILITY OF DOCUMENTS The Draft Initial Study/Mitigated Negative Declaration is available at https://www.cityofsanrafael.org/homeward_bound/

WHAT WILL HAPPEN: You can comment on the project online in real time on YouTube. If you do not have access to the internet, contact the City Clerk to discuss alternative options for remote participation at 415-485-3066. The City Council will consider public comments/testimony and decide whether to approve or deny the project applications.

IF YOU CANNOT PARTICIPATE ONLINE: You may send a letter to Lindsay Lara, City Clerk, City of San Rafael, P.O. Box 151560, San Rafael, CA 94915-1560.

FOR MORE INFORMATION: Contact Alicia Giudice, Principal Planner at (415) 485-3092 or alicia.giudice@cityofsanrafael.org . **City offices are currently closed to public walk in, but you can contact the planner for more information.** You can also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>.

NOTICE OF ONLINE PUBLIC MEETING – CITY COUNCIL

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WHAT WILL HAPPEN: The City Council will consider public comment/testimony and decide whether to approve or deny the project applications.

HOW TO PROVIDE PUBLIC COMMENTS: You can send written correspondence by email to the address above prior to the meeting, you can comment online in real-time on YouTube. If you don't have access to internet, contact the City Clerk to discuss alternative options for remote participation at 415-485-3066.

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request.

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Marin Independent Journal

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San Rafael, CA 94903

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NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION AND
NOTICE OF ONLINE PUBLIC HEARING**

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ONLINE PUBLIC HEARING

DATE/TIME/PLACE:

Monday, April 6, 2020 at 7:00 P.M. COVID-19

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SAN RAFAEL CITY COUNCIL

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

No. 336 Monday, March 23, 2020

Marin Independent Journal

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STATE OF CALIFORNIA County of Marin

I am a citizen of the United States and a resident of the County aforesaid: I am over the age of eighteen years, and not a party to or interested in the above matter. I am the principal clerk of the printer of the MARIN INDEPENDENT JOURNAL, a newspaper of general circulation, printed and published daily in the County of Marin, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Marin, State of California, under date of FEBRUARY 7, 1955, CASE NUMBER 25566; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

03/23/2020

I certify (or declare) under the penalty of perjury that the foregoing is true and correct.

Dated this 23th day of March, 2020.



Signature

PROOF OF PUBLICATION

Legal No. **0006472914**

CITY OF SAN RAFAEL NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION AND NOTICE OF ONLINE PUBLIC HEARING

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SAN RAFAEL CITY COUNCIL

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK

No. 336 Monday, March 23, 2020