



**AGENDA  
REGULAR MEETING  
CITY COUNCIL OF THE TOWN OF COLMA  
Wednesday, June 23, 2021  
Closed Session - 6:00 PM  
Regular Session - 7:00 PM**

*On March 17, 2020, the Governor issued Executive Order N-29-20 suspending certain provisions of the Ralph M. Brown Act in order to allow for local legislative bodies to conduct their meetings completely telephonically or by other electronic means. Pursuant to the Shelter-in-Place Orders issued by the San Mateo County Health Officer on March 16, 2020 and March 31, 2020, the statewide Shelter-in-Place Order issued by the Governor in Executive Order N-33-20 on March 19, 2020, and the CDC's social distancing guidelines which discourage large public gatherings, the Council Chamber will not be open to the public for this Town of Colma City Council Meeting. The purpose of these orders was to provide the safest environment for Council Members, staff and the public while allowing for public participation.*

*Members of the public may view the meeting by attending, via telephone or computer, the Zoom Meeting listed below:*

**Join Zoom Meeting: <https://us02web.zoom.us/j/81289976261>  
Passcode: 074407**

**Meeting ID: 812 8997 6261  
Passcode: 074407**

**One tap mobile  
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+13462487799,,81289976261#,,,,,0#,,074407# US (Houston)**

**Dial by your location  
+1 669 900 6833 US (San Jose)  
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+1 312 626 6799 US (Chicago)  
+1 929 205 6099 US (New York)  
+1 301 715 8592 US (Germantown)**

**Meeting ID: 812 8997 6261  
Passcode: 074407**

**Find your local number: <https://us02web.zoom.us/u/kco5bgxkcc>**

*Members of the public may provide written comments by email to the City Clerk at [ccorley@colma.ca.gov](mailto:ccorley@colma.ca.gov) before or during the meeting. Emailed comments should include the specific agenda item on which you are commenting or note that your comment concerns an item that is not on the agenda. The length of the emailed comment should be commensurate with the three minutes customarily allowed for verbal comments, which is approximately 250-300 words.*

**CLOSED SESSION – 6:00PM**

**1. In Closed Session Under Government Code § 54956.9(d), CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Number of Cases: 1

**PLEDGE OF ALLEGIANCE AND ROLL CALL – 7:00PM**

**ADOPTION OF AGENDA**

**PRESENTATION**

- Recognition of Pride Month
- Proclamation in support of National Mosquito Control Awareness Week

**PUBLIC COMMENTS**

Comments on the Consent Calendar and Non-Agenda Items will be heard at this time. Comments on Agenda Items will be heard when the item is called.

**CONSENT CALENDAR**

2. Motion to Accept the Minutes from the June 9, 2021 Special Meeting.
3. Motion to Accept the Minutes from the June 9, 2021 Regular Meeting.
4. Motion to Adopt a Resolution Approving and Authorizing the City Manager to Release a Portion of the Cash Deposit Provided for the Grading Work at the New Cadillac Dealership at 775 Serramonte Blvd.
5. Motion to Adopt a Resolution Adopting the FY 2021-22 Appropriation Limit.
6. Motion to Adopt a Resolution Approving and Authorizing the City Manager to Execute a Five-Year Contract with Turbo Data Systems, Inc for Parking and Traffic Citation Processing.

**PUBLIC HEARING**

**7. SEWER RATE INCREASE FOR NORTH SAN MATEO COUNTY SANITATION DISTRICT SEWER SYSTEM**

*Consider:* Motion to Adopt a Resolution Adopting Increased Rates for Sewer Service Charges for Properties Connected to the North San Mateo County Sanitation District Sewer System and Taking Other Actions Relating Thereto.

**8. SUSTAINABLE FOOD SERVICE WARE ORDINANCE**

*Consider:* Motion to Introduce and Waive a Further Reading of an Ordinance Repealing Colma Municipal Code Subchapter 4.13 and Adopting a New Subchapter 4.13 Regulating the Use of Disposable Food Service Ware by Food Facilities Pursuant to CEQA Guideline 15061(b)(3) and 15308.

**REPORTS**

Mayor/City Council

City Manager

**ADJOURNMENT**

The City Council Meeting Agenda Packet and supporting documents are available for review on the Town's website [www.colma.ca.gov](http://www.colma.ca.gov) or at Colma Town Hall, 1198 El Camino Real, Colma, CA. Persons interested in obtaining an agenda via e-mail

should call Caitlin Corley, City Clerk at 650-997-8300 or email a request to [ccorley@colma.ca.gov](mailto:ccorley@colma.ca.gov).

Reasonable Accommodation

Upon request, this publication will be made available in appropriate alternative formats to persons with disabilities, as required by the Americans with Disabilities Act of 1990. Any person with a disability, who requires a modification or accommodation to view the agenda, should direct such a request to Pak Lin, ADA Coordinator, at 650-997-8300 or [pak.lin@colma.ca.gov](mailto:pak.lin@colma.ca.gov). Please allow two business days for your request to be processed.



1. **In Closed Session Under Government Code § 54956.9(d), CONFERENCE WITH  
LEGAL COUNSEL - ANTICIPATED LITIGATION**

Number of Cases: 1

*This is a Closed Session item; there is no staff report for this item.*



CLAIM AGAINST THE TOWN OF COLMA

1198 El Camino Real, Colma, California 94014-3212



Please return to: City Clerk,

COMPLETE THE FOLLOWING, ADDING ADDITIONAL SHEETS AS NECESSARY.

1. CLAIMANT'S NAME (print): Nelly Vasquez

2. CLAIMANT'S ADDRESS: 855 Jamestown Ave., Unit 101, San Francisco, CA 94124  
(Street or P.O. Box Number – City – State – Zip Code)

3. AMOUNT OF CLAIM \$ 100,000 HOME PHONE: (        )  
(Attach Copies of bills/estimates) Counsel  
WORK PHONE: ( 415 ) 788-1900

IF AMOUNT CLAIMED IS MORE THAN \$10,000 INDICATE WHERE JURISDICTION RESTS:  
Municipal Court \_\_\_\_\_ Superior Court X

4. ADDRESS TO WHICH NOTICES ARE TO BE SENT, IF DIFFERENT FROM LINES 1 AND 2 (PRINT) James A. Lassart, Murphy Pearson Bradley & Feeney  
(Name) \_\_\_\_\_  
580 California Street, Suite 1100  
(Street or P.O. Box Number) \_\_\_\_\_  
San Francisco CA 94104  
(City – State – Zip Code) \_\_\_\_\_

5. DATE OF INCIDENT: 7/3/2020 TIME OF INCIDENT: 8:50 a.m.

LOCATION OF INCIDENT: Near corner of Jamestown Avenue & Third Street, San Francisco

6. DESCRIBE THE INCIDENT OR ACCIDENT INCLUDING YOUR REASON FOR BELIEVING THAT THE CITY IS LIABLE FOR YOUR DAMAGES:  
See attached.

7. DESCRIBE ALL DAMAGES WHICH YOU BELIEVE YOU HAVE INCURRED AS A RESULT OF THE INCIDENT: Damage to the inside of the car, loss of use of the vehicle for over 30 days, retained possession of badge for work and the identification used for work, and extreme emotional distress and embarrassment.

8. NAME(S) OF PUBLIC EMPLOYEES(S) CAUSING THE DAMAGES YOU ARE CLAIMING:  
Anthony McKenna and other Doe defendants.

December 4, 2020

Signature of Claimant

Date

James A. Lassart, Counsel for Claimant Nelly Vasquez

Any person who, with intent to defraud, presents any false or fraudulent claim may be punished by imprisonment or fine or both.

Note: Claims must be filed within 180 days of incident. See Government Code Section 900 et seq.

ATTACHMENT TO CLAIM AGAINST THE TOWN OF COLMA

6. On July 3, 2020 at about 8:50 a.m., two plain clothes officers employed by the town of Colma Police Department detained Nelly Vasquez near the corner of Jamestown and Third Street in San Francisco. The officers did not have either a judicial warrant allowing the arrest of Ms. Vasquez or a warrant to seize her property. The officers with drawn guns forced Ms. Vasquez to leave her Honda Accord (license plate no. 7WQH222.) One of the officers involved Officer Anthony McKenna explained to Ms. Vasquez she was not involved in the shooting case he was investigating. However, he then asked if he could search her car. Ms. Vasquez refused. McKenna and his partner at that time seized Ms. Vasquez' car and keys. In addition, one of the uniformed officers told Officer McKenna to seize Ms. Vasquez' cell phone which she refused to give him. He then seized it at any rate, it's an iPhone 8. Officer McKenna threatened that if she did not give the passcode for her phone they would hack into it and possibly damage the phone unless she gave them the passcode, she then surrendered the passcode but refused to permit the officers to search her phone. Ms. Vasquez' phone rang and the officer who she refused to allow answered it. The officer then produced his cell phone and tried to get her to call the individual who called her.

The officers told Ms. Vasquez they would return her car and the keys if she allowed them to search her property. She again refused. The officers called Broadmoor Towing Service to haul away Ms. Vasquez' car and they did so.

The officers said that they would later get a search warrant for the car. The officers then towed her car away and left her stranded on the corner of Jamestown and Third Street. The officer basically said they would continue to hold Ms. Vasquez' car until she considered the search of her property. The car was seized and not returned for a number of days. At the time it was returned, it was in poor condition as a result of the search and dusting for prints and ransacking of the car. The individuals involved in this are Officer Anthony McKenna and additional officers Does to be named who were participants in the seizure of Ms. Vasquez' car and her detention.



**MINUTES  
SPECIAL MEETING**

City Council of the Town of Colma  
Colma Community Center  
1520 Hillside Boulevard  
Colma, CA 94014

**Wednesday, June 9, 2021  
5:00 P.M.**

**CALL TO ORDER**

Mayor Diana Colvin called the meeting to order at 5:01 p.m.

Council Present – Mayor Diana Colvin, Vice Mayor Helen Fisicaro, Council Members Raquel Gonzalez, Joanne F. del Rosario and John Irish Goodwin were all present.

Staff Present – City Manager Brian Dossey, Chief of Police John Munsey, Administrative Services Director Pak Lin, Director of Public Works Brad Donohue, City Clerk Caitlin Corley, and Interim Recreation Manager Angelika Abellana were in attendance.

**WELCOME AND INTRODUCTION OF SPECIAL GUESTS**

Council Member Joanne F. del Rosario made opening remarks and welcomed special guests from the Philippine Consulate General in San Francisco:

- Consul General Neil Frank Ferrer
- Deputy Consul General Raquel Solano
- Consul Jed Martin Llona
- Consul Vanessa Bago-Llona
- Consul Dominic Xavier Imperial
- Trade Commissioner Celynne Layug
- Tourism Director Soleil Tropicales
- Social Security System Representative Maritess Marin
- Philippine Center Management Board Administrative Officer Genevieve Ferrer
- Cultural Officer Ethel May Castillo

**PROCLAMATION IN HONOR OF PHILIPPINE INDEPENDENCE DAY**

Mayor Colvin introduced the rest of Council, as well as Colma Historical Association President Maureen O' Connor.

Mayor Colvin stated, "It is an honor to have you all here with us as we celebrate our Filipino and Filipino American community. Colma has such strong ties to the Filipino Community and we are so happy to be able to recognize the important contributions that Filipinos and Filipino Americans have made here in Colma and more broadly in the United States.

We were lucky enough to see some Filipino history take place over the weekend right in our backyard-- Yuka Saso won the 76th Annual US Women's Open golf championship at the Olympic Club in San Francisco on Sunday, making her the first major golf champion from the Philippines! Yuka's success is just one example of the remarkable ways that Filipinos and Filipino Americans enhance our communities."

Mayor Colvin then read a proclamation in recognition of Philippine Independence Day.

### **RAISING OF THE PHILIPPINE FLAG**

Colma Police Officers raised the Philippine Flag, while Ms. Soleil Tropicales, Tourism Director for the Philippine Consulate, sang the Philippine National Anthem.

### **REMARKS BY MR. NEIL FRANK R. FERRER, CONSUL GENERAL OF THE REPUBLIC OF THE PHILIPPINES IN SAN FRANCISCO**

Mayor Colvin presented Consul General Ferrer with the proclamation. He thanked Colma for the recognition and made remarks.

### **REMARKS BY VICE MAYOR AND COUNCIL MEMBERS**

Council Member Goodwin made remarks.

### **REMARKS BY MEMBERS OF THE PUBLIC**

Residents Liz Taylor made remarks.

### **ADJOURNMENT**

Mayor Colvin adjourned the meeting at 5:24 p.m. and invited everyone to stay for coffee and cupcakes.

Respectfully submitted,

Caitlin Corley  
City Clerk

**MINUTES  
REGULAR MEETING**

City Council of the Town of Colma  
Meeting Held Remotely via Zoom.us

**Wednesday, June 9, 2021**

**Closed Session - 6:00 PM**

**Regular Session - 7:00 PM**

**CLOSED SESSION – 6:00PM**

1. In Closed Session Pursuant to Government Code Section 54957.6 – Conference with Labor Negotiators.

|                          |   |
|--------------------------|---|
| Agency Negotiator:       | Austris Rungis, IEDA  |
| Employee Organizations:  | Colma Peace Officers Association and Colma Communications/Records Association |
| Unrepresented Employees: | All   |

**PLEDGE OF ALLEGIANCE AND ROLL CALL – 7:00 PM**

Mayor Diana Colvin called the meeting to order at 7:00 p.m.

Council Present – Mayor Diana Colvin, Vice Mayor Helen Fiscaro, Council Members Raquel Gonzalez, Joanne F. del Rosario and John Irish Goodwin were all present.

Staff Present – City Manager Brian Dossey, City Attorney Christopher Diaz, Chief of Police John Munsey, Administrative Services Director Pak Lin, Director of Public Works Brad Donohue, City Planner Michael Laughlin and City Clerk Caitlin Corley were in attendance.

The Mayor announced, “Welcome to another of our completely remote Council Meeting. A few notes about tonight’s meeting: We are accepting public comments through email or the chat function—you can email our City Clerk at [ccorley@colma.ca.gov](mailto:ccorley@colma.ca.gov) or use the chat function to let her know which item you would like to speak on. Please keep your comments to 3 minutes or less. Thank you.”

**REPORT FROM CLOSED SESSION**

Mayor Colvin announced, “Direction was given to staff at the end of the closed session this evening.”

**ADOPTION OF THE AGENDA**

Mayor Colvin asked if there were any changes to the agenda; none were requested. She asked for a motion to adopt the agenda.

**Action:** Council Member Goodwin moved to adopt the agenda; the motion was seconded by Council Member del Rosario and carried by the following vote:

| Name                  | Voting |    | Present, Not Voting |                   | Absent |
|-----------------------|--------|----|---------------------|-------------------|--------|
|                       | Aye    | No | Abstain             | Not Participating |        |
| Diana Colvin, Mayor   | ✓      |    |                     |                   |        |
| Helen Fiscaro         | ✓      |    |                     |                   |        |
| Raquel Gonzalez       | ✓      |    |                     |                   |        |
| Joanne F. del Rosario | ✓      |    |                     |                   |        |
| John Irish Goodwin    | ✓      |    |                     |                   |        |
|                       | 5      | 0  |                     |                   |        |

## PRESENTATION

Administrative Services Director Pak Lin introduced new Human Resources Analyst Gioia Perez.

## PUBLIC COMMENTS

Mayor Colvin opened the public comment period at 7:12 p.m. Resident Ken Gonzalez made a comment. The Mayor closed the public comment period at 7:14 p.m.

## CONSENT CALENDAR

2. Motion to Accept the Minutes from the May 26, 2021 Regular Meeting.
3. Motion to Approve Report of Checks Paid for May 2021.
4. Motion to Adopt a Resolution Adopting the Salary Schedules in FY 2021-22.
5. Motion to Adopt a Resolution Approving Agreements with the San Mateo County Flood and Sea Level Rise Resiliency District for Maintenance of (1) a Portion of the Colma Creek Channel Known as the Bart Portion of the Creek; and (2) a Portion of the Colma Creek Channel Known as the "Old Colma Creek."
6. Motion to Adopt a Resolution Adopting a List of Projects for Fiscal Year 2021-22 Funded by SB 1: The Road Repair and Accountability Act of 2017.

**Action:** Council Member del Rosario moved to approve the consent calendar items #2 through 6; the motion was seconded by Council Member Goodwin and carried by the following vote:

| Name                  | Voting |    | Present, Not Voting |                   | Absent |
|-----------------------|--------|----|---------------------|-------------------|--------|
|                       | Aye    | No | Abstain             | Not Participating |        |
| Diana Colvin, Mayor   | ✓      |    |                     |                   |        |
| Helen Fiscaro         | ✓      |    |                     |                   |        |
| Raquel Gonzalez       | ✓      |    |                     |                   |        |
| Joanne F. del Rosario | ✓      |    |                     |                   |        |
| John Irish Goodwin    | ✓      |    |                     |                   |        |
|                       | 5      | 0  |                     |                   |        |

## PUBLIC HEARING

### 7. FY 2021-2022 BUDGET ADOPTION

City Manager Brian Dossy and Administrative Services Director Pak Lin presented the staff report. Mayor Colvin opened the public comment period at 7:32 p.m. President of the Colma Historical Association Maureen O'Connor made a comment. The Mayor closed the public comment period at 7:33 p.m. Council discussion followed.

**Action:** Vice Mayor Fiscaro moved to Adopt a Resolution Appropriating Funds and Adopting the Annual Budget for Fiscal Year 2021-2022; the motion was seconded by Council Member Gonzalez and carried by the following vote:

| Name                  | Voting |    | Present, Not Voting |                   | Absent |
|-----------------------|--------|----|---------------------|-------------------|--------|
|                       | Aye    | No | Abstain             | Not Participating |        |
| Diana Colvin, Mayor   | ✓      |    |                     |                   |        |
| Helen Fiscaro         | ✓      |    |                     |                   |        |
| Raquel Gonzalez       | ✓      |    |                     |                   |        |
| Joanne F. del Rosario | ✓      |    |                     |                   |        |
| John Irish Goodwin    | ✓      |    |                     |                   |        |
|                       | 5      | 0  |                     |                   |        |

## STUDY SESSION

### 8. ECONOMIC DEVELOPMENT

City Manager Brian Dossy and Peter Ingram of CSG Consulting presented the staff report. Mayor Colvin opened the public comment period at 8:47 p.m. Resident Maureen O'Connor made a comment. The Mayor closed the public comment period at 8:47 p.m. Council discussion followed.

*This item was for discussion only; no action was taken at this meeting.*

## COUNCIL CALENDARING

The next Regular Meeting will be on Wednesday, June 23, 2021 at 7:00 p.m. and it will be held remotely.

## REPORTS

City Manager Brian Dossy gave an update on the following topics:

- There will be a Closed Session at 6:00 p.m. on June 23, 2021.
- Supervisor David Canepa is hosting a "Reopening of the State Celebration" on June 15, 2021 at 11:00 at Mike Nevin Way in unincorporated Colma, between 7684 and 7800 El Camino Real.
- The Town is taking a cautious, measured approach to reopening. Town facilities will reopen on Tuesday, July 6, 2021.
- Modified in person Day Camp will be starting next week.

**ADJOURNMENT**

Mayor Colvin adjourned the meeting at 8:55 p.m.

Respectfully submitted,

Caitlin Corley  
City Clerk



# STAFF REPORT

TO: Mayor and Members of the City Council  
 FROM: Brad Donohue, Director of Public Works  
 VIA: Brian Dossey, City Manager  
 MEETING DATE: June 23, 2021  
 SUBJECT: Partial release of Cash Deposit for Grading Surety for 775 Serramonte Boulevard Project

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## RECOMMENDATION

Staff recommends that the City Council adopt the following resolution:

RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO RELEASE A PORTION OF THE CASH DEPOSIT PROVIDED FOR THE GRADING WORK AT THE NEW CADILLAC DEALERSHIP AT 775 SERRAMONTE BLVD.

## EXECUTIVE SUMMARY

Per the Town of Colma's Grading and Erosions and Sediment Control Ordinance (Colma Municipal Code Subchapter 5.07), the applicant of the new Cadillac Dealership was required to post a form of surety so they could proceed with the grading operation of the construction project at 775 Serramonte Blvd. The applicant submitted a cash deposit in the amount of \$1,359,085.00 (Attachment B) with the Town, meeting the requirement of providing surety in order to proceed with the grading operations.

The Town's Engineering Department has confirmed that approximately 90% of the grading operations has been completed. The Contractor is now requesting a partial release of the deposit. Staff has reviewed the request and is agreeable to releasing 85% of the \$1,359,085 which would amount to \$ 1,155,222.25 leaving \$203,862.75 available as surety for the remaining portion of the grading operation and post construction maintenance if required.

## FISCAL IMPACT

None

## BACKGROUND/ ANALYSIS

In November of 2020, TMW and Associates (Contractor for the applicant) posted a cash deposit to the Town of Colma in the amount of \$1,359,085.00 so they could proceed with the grading

operations at 775 Serramonte Boulevard, (New Cadillac Dealership). From the time that the grading permit was issued to present day, the Contractor has made substantial progress in regard to what was permitted in the grading permit. The contractor has now completed approximately 90% of the required work within the grading operations on site.

Given the large sum of money that was deposited with the Town, the Contractor is now requesting a partial release of the deposit. The Colma Municipal Code section that requires a form of surety to be posted on private grading projects is silent in regard to releasing a portion of surety when the contractor has substantially completed the grading operation.

In consideration of the Contractor's request, staff is recommending releasing 85% of the cash surety in the amount of \$1,155,222.25 (one million, one hundred fifty-five thousand, two hundred twenty-two and 25/100 dollars). The remaining 15% of the surety deposit, \$203,862.75 (two hundred three thousand, eight hundred sixty-two and 75/100 dollars), will be withheld by the Town as a maintenance bond/surety deposit for a period of one year from the date of the grading permit final in accordance with Section 5.07.180(b) of the Colma Municipal Code (Grading & Erosion and Sediment Control Ordinance).

### **Future Considerations**

Staff at a future City Council meeting would like to amend sections of the Municipal Code where sureties are required to provide staff with limited authority to release portions of surety deposits to be refunded when substantial completion has been achieved.

### **Council Adopted Values**

Adopting this resolution is consistent with the City Council Value of being **fair**. The Contractor has substantially completed the requirements per the conditions of approval and plans and specifications to the satisfaction of the Town's Engineering Department.

### **CONCLUSION**

Staff recommends the City Council adopt the resolution approving and authorizing the City Manager to approve the release a portion of the contractor's cash deposit in the amount of \$1,155,222.25 and retain an amount of \$203,862.75 as surety for the remainder of the project and future maintenance if needed.

### **ATTACHMENTS**

- A. Resolution
- B. Copy of Receipt and deposit check



**RESOLUTION NO. 2021-\_\_\_\_  
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO RELEASE A  
PORTION OF THE CASH DEPOSIT PROVIDED FOR THE GRADING WORK AT THE NEW  
CADILLAC DEALERSHIP AT 775 SERRAMONTE BLVD.**

The City Council of the Town of Colma hereby resolves:

**1. Background**

(a) In November of 2020, as required by Colma Municipal Code Subchapter 5.07, the applicant for the new Cadillac Dealership at 775 Serramonte Blvd., provided a cash deposit to the Town to ensure the grading operations for the project would be completed.

(b) To date, the applicant and its contractor have made substantial progress with the grading operations plan with 90% of the required work being completed on-site.

(c) Town staff is now recommending to the City Council that it approve and authorize releasing of 85% of the cash deposit in the amount of \$1,155,222.25 (one million, one hundred fifty-five thousand, two hundred twenty-two and 25/100 dollars) with the remaining 15% of the surety deposit, \$203,862.75 (two hundred three thousand, eight hundred sixty-two and 75/100 dollars), recommended to be withheld by the Town as a maintenance bond/surety deposit for a period of one year from the date of the grading permit final in accordance with Section 5.07.180(b) of the Colma Municipal Code.

**2. Order**

The City Council hereby approves and authorizes the releasing of 85% of the cash deposit in the amount of \$1,155,222.25 (one million, one hundred fifty-five thousand, two hundred twenty-two and 25/100 dollars) with the remaining 15% of the surety deposit, \$203,862.75 (two hundred three thousand, eight hundred sixty-two and 75/100 dollars), to be withheld by the Town as a maintenance bond/surety deposit for a period of one year from the date of the grading permit final in accordance with Section 5.07.180(b) of the Colma Municipal Code.

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### Certification of Adoption

I certify that the foregoing Resolution No. 2021-\_\_ was duly adopted at a regular meeting of said City Council held on June 23, 2021 by the following vote:

| Name                  | Voting |    | Present, Not Voting |                   | Absent |
|-----------------------|--------|----|---------------------|-------------------|--------|
|                       | Aye    | No | Abstain             | Not Participating |        |
| Diana Colvin, Mayor   |        |    |                     |                   |        |
| Helen Fisicaro        |        |    |                     |                   |        |
| Raquel "Rae" Gonzalez |        |    |                     |                   |        |
| Joanne F. del Rosario |        |    |                     |                   |        |
| John Irish Goodwin    |        |    |                     |                   |        |
| <i>Voting Tally</i>   |        |    |                     |                   |        |

Dated \_\_\_\_\_

\_\_\_\_\_  
Diana Colvin, Mayor

Attest: \_\_\_\_\_  
Caitlin Corley, City Clerk

001521 B



Town of Colma  
Building, Engineering, and Public Works

PLEASE PRINT CLEARLY

Date: 11 / 30 / 2020

Project: Cadillac // 775 Serramente // grading permit

Received from: TMW & Associates, Inc.

one million three hundred fifty nine thousand eighty five Dollars

\$ 1,359,085.-

Check # 67766

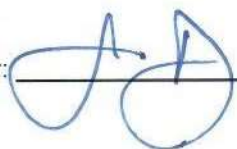
Cash

- 32001** Application Fee \$ \_\_\_\_\_
- Building Permit \$ \_\_\_\_\_
- Building Inspection Services \$ \_\_\_\_\_
- Code Research \$ \_\_\_\_\_
- 32001 Subtotal** \$ \_\_\_\_\_
- 32002** Building Plan Review Fee \$ \_\_\_\_\_
- 32003** Engineering Map Review \$ \_\_\_\_\_
- Engineering Plan Review \$ \_\_\_\_\_
- 32003 Subtotal** \$ \_\_\_\_\_
- 32004** Encroachment Permit/Inspections \$ \_\_\_\_\_
- 32011** Grading Permit \$ \_\_\_\_\_
- 35122** Federal Grant: Fund  11  31 \$ \_\_\_\_\_
- 35123** State Grant: Fund  11  31 \$ \_\_\_\_\_
- 37001** Document Reproduction \$ \_\_\_\_\_
- 37041** CIP Reimbursement \$ \_\_\_\_\_
- \_\_\_\_\_ Other \$ \_\_\_\_\_

DEPOSITS:

- 20147** Building/Engineering  C&D  Surety \$ \_\_\_\_\_
- 20149** BSASRF-Green Building Fund \$ \_\_\_\_\_
- 20149** SMIP \$ \_\_\_\_\_
- 20150** Other grading surety

TOTAL \$ 1,359,085.-

Accepted By: 

# TMW & ASSOCIATES, INC.

1725 SANGUINETTI LANE, SUITE A  
STOCKTON, CA 95205  
(209) 943-2881



STOCKTON OFFICE  
2800 W. MARCH LANE, SUITE 120  
STOCKTON, CALIFORNIA 95219

67766

90-3772/1211

67766

11/25/2020

PAY TO THE  
ORDER OF

Town of Colma

\$ 1,359,085.00

One million three hundred fifty nine thousand eighty five dollars

DOLLARS

Town of Colma  
1198 El Camino Real  
Colma, CA 94014

TMW & ASSOCIATES, INC.

MEMO

Cadillac Colma Grading Bond



TRUE WATERMARK PAPER - HOLD TO LIGHT TO VIEW

HEAT SENSITIVE RED IMAGE DISAPPEARS WITH HEAT

⑈067766⑈ ⑆12137726⑆ 052 006190⑈

TMW & ASSOCIATES, INC. 1725 Sanguinetti Lane, Ste A Stockton, CA 95205

67766

| Vendor             | Vendor Name   | Check Date                         | Check Number   |                 |                |
|--------------------|---------------|------------------------------------|----------------|-----------------|----------------|
| Town002            | Town of Colma | 11/25/2020                         | 67766          |                 |                |
| Invoice Number     | Invoice Date  | Reference                          | Invoice Amount | Discount Amount | Payment Amount |
| Grading Cash Bond  | 11/25/2020    | Cadillac Colma Grading Permit Cash | 1,359,085.00   |                 | 1,359,085.00   |
| <b>Check Total</b> |               |                                    | 1,359,085.00   |                 | 1,359,085.00   |



# STAFF REPORT

TO: Mayor and Members of the City Council  
 FROM: Pak Lin, Administrative Services Director  
 VIA: Brian Dossey, City Manager  
 MEETING DATE: June 23, 2021  
 SUBJECT: Adoption of FY 2021-22 Appropriation (GANN) Limit

## RECOMMENDATION

Staff recommends that the City Council adopt the following:

RESOLUTION ADOPTING THE FY 2021-22 APPROPRIATION LIMIT

## EXECUTIVE SUMMARY

Each year as part of the annual budget process, the City Council is required by state law to adopt an Appropriations Limit (Limit). The Limit for the Fiscal Year 2020-21 is \$57,274,771.

## FISCAL IMPACT

Adoption of the Limit will ensure the Town appropriations are in compliance with State requirements. The FY 2021-22 Appropriations subject to the limit ("Proceeds of Taxes") total \$16,367,042, which means the Town is \$40,907,730 below the authorized limit.

## BACKGROUND

California voters approved propositions amending the State Constitution and requiring the annual Town budget include a calculation of the Appropriations Limit, also known as the Gann Limit. This requirement was imposed by Proposition 4 (1979) and later amended by Proposition 111 (1990).

The requirement imposes a restriction on the amount of governmental revenue which may be appropriated in any fiscal year. The Appropriations Limit was first based on actual appropriations during the base year (1986-87), and it can be increased each year based on a specific formula and specified growth factors. The Appropriations Limit does not apply to all funds. It only applies to funds that are "proceeds of taxes."

Each year, the adjustment to the Appropriations Limit takes into consideration two factors: 1) the change in the cost of living, and 2) the change in population. For each of these factors, the Town may select between two optional factors. Additionally, State law requires that the calculation factors must be available to the public for 15 days prior to adoption.

To comply with State law, the FY 2021-22 Appropriation Limit was posted on the Town's website and public noticing on June 4, 2021 and to be adopted on the following City Council meeting.

## **ANALYSIS**

The appropriation limit analysis includes two parts. The first part is the calculation of the appropriation limit based on the change in the county's or the city's population and the State's per capita personal income. The new FY 2021-22 Appropriations Limit, as calculated and attached to the proposed resolution, is \$57,274,771. The increased adjustment factor of 1.183 is calculated using the County's population change of negative 0.75 percent and the change in the State per capita personal income of 5.73 percent. These adjustments were published in the Department of Finance's Price and Population Report.

The second part of the analysis is to verify that the "Proceeds of Taxes" does not exceed the limit calculated above. The "Proceeds of Taxes" is determined based on the City Council adopted budget for the new fiscal year. The City Council adopted the FY 2021-22 Operating and Capital Budget on June 9, 2021, with a projection of \$17.5 million as general fund revenues. Of the \$17.5 million revenues budget, the "proceeds of taxes" subject to the limit is \$16,367,042, which is \$40,907,730 less than the FY 2021-22 Appropriations Limit of \$57,274,771.

## **Reasons For the Recommended Action/Findings**

Adoption of the FY 2021-22 Appropriation Limit will comply with State laws.

## **Council Adopted Values**

Approval of the FY 2021-22 Appropriation Limit is the *responsible* action because the Town's FY 2021-22 Budget complied with State laws.

## **CONCLUSION**

Staff recommends that the Council adopt the attached resolution.

## **ATTACHMENTS**

- A. Resolution Adopting the FY 2021-22 Appropriation Limit

**RESOLUTION NO. 2021-##  
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION ADOPTING THE 2021-22 APPROPRIATION LIMIT**

The City Council of the Town of Colma does resolve as follows.

**1. Background**

- (a) Article XIII B of the California Constitution places certain restrictions on annual appropriations by cities;
- (b) The restrictions only apply to those appropriations which meet the definition of "Proceeds of Taxes";
- (c) The FY 2021-22 Appropriations Limit Calculation was publicly noticed and posted on the Town's website on June 4, 2021, which is more than fifteen days for review;
- (d) The adoption of the Appropriations Limit must identify the optional calculation factors to be used as adjustment factors.

**2. Findings**

- (a) The first adjustment factor, the Town must select between: (A) the change in Town population, or (B) Countywide population, and the Town has selected the Change in Countywide population; and
- (b) The second adjustment factor the Town must select between: (1) the change in the State per capita income, or, (2) the change in the assessed valuation of local nonresidential construction, and the Town has selected the change in the State per capita income;
- (c) The detailed calculation of the Appropriations Limit for Fiscal Year 2021-22 is described in Exhibit A, attached hereto and by reference made a part hereof.
- (d) The City Council finds that the Fiscal Year 2021-22 budget does not exceed the constitutional appropriation limit placed on "Proceeds of Taxes" for Fiscal Year 2021-22 and is \$40,907,730 below the authorized limit.

**3. Appropriation Limit**

The Appropriation Limit for the Fiscal Year 2021-2022 shall be, and hereby is determined to be \$57,274,771.

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### Certification of Adoption

I certify that the foregoing Resolution No. 2021-## was duly adopted at a regular meeting of the City Council of the Town of Colma held on June 23, 2021, by the following vote:

| Name                  | Voting |    | Present, Not Voting |                   | Absent |
|-----------------------|--------|----|---------------------|-------------------|--------|
|                       | Aye    | No | Abstain             | Not Participating |        |
| Diana Colvin, Mayor   |        |    |                     |                   |        |
| Helen Fisicaro        |        |    |                     |                   |        |
| Raquel "Rae" Gonzalez |        |    |                     |                   |        |
| Joanne F. del Rosario |        |    |                     |                   |        |
| John Irish Goodwin    |        |    |                     |                   |        |
| <i>Voting Tally</i>   |        |    |                     |                   |        |

Dated \_\_\_\_\_

\_\_\_\_\_   
 Diana Colvin, Mayor

Attest: \_\_\_\_\_   
 Caitlin Corley, City Clerk



**EXHIBIT TO RESOLUTION 2021-##  
FISCAL YEAR 2021-22 APPROPRIATIONS LIMIT**

Each year, the adjustment to the Appropriations Limit takes into consideration two factors: 1) the change in the cost of living, and 2) the change in population. For each of these factors, the Town may select between two optional factors.

**Selection of Optional Factors**

1. Change in Population (Town of Colma vs. San Mateo County)
  1. Town of Colma had a population of 1,678 on 1/1/2020 and 1,659 on 1/1/2021, a decrease of 1.13%
  2. County of San Mateo had a population of 770,925 on 1/1/2020 and 765,113 on 1/1/2021, a decrease of 0.75%
2. Change in State per capita Personal Income vs. Colma Non-Residential Building Construction
  1. Change in State Per Capital Personal Income was 5.73%
  2. Change in Colma Non-Residential Assessed Valuation was not available.

For the Fiscal Year 2021-22 calculation, the Town selected the County's population growth rate of 0.75% and the change in the State Per Capita Income of 5.73%.

**Appropriation Limit Calculation 2021-22**

|  |               |  |
|--|---------------|--|
| Population Change (San Mateo Co.)        | 0.992         | $((-0.75+100)/100 = 0.9925)$           |
| State Per Capita Personal Income         | 1.057         | $((5.73+100)/100 = 1.0573)$            |
| Calculation of Factor for 2021-22        | 1.049         | $1.0573 \times 0.9925 = 1.049$         |
| Prior Year Appropriation Limit (2020-21) | \$ 54,582,281 |  |
| Appropriation Limit 2021-22              | \$ 57,274,771 | $54,582,281 \times 1.049 = 57,274,771$ |

The 2021-22 Appropriations subject to the limit ("Proceeds of Taxes") total \$16,367,042, which means the Town is \$40,907,730 below the authorized limit.





# STAFF REPORT

TO: Mayor and Members of the City Council  
 FROM: Pak Lin, Administrative Services Director  
 John Munsey, Chief of Police  
 VIA: Brian Dossey, City Manager  
 MEETING DATE: June 23, 2021  
 SUBJECT: Turbo Data Contract Renewal

## RECOMMENDATION

Staff recommends that the City Council adopt the following resolution:

RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A FIVE-YEAR CONTRACT WITH TURBO DATA SYSTEMS, INC FOR PARKING AND TRAFFIC CITATION PROCESSING

## EXECUTIVE SUMMARY

Since 1999, all agencies in San Mateo County that issue parking and traffic citations have individually contracted with Turbo Data Systems, Inc. (Turbo Data) for parking ticket and traffic citation processing and related services using a model contract negotiated by one city acting as lead agency.

On June 30, 2021, the contracts with Turbo Data will expire. In preparation for the expiration, San Mateo County Sheriff's Office took the lead in the RFP process beginning in Fall of 2020. Representatives from the City of Belmont, San Mateo, and Daly City participated in the review process and determined that Turbo Data provided the most responsive proposal. The Town reached out to Turbo Data and were able to piggy-back on the negotiated contract between Turbo Data and San Mateo County. Cost analysis as shown in Table 1 indicates that the new contract will result in a small annual cost saving for the Town. Additionally, Turbo Data is offering the option to lease ticketing machine that will allow the CSO and patrol officers to issue electronic tickets, rather than manual tickets. The leasing of three ticketing machine will cost the Town an additional \$8,500 per year.

## FISCAL IMPACT

Turbo Data collected \$68,600 in parking and traffic violation fines and charged the Town a total of \$5,300 in processing and administrative fees for Fiscal Year 2019-20. The processing and administrative fee at the new rate for the same period will now total \$4,900.

The processing and administrative fee of \$4,900 assumes the Town continues to complete manual citation. The attached contract includes the leasing of three ticket writers, at an annual cost of \$8,500, bringing the total estimated annual cost to \$13,500.

## **BACKGROUND**

Since 1999, the Town has procured parking and traffic citation and adjudication services through a consolidated RFP process. The consolidated RFP process involves a subcommittee of representatives from agencies within the County of San Mateo. The subcommittee would follow the State regulated RFP process and negotiate the terms of the contract with the best qualified vendor. All other agencies in San Mateo County would piggy-back on that RFP process and the resulting contract. This process has proved to be greatly beneficial, resulting in savings of both staff time and overall cost of services by combining the volume of all ticketing agencies in the County and leveraging economies of scale.

The Town of Colma entered into the current contract with Turbo Data for the provision of parking and traffic citation processing and payment and adjudication services. The contract with Turbo Data was set to expire on June 30, 2020. The County of San Mateo began the collaborative process to issue an RFP. The RFP process was paused due to the pandemic and the Town extended its contract with Turbo Data to June 30, 2021 as a temporary solution.

## **ANALYSIS**

In preparation for the contract expiring, the County of San Mateo issued a consolidated Request for Proposals (RFP) for the provision of citation processing, payment, and adjudication services; web-based information management; and records and case management for San Mateo County agencies in November 2020. Three proposals were received in response to the RFP. The responding vendors were Data Ticket, Quicket Solutions, and Turbo Data. A subcommittee consisting of representatives from the County and the finance directors from the Cities of Belmont, San Mateo, and Daly City was formed to evaluate proposals.

The proposals were evaluated on four criteria: (1) Firm Experience, (2) Project Approach, (3) Team Qualifications, and (4) Fee Proposal. Based on these criteria, the subcommittee determined Turbo Data to be the best option for the County and the recommended provider of service. Services include citation processing and collection by mail, telephone, or website; multiple reminder notices; placing of DMV holds; appeals and administrative adjudication services; optional advanced collection efforts; and leasing of the Contractor's mobile ticket writers.

Comparing the fee structures in Exhibit B to the Contract to the 2015 agreement, Staff found that the pricing was fairly similar. To understand the annual impact, Staff prepared a comparison spreadsheet which compares the total annual cost in FY 2019-20 to the potential cost with the new rates. Based on the levels of activities in FY 2019-20, the new rates will save the Town \$400.

| Table 1: Fee Comparison                               |                     | 2015 Contract |                 | 2021 Contract |                 | Difference    |
|---|---------------------|---------------|-----------------|---------------|-----------------|---------------|
| Processing Fees                                       | FY 2019-20<br>Units | Rate          | Amount          | Rate          | Amount          |               |
| Electronic Citation Processing                        | -                   | 0.50          | -               | 0.50          | -               | -             |
| Manual Citation Processing                            | 1,656.00            | 0.80          | 1,324.80        | 0.70          | 1,159.20        | 165.60        |
| Notice Processing                                     | 1,425.00            | 0.76          | 1,083.00        | 0.76          | 1,083.00        | -             |
| Final Notice Letters                                  | 882.00              | 0.76          | 670.32          | 0.76          | 670.32          | -             |
| DMV Hold Letters                                      | 31.00               | 0.76          | 23.56           | 0.76          | 23.56           | -             |
| Admin Adjudication Service                            | 101.00              | 1.50          | 151.50          | 1.50          | 151.50          | -             |
| Admin Adjudication Letters                            | 117.00              | 0.76          | 88.92           | 0.76          | 88.92           | -             |
| Admin Adjudication Hearings                           | 4.00                | 25.00         | 100.00          | 25.00         | 100.00          | -             |
| Out of State Processing @ 25%                         | 83.00               | 0.25          | 20.75           | 0.25          | 20.75           | -             |
| ICS Collection Services @ 25%                         | 2,135.00            | 0.25          | 533.75          | 0.25          | 533.75          | -             |
| FTB Processing @ 30% of Amount Collected              | 3,489.63            | 0.30          | 1,046.89        | 0.25          | 872.41          | 174.48        |
| FTB Processing after notices mailed @ 30% of Amt Coll | 908.00              | 0.30          | 272.40          | 0.25          | 227.00          | 45.40         |
| Payment Plans Entered                                 | 1.00                | 10.00         | 10.00           | 5.00          | 5.00            | 5.00          |
| Payment Plan Letters Mailed                           | 1.00                | 0.76          | 0.76            | 0.76          | 0.76            | -             |
| <b>Total Fee</b>                                      | <b>5,326.65</b>     |               | <b>5,326.65</b> |               | <b>4,936.17</b> | <b>390.48</b> |
| <b>Total Revenues Collected</b>                       | <b>68,570.95</b>    |               |                 |               |                 |               |

Turbo Data offers citation equipment to be leased to complete electronic citations. Currently, the Town uses a manual citation process. Moving to an electronic citation will increase efficiency and enhance accuracy. Comparing the cost of lease vs purchase, Staff found that leasing the equipment from Turbo Data will be the cheaper option. The lease price is \$225 per unit per month for an All-in-One traffic and parking ticket writer. The lease price includes the cost of support, maintenance, and 4G data plan. The Town will need three units, one for the CSO and two for patrol. The total annual cost is \$8,100. The ticket writer will be able to scan the finger of the driver, print the citation, and process the fee.

### Reasons For the Recommended Action/Findings

The San Mateo County subcommittee completed the RFP process. The San Mateo County subcommittee included the San Mateo County Sheriff's Office and Finance Directors from the City of San Mateo, Belmont, and Daly City. The SMC subcommittee found that Turbo Data continues to be the most responsive and competitive bid.

Staff reviewed the agreement and found that Turbo Data continues to be able to provide the Town the best service at a cheaper cost, with an annual savings of roughly \$400. Additionally, Turbo Data is offering the Town an option to purchase or lease an electronic ticketing device, which will reduce staff time in processing and increase accuracy.

### Council Adopted Values

Authorizing the City Manager to execute a five-year contract with Turbo Data are examples of being *responsible* with Town resources and being *honest and transparent* with Town operation. The RFP process was conducted responsibly by trusted leaders in San Mateo County, which reduced Town's staff time in preparing RFP, reviewing proposals, and negotiating the contracts.

## **Alternatives**

1. Authorize City Manager to execute the five-year agreement with Turbo Data but not to lease the electronic ticket machines.
2. Direct Staff to negotiate another one-year extension with Turbo Data and complete a separate RFP process. The processing fee will likely be higher since the Town does not have the volume to benefit from the economy of scale, as it does with the Turbo Data agreement which was negotiated with the County and interested cities.

## **CONCLUSION**

Staff recommends that the City Council adopt a resolution to approve and authorize the City Manager to execute a five-year contract with Turbo Data Systems, Inc. for parking and traffic citation processing and related services, including leasing three electronic citation all-in-one units per month, from June 30, 2021 to June 30, 2026.

## **ATTACHMENTS**

- A. Resolution
- B. Contract

**RESOLUTION NO. 2021-##  
OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A  
FIVE-YEAR CONTRACT WITH TURBO DATA SYSTEMS, INC FOR PARKING AND  
TRAFFIC CITATION PROCESSING**

The City Council of the Town of Colma does hereby resolve:

**1. Background**

(a) As a result of a change in State law that decriminalized parking citations, the county court system transferred the responsibility for parking citations processing and collection to local agencies. Rather than form a joint powers agency to handle parking citations, it was determined to be most efficient for San Mateo County to issue a combined RFP and encourage individual contracts for each agency. Accordingly, in 1999 the cities and agencies in San Mateo County that issue parking citations came together to issue a request for proposal (RFP) for parking and traffic citation processing services.

(b) The Town of Colma, in conjunction with other police agencies in San Mateo County, has used Turbo Data Systems, Inc. (Turbo Data) to process parking citations since 1999. The current contract with Turbo Data expires in June of 2021.

(c) The County of San Mateo Sheriff's Department took the lead and prepared a new Request for Proposal (RFP) on behalf of all county police agencies for citation processing and adjudication. Representatives from the County of San Mateo, City of Belmont, Daly City, and City of San Mateo reviewed the three proposals and selected Turbo Data. Staff recommends that Council adopt the agreement for these services with Turbo Data for the reasons set forth in the findings.

(d) The City Council has reviewed the Staff Report, a Summary of Contract Terms and the proposed contract with Turbo Data.

(e) This contract arrangement is exempt from competitive bidding pursuant to Colma Municipal Code Subchapter 1.06.180(j) as a contract arrangement with other government entities. It is also exempt under Colma Municipal Code Subchapter 1.06.180(o) as Town staff believes this purchase is in the best interest of the Town as entering into one contract arrangement with all entities in the County will ensure best pricing as compared to the Town undertaking this task on its own.

**2. Findings**

The City Council finds that Turbo Data should be selected as the vendor for processing and adjudication of parking and traffic tickets because of a high level of satisfaction with their past services, a desire to avoid any unnecessary disruption in services, the ability to lease machines that will allow issuance of electronic tickets, and an anticipated annual cost saving for these services.

**3. Order**

(a) The contract between the Town of Colma and Turbo Data, a copy of which is attached to the Staff Report for this matter, shall be and hereby is approved by the City Council of the Town of Colma.

(b) The City Manager shall be, and hereby is, authorized to execute said contract on behalf of the Town of Colma, with such technical amendments as may be deemed appropriate by the City Attorney.



I certify that the foregoing Resolution No. 2021-## was duly adopted at a regular meeting of the City Council of the Town of Colma held on June 23, 2021, by the following vote:

| Name                  | Voting |    | Present, Not Voting |                   | Absent |
|-----------------------|--------|----|---------------------|-------------------|--------|
|                       | Aye    | No | Abstain             | Not Participating |        |
| Diana Colvin, Mayor   |        |    |                     |                   |        |
| Helen Fisicaro        |        |    |                     |                   |        |
| Raquel "Rae" Gonzalez |        |    |                     |                   |        |
| Joanne F. del Rosario |        |    |                     |                   |        |
| John Irish Goodwin    |        |    |                     |                   |        |
| <i>Voting Tally</i>   |        |    |                     |                   |        |

Dated \_\_\_\_\_

\_\_\_\_\_   
 Diana Colvin, Mayor

Attest: \_\_\_\_\_   
 Caitlin Corley, City Clerk



**AGREEMENT BETWEEN TOWN OF COLMA  
AND TURBO DATA SYSTEMS, INC.**

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between the TOWN OF COLMA, hereinafter called "Town" or "Customer," and Turbo Data Systems, Inc., hereinafter called "Contractor."

\* \* \*

Whereas, Customer may contract with independent contractors for the furnishing of specialized services to or for Customer; and

Whereas, Contractor has been selected to provide parking citation processing, adjudication services, traffic citation processing and issuance equipment for jurisdictions within and including San Mateo County, thereby providing coordinated services at lower cost than would be available through separately-negotiated agreements; and

Whereas, the Customer does not have existing resources to provide parking citation processing and adjudication through its own personnel and it is therefore necessary and desirable that Contractor be retained for the purpose of parking citation processing and adjudication services.

**Now, therefore, it is agreed by the parties to this Agreement as follows:**

**1. Exhibits and Attachments**

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

- Exhibit A—Services
- Exhibit B—Payments and Rates

**2. Services to be performed by Contractor**

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for Customer in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

**3. Payments**

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, Customer shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. Customer reserves the right to withhold payment if Customer determines that the quantity or quality of the work performed is unacceptable. In the event that the Customer makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the Customer at the time of contract termination or expiration.

**4. Term**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from **July 1, 2021** through **June 30, 2026**.

**5. Termination; Availability of Funds**

This Agreement may be terminated by Contractor or by the Customer, acting through its City Manager, Police Chief, or the Police Chief's designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

Customer may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or Town funds by providing written notice to Contractor as soon as is reasonably possible after Customer learns of said unavailability of funding.

Customer may terminate this Agreement for cause. In order to terminate for cause, Customer must first give Contractor notice of the alleged breach. Contractor shall have five business days after receipt of such notice to respond and a total of ten calendar days after receipt of such notice to cure the alleged breach. If Contractor fails to cure the breach within this period, Customer may immediately terminate this Agreement without further action. The option available in this paragraph is separate from the ability to terminate without cause with appropriate notice described above. In the event that Customer provides notice of an alleged breach pursuant to this section, Customer may, in extreme circumstances, immediately suspend performance of services and payment under this Agreement pending the resolution of the process described in this paragraph. Customer has sole discretion to determine what constitutes an extreme circumstance for purposes of this paragraph, and Customer shall use reasonable judgment in making that determination.

**6. Contract Materials**

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of Customer and shall be promptly delivered to Customer. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

**7. Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of Customer and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of Customer employees.

**a. Independent Contractor**

The Parties intend and agree that at all times during the performance of services pursuant to this Agreement, Contractor is and shall be acting as an independent contractor. Contractor shall communicate and coordinate with assigned Town personnel ("Designated Town Staff") for purposes of compliance with this Agreement.

Contractor understands and acknowledges that in entering into this Agreement Contractor is an Independent Contractor and not an employee of the Town and is not eligible for any benefits of Town employment. Contractor further understands and acknowledges that the Town does not maintain any Workers' Compensation, accident or any type of insurance coverage for Independent Contractors, but rather that Independent Contractors (including Contractor) are required to obtain their own liability and

workers' compensation coverage as required by law and as set forth in this Agreement. The Town shall not be liable for any payment or compensation in any form to Contractor other than as provided for herein. Other than the use of the facility, Instructor shall be responsible to use his or her own tools, supplies and equipment consistent with Section 6 herein and is responsible to determine the method and manner of instruction consistent with Section 2 herein.

Contractor shall have the right to set his/her/its own hours and location of work, consistent with the nature of the Services provided under this Agreement. Contractor shall determine the method, means, and manner of performance of, but not limited to, such matters as outlined in Exhibit "A" without restriction by the Town, which is interested only in the results to be achieved from Contractor's performance of the services. Contractor shall provide his/her/its own resources and equipment and direct their operation in all respects as necessary to perform these Services. Notwithstanding this Agreement, Contractor shall have the right to provide the same or similar services to entities other than the Town without restriction. The Town shall have no authority, control, or liability regarding Contractor's performance or activities before or after each instance of the Services that Contractor may perform under this Agreement.

8. **Hold Harmless**

a. **General Hold Harmless**

Contractor shall indemnify and save harmless Customer and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property arising out of the acts or omissions or property damage by the contractor, its agents, employees, or subcontractors;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of Customer and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which Customer has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

b. **Intellectual Property Indemnification**

Contractor hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as "IP Rights") except as otherwise noted by this Agreement. Contractor warrants that the services it provides

under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless Customer from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party's IP Rights provided any such right is enforceable in the United States. Contractor's duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) Customer notifies Contractor promptly in writing of any notice of any such third-party claim; (b) Customer cooperates with Contractor, at Contractor's expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without Customer's prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on Customer, impair any right of Customer, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of Customer without Customer's prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor's opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes Customer's reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor's option and expense, either: (i) procure for Customer the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to Customer under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for Customer (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by Customer in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

## **9. Assignability and Subcontracting**

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of Customer. Any such assignment or subcontract without Customer's prior written consent shall give Customer the right to automatically and immediately terminate this Agreement without penalty or advance notice.

## **10. Payment of Permits/Licenses**

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

## **11. Insurance**

### **a. General Requirements**

Contractor shall not commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by the Customer, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish Customer with certificates of insurance and endorsements evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to Customer of any pending change in the limits of liability or of any cancellation or modification of the policy.

**b. Workers' Compensation and Employer's Liability Insurance**

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

**c. Liability Insurance**

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

- Comprehensive General Liability... \$2,000,000
- Motor Vehicle Liability Insurance... \$1,000,000
- Professional Liability..... \$1,000,000

Customer and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to Customer and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy, including if such limits are greater than the minimums specified here and (b) if the Customer or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, Customer, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

**12. Compliance With Laws**

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

**13. Non-Discrimination and Other Requirements**

**a. General Non-discrimination**

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition, military service, or genetic information.

**b. Equal Employment Opportunity**

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to Customer upon request.

**c. Section 504 of the Rehabilitation Act of 1973**

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

**d. Compliance with San Mateo County's Equal Benefits Ordinance**

With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

- Contractor complies with Chapter 2.84 by offering the same benefits to its employees with spouses and its employees with domestic partners.



- Contractor complies with Chapter 2.84 by offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.
- Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
- Contractor does not comply with Chapter 2.84, and a waiver must be sought.

**e. Discrimination Against Individuals with Disabilities**

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

**f. History of Discrimination**

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

- No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
- Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide Customer with a written explanation of the outcome(s) or remedy for the discrimination.

**g. Reporting: Violation of Non-discrimination Provisions**

Contractor shall report to the Customer the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 12, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the Customer, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a Customer contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or

- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the Customer.

To effectuate the provisions of this Section, the Customer shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and Customer.

**14. Retention of Records; Right to Monitor and Audit**

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after Customer makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by Customer, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by Customer.

(c) Contractor agrees upon reasonable notice to provide to Customer, to any Federal or State department having monitoring or review authority, to Customer's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

**15. Merger Clause; Amendments**

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

**16. Controlling Law; Venue**

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

**17. Notices**

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for overnight delivery,

charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of Customer, to:

Name/Title: Brian Dossey, City Manager  
Address: 1198 El Camino Real  
Colma, CA 94014  
Telephone: 650-997-8300  
Facsimile: 650-997-8308  
Email: ap@colma.ca.gov

In the case of Contractor, to:

Name/Title: Roberta J. Rosen, President  
Address: 18302 Irvine Blvd, Ste. 200, Tustin, CA 92780-3464  
Telephone: 714-573-5757  
Facsimile: 714-573-0101  
Email: [roberta@turbodata.com](mailto:roberta@turbodata.com)

\* \* \*

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

**FOR CUSTOMER:**

Town of Colma

By: \_\_\_\_\_

Title: City Manager

Date: \_\_\_\_\_

Approved as to form:

By: \_\_\_\_\_

City Attorney,

**ATTEST:**

By: \_\_\_\_\_

City Clerk

**FOR CONTRACTOR:**

Turbo Data Systems, Inc.

By: \_\_\_\_\_

Roberta J. Rosen, President, Turbo Data Systems, Inc.

Date:

## Exhibit A - Services

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

### **1. MOVING AND CRIMINAL CITATION PROCESSING SERVICES**

**A. Handheld Ticket Writer Interface** - Contractor will provide automated import of electronic citations into Customer's database. Batch files will be uploaded within forty-eight (48) hours upon file transfer to the Customer's records management system and San Mateo County Superior Court – Traffic. Data will be generated and pushed or pulled depending on Customer preference and technology department accommodation. Electronic transfer is available depending on the recipient County's case management system and its ability to accept electronic files.

**B. Electronic Moving and Criminal System Access** – The Contractor will provide moving and criminal violation enforcement software with the Customer's records management system. This will include the following:

- 1) Cloud hosting
- 2) Electronic Court Integration/Export
- 3) TR-10/tracking
- 4) Viewing of records including photos/signatures
- 5) Daily, monthly, shift summary reporting
- 6) Citation reprint for officer or public
- 7) Ongoing support, training, and maintenance for devices.

**C. System and Document Storage** - Contractor will retain all digital citations on the computer system for two (2) years and then remove.

**D. Online Reporting** - Contractor will provide regular daily, weekly and monthly reports in a format as agreed upon. Additional reports will be provided at no additional cost for operating, production and audit functions. Reports will be made available online via a secure web page and be available for Customer access no later than the thirtieth (30th) day of the following month, except when February is the following month, in which case this information will be available by the last day of February.

**E. Online Inquiry Access and Support for Customer's Staff** - Contractor will provide access to the traffic and criminal citation database via a web page using a secure log-on procedure. Customer shall be provided access to their own database. A "NOTES" feature will allow authorized personnel to easily enter comments for a particular citation or license plate to be viewed by other inquiry function users. Contractor's technical staff will provide support during normal business hours. Technical support will be provided for any communication or logon problems as well as immediate technical support when problems arise in the uploading, downloading and transferring of files.

### **F. Contract Requirements:**

1) **Privacy and Security of Customer Data** - Contractor agrees to keep all Customer data private and secure and will not share, sell, or otherwise access the Customer data for reasons other than the normal processing of moving and criminal citations or as otherwise required by law.

2) **Notice of Security Breach** – Contractor must immediately notify the Customer when it discovers that there may have been a data security incident that has or may have resulted in compromise to the Customer for purposes of this Section, "immediately" is defined as within twenty-four hours of discovery. The Contractor must immediately take such actions as may be necessary to preserve forensic evidence and eliminate the cause of any suspected breach or security vulnerability and must promptly alert the Customer of any such circumstances, including information sufficient for the Customer to assess the nature and scope of any suspected data breach. In the event of an unauthorized disclosure of Customer data, the Contractor will be liable for paying for the following costs to remediate any such unauthorized disclosure:

- The reasonable cost of providing notice of the breach to individuals affected by such breach;

- The reasonable cost of providing required notice of the breach to government agencies, credit bureaus, and/or other required entities;
- The cost of providing individuals affected by such breach with credit protection services designed to prevent fraud associated with identity theft crimes for a specific period not to exceed twelve (12) months; and any other service required by applicable law.

The Contractor must provide any information and/or support to the Customer in issuing the actual notification and at the Customer's sole discretion, the Contractor must provide actual notification if the Customer desires. This section will survive termination or expiration of this Agreement.

Confidentiality of all other data and materials - In addition to the data security and privacy requirements detailed above that apply to the Customer, any other Customer data or materials to which the Contractor has access or materials prepared by the Contractor during the course of this Agreement ("confidential information") shall be held in confidence by the Contractor, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the Contractor as necessary to accomplish the rendition of services set forth in Section 1 of this Agreement.

3) **System Backups** - All systems will be backed up daily to ensure safety of data in the event of a power outage or natural disaster. All backup data should be transferred and stored off-site for disaster recovery.

4) **Vehicle Code Compliance** - Contractor will comply with all requirements of the California Vehicle Code in regard to processing of citation records sent by the issuing agency during the entire term of this Agreement, including extensions if any.

5) **Right to Audit** - If Customer requests it, an auditor shall be hired to perform a financial and/or performance audit. The Customer shall pay the cost of the audit upon the written approval of auditor's cost.

6) **Meeting Attendance** - Contractor will be available to attend Customer meetings as needed at Contractor's own expense.

7) **Transition to Next Contractor** - In the event of a future change of vendor, Contractor agrees to fully cooperate in any transition. This shall include but not be limited to provision of data in an acceptable electronic format, provision of information as requested by the Customer to facilitate a future RFP process, and assistance with any and all transition processes necessary to provide for uninterrupted services to the Customer.

**G. Software Disclosure** - The Contractor may subscribe to various third-party software services for the purpose of automating input of various fields of information into the citation information while writing a ticket. The third-party software services may include but are not limited to Google Maps, Google location services GPS, LPR Services, and VIN lookups. The Contractor reserves the right, should these services terminate, to disable those services in the software at any time. These services are integrated in to the ticketPRO software for convenience and do not affect the issuance of citations. Manual entry of information into the citation is never affected by these third-party software services and is always available.

**H. Termination** - Termination fee of \$4,000 per unit at outset, each month thereafter reduced \$75 per month per unit.

**I. Training** - The Contractor will provide training for software and hardware. The Contractor will provide training manuals to the Customer. Training will include step-by-step manuals on how to issue citations and access back-end ticket reporting portals. Training, equipment initialization and setup will be provided by the Contractor and is included in the lease of the ticketwriters. The Contractor will provide RemoteConnect support for devices while in the field.

## **J. Optional Services:**

- 1) Provision of Automated Ticket Media - Contractor will provide paper ticket stock for electronic citations. See exhibits.
- 2) **Racial and Identity Profiling Act (RIPA) CA** - The Contractor is currently working on a RIPA application that would be an optional service. If the RIPA option is exercised by the Customer, it will coincide with the length of this contract.

## **K. Software Development**

If the Customer requires any additional software development for special projects and/or programs. The Customer will work with the Contractor on a scope of work to determine the specifications and requirements and the Contractor will provide the cost estimate and timeline.

## **2. PARKING CITATION PROCESSING SERVICES**

**A. Basic Processing** - Contractor will enter manual citations and citation dispositions into Customer's database within two business days. The basic service includes database maintenance, daily system backups, toll-free phone number for the public, Interactive Voice Response System (IVRS) with customized recorded information and citation lookup capability, [www.pticket.com](http://www.pticket.com) web-based Inquiry System for the public with customized content, Contractor's Customer Service Representatives (9:00a.m.- 5:00 p.m., Monday through Friday, excluding holidays) to speak with the public regarding parking citation issues, ongoing Client support, and documentation and training for use of the Contractor-provided online system. Contractor will process correction notices and notify Customer of citations unable to be entered for any reason, (such as no violation code, unreadable license, etc.).

**B. Handheld Ticket Writer Interface** - Contractor will provide for automated import of electronic citations into Customer's database. Batch files will be uploaded immediately upon file transfer. Contractor will maintain and update the hot sheet or scofflaw files on a daily basis for Customer. Identifying vehicles which have accumulated five (5) or more outstanding citations in the combined San Mateo County contract area to upload into their handheld ticket writers. Contractor will provide electronic reports on a monthly basis. Contractor will work with Customer to implement any changes required for handheld ticket writer equipment.

**C. Customer Service and Toll-Free Telephone Number** - Contractor will provide a toll-free automated telephone number for inquiries and credit card payments. The toll-free telephone service will be available a minimum of 20 hours per day, 7 days per week for the 50 United States and Canada, with the exception of backup time sometime between the hours of midnight and 4:00 a.m. A customized recorded voice response system in English and Spanish will be available to provide information for each pay or on how to pay and contest citations, registration violation information, and Customer address information. The automated telephone system will be capable of receiving a minimum of 20,000 incoming calls per month. Downtime for required maintenance will be between midnight and 4:00 a.m. The automated voice response system will be capable of providing real-time data regarding the citation issue date, amount due, delinquent date and total amount due for each license plate when multiple citations are outstanding. The system will provide information about appealed citations and the results of the appeal. Contractor Customer Service Representatives (CSRs) will be available Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding Customer recognized holidays. CSRs will be available to provide instructions and information on general parking policies and procedures, and administrative adjudication procedures for the Customer. At least one CSR will be available for Spanish translation during regular business hours Monday through Friday. Calls will be answered in six rings or less. In order to assist CSRs with non-English speakers, AT&T's Language Line (or similar) will be available at all times the CSRs are available and shall be employed to accomplish translations as required. The telephone system will provide up-to-date information on the status of a citation with the option to speak with a live representative during normal business hours. CSR's will provide customer service for the public in resolving parking citation questions of a non-judicial nature and research specific citation data when necessary. CSRs will be fully trained in all informational aspects of parking citation processing and related information specific to the Customer.

**D. System and Document Storage** - Contractor will retain all citations paid or dismissed on the computer system for three years and then be removed. Unpaid citations will be retained on the computer system for five (5) years and then be removed. Citation documents will be stored for two (2) years from date of issue and then shredded. Payment documents will be stored for two (2) years from the date of payment and then shredded.

**E. Online Reporting** - Contractor will provide regular daily, weekly and monthly reports in a format as agreed upon. Additional reports will be provided at no additional cost for operating, production and audit functions. Reports will be made available online via a secure web page and be available for Customer access no later than the thirtieth (30th) day of the following month, except when February is the following month, in which case this information will be available by the last day of February.

**F. DMV Interface for Registered Owner Name Retrieval** - Contractor will obtain names and addresses of registered owners of cited vehicles from California DMV using online or manual access to registered owner information from California DMV when necessary. Upon return of registered owner information from DMV, Contractor will validate vehicle make. Contractor will also review DMV "No Hit" list to ensure that license plate and state have been entered correctly.

**G. Notice Processing** - Contractor will print the required Notice and mail to each registered owner whose name has been retrieved within 10 to 21 days after the citation has been issued. This includes second notices mailed for bounced checks, partial payments, and name or address changes. Contractor is required to send notices to lessees or renters of cited vehicles when provided with proof of a written lease or rental agreement. All postage, notice forms and envelopes will be provided by Contractor. All notices and letters will be formatted using custom #10 window envelopes with the Customer's return address. The interior #9 return envelope will be customized with the Customer's payment address. Drive Away Notices will be mailed by first class mail to registered owners of vehicles that drive away from the officer at citation issuance time as required by the California Vehicle Code. Notices are mailed no later than 15 days from the date of the original citation to the registered owner of the vehicle. Delinquent Notices generated will be mailed at least once a week by first class mail to registered owners. Returned check notices will be mailed by first class mail to individuals immediately upon notification from the Customer that a check has been returned for non-payment. These notices will state the amount of original penalty, delinquent amount, and the appropriate returned check fee. Partial Payment Notices will be sent by first class mail to those who do not pay the full penalty amount. The notice will indicate the amount that was paid and the remainder that is due. The Contractor will generate Reminder Notices for unpaid accounts at a time frame acceptable to the Customer. Contractor will communicate with violators in a timely manner by mail in response to correspondence such as incomplete registration, citation, or payment information.

**H. Additional Notices** - Contractor will mail Other Correspondence as required for processing. Adjudication Letters will be mailed as required. DMV Hold Letters shall be mailed to registered owners on citations remaining open 18 months after a DMV Hold is placed.

**I. DMV Interface for Placing Registration Holds** - Contractor will transmit a Notice of Delinquency to the California DMV for vehicles with California license plates after a Notice of Violation has been mailed to the registered owner and Contractor has not received notification that the citation has been cleared. This Notice of Delinquency will be transmitted to the California DMV within two (2) business days after the date specified by the Customer to be the DMV Date.

**J. DMV Interface for Releasing Registration Holds** - Contractor will transmit a Notice to the California DMV that a Notice of Delinquency has been cleared within two (2) business days after Contractor has received notification of clearance.

**K. DMV Interface for Monthly Payment File** - Contractor will receive payment files from DMV as available (currently monthly) and update DMV transactions into Customer's database, providing reporting for reconciliation purposes.

**L. Document Exchange/Transfer** - Customer will scan all manual tickets, appeals and other documents and electronically transmit to Contractor. TDS will provide an SFTP secure access for the transfer. Contractor will provide



electronic reporting using ReportNet. Reports are available at any time for multiple years and months and can be printed and/or emailed as desired.

**M. Collection and Payment Processing** - Contractor will provide the following collection and payment processing services for Customer:

- Provide P.O. Box where payments, administrative review correspondence, and other documents are mailed within San Mateo County
- Courier pickup from P.O. Box daily
- Open all mail enter and process payments received by mail within one (1) business day, including opening all mail received, entering suspense date, verifying payment amounts, updating computer system, and make daily bank deposits directly into a Customer assigned bank account
- Process all correspondence within two (2) business days from the date of receipt
- Sort and batch all correspondence by postmark date. Envelopes shall be kept on file with correspondence
- Track rebilling on partial payments, non-payment of approved payment plans, checks returned for insufficient funds, vehicle change of ownership, re-entered citations for payment
- File and store all source documents in an easily retrievable system
- Respond to reasonable non-judicial public inquiries by phone or mail
- Return questionable mail to Customer for decision
- Provide reporting of bank deposits made for Customer within one day following the deposit
- Provide toll-free number for citizen inquiries
- Provide reports for bank statement reconciliation
- Provide monthly Paid Citation Distribution Report for Customer to pay surcharges. Contractor will scan checks and deposit parking funds (remote deposits) into Customer's bank account. This method is safe, secure and efficient. Checks never leave our facility. Check scanning hardware and software is provided by Customer for its specific banking requirements.
- Contractor does not charge for remote deposits; however, the financial institution may charge a fee, which is the responsibility of the Customer.
- Customers not set up for bank check scanning will incur additional courier fees.

**N. Out of State Citations** - Contractor will process citations for non-California license plates by entering the citation information into the system database and report them along with all other citations on the database with the standard reports. If they become delinquent, requests for registered owner information will be sent to the appropriate out-of-state DMV. The Notice of Intent will be generated to the registered owner and the fine amount requested. Contractor will incur all costs for out of state name retrieval, including out-of-state DMV fees and charges. Contractor will receive payment from Customer based on the amount of revenues collected from out-of-state citations after the Notice of Intent has been issued.

**O. Public On-Line Access - [www.pticket.com](http://www.pticket.com)** - Contractor will supply a web site for public use allowing the receiver of a parking violation to enter the parking citation number or other identifying information in order to view parking citation data on line in real time. The website incorporates the highest level of data security and data privacy in the industry. Web-based data traffic, which includes names, addresses, parking ticket numbers or credit card numbers is encrypted using the highest level of industry standard encryption. Public access will include access to current citation status, including status of contested citations, due dates, original fine amount, late charges, information on how to contest a citation, how to show proof of correction for correctable violations, how to submit claims of indigence prior to a hearing, and addresses for paying in person or by mail.

**P. IVR and Web Payment Systems - Payment by Credit Card** - Through the Interactive Voice Response (IVR) System, and through the [pticket.com](http://pticket.com) web site, Contractor will accept credit card payments via Visa, MasterCard and Discover. The systems authorize each transaction while the caller is on the phone or online. Payees are given an authorization number or email confirmation to confirm their charge. The IVR system and the [pticket.com](http://pticket.com) web payment system both automatically update the citation database with the payment immediately. Credit Card monies will be paid to a Contractor bank account and reconciled monthly. Customer will receive a credit card post log which shows in detail which citations were paid and for what amount, along with the deposit slip from the bank or the ACH

deposit email showing that these funds have been deposited into the Customer's account. Should there be any charge backs to a merchant account, the funds are pulled directly from the Contractor master account and the citation will be reactivated, much like a bounced check. The violator will be sent a notice and will then proceed to DMV hold. Contractor will provide all services regarding reconciliation, reactivation of charge backs, etc. The Customer will not be involved in the daily processing.

**Q. Administrative Adjudication Processing** - Contractor will provide for the processing of requests for contesting citations, allowing for Customer processing of administrative reviews, tracking and monitoring all relevant dates on an automated system, mailing timely notification to respondents regarding the status of their claims, and scheduling of administrative hearings. All Administrative Adjudication information entered into the system will be done in real time and linked to existing database information to ensure proper tracking of relevant dates, mailing names and addresses and other pertinent information. Administrative Review requests will be entered within two (2) business days of receipt. Adjudication documents will be stored for two (2) years from their activity date and then shredded. Contractor will notify Customer of citations that have been found Not Liable that need refunds, so the Customer can issue the refund. Contractor will schedule combined San Mateo County Hearings up to three (3) weeks in advance, according to citizen selection by location and day of week in one of the San Mateo County locations. Hearings may be scheduled manually if requested. Contractor will print and mail (by first class mail) customized hearing notification letters to appellant and respond to inquiries from Customer and the public regarding date of hearing, mailing date, location of hearing and directions to hearing location. Contractor will provide the capability to use customized text, such as liable reason codes, in letters for Customer and re-send letters should changes or reschedules occur. Contractor agrees to provide all information required under the Vehicle Code in a timely manner at no additional cost to the Customer should an appeal be made to the Superior Court.

**R. Payment Plan** – The Contractor will have a payment plan system in place to comply with all legislation. The plan will allow for waivers when necessary for indigent and non-indigent individuals. Plan requests will be submitted to the Customer for review/approval/denial. The Contractor will mail correspondence to let the applicant know the status of their payment plan application and other details. Payment Plans allow the agency to waive fees for indigent persons, adjust the length of the plan and set minimum payments due. If a plan defaults prior to full payment, the system automatically resumes the citation process (DMV, Collections, etc.). The Contractor will provide customized agency specific information for indigent payment plans on pticket.com.

**S. Paperless Appeals (eAppealsPRO & Scanning)** - Contractor will provide online appeal capability for the public to appeal their citations online. Contractor will provide the scanning of all mailed-in appeal documents and electronic storage of those documents. Contractor will provide an online application to access the appeals, which will be searchable and sortable. Contractor will keep an electronic history of processed appeals for at least two years.

**T. Independent Hearing Examiner Services** - Contractor will contract with Independent Third-Party Hearing Examiners to provide fair and impartial hearings for Customer and the public. Contractor will provide a monthly report of hearing results by citation number. The Independent Third-Party Hearing Examiners will meet all training, education and other requirements specified in the California Vehicle Code which apply to the performance of administrative hearings.

**U. Online Inquiry Access and Support for Customer's Staff** - Contractor will provide access to the parking citation database via a web page using a secure log-on procedure. This access includes citation inquiry by citation number, license plate number, full or partial name and VIN (includes citation status, history status, administrative adjudication status, notes, etc.), the ability to enter and view NOTES, post dismissals/payments, view daily deposits made at Contractor's facility and view daily file transfers sent from the handheld ticket writer software and received at Contractor's facility. A "NOTES" feature will allow authorized personnel to easily enter comments for a particular citation or license plate to be viewed by other inquiry function users. Contractor's technical staff will provide support during normal business hours. Technical support will be provided for any communication or logon problems as well as immediate technical support when problems arise in the uploading, downloading and transferring of files.

**V. ICS Collection Service - Special Collections** - Contractor will transfer outstanding citations (DMV No-Holds, DMV Transfer of Ownership Releases, Non-California plates, citations delinquent over 90 days) and any other citations

deemed as delinquent citations by Customer into the ICS system on a weekly basis. Up to two collection letters will be mailed for each ICS account requesting payment. Payments will be processed daily and deposited to the Customer's regular citation processing bank account. The Contractor's Customer Service Center will handle all ICS related calls through a special toll-free number dedicated to ICS accounts. Monthly reporting will show all accounts moved to the ICS system and all payments received due to ICS efforts.

**W. Franchise Tax Board Offset Program** - Contractor will combine citations by license number for total amount due, eliminate corporate names, retrieve SSN's by name from a 3rd party, combine accounts by SSN, mail required FTB letters in advance of placing accounts at FTB, process payments generated by the FTB process, receive phone calls generated by the FTB process, provide all systems and operational procedures required for the FTB process. and provide complete reporting and reconciliation for the FTB process. Customer will be required to complete required FTB paperwork and forms (with Contractor's assistance), establish a SWIFT account with the FTB, and provide whatever assistance may be required to work with the FTB regarding the FTB process.

#### **X. Contract Requirements**

- **Privacy and Security of Customer Data**- Contractor agrees to keep all Customer data private and secure and will not share, sell, or otherwise access the Customer data for reasons other than the normal processing of parking citations or as otherwise required by law.
- **Notice of Security Breach** – Contractor must immediately notify the Customer when it discovers that there may have been a data security incident that has or may have resulted in compromise to the Customer for purposes of this Section, “immediately” is defined as within twenty-four hours of discovery. The Contractor must immediately take such actions as may be necessary to preserve forensic evidence and eliminate the cause of any suspected breach or security vulnerability and must promptly alert the Customer of any such circumstances, including information sufficient for the Customer to assess the nature and scope of any suspected data breach. In the event of an unauthorized disclosure of the Customer, the Contractor will be liable for paying for the following costs to remediate any such unauthorized disclosure:
  - The reasonable cost of providing notice of the breach to individuals affected by such breach;
  - The reasonable cost of providing required notice of the breach to government agencies, credit bureaus, and/or other required entities;
  - The cost of providing individuals affected by such breach with credit protection services designed to prevent fraud associated with identity theft crimes for a specific period not to exceed 12 months; and any other service required by applicable by law.

The Contractor must provide any information and/or support to the Customer in issuing the actual notification and at the Customer’s sole discretion, the Contractor must provide actual notification if the Customer desires. This section will survive termination or expiration of this Agreement.

**Confidentiality of all other data and materials** - In addition to the data security and privacy requirements detailed above that apply to the Customer, any other Customer data or materials to which the Contractor has access or materials prepared by the Contractor during the course of this Agreement ("confidential information") shall be held in confidence by the Contractor, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of the Contractor as necessary to accomplish the rendition of services set forth in Section 1 of this Agreement.

- **System Backups** - All systems will be backed up daily to ensure safety of data in the event of a power outage or natural disaster. All backup data should be transferred and stored off-site for disaster recovery.
- **Subcontracting** - No portion of the Agreement, other than the independent administrative hearings, shall be permitted to be subcontracted to another private or public agency without express written approval from the Customer. Contractor must disclose the nature of work being subcontracted, and the name of the private or public agency which shall perform the work.

- **Vehicle Code Compliance** - Contractor will comply with all requirements of the California Vehicle Code in regard to processing and adjudication of citation records sent by the issuing agency during the entire term of this Agreement, including extensions if any.
- **Right to Audit** - If Customer requests it, an auditor shall be hired to perform a financial and/or performance audit. The Customer shall pay the cost of the audit upon the written approval of auditor's cost.
- **Meeting Attendance** - Contractor will be available to attend Customer meetings as needed at Contractor's own expense.
- **Transition to Next Contractor** - In the event of a future change of vendor, Contractor agrees to fully cooperate in any transition. This shall include but not be limited to provision of data in an acceptable electronic format, provision of information as requested by the Customer to facilitate a future RFP process, and assistance with any and all transition processes necessary to provide for uninterrupted services to the Customer.

**Y. Software Disclosure** - The Contractor may subscribe to various third-party software services for the purpose of automating input of various fields of information into the citation information while writing a ticket. The third-party software services may include but are not limited to Google Maps, Google location services GPS, LPR Services, and VIN lookups. The Contractor reserves the right, should these services terminate, to disable those services in the software at any time. These services are integrated in to the ticketPRO software for convenience and do not affect the issuance of citations. Manual entry of information into the citation is never affected by these third-party software services and is always available.

**Z. Termination** - Termination fee of \$950 per unit at the outset, and each subsequent month reduced \$18 per month per unit. (**ticketPRO Magic two-piece device only**)

**AA. Optional Services:**

- 1) Interfacing with Coplink
- 2) Provision of Automated Ticket Media - Contractor will provide paper ticket stock for electronic citations. See exhibits.
- 3) **Racial and Identity Profiling Act (RIPA) CA** - The Contractor is currently working on a RIPA application that would be an optional service. If the RIPA option is exercised by the Customer, it will coincide with the length of this contract.

**AB. Training** - The Contractor will provide training for software and hardware. The Contractor will provide training manuals to the Customer. Training will include step-by-step manuals on how to issue citations and access back-end ticket portals. Training, equipment initialization and setup will be provided by the Contractor and is included in the lease of the ticketwriters. The Contractor will provide RemoteConnect support for devices while in the field.

**AC. Software Development** - If the Customer requires any additional software development for special projects and/or programs. The Customer will work with the Contractor on a scope of work to determine the specifications and requirements and the Contractor will provide the cost estimate and timeline.

**3. EQUIPMENT LEASING SERVICES**

**A. Leasing Options** - Customer may add devices at any time throughout the life of the contract for the leased price. If a new device is leased, the new device's lease will rollover to the next contract with the Contractor with no termination penalties. If the Customer does not exercise the option to renew the contract with the Contractor, the Customer agrees to pay the termination fees:

- 1) ticketPRO Magic (parking citations): \$950 per unit at the outset, and each subsequent month reduced \$18 per month per unit.

- 2) ticketPRO nFORCER All-in-One (moving citations): \$4,000 per unit at the outset, and each subsequent month reduced \$75 per month per unit.

**B. Warranties** - The Contractor will provide to the Customer the full benefit of any warranties provided by the manufacturers of the equipment, parts, materials, hardware, firmware, and software provided under this Agreement.

- 1) The Contractor will be responsible for the maintenance and repair of the equipment under normal wear and tear. In the event that any hardware stops functioning, Customer staff should report the issue to ticketPRO support and the Contractor will replace or repair the malfunctioning hardware.
- 2) The Contractor will provide a parts and repairs fee schedule for anything not included in the above warranties to the Customer for the term of the contract.
- 3) Contractor will not be responsible for Lost, Stolen or Damaged Devices, outside of normal wear and tear.

**C. Upgrades** - The Contractor must substitute the hardware during the Lease Term if it is mutually agreed upon by both parties. The upgraded supported devices will provide better improved functionality.

**D. Additional Supplies Not Included in Lease**

- Replacement Batteries, AC Adapters and Accessories: The Contractor will make replacement batteries, AC adapters or charging stations and accessories available to the Customer for purchase at then-current prices.
- Citations and Envelopes: The lease does not include citation forms or envelopes, which the Contractor will provide to the Customer at then-current prices, which will vary by quantities ordered. Citations are water and heat resistant poly-thermal, and standard and custom designs are available. Envelopes are preprinted with the payment address and online payment options.
- Replacements for Damaged/Lost/Stolen hardware:
  - Contractor will provide fully configured replacement ticketPRO Magic Ticketwriters for \$950 each (parking)
  - Contractor will provide fully configured replacement ticketPRO nFORCER Ticketwriters for \$4,000 each (traffic)
- Return of hardware: At the end of the lease term, all hardware will be returned to Contractor in good working order. If equipment is not returned, the lease will revert to a month-to-month lease with 30 days' notice required for discontinuation of that lease.

**EXHIBIT B**  
**Payments & Rates**

*In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, Customer shall pay Contractor based on the following fee schedule and terms:*

**1. TRAFFIC/MOVING CITATION SERVICES AND FEES**

**A. Equipment Leasing Fees:** Customer will pay Contractor according to the following rates and terms:

**ticketPRO nFORCER-II All-in-One**

|  |                     |                    |                  |                       |
|--|---------------------|--------------------|------------------|-----------------------|
| Traffic Equipment Leases<br>(Includes all items listed in Purchase Option) | nFORCER-II<br>Print | nFORCER-II<br>Scan | nFORCER-II<br>ID | nFORCER-II<br>ID/Scan |
| nFORCER-II 5 Year Lease-<br>Traffic TicketWriters (per unit/month)         | \$150.00            | \$175.00           | \$200.00         | \$225.00              |

**nFORCER-II Model options:** All nFORCER-II units include an AC Adapter. Accessories are optional and are listed in section G below. All models can be used for Parking, Traffic and Code enforcement. Below is a recommendation based on typical use:

| <b>Model</b>              | <b>Description</b>   | <b>Recommended use</b>                   |
|---------------------------|--|--|
| nFORCER-II <b>Print</b>   | Includes a built-in printer  | <b>PARKING</b> enforcement only          |
| nFORCER-II <b>Scan</b>    | Includes a built-in printer and a Laser Barcode Scanner for scanning DLs, IDs, VIN, etc. | <b>PARKING &amp; Traffic</b> enforcement |
| nFORCER-II <b>ID</b>      | Includes a built-in printer and a Biometric finger scanner                               | <b>Traffic</b> enforcement               |
| nFORCER-II <b>ID/Scan</b> | Includes a built-in printer, Laser Barcode scanner and a Biometric Finger scanner        | <b>Traffic</b> enforcement               |

**B. Device Features:** Lease agreement will include the following:

- 1) ticketPRO nFORCER all-in-one
- 2) Bar code Laser Scanner (optional)
- 3) Built-in Biometric Finger Scanner (optional)
- 4) ticketPRO Magic Software and License
- 5) ticketPRO Magic Software Setup/Configuration: Initial setup and installation of software with Customer specific information - Includes 1-day training
- 6) ticketPRO Magic Software Maintenance and Support: Remote servicing and updates, user support including RemoteConnect assistance, and email support
- 7) Smartphone with Managed 4G LTE data plan
- 8) High-Definition (HD) display
- 9) Android OS
- 10) GPS
- 11) High Resolution Camera
- 12) IP65 Rated
- 13) Internal and Hot Swappable Battery
- 14) Integrated 3" Thermal Printer

**C. Service Fees:** The following fees will be charged to the Customer by the Contractor as these items are processed. A Single Site or Multiple Site Access/Hosting Fee is required for each Agency utilizing the Traffic system. Costs will be determined by the quantity processed and will be invoiced to the Customer monthly.

| Fee  | Rate                |
|--|---------------------|
| Electronic Traffic Citation Processing Fee-<br>Customer orders citation rolls  | \$1.50 per citation |
| Electronic Traffic Citation Processing Fee-<br>Turbo Data provides citation rolls at no extra cost   | \$1.80 per citation |
| Traffic Processing System Access/Hosting Fee.<br><b>Single site; includes services below</b>   | \$300.00 per month  |
| Traffic Processing System Access/Hosting Fee.<br><b>Multiple sites; includes services below</b>  | \$600.00 per month  |
| <b>Hosting Service:</b> <ul style="list-style-type: none"> <li>• Cloud hosting</li> <li>• Electronic Court Integration, export, and maintenance</li> <li>• Electronic TR-100 Corrections</li> <li>• Support for records personnel</li> <li>• Security Account management and maintenance</li> <li>• Web access for viewing records including photos, signatures and biometric images</li> <li>• Daily/Monthly shift summary reporting</li> <li>• Citation copy reprint for officer and public</li> <li>• Ongoing back-office support and enhancements</li> </ul> |                     |

**D. Additional Lease Options for Traffic/Moving Devices**

| Traffic Equipment Leases<br>(Includes all items listed in Purchase Option) | nFORCER-II<br>Print | nFORCER-II<br>Scan | nFORCER-II<br>ID | nFORCER-II<br>ID/Scan |
|--|---------------------|--------------------|------------------|-----------------------|
| nFORCER-II 5 Year Lease-<br>Traffic TicketWriters (per unit/month)         | \$150.00            | \$175.00           | \$200.00         | \$225.00              |
| nFORCER-II 4 Year Lease-<br>Traffic TicketWriters (per unit/month)         | \$170.00            | \$200.00           | \$230.00         | \$260.00              |
| nFORCER-II 3 Year Lease-<br>Traffic TicketWriters (per unit/month)         | \$200.00            | \$240.00           | \$280.00         | \$320.00              |
| nFORCER-II 2 Year Lease-<br>Traffic TicketWriters (per unit/month)         | \$255.00            | \$320.00           | \$380.00         | \$440.00              |
| nFORCER-II 1 Year Lease-<br>Traffic TicketWriters (per unit/month)         | \$430.00            | \$555.00           | \$680.00         | \$800.00              |

**E. Purchase Options for Traffic/Moving Devices**

| Traffic Equipment Purchase  | nFORCER-II<br>Print               | nFORCER-II<br>Scan | nFORCER-II<br>ID | nFORCER-II<br>ID/Scan |
|---|-----------------------------------|--------------------|------------------|-----------------------|
| nFORCER-II Purchase- Traffic writers (Each)                             | \$2,700.00                        | \$3,400.00         | \$3,850.00       | \$4,500.00            |
| Support/Maintenance/4G Data Plan<br>Required for each nFORCER purchased | \$80.00 per month for all options |                    |                  |                       |
| Configuration & Setup (each)  | Waived (normally \$100.00)        |                    |                  |                       |
| Training  | Included                          |                    |                  |                       |

#### F. Lease to Purchase Option for Traffic/Moving Devices

The Customer will have the option to purchase any leased Traffic/Moving device throughout the contract. The price for the purchase would be **\$94/unit/month left on the lease**.

For example, 18 months into the 60-month contract, the Customer decides to purchase the nFORCER the cost would be: \$94 X 42 months or \$3,948. \$80 per month Communications and Support Fee required for service.

#### G. Accessories and Extended Warranty

| nFORCER-II accessories and options |   |             |
|------------------------------------|---|-------------|
| Item                               | Description   | Price       |
| 1                                  | Single Dock with power supply                             | \$ 219.00   |
| 2                                  | Single Dock without power supply<br>(used with quad base) | \$ 195.00   |
| 3                                  | Quad Dock base only                                       | \$ 365.00   |
| 4                                  | Quad Dock base with docks                                 | \$ 1,147.00 |
| 5                                  | Hot swap Battery  | \$ 138.00   |
| 6                                  | Carry case  | \$ 39.00    |
| 7                                  | USB Car charger   | \$ 50.00    |
| 8                                  | USB AC Adapter  | \$ 65.00    |
| 9                                  | Hand Strap  | \$ 24.00    |
| 10                                 | Top Strap   | \$ 24.00    |
| 11.                                | High-Capacity Hot Swap Battery                            | \$ 180.00   |

#### Five (5) Year extended Manufacturer Warranty

- Free from defects in materials and workmanship, under normal intended use
- 10 business day turnaround for repairs
- Consumables not covered

**H. Upgrades** - Through the life of the contract, if the equipment being leased to the Customer becomes obsolete or no longer supported by the Contractor, the Contractor shall upgrade the leased equipment to a supported product similar or exceeding the current leased item at no cost to the Customer.



**2. PARKING CITATION SERVICES AND FEES**

**A. Equipment Leasing Fees** - Customer will pay Contractor according to the following rates and terms.

| Description                      | Rate                    | Term    |
|----------------------------------|-------------------------|---------|
| ticketPRO Magic two-piece device | \$87 per month per unit | 5 years |

**B. Service Fees:** The following fees will be charged to the Customer by the Contractor as these items are processed. Costs will be determined by the quantity processed and will be invoiced to the Customer monthly.

| Fee   | Rate                |
|---|---------------------|
| Electronic Parking Citation Processing Fee  | \$.40 per citation  |
| Electronic Parking Citation Processing Fee<br>Turbo Data provides citation rolls ( <b>2 inches</b> ) at no extra cost | \$.50 per citation  |
| Electronic Parking Citation Processing Fee<br>Turbo Data provides citation rolls ( <b>3 inches</b> ) at no extra cost | \$.55 per citation  |
| Manual Parking Citation Processing  | \$.70 per citation  |
| Notice Processing   | \$.76 per citation  |
| Final Notice Letters  | \$.76 per letter    |
| DMV Hold Letters  | \$.76 per letter    |
| Administrative Adjudication - per appeal  | \$1.50 per appeal   |
| Adjudication Letters-per letter   | \$.76 per letter    |
| Administrative Hearings   | \$25.00 per hearing |
| Out of State Processing - % of revenue collected  | 25%                 |
| Collections for Citations delinquent over 90 days (ICS)   | 25%                 |
| Franchise Tax Board Processing - % of revenue collected   | 25%                 |
| Payment Plans Entered   | \$5.00 per plan     |
| Payment Plans Letters Mailed  | \$0.76 per letter   |
| Banking Services Options- Scan Checks directly into Agency Bank Account   | No Charge           |
| Banking Services Options- Courier Daily Bank Deposit Service(Monthly Fee)   | \$200.00            |

**Postal Rate Increase Offset** - If postal rates increase during the term of this agreement notice, letter fees to TDS shall be raised immediately to offset the effect of the postage rate increase.

**TOWN OF COLMA TICKETER OPTIONS – July 1, 2021**

**3. TRAFFIC/MOVING CITATION EQUIPMENT**

| <b>Purchase Cost</b> | <b>Quantity</b> | <b>Cost</b> |
|----------------------|-----------------|-------------|
| nFORCER-II Print     |                 | \$2,700     |
| nFORCER-II Scan      |                 | \$3,400     |
| nFORCER-II ID        |                 | \$3,850     |
| nFORCER-II ID/Scan   |                 | \$4,500     |

All Purchases require \$80 per month per unit Support/Maintenance/Communications Fee

| <b>Lease Cost per Month – 5 years</b> | <b>Quantity</b> | <b>Cost</b> |
|---------------------------------------|-----------------|-------------|
| nFORCER-II Print                      |                 | \$150       |
| nFORCER-II Scan                       |                 | \$175       |
| nFORCER-II ID                         |                 | \$200       |
| nFORCER-II ID/Scan                    | <b>3</b>        | \$225       |

All Leases include the monthly Support/Maintenance/Communications Fee

**4. PARKING CITATION EQUIPMENT**

| <b>Purchase Cost</b>      | <b>Quantity</b> | <b>Cost</b> |
|---------------------------|-----------------|-------------|
| ticketPRO Magic (2 piece) |                 | \$950       |

All Purchases require \$80 per month per unit Support/Maintenance/Communications Fee

| <b>Lease Cost per Month – 5 years</b> | <b>Quantity</b> | <b>Cost</b> |
|---------------------------------------|-----------------|-------------|
| ticketPRO Magic (2 piece)             | <b>n/a</b>      | \$87        |

All Leases include the monthly Support/Maintenance/Communications Fee

**5. TICKET ROLL STOCK for CITATION EQUIPMENT**

**TRAFFIC CITATIONS**

For Traffic Citations, please indicate if you will order citation rolls on your own or if you will pay a per citation fee for the option that includes ticket rolls where Turbo Data provides citation rolls.

| <b>TRAFFIC CITATIONS</b>   | <b>YES/NO</b> | <b>Cost</b>         |
|--|---------------|---------------------|
| Electronic Traffic Citation Processing Fee<br><b>Customer orders citation rolls</b>                      |               | \$1.50 per citation |
| Electronic Traffic Citation Processing Fee<br><b>Turbo Data provides citation rolls at no extra cost</b> | <b>Yes</b>    | \$1.80 per citation |

**PARKING CITATIONS**

For Parking Citations, please indicate if you will order citation rolls on your own or if you will pay a per citation fee for the option that includes ticket rolls where Turbo Data provides citation rolls.

| <b>PARKING CITATIONS</b>   | <b>YES/NO</b> | <b>Cost</b>         |
|--|---------------|---------------------|
| Electronic Parking Citation Processing Fee<br><b>Customer orders citation rolls</b>                                  |               | \$0.40 per citation |
| Electronic Parking Citation Processing Fee-<br><b>Turbo Data provides citation rolls (2 inches) at no extra cost</b> | <b>Yes</b>    | \$0.50 per citation |
| Electronic Parking Citation Processing Fee<br><b>Turbo Data provides citation rolls (3 inches) at no extra cost</b>  |               | \$0.55 per citation |

## **6. INVOICING PROCEDURES**

- A.** Customer shall pay Contractor upon receipt of an invoice for services rendered. Each invoice must include the following information at a minimum.
- Agreement Number
  - Time period covered
  - Detailed statement of services/work completed for the invoiced amount
- B.** Contractor shall prepare and submit an invoice for payment of services monthly. Payments shall be made within thirty (30) days from the date of applicable undisputed invoice





# STAFF REPORT

TO: Mayor and Members of the City Council  
 FROM: Brad Donohue, Director of Public Works  
 Christopher J. Diaz, City Attorney  
 Via: Brian Dossey, City Manager  
 Meeting DATE: June 23, 2021  
 SUBJECT: Sewer Rate Increase for North San Mateo County Sanitation District Sewer System

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## RECOMMENDATION

Staff recommends that the City Council adopt the following:

RESOLUTION ADOPTING INCREASED RATES FOR SEWER SERVICE CHARGES FOR PROPERTIES CONNECTED TO THE NORTH SAN MATEO COUNTY SANITATION DISTRICT SEWER SYSTEM AND TAKING OTHER ACTIONS RELATING THERETO

## EXECUTIVE SUMMARY

The Town of Colma ("Town") contracts with the North San Mateo County Sanitation District ("NSMCSD") to provide sanitary sewer service to properties located in the Town. Pursuant to this contractual arrangement, the Town must pay NSMCSD sewer service charges for properties within the Town that are connected to the sewer system at the same rate that NSMCSD charges its own users. NSMCSD has notified the Town of their rate increase for fiscal years 2021/22 through 2023/24. The Town's sewer rates imposed on properties within the Town must be increased to match the rate increases imposed by NSMCSD.

## FISCAL IMPACT

The total amount owed to NSMCSD is budgeted and paid by the Town through the General Fund. The Town's General Fund is reimbursed through sewer charges imposed on properties throughout the Town, which are generally collected on the property tax roll. The rates for the sewer charges vary depending upon whether the property is served by NSMCSD or South San Francisco. The proposed rates are a direct pass-through of the rates adopted by NSMCSD, and therefore do not exceed the Town's cost of providing sewer service to subject properties.

## BACKGROUND AND ANALYSIS

### North San Mateo County Sanitation District "NSMCSD" Sewer Rates

#### Proposed Rate Increase

The Town contracts with the NSMCSD to provide sewer collection and treatment services to properties located in the northern portion of the Town. The Town pays for the cost of these services through an annual sewer service charge for each property that utilizes the NSMCSD sewer system. The amount charged is based on costs billed to the Town by NSMCSD and in accordance with the agreement between the Town and NSMCSD.

NSMCSD has notified the Town of an increase in the sewer rates for all users for the sewer services that it provides to the Town. The maximum approved rates for sewer service charges for customers served by NSMCSD are set forth in the following schedule:

| <b>Schedule of Rate for Sewer Service Charges</b> |                        |                              |
|---|------------------------|------------------------------|
| <b>(Unit = 1 HCF = 748 gallons)</b>               |                        |                              |
| <b>Effective Date</b>                             | <b>Rate (per unit)</b> | <b>Minimum Annual Charge</b> |
| July 1, 2021                                      | \$8.27 per unit        | \$91.81                      |
| July 1, 2022                                      | \$9.02 per unit        | \$100.08                     |
| July 1, 2023                                      | \$9.83 per unit        | \$109.08                     |

If approved, from and after the effective date of this Ordinance, the rate increases will commence on July 1, 2021, July 1, 2022, and July 1, 2023, set forth in the Resolution adopting the fees, with a minimum annual sewer service charge per year as set forth in the resolution adopting such fees. The rates may further be adjusted to a maximum of 10 percent any time after July 1, 2021, through and including July 1, 2025, for any future rate increases imposed by NSMCSD on the Town.

#### How Rates are Calculated

The sewer rate structure for calculating the sewer service charges for both single unit residential users and non-single unit users (which includes multi-unit residential, businesses, industrial users, commercial properties and other non-residential users) is the same and as shown in the table above.

The sewer service charge is calculated on the basis of annualized water usage (per one hundred (100) cubic feet of water consumption, or HCF, calculated on the basis of two months' average winter water consumption annualized) and multiplying this number by the rate shown in the Table above.

The annual charges are calculated by multiplying bi-monthly winter water usage (January/February water bills) times 6 billing cycles times the rate in place. For example, a customer with average winter water usage of 4 units, their annual charge for July 1, 2021 through June 30, 2022 will equal  $4 \times 6 \times \$8.27 = \$198.48$ . There is a minimum annual charge set forth in the Table above as well.

### **Pass-Through Rate Adjustments**

To ensure that there are sufficient revenues to provide sewer services to our customers, the Town is also proposing to annually pass through to our customers any increases in the rates for wholesale sewer collection and treatment services and any other charges that NSMCSD may impose on the Town that are greater than those set forth in the Schedule above (each a "Pass Through Adjustment"). If approved by the City Council, commencing July 1, 2021, and any time thereafter through, and including, July 1, 2025, the City may annually implement any Pass-Through Adjustment, provided, however, that: (1) any increase in the rates as a result of any Pass-Through Adjustment shall not exceed 10% per year; and (2) in no event shall such rates be increased as a result of a Pass-Through Adjustment by more than the cost of providing sewer service. Prior to implementing any increase in the rates for the sewer service charges as a result of any Pass-Through Adjustment, the Town will give written notice of any applicable rate increase to each property on which the increased rate is to be imposed not less than 30 days prior to the effective date of such rate increase.

### **Water Conservation Incentive Program**

In July 2012, City Council approved a Water Conservation Incentive Program for all sewer service users in Town. The proposed Program would grant each sewer service user a subsidy if they used the same amount of water or less compared to the average of the prior three years.

In May 2021, the City Council approved \$31,643.00 for Water Conservation Incentive Program for FY 2021-22. The Authorized Subsidy would reduce the sewer service charge by 10% for each eligible property owner for fiscal year 2021-22.

### **Public Noticing Requirements**

Proposition 218 creates certain procedural requirements relating to all property-related charges. Sewer service charges are property-related charges under Proposition 218.

The Town must provide written notice to property owners of any new or increased sewer charges advising the owners of the proposed rates and the right to file a "written protest."

Specifically, under Proposition 218, the Town must provide each property owner of record with at least than 45 days prior written notice of the proposed new/increased rates or charges. The notice must, at a minimum, identify: (1) the amount of the rate increase or new rate; (2) the basis upon which the new/increased rate was calculated; (3) the reason for the new/increased

rate; and (4) the date, time, location for the public hearing on the new/increased rate. Written notices were mailed on May 7, 2021.

If a majority of the property owners (50 percent plus 1) file written protests, the Council may not adopt the new or increased rates. Upon conclusion of the hearing, any written protests received must be tallied to determine whether a "majority protest" has occurred. In the event that the majority protest does not occur, the Town can then proceed with imposition of the new/increased rate or charge.

As of the publication of the agenda packet, the Town has received one protest memo via email. Colma Municipal Code Section 1.02.540 (Prop. 218 Protest Procedures) requires protests be sealed until the public hearing, when protests are to be tabulated. The City Clerk will tabulate any submitted protests at the Council meeting.

In July, a separate public hearing will be noticed and held on the question of collecting the sewer service charges on the property tax roll.

### **Ordinance No. 806**

The Town previously adopted sewer service charges by ordinance, and published the rates for such sewer service charges in the Colma Municipal Code. On May 12, 2021, the Town adopted Ordinance No. 806 amending Subchapter 3.04 of the Colma Municipal Code and authorizing sewer service charges to be adopted by resolution instead of ordinance. Subchapter 3.04 was amended to remove reference to the specific rates for sewer service charges, and instead now refers to the rates set forth in the resolution adopting such sewer service charges. Pursuant to the authority granted in Ordinance No. 806 the Town may adopt the proposed sewer service charges by the Resolution attached to this report.

## **COUNCIL ADOPTED VALUES**

Before adopting a rate increase and assessing a sewer charge on the county tax rolls against any particular property in the Town of Colma, the City Council will have held a public hearing allowing the public to protests to the City Council the rate increase and calculation of their annual sanitary sewer charge. Through this process, City Council has allowed a process where they can review and rule on such a protest in a *fair* and unbiased manner.

## **ALTERNATIVES**

The City Council could not adopt the ordinances to pass through rate increases as proposed and adopted by the North San Mateo County Sanitation District.

If the City Council decided to not adopt the rate increases, the Town would end up paying these increases through the General Fund.

## **CONCLUSION**



Staff recommends that the City Council adopt a Resolution to increase sewer rates for properties connected to the North San Mateo County Sanitation District. Sewer rates are merely a pass-through cost paid by the Town to NSMCSD. The proposed rate increases are necessary to recover the costs paid by the Town to NSMCSD.

## **ATTACHMENTS**

- A.** Resolution
- B.** Copy-Prop 218 Notice



**RESOLUTION NO. 2021-\_\_**  
**OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**RESOLUTION ADOPTING INCREASED RATES FOR SEWER SERVICE CHARGES  
FOR PROPERTIES CONNECTED TO THE NORTH SAN MATEO COUNTY  
SANITATION DISTRICT SEWER SYSTEM AND TAKING OTHER ACTIONS  
RELATING THERETO**

The City Council of the Town of Colma hereby resolves:

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**ARTICLE 1. RECITALS**

(a) The Town of Colma (the "Town") provides sewer service to customers within its jurisdiction through contracting either with the City of South San Francisco or the North San Mateo County Sanitation District ("NSMCSD"), and is authorized to impose fees and charges for the provision of such service.

(b) Pursuant to the Town's contractual arrangement with NSMCSD, the Town pays NSMCSD sewer service charges for properties within the Town that are connected to the NSMCSD sewer system at the same rate that NSMCSD charges its own customers. The Town imposes sewer service charges ("Charges") to its customers served by NSMCSD in order to generate sufficient revenue to cover its own obligation to NSMCSD .

(c) NSMCSD has informed the Town that NSMCSD now intends to increase its rates for sewer service charges, effective July 1, 2021, with increases scheduled each July 1 thereafter, through and including July 1, 2023. In order to ensure the Town recovers sufficient revenue to cover its costs, the Town has determined that it is necessary to increase the rates for the Charges to the same levels imposed by NSMCSD.

(d) The Town has two customer classes serviced by NSMCSD: Single Unit Residential and Non-Single Unit Customers (which includes Multi-Unit Residential, Business, Industrial Users, Commercial Properties, and Other Non-residential Units). However, the rate structure for both customer classes is the same, and is determined based on the amount of metered water (measured in units of one hundred cubic feet ("HCF") delivered to the property (calculated on the basis of two months' average winter water consumption annualized) and assumptions of the amount of water returned to the sewer (i.e. "flow").

(e) In addition to the rates charged by NSMCSD to the Town, NSMCSD is authorized to pass through to its customers certain wholesale costs associated with sewer collection and treatment.

(f) In order to ensure that the Town has sufficient revenues to account for such pass-throughs, the Town is proposing to include in the Charges the authorization to pass through such increases to the Town's customers, commencing July 1, 2021 through and including July 1, 2025, in an amount not to exceed 10% per year (the "Pass-Through").

(g) The revenues derived from the proposed Charges will not exceed the funds required to provide the services, represent only a pass-through of the cost imposed on the Town by

NSMCSD for providing such services to the Town's customers, and shall be used exclusively to pay the Town's costs for providing sewer service to its customers.

(h) The Charges are equitable to all customer classes.

(i) The amount of the proposed Charges will not exceed the proportional cost of the services attributable to each parcel upon which they are proposed for imposition.

(j) The proposed Charges will not be imposed on a parcel unless the services are actually used by, or immediately available to, the owner of the parcel.

(k) Article XIII D, section 6 of the California Constitution ("Article XIII D") requires that prior to imposing any new property-related fee such as the Charges, or increasing the existing Charges, the Town shall provide written notice (the "Notice") by mail of the proposed increases to the record owner of each parcel upon which the Charges are proposed for imposition and any tenant directly liable for payment of the Charges. The notice further must detail the amount of the Charges proposed to be imposed on each parcel, the basis upon which the Charges were calculated, the reason for the Charges, and the date time and location of a public hearing (the "Hearing") on the proposed Charges.

(l) Pursuant to Article XIII D such Notice is required to be provided to the affected property owners and tenants directly liable for the payment of the Charges not less than forty-five days prior to the Hearing on the proposed Charges.

(m) The Town did provide such Notice to the affected property owners and tenants in compliance with Article XIII D. The Hearing was held on June 23, 2021, noticed in the manner and for the time required by law.

(n) At the Hearing, the City Council ("Council") considered all written materials and written protests to the proposed new or increased Charges received prior to the close of the Hearing, and heard oral testimony concerning the establishment and imposition of the proposed Charges, and at the close of the Hearing, the City Council determined that it did not receive written protests against the establishment and imposition of the proposed Charges from a majority of the affected property owners or tenants directly liable for the payment of such Charges.

(o) The Council now desires to adopt the Charges for period commencing July 1, 2021, with increases each July 1 thereafter through and including July 1, 2023, in the maximum amounts and on the dates set forth in Exhibit A, provided, however, that the Council shall not impose the Charges at a rate in excess of the rate imposed by NSMCSD.

(p) The Council further desires to authorize the Pass-Through for a period commencing July 1, 2021, through and including July 1, 2025.

(q) The Charges are being adopted in accordance with the procedures set forth in California Health and Safety Code section 5471 *et seq.* in order to preserve the authority to place the Charges on the property tax roll for collection by the County.

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**ARTICLE 2. INCORPORATION OF RECITALS.**

The Council hereby finds that all of the foregoing recitals and the staff report presented herewith are true and correct and are hereby incorporated and adopted as findings of the Council as if fully set forth herein.

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**ARTICLE 3. ADOPTION OF CHARGES.**

The Council hereby establishes, adopts and imposes the Charges in the maximum amounts and effective on the dates set forth in Exhibit A, attached hereto and incorporated herein by this reference.

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**ARTICLE 4. PASS-THROUGH ADJUSTMENTS.**

Commencing July 1, 2021, and any time thereafter through, and including, July 1, 2025, the Town may annually implement pass through any increases in the rates for wholesale sewer collection and treatment services imposed on the Town by NSMCS D that are greater than those set forth in Exhibit "A" hereto ("Pass-Through Adjustment"), provided, however, that: (1) any increase in the rates for the Charges as a result of any Pass-Through Adjustment shall not exceed 10% per year; and (2) in no event shall such rates be increased as a result of a Pass-Through Adjustment by more than the cost of providing sewer service. Prior to implementing any increase in the rates for the Charges as a result of any Pass-Through Adjustment, the Town will give written notice of any applicable rate increase to the owner of each property on which the increased rate is to be imposed not less than 30 days prior to the effective date of such rate increase.

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**ARTICLE 5. AUTHORIZATION.**

The City Manager is hereby authorized and directed to take all actions necessary to implement and collect the Charges, as set forth herein.

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**ARTICLE 6. INCONSISTENCY WITH OTHER FEES AND CHARGES.**

To the extent the Charges are inconsistent with any other fees, charges, or exactions previously adopted by the Council, it is the explicit intention of the Council that the Charges adopted pursuant to this Resolution shall prevail

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**ARTICLE 7. CEQA COMPLIANCE.**

The Council finds that the administration, operation, maintenance, and improvements of the sewer system, which is to be funded by the Charges and set forth herein, are necessary to maintain service within the sewer system as described herein. The Council further finds that the administration, operation, maintenance and improvements of the sewer system, to be funded by the Charges will not expand the sewer system. The Council further finds that the adoption of the rates for the Charges is necessary and reasonable to fund the administration, operation, maintenance and improvements of the sewer systems. Based on these findings, the Council determines that the adoption of the Charges established by this Resolution is exempt from the requirements of the California Environmental Quality Act pursuant to section

21080(b)(8) of the Public Resources Code and section 15273(a) of the State CEQA Guidelines. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the Town, 1198 El Camino Real, Colma, CA 94014. The custodian for these records is the City Clerk.

**ARTICLE 8. SEVERABILITY.**

Each of the provisions of this Resolution is severable from all other provisions. If any article, section, subsection, paragraph, sentence, clause or phrase of this Resolution is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Resolution.

**ARTICLE 9. EFFECTIVE DATE.**

This resolution shall be effective upon its adoption by the City Council.

**Certification of Adoption**

I certify that the foregoing Resolution No. \_\_\_\_\_ was duly adopted at a regular meeting of the City Council of the Town of Colma held on June 23, 2021, by the following vote:

| Name                  | Voting |    | Present, Not Voting |                   | Absent |
|-----------------------|--------|----|---------------------|-------------------|--------|
|                       | Aye    | No | Abstain             | Not Participating |        |
| Diana Colvin, Mayor   |        |    |                     |                   |        |
| Helen Fisciaro        |        |    |                     |                   |        |
| Raquel "Rae" Gonzalez |        |    |                     |                   |        |
| Joanne F. del Rosario |        |    |                     |                   |        |
| John Irish Goodwin    |        |    |                     |                   |        |
| <i>Voting Tally</i>   |        |    |                     |                   |        |

Dated \_\_\_\_\_

\_\_\_\_\_  
Diana Colvin, Mayor

Attest: \_\_\_\_\_  
Caitlin Corley, City Clerk

**EXHIBIT A**

**SCHEDULE OF MAXIMUM SEWER RATES FOR THE CHARGES**

| <b>Schedule of Rate for Sewer Service Charges</b> |                        |                              |
|---|------------------------|------------------------------|
| <b>(Unit = 1 HCF = 748 gallons) *</b>             |                        |                              |
| <b>Effective Date</b>                             | <b>Rate (per unit)</b> | <b>Minimum Annual Charge</b> |
| July 1, 2021                                      | \$8.27 per unit        | \$91.81                      |
| July 1, 2022                                      | \$9.02 per unit        | \$100.08                     |
| July 1, 2023                                      | \$9.83 per unit        | \$109.08                     |

\*Total Units are calculated on the basis of two months' average winter water consumption, annualized.







City Manager  
1198 El Camino Real  
Colma, CA 94014  
(650) 997-8300

**NOTICE OF PUBLIC HEARING FOR THE PROPOSED SEWER  
RATE INCREASE FOR PROPERTIES CONNECTED TO THE  
SAN MATEO COUNTY SANITATION DISTRICT SEWER  
SYSTEM**

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**Wednesday, JUNE 23, 2021 at 7:00 PM**

The Town of Colma hereby gives notice that the City Council will hold a public hearing on Wednesday, June 23, 2021 at 7:00 PM (or as soon thereafter as the matter can be heard) to hear public testimony and receive written comments and protests on the proposed sewer rate increases. The City Council may continue the hearing to a later date without further written notice. The public hearing will be conducted by teleconference via Zoom and will be broadcast live online. Members of the public may participate in the Zoom meeting by logging on with the information listed below. In the event there is a change to the link for accessing the meeting on Zoom, the updated information will be posted on the Town's website at [www.colma.ca.gov/city-council-meetings](http://www.colma.ca.gov/city-council-meetings) and included in the agenda for the meeting.

Join Zoom Meeting

<https://us02web.zoom.us/j/81289976261>

Meeting ID: 812 8997 6261

Passcode: 074407

One tap mobile

+16699006833,,81289976261#,,,,\*074407# US (San Jose)

+13462487799,,81289976261#,,,,\*074407# US (Houston)

Dial by your location

+1 669 900 6833 US (San Jose)

+1 346 248 7799 US (Houston)

+1 253 215 8782 US (Tacoma)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

Meeting ID: 812 8997 6261

Passcode: 074407

Members of the public may provide comments via the Zoom platform by using the "raise hand" feature or, if calling in by phone, by pressing \*9 on the telephone keypad. Members of the public shall request to speak by using the "raise hand" feature on Zoom or, if calling in by phone, by pressing \*9 on the telephone keypad prior to the close of the public comment period. In response, when it is the speaker's turn to speak, the Town will unmute the speaker and allow them to speak for up to three minutes.

**Reason for the Proposed Rate Increases.** The Town of Colma contracts with the North San Mateo County Sanitation District ("NSMCSD") to provide sewer collection and treatment services to properties located in the Northern portion of the Town. The Town pays NSMCSD for the cost of these services through an annual sewer service charge for each property that utilizes the sewer system. The amount charged is based on costs billed to the Town by NSMCSD and in accordance with an agreement between the Town and NSMCSD, NSMCSD has notified the Town that it is proposing to increase the rates that it charges the Town for these

services for Fiscal Year (FY) 2021-22. The Town is proposing to pass through these rate increases and future rate increases imposed on the Town by NSMCSD to sewer customers in the Northern portion of the Town who are served by NSMCSD. If approved, the rate increases will commence on July 1, 2021 and may be adjusted each July 1 thereafter for a period of four years for any future rate increases imposed by NSMCSD on the Town.

**Basis upon Which the Rates are Calculated.** The rate structure for the sewer service charges for both customer classes—Single Unit Residential customers and Non-Single Unit Customers (which includes Multi-Unit Residential, Businesses, Industrial Users, Commercial Properties and Other Non-residential Users) is the same and as shown in the Schedule of Rates for Sewer Service Charges (Schedule). The amount of the sewer service charges proposed to be imposed on customers is determined on the basis of the amount of metered water (measured in units of one hundred cubic feet (HCF)) delivered to the property (calculated on the basis of two months' average winter water consumption annualized) and assumptions of the amount of water returned to the sewer (i.e., "flow"). The maximum approved rates for sewer service charges for customers served by NSMCSD are as follows:

| <b>Schedule of Rate for Sewer Service Charges</b> |                        |                              |
|---|------------------------|------------------------------|
| <b>(Unit = 1 HCF = 748 gallons)</b>               |                        |                              |
| <b>Effective Date</b>                             | <b>Rate (per unit)</b> | <b>Minimum Annual Charge</b> |
| July 1, 2021                                      | \$8.27 per unit        | \$91.81                      |
| July 1, 2022                                      | \$9.02 per unit        | \$100.08                     |
| July 1, 2023                                      | \$9.83 per unit        | \$109.08                     |

The annual charges are calculated by multiplying bi-monthly winter water usage (January/February water bills) times 6 billing cycles times the rate in place. For example, a customer with average winter water usage of 4 units, their annual charge for July 1, 2021 through June 30, 2022 will equal  $4 \times 6 \times \$8.27 = \$198.48$ . There is a minimum annual charge set forth in the table above as well.

**Pass-Through Rate Adjustments.** To ensure that there are sufficient revenues to provide sewer services to our customers, the Town is also proposing to annually pass through to our customers any increases in the rates for wholesale sewer collection and treatment services and any other charges that NSMCSD may impose on the Town that are greater than those set forth in the Schedule above (each a "Pass Through Adjustment"). If approved by the City Council, commencing July 1, 2021, and any time thereafter through, and including, July 1, 2025, the City may annually implement any Pass-Through Adjustment, provided, however, that: (1) any increase in the rates as a result of any Pass-Through Adjustment shall not exceed 10% per year; and (2) in no event shall such rates be increased as a result of a Pass-Through Adjustment by more than the cost of providing sewer service. Prior to implementing any increase in the rates for the sewer service charges as a result of any Pass-Through Adjustment, the Town will give written notice of any applicable rate increase to each property on which the increased rate is to be imposed not less than 30 days prior to the effective date of such rate increase.

**How Sewer Service Charges are Collected.** The Town of Colma has elected to collect the sewer service charges on the property tax roll of San Mateo County. The Town will prepare a written Report describing each parcel of real property receiving such services as well as the amount charged to each parcel. The Report will contain the actual charge for each parcel shown on the Assessor's Parcel Map.

**Public Hearing.** Any record owner of a parcel upon which the proposed sewer service charges are proposed to be imposed may submit a written protest to the proposed increases to the rates for the Town's sewer service charges; provided, however, only one protest will be counted per identified parcel. Any written protest must: (1) state the property owner is opposed to the proposed rate increases; (2) provide the location of the identified parcel (by street address or assessor's parcel number); and (3) include the name and signature of the property owner submitting the protest. Written protests may be submitted by mail or in person to the City Clerk at the 1198 El Camino Real, Colma, CA 94014, or during the Public Hearing (June 23, 2021 at 7:00 PM via Zoom). To be counted, a written protest must be received by the Town prior to the conclusion of the public input portion of the Public Hearing. Protests can be submitted electronically via e-mail to the City Clerk at [ccorley@colma.ca.gov](mailto:ccorley@colma.ca.gov). Please identify on the front of the envelope for any protest, whether mailed or submitted in person to the City Clerk, Public Hearing on Rates.

The City Council will consider all written protests to and oral comments regarding the proposed rate increases at the Public Hearing. Oral comments at the Public Hearing will not qualify as formal protests unless accompanied by a written protest. Upon the conclusion of the Public Hearing, the City Council will consider adoption of the proposed rate increases for the sewer service charges described herein. If written protests against the proposed rates are not presented by a majority of the property owners of the identified parcels upon which the rates and charges are proposed to be imposed, the City Council will be authorized to impose the respective rate increases and future Pass-Through Adjustments.

**Further Information.** If you need further information or have any questions regarding your customer classification, service area, or the rates proposed to be imposed on your parcel, you may contact Colma Engineering Department, 1198 El Camino Real, Colma, California, telephone 650-757-8888.

Date: May 3, 2021

By: \_\_\_\_\_  
Brian Dossey, City Manager





# STAFF REPORT

TO: Mayor and Members of the City Council

FROM: Michael P. Laughlin, City Planner, CSG Consultants  
 Kathleen Gallagher, Sustainability Programs Manager, CSG Consultants  
 Jonathan Kwan, Associate Planner, CSG Consultants

VIA: Brian Dossey, City Manager

MEETING DATE: June 23, 2021

SUBJECT: Sustainable Food Service Ware Ordinance

## RECOMMENDATION

Staff recommends that the City Council introduce the following:

AN ORDINANCE REPEALING COLMA MUNICIPAL CODE SUBCHAPTER 4.13 AND  
 ADOPTING A NEW SUBCHAPTER 4.13 REGULATING THE USE OF DISPOSABLE FOOD  
 SERVICE WARE BY FOOD FACILITIES PURSUANT TO CEQA GUIDELINE 15061(b)(3)  
 AND 15308

## EXECUTIVE SUMMARY

The purpose of the Sustainable Food Service Ware Ordinance is to reduce plastic waste sent to landfills, reduce plastic stormwater pollution to waterways and improve the health of the community by eliminating the unnecessary distribution and use of single use disposable food service ware that is not reusable or compostable. The proposed Ordinance replaces and expands the Town's existing Polystyrene Food Service Ware Ordinance to include all single use disposable food service ware that is not compostable or reusable.

## FISCAL IMPACT

The proposed ordinance would have a very minor fiscal impact to the Town if the Town purchases and uses compostable food service ware for events and functions. Staff costs to conduct outreach and education about the ordinance are part of the existing Sustainability budget.

## BACKGROUND

The use of disposable (single-use plastic) food service ware has been determined to have significant impacts on the environment, including environmental contamination, litter on streets, and plastic pollution in waterways and oceans. Similarly, Polystyrene, also known as Styrofoam,

has also become a problematic environmental pollutant given its non-compostable and nearly non-reusable nature. In addition, many new compostable plastic alternatives contain fluorinated chemicals that have been linked to serious health issues including some cancers and thyroid disruption. These compostable plastics do not fully degrade in a marine environment and break down into microplastics, which are consumed by microorganisms and end up in the fish that we eat.

A recent San Mateo County study showed that over half of the litter that flows to local creeks is from single use plastic packaging. Once this plastic litter enters storm drains it ends up polluting the creeks, bay and ocean. In addition, using less plastic provides a local solution to the global problem of the significant decline in plastic recycling markets. Instead of being recycled, most plastics are sent to the landfill because they are denied by global plastic recycling markets. Currently, there is no foreseeable improvement in the global plastic recycling market. Therefore, reducing and or eliminating single use plastics is the better option.

San Mateo County adopted a plastic bag ban and Polystyrene ban ordinance in 2012. Understanding the importance of and need for reducing plastic litter, the Town adopted the plastic bag ban ordinance and Polystyrene ban soon after. Enforcement of both ordinances is carried out by the County.

San Mateo County initiated their intent to amend their existing ordinance in 2019 and began by providing public outreach materials about the types of materials that the ordinance would prohibit and allow. A staff member from the San Mateo County Office of Sustainability (OOS) made a presentation to the City Council in the fall of 2019 to outline the ordinance provisions. Staff conducted outreach to Colma businesses about the ordinance in fall of 2019 by sending flyers and making personal visits to existing food businesses. The response from businesses was generally supportive of the changes. In February of 2020, San Mateo County enacted its Ordinance to regulate food service ware in the unincorporated areas of the County and are encouraging the Cities to do the same. In February of 2021, San Mateo County updated the Ordinance to extend the enforcement of the Ordinance to March 25, 2022 due to the impacts of COVID-19.

## **ANALYSIS**

The proposed ordinance would adopt Chapter 4.107 of the County of San Mateo Ordinance Code and replaces the Town's current Polystyrene Ordinance.

The provisions of the proposed Ordinance are summarized below:

- 1. Straws, stirrers, cup spill plugs, condiment packets, utensils, napkins, and other accessories shall be provided only:** (1) when requested by the consumer, (2) upon acceptance by the consumer after being offered by the food facility, or (3) at a self-service area and/or a dispenser. Accessories will be distributed unbundled as separate individual units. Take-out food delivery services that utilize digital ordering platforms shall provide clear options for customers to affirmatively request accessories.
- 2. Polystyrene (#5 plastics, Styrofoam) disposable food service ware is prohibited.** This is carried over from the Polystyrene Ban Ordinance (Chapter 4.13 of the Colma Municipal Code).
- 3. Food facilities shall only use straws, stirrers, utensils, and cocktail toothpicks (and the packaging that these individual items are wrapped in, if any) made**

**from non-plastic, compostable materials.** Acceptable (non-plastic, compostable plastics) is defined as, but not limited to, natural fiber-based materials such as paper, sugarcane, wheat stalk/stem, bamboo, wood, etc. Traditional plastics (petroleum-based) and compostable plastics (bioplastics or polylactic acid plastics) shall not be allowed for the abovementioned items.

4. **Food facilities shall use non-plastic, compostable plates, bowls, cups food trays, clamshells, boxes, deli containers, and other containers.** These items may be lined with, but not made entirely of compostable plastic. Additionally, these items shall be certified by the Biodegradable Products Institute (BPI) or by another 3<sup>rd</sup> party approved by the OOS to ensure that the items breakdown in an industrial composting facility and are free of/have minimal traces of harmful fluorinated chemicals.

**5. Notable exemptions that will be allowed are summarized below:**

- a. Disposable food service ware made from aluminum.
  - b. Disposable plastic straws may be provided only upon request to consumers with medical needs.
  - c. Healthcare facilities may distribute straws and cup sleeves without a request from the consumer.
  - d. Drive-through areas of food facilities may distribute straws and cup sleeves without a request from the consumer.
  - e. If no reasonably feasible disposable food service ware alternative exists.
6. **The OOS will maintain and have available a list of approved disposable food service ware sources and/or references to organizations that maintain regularly updated lists of products that meet the Ordinance requirements.** Resources will be available for businesses to provide information on compliant food service ware. Staff has also developed outreach and education materials tailored for Colma businesses using the County model and developed a webpage with resources ([www.colma.ca.gov/reducing-disposable-food-service-ware-in-colma](http://www.colma.ca.gov/reducing-disposable-food-service-ware-in-colma)). Staff intends to partner with the County, Republic Services, and ReThink Disposables, a non-profit group funded by the County to provide on-site technical assistance to businesses that are considering using reusable food service ware instead of single use plastics, in education and outreach. Organizations like ReThink Disposables can meet with businesses to discuss the ordinance and provide technical assistance and resources, such as rebates, for our businesses.

Disposable food service ware that complies with the ordinance such as compostable utensils typically costs more than the non-compostable equivalent. For example, a compostable 'to-go' container can cost 1 to 3 cents more than a traditional plastic 'to-go' container. However, compostable food service ware can be disposed of in an organics collection bin which costs less for pick up services compared to a garbage collection pick up. Organics collection service costs are approximately 25% less than garbage collection costs, therefore overall costs for collection could be reduced if the Town generated compostable waste instead of garbage.

If adopted, the Ordinance will go into effect thirty (30) days after adoption. Enforcement would not begin until March 25, 2022, and will primarily be on a complaint basis. The ordinance requires that food facilities keep records or documents for the purchase of all disposable food

service ware, including non-compostable and compostable items for 365 days from the effective date of the ordinance, and records of all acceptable disposable food service ware evidencing compliance with this chapter for a minimum of three years of from the date of purchase. The ordinance allows the OOS to conduct both education and enforcement at businesses within the Town.

### ***CEQA***

The amendments described in the attached ordinance are exempt from environmental review requirements pursuant to Section 15061(b)(3) of the California Environmental Quality Act ("CEQA") on the grounds that it can be seen with certainty that there is no possibility that the provisions contained within the ordinance may have a significant effect on the environment. Further, the Ordinance is also exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15308, as an action taken by regulatory agencies to assure the maintenance, restoration, enhancement of natural resources, or protection of the environment.

### **Council Adopted Values**

The adoption of this Ordinance to regulate the use of disposable food service ware is consistent with the Council value of *vision* and *responsibility*, because it considers the impact of the increasing amount of disposable food service ware on the existing landfills and the bay and improves public health and the environment through the reduction of plastic pollution.

### **Sustainability Impact**

Amending the Municipal Code to regulate disposable food service ware will have a positive impact on sustainability due to an increase in waste diversion as well as the reduction in the use of the plastics and plastic pollution in the stormwater system. By adopting this ordinance Colma is taking action to reduce plastic pollution and the associated health and environmental problems.

### **Alternatives**

The City Council has the option of not adopting the ordinance. This is not recommended since the Town would not participate in the regional approach to reducing plastic pollution. In addition, if the Council chooses to not adopt the ordinance or to adopt a different ordinance, the Town will not benefit from the County's enforcement of the ordinance.

### **CONCLUSION**

Staff recommends the City Council introduce and adopt the ordinance.

### **ATTACHMENTS**

- A. Ordinance
- B. Sample outreach and education materials for Colma businesses



**ORDINANCE NO. \_\_\_\_\_**  
**OF THE CITY COUNCIL OF THE TOWN OF COLMA**

**AN ORDINANCE REPEALING COLMA MUNICIPAL CODE SUBCHAPTER 4.13 AND  
ADOPTING A NEW SUBCHAPTER 4.13 REGULATING THE USE OF DISPOSABLE FOOD  
SERVICE WARE BY FOOD FACILITIES PURSUANT TO CEQA GUIDELINE 15061(b)(3)  
AND 15308**

The City Council of the Town of Colma does ordain as follows:

---

**ARTICLE 1. SUBCHAPTER 4.13 REPEALED AND REPLACED.**

Subchapter 4.13 is hereby repealed in its entirety and replaced as follows:

**Subchapter 4.13: Sustainable Food Service Ware Ordinance**

**4.13.010 Findings and Purpose.**

- (a) The use of single-use plastic disposable food service ware has been determined to have significant impacts on the environment, including environmental contamination, litter on streets, and plastic pollution in waterways and oceans; and
- (b) Polystyrene, also known as Styrofoam, has also become a problematic environmental pollutant given its non-compostable and nearly non-reusable nature; and
- (c) Many new compostable plastic alternatives contain fluorinated chemicals that have been linked to serious health issues including some cancers and thyroid disruption. These compostable plastics do not fully degrade in a marine environment and break down into microplastics, which are consumed by microorganisms and end up in the fish that we eat; and
- (d) The City Council of the Town of Colma does find and declare that it should regulate the use of disposable food service ware by food vendors.

**4.13.020 Definitions.**

For purposes of this Subchapter, the following definitions apply.

- (a) "Aluminum Foil-based" means any Disposable Food Service Ware composed entirely of aluminum, including but not limited to aluminum tray liners, aluminum foil, and aluminum foil baskets.
- (b) "Biodegradable Products Institute (BPI)" refers to a certification program that ensures that products and packaging displaying the BPI logo have been independently tested and verified accordingly to scientifically based standards to successfully break down in professionally managed industrial composting facilities. BPI-certified products meet the standards of the American Society for Testing Materials (ASTM) D6400 or D6868 for compostability. Starting on January 1, 2020, all BPI-certified products will also be required to have (1) a limit of 100 parts

per million (ppm) total Fluorinated Chemicals as the upper threshold for acceptance and (2) no intentionally added Fluorinated Chemicals.

(c) "Compostable" means that an item or material (1) will break down, or otherwise become part of usable compost in a safe and timely manner and (2) is Natural Fiber-based or made from other materials approved by the County Manager or designee. Compostable items may include those that are made entirely of Natural Fiber or Natural Fiber-based items that are coated or lined with biologically based polymer, such as corn or other plant sources (e.g., compostable plastics), if certified by BPI or by another independent third party approved by the County Manager or designee.

(d) "County" means the County of San Mateo.

(e) "Disposable" means designed to be discarded after a single or limited number of uses and not designed or manufactured for long-term multiple reuse.

(f) "Food Service Ware" means food contact products used for serving, distributing, holding, packaging, and/or transporting Prepared Food including, but not limited to plates, cups, bowls, trays, clamshell containers, boxes, utensils, straws, lids, and food contact paper (e.g., wraps, bags, tray liners, etc.). The term "Food Service Ware" includes Food Service Ware Accessories.

(g) "Food Service Ware Accessories" include Food Service Ware such as straws, stirrers, cup spill plugs, cup sleeves, condiment packets, utensils (including chopsticks), cocktail sticks/picks, toothpicks, napkins, and other similar accessory or accompanying Food Service Ware used as part of food or beverage service or packaging. Detachable lids for beverage cups and food containers are not considered a Food Service Ware Accessory.

(h) "Fluorinated Chemicals" means perfluoroalkyl and polyfluoroalkyl substances (PFAS chemicals) or fluorinated chemicals, which are a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(i) "Food Facility" means an operation that stores, prepares, packages, serves, vends, or otherwise provides food to the public for human consumption, as defined by the California Health and Safety Code Section 113789 or successor. It includes both permanent and temporary food facilities. Public schools are exempt from the provisions of this Subchapter.

(j) "Food Scrap Composting Method" means: (1) self-hauling of food scraps to a permitted composting facility or a transfer station that accepts food scraps that will be transferred to a permitted composting facility for on-site compost processing, (2) food scrap compost collection service provided by a curbside hauler, or (3) on-site food scrap composting.

(k) "Healthcare Facilities" mean places that provide healthcare to the public. Healthcare Facilities includes, but is not limited to hospitals, clinics, outpatient care centers, nursing homes, psychiatric care centers, medical offices, hospice homes, mental health and addiction treatment centers, orthopedic and other rehabilitation centers, urgent care, birth centers, etc.

(l) "Natural Fiber/Natural Fiber-based" means a plant or animal-based, non-synthetic fiber, including but not limited to products made from paper, sugarcane, bamboo, wheat stems/stalk, hay, wood, etc.

(m) "Non-Compostable" means not meeting the definition of Compostable set forth in this Subchapter.

(n) "Polystyrene-based" means and includes expanded polystyrene, which is a thermoplastic petrochemical material utilizing a styrene monomer and processed by any number of techniques including, but not limited to fusion of polymer spheres (expandable bead polystyrene), injection molding, form molding, and extrusion-blow molding (extruded foam polystyrene). The term "polystyrene" also includes polystyrene that has been expanded or blown using a gaseous blowing agent into a solid foam (expanded polystyrene [EPS]) and clear or solid polystyrene known as oriented polystyrene.

(o) "Prepackaged Food" means any properly labeled processed food, prepackaged to prevent any direct human contact with the food product upon distribution from the manufacturer and prepared at an approved source.

(p) "Prepared Food" means food or beverages that undergo a cooking or food preparation technique on the Food Facility's premises for consumption by the public. Cooking or food preparation technique includes, but is not limited to the following:

(1) Cooking methods, utilizing the application of heat, such as steaming, microwaving, simmering, boiling, broiling, grilling, frying, or roasting.

(2) Beverage preparation, such as blending, brewing, steeping, juicing, diluting, or pouring.

(3) Food preparation techniques, such as defrosting, rinsing, washing, diluting, cutting, portioning, mixing, blending, assembling, coating, dipping, garnishing, decorating, or icing.

Prepared Food does not include raw eggs or raw, butchered meats, fish, and/or poultry sold from a butcher case, a refrigerator case, or similar retail appliance.

(q) "Takeout Food" means Prepared Food requiring no further preparation, which is purchased to be consumed off a Prepared Food Facility's premises. Takeout Food includes Prepared Food delivered by a Food Facility or by a third-party Takeout Food Delivery Service.

(r) "Takeout Food Delivery Service" is a service that delivers Takeout Food from a Food Facility to a customer for consumption off the premises. This service can be provided directly by the Food Facility or by a third-party.

#### **4.13.030 Distribution of Disposable Food Service Ware Accessories.**

(a) No Food Facility shall provide any Disposable Food Service Ware Accessories except: (1) upon request by the consumer, (2) upon acceptance by the consumer after being offered by the Food Facility, or (3) at a self-serve area and/or a dispenser.

(b) Food Facilities shall only distribute Disposable Food Service Ware Accessories unbundled, as separate individual units.

(c) Takeout Food Delivery Services that utilize digital ordering/point of sale platforms, including but not limited to the internet and smart-phone, shall only offer Disposable Food Service Ware Accessories by providing clear options for customers to affirmatively request these items separate from orders for food and beverages. The default option on the digital ordering/point of sale platforms shall be that no Disposable Food Service Ware Accessories are requested. Each individual Disposable Food Service Ware Accessory (e.g., each fork, knife, condiment packet, napkin, etc.) provided with Prepared Food must be specifically requested by the customer in order for a Food Facility to provide it.

#### **4.13.040 Standards and Required Use of Disposable Food Service Ware.**

(a) No Food Facility shall use Polystyrene-based Disposable Food Service Ware when providing Prepared Food.

(b) Food Facilities shall only provide Disposable straws, stirrers, utensils, and cocktail/toothpicks (and the packaging that these individual items are wrapped in, if any) that are Compostable.

(c) Nothing in this Subchapter shall conflict or be construed to conflict with the Americans with Disabilities Act or any other applicable law concerning the rights of individuals with disabilities. In particular, nothing in this Subchapter shall restrict, or be construed to restrict, the provision by Food Facilities of Disposable Non-Compostable straws to individuals who may request the use of Disposable Non-Compostable straws to accommodate medical needs or disabilities. Healthcare Facilities may distribute Disposable Non-Compostable straws with or without request by a patient at the discretion of the Healthcare Facility staff based on the physical or medical needs of the patient.

(d) Food Facilities shall use Compostable items for the below Disposable Food Service Ware:

(1) Plates

(2) Bowls (of all sizes including, but not limited to soup and salad bowls and accessory bowls for condiments)

(3) Cups (of all sizes including, but not limited to beverage cups)

(4) Food trays

(5) Clamshells, boxes, deli containers, and other containers used for the sale and/or distribution of Prepared Food (e.g., Takeout Food, leftover "doggie containers", etc.)

(e) Compostable items for the Disposable Food Service Ware listed in Subsection (d) used by Food Facilities must have been tested to breakdown into compost in an industrial composting facility in a timely manner and shall be free of all intentionally added Fluorinated Chemicals. To verify, these items shall be certified by Biodegradable Products Institute (BPI) or

another independent third party approved by the County Manager or designee, in collaboration with local waste processors and haulers.

(f) For all other Disposable Food Service Ware not listed in Subsections (b) and (d), Food Facilities shall use only Disposable Food Service Ware that can be composted by the Food Scrap Composting method utilized by the Food Facility and/or accepted for recycling by the Food Facility's recycling collection service.

(g) The Town through the County shall maintain a list of approved Disposable Food Service Ware sources and/or references to organizations that maintain regularly updated lists of products that meet the requirements detailed in Subsections (a), (b), (d), and (e) of this Section. This information shall be made available on the County Office of Sustainability website, in the County Office of Sustainability, and available from the Town upon request. If a product is not included on the approved lists, the Food Facility wishing to use a product as Disposable Food Service Ware shall establish to the City Manager through County Manager or designee's satisfaction that the product complies with the requirements detailed in Subsections (a), (b), (d), and (e).

#### **4.13.050 Recordkeeping and Inspection.**

(a) Food Facilities shall keep complete and accurate record or documents of the below items.

(1) Commencing on the effective date of this Ordinance and ending on March 25, 2022, the purchase of all Disposable Food Service Ware, including Non-Compostable and Compostable items.

(2) The purchase of the acceptable Disposable Food Service Ware evidencing compliance with this Subchapter for a minimum period of three years from the date of purchase.

(b) The record shall be made available for inspection at no cost to the Town through the County during regular business hours by Town or County employees or Town or County-designated staff authorized to enforce this Subchapter. Unless an alternative location or method of review is mutually agreed upon, the records or documents shall be made available at the Food Facility address.

(c) The provision of false or incomplete information, records, or documents to the Town or County shall be a violation of this Subchapter.

#### **4.13.060 Exemptions.**

(a) Prepackaged Food is exempt from the provisions of this Subchapter.

(b) Polystyrene coolers and ice chests intended for reuse are exempt from the provisions of this Subchapter.

(c) Disposable Food Service Ware that is entirely Aluminum Foil-based is exempt from the provisions of this Subchapter.

(d) If the Town through the County determines that a reasonably feasible Disposable Food Service Ware that complies with Section 4.13.040 (a), (b), (d), and (e) of this Subchapter does not exist, these items will be exempt from the abovementioned provisions of this Subchapter until the Town through the County determines that a reasonably feasible alternative is available on the market for purchase. The Town through the County will have a current list of these exempted Disposable Food Service Ware posted on the County Office of Sustainability website with hard copies available in the County Office of Sustainability, and available from the Town upon request.

(e) Certain Disposable Food Service Ware Accessories for beverage orders, specifically, straws and cup sleeves, shall be exempt from Section 4.13.030 (a) and may be distributed for safety reasons without the need for a request by the consumer or an offer by the Food Facility, specifically at drive-through areas of Food Facilities. Detachable lids are not considered a Disposable Food Service Ware Accessory, so Section 4.13.030 (a) does not apply to detachable lids.

(f) Temporary exemptions due to an emergency are automatic without the submission of a request for an exemption. An emergency is defined as a sudden, unexpected occurrence posing a clear and imminent danger that requires immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services. Examples of an emergency include, but are not limited to natural disasters, emergencies due to the release of hazardous materials, emergencies associated with loss of power and/or water, or emergency medical response.

#### **4.13.070 Case-by-Case Consideration of Requests for Hardship Exemption.**

(a) **Grounds for an exemption.** An exemption from any of the provisions of this Subchapter may be granted by the City Manager through the County Manager or designee upon demonstration by a Food Facility to the satisfaction of the Town through the County that strict application of the requirements would cause undue hardship. An "undue hardship" includes, but is not limited to the following:

(1) A situation unique to the Food Facility where a suitable alternative that conforms with the requirements detailed in Section 4.13.040 (a), (b), (d), and (e) does not exist for a specific application.

(2) Imposing the provisions of this Subchapter would cause significant economic hardship. "Significant economic hardship" may be based on, but not limited to, demonstrating that suitable Disposable Food Service Ware is not available at a commercially reasonable price and the additional cost associated with providing the Disposable Food Service Ware is particularly burdensome to the Food Facility based on the type of operation(s) affected, the overall size of the business/operation, the number, type and location of its facilities, the impact on the overall financial resources of the Food Facility, and other factors. Reasonable added cost for a suitable item as compared to a similar item that the Food Facility can no longer use shall not by itself constitute adequate grounds to support an exemption for such item. In determining whether a significant economic hardship has been established, the City Manager through the County Manager or designee shall consider the following information: ability of the Food

Facility to recover the additional expense by increasing its prices; the availability of tax credits and deductions; outside funding; and other options.

(b) **Request for an exemption.** A request for an exemption from the requirements of this Subchapter shall include all information deemed necessary by the Town and County to render a decision, including but not limited to documentation showing the factual support for the requested exemption. A request for an exemption may be approved by the City Manager through the County Manager or designee, in whole or in part, with or without conditions. The duration of the exemption, if granted, shall also be determined by the City Manager through the County Manager or designee. Information about the application process for requesting an exemption will be available on the County Office of Sustainability's website and in the County Office of Sustainability, and available from the Town upon request.

#### **4.13.080 Enforcement.**

The County of San Mateo, its officers, employees and agents are hereby authorized to enforce, on behalf of the Town of Colma, this subchapter of the Colma Municipal Code, and any amendments thereto, within the jurisdictional boundaries of the Town of Colma. Such enforcement authority includes, without limitation, the authority to hold hearings, issue citations, or assess administrative fines for violations of this Subchapter within the geographical limits of the Town of Colma.

Any violation of this subchapter is declared to be a public nuisance and can be enforced through various provisions of the Colma Municipal Code including this subchapter, subchapter 1.05 and subchapter 2.01. Any violation can also be enforced by the County or Town through any and all administrative, civil, or criminal enforcement remedies available under the law.

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## **ARTICLE 2. SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase added by this ordinance, or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses or phrases are declared unconstitutional, invalid or ineffective.

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## **ARTICLE 3. CEQA COMPLIANCE**

The City Council finds that the changes made to the Codes are exempt from environmental review requirements pursuant to Section 15061(b)(3) of the California Environmental Quality Act ("CEQA") on the grounds that it can be seen with certainty that there is no possibility that the provisions contained within the ordinance may have a significant effect on the environment. Further, the changes made to the Codes are also exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15308, as an action taken by regulatory agencies to assure the maintenance, restoration, enhancement of natural resources, or protection of the environment.

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**ARTICLE 4. EFFECTIVE DATE**

This ordinance shall take effect thirty (30) days following its adoption by the City Council. However, the mandatory provisions of this Ordinance, except for Section 4.13.050(a)(1) of this Ordinance, shall only become subject to enforcement on March 25, 2022.

**Certification of Adoption**

I certify that the foregoing Ordinance No.\_\_\_\_ was duly introduced at a regular meeting of the City Council of the Town of Colma held on June 23, 2021, and adopted at a regular meeting of the City Council of the Town of Colma held on July 14, 2021, by the following vote:

| Name                  | Voting |    | Present, Not Voting |                   | Absent |
|-----------------------|--------|----|---------------------|-------------------|--------|
|                       | Aye    | No | Abstain             | Not Participating |        |
| Diana Colvin, Mayor   |        |    |                     |                   |        |
| Helen Fisicaro        |        |    |                     |                   |        |
| Raquel Gonzalez       |        |    |                     |                   |        |
| Joanne F. del Rosario |        |    |                     |                   |        |
| John Irish Goodwin    |        |    |                     |                   |        |
| <i>Voting Tally</i>   |        |    |                     |                   |        |

Dated: \_\_\_\_\_

\_\_\_\_\_  
Diana Colvin, Mayor

Attest: \_\_\_\_\_

Caitlin Corley, City Clerk





## Town of Colma Sustainable Food Service Ware Ordinance Summary

### **Disposable Food Ware Ordinance (Ordinance) Objectives**

1. Reduce single-use plastics and other food ware waste
2. Improve the health and safety of our community members
3. Keep our waterways clean and safe

### **Who will be affected?**

*Food facilities* that operate in Colma that provide *prepared food* to the public will be affected.

*Food Facility:* An entity that has a valid health permit with the County of San Mateo for distributing food/beverages to the public. Examples include, but are not limited to restaurants, mobile food trucks, temporary food facilities (e.g., street fairs, etc.), farmers' markets, catering operations, private schools, and other operations.

*Prepared Food:* Food/beverage prepared on-site at the food facility using any cooking or food preparation technique (e.g., mixing, heating, blending, chopping, grilling, portioning, etc.).

### **Affected Items**

Disposable food ware refers to one-time/limited-number-of-use items associated with food. This includes, but is not limited to:

- Bowls
- Plates
- Clamshells and other containers
- Cups
- Napkins
- Straws
- Condiment Packets
- Cup sleeves, lids, stirrers, and spill plugs
- Tooth/Cocktail Picks

### **Summary of Requirements**

1. Accessories such as straws, stirrers, cup spill plugs, condiment packets, utensils, napkins, etc. shall be provided only:
  - When requested by the consumer;
  - When the consumer accepts an offer by the food facility; or
  - At a self-serve area and/or a dispenser.

Additionally, accessories will be distributed unbundled as separate individual units. Online take-out food delivery services shall provide clear options for customers to actively request accessories.

2. Polystyrene disposable food ware (all #6 plastics, Styrofoam) will be banned.



3. Plastics, either traditional or compostable (a.k.a. bioplastics or PLA), are not allowed for:
  - Accessories: Straws, stirrers, utensils, and cocktail/toothpicks (and packaging that these individual items are wrapped in, if any)
  - Larger Items: Plates, bowls, cups, food trays, clamshells, boxes, deli containers, and other containers. These items can be lined with compostable plastic, but they must be certified by Biodegradable Products Institute or another approved 3rd party.
4. Acceptable materials include *non-plastic, compostable, natural fiber-based materials* such as paper, sugarcane, wheat stalk/stem, bamboo, wood, hay, etc.

Larger Items: Plates, bowls, cups, food trays, clamshells, boxes, deli containers, and other containers must also be certified by *Biodegradable Products Institute (BPI)* or another approved 3rd party to ensure they breakdown into compost and are free of harmful fluorinated chemicals.



A resource guide with information on approved disposable food ware will be made available.



### **Exemptions**

- Disposable food ware made from aluminum.
- Disposable plastic straws may be provided only upon request to consumers with medical needs. Healthcare facilities may distribute disposable plastic straws without a request from patients.
- Drive-through areas of food facilities may distribute straws and cup sleeves without a request from the consumer.
- If no reasonably feasible disposable food ware alternative exists, item may be exempt.

### **Timeline and Enforcement**

The Ordinance will be brought to the City Council in June 2021. The County's Office of Sustainability will begin enforcing the Ordinance on **March 25, 2022**