



AGENDA (REVISED)

SAN RAFAEL CITY COUNCIL - MONDAY, AUGUST 19, 2024

SPECIAL MEETING AT 4:45 P.M.

REGULAR MEETING AT 6:00 P.M.

This meeting will be held in-person. This meeting is being streamed to YouTube at www.youtube.com/cityofsanrafael.

How to participate in the meeting:

- You are welcome to come to the meeting and provide public comment in person. Each speaker will have 2-minutes to provide public comment per agenda item.
- Submit your comments by email to city.clerk@cityofsanrafael.org by 4:00 p.m. the day of the meeting.

If you experience technical difficulties during the meeting, please contact city.clerk@cityofsanrafael.org.

SPECIAL MEETING AT 4:45 P.M.

San Rafael Third Floor Conference Room
1400 Fifth Avenue, San Rafael, CA 94901

Watch Online:

Watch on Zoom Webinar: <https://tinyurl.com/sm-2024-08-19>

Listen by phone: (669) 900-9128

ID: 879-9873-4798#

One Tap Mobile: +16699009128,,87998734798# US

1. Planning Commission Interviews

Interview Applicants and Make Appointments to One Four-Year Term and Two Alternate Member Four-Year Term Licensed Architect Seats on the Planning Commission to the End of October 2028; And Appoint Current Planning Commissioners to Specific Seats on the Planning Commission to Finalize Membership on the Commission (CC)

Recommended Action - Interview applicants and make appointments

OPEN SESSION

1. None.

CLOSED SESSION

2. Closed Session: - None.

REGULAR MEETING AT 6:00 P.M.

San Rafael City Hall, Council Chambers
1400 Fifth Avenue, San Rafael, CA 94901

Watch Online:

Watch on Zoom Webinar: <https://tinyurl.com/cc-2024-08-19>

Watch on YouTube: www.youtube.com/cityofsanrafael

Listen by phone: (669) 444-9171

ID: 860-6190-5675#

One Tap Mobile: +16694449171,,86061905675# US

CITY MANAGER AND COUNCILMEMBER REPORTS:

(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

3. City Manager and Councilmember Reports:

CONSENT CALENDAR:

The opportunity for public comment on consent calendar items will occur prior to the City Council's vote on the Consent Calendar. The City Council may approve the entire consent calendar with one action. In the alternative, items on the Consent Calendar may be removed by any City Council or staff member, for separate discussion and vote.

4. Consent Calendar Items:

a. **City Quarterly Investment Report**

Acceptance of City of San Rafael Quarterly Investment Report for the Quarter Ending June 30, 2024 (Fin)

Recommended Action - Accept report

b. **Caltrans Maintenance Agreement Amendment**

Rescind Resolution 15306 and Adopt Resolution Approving and Authorizing the City Manager to Execute Amendment No. 1 to the Supplemental Freeway Maintenance Agreement with Caltrans (PW)

Recommended Action - Rescind Resolution 15306 and Adopt Resolution

c. **Caltrans Property Relinquishment**

Resolution Approving and Authorizing the City Manager to Send a Letter to Request that Caltrans Relinquishes the Property East of Redwood Highway and Civic Center Drive (PW)

Recommended Action - Adopt Resolution

d. **Grand Avenue Cycle Track Project**

Accept Completion of the Grand Ave Cycle Track Project, City Project No. 11393, and Authorize the City Clerk to File the Notice of Completion (PW)

Recommended Action - Accept completion of the Grand Ave Cycle Track Project and authorize the City Clerk to file the Notice of Completion

e. **Large Trash Capture Device Projects**

Authorize the City Manager to Enter into Professional Services Agreements to Provide Design Services for Large Trash Capture Devices with:

- i. Schaaf & Wheeler Consulting Civil Engineers (S&W) in the Amount Not to Exceed \$476,565

Recommended Action - Authorize the City Manager to enter into a professional services agreement with Schaaf & Wheeler Consulting Civil Engineers ("S&W") to provide design services for large trash capture devices at three locations, in the amount not to exceed \$476,565

- ii. BKF Engineers (BKF) in the Amount Not to Exceed \$421,300

Recommended Action - Authorize the City Manager to enter into a professional services agreement with BKF Engineers ("BKF") to provide design services for large trash capture devices at two locations, in the amount not to exceed \$421,300

PUBLIC HEARINGS

5. Public Hearings:

- a. Proposed Camping Ordinance Amendments, and Informational Report on Homelessness, Including Sanctioned Camping Program, Homeless Program Contracts and Appropriation of Funds**
 - i. Introduction of an Ordinance Amending San Rafael Municipal Code Chapter 19.50 -- Camping on Public Property**
Recommended Action - Introduce the Ordinance, waive further reading of the Ordinance, and refer to it by title only
 - ii. Resolution Appropriating \$2,256,400 From the Grants Fund 283 to Support the Initial Costs and Contracts Associated with the Sanctioned Camping Program and Authorizing the City Manager to Execute Contracts in the Amount of \$2,002,400 for the First Phase of the Encampment Resolution Fund Round 3 (ERF3) Grant Program and Other Homelessness Program Services (CM)**
Recommended Action - Adopt Resolution
- b. Amendments to Chapter 15.155 (Urban Lot Splits) and Chapter 15.03 (Minor Subdivisions (Four or Fewer Lots)) of the San Rafael Municipal Code**
Introduction of an Ordinance Amending Chapter 15.155 (Urban Lot Splits) and Chapter 15.03 (Minor Subdivisions (Four or Fewer Lots)) of the San Rafael Municipal Code to Clarify and Improve the Procedure for Implementation of Government Code Section 66411.7 (Senate Bill 9) Related to Urban Lot Splits (PW)
Recommended Action - Introduce the Ordinance, waive further reading of the Ordinance, and refer to it by title only

OTHER AGENDA ITEMS

6. Other Agenda Items:

- a. Response to the Grand Jury Report on Sea Level Rise**
Resolution Approving and Authorizing the Mayor to Execute the Response to the Marin County Civil Grand Jury Report Titled "Sea Level Rise: The Water is Upon Us We Cannot Run - We Cannot Hide" (CM)
Recommended Action - Adopt Resolution
- b. Sidewalk Repair Program Update**
Approve the Sidewalk Repair Program as a Permanent Program and Authorize a \$1,000 Increase in Allowable Reimbursement Amount, For a New Total Reimbursement up to \$2,000 in Fiscal Year 2024-25, With an Allowable Yearly Increase Tied to the Consumer Price Index, Up to a Maximum of 3.5% a Year (CM)
Recommended Action - Approve the Sidewalk Repair Program as permanent program and authorize a \$1,000 increase in allowable reimbursement amount, for a new total reimbursement up to \$2,000 in fiscal year 2024-25, with an allowable yearly increase tied to the Consumer Price Index, up to a maximum of 3.5% a year
- c. Fiscal Year 2023-2024 Budget Amendments**
Resolution Adopting Amendments to the City of San Rafael Budget for Fiscal Year 2023-2024 for the Purpose of Confirming Authorized Appropriations and Transfers (Fin)
Recommended Action - Adopt Resolution

d. Pavement Maintenance Project Fiscal Year 2024-25

Award the Construction Agreement for the Pavement Maintenance Project FY 2024-25 to Pavement Coatings Co. and Authorize \$1,900,000 for Project Construction (PW)

Recommended Action - Approve plans and specifications for the Pavement Maintenance Project FY 2024-25 (also referred to as "City Project No. 11454" and "the Project") deemed reasonable by the City Engineer, on file in the Department of Public Works; And, Award a construction agreement (the "Construction Agreement") for the project to Pavement Coatings Co., authorize the City Manager to execute the construction agreement in the amount of \$1,655,880 and authorize the City Manager to amend the contract amount using contingency funds of \$244,120 for a total not to exceed amount of \$1,900,000 for the Project; And, Appropriate \$400,000 from the Gas Tax Fund (206) for the construction agreement to supplement the previously appropriated amount of \$1,500,000 from the Gas Tax Fund (206) included in the FY 2024-25 adopted budget approved on June 17, 2024

OPEN TIME FOR PUBLIC EXPRESSION

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

ADJOURNMENT:

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online and at City Hall, 1400 Fifth Avenue, and placed with other agenda-related materials on the table in front of the Council Chamber prior to the meeting. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing city.clerk@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request. To request Spanish language interpretation, please submit an online form at <https://www.cityofsanrafael.org/request-for-interpretation/>.



Special Meeting
Agenda Item No: SM 1
Meeting Date: August 19, 2024

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Clerk *CL*

Prepared by: Lindsay Lara, City Clerk City Manager Approval: _____

TOPIC: PLANNING COMMISSION INTERVIEWS

SUBJECT: INTERVIEW APPLICANTS FOR OPEN PLANNING COMMISSION SEATS AND MAKE APPOINTMENTS FOR THREE, FOUR-YEAR TERMS ENDING OCTOBER 31, 2028: ONE REGULAR MEMBER AND TWO ALTERNATE MEMBERS; AND APPOINT CURRENT PLANNING COMMISSIONERS TO SPECIFIC SEATS ON THE PLANNING COMMISSION TO FINALIZE MEMBERSHIP ON THE COMMISSION

RECOMMENDATION:
Interview the following eligible members from the former Design Review Board to fill the licensed architect regular voting member seat and the two alternate member licensed architect seats on the Planning Commission:

Applicants
Donald Blayney
Jeff Kent
Stewart Summers
Sharon Kovalsky

Approve recommended appointments of current Planning Commissioners to specific seats on the Planning Commission to finalize members on the Commission.

BACKGROUND:
[On July 15, 2024, the City Council adopted an Ordinance](#) Amending Titles 2 – Administration of the San Rafael Municipal Code to Add Design Professionals to the Planning Commission Membership Composition, and Amend Titles 14 – Zoning, and 15 - Subdivisions of the San Rafael Municipal Code, to Dissolve the Design Review Board and Transfer Existing Duties of the Design Review Board to the Planning Commission, or Zoning Administrator, or Director of Community and Economic Development.

On June 21, 2022, the City Council adopted an [Ordinance](#) amending the Planning Commission’s membership composition to include district representatives through attrition. Since then, three members have been appointed to serve as District Representatives: Jill Rodby (D1), Samina Saude (D2) and former Commissioner Shingai Samudzi (D3). If we continue to appoint through attrition, the Planning

FOR CITY CLERK ONLY

Council Meeting:
Disposition:

Commission would have District Representatives appointed by October 2025, and staff recommends appointing members to District Seats on August 19th.

ANALYSIS:

Interviews and Appointments

Staff recommends providing a first-round opportunity to former Design Review Board members who are licensed architects to apply to serve on the newly consolidated Planning Commission. Staff recommends interviewing the four eligible former Design Review Board members and appointing three of them to serve on the Planning Commission as either the regular voting licensed architect or the two alternate member licensed architects until the end of October 2028.

Appoint Planning Commissions to Seats

With all of the changes being made to the Planning Commission, staff recommends seating all current members in a seat on the Commission so all district representative seats will be filled, all design professional seats will be filled, and all at-large seats will be filled.

Commissioner Jill Rodby has already been appointed District 1 representative.

Commissioner Aldo Mercado resides in District 2, and staff recommends the City Council appoint him to serve in the District 2 Representative seat.

Commissioner Jon Haveman resides in District 3, and staff recommends the City Council appoint him to serve in the District 3 Representative seat.

Commissioner Jonathan Previtali resides in District 4, and staff recommends the City Council appoint him to serve in the District 4 Representative seat.

Commissioner Samina Saude is currently appointed to a District 2 seat but is also a design professional. Staff recommends modifying her appointment role to 'design professional'.

After interviews and appointments, and the appointments to seats, there will be one vacancy to the at-large seat on the Planning Commission due to the recent resignation of Commissioner Samudzi and will be filled at a future City Council meeting.

Next Steps and Other Vacancies

Staff will conduct a recruitment and schedule interviews to fill the vacant at-large seat on the Planning Commission.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

ATTACHMENTS:

1. Bylaws
2. Four Applications
3. Member Roster, as proposed

PLANNING COMMISSION BYLAWS

ARTICLE I. NAME AND PURPOSE

Section 1.1. Name. The name of this body shall be the City of San Rafael Planning Commission, hereinafter referred to as the “Commission.”

Section 1.2. Purpose. The purpose of the Commission to make decisions or advise the Council on land use and property development issues. The Commission assures that new development is consistent with our long-range General Plan, State laws and other public policies that advance the interests of our community.

Section 1.3. Committee Responsibility. The Commission’s authority is decision-making.

It shall be the function and duty of the planning commission to act as a decision-making body on matters including, but not limited to:

- Major subdivisions as delegated to the planning commission under Title 15 of this Code.
- Conditional use permits delegated to the planning commission.
- Environmental and design review permits delegated to the planning commission.
- Appeals made by a lower body and appealed to the planning commission.
- Other matters including physical improvements, or environmental and design permits referred by the community development direction to the planning commission pursuant to powers and duties set forth in the Municipal Code.

It shall be the function and duty of the planning commission to act as an advisory body to the city council on legislative matters related to but not limited to the following:

- General plan updates and amendments.
- Zoning text and zoning map amendments.
- Other land use matters requiring city council action.

It shall be the duty of the members of the planning commission to inform themselves on matters affecting the functions and duties of the commission and all planning matters, and, to that end, they may attend training and planning conferences and the reasonable traveling expenses incidental to the attendance shall be charged upon the funds allocated to the commission.

The planning commission shall provide professional design analysis, evaluation and judgment as to the appropriateness of development proposals for the use and setting and to recommend approval, approval with conditions, redesign or denial based on design standards and findings of approval adopted by the city council.

The planning commission shall endeavor to promote public interest and understanding of plans developed, and the regulations relating thereto. The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings, and determinations, which records shall be a public record.

ARTICLE II. MEMBERSHIP

Section 2.1. Number of Members. The Commission shall consist of a total of nine (9) members. Seven (7) regular voting members and two (2) alternate members as follows:

- District 1 Representative
- District 2 Representative
- District 3 Representative
- District 4 Representative
- At-large Member
- At-large Member (Design Professional)
- At-large Member (Licensed Architect)
- At-large Alternate Member (Licensed Architect)
- At-large Alternate Member (Licensed Architect)

Section 2.2. Eligibility. The commission shall be composed of seven (7) regular voting members, comprised of one (1) commissioner from each of the city's four (4) city council electoral districts, and three (3) at-large commissioners.

Requirements for eligibility:

1. District representatives: Each district representative must reside in the district they represent.
2. At-large members: Must reside in city limits. At least one (1) at-large member shall be a licensed architect and at least one (1) at-large member shall be a design professional.

"Design professional" means an architect, engineer, landscape architect, building designer, urban designer, urban planner, or other similar design specialist. They may, but are not required to, be licensed or registered in their related field.

In addition, the commission shall include two (2) alternate members who shall be eligible to vote when serving in the absence of any of the commission's regular voting members. Both alternate members shall reside in city limits and be licensed architects.

Section 2.3. Term Limits. Members of the Committee shall be limited to three (3) consecutive four-year terms. Additional terms may be served if there is a break between terms.

Section 2.4. Absence and Removal. An unexcused absence from two (2) consecutive

Commission meetings without notification to the Staff Liaison shall be considered a voluntary resignation from the Commission. Previously dismissed Commission members may be eligible for reappointment to the Commission.

Section 2.5. Compensation. Commissioners may apply for stipends through the Stipend Program at \$50 per month, not to exceed \$600 per year per member.

ARTICLE III. MEETINGS

Section 3.1. Time and date of Regular Meeting. Notification of meeting place, date, and time shall be rendered to the public through posting on the City of San Rafael website. Regularly scheduled Commission meetings shall be the second and fourth Tuesday of each month, but these dates may be impacted by holidays. A schedule shall be approved annually by the Commission. The Commission shall meet once per month and shall be scheduled annually. The schedule for the upcoming year will be set by December of the previous year.

#74

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, July 24, 2024 8:29:20 AM
Last Modified: Wednesday, July 24, 2024 9:00:40 AM
Time Spent: 00:31:19
IP Address: 24.6.235.121

Page 1

Q1

Contact Information / Información del contacto

First and Last Name / Nombre y Apellido	Donald Blayney
Address / Dirección	[REDACTED]
City / Ciudad	San Rafael
State / estado	Calif.
ZIP/Postal Code / Código postal	94901
Email Address / Dirección de correo electrónico	[REDACTED]
Phone Number / Número de teléfono	[REDACTED]

Q2

What district do you currently live in? ¿En qué distrito vive actualmente?

District 3/Eastern / Distrito 3/Este,
Other (please specify) Otros (especifique):
Peacock Gap

Q3

How long have you lived in San Rafael?

since 1994

Q4

Business Information

Company	Donald L. Blayney & Associates
Address	[REDACTED]
City/Town	San Rafael
ZIP/Postal Code	9901

Q5

City Council Agenda

How did you hear about this vacant position?

Q6

Planning Commission

What Board would you like to apply to? ¿A cuál te gustaría aplicar?

Page 4

Q18

Do you participate in any civic activities? If so, what are they?

see attached

Q19

List any civic organizations of which you are a member:

see attached

Q20

Education:

Cal Poly San Luis Obispo, 1976

Q21

Why are you interested in serving on a board or commission?

see attached

Q22

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

None

Q23

Respondent skipped this question

Upload your resume.

Page 5: Demographics / Datos demográficos

Q24

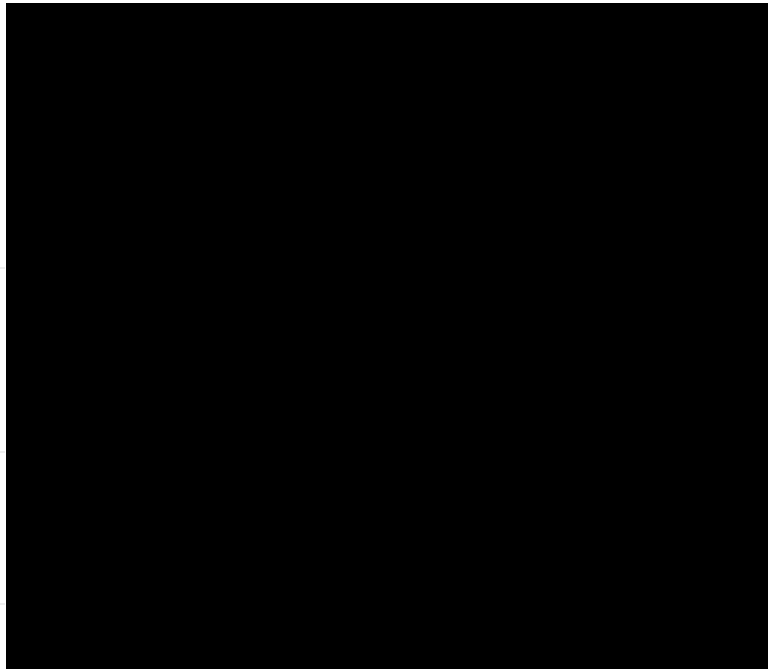
Ethnicity / Raza/etnia:

Q25

To which gender do you most identify? ¿Con qué género se identifica más?

Q26

How old are you? ¿Cuántos años tienes?



Civic and Community Activities / Organizations

For your review and consideration I am applying for a position on the City of San Rafael Planning Commission. I feel that I will be able to bring a wealth of experience to this Commission with the following involvement that I have had living in San Rafael.

Special Qualification

1. I am a practicing registered Landscape Architect (LA#3370) with over 48 years of planning experience and city agencies collaboration experience.
2. I have a small Landscape Architect and Planning firm located here in San Rafael. Since 1990.
3. I have lived in or in close proximity to San Rafael since 1980, permanent residency since 1994.
4. I have been before the San Rafael Design Review, Planning Commission and the City Council numerous times as part of the project management of several projects located here in San Rafael.
5. I have an excellent understanding of the City's process and dealing with the City Agencies.
6. Member of the Landscape Architects Technical Committee.
7. Member of the American Society of Landscape Architects

Civic Activities

8. I was a member of the Andersen Drive Vision Committee and the Landscape Architect charged with the visual design of Andersen Drive and the Albert Park Palm Promenade.
9. I was a member of the North San Rafael Promenade Charette.
10. I was a member of the North San Rafael Vision In Action (VIA) Committee.
11. I was a member of the San Rafael 2020 General Plan Update Committee, -Quality of Community Life Task Group.
12. I Chaired the Design Committee for the Falkirk Cultural Center Master Plan.
13. Graduate of the San Rafael Citizen Police Academy, 2000.
14. Appointed member of the Canalfront Advisory Committee.

Community Activities

15. Member of the San Rafael City School District Technology Committee.
16. Member of the Glenwood Elementary School Foundation 1999 to 2009, Chairmen 2006 to 2009.
17. Vice President of the Peacock Gap HOA 1994 to 2003.
18. Architectural review chairman Peacock Gap HOA, 1994 to Present.
19. Past President of the Peacock Point HOA, 2005.
20. Prepared plans and Specification and coordinated the DSA submittal for the Glenwood Elementary School Shade Structure.
21. Prepared Master Plan for the Davidson Middle School Sports Fields.
22. Prepared New Entry planting plan and 8th grade plaza for Davidson Middle School.
23. Board member Peacock Point Homeowners association
- 24. Current sitting member of the San Rafael Design Review Board from January 2016 to Present.**

With my passed experience in Civic and Community involvement above, I feel I will bring a wealth of experience to the Planning Commission and with my tenure of volunteerism for our City and working on and chairing committees I feel qualified for this position.

My reasons for Serving

To give back to my community and a desirer to help determine the direction of our City, a strong desirer to help better our community and to protect and preserve the City of Rafael as we move forward. I very much look forward to one day joining the team.

#71

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, July 10, 2024 10:30:58 AM
Last Modified: Wednesday, July 10, 2024 11:17:28 AM
Time Spent: 00:46:29
IP Address: 174.195.86.143

Page 1

Q1

Contact Information / Información del contacto

First and Last Name / Nombre y Apellido	Jeff Kent
Address / Dirección	████████████████████
City / Ciudad	San Rafael
State / estado	Ca
ZIP/Postal Code / Código postal	94901
Email Address / Dirección de correo electrónico	████████████████████
Phone Number / Número de teléfono	██████████

Q2

District 3/Eastern / Distrito 3/Este

What district do you currently live in? ¿En qué distrito vive actualmente?

Q3

How long have you lived in San Rafael?

30 years

Q4

Business Information

Company **Retired**

Q5

How did you hear about this vacant position? **Other (please specify):
City staff**

Q6

Planning Commission

What Board would you like to apply to? ¿A cuál te gustaría aplicar?

Page 4

Q18

Do you participate in any civic activities? If so, what are they?

Design Review Board

Formally Public Art Commission

Volunteer for Street Painting Festival

Q19

List any civic organizations of which you are a member:

Marin Agricultural Land Trust

DBCNA-neighborhood association

Q20

Education:

UC Berkeley, Post Graduate Certificate in Landscape Architecture

Oregon State University, MS Horticulture/ Plant Pathology

UW-River Falls, BS Horticulture/Soil Science

Q21

Why are you interested in serving on a board or commission?

After 23 years of serving on the Design Review Board, I still have a strong interest in participating in the design and planning process in San Rafael.

Q22

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

None

Q23

Respondent skipped this question

Upload your resume.

Page 5: Demographics / Datos demográficos

Q24

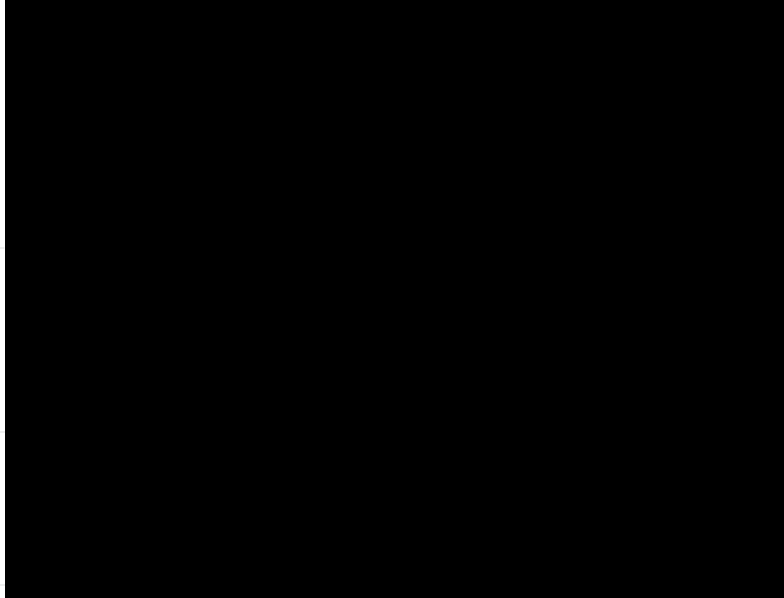
Ethnicity / Raza/etnia:

Q25

To which gender do you most identify? ¿Con qué género se identifica más?

Q26

How old are you? ¿Cuántos años tienes?



#69

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, July 09, 2024 11:00:02 AM
Last Modified: Tuesday, July 09, 2024 11:11:40 AM
Time Spent: 00:11:38
IP Address: 73.189.247.159

Page 1

Q1

Contact Information / Información del contacto

First and Last Name / Nombre y Apellido	Sharon Kovalsky
Address / Dirección	[REDACTED]
City / Ciudad	San Rafael
State / estado	California
ZIP/Postal Code / Código postal	94903
Email Address / Dirección de correo electrónico	[REDACTED]
Phone Number / Número de teléfono	[REDACTED]

Q2

District 4/Northern / Distrito 4/Norte

What district do you currently live in? ¿En qué distrito vive actualmente?

Q3

How long have you lived in San Rafael?

11 years

Q4

Business Information

Company	AplosGroup Architects
Address	[REDACTED]
City/Town	San Rafael
ZIP/Postal Code	94903

Q5 Other (please specify):
How did you hear about this vacant position? Lindsay Lara asked me to apply

Q6 **Planning Commission**
What Board would you like to apply to? ¿A cuál te gustaría aplicar?

Page 4

Q18
Do you participate in any civic activities? If so, what are they?
Public Art Review Board, Design Review Board

Q19
List any civic organizations of which you are a member:
Marin Women at work
Linked in Marin
American Institute of Architects

Q20
Education:
BS Architecture, 1982, University of Michigan
M. Architecture, 1984, University of Michigan
M. Urban Planning, 1984, University of Michigan

Q21
Why are you interested in serving on a board or commission?
I want to give back and help San Rafael build well

Q22
Describe possible areas in which you may have a conflict of interest with the City:
if existing/past clients come before the board, I would recuse myself.

Q23

Upload your resume.

2024%20Sharon%20Kovalsky%20Resume.pdf (116.5KB)

Page 5: Demographics / Datos demográficos

Q24

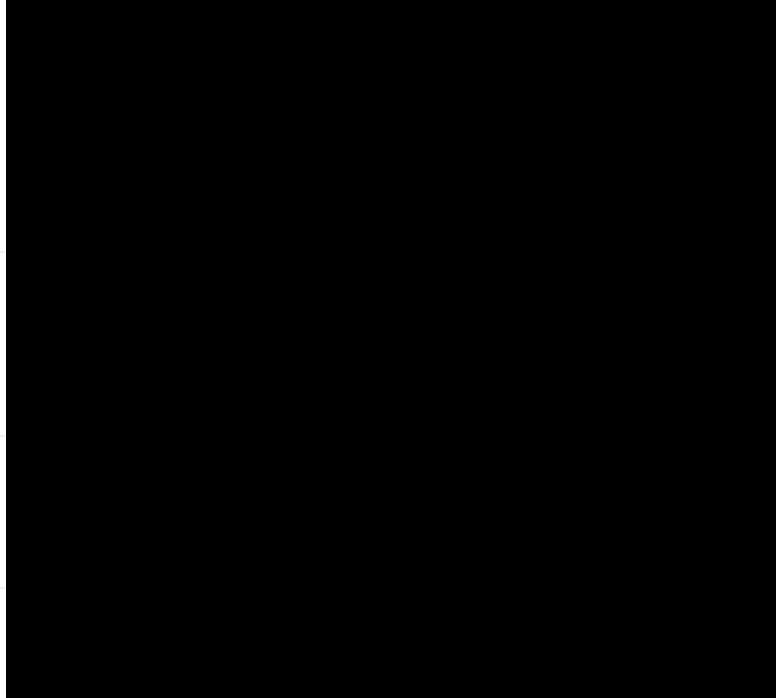
Ethnicity / Raza/etnia:

Q25

To which gender do you most identify? ¿Con qué género se identifica más?

Q26

How old are you? ¿Cuántos años tienes?





Principal Architect at Aplos Group - Architecture

San Rafael, California
[REDACTED]
[REDACTED]

Experience

Principal Architect - Aplos Group Architects, San Rafael, CA 2013-present

After 30 years of design and architecture experience, I've honed my focus on creating beautiful, functional spaces I'd love to both live and work in.

My aesthetic focuses on respecting the natural environment and incorporating its beauty and simplicity into my work, always keeping my clients' needs front and center.

As a specialist in green design and Mid-Century Modern architecture, I understand the design opportunities and challenges they offer, and I work with other area specialists to source authentic, efficient, and affordable materials that respect the integrity of these architectural jewels and protect our environment.

Currently in Construction:

- 1200 sf addition to family compound in San Rafael (Marin County Jurisdiction)
- 800 sf addition to Marinwood home
- Eichler whole house remodel/restore, San Rafael

Construction completed in recent years

- House Remodel, San Rafael
- ADU, Santa Rosa
- House remodel and addition, San Rafael
- 2 new home fire rebuilds, Santa Rosa (Sonoma County Jurisdiction)
- Home design showroom, retail storefront, Santa Rosa

Principal Architect - Sharon Kovalsky Architects, New York City, 1992-2013

Working in the built environment of New York City. Condo renovations, apartment renovations. New homes, remodels, and renovations.

Education: University of Michigan

B. Science - 1982 - Master of Architecture – 1984 – Master of Urban Planning - 1984

Licenses & Certifications

Licensed Architect States of California and New York,
Member in good standing, American Institute of Architects

[REDACTED] [REDACTED] [REDACTED]

#70

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, July 09, 2024 11:28:30 AM
Last Modified: Tuesday, July 09, 2024 11:49:32 AM
Time Spent: 00:21:02
IP Address: 181.214.153.129

Page 1

Q1

Contact Information / Información del contacto

First and Last Name / Nombre y Apellido	Stewart Summers
Address / Dirección	[REDACTED]
City / Ciudad	San Rafael
State / estado	CA
ZIP/Postal Code / Código postal	94901
Email Address / Dirección de correo electrónico	[REDACTED]
Phone Number / Número de teléfono	[REDACTED]

Q2

District 2/Western / Distrito 2/Oeste

What district do you currently live in? ¿En qué distrito vive actualmente?

Q3

How long have you lived in San Rafael?

56

Q4

Business Information

Company	SKS Architects
Address	[REDACTED]
City/Town	San Rafael
ZIP/Postal Code	94901

Q5

How did you hear about this vacant position?

City Council Agenda,

Other (please specify):
as current DRB Member

Q6

What Board would you like to apply to? ¿A cuál te gustaría aplicar?

Planning Commission

Page 4

Q18

Do you participate in any civic activities? If so, what are they?

I have been an active City of San Rafael DRB member for many years (+/- 18)

Q19

List any civic organizations of which you are a member:

City of San Rafael DRB

Q20

Education:

B.A. Architecture
U.C. Berkeley

Q21

Why are you interested in serving on a board or commission?

I was born and raised in San Rafael. I feel it is my duty and owe this town my expertise on how the city evolves and it's relationship with the build environment. I love San Rafael. I have raised my own family here at the same schools etc. I have established my business here. This is my home and will be for the rest of my days. I want to contribute.

Q22

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

N/A

Q23

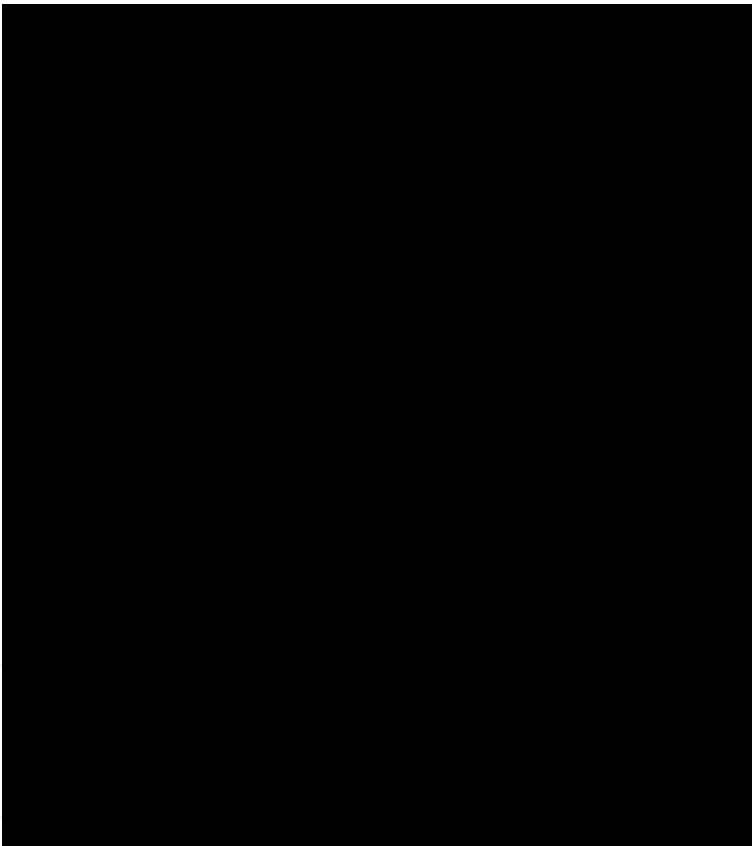
Upload your resume.

Stewart%20K%20Summers%20Resume.pdf (573.1KB)

Page 5: Demographics / Datos demográficos

Q24

Ethnicity / Raza/etnia:



Q25

To which gender do you most identify? ¿Con qué género se identifica más?

Q26

How old are you? ¿Cuántos años tienes?



Stewart K. Summers, Architect

Stewart K. Summers has over 30 years of experience in the Architectural field. During that time, Stewart has worked on diverse projects that include Custom Residential, Subdivisions, Additions and Alterations, Commercial Office, Restaurant and Religious Assembly. This wide range of experience has allowed him to become well versed in managing projects of all types and obtain technical proficiency required for a variety of project types. Stewart's skills extend to an extensive understanding of the entitlement process and dealing with local government agencies to secure project approvals. Stewart has received certifications from Built it Green as Certified Green Building Professional and Certified Green Rater and currently serves as a member of the City of San Rafael's Design Review Board.

Professional Experience

2007 – Present:

Principal Architect

SKS Architects, San Rafael, California

- Principal Architect and Project Manager on a variety of projects ranging from Commercial to Custom & Spec Residences, Remodels and with the associated coordination of Consultants, Jurisdictional Entitlement Processes, preparation of Construction Documents and Construction Management.

1995 – 2007:

Licensed Architect, Project Manager, Cad Manager

*Urban Dynamics Inc. dba G. Thomas Telfer, Architect,
Novato, California*

- Project Architect and or Project Manager on a variety of projects ranging from Commercial to Custom & Spec Residences, Remodels, Additions and Multi-Family along with the associated coordination of Consultants, Jurisdictional Entitlement Processes, preparation of Construction Documents and Construction Management.





1989 – 1995:

Project Manager, Cad Manager, Draftsman

Urban Dynamics Inc., a California Corporation, dba Telfer–Chiesa–Dunham & Johnson, Architecture & Engineering, Novato, California

- Project Manager on a various projects ranging from Commercial to Residential. Managing and Training of Staff in the utilization of AutoCAD as the primary design and drafting tool for the firm. Cad Drafting on various projects

1983 – 1989:

CAD Draftsman

Craiker Associates, Inc., San Rafael, California

- Autocad Drafting of Design and Construction Documents on various projects, commercial and residential.

Education & Certificates

1995-present:

Licensed as Architect in State of California #C25816

Acquired required Equitable Practical Years of Experience by College Education credits and work experience to qualify for State of California Architectural Licensing

1985 – 1989:

Bachelor of Arts, Architecture

University of California, Berkeley CA

2008-present:

Certified Green Building Professional

Acquired certification as green building consultant through Build It Green (non-profit in Berkeley, CA focusing on healthy and energy/resource efficient homes for California)

Professional and Community Affiliations

Board Member, City of San Rafael Design Review Board, term 2007-present

Build it Green Certified Green Building Professional, 2007

Eagle Scout, Troop 101, San Rafael, CA - 1984





Planning Commission Proposed Member Roster City of San Rafael

Name	Term	Term Limit
Jill Rodby <i>District 1 Rep</i>	04/2023 through 10/2025	1/3
Aldo Mercado <i>District 2 Rep</i>	08/2022 through 10/2026	2/3
Jon Haveman <i>District 3 Rep</i>	08/2022 through 10/2026	1/3
Jon Previtali <i>District 4 Rep</i>	07/2021 through 10/2025	1/3
Samina Saude <i>Design Professional</i>	10/2023 through 10/2027	2/3
Vacant <i>Licensed Architect</i>	08/2024 through 10/2028	1/3
Vacant <i>At-large</i>	10/2024 through 10/2028	1/3
Vacant <i>Alternate Member Licensed Architect</i>	08/2024 through 10/2028	1/3
Vacant <i>Alternate Member Licensed Architect</i>	08/2024 through 10/2028	1/3



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Finance

Prepared by: Paul Navazio, Finance Director

City Manager Approval: 

TOPIC: CITY QUARTERLY INVESTMENT REPORT

SUBJECT: ACCEPTANCE OF CITY OF SAN RAFAEL QUARTERLY INVESTMENT REPORT FOR THE QUARTER ENDING JUNE 30, 2024

RECOMMENDATION:

Accept the investment report for the quarter ending June 30, 2024, as presented.

BACKGROUND:

Under the State of California Government Code Section 53601 and the City's investment policy, last approved by the City Council on [June 17, 2024](#), staff provides the City Council with a quarterly report on the City's investment activities and liquidity. The report includes the cost of each investment, the interest rates (yield), maturity dates, and market value. Separate reports are prepared for the City and the Successor Agency to the San Rafael Redevelopment Agency.

The City invests some of its pooled funds in the [Local Agency Investment Fund \(LAIF\)](#), a State-run investment pool. Beginning in March 2014, the City incorporated an investment strategy that added purchases of securities outside of LAIF with the assistance of an investment advisor. The City's current investment advisor is Chandler Asset Management.

ANALYSIS:

As of June 30, 2024, the City's Treasury consisted of investments with a total market value of \$107,899,447 consisting of \$59,849,234 in the City's primary Local Agency Investment Fund (LAIF) account and \$48,050,214 in externally managed investments (which includes \$986,700 of Pt. San Pedro Assessment District bonds). An additional \$14,689,101 represents cash balances in the City's various operating bank accounts, including Westamerica Bank (\$13,908,965), Bank of the Marin (\$446,262), and Bank of Montreal (\$333,874).

As of June 30, 2024, the weighted-average yield on the portfolio was 4.38% which results from an effective yield of 4.52% for the City's investments in the Local Agency Investment Fund and a yield of 4.20% for the externally managed investments. The overall return on the total portfolio for the quarter ending June 30, 2024, was 5.02%, with a weighted average maturity of 0.96 years, and compares favorably to the benchmark (1-3 Year Treasury Index) of 4.81%. This favorable variance is due to the

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

improved interest rate environment over the past year, as new higher-yield investments are being made, replacing lower-yield investments, primarily upon maturity.

The City's investment portfolio maintains strong diversification and is experiencing growth in interest income due to higher market rates. All investments comply with the City's investment policy and California Government Code.

Economic Outlook:

At their June meeting, the Federal Open Market Committee voted unanimously to leave the federal funds rate unchanged at a target range of 5.25-5.50%, emphasizing the need to see sustained evidence of easing inflation before considering any rate cuts. The FOMC's latest projections now suggest only one interest rate cut in 2024, with four more cuts expected in 2025 and a slightly higher long-term neutral rate.

The City will continue to watch market trends and refine its investment strategy, as appropriate, to improve the investment portfolio's performance while ensuring its primary goals of preservation of principal, liquidity, and yield.

The attachments include:

1. Quarterly Investment Portfolio Report
2. Historical Activity by Quarter summarizing the City's investments
3. The City's Investment Report from Chandler Asset Management for the period ending June 30, 2024, which includes a listing of all holdings and transaction activity details for the reporting period

FISCAL IMPACT:

No financial impact occurs by adopting the report. The City continues to meet the priority investment principles - safety, liquidity, yield, and diversification. The portfolio is still conservatively invested, and sufficient liquidity exists to meet daily operating and capital project requirements for the next six months. As defined for this report, operating funds exclude cash held with fiscal agents to pay bond principal and interest.

RECOMMENDED ACTION:

Accept the investment report for the quarter ending June 30, 2024, as presented.

ATTACHMENTS:

Attachments:

1. Attachment 1: Quarterly Investment Portfolio Report
2. Attachment 2: Historical Activity by Quarter Report
3. Attachment 3: Chandler Asset Management – Investment Report: Period Ending June 30, 2024

I CERTIFY THAT ALL INVESTMENTS MADE ARE IN CONFORMANCE WITH THE CITY'S APPROVED INVESTMENT POLICY AND STATE INVESTMENT REGULATIONS. THE CITY HAS SUFFICIENT LIQUIDITY TO MEET ALL OF THE OBLIGATIONS REQUIRED DURING THE NEXT SIX-MONTH PERIOD.

Paul Navazio
Finance Director

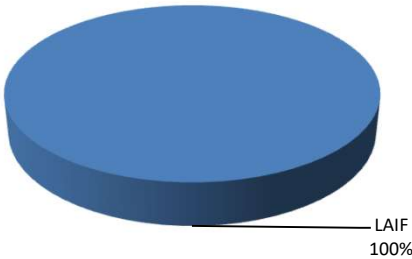
City of San Rafael

Quarterly Investment Portfolio Report

June 30, 2024

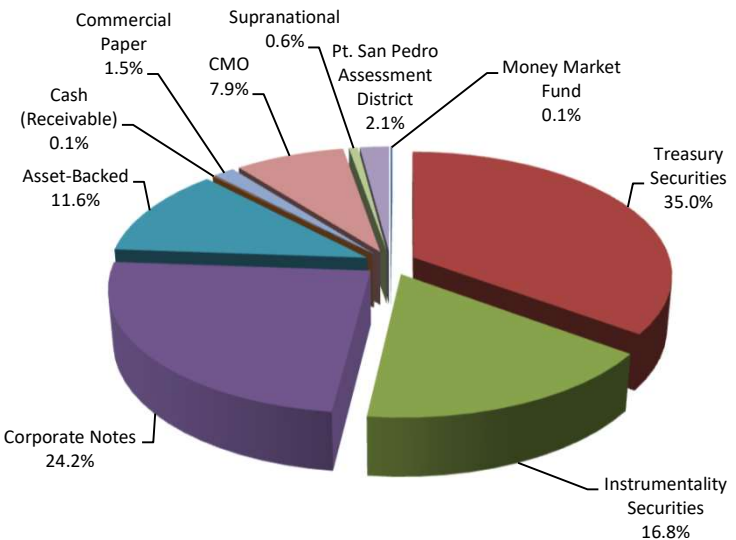
Internally Managed Assets		%	Yield
LAIF	\$ 59,849,234	100.0%	4.52%
Total Internally Managed	\$ 59,849,234	55.8%	

Weighted Average Yield	4.52%
Effective Average Duration - Internal	1
Weighted Average Maturity - Internal	1



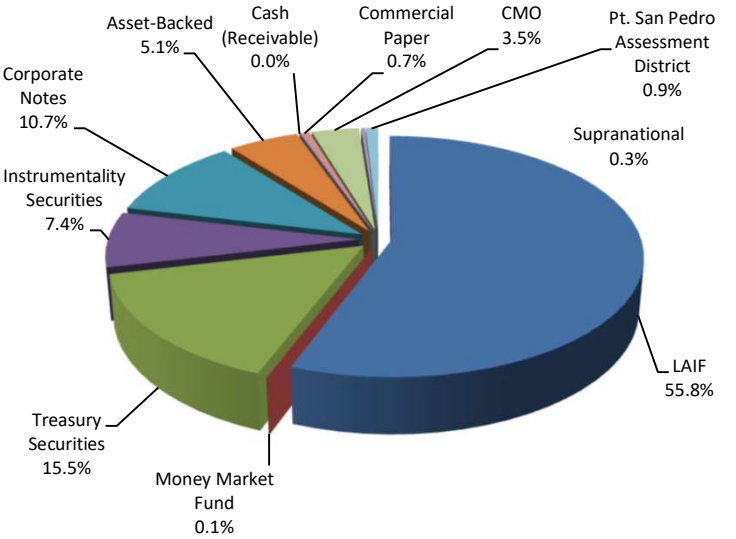
Externally Managed Assets		%	Yield
Money Market Fund	\$ 59,761	0.1%	4.89%
Treasury Securities	\$ 16,576,763	35.0%	3.40%
Instrumentality Securities	\$ 7,976,068	16.8%	4.22%
Corporate Notes	\$ 11,494,546	24.2%	4.77%
Asset-Backed	\$ 5,524,308	11.6%	4.85%
Cash (Receivable)	\$ 38,820	0.1%	0.00%
Commercial Paper	\$ 727,857	1.5%	5.43%
CMO	\$ 3,737,626	7.9%	4.44%
Supranational	\$ 305,116	0.6%	4.53%
Pt. San Pedro Assessment District	\$ 986,700	2.1%	5.25%
Total Externally Managed	\$ 47,427,565	44.2%	

Weighted Average Yield	4.20%
Effective Average Duration - External	1.83
Weighted Average Maturity - External	2.20



Total Portfolio Assets		%	Yield
LAIF	\$ 59,849,234	55.8%	4.52%
Money Market Fund	\$ 59,761	0.1%	4.89%
Treasury Securities	\$ 16,576,763	15.5%	3.40%
Instrumentality Securities	\$ 7,976,068	7.4%	4.22%
Corporate Notes	\$ 11,494,546	10.7%	4.77%
Asset-Backed	\$ 5,524,308	5.1%	4.85%
Cash (Receivable)	\$ 38,820	0.0%	0.00%
Commercial Paper	\$ 727,857	0.7%	5.43%
CMO	\$ 3,737,626	3.5%	4.44%
Supranational	\$ 305,116	0.3%	4.53%
Pt. San Pedro Assessment District	\$ 986,700	0.9%	5.25%
Total Portfolio Assets	\$ 107,276,799	100.0%	

Weighted Average Yield	4.38%
Effective Average Duration - Total	0.79
Weighted Average Maturity - Total	0.96



City of San Rafael Historical Activity-By Quarter

	June 30, 2024			March 31, 2024			December 31, 2023			September 30, 2023		
Internally Managed Assets		%	Return		%	Return		%	Return		%	Return
LAIF	\$ 59,849,234	100.0%	4.52%	\$ 53,463,594	100.0%	4.27%	\$ 53,749,175	100.0%	3.95%	\$ 51,292,954	100.0%	3.61%
Total Internally Managed	\$ 59,849,234	55.8%		\$ 53,463,594	52.9%		\$ 53,749,175	53.5%		\$ 51,292,954	52.9%	
Weighted Average Yield			4.52%			4.27%			3.95%			3.61%
Externally Managed Assets		%	Return		%	Return		%	Return		%	Return
Cash	\$ 38,820	0.1%	0.00%	\$ 608,112	0.0%	0.00%	\$ 144,864	0.3%	4.95%	\$ 74,981	0.2%	4.95%
Commercial Paper	\$ 727,857	1.5%	5.43%	\$ -	0.0%	0.00%	\$ -	0.0%	0.00%	\$ -	0.0%	0.00%
Money Market Fund	\$ 59,761	0.1%	4.89%	\$ 287,457	0.6%	4.89%	\$ -	0.0%	0.00%	\$ -	0.0%	0.00%
Treasury Securities	\$ 16,576,763	34.5%	3.40%	\$ 13,932,479	29.3%	2.79%	\$ 14,202,153	31.1%	2.62%	\$ 14,031,449	30.8%	2.14%
Instrumentality Securities	\$ 7,976,068	16.6%	4.22%	\$ 12,165,418	25.6%	2.91%	\$ 12,158,514	26.7%	2.92%	\$ 11,497,923	25.2%	2.86%
Corporate Notes	\$ 11,494,546	23.9%	4.77%	\$ 10,855,380	22.8%	4.45%	\$ 10,338,726	22.7%	3.79%	\$ 11,108,352	24.3%	3.48%
Asset Backed	\$ 5,524,308	11.5%	4.85%	\$ 5,253,902	11.0%	4.82%	\$ 4,980,172	10.9%	5.03%	\$ 4,112,279	9.0%	4.97%
Negotiable CD	\$ -	0.0%	0.00%	\$ -	0.0%	0.00%	\$ 374,910	0.8%	5.34%	\$ 374,472	0.8%	5.34%
Collateralized Mortgage Obligations (CMO)	\$ 3,737,626	7.8%	4.44%	\$ 3,212,043	6.7%	4.36%	\$ 3,232,602	7.1%	4.57%	\$ 3,135,264	6.9%	4.57%
Supranational	\$ 305,116	0.6%	4.53%	\$ 306,643	0.6%	4.53%	\$ 311,379	0.7%	4.53%	\$ 301,398	0.7%	4.53%
Municipal/Assessment District	\$ 986,700	2.1%	5.25%	\$ 986,700	2.1%	5.25%	\$ 986,700	2.2%	5.25%	\$ 986,700	2.2%	5.25%
Total Externally Managed	\$ 47,427,565	44.2%		\$ 47,608,135	47.1%		\$ 46,730,020	46.5%		\$ 45,622,818	47.1%	
Weighted Average Yield			4.20%			3.57%			3.53%			3.18%
			Years			Years			Years			Years
Effective Average Duration - External			1.83			1.71			1.71			1.63
Weighted Average Maturity - External			2.20			2.13			2.13			1.92
Total Portfolio Assets		%	Return		%	Return		%	Return		%	Return
LAIF	\$ 59,849,234	55.8%	4.52%	\$ 53,463,594	55.2%	4.27%	\$ 53,749,175	53.5%	3.95%	\$ 51,292,954	52.9%	3.61%
Cash	\$ 38,820	0.0%	0.00%	\$ 608,112	0.6%	0.00%	\$ 144,864	0.1%	4.95%	\$ 74,981	0.1%	4.95%
Commercial Paper	\$ 727,857	0.7%	5.43%	\$ -	0.0%	0.00%	\$ -	0.0%	0.00%	\$ -	0.0%	0.00%
Money Market Fund	\$ 59,761	0.1%	4.89%	\$ 287,457	0.3%	4.89%	\$ -	0.0%	0.00%	\$ -	0.0%	0.00%
Treasury Securities	\$ 16,576,763	15.5%	3.40%	\$ 13,932,479	14.4%	2.79%	\$ 14,202,153	14.1%	2.62%	\$ 14,031,449	14.5%	2.14%
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Negotiable CD	\$ -	0.0%	0.00%	\$ -	0.0%	0.00%	\$ 374,910	0.4%	5.34%	\$ 374,472	0.4%	5.34%
Collateralized Mortgage Obligations (CMO)	\$ 3,737,626	3.5%	4.44%	\$ 3,212,043	3.3%	4.36%	\$ 3,232,602	3.2%	4.57%	\$ 3,135,264	3.2%	4.57%
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Municipal/Assessment District	\$ 986,700	0.9%	5.25%	\$ 986,700	1.0%	5.25%	\$ 986,700	1.0%	5.25%	\$ 986,700	1.0%	5.25%
Total Portfolio Assets	\$ 107,276,798	100.0%		\$ 101,071,729	104%		\$ 100,479,195	100.0%		\$ 96,915,772	100%	
Weighted Average Yield			4.38%			3.94%			3.72%			3.41%
			Years			Years			Years			Years
Effective Average Duration - Total			0.79			0.81			0.79			0.81
Weighted Average Maturity - Total			0.96			0.99			0.98			0.99



INVESTMENT REPORT

City of San Rafael | Account #11045 | As of June 30, 2024

CHANDLER ASSET MANAGEMENT | chandlerasset.com

Chandler Team:

For questions about your account, please call (800) 317-4747,
or contact clientservice@chandlerasset.com

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City of San Rafael | Account #11045 | As of June 30, 2024

ECONOMIC UPDATE

ACCOUNT PROFILE

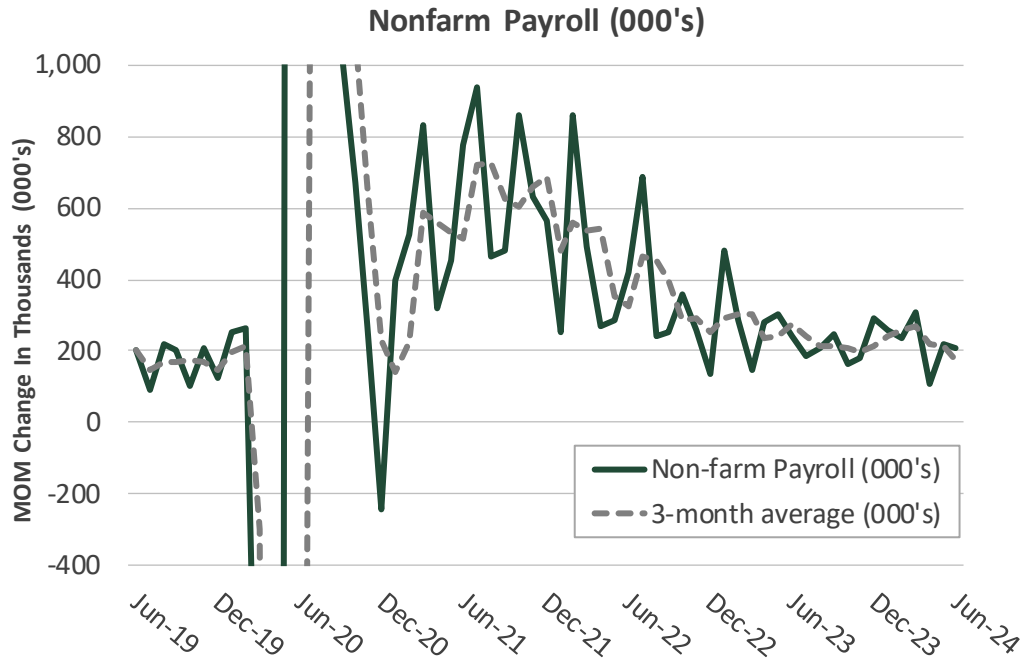
CONSOLIDATED INFORMATION

PORTFOLIO HOLDINGS

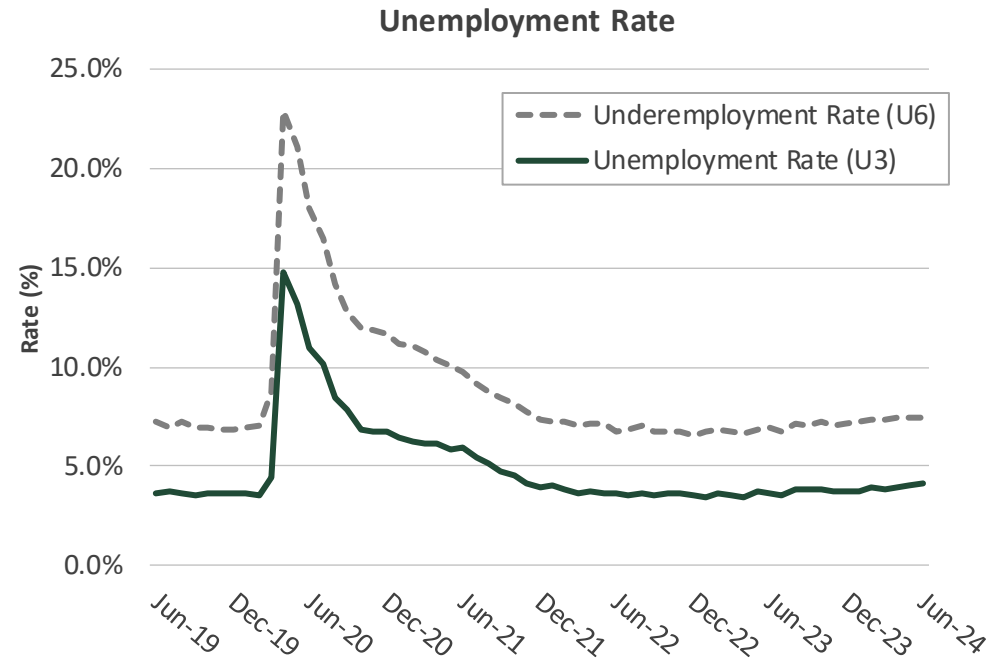
TRANSACTIONS

ECONOMIC UPDATE

- Recent economic data suggests positive but slower growth this year fueled by consumer spending. While the consumer has been resilient, growing credit card debt, higher delinquencies, and a moderating labor market pose potential headwinds to future economic growth. Inflationary trends are subsiding, but core levels remain above the Fed's target. Given the cumulative effects of restrictive monetary policy and tighter financial conditions, we believe the economy will gradually soften and the Fed will loosen monetary policy in 2024.
- As expected at the June meeting, the Federal Open Market Committee voted unanimously to leave the federal funds rate unchanged at a target range of 5.25-5.50%, emphasizing the need to see sustained evidence of easing inflation before considering any rate cuts. The FOMC's latest projections now suggest only one interest rate cut in 2024, with four more cuts expected in 2025 and a slightly higher long-term neutral rate. Additionally, the Fed continues to reduce its holdings of U.S. Treasury securities and agency mortgage-backed securities as per its predefined schedule of \$25 billion and \$35 billion per month.
- The US Treasury yield curve shifted lower in June as economic data moderated. The 2-year Treasury yield fell 12 basis points to 4.76%, the 5-year Treasury dropped 13 basis points to 4.38%, and the 10-year Treasury yield declined 10 basis points to 4.40%. The inversion between the 2-year Treasury yield and 10-year Treasury yield remained relatively stable at -36 basis points at June month-end versus -37 basis points at May month-end. The spread between the 2-year Treasury and 10-year Treasury yield one year ago was -106 basis points. The inversion between 3-month and 10-year Treasuries widened to -96 basis points in June from -91 basis points in May.



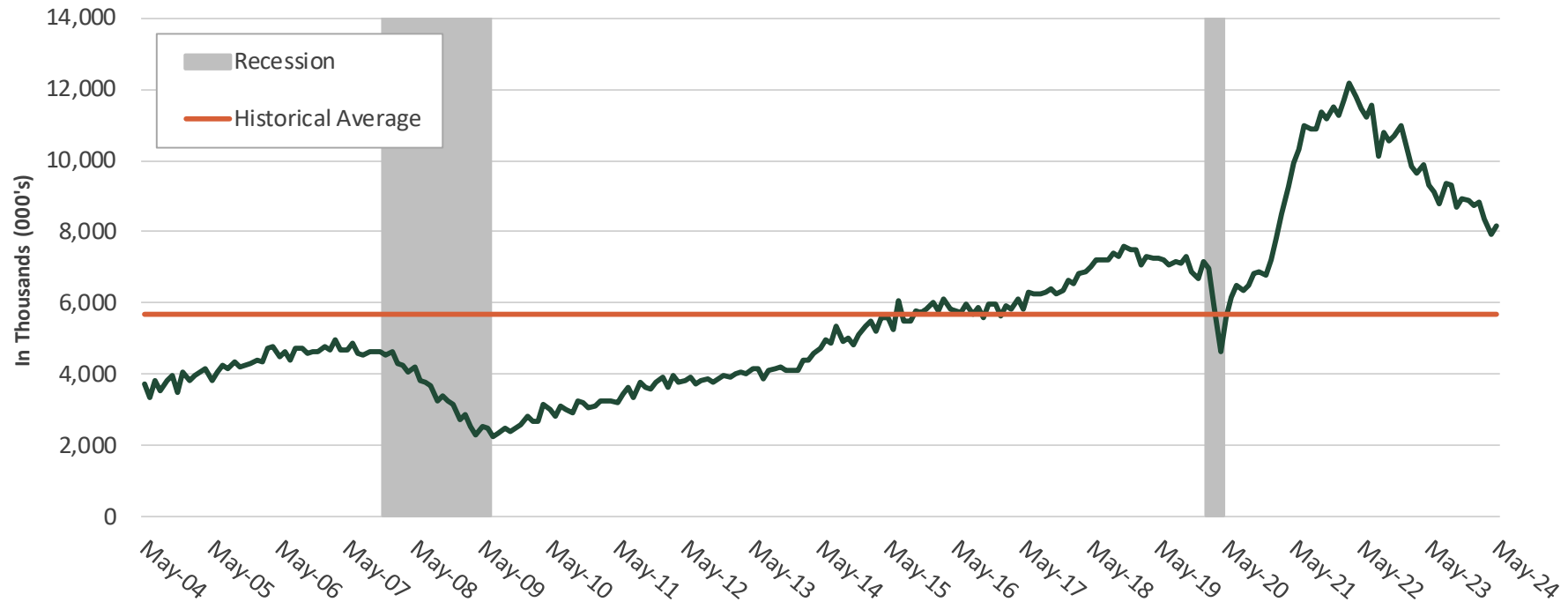
Source: US Department of Labor



Source: US Department of Labor

The U.S. economy added 206,000 jobs in June, remaining ahead of consensus expectations of 190,000 jobs. The gains were broad based, with government, health care, and social assistance posting the largest gains. The three-month moving average and six-month moving average payrolls have weakened from the first quarter to 177,000 and 222,000 respectively. The unemployment rate edged up to 4.1% in June, and the labor participation rate inched up to 62.6%, remaining below the pre-pandemic level of 63.3%. The U-6 underemployment rate, which includes those who are marginally attached to the labor force and employed part time for economic reasons held steady at 7.4%. Average hourly earnings rose 3.9% year-over-year in June, down from 4.1% year-over-year in May. The labor markets continue to show signs of cooling in line with the Federal Reserve’s view that there has been “substantial” progress towards better balance in the labor market between demand and supply for workers.

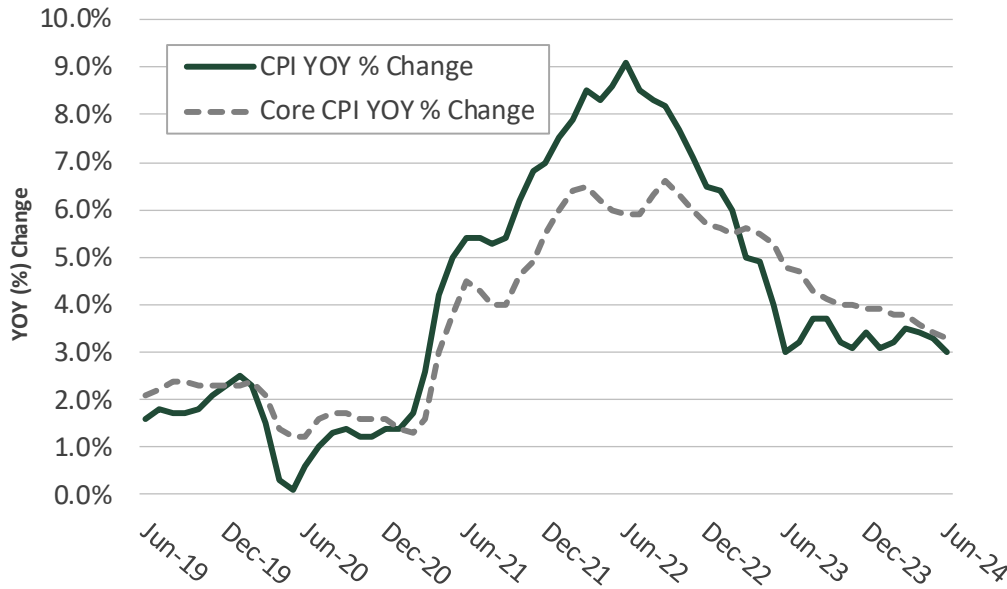
Job Openings



Source: US Department of Labor

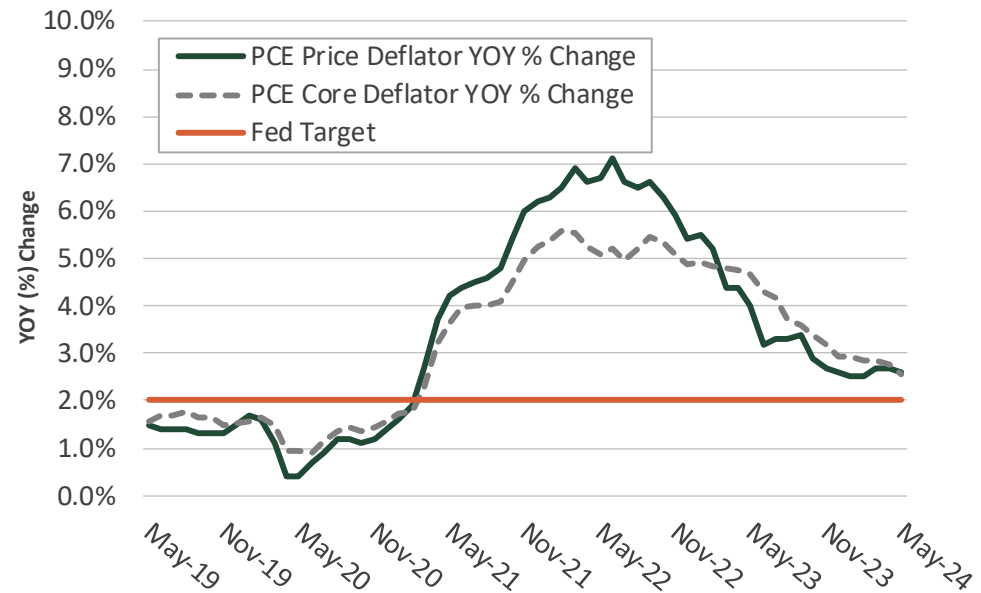
The Labor Department’s Job Openings and Labor Turnover Survey (JOLTS) increased to 8.140 million job openings in May from a downwardly revised 7.919 million in April. Job openings still represent a healthy ratio of around 1.2 jobs for each unemployed individual. While the current level of job openings remains elevated from a historical perspective, the trend is decelerating.

Consumer Price Index (CPI)



Source: US Department of Labor

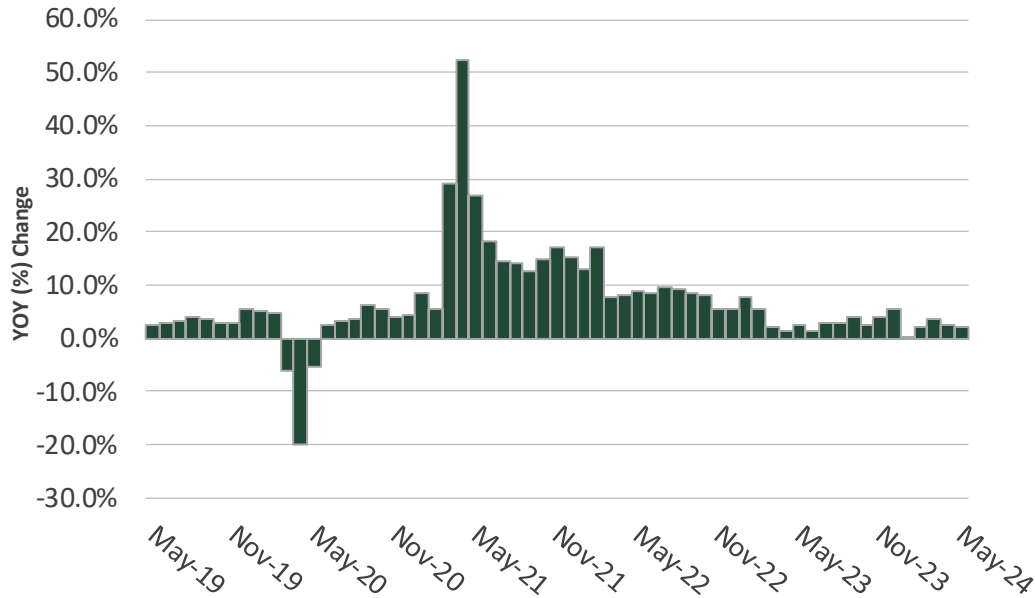
Personal Consumption Expenditures (PCE)



Source: US Department of Commerce

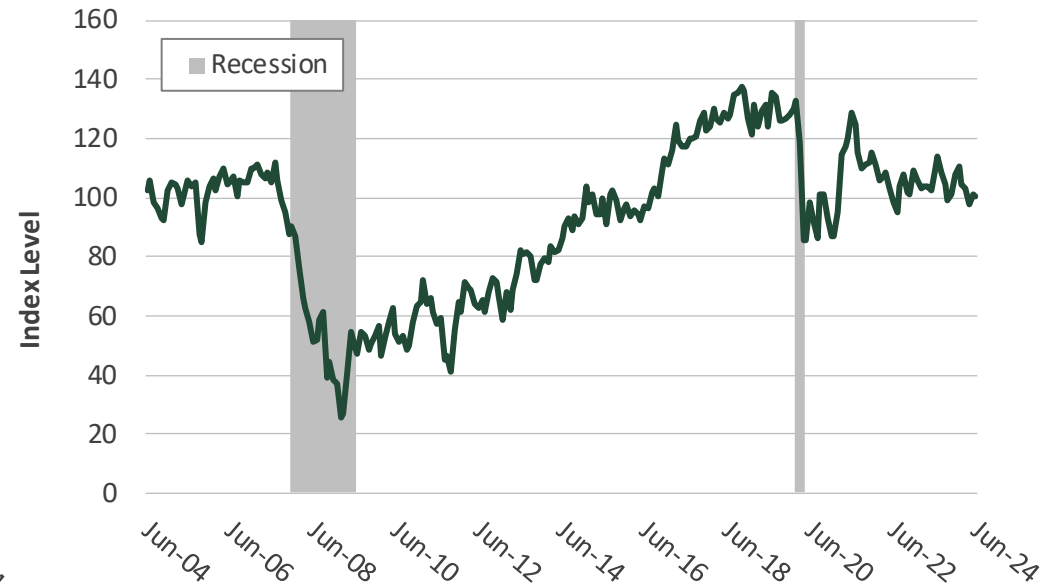
In June, the Consumer Price Index (CPI) declined 0.1% month-over-month and rose 3.0% year-over-year, reflecting broad-based cost reductions. The month-over-month drop was the first deflationary data point since the pandemic. The Core CPI, which excludes volatile food and energy components, was up just 0.1% month-over-month and 3.3% year-over-year in June, down from 3.4% in May and lower than expected. The Personal Consumption Expenditures (PCE) Index decelerated in May as expected. The headline PCE deflator was unchanged in May from April versus up 0.3% in the prior month. Year-over-year, the PCE deflator rose 2.6%. The Core PCE deflator (the Fed’s preferred gauge) increased 0.1% in May from the prior month versus up 0.3% in April. The Core PCE deflator also rose 2.6% year-over-year, still above the Fed’s 2% inflation target. Much of the lingering inflation has been driven by shelter costs and demand for services.

Retail Sales YOY % Change



Source: US Department of Commerce

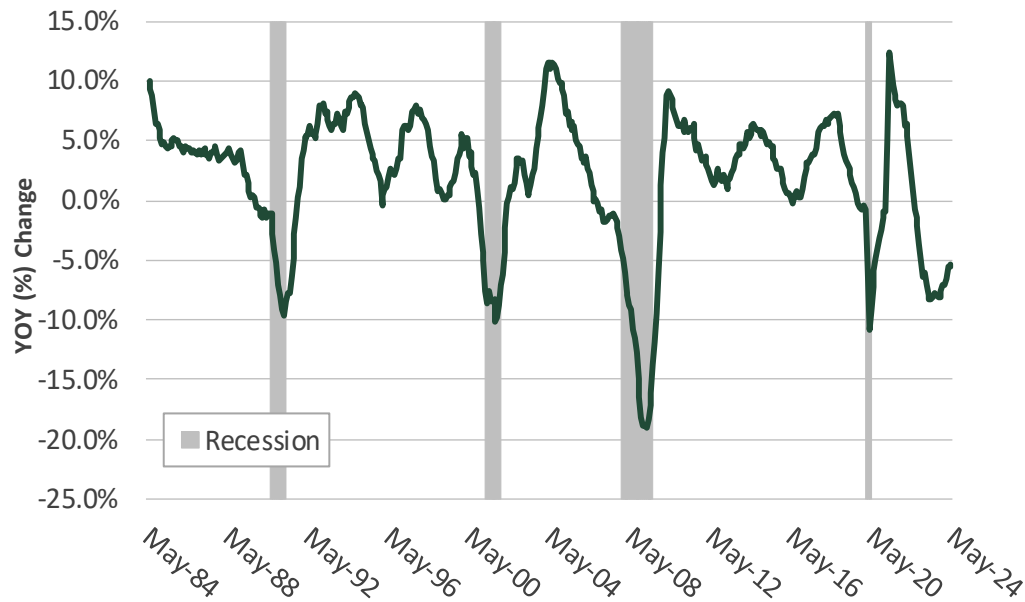
Consumer Confidence



Source: The Conference Board
All time high is 144.70 (1/31/00); All time low is 25.30 (2/28/09)

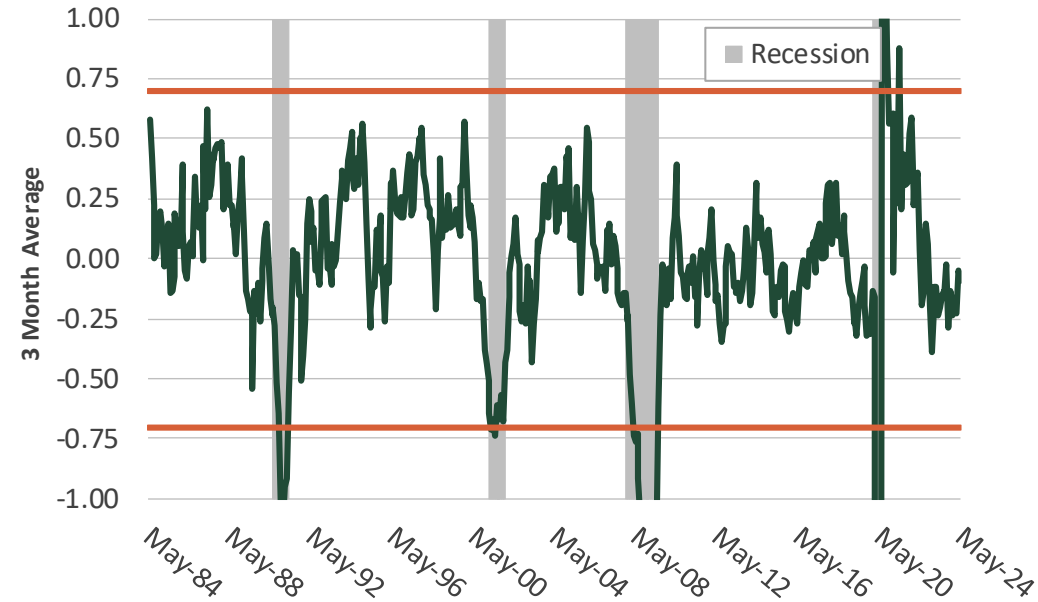
May Retail Sales increased below expectations to +0.1% after a downwardly revised -0.2%, pointing to a fatigued consumer. On a year-over-year basis, Retail Sales growth further slowed to +2.3% in May. Nonstore retailers were a bright spot in May, up 0.8% following a 1.8% decline in April. The Conference Board’s Consumer Confidence Index fell to 100.4 in June from 101.3 in May. While the present situation component rose marginally, consumers are less optimistic about future expectations for business conditions and potential income increases. While the consumer has been resilient, consumption has begun to moderate in the face of higher interest rates, rising credit card balances, and growing delinquencies.

Leading Economic Indicators (LEI)



Source: The Conference Board

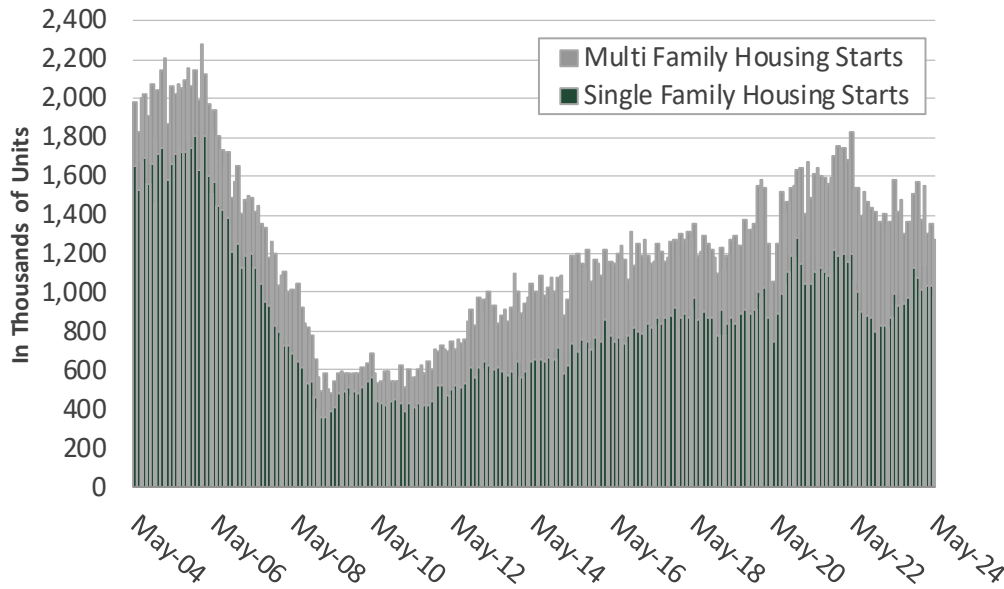
Chicago Fed National Activity Index (CFNAI)



Source: Federal Reserve Bank of Chicago

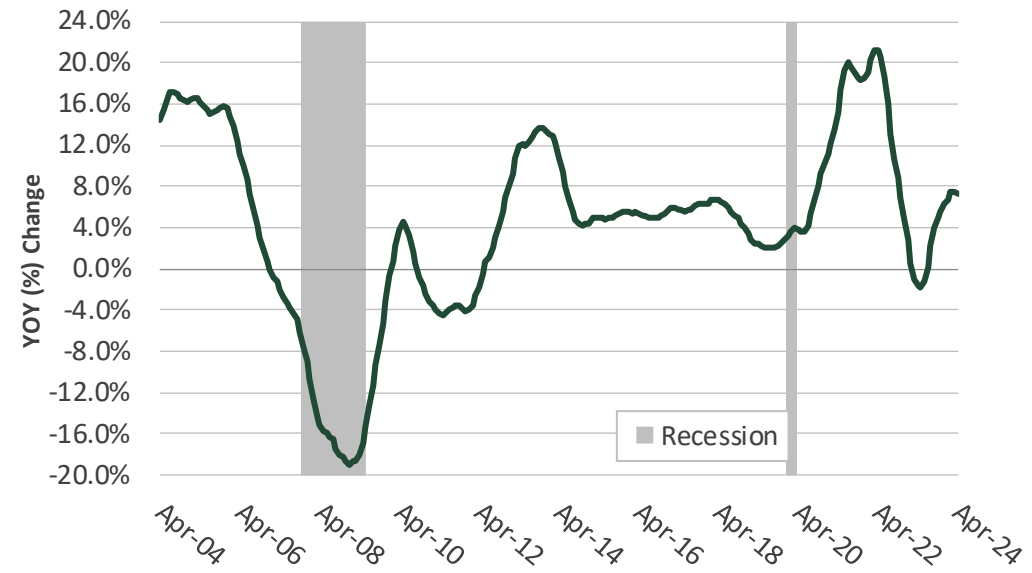
The Conference Board's Leading Economic Index (LEI) declined for the third consecutive month to -0.5% in May following a -0.6% decline in April. The index declined 5.3% year-over-year. The primary drivers for the negative print were a decline in new orders, weak consumer sentiment about future business conditions, and lower building permits. The Chicago Fed National Activity Index (CFNAI) increased to 0.18 in May from -0.26 in April, surpassing consensus expectations. However, the three-month moving average fell to -0.09 in May from -0.05 in April, indicating below-trend growth expectations for the economy.

Annualized Housing Starts



Source: US Department of Commerce

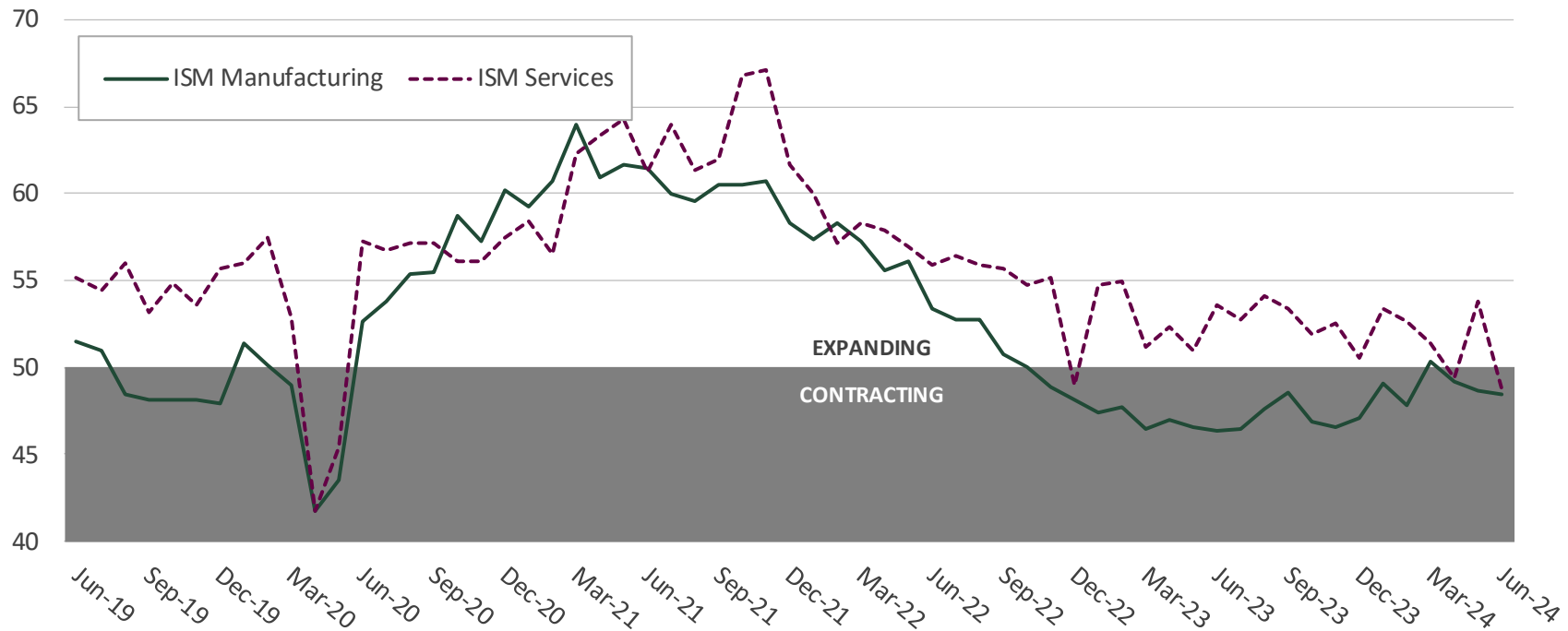
S&P/Case-Shiller 20 City Composite Home Price Index



Source: S&P

May Housing Starts declined 5.5% month-over-month from April to 1.352 million units. This equates to -19.3% less starts compared to May 2023. Single family starts were 5.2% lower month-over-month due to higher mortgage interest rates, lack of existing unit supply and home affordability. Multi-family home starts declined 10.3% month-over-month. The Freddie Mac average rate for a 30-year fixed mortgage edged down to 6.92% in June from 7.06% in May. According to the Case-Shiller 20-City Home Price Index, housing prices rose a higher-than-expected 7.2% year-over-year in April versus March's upwardly revised 7.5% increase. Tight inventories and higher mortgage rates continue to impact affordability.

Institute of Supply Management (ISM) Surveys



Source: Institute for Supply Management

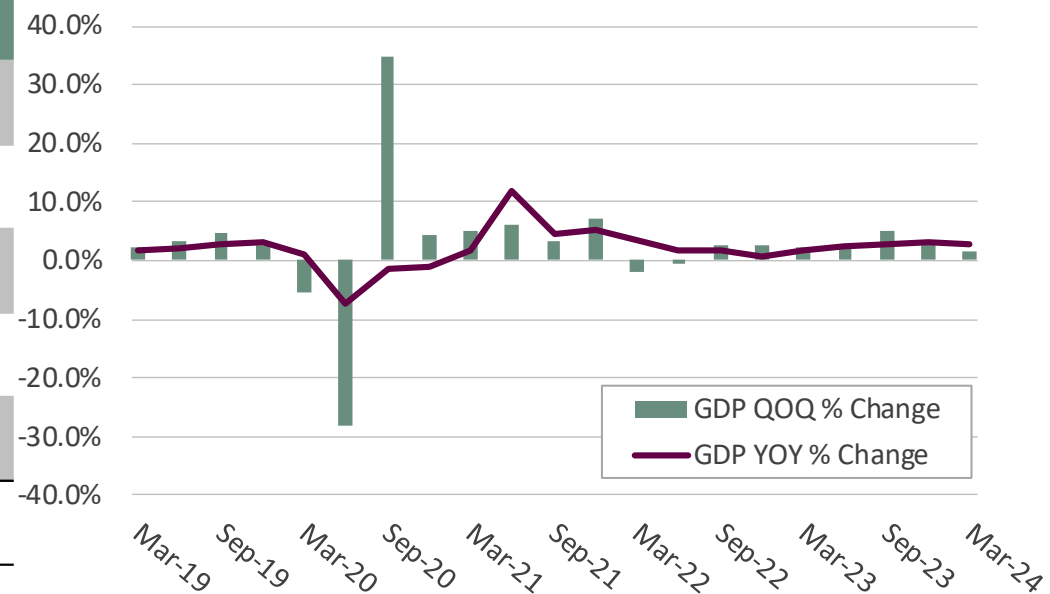
The Institute for Supply Management (ISM) Manufacturing index edged down to 48.5 in June from 48.7 in May. While new orders picked up, prices paid for materials fell the most in over a year. The ISM Services Index returned to contraction declining to 48.8 in June, from 53.8 in the previous month. Although the level of the decline was a surprise, the trend in the Services PMI, which applies to a larger share of US economic output, has been steadily decreasing.

Gross Domestic Product (GDP)

Components of GDP	6/23	9/23	12/23	3/24
Personal Consumption Expenditures	0.6%	2.1%	2.2%	1.0%
Gross Private Domestic Investment	0.9%	1.7%	0.2%	0.8%
Net Exports and Imports	0.0%	0.0%	0.3%	-0.7%
Federal Government Expenditures	0.1%	0.5%	0.2%	0.0%
State and Local (Consumption and Gross Investment)	0.5%	0.5%	0.6%	0.3%
Total	2.1%	4.9%	3.4%	1.4%

Source: US Department of Commerce

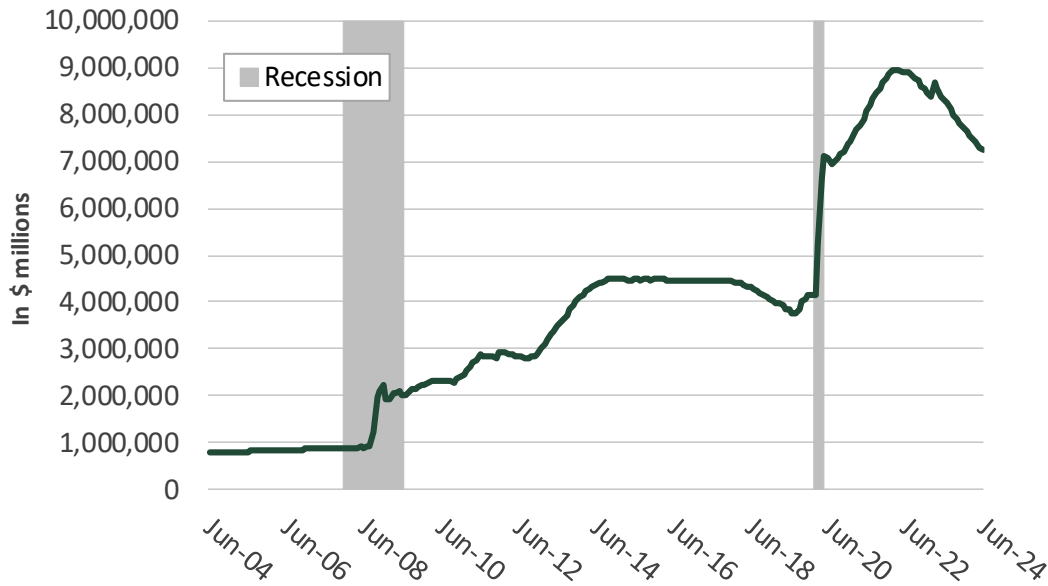
Gross Domestic Product (GDP)



Source: US Department of Commerce

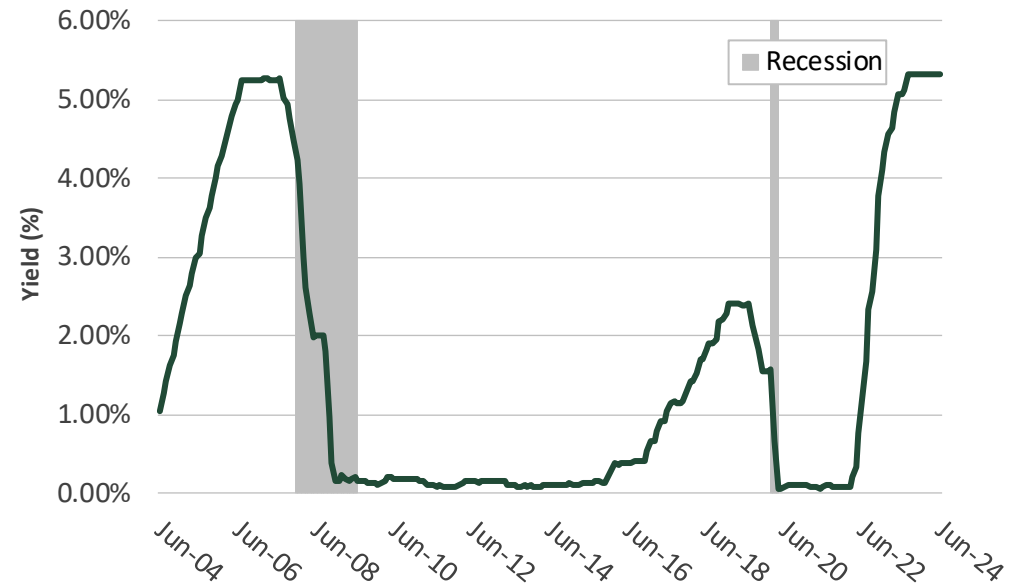
The third and final estimate of first quarter GDP came in as expected with growth up 1.4%, a small upward revision from 1.3% in the second estimate. Notably, the personal consumption expenditures component was revised down substantially to +1.5% in the final estimate from +2.0% in the second estimate. Weaker growth in consumer spending was offset by upward revisions in other major categories, particularly gross fixed investment. The consensus projection calls for 2.0% growth in the second quarter and 2.3% growth for the full year 2024.

Federal Reserve Balance Sheet Assets



Source: Federal Reserve

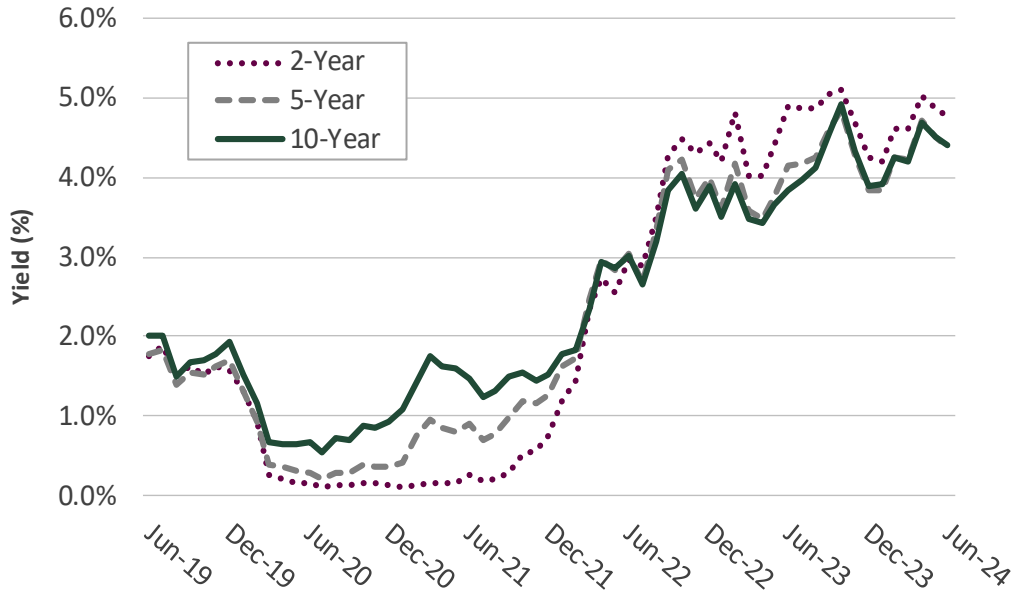
Effective Federal Funds Rate



Source: Bloomberg

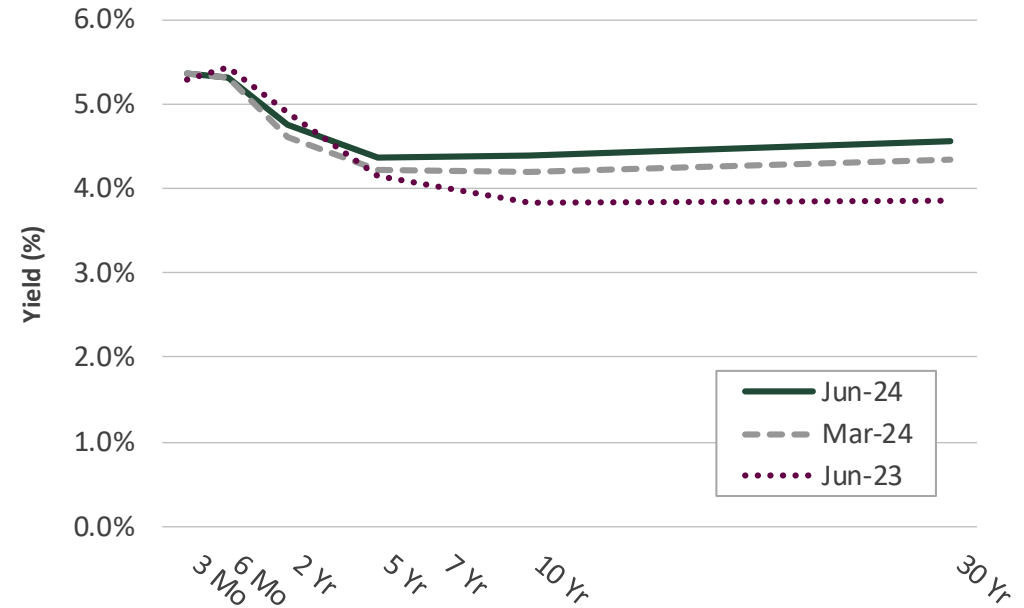
As expected at the June meeting, the Federal Open Market Committee voted unanimously to leave the federal funds rate unchanged at a target range of 5.25-5.50%, emphasizing the need to see sustained evidence of easing inflation before considering any rate cuts. The FOMC's latest projections now suggest only one interest rate cut in 2024, with four more cuts expected in 2025 and a slightly higher long-term neutral rate. The Fed's inflation projections ticked up marginally, while unemployment and GDP growth forecasts remained steady. Additionally, the Fed continues to reduce its holdings of U.S. Treasury securities and agency mortgage-backed securities as per its predefined schedule of \$25 billion and \$35 billion per month. Since the Fed began its Quantitative Tightening campaign in June 2022, securities holdings have declined by approximately \$1.7T to approximately \$7.3T.

US Treasury Note Yields



Source: Bloomberg

US Treasury Yield Curve



Source: Bloomberg

At the end of June, the 2-year Treasury yield was 15 basis points lower, and the 10-Year Treasury yield was 56 basis points higher, year-over-year. The inversion between the 2-year Treasury yield and 10-year Treasury yield remained relatively stable at -36 basis points at June month-end versus -37 basis points at May month-end. The inversion has occurred since July 2022 and remains historically long. The average historical spread (since 2003) is about +130 basis points. The inversion between 3-month and 10-year Treasuries widened to -96 basis points in June from -91 basis points in May.

ACCOUNT PROFILE

Investment Objectives

Safety of principal is the foremost objective of the investment program. The investment portfolio shall remain sufficiently liquid to meet all requirements that may be reasonably anticipated. The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs.

Chandler Asset Management Performance Objective

The performance objective for the portfolio is to earn a total rate of return through a market cycle that is equal to or above the return on the benchmark index.

Strategy

In order to achieve this objective, the portfolio invests in high-quality fixed income securities that comply with the investment policy and all regulations governing the funds.

STATEMENT OF COMPLIANCE



San Rafael Cons | Account #11047 | As of June 30, 2024

Rules Name	Limit	Actual	Compliance Status	Notes
AGENCY MORTGAGE SECURITIES (CMOS)				
Max % (MV; ABS, CMO, & MBS)	20.0	8.7	Compliant	
Max Maturity (Years)	5.0	5.0	Compliant	
Min Rating (AA- by 1; A- Issuer by 1)	0.0	0.0	Compliant	
ASSET-BACKED SECURITIES (ABS)				
Max % (MV; ABS, CMO & MBS)	20.0	8.7	Compliant	
Max Maturity (Years)	5	4	Compliant	
Min Rating (AA- by 1; A- Issuer by 1)	0.0	0.0	Compliant	
BANKERS' ACCEPTANCES				
Max % (MV)	40.0	0.0	Compliant	
Max Amount Issuer (MV)		0.0	Compliant	
Max Maturity (Days)	180	0.0	Compliant	
Min Rating (A-1 by 1 or A- by 1)	0.0	0.0	Compliant	
CERTIFICATE OF DEPOSIT PLACEMENT SERVICE (CDARS)				
Max % (MV)	30.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
COLLATERALIZED TIME DEPOSITS (NON-NEGOTIABLE CD/TD)				
Max % (MV; CDs & NCDs)	30.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
Max Maturity (Years)	5.0	0.0	Compliant	
COMMERCIAL PAPER				
Max % (MV)	25.0	0.7	Compliant	
Max % Issuer (MV)	5.0	0.7	Compliant	
Max Maturity (Days)	270	200	Compliant	
Min Rating (A-1 by 1 or A- by 1)	0.0	0.0	Compliant	
CORPORATE MEDIUM TERM NOTES				
Max % (MV)	30.0	10.8	Compliant	
Max % Issuer (MV)	5.0	0.7	Compliant	
Max Maturity (Years)	5	4	Compliant	

STATEMENT OF COMPLIANCE



San Rafael Cons | Account #11047 | As of June 30, 2024

Rules Name	Limit	Actual	Compliance Status	Notes
Min Rating (A- by 1)	0.0	0.0	Compliant	
FDIC INSURED TIME DEPOSITS (NON-NEGOTIABLE CD/ TD)				
Max % (MV; CDs & NCDs)	30.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
Max Maturity (Years)	5	0.0	Compliant	
FEDERAL AGENCIES				
Max % (MV)	100.0	7.5	Compliant	
Max Maturity (Years)	5	3	Compliant	
LOCAL AGENCY INVESTMENT FUND (LAIF)				
Max Concentration (MV)	75.0	59.8	Compliant	
MONEY MARKET MUTUAL FUNDS				
Max % (MV)	10.0	0.1	Compliant	
Min Rating (AAA by 2)	0.0	0.0	Compliant	
MORTGAGE-BACKED SECURITIES (NON-AGENCY)				
Max % (MV)	20.0	0.0	Compliant	
Max Maturity (Years)	5.0	0.0	Compliant	
Min Rating (AA- by 1; A- Issuer by 1)	0.0	0.0	Compliant	
MUNICIPAL SECURITIES (CA, LOCAL AGENCY)				
Max Maturity (Years)	5	0.0	Compliant	
NEGOTIABLE CERTIFICATES OF DEPOSIT (NCD)				
Max % (MV; CDs & NCDs)	30.0	0.0	Compliant	
Max % Issuer (MV)	5.0	0.0	Compliant	
Max Maturity (Years)	5	0.0	Compliant	
Min Rating (A-1 or A- by 1)	0.0	0.0	Compliant	
REPURCHASE AGREEMENTS				
Max Maturity (Years)	1.0	0.0	Compliant	
SRI PROHIBITED INVESTMENTS				
Prohibited Investments - Energy	0.0	1	Not Compliant	Inherited Security: Chevron; Purchased by prior manager

STATEMENT OF COMPLIANCE



San Rafael Cons | Account #11047 | As of June 30, 2024

Rules Name	Limit	Actual	Compliance Status	Notes
SUPRANATIONAL OBLIGATIONS				
Max % (MV)	15.0	0.3	Compliant	
Max Maturity (Years)	5	4	Compliant	
Min Rating (AA- by 1)	0.0	0.0	Compliant	
U.S. TREASURIES				
Max % (MV)	100.0	15.5	Compliant	
Max Maturity (Years)	5	4	Compliant	

PORTFOLIO CHARACTERISTICS



City of San Rafael | Account #11045 | As of June 30, 2024

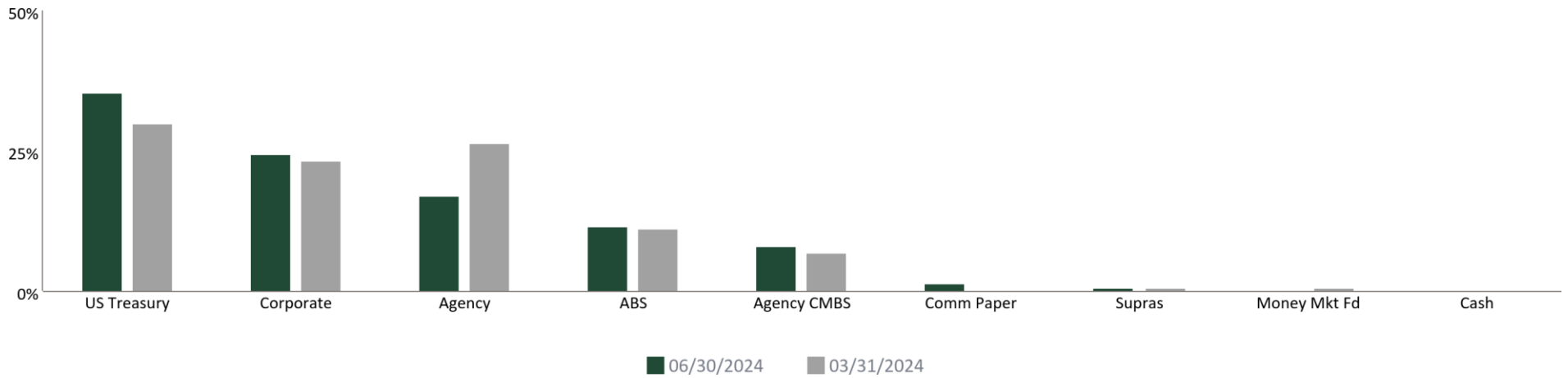
	Benchmark*	6/30/2024 Portfolio	3/31/2024 Portfolio
Average Maturity (yrs)	1.84	2.20	2.11
Average Modified Duration	1.75	1.83	2.09
Average Purchase Yield		4.17%	3.57%
Average Market Yield	4.81%	5.02%	4.97%
Average Quality**	AA+	AA	AA
Total Market Value		46,777,101	46,326,789

*Benchmark: ICE BofA 1-3 Year US Treasury & Agency Index

**The credit quality is a weighted average calculation of the highest of S&P, Moody's and Fitch.

SECTOR DISTRIBUTION

City of San Rafael | Account #11045 | As of June 30, 2024



Sector as a Percentage of Market Value

Sector	06/30/2024	03/31/2024
US Treasury	35.7%	30.2%
Corporate	24.8%	23.6%
Agency	17.2%	26.4%
ABS	11.9%	11.4%
Agency CMBS	8.0%	7.0%
Comm Paper	1.6%	--
Supras	0.7%	0.7%
Money Mkt Fd	0.1%	0.6%
Cash	0.1%	0.1%

ISSUERS



City of San Rafael | Account #11045 | As of June 30, 2024

Issuer	Investment Type	% Portfolio
United States	US Treasury	35.69%
Federal Home Loan Banks	Agency	12.21%
FHLMC	Agency CMBS	8.05%
Farm Credit System	Agency	3.35%
American Express Credit Master Trust	ABS	2.33%
John Deere Owner Trust	ABS	1.89%
JPMorgan Chase & Co.	Corporate	1.69%
FNMA	Agency	1.61%
Bank of America Credit Card Trust	ABS	1.59%
Mitsubishi UFJ Financial Group, Inc.	Comm Paper	1.57%
Chevron Corporation	Corporate	1.46%
Toyota Auto Receivables Owner Trust	ABS	1.39%
Honda Auto Receivables Owner Trust	ABS	1.34%
Bank of Montreal	Corporate	1.29%
The Home Depot, Inc.	Corporate	1.29%
PACCAR Inc	Corporate	1.28%
Bank of America Corporation	Corporate	1.25%
The Toronto-Dominion Bank	Corporate	1.24%
Toyota Motor Corporation	Corporate	1.24%
Caterpillar Inc.	Corporate	1.19%
Cisco Systems, Inc.	Corporate	1.18%
National Rural Utilities Cooperative	Corporate	1.18%
Royal Bank of Canada	Corporate	1.18%
NextEra Energy, Inc.	Corporate	1.17%
Prologis, Inc.	Corporate	1.14%
State Street Corporation	Corporate	1.13%
Deere & Company	Corporate	1.07%
Chase Issuance Trust	ABS	1.07%

ISSUERS

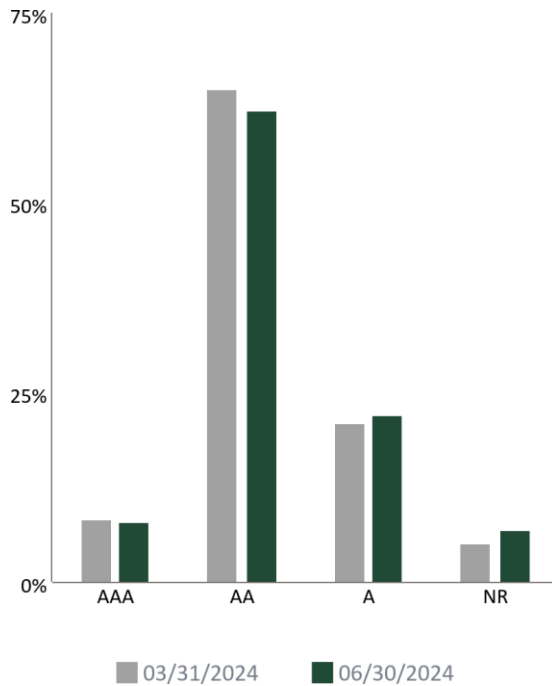
City of San Rafael | Account #11045 | As of June 30, 2024

Issuer	Investment Type	% Portfolio
Chubb Limited	Corporate	1.04%
Realty Income Corporation	Corporate	1.02%
Morgan Stanley	Corporate	1.02%
BMW Vehicle Lease Trust	ABS	0.82%
BNY Mellon Corp	Corporate	0.75%
Public Service Enterprise Group Inco	Corporate	0.69%
International Finance Corporation	Supras	0.66%
BMW Vehicle Owner Trust	ABS	0.65%
MERCEDES-BENZ AUTO RECEIVABLES TRUST	ABS	0.56%
Merck & Co., Inc.	Corporate	0.27%
Mercedes-Benz Auto Lease Trust	ABS	0.26%
U.S. Bancorp	Money Mkt Fd	0.13%
Cash	Cash	0.08%
TOTAL		100.00%

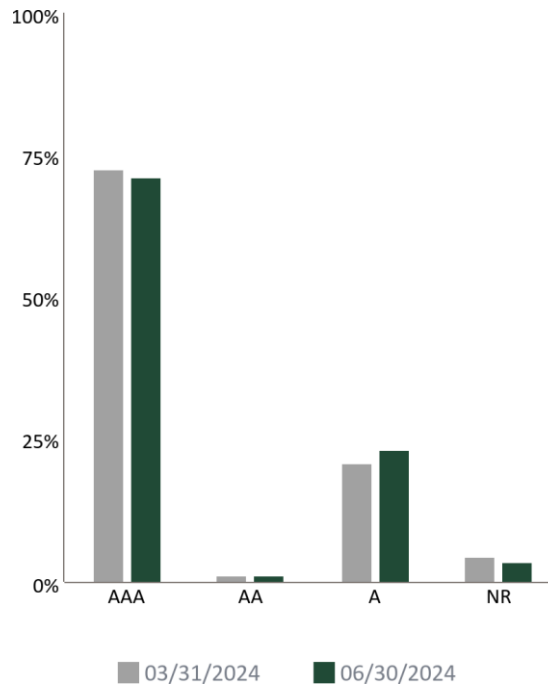
QUALITY DISTRIBUTION

City of San Rafael | Account #11045 | As of June 30, 2024

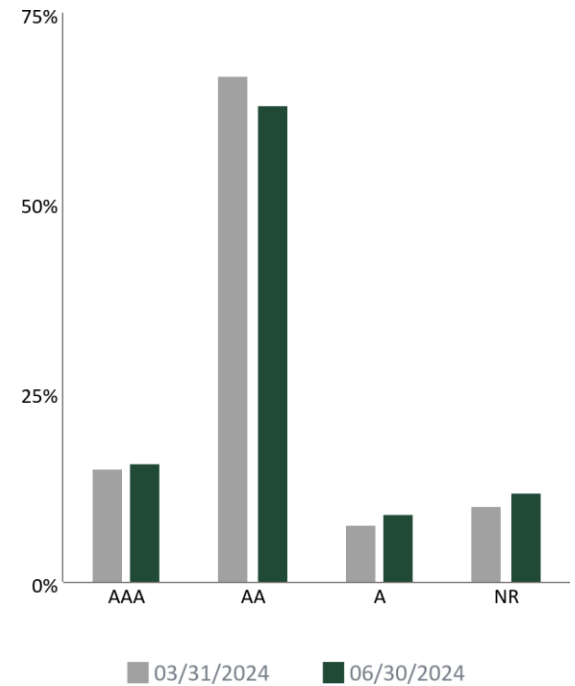
S&P Rating



Moody's Rating



Fitch Rating



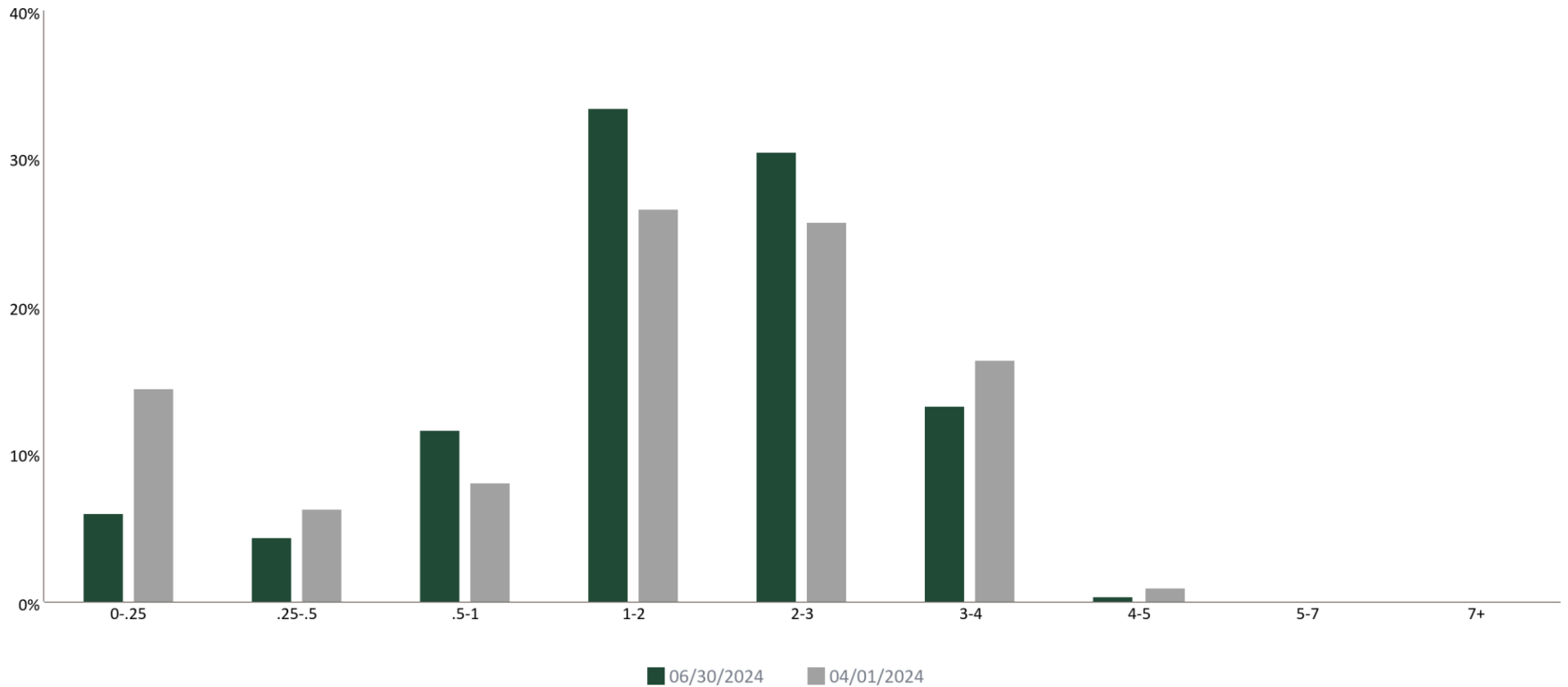
Rating	03/31/2024	06/30/2024
AAA	8.5%	8.2%
AA	65.2%	62.5%
A	21.0%	22.2%
NR	5.3%	7.1%

Rating	03/31/2024	06/30/2024
AAA	72.7%	71.6%
AA	1.5%	1.5%
A	21.0%	23.4%
NR	4.7%	3.6%

Rating	03/31/2024	06/30/2024
AAA	15.1%	15.8%
AA	66.8%	63.0%
A	7.9%	9.2%
NR	10.2%	12.0%

DURATION DISTRIBUTION

City of San Rafael | Account #11045 | As of June 30, 2024



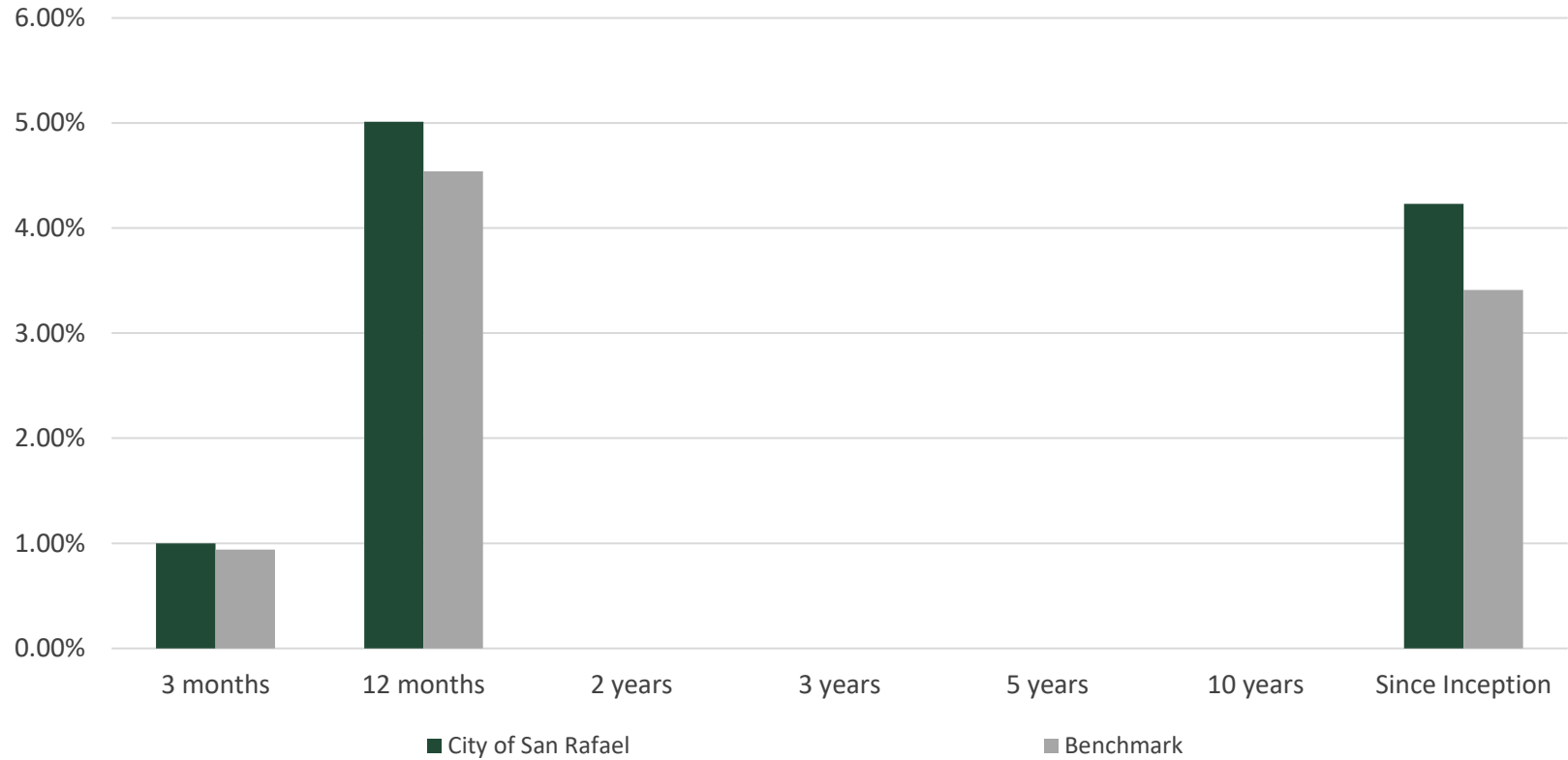
Date	0-.25	.25-.5	.5-1	1-2	2-3	3-4	4-5	5-7	7+
06/30/2024	6.1%	4.4%	11.7%	33.5%	30.5%	13.4%	0.4%	0.0%	0.0%
03/31/2024	14.5%	6.4%	8.1%	26.7%	25.8%	16.4%	1.1%	0.0%	0.0%

INVESTMENT PERFORMANCE



City of San Rafael | Account #11045 | As of June 30, 2024

Total Rate of Return : Inception | 02/01/2023



	3 Months	12 Months	2 Years	3 Years	5 Years	10 Years	Since Inception
TOTAL RATE OF RETURN							
City of San Rafael	1.00%	5.01%					4.23%
Benchmark	0.94%	4.54%					3.41%

*Periods over 1 year are annualized.

Benchmark: ICE BofA 1-3 Year US Treasury & Agency Index

Total rate of return: A measure of a portfolio's performance over time. It is the internal rate of return, which equates the beginning value of the portfolio with the ending market value; it includes interest earnings, realized and unrealized gains and losses in the portfolio.

PORTFOLIO CHARACTERISTICS

San Rafael Reporting | Account #11046 | As of June 30, 2024

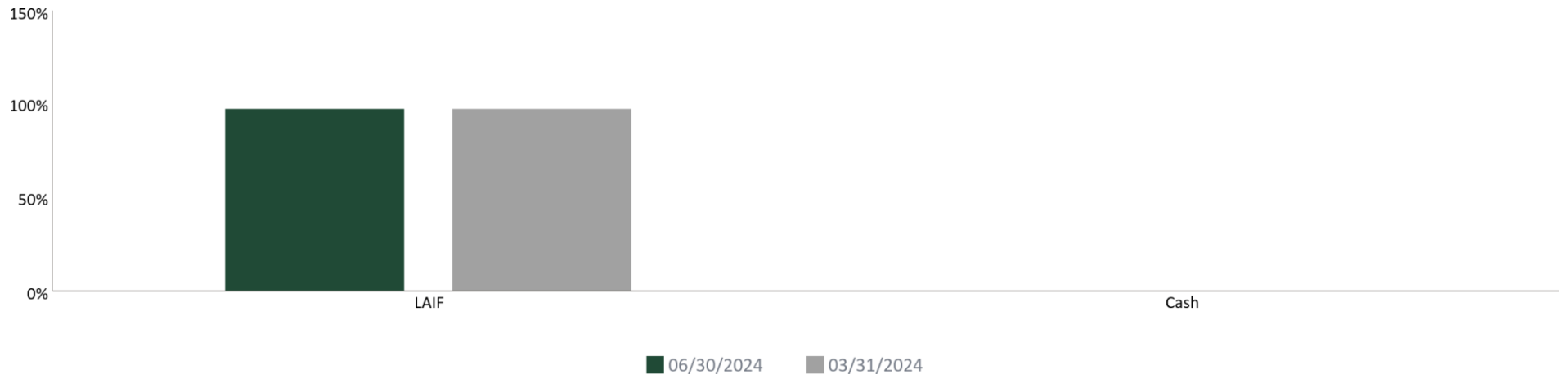
	6/30/2024 Portfolio	3/31/2024 Portfolio
Average Maturity (yrs)	0.00	0.00
Average Modified Duration	0.00	0.00
Average Purchase Yield	4.51%	4.27%
Average Market Yield	4.51%	4.27%
Average Quality**	AAA	AAA
Total Market Value	60,471,882	54,823,945

*Benchmark: NO BENCHMARK REQUIRED

**The credit quality is a weighted average calculation of the highest of S&P, Moody's and Fitch.

SECTOR DISTRIBUTION

San Rafael Reporting | Account #11046 | As of June 30, 2024



Sector as a Percentage of Market Value

Sector	06/30/2024	03/31/2024
LAIF	99.0%	99.0%
Cash	1.0%	1.0%

CONSOLIDATED INFORMATION

PORTFOLIO CHARACTERISTICS



San Rafael Cons | Account #11047 | As of June 30, 2024

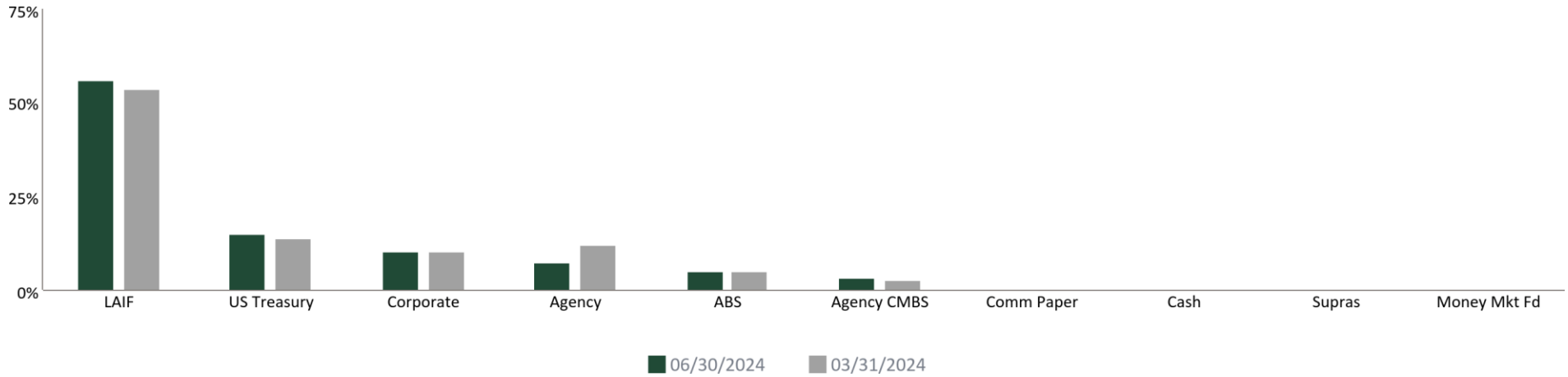
	6/30/2024 Portfolio	3/31/2024 Portfolio
Average Maturity (yrs)	0.96	0.96
Average Modified Duration	0.79	0.84
Average Purchase Yield	4.37%	3.95%
Average Market Yield	4.73%	4.59%
Average Quality**	AA	AA
Total Market Value	107,248,983	101,150,734

*Benchmark: NO BENCHMARK REQUIRED

**The credit quality is a weighted average calculation of the highest of S&P, Moody's and Fitch.

SECTOR DISTRIBUTION

San Rafael Cons | Account #11047 | As of June 30, 2024



Sector as a Percentage of Market Value

Sector	06/30/2024	03/31/2024
LAIF	56.0%	53.8%
US Treasury	15.5%	13.8%
Corporate	10.8%	10.8%
Agency	7.5%	12.1%
ABS	5.2%	5.2%
Agency CMBS	3.5%	3.2%
Comm Paper	0.7%	--
Cash	0.6%	0.6%
Supras	0.3%	0.3%
Money Mkt Fd	0.1%	0.3%

PORTFOLIO HOLDINGS

HOLDINGS REPORT



City of San Rafael | Account #11045 | As of June 30, 2024

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
ABS									
05593AAC3	BMWLT 2023-1 A3 5.16 11/25/2025	383,148.45	-- 5.32%	383,805.21 383,348.47	99.81 5.69%	382,433.76 329.51	0.82% (914.71)	Aaa/AAA NA	1.41 0.42
43815JAC7	HAROT 2023-1 A3 5.04 04/21/2027	120,000.00	02/16/2023 5.09%	119,977.70 119,984.95	99.58 5.40%	119,498.56 168.00	0.26% (486.39)	Aaa/NA AAA	2.81 1.44
02582JIT8	AMXCA 2022-2 A 05/17/2027	600,000.00	04/17/2023 4.65%	585,632.81 591,827.04	98.21 5.54%	589,260.00 904.00	1.27% (2,567.04)	NA/AAA AAA	0.87 0.92
58768PAC8	MBART 2022-1 A3 5.21 08/16/2027	260,000.00	02/15/2023 5.03%	261,340.63 260,827.37	99.81 5.43%	259,500.18 602.04	0.56% (1,327.20)	Aaa/AAA NA	3.13 1.28
89239HAD0	TAOT 2022-D A3 5.3 09/15/2027	350,000.00	02/10/2023 4.86%	354,128.91 352,577.87	99.85 5.42%	349,470.38 824.44	0.75% (3,107.49)	Aaa/NA AAA	3.21 1.52
47800CAC0	JDOT 2023 A3 5.01 11/15/2027	880,000.00	-- 3.66%	882,243.24 881,481.19	99.54 5.38%	875,986.58 1,959.47	1.89% (5,494.61)	Aaa/NA AAA	3.38 1.52
58770JAD6	MBALT 2024-A A3 5.32 01/18/2028	120,000.00	05/17/2024 5.73%	119,985.96 119,986.37	100.29 5.25%	120,343.61 283.73	0.26% 357.24	Aaa/NA AAA	3.55 2.00
891941AD8	TAOT 2023-B A3 4.71 02/15/2028	300,000.00	10/03/2023 5.68%	294,058.59 295,081.09	98.97 5.29%	296,906.34 628.00	0.64% 1,825.25	Aaa/NA AAA	3.63 2.02
05592XAD2	BMWOT 2023-A A3 5.47 02/25/2028	90,000.00	07/11/2023 5.47%	89,984.05 89,987.36	100.31 5.39%	90,282.01 82.05	0.19% 294.65	NA/AAA AAA	3.66 1.96
05522RDF2	BACCT 2022-2 A 5.0 04/17/2028	440,000.00	04/18/2023 4.59%	444,812.50 442,866.06	99.62 5.37%	438,345.51 977.78	0.94% (4,520.54)	Aaa/AAA NA	3.80 1.29
438123AC5	HAROT 2023-4 A3 5.67 06/21/2028	500,000.00	12/07/2023 5.10%	507,480.47 506,393.55	100.88 5.37%	504,408.35 787.50	1.09% (1,985.20)	Aaa/NA AAA	3.98 2.28
02582JKD1	AMXCA 2023-3 A 5.23 09/15/2028	490,000.00	09/12/2023 5.29%	489,978.10 489,981.54	100.33 5.14%	491,621.26 1,138.98	1.06% 1,639.73	NA/AAA AAA	4.21 2.03
161571HT4	CHAIT 2023-1 A 5.16 09/15/2028	495,000.00	09/07/2023 5.17%	494,862.79 494,884.57	100.26 5.11%	496,263.64 1,135.20	1.07% 1,379.07	NR/AAA AAA	4.21 2.03
05522RDH8	BACCT 2023-2 A 4.98 11/16/2026	300,000.00	02/20/2024 4.88%	301,125.00 300,978.46	99.93 5.08%	299,780.04 664.00	0.65% (1,198.42)	Aaa/NA AAA	2.38 2.18
096919AD7	BMWOT 2024-A A3 5.18 02/26/2029	210,000.00	06/04/2024 5.18%	209,968.10 209,968.47	100.10 5.21%	210,207.46 604.33	0.45% 238.99	Aaa/AAA NA	4.66 2.10

HOLDINGS REPORT



City of San Rafael | Account #11045 | As of June 30, 2024

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
Total ABS		5,538,148.45	4.85%	5,539,384.06 5,540,174.35	99.75 5.35%	5,524,307.67 11,089.04	11.90% (15,866.68)	Aaa/AAA AAA	3.19 1.61
AGENCY									
3135GOV75	FEDERAL NATIONAL MORTGAGE ASSOCIATION 1.75 07/02/2024	750,000.00	01/12/2023 1.44%	753,426.75 750,006.38	99.99 3.71%	749,917.18 6,526.04	1.61% (89.20)	Aaa/AA+ AA+	0.01 0.01
3130AV7L0	FEDERAL HOME LOAN BANKS 5.0 02/28/2025	1,100,000.00	03/02/2023 5.07%	1,098,548.00 1,099,517.33	99.80 5.30%	1,097,825.88 18,791.67	2.36% (1,691.45)	Aaa/AA+ AA+	0.67 0.63
3130AWER7	FEDERAL HOME LOAN BANKS 4.625 06/06/2025	775,000.00	06/09/2023 4.67%	774,356.75 774,698.34	99.49 5.19%	771,055.25 2,489.15	1.66% (3,643.09)	Aaa/AA+ AA+	0.93 0.90
3130ATHT7	FEDERAL HOME LOAN BANKS 4.375 09/12/2025	1,300,000.00	01/12/2023 4.28%	1,303,159.00 1,301,420.58	99.43 4.87%	1,292,558.07 17,220.49	2.78% (8,862.50)	Aaa/AA+ AA+	1.20 1.14
3130ATUC9	FEDERAL HOME LOAN BANKS 4.5 12/12/2025	1,000,000.00	02/13/2023 4.32%	1,004,720.00 1,002,419.46	99.42 4.92%	994,201.50 2,375.00	2.14% (8,217.96)	Aaa/AA+ AA+	1.45 1.38
3130AWGR5	FEDERAL HOME LOAN BANKS 4.375 06/12/2026	525,000.00	06/28/2023 4.43%	524,165.25 524,449.95	99.16 4.83%	520,609.58 1,212.24	1.12% (3,840.37)	Aaa/AA+ AA+	1.95 1.84
3133EPSW6	FEDERAL FARM CREDIT BANKS FUNDING CORP 4.5 08/14/2026	560,000.00	08/09/2023 4.58%	558,712.00 559,090.41	99.49 4.76%	557,120.98 9,590.00	1.20% (1,969.42)	Aaa/AA+ AA+	2.12 1.97
3130AXU63	FEDERAL HOME LOAN BANKS 4.625 11/17/2026	500,000.00	12/18/2023 4.23%	505,325.00 504,349.08	99.90 4.67%	499,497.44 2,826.39	1.08% (4,851.65)	Aaa/AA+ AA+	2.38 2.22
3133EP6K6	FEDERAL FARM CREDIT BANKS FUNDING CORP 4.5 03/26/2027	1,000,000.00	04/24/2024 4.84%	990,700.00 991,285.07	99.77 4.59%	997,723.94 11,875.00	2.15% 6,438.87	Aaa/AA+ AA+	2.74 2.52
3130ATUS4	FEDERAL HOME LOAN BANKS 4.25 12/10/2027	500,000.00	05/15/2023 3.66%	512,310.00 509,271.22	99.11 4.53%	495,558.08 1,239.58	1.07% (13,713.15)	Aaa/AA+ AA+	3.45 3.16
Total Agency		8,010,000.00	4.22%	8,025,422.75 8,016,507.81	99.58 4.78%	7,976,067.89 74,145.56	17.17% (40,439.92)	Aaa/AA+ AA+	1.54 1.44
AGENCY CMBS									
3137BVZ82	FHMS K-063 A2 3.43 01/25/2027	700,000.00	06/07/2023 4.53%	674,542.97 682,087.97	96.36 4.98%	674,509.01 2,000.83	1.45% (7,578.96)	Aaa/AA+ AAA	2.57 2.27

HOLDINGS REPORT



City of San Rafael | Account #11045 | As of June 30, 2024

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
3137F1G44	FHMS K-065 A2 3.243 04/25/2027	450,000.00	06/08/2023 4.39%	431,736.33 436,789.10	95.59 4.94%	430,172.87 1,216.13	0.93% (6,616.24)	Aaa/AA+ AAA	2.82 2.55
3137F2LJ3	FHMS K-066 A2 3.117 06/25/2027	350,000.00	04/18/2024 5.06%	330,654.30 331,831.42	95.14 4.92%	332,982.72 909.13	0.72% 1,151.30	Aaa/AA+ AAA	2.99 2.66
3137FBBX3	FHMS K-068 A2 3.244 08/25/2027	240,000.00	06/08/2023 4.34%	229,940.63 232,498.77	95.27 4.87%	228,636.24 648.80	0.49% (3,862.53)	Aaa/AA+ AA+	3.15 2.86
3137FBU79	FHMS K-069 A2 3.187 09/25/2027	500,000.00	06/09/2023 4.41%	476,601.56 482,420.78	95.02 4.89%	475,080.60 1,327.92	1.02% (7,340.18)	Aaa/AAA AA+	3.24 2.89
3137FETN0	FHMS K-073 A2 3.35 01/25/2028	670,000.00	05/24/2023 4.27%	643,932.81 650,119.30	95.10 4.87%	637,185.34 1,870.42	1.37% (12,933.96)	Aaa/AA+ AAA	3.57 3.18
3137FG6X8	FHMS K-077 A2 3.85 05/25/2028	780,000.00	05/24/2023 4.24%	765,679.69 768,849.59	96.44 4.85%	752,234.18 2,502.50	1.62% (16,615.41)	Aaa/AA+ AAA	3.90 3.46
3137FMTY8	FHMS K-094 A2 2.903 06/25/2029	225,000.00	06/21/2024 4.65%	207,764.65 207,812.50	91.92 4.75%	206,824.95 544.31	0.45% (987.55)	Aaa/AA+ AAA	4.99 4.45
Total Agency CMBS		3,915,000.00	4.44%	3,760,852.94 3,792,409.44	95.48 4.89%	3,737,625.91 11,020.03	8.05% (54,783.53)	Aaa/AA+ AAA	3.33 2.97
CASH									
CCYUSD	Receivable	38,820.41	-- 0.00%	38,820.41 38,820.41	1.00 0.00%	38,820.41 0.00	0.08% 0.00	Aaa/AAA AAA	0.00 0.00
Total Cash		38,820.41	0.00%	38,820.41 38,820.41	1.00 0.00%	38,820.41 0.00	0.08% 0.00	Aaa/AAA AAA	0.00 0.00
COMMERCIAL PAPER									
62479LNG6	MUFG Bank, Ltd. - New York Branch 01/16/2025	750,000.00	05/16/2024 5.43%	723,152.08 728,192.91	97.05 5.42%	727,857.00 0.00	1.57% (335.91)	P-1/NR NA	0.55 0.53
Total Commercial Paper		750,000.00	5.43%	723,152.08 728,192.91	97.05 5.42%	727,857.00 0.00	1.57% (335.91)	P-1/NR NA	0.55 0.53
CORPORATE									

HOLDINGS REPORT



City of San Rafael | Account #11045 | As of June 30, 2024

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
166764BW9	CHEVRON CORP 1.554 05/11/2025	700,000.00	01/12/2023 3.65%	667,380.00 687,949.79	96.81 5.38%	677,654.02 1,510.83	1.46% (10,295.77)	Aa2/AA- NA	0.86 0.84
78016FZT4	ROYAL BANK OF CANADA 4.875 01/12/2026	550,000.00	07/19/2023 5.34%	544,197.50 546,413.47	99.26 5.39%	545,910.26 12,586.98	1.18% (503.21)	A1/A AA-	1.54 1.42
46647PBH8	JPMORGAN CHASE & CO 2.005 03/13/2026	600,000.00	01/12/2023 3.26%	577,518.00 587,942.18	97.41 6.48%	584,463.51 3,609.00	1.26% (3,478.67)	A1/A- AA-	1.70 0.68
69371RS49	PACCAR FINANCIAL CORP 4.45 03/30/2026	600,000.00	03/28/2023 4.47%	599,634.00 599,787.28	99.00 5.05%	593,990.15 6,749.17	1.28% (5,797.13)	A1/A+ NA	1.75 1.64
00440EAV9	CHUBB INA HOLDINGS LLC 3.35 05/03/2026	500,000.00	03/09/2023 5.09%	475,060.00 485,409.99	96.76 5.21%	483,821.89 2,698.61	1.04% (1,588.11)	A3/A A	1.84 1.75
341081GR2	FLORIDA POWER & LIGHT CO 4.45 05/15/2026	550,000.00	05/18/2023 4.65%	547,030.00 548,137.27	98.78 5.14%	543,311.46 3,127.36	1.17% (4,825.82)	A1/A A+	1.87 1.76
24422EWX3	JOHN DEERE CAPITAL CORP 4.75 06/08/2026	500,000.00	06/05/2023 4.72%	500,470.00 500,303.18	99.37 5.09%	496,840.48 1,517.36	1.07% (3,462.71)	A1/A A+	1.94 1.82
74340XBK6	PROLOGIS LP 3.25 10/01/2026	550,000.00	01/16/2024 4.53%	532,240.50 535,209.41	95.90 5.20%	527,477.12 4,468.75	1.14% (7,732.30)	A3/A WR	2.25 2.12
89236TDR3	TOYOTA MOTOR CREDIT CORP 3.2 01/11/2027	600,000.00	01/22/2024 4.57%	577,398.00 580,716.30	95.71 5.02%	574,276.49 9,066.67	1.24% (6,439.81)	A1/A+ A+	2.53 2.35
63743HFM9	NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORP 4.8 02/05/2027	550,000.00	01/25/2024 4.75%	550,792.00 550,682.68	99.37 5.06%	546,550.11 10,706.67	1.18% (4,132.57)	A2/A- A	2.60 2.37
17275RBQ4	CISCO SYSTEMS INC 4.8 02/26/2027	550,000.00	-- 4.82%	549,759.00 549,786.43	99.73 4.91%	548,512.69 9,166.67	1.18% (1,273.74)	A1/AA- NA	2.66 2.43
857477CL5	STATE STREET CORP 4.993 03/18/2027	525,000.00	03/13/2024 4.99%	525,000.00 525,000.00	99.88 5.04%	524,365.10 7,499.90	1.13% (634.90)	A1/A AA-	2.71 2.48
06406RBQ9	BANK OF NEW YORK MELLON CORP 4.947 04/26/2027	350,000.00	04/19/2023 4.90%	350,497.00 350,301.10	99.39 5.68%	347,847.91 3,126.23	0.75% (2,453.19)	A1/A AA-	2.82 1.71
14913UAL4	CATERPILLAR FINANCIAL SERVICES CORP 5.0 05/14/2027	550,000.00	05/13/2024 5.01%	549,818.50 549,826.30	100.06 4.97%	550,339.45 3,590.28	1.19% 513.15	A2/A A+	2.87 2.63
74456QBS4	PUBLIC SERVICE ELECTRIC AND GAS CO 3.0 05/15/2027	337,000.00	04/18/2023 4.48%	318,673.94 324,075.56	94.77 4.97%	319,383.09 1,291.83	0.69% (4,692.48)	A1/A WR	2.87 2.70

HOLDINGS REPORT



City of San Rafael | Account #11045 | As of June 30, 2024

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
437076DB5	HOME DEPOT INC 4.875 06/25/2027	600,000.00	06/20/2024 4.92%	599,208.00 599,212.34	99.80 4.95%	598,777.43 487.50	1.29% (434.91)	A2/A A	2.99 2.75
89115A2M3	TORONTO-DOMINION BANK 5.156 01/10/2028	575,000.00	07/12/2023 5.29%	571,929.50 572,590.00	99.88 5.19%	574,309.37 14,082.33	1.24% 1,719.37	A1/A AA-	3.53 3.11
756109AU8	REALTY INCOME CORP 3.65 01/15/2028	500,000.00	04/10/2023 4.87%	474,240.00 480,846.65	95.18 5.16%	475,903.16 8,415.28	1.02% (4,943.49)	A3/A- WR	3.54 3.21
06051GGF0	BANK OF AMERICA CORP 3.824 01/20/2028	600,000.00	07/12/2023 5.53%	567,738.00 576,593.74	96.38 5.85%	578,301.42 10,261.07	1.25% 1,707.68	A1/A- AA-	3.56 2.35
46647PEAO	JPMORGAN CHASE & CO 5.04 01/23/2028	200,000.00	01/17/2024 4.99%	200,292.00 200,249.37	99.46 5.61%	198,917.60 4,424.00	0.43% (1,331.77)	A1/A- AA-	3.57 2.32
06368LGV2	BANK OF MONTREAL 5.203 02/01/2028	600,000.00	09/05/2023 5.48%	593,520.00 594,720.90	100.15 5.16%	600,876.37 13,007.50	1.29% 6,155.47	A2/A- AA-	3.59 3.17
58933YBH7	MERCK & CO INC 4.05 05/17/2028	130,000.00	05/08/2023 4.07%	129,894.70 129,918.39	97.90 4.65%	127,265.97 643.50	0.27% (2,652.41)	A1/A+ NA	3.88 3.53
61744YAK4	MORGAN STANLEY 3.591 07/22/2028	500,000.00	08/10/2023 5.22%	465,070.00 471,304.73	95.09 4.94%	475,451.06 7,930.13	1.02% 4,146.33	A1/A- A+	4.06 2.80
Total Corporate		11,717,000.00	4.77%	11,467,360.64 11,546,977.07	98.13 5.24%	11,494,546.09 139,967.60	24.75% (52,430.98)	A1/A A+	2.58 2.19
MONEY MARKET FUND									
31846V807	FIRST AMER:TRS OBG Y	59,761.47	-- 4.89%	59,761.47 59,761.47	1.00 4.89%	59,761.47 0.00	0.13% 0.00	Aaa/ AAAm AAA	0.00 0.00
Total Money Market Fund		59,761.47	4.89%	59,761.47 59,761.47	1.00 4.89%	59,761.47 0.00	0.13% 0.00	Aaa/ AAAm AAA	0.00 0.00
SUPRANATIONAL									
45950KDD9	INTERNATIONAL FINANCE CORP 4.5 07/13/2028	305,000.00	07/06/2023 4.53%	304,661.45 304,727.05	100.04 4.49%	305,115.63 6,405.00	0.66% 388.58	Aaa/AAA NA	4.04 3.58

HOLDINGS REPORT



City of San Rafael | Account #11045 | As of June 30, 2024

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
Total Supranational		305,000.00	4.53%	304,661.45 304,727.05	100.04 4.49%	305,115.63 6,405.00	0.66% 388.58	Aaa/AAA NA	4.04 3.58
US TREASURY									
912828D56	UNITED STATES TREASURY 2.375 08/15/2024	1,000,000.00	01/12/2023 0.07%	1,038,011.16 1,002,842.72	99.62 5.35%	996,210.94 8,938.87	2.15% (6,631.78)	Aaa/AA+ AA+	0.13 0.13
9128282Y5	UNITED STATES TREASURY 2.125 09/30/2024	1,000,000.00	01/12/2023 (0.77%)	1,051,800.23 1,007,278.25	99.19 5.36%	991,894.53 5,341.53	2.14% (15,383.72)	Aaa/AA+ AA+	0.25 0.25
912828YM6	UNITED STATES TREASURY 1.5 10/31/2024	1,000,000.00	01/12/2023 0.66%	1,014,925.23 1,002,767.29	98.72 5.40%	987,161.46 2,527.17	2.13% (15,605.83)	Aaa/AA+ AA+	0.34 0.33
912828YV6	UNITED STATES TREASURY 1.5 11/30/2024	700,000.00	01/12/2023 (0.18%)	722,889.06 704,909.88	98.43 5.33%	689,021.49 889.34	1.48% (15,888.40)	Aaa/AA+ AA+	0.42 0.41
91282CEU1	UNITED STATES TREASURY 2.875 06/15/2025	1,000,000.00	05/28/2024 5.18%	976,757.81 978,765.64	97.88 5.17%	978,818.36 1,256.83	2.11% 52.72	Aaa/AA+ AA+	0.96 0.93
91282CAJ0	UNITED STATES TREASURY 0.25 08/31/2025	1,200,000.00	01/12/2023 3.74%	1,095,937.50 1,153,918.27	94.61 5.06%	1,135,359.37 1,002.72	2.44% (18,558.90)	Aaa/AA+ AA+	1.17 1.14
91282CAM3	UNITED STATES TREASURY 0.25 09/30/2025	500,000.00	01/12/2023 3.65%	456,445.31 479,978.89	94.29 5.02%	471,445.31 314.21	1.02% (8,533.58)	Aaa/AA+ AA+	1.25 1.22
91282CJE2	UNITED STATES TREASURY 5.0 10/31/2025	1,000,000.00	05/28/2024 5.09%	998,671.88 998,756.16	100.01 4.99%	1,000,117.19 8,423.91	2.15% 1,361.03	Aaa/AA+ AA+	1.34 1.27
9128285N6	UNITED STATES TREASURY 2.875 11/30/2025	500,000.00	01/12/2023 3.15%	496,212.61 498,140.48	97.22 4.93%	486,093.75 1,217.55	1.05% (12,046.73)	Aaa/AA+ AA+	1.42 1.36
91282CGE5	UNITED STATES TREASURY 3.875 01/15/2026	1,000,000.00	02/06/2023 4.13%	992,929.69 996,290.23	98.50 4.90%	984,960.94 17,884.62	2.12% (11,329.29)	Aaa/AA+ AA+	1.54 1.45
91282CBQ3	UNITED STATES TREASURY 0.5 02/28/2026	500,000.00	01/12/2023 3.50%	455,839.84 476,548.37	93.12 4.84%	465,585.94 835.60	1.00% (10,962.43)	Aaa/AA+ AA+	1.67 1.62
91282CKH3	UNITED STATES TREASURY 4.5 03/31/2026	1,000,000.00	04/24/2024 4.96%	991,679.69 992,470.41	99.48 4.81%	994,765.62 11,311.48	2.14% 2,295.21	Aaa/AA+ AA+	1.75 1.65
91282CBW0	UNITED STATES TREASURY 0.75 04/30/2026	500,000.00	01/12/2023 4.46%	443,595.43 468,705.77	93.01 4.78%	465,039.06 631.79	1.00% (3,666.71)	Aaa/AA+ AA+	1.83 1.78
9128286X3	UNITED STATES TREASURY 2.125 05/31/2026	500,000.00	01/12/2023 4.31%	465,958.71 480,732.91	95.23 4.76%	476,132.81 899.93	1.03% (4,600.10)	Aaa/AA+ AA+	1.92 1.84

HOLDINGS REPORT



City of San Rafael | Account #11045 | As of June 30, 2024

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
91282CCJ8	UNITED STATES TREASURY 0.875 06/30/2026	500,000.00	01/12/2023 4.42%	443,595.43 467,494.91	92.77 4.71%	463,828.13 11.89	1.00% (3,666.79)	Aaa/AA+ AA+	2.00 1.94
91282CHY0	UNITED STATES TREASURY 4.625 09/15/2026	900,000.00	09/25/2023 4.81%	895,429.69 896,604.91	99.87 4.69%	898,804.69 12,216.03	1.94% 2,199.78	Aaa/AA+ AA+	2.21 2.05
91282CJC6	UNITED STATES TREASURY 4.625 10/15/2026	500,000.00	10/19/2023 5.05%	494,218.75 495,570.00	99.91 4.66%	499,550.78 4,865.10	1.08% 3,980.78	Aaa/AA+ AA+	2.29 2.13
91282CKV2	UNITED STATES TREASURY 4.625 06/15/2027	625,000.00	06/26/2024 4.50%	627,148.44 627,140.50	100.29 4.52%	626,806.64 1,263.66	1.35% (333.87)	Aaa/AA+ AA+	2.96 2.73
91282CFM8	UNITED STATES TREASURY 4.125 09/30/2027	750,000.00	12/18/2023 4.06%	751,669.92 751,434.12	98.87 4.50%	741,503.91 7,776.64	1.60% (9,930.21)	Aaa/AA+ AA+	3.25 2.98
91282CGC9	UNITED STATES TREASURY 3.875 12/31/2027	1,000,000.00	02/06/2023 3.84%	1,001,445.31 1,001,033.06	98.08 4.47%	980,820.31 105.30	2.11% (20,212.75)	Aaa/AA+ AA+	3.50 3.23
91282CHK0	UNITED STATES TREASURY 4.0 06/30/2028	750,000.00	03/12/2024 4.22%	743,496.09 743,951.78	98.48 4.42%	738,603.52 81.52	1.59% (5,348.26)	Aaa/AA+ AA+	4.00 3.65
91282CJA0	UNITED STATES TREASURY 4.625 09/30/2028	500,000.00	10/19/2023 4.95%	492,968.75 493,960.99	100.85 4.40%	504,238.28 5,812.84	1.09% 10,277.29	Aaa/AA+ AA+	4.25 3.78
Total US Treasury		16,925,000.00	3.40%	16,651,626.53 16,719,295.56	97.99 4.90%	16,576,763.02 93,608.54	35.69% (142,532.54)	Aaa/AA+ AA+	1.72 1.61
Total Portfolio		47,258,730.33	4.17%	46,571,042.33 46,746,866.07	98.10 5.02%	46,440,865.10 336,235.76	100.00% (306,000.97)	Aa2/AA- AA	2.20 1.83
Total Market Value + Accrued						46,777,100.86			

HOLDINGS REPORT



San Rafael Reporting | Account #11046 | As of June 30, 2024

Cusip	Security Description	Par Value/ Units	Purchase Date Purchase Yield	Cost Value Book Value	Mkt Price Mkt YTM	Market Value Accrued Int.	% of Port. Gain/Loss	Moody's/ S&P/ Fitch	Maturity Duration
CASH									
CCYUSD	Receivable	622,648.77	-- 0.00%	622,648.77 622,648.77	1.00 0.00%	622,648.77 0.00	1.03% 0.00	Aaa/AAA AAA	0.00 0.00
Total Cash		622,648.77	0.00%	622,648.77	0.00%	622,648.77	1.03%	Aaa/AAA	0.00
LAIF									
90LAIF\$00	Local Agency Investment Fund State Pool	59,849,233.56	-- 4.56%	59,849,233.56 59,849,233.56	1.00 4.56%	59,849,233.56 0.00	98.97% 0.00	NA/NA NA	0.00 0.00
Total LAIF		59,849,233.56	4.56%	59,849,233.56	4.56%	59,849,233.56	98.97%	NA/NA	0.00
Total Portfolio		60,471,882.33	4.51%	60,471,882.33	4.51%	60,471,882.33	100.00%	Aaa/AAA	0.00
Total Market Value + Accrued						60,471,882.33	0.00	AAA	0.00

TRANSACTIONS

TRANSACTION LEDGER



City of San Rafael | Account #11045 | 04/01/2024 Through 06/30/2024 |

Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
ACQUISITIONS										
Purchase	04/23/2024	3137F2LJ3	350,000.00	FHMS K-066 A2 3.117 06/25/2027	94.473	5.06%	(330,654.30)	(666.69)	(331,320.99)	0.00
Purchase	04/25/2024	3133EP6K6	1,000,000.00	FEDERAL FARM CREDIT BANKS FUNDING CORP 4.5 03/26/2027	99.070	4.84%	(990,700.00)	(3,625.00)	(994,325.00)	0.00
Purchase	04/25/2024	91282CKH3	1,000,000.00	UNITED STATES TREASURY 4.5 03/31/2026	99.168	4.96%	(991,679.69)	(3,073.77)	(994,753.46)	0.00
Purchase	05/15/2024	14913UAL4	550,000.00	CATERPILLAR FINANCIAL SERVICES CORP 5.0 05/14/2027	99.967	5.01%	(549,818.50)	(76.39)	(549,894.89)	0.00
Purchase	05/16/2024	62479LNG6	750,000.00	MUFG Bank, Ltd. - New York Branch 01/16/2025	96.420	5.43%	(723,152.08)	0.00	(723,152.08)	0.00
Purchase	05/23/2024	58770JAD6	120,000.00	MBALT 2024-A A3 5.32 01/18/2028	99.988	5.73%	(119,985.96)	0.00	(119,985.96)	0.00
Purchase	05/29/2024	91282CJE2	1,000,000.00	UNITED STATES TREASURY 5.0 10/31/2025	99.867	5.09%	(998,671.88)	(3,940.22)	(1,002,612.10)	0.00
Purchase	05/29/2024	91282CEU1	1,000,000.00	UNITED STATES TREASURY 2.875 06/15/2025	97.676	5.18%	(976,757.81)	(13,039.62)	(989,797.43)	0.00
Purchase	06/11/2024	096919AD7	210,000.00	BMWOT 2024-A A3 5.18 02/26/2029	99.985	5.18%	(209,968.10)	0.00	(209,968.10)	0.00
Purchase	06/25/2024	437076DB5	600,000.00	HOME DEPOT INC 4.875 06/25/2027	99.868	4.92%	(599,208.00)	0.00	(599,208.00)	0.00
Purchase	06/26/2024	3137FMTY8	225,000.00	FHMS K-094 A2 2.903 06/25/2029	92.340	4.65%	(207,764.65)	(453.59)	(208,218.24)	0.00
Purchase	06/27/2024	91282CKV2	625,000.00	UNITED STATES TREASURY 4.625 06/15/2027	100.344	4.50%	(627,148.44)	(947.75)	(628,096.19)	0.00

TRANSACTION LEDGER



City of San Rafael | Account #11045 | 04/01/2024 Through 06/30/2024 |

Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest Pur/Sold	Total Amount	Gain/Loss
Total Purchase			7,430,000.00				(7,325,509.41)	(25,823.03)	(7,351,332.44)	0.00
TOTAL ACQUISITIONS			7,430,000.00				(7,325,509.41)	(25,823.03)	(7,351,332.44)	0.00
DISPOSITIONS										
Maturity	04/22/2024	3133EMWV0	(1,000,000.00)	FEDERAL FARM CREDIT BANKS FUNDING CORP 0.35 04/22/2024	100.000	0.35%	1,000,000.00	0.00	1,000,000.00	0.00
Maturity	04/23/2024	3130AMQQ8	(1,000,000.00)	FEDERAL HOME LOAN BANKS 0.35 04/23/2024	100.000	0.35%	1,000,000.00	0.00	1,000,000.00	0.00
Maturity	04/26/2024	3136G46B4	(1,200,000.00)	FEDERAL NATIONAL MORTGAGE ASSOCIATION 0.35 04/26/2024	100.000	0.35%	1,200,000.00	0.00	1,200,000.00	0.00
Maturity	05/06/2024	3133EMYR7	(1,000,000.00)	FEDERAL FARM CREDIT BANKS FUNDING CORP 0.375 05/06/2024	100.000	0.38%	1,000,000.00	0.00	1,000,000.00	0.00
Maturity	05/15/2024	91282CCC3	(1,000,000.00)	UNITED STATES TREASURY 0.25 05/15/2024	100.000	0.25%	1,000,000.00	0.00	1,000,000.00	0.00
Maturity	05/15/2024	717081DM2	(500,000.00)	PFIZER INC 3.4 05/15/2024	100.000	3.40%	500,000.00	0.00	500,000.00	0.00
Total Maturity			(5,700,000.00)				5,700,000.00	0.00	5,700,000.00	0.00
Sale	06/21/2024	3133EPBF1	(1,000,000.00)	FEDERAL FARM CREDIT BANKS FUNDING CORP 4.875 08/21/2024	99.892	4.98%	998,920.00	16,250.00	1,015,170.00	(911.61)
Total Sale			(1,000,000.00)				998,920.00	16,250.00	1,015,170.00	(911.61)
TOTAL DISPOSITIONS			(6,700,000.00)				6,698,920.00	16,250.00	6,715,170.00	(911.61)

TRANSACTION LEDGER



San Rafael Reporting | Account #11046 | 04/01/2024 Through 06/30/2024 |

Transaction Type	Settlement Date	CUSIP	Quantity	Security Description	Price	Acq/Disp Yield	Amount	Interest	Pur/Sold	Total Amount	Gain/Loss
ACQUISITIONS											
Purchase	04/15/2024	90LAIF\$00	579,998.56	Local Agency Investment Fund State Pool	1.000	4.27%	(579,998.56)		0.00	(579,998.56)	0.00
Purchase	05/17/2024	90LAIF\$00	5,000,000.00	Local Agency Investment Fund State Pool	1.000	4.36%	(5,000,000.00)		0.00	(5,000,000.00)	0.00
Total Purchase			5,579,998.56				(5,579,998.56)		0.00	(5,579,998.56)	0.00
TOTAL ACQUISITIONS			5,579,998.56				(5,579,998.56)		0.00	(5,579,998.56)	0.00

IMPORTANT DISCLOSURES



City of San Rafael | Account #11045 | As of June 30, 2024

2024 Chandler Asset Management, Inc, An Independent Registered Investment Adviser.

Information contained herein is confidential. Prices are provided by ICE Data Services Inc (“IDS”), an independent pricing source. In the event IDS does not provide a price or if the price provided is not reflective of fair market value, Chandler will obtain pricing from an alternative approved third party pricing source in accordance with our written valuation policy and procedures. Our valuation procedures are also disclosed in Item 5 of our Form ADV Part 2A.

Performance results are presented gross-of-advisory fees and represent the client’s Total Return. The deduction of advisory fees lowers performance results. These results include the reinvestment of dividends and other earnings. Past performance may not be indicative of future results. Therefore, clients should not assume that future performance of any specific investment or investment strategy will be profitable or equal to past performance levels. All investment strategies have the potential for profit or loss. Economic factors, market conditions or changes in investment strategies, contributions or withdrawals may materially alter the performance and results of your portfolio.

Index returns assume reinvestment of all distributions. Historical performance results for investment indexes generally do not reflect the deduction of transaction and/or custodial charges or the deduction of an investment management fee, the incurrence of which would have the effect of decreasing historical performance results. It is not possible to invest directly in an index.

Source ICE Data Indices, LLC (“ICE”), used with permission. ICE permits use of the ICE indices and related data on an “as is” basis; ICE, its affiliates and their respective third party suppliers disclaim any and all warranties and representations, express and/or implied, including any warranties of merchantability or fitness for a particular purpose or use, including the indices, index data and any data included in, related to, or derived therefrom. Neither ICE data, its affiliates or their respective third party providers guarantee the quality, adequacy, accuracy, timeliness or completeness of the indices or the index data or any component thereof, and the indices and index data and all components thereof are provided on an “as is” basis and licensee’s use it at licensee’s own risk. ICE data, its affiliates and their respective third party do not sponsor, endorse, or recommend chandler asset management, or any of its products or services.

This report is provided for informational purposes only and should not be construed as a specific investment or legal advice. The information contained herein was obtained from sources believed to be reliable as of the date of publication, but may become outdated or superseded at any time without notice. Any opinions or views expressed are based on current market conditions and are subject to change. This report may contain forecasts and forward-looking statements which are inherently limited and should not be relied upon as indicator of future results. Past performance is not indicative of future results. This report is not intended to constitute an offer, solicitation, recommendation or advice regarding any securities or investment strategy and should not be regarded by recipients as a substitute for the exercise of their own judgment.

Fixed income investments are subject to interest, credit and market risk. Interest rate risk: the value of fixed income investments will decline as interest rates rise. Credit risk: the possibility that the borrower may not be able to repay interest and principal. Low rated bonds generally have to pay higher interest rates to attract investors willing to take on greater risk. Market risk: the bond market in general could decline due to economic conditions, especially during periods of rising interest rates.

Ratings information have been provided by Moody’s, S&P and Fitch through data feeds we believe to be reliable as of the date of this statement, however we cannot guarantee its accuracy.

Security level ratings for U.S. Agency issued mortgage-backed securities (“MBS”) reflect the issuer rating because the securities themselves are not rated. The issuing U.S. Agency guarantees the full and timely payment of both principal and interest and carries a AA+/Aaa/AAA by S&P, Moody’s and Fitch respectively.

BENCHMARK DISCLOSURES



City of San Rafael | Account #11045 | As of June 30, 2024

Benchmark	Disclosure
ICE BofA 1-3 Yr US Treasury & Agency Index	The ICE BofA 1-3 Year US Treasury & Agency Index tracks the performance of US dollar denominated US Treasury and nonsubordinated US agency debt issued in the US domestic market. Qualifying securities must have an investment grade rating (based on an average of Moody's, S&P and Fitch). Qualifying securities must have at least one year remaining term to final maturity and less than three years remaining term to final maturity, at least 18 months to maturity at time of issuance, a fixed coupon schedule, and a minimum amount outstanding of \$1 billion for sovereigns and \$250 million for agencies.



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 4.b

Meeting Date: August 19, 2024

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: April Miller, Public Works Director

City Manager Approval: _____

TOPIC: CALTRANS MAINTENANCE AGREEMENT AMENDMENT

SUBJECT: RESCIND RESOLUTION 15306 AND ADOPT RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE SUPPLEMENTAL FREEWAY MAINTENANCE AGREEMENT WITH CALTRANS

RECOMMENDATION:

Rescind Resolution 15306 and adopt a resolution approving and authorizing the City Manager to execute Amendment No. 1 to the Supplemental Freeway Maintenance Agreement with Caltrans.

BACKGROUND:

A Supplemental Freeway Maintenance Agreement (Agreement) was executed between the State of California through the Department of Transportation (Caltrans) and the City of San Rafael (City) in 1962 for maintenance adjacent and within the State right of way at the Manuel T. Freitas overcrossing.

The Caltrans-owned intersection of Manuel T. Freitas Parkway (Freitas Parkway) and US 101 North ramp where vehicles exiting on the highway currently flow freely with no stop sign or traffic signal, which causes confusion for vehicles trying to make turning movements across these vehicle movements. Northbound vehicles exiting from US 101 go straight through or turn right at the intersection without stopping. Vehicles from Freitas Parkway either stay right to merge onto US 101 north or yield to on-coming vehicles before making a left turn to the next intersection of Freitas Parkway/ Redwood Highway/ Civic Center Drive, where Freitas is uncontrolled, and Redwood Highway and Civic Center Drive is stop-controlled.

These intersections are non-standard and there is a history of collisions. Further, the intersections are challenging for bicyclists and pedestrians to navigate. A bus stop for Golden Gate transit routes at the on-ramp is only accessible by stairs and a narrow sidewalk.

Caltrans Project No. 0416000141 is proposing improvements to the two intersections, including a new roundabout and a relocated bus stop at the Freitas Parkway/ Redwood Highway/ Civic Center Drive intersection that will include a refuge island for vehicles from Freitas waiting to merge. These changes will improve traffic flow and make these busy intersections safer and more straightforward for motorists, bicyclists, and pedestrians.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

At the [June 17, 2024](#) City Council meeting, the City Council adopted Resolution 15306 ([Attachment 2](#)), approving and authorizing the City Manager to enter into an amendment to the Maintenance Agreement (“Amendment No. 1”, [Attachment 4](#)) to account for upcoming changes in the configuration of these intersections.

ANALYSIS:

Due to a clerical error, a revised version of Exhibit A to Amendment No. 1 (“Exhibit A”, [Attachment 5](#)), which Caltrans and the City had negotiated and intended to include as part of the Amendment No. 1 was not included as part of Resolution 15306 at the June 17, 2024, City Council meeting.

Staff recommends that Resolution 15306 ([Attachment 2](#)) be rescinded and a new Resolution ([Attachment 1](#)) including the revised Exhibit A ([Attachment 5](#)) be adopted. Revised Exhibit A removes an area of approximately 185 square feet from City maintained roadway and associated infrastructure elements that was originally included in the Resolution 15306 Exhibit A. Moving forward, this area will be maintained by Caltrans as it is located adjacent to Caltrans right-of-way.

FISCAL IMPACT:

The maintenance costs associated with Amendment No. 1 are included in the annual Public Works Park and Landscape Maintenance Program budget.

ENVIRONMENTAL ANALYSIS:

This action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15378(b)(5), in that the action does not meet CEQA's definition of a “project,” because the action does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

OPTIONS:

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

1. Rescind Resolution 15306 as adopted on June 17, 2024, and adopt the new resolution with revised Exhibit A.
2. Direct staff to return with more information.

RECOMMENDED ACTION:

Rescind Resolution 15306 and adopt a resolution approving and authorizing the City Manager to execute Amendment No. 1 to the Supplemental Freeway Maintenance Agreement with Caltrans.

ATTACHMENTS:

1. Resolution
2. Resolution 15306
3. Existing 1962 Maintenance Agreement
4. Amendment No. 1
5. Revised Exhibit A – Layout of Maintenance Agreement Area

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL RESCINDING RESOLUTION NO. 15306 AND APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE SUPPLEMENTAL MAINTENANCE AGREEMENT WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR MAINTENANCE OF PORTIONS MANUAL T. FREITAS PARKWAY AND CIVIC CENTER DRIVE WITHIN STATE RIGHT-OF-WAY

WHEREAS, at the June 17, 2024 meeting, City Council adopted Resolution 15306, approving and authorizing the City Manager to enter into Amendment No. 1 to the Supplemental Freeway Maintenance Agreement in the City of San Rafael (“Maintenance Agreement”); and

WHEREAS, Caltrans and the City revised Exhibit A associated with Resolution 15306. The revised Exhibit A was not included in Resolution 15306 at the June 17, 2024 meeting; and

WHEREAS, Resolution 15306 shall be rescinded and readopted as this Resolution; and

WHEREAS, the State of Department of Transportation (“Caltrans”) generally does not maintain local city streets within the State right-of-way; and

WHEREAS, portions of local streets Manual T. Freitas Parkway and Civic Center Drive within and adjacent to State right-of-way will be improved with a new roundabout per Caltrans Project No. 0416000141 (the “Project”) requiring maintenance; and

WHEREAS, Caltrans and the City have an existing Maintenance Agreement in place that was signed in 1962 based on the existing roadway layout; and

WHEREAS, Amendment No. 1 would modify the Maintenance Agreement to match the layout of curbs, gutters, retaining walls, sidewalks, asphalt pavement, and striping after the Project is constructed; and

WHEREAS, Caltrans is requiring the City to maintain those roadway infrastructure elements as more fully described in the Staff Report and Amendment No. 1 that includes the layout shown on Exhibit A; and

WHEREAS, the City and Caltrans agree that the City will perform maintenance as described in Amendment No. 1 of the Maintenance Agreement.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND that the City Council of the City of San Rafael, State of California, does hereby resolve as follows:

1. The City Council hereby rescinds Resolution No. 15306 and approves and authorizes the City Manager to execute Amendment No. 1 to the Supplemental Freeway Maintenance Agreement with the State of California Department of Transportation for maintenance of portions Manual T. Freitas Parkway and Civic Center Drive within State right-of-way, subject to final approval as to form by the City Attorney.
2. The Director of Public Works is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 19th day of August 2024, by the following vote, to wit:

AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:

Lindsay Lara, City Clerk

RESOLUTION NO. 15306

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE SUPPLEMENTAL MAINTENANCE AGREEMENT WITH THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) FOR MAINTENANCE OF PORTIONS MANUAL T. FREITAS PARKWAY AND CIVIC CENTER DRIVE WITHIN STATE RIGHT-OF-WAY

WHEREAS, Caltrans as the State of Department of Transportation (Caltrans) generally does not maintain local city streets within the State right-of-way; and

WHEREAS, portions of local streets Manual T. Freitas Parkway and Civic Center Drive within and adjacent to State right-of-way will be improved with a new roundabout per Caltrans Project No. 0416000141 (Project) requiring maintenance; and

WHEREAS, Caltrans and the City have an existing Supplemental Freeway Maintenance Agreement (Agreement) in place that was signed in 1962 based on the existing roadway layout; and

WHEREAS, Amendment No. 1 would modify the Agreement to match the layout of curbs, gutters, retaining walls, sidewalks, asphalt pavement, and striping after the Project is constructed; and

WHEREAS, Caltrans is requiring the City to maintain those roadway infrastructure elements as more fully described in the Staff Report and draft Amendment No. 1 that includes the layout shown on Exhibit A; and

WHEREAS, City and Caltrans agree that the City will perform maintenance as described in Amendment No. 1 of the Agreement;

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND that the City Council of the City of San Rafael, State of California, does hereby resolve as follows:

1. The City Council hereby approves and authorizes the City Manager to execute Amendment No. 1 to the Supplemental Freeway Maintenance Agreement with the State of California Department of Transportation (Caltrans) for maintenance of portions Manual T. Freitas Parkway and Civic Center Drive within State right-of-way, subject to final approval as to form by the City Attorney.

2. The Director of Public Works is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 17th day of June 2024, by the following vote, to wit:

AYES:	Councilmembers: Bushey, Hill & Mayor Kate
NOES:	Councilmembers: None
ABSENT:	Councilmembers: Kertz & Llorens Gulati



Lindsay Lara, City Clerk

SUPPLEMENTAL FREEWAY MAINTENANCE AGREEMENT

THIS AGREEMENT, made and entered into, in duplicate, this 7th day of May, 1962, by and between the State of California, acting by and through the Department of Public Works, Division of Highways, hereinafter for convenience referred to as "the State", and the City of San Rafael, hereinafter for convenience referred to as "the City", witnesseth:

WHEREAS, on February 10, 1959, a Freeway Agreement was executed between the County of Marin and the State relating to the development as a freeway, of a portion of State Highway Route 1, within the limits of the County of Marin, and

WHEREAS, under the provisions of said Freeway Agreement, the County agreed to certain adjustments in the County road system, and for the carrying of certain roads over or under or to a connection with the freeway, and

WHEREAS, the City has annexed certain areas covered by said Freeway Agreement with the County of Marin and has thereby taken over control and maintenance of certain County roads, hereinafter referred to as City streets, and

WHEREAS, said freeway has now been completed or is nearing completion, and the parties mutually desire to clarify the division of maintenance responsibility as to separation structures, and City streets or portions thereof, and landscaped areas, within the freeway limits, and

WHEREAS, on June 23, 1952, a Freeway Maintenance Agreement was executed between the County and the State wherein the County

agreed to maintain certain areas, shown in said Agreement, on State Highway Route 1, between Ignacio and 0.2 mile north of Forbes Overhead.

NOW THEREFORE, IT IS AGREED:

1. ROADWAY SECTIONS

The City will maintain, at City expense, all portions of city streets and appurtenant structures and bordering areas, colored in yellow on the attached map marked Exhibit "A" and made a part hereof by this reference.

2. VEHICULAR OVERCROSSINGS

The State will maintain, at State expense, the entire structure below the top of the concrete deck surface, exclusive of any bituminous surface treatment thereof. The City will maintain, at City expense, the top of the concrete deck surface, together with any bituminous surface treatment thereon, and all portions of the structure above the concrete deck surface, and shall perform such other work as may be necessary to insure an impervious and otherwise suitable surface. The City will also maintain all traffic service facilities provided for the benefit or control of city street traffic.

3. VEHICULAR UNDERCROSSINGS

The State will maintain the structure proper. The roadway section, including the traveled way, shoulders, curbs, sidewalks, walls, drainage installations and traffic service facilities, and all water lines except those incased within the walls, deck or floor of the structure, will be maintained by the City.

4. PEDESTRIAN OVERCROSSINGS

Except for damage to the structure resulting from freeway vehicular traffic, the City will maintain pedestrian overcrossings in their entirety.

5. PEDESTRIAN UNDERCROSSINGS

The State will maintain the structure from a structural standpoint. The City will maintain all drainage and lighting installations, and all water lines except those incased within the walls, deck or floor of the structure. The City will also be responsible for all cleaning and painting as may be required to keep the structure free of debris and obscenity.

6. LANDSCAPED AREAS

All plantings or other types of roadside development within the freeway limits and colored in yellow on Exhibit "A" will be maintained by the City.

7. The purpose of this Agreement is to delineate the extent of City's maintenance responsibilities with respect to areas within the freeway limits that have been annexed to the City.

8. EFFECTIVE DATE

This agreement shall be effective upon the date of its execution by the State; it being understood and agreed, however, that the execution of this Agreement shall not effect any pre-existing obligations of the City to maintain designated areas pursuant to prior written notice from the State that work in such areas, which the City has agreed to maintain pursuant to the terms of said Freeway Agreement, has been completed.

STATE OF CALIFORNIA
DEPARTMENT OF PUBLIC WORKS
DIVISION OF HIGHWAYS

J. C. WOMACK
STATE HIGHWAY ENGINEER

BY *Geo. B. Garte*
Deputy State Highway Engineer

CITY OF SAN RAFAEL JUN 2 1962

Approval Recommended

L. W. Warrnath
District Engineer

Edward J. ...
Maintenance Engineer

Approval as to Form

Harold ...
Attorney for Department

Ray ...
Mayor

...
City Clerk Deputy

Attorney

RESOLUTION NO. 2577

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL APPROVING
SUPPLEMENTAL FREEWAY MAINTENANCE AGREEMENT

WHEREAS, the State of California, through its Department of Public Works, Division of Highways, has presented an agreement entitled "Supplemental Freeway Maintenance Agreement" which concerns State Highway Route 1, in the City of San Rafael in the vicinity of Freitas Parkway, and

WHEREAS, the City Council has heard read said agreement in full and is familiar with the contents thereof;

THEREFORE, be it resolved by the City Council of the City of San Rafael, that said Supplemental Freeway Maintenance Agreement be and the same is hereby approved and the Mayor and the City Clerk are directed to execute the same on behalf of said City.

ADOPTED THIS 11 DAY OF May, 1962.

Attest:

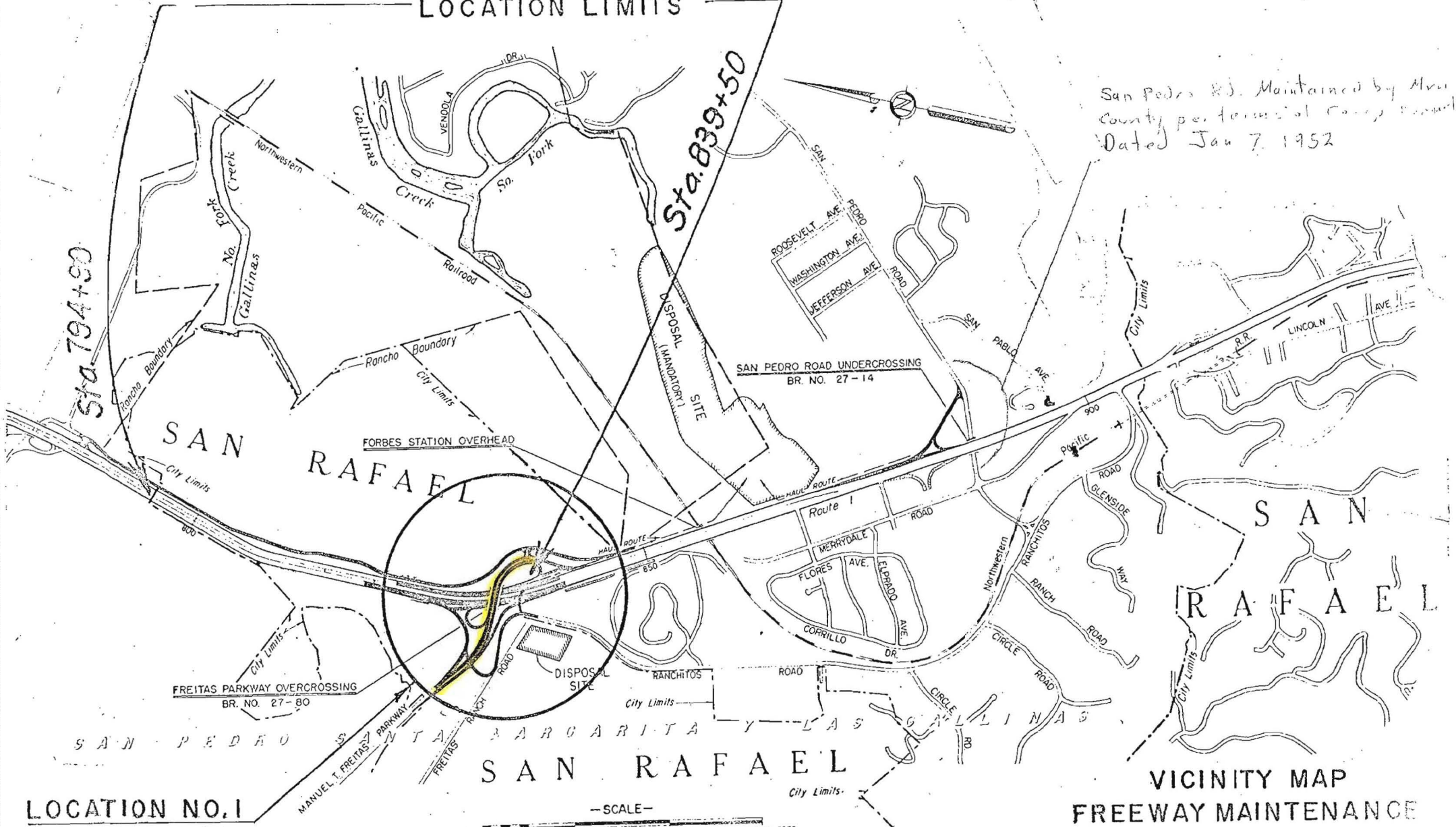
I hereby certify that the foregoing resolution was duly and regularly passed by the City Council of the City of San Rafael at a regular meeting thereof held May 11, 1962.

City Clerk
M. G. CORRELL
City Clerk

DIST.	CO.	RTE.	SEC.	SHEET OF SHEETS	
IV	Mrn	1	SRf	1	3

1962

LOCATION LIMITS



San Pedro Rd. Maintained by Alameda County per terminal Camp Contract. Dated Jan 7, 1952

LOCATION NO. 1
See sheets 2 & 3
FOR DETAIL.

Area to be maintained by City

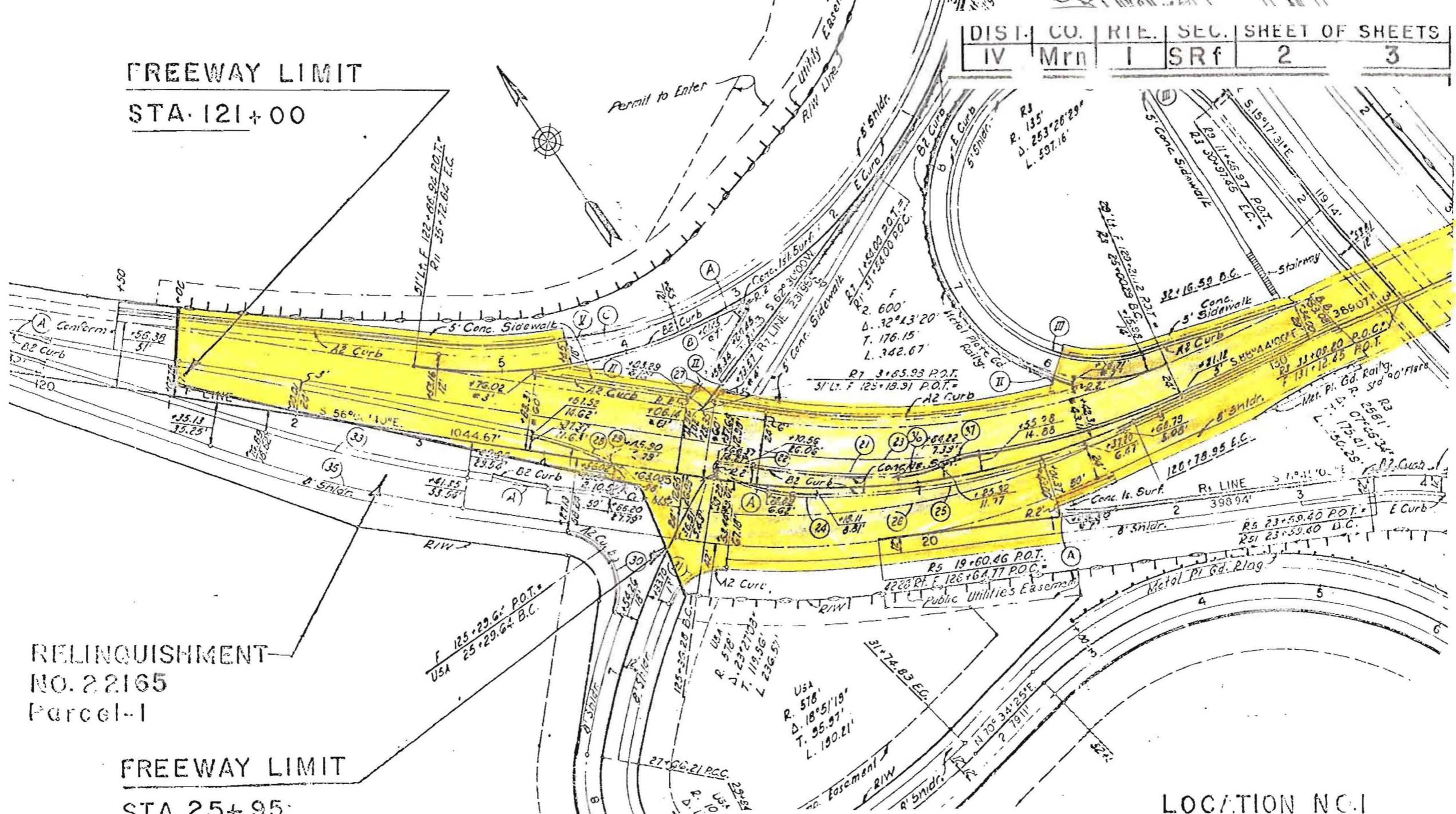


VICINITY MAP
FREEWAY MAINTENANCE
AGREEMENT
EXHIBIT "A"

DIST.	CO.	RTE.	SEC.	SHEET OF SHEETS
IV	Mn	1	SRf	2 3

FREEWAY LIMIT

STA. 121+00



RELINQUISHMENT

NO. 22165

Parcel-1

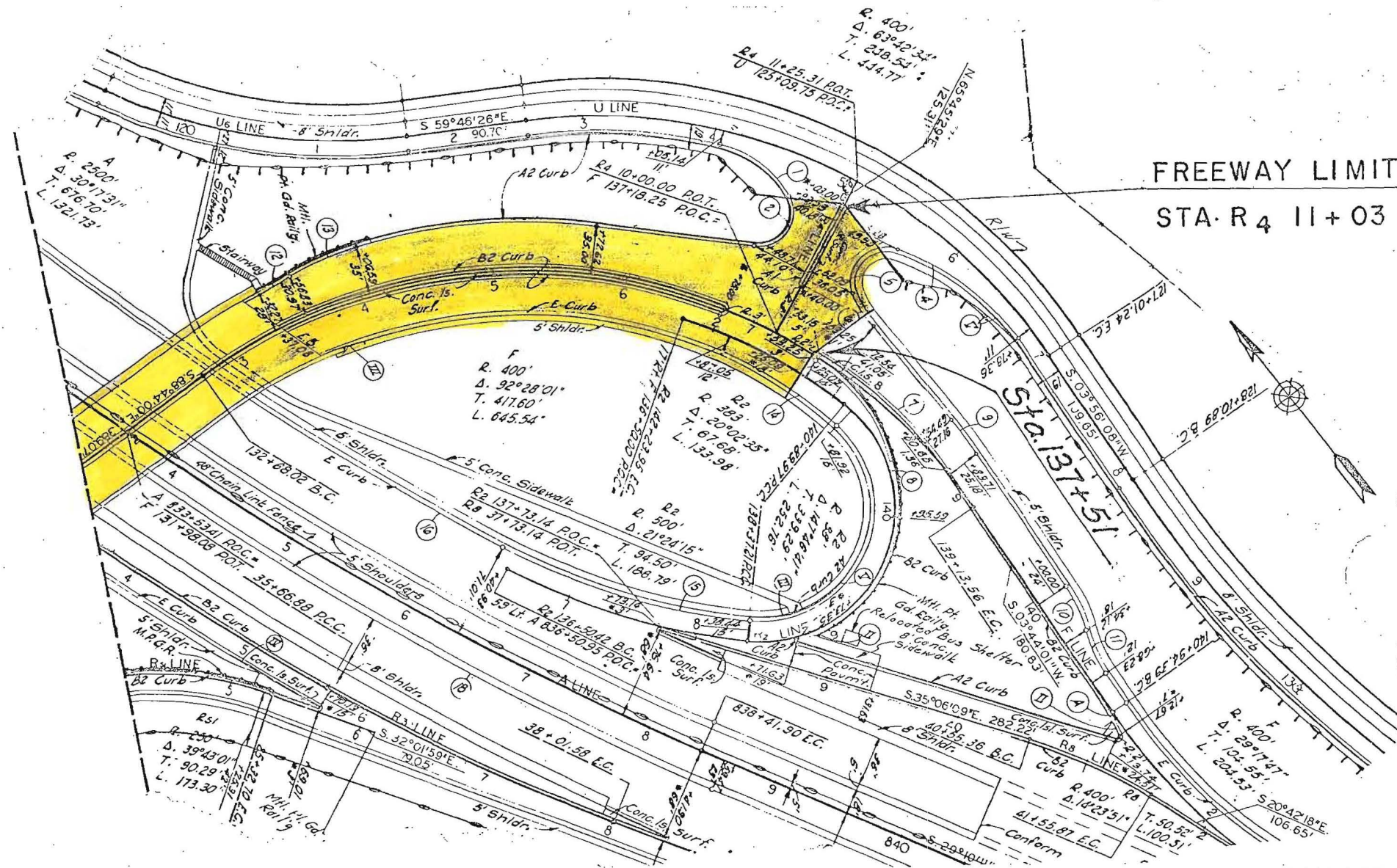
FREEWAY LIMIT

STA. 25+95

Area to be maintained by City



LOCATION NO. 1
EXHIBIT "A"



FREEWAY LIMIT
STA. R4 11+03

STA. R4 137+51

Area to be maintained by City



LOCATION NO. 1
EXHIBIT "A"

**AMENDMENT NO. 1
TO
SUPPLEMENTAL FREEWAY MAINTENANCE AGREEMENT
IN THE CITY OF SAN RAFAEL**

This Amendment No. 1 to the Supplemental Freeway Maintenance Agreement in the City of San Rafael is made and entered into by and between STATE of California, acting by and through the Department of Transportation, hereinafter referred to as "STATE", and City of San Rafael, hereinafter referred to as "CITY" and collectively referred to as "PARTIES".

WITNESSETH:

WHEREAS, a Supplemental Freeway Maintenance Agreement in the City of San Rafael", hereinafter referred to as "AGREEMENT", was executed by CITY on May 7, 1962, and

WHEREAS, CITY desires to maintain improvements to be constructed under Project No. 0416000141 on Route 101 at Manuel T. Freitas Parkway overcrossing in the City of San Rafael; consisting of roundabout island, landscaping, retaining walls, and sidewalk, etc); and

WHEREAS, PARTIES hereto now mutually consent that AGREEMENT be amended.

NOW, THEREFORE, PARTIES agree to add retaining wall article below and replace the entire Exhibit A of AGREEMENT and shall become a part of AGREEMENT for all purposes.

- 1. RETAINING WALLS- CITY is solely responsible for the wall in its entirety but not limited to: structural adequacy, debris removal, cleaning and painting to keep wall structure free of debris, dirt, and graffiti.

TERM OF AGREEMENT AMENDMENT - This Amendment shall become effective on the date as shown below and shall remain in full force and effect until amended or terminated at any time upon mutual consent of PARTIES or until terminated by STATE for cause.

PARTIES are empowered by Streets and Highways Code section 114 and 130 to enter into this Amendment and have delegated to the undersigned the authority to execute this Amendment on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Amendment.

IN WITNESS WHEREOF, PARTIES hereto have set their hands and seals the day and year first above written.

CITY OF SAN RAFAEL

STATE OF CALIFORNIA DEPARTMENT
OF TRANSPORTATION

By: City Manager

ATTEST;

By

CITY Clerk


LEAH BUDU Date
Deputy District Director
Maintenance- District 4

CITY Attorney

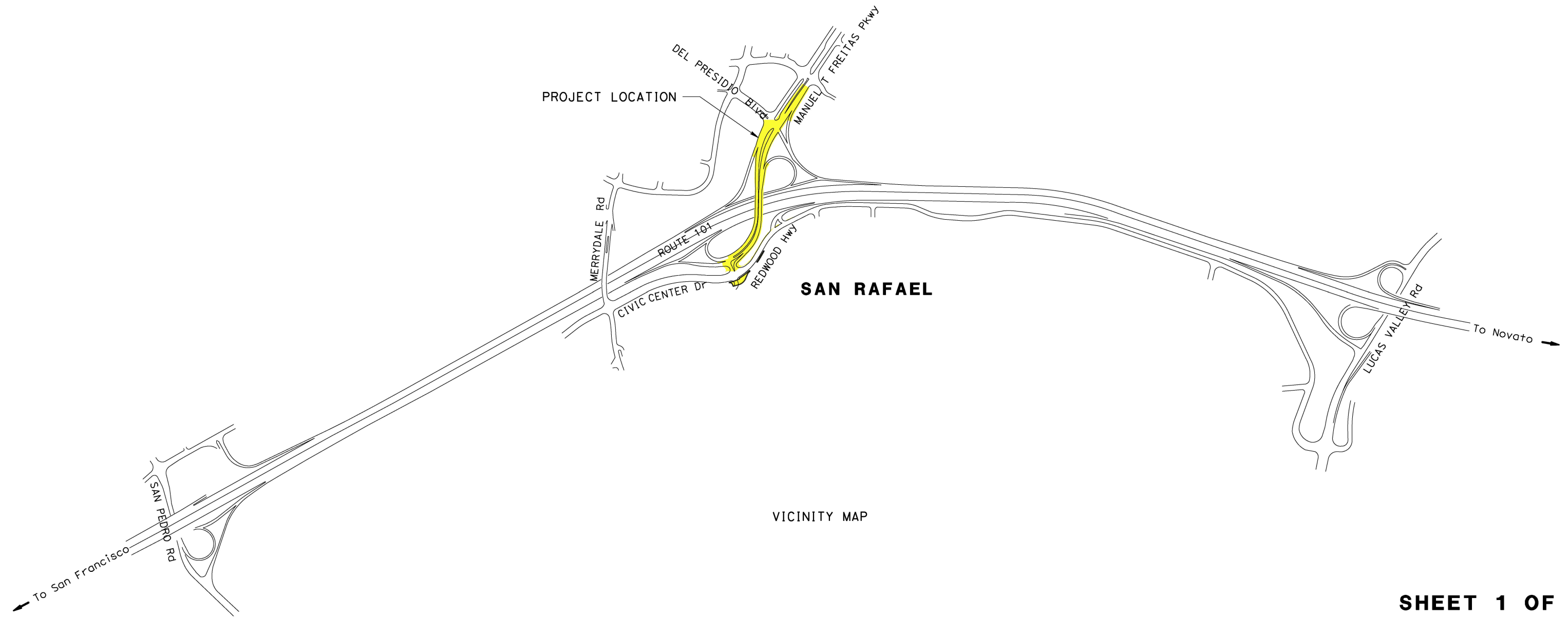
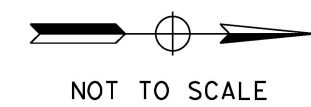
Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT
04	Mrn	101	13.7

EXHIBIT "A"

LEGEND

 AREA TO BE MAINTAINED BY THE CITY

**MAINTENANCE AGREEMENT
WITH CITY OF SAN RAFAEL**



Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT
04	Mrn	101	13.7

EXHIBIT "A"

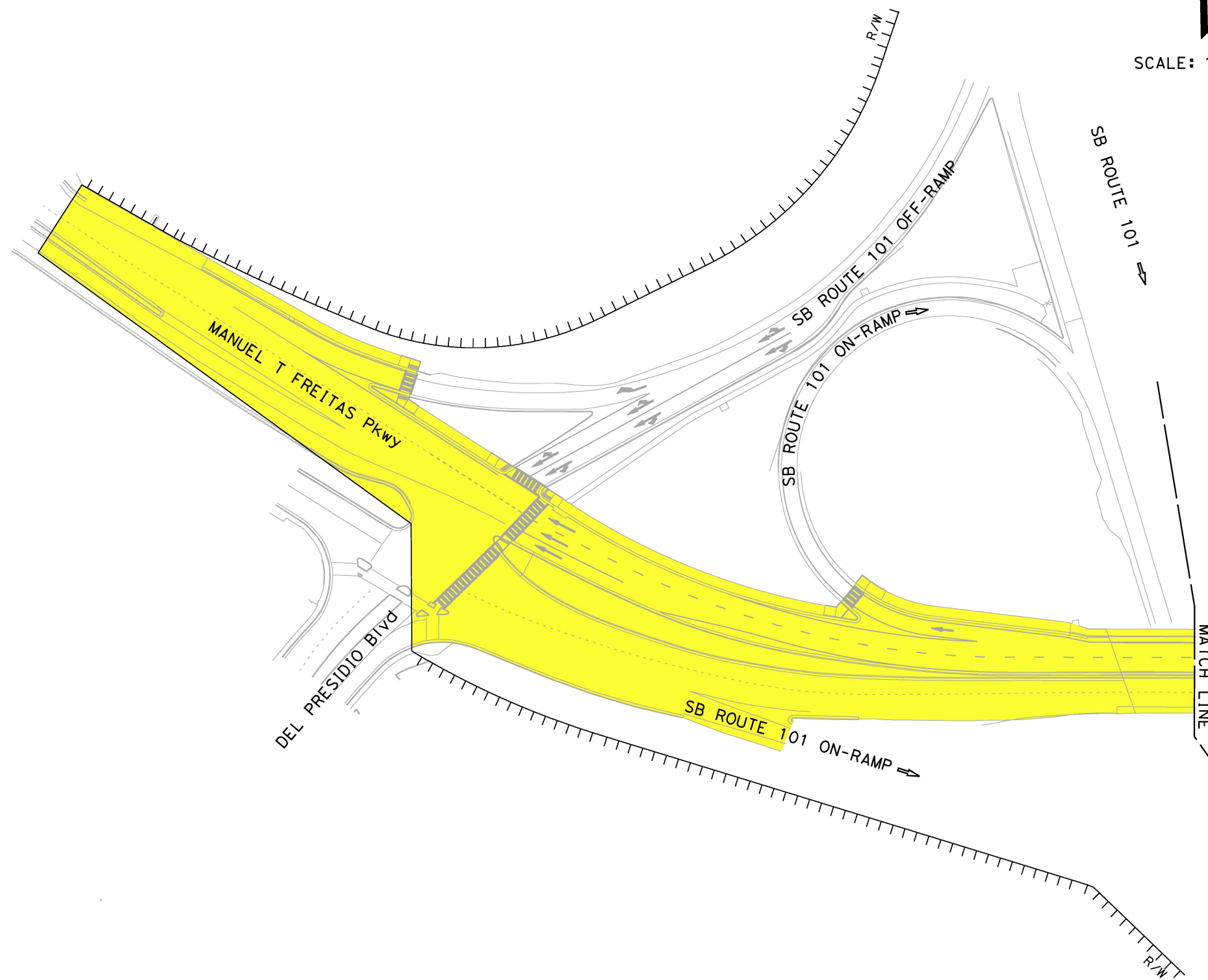
LEGEND

 AREA TO BE MAINTAINED BY THE CITY

**MAINTENANCE AGREEMENT
WITH CITY OF SAN RAFAEL**



SCALE: 1" = 50'

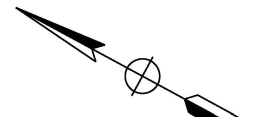


Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT
04	Mrn	101	13.7

EXHIBIT "A"

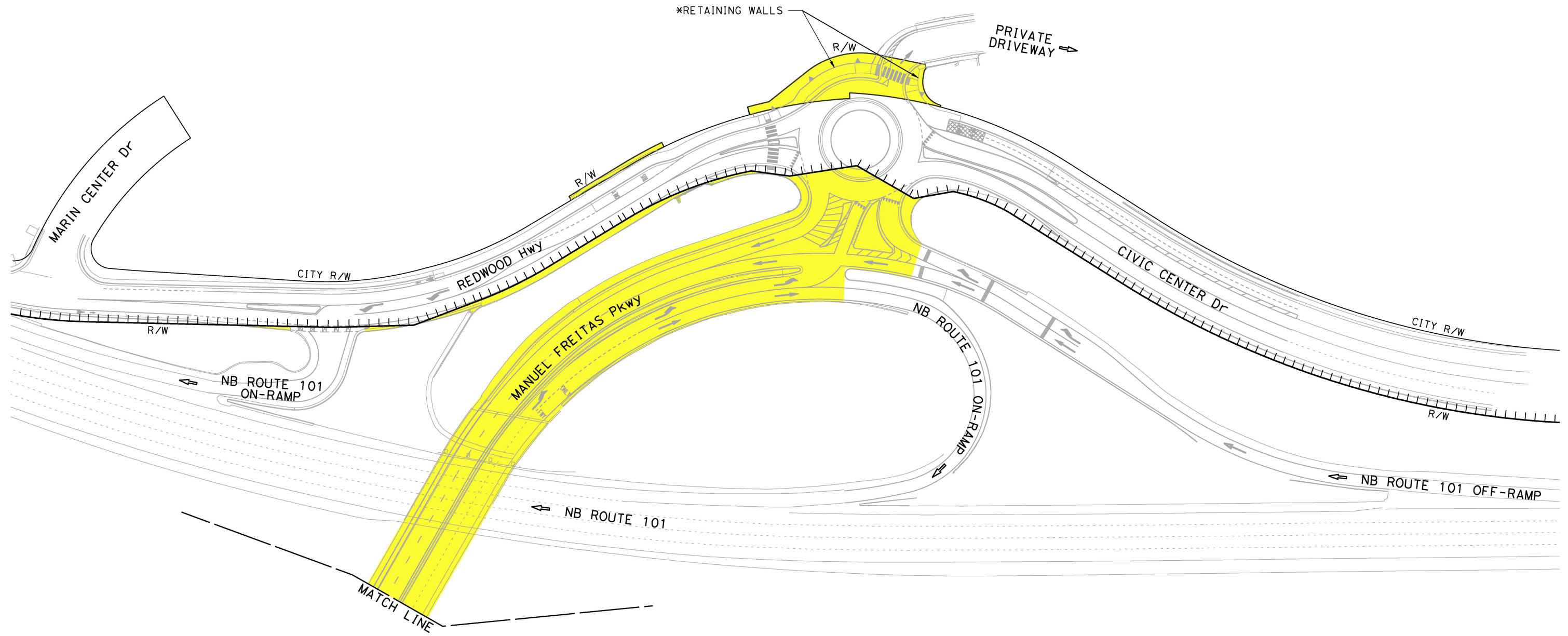
LEGEND

- * CITY IS RESPONSIBLE FOR STRUCTURAL AND AESTHETIC MAINTENANCE OF RETAINING WALLS WITHIN AREA INDICATED.
- AREA TO BE MAINTAINED BY THE CITY



SCALE: 1" = 50'

MAINTENANCE AGREEMENT WITH CITY OF SAN RAFAEL





SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 4.c

Meeting Date: August 19, 2024

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: April Miller, Public Works Director City Manager Approval: _____

TOPIC: CALTRANS PROPERTY RELINQUISHMENT

SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO SEND A LETTER TO REQUEST THAT CALTRANS RELINQUISHES THE PROPERTY EAST OF REDWOOD HIGHWAY AND CIVIC CENTER DRIVE.

RECOMMENDATION:

Adopt a resolution approving and authorizing the City Manager to send a letter to request that the State Department of Transportation (Caltrans) relinquishes the property east of Redwood Highway and Civic Center Drive as delineated in Exhibit A (Relinquishment No. 56162).

BACKGROUND:

The Caltrans-owned intersections of Manuel T. Freitas Parkway (Freitas Parkway) and US 101 North ramp is currently uncontrolled. Caltrans has proposed improvements to the intersections, including a new roundabout and a relocated bus stop. At the [August 1, 2022](#) meeting, City Council approved a Cooperative Agreement to contribute funding for the project delivery in the amount not to exceed \$400,000.

As part of the community outreach process in 2021 and 2022, the City and community pushed Caltrans to modify the design to create wider bicycle and pedestrian facilities around the roundabout. In order to achieve this, Caltrans needed to procure additional public right of way. Since this request to expand improvements was made by the City, the City informally agreed to maintain the additional right of way if Caltrans purchased and built the improvements. In 2024 Caltrans purchased additional public right of way from 4040 Civic Center Drive in San Rafael for the purpose of constructing the project along Redwood Highway and Civic Center Drive. The acquired public right of way property (as shown in Attachment 2) is not continuous with the State right of way and is adjacent to the City maintained public right of way.

ANALYSIS:

After the construction of the project, Caltrans will have no further interest in the right of way not continuous with the State right of way. California Streets and Highway Code, Section 73 et seq authorizes the California Transportation Commission (CTC) to relinquish a portion of the State highway to a city or county, provided that certain steps are followed. This includes the City issuing a letter to the Caltrans

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

District Director requesting the relinquishment of a portion the property purchased for the project. The additional public right of way will include retaining walls, sidewalk, and bicycle path around the roundabout that serve the community. These improvements are similar to what the City will maintain adjacent to these new areas.

COMMUNITY OUTREACH:

This project was presented to the City Council on November 1, 2021, and on August 1, 2022. In addition to the City Council presentations, this project has also been presented to the City's Bicycle and Pedestrian Committee (BPAC) in 2021 and 2022. In addition, Caltrans held a virtual community meeting in March 2022. The project has undergone several iterations of design in response to community comments. The current design was shared with key stakeholders before being completed. The City has also maintained a [webpage](#) with relevant project material and recorded meetings.

FISCAL IMPACT:

There is no fiscal impact for the adoption of this resolution.

OPTIONS:

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

1. Adopt the resolution approving and authorizing the City Manager to send a letter to Caltrans
2. Reject the resolution and provide further direction to staff

RECOMMENDED ACTION:

Adopt a resolution approving and authorizing the City Manager to send a letter to request that the State Department of Transportation (Caltrans) relinquishes the property east of Redwood Highway and Civic Center Drive as delineated in Exhibit A (Relinquishment No. 56162).

ATTACHMENTS:

1. Resolution
2. Exhibit A (Relinquishment No. 56162) from Caltrans
3. Draft Letter for Request for Relinquishment

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO SEND A LETTER TO REQUEST THAT CALTRANS RELINQUISHES THE PROPERTY EAST OF REDWOOD HIGHWAY AND CIVIC CENTER DRIVE AS DELINEATED IN EXHIBIT A (RELINQUISHMENT NO. 56162).

WHEREAS, in 2024 the State Department of Transportation (Caltrans) purchased additional public right of way from 4040 Civic Center Drive in San Rafael for the purpose of constructing a roundabout, sidewalk, and bicycle path (the “Project”) along Redwood Highway and Civic Center Drive; and

WHEREAS, the newly acquired public right of way property is not continuous with the State right of way and is adjacent to the City maintained public right of way; and

WHEREAS, during the design process the City and community requested additional bicycle and pedestrian improvements that extended the improvements further outside the existing right of way; and

WHEREAS, after the construction of the Project, Caltrans has no further interest in the right of way not continuous with State right of way and adjacent to the local street; and

WHEREAS, the City agrees that the relinquishment will be used for public multi-modal transportation uses; and

WHEREAS, California Streets and Highway Code, Section 73 et esq authorizes the California Transportation Commission (CTC) to relinquish a portion of the State highway to a city or county, provided certain steps are followed; and

WHEREAS, the City needs to issue a letter to the Caltrans District Director requesting the relinquishment of the property east of Redwood Highway and Civic Center Drive as delineated in Exhibit A (Relinquishment No. 56162) to the City; and

WHEREAS, the City Council must also consent to the relinquishment by resolution before the CTC may relinquish a portion of any State highway or property to the City; and

WHEREAS, Caltrans must perform a cost-benefit analysis and then, if deemed a benefit, negotiate terms of the relinquishment that are presented to the CTC for consideration; and

WHEREAS, the City agrees to only accept the proposed relinquishment as delineated in Exhibit A (Relinquishment No. 56162) at a zero-fee cost established by the Caltrans cost-benefit analysis; and

WHEREAS, the City will maintain and continue transportation use of the facilities; and

WHEREAS, this action by the City Council is not a project under the California Environmental Quality Act because the action is an administrative activity that will not have final authority over the relinquishment, and future actions by the state are required to relinquish the highway segment.

NOW, THEREFORE IT IS HEREBY RESOLVED, ORDERED AND FOUND that the City Council of the City of San Rafael, State of California, does hereby resolve as follows:

1. Requests and consents to the relinquishment of Segments 1 and 2 along Redwood Highway and Civic Center Drive as delineated in Exhibit A (Relinquishment No. 56162) to the City after the completion of the Project, as allowed under Section 73 et seq. of the California Streets and Highways Code; and
2. Authorizes the City Manager to send a letter, in substantially the form attached, to request Caltrans to initiate the relinquishment process for the property east of Redwood Highway and Civic Center Drive as delineated in Exhibit A (Relinquishment No. 56162) and take any further action as necessary to facilitate the relinquishment.

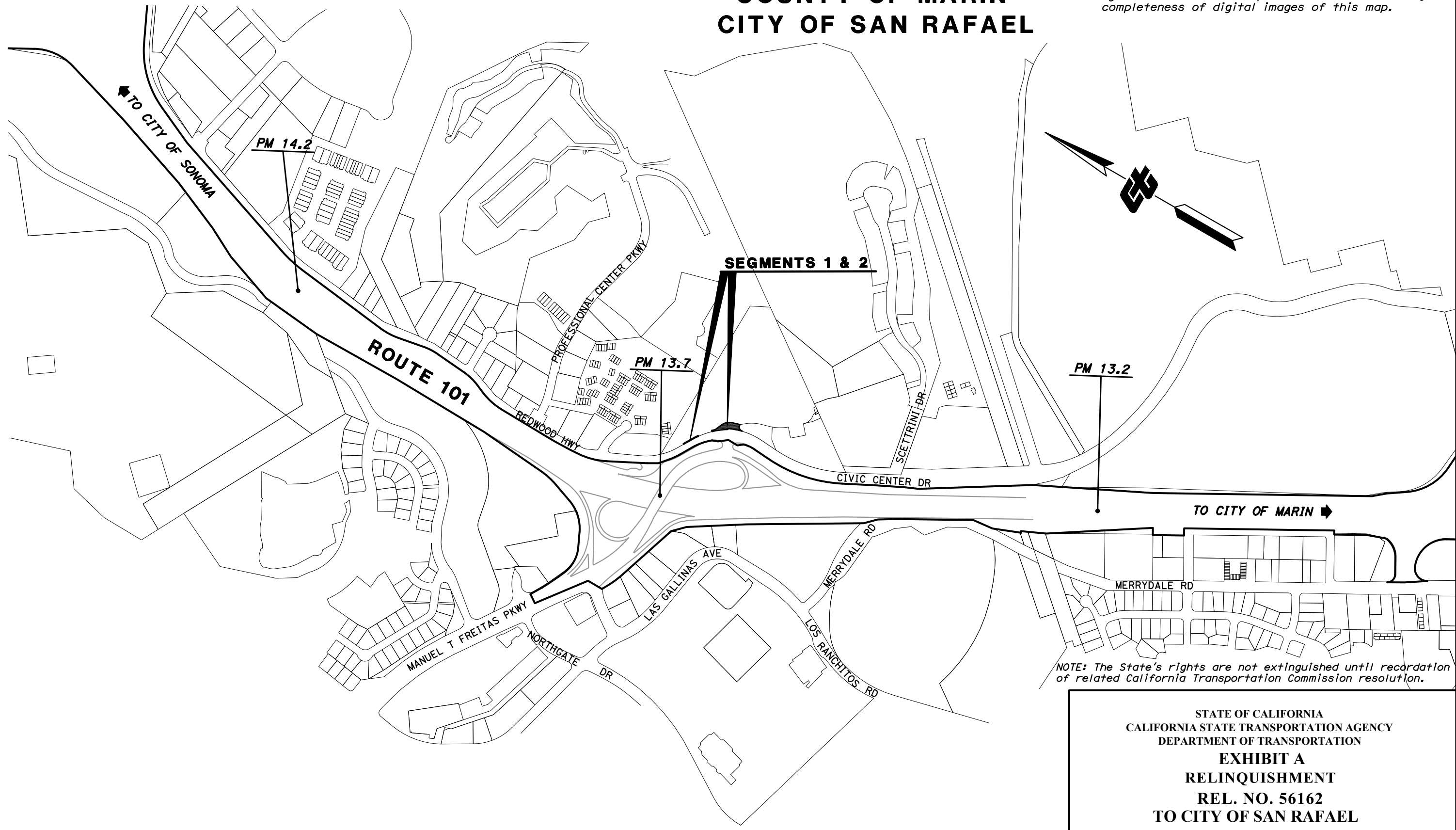
I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 19th day of August 2024, by the following vote, to wit:

AYES: **Councilmembers:**
NOES: **Councilmembers:**
ABSENT: **Councilmembers:**

Lindsay Lara, City Clerk

COUNTY OF MARIN CITY OF SAN RAFAEL

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.



NOTE: The State's rights are not extinguished until recordation of related California Transportation Commission resolution.

STATE OF CALIFORNIA
CALIFORNIA STATE TRANSPORTATION AGENCY
DEPARTMENT OF TRANSPORTATION
EXHIBIT A
RELINQUISHMENT
REL. NO. 56162
TO CITY OF SAN RAFAEL

LEGEND
 Area to be relinquished

DATE: 03/2024		EA(s): 0K8002		CONTRACT NO.:	
DRAWN BY: A. ZHONG, PLS #7437			CHECKED BY:		
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
04	MRN	101	13.7	1	2

M-1631

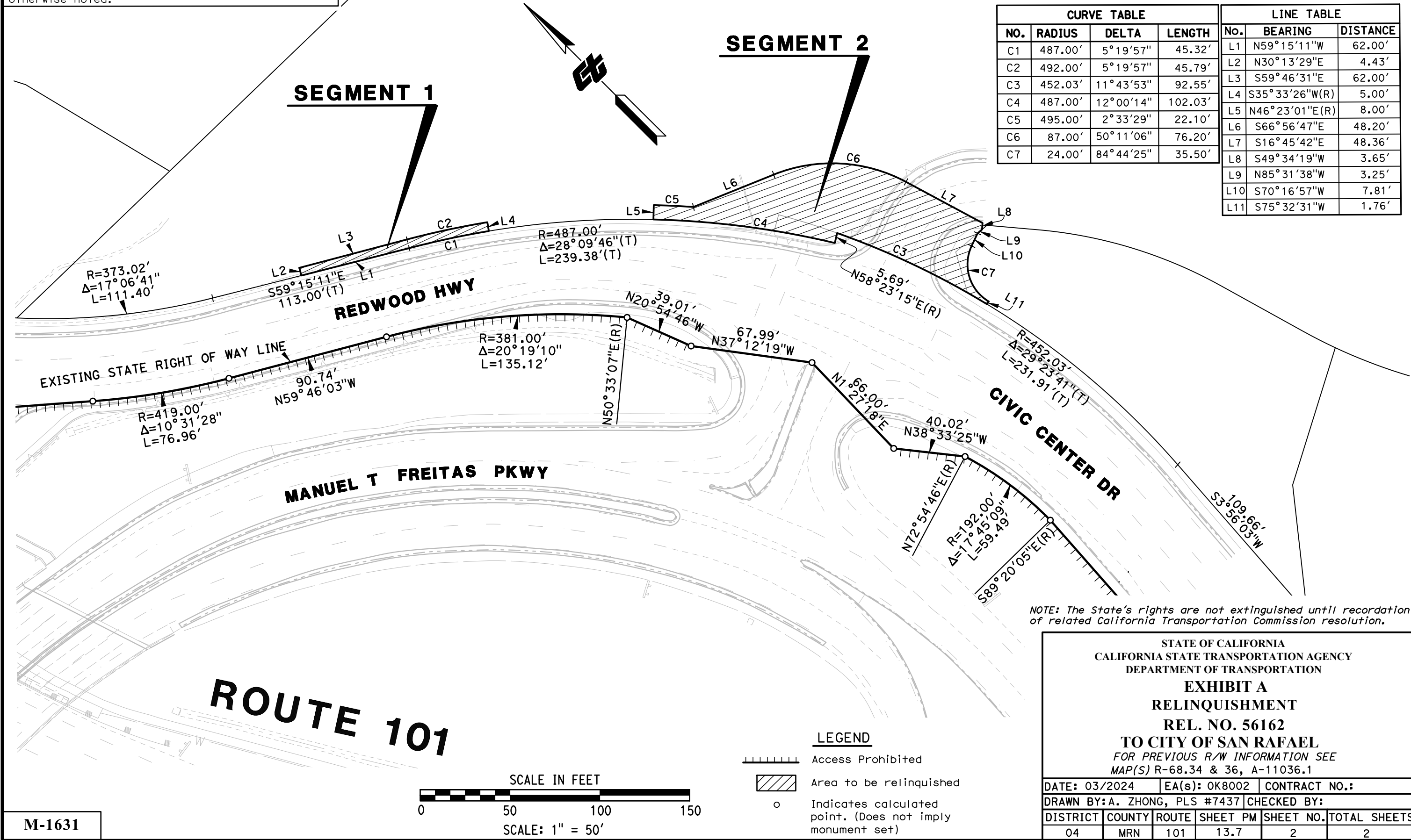
NO SCALE

Coordinates and bearings are on CCS 1983, Zone 3, Epoch 1991.35. Distances and stationing are grid distances. Multiply by 0.9999363 to obtain ground distances. All distances are in feet unless otherwise noted.

COUNTY OF MARIN CITY OF SAN RAFAEL

NOTE: The State of California or its officers or agents shall not be responsible for the accuracy or completeness of digital images of this map.

CURVE TABLE				LINE TABLE		
NO.	RADIUS	DELTA	LENGTH	NO.	BEARING	DISTANCE
C1	487.00'	5°19'57"	45.32'	L1	N59°15'11"W	62.00'
C2	492.00'	5°19'57"	45.79'	L2	N30°13'29"E	4.43'
C3	452.03'	11°43'53"	92.55'	L3	S59°46'31"E	62.00'
C4	487.00'	12°00'14"	102.03'	L4	S35°33'26"W(R)	5.00'
C5	495.00'	2°33'29"	22.10'	L5	N46°23'01"E(R)	8.00'
C6	87.00'	50°11'06"	76.20'	L6	S66°56'47"E	48.20'
C7	24.00'	84°44'25"	35.50'	L7	S16°45'42"E	48.36'
				L8	S49°34'19"W	3.65'
				L9	N85°31'38"W	3.25'
				L10	S70°16'57"W	7.81'
				L11	S75°32'31"W	1.76'



NOTE: The State's rights are not extinguished until recordation of related California Transportation Commission resolution.

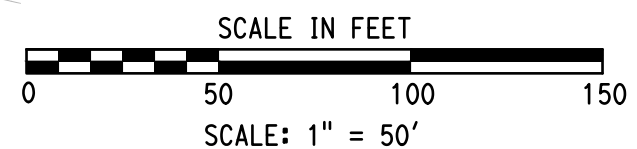
STATE OF CALIFORNIA
CALIFORNIA STATE TRANSPORTATION AGENCY
DEPARTMENT OF TRANSPORTATION

EXHIBIT A
RELINQUISHMENT
REL. NO. 56162
TO CITY OF SAN RAFAEL
FOR PREVIOUS R/W INFORMATION SEE
MAP(S) R-68.34 & 36, A-11036.1

DATE: 03/2024	EA(s): OK8002	CONTRACT NO.:			
DRAWN BY: A. ZHONG, PLS #7437		CHECKED BY:			
DISTRICT	COUNTY	ROUTE	SHEET PM	SHEET NO.	TOTAL SHEETS
04	MRN	101	13.7	2	2

LEGEND

- Access Prohibited
- Area to be relinquished
- Indicates calculated point. (Does not imply monument set)



M-1631



August 19, 2024

Dina El-Tawansy
District Director
Department of Transportation (Caltrans), District 4
111 Grand Avenue / Mail: P.O. Box 23660
Oakland, CA 94623-0660

Dear Director El-Tawansy:

This letter is to serve as a formal request of relinquishment of the property east of Redwood Highway and Civic Center Drive as delineated in Exhibit A (Relinquishment No. 56162), located in the City of San Rafael, for use as a local public street following the completion of construction of a planned State Department of Transportation (Caltrans) project.

In 2024 Caltrans purchased additional public right of way from 4040 Civic Center Drive in San Rafael for the purpose of constructing a roundabout, sidewalk, and bicycle path (the "Project") along Redwood Highway and Civic Center Drive. The acquired public right of way property is not continuous with the State right of way and is adjacent to the City maintained public right of way.

After the construction of the Project, Caltrans has no further interest in the right of way not continuous with the State right of way. California Streets and Highway Code, Section 73 et seq authorizes the California Transportation Commission (CTC) to relinquish a portion of the State highway to a city or county, provided that certain steps are followed. This includes the City issuing a letter to the Caltrans District Director requesting the relinquishment of a portion the property purchased for the Project.

Attached is Exhibit A showing the areas for relinquishment, as well as a copy of the signed resolution of the City Council requesting relinquishment of the property upon the completion of the Project.

Sincerely,

Cristine Alilovich
City Manager



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Lyn Lopez, Junior Engineer
April Miller, Public Works Director

City Manager Approval:  _____

TOPIC: GRAND AVE CYCLE TRACK PROJECT

SUBJECT: ACCEPT COMPLETION OF THE GRAND AVE CYCLE TRACK PROJECT, CITY PROJECT NO. 11393, AND AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

RECOMMENDATION:

Accept completion of the Grand Ave Cycle Track Project and authorize the City Clerk to file the Notice of Completion.

BACKGROUND:

The Grand Avenue Cycle Track Project constructed a new two-way, protected cycle track and widened sidewalk on the east side of Grand Avenue between Second Street and Fourth Street. This project is ranked third in Group F, Canal Connections, in the City’s 2018 Bicycle and Pedestrian Master Plan (“BPMP”) and is a critical trail extension project on the San Francisco Bay Trail. The new cycle track provides a safe and separated bicycle connection for residents and visitors of East San Rafael to the downtown business district and the San Rafael Transit Center. Project improvements included upgrades to traffic signals, curb ramps, and landscaping as well as road resurfacing. Construction for this project was coordinated with the Third Street Rehabilitation and Safety projects.

On [August 21, 2023](#), the City Council awarded the construction contract to Ghilotti Bros., Inc. in the amount of \$1,432,887 and approved a construction contingency of \$217,113 for a total of \$1,650,000. Construction began on December 11, 2022, and was completed on July 15, 2024.

ANALYSIS:

Pursuant to Civil Code Section 3093, the City is required to record a Notice of Completion upon City acceptance of the improvements. This acceptance initiates a period during which project subcontractors may file Stop Notices seeking payment from the City from the funds owed to the Contractor for the project work.

FISCAL IMPACT:

The Grand Ave Cycle Track project was funded through a combination of grants from various sources, consisting of the Bay Trail Grant from the Association of Bay Area Governments, the Local Partnership Program from Caltrans, and the Transportation Fund for Clean Air program from Transportation Authority of Marin, and funds from the Gas Tax Fund (#206). The total cost for completion of this project is approximately \$1,820,000, which includes about \$180,000 for design and permitting and about

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

\$1,580,000 for construction and construction support.

In accordance with project specifications, the City retained five percent of the full amount due on each progress payment to Ghilotti Bros., Inc. resulting in a total construction retention of \$157,531.59. The final payment and release of retention will be made following 35 days after recordation of the Notice of Completion.

RECOMMENDED ACTION:

Accept completion of the Grand Ave Cycle Track Project and authorize the City Clerk to file the Notice of Completion.

ATTACHMENTS:

1. Notice of Completion

Recording Requested By:
The City of San Rafael

When Recorded Mail To:
Lindsay Lara, City Clerk
1400 Fifth Avenue
San Rafael, CA 94901

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §27383

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

NOTICE OF COMPLETION
Civil Code §§ 8182, 8184, 9204, and 9208

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is the agent of the owner of the Project described below.
2. Owner's full name is the City of San Rafael ("City")
3. City's address is 1400 Fifth Ave, San Rafael, CA 94901
4. The nature of City's interest in the Project is:
__ Fee Ownership __ Lessee X Other Public Right of Way Easement
5. Construction work on the Project performed on City's behalf is generally described as follows: Pavement rehabilitation, pedestrian and bicycle safety improvements, curb ramps and intersection improvements, utility infrastructure updates, intersection lighting and traffic signal upgrades, and reconfiguring the roadway on Grand Ave between 2nd Street and 4th Street.
6. The name of the original Contractor for the Project is: Ghilotti Bros., Inc. located at 525 Jacoby St, San Rafael CA 94901
7. The Project was accepted as complete on: July 15, 2024
8. The Project is located at: Grand Ave., San Rafael CA 94901

Verification: In signing this document, I, the undersigned, declare under penalty of perjury under the laws of the State of California that I have read this notice, and I know and understand the contents of this notice, and that the facts stated in this notice are true and correct.

Date and Place

Signature

April Miller, Director of Public Works
Name and Title

*EXEMPT FROM NOTARY ACKNOWLEDGMENT REQUIREMENTS PER
GOVERNMENT CODE § 27287 AND CIVIL CODE § 9208*



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Adeel Shaikh, Junior Engineer **City Manager Approval:** _____
April Miller, Public Works Director

TOPIC: LARGE TRASH CAPTURE DEVICE PROJECTS

SUBJECT: AUTHORIZE THE CITY MANAGER TO ENTER INTO PROFESSIONAL SERVICES AGREEMENTS TO PROVIDE DESIGN SERVICES FOR LARGE TRASH CAPTURE DEVICES WITH:

1. SCHAAF & WHEELER CONSULTING CIVIL ENGINEERS (S&W) IN THE AMOUNT NOT TO EXCEED \$476,565, AND

2. BKF ENGINEERS (BKF) IN THE AMOUNT NOT TO EXCEED \$421,300.

RECOMMENDATION:
Staff recommends the following:

1. Authorize the City Manager to enter into a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers (“S&W”) to provide design services for large trash capture devices at three locations, in the amount not to exceed \$476,565.

2. Authorize the City Manager to enter into a Professional Services Agreement with BKF Engineers (“BKF”) to provide design services for large trash capture devices at two locations, in the amount not to exceed \$421,300.

BACKGROUND:
On April 7, 2015, the State Water Board adopted an amendment to the Water Quality Control Plan for Ocean Waters of California (“Ocean Plan”) and an amendment to the Part 1 Trash Provision of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries (“ISWEBE Plan”). The two amendments are collectively referred to as the “Trash Amendments.” The main objectives of the Trash Amendments are (1) to provide statewide consistency for the Water Boards' regulatory approach, (2) to protect aquatic life and benefit public health and (3) to reduce environmental issues associated with trash in state waters, while focusing limited resources on high trash generating areas.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

The City of San Rafael is required to demonstrate 100 percent compliance with the Trash Amendments by December 1, 2030. Full compliance with the Trash Amendments requires the City to install, operate, and maintain State-certified, Full Capture System (“FCS”) devices that capture all trash that are 5 millimeters or greater in size from defined Priority Land Use (“PLU”) areas. PLU areas include all industrial, commercial, mixed-use, high-density residential, and public transportation station areas.

County of Marin staff that are part of the Marin Countywide Stormwater Pollution Prevention Program (“MCSTOPPP”) have been assisting municipalities to comply with the Trash Amendments by completing feasibility studies and conceptual designs, and by securing funding for design and construction of trash capture projects. The City of San Rafael will receive \$906,653 in funding from MCSTOPPP through a U.S. Environmental Protection Agency (“EPA”) San Francisco Bay Water Quality Improvement Fund (“WQIF”) grant for the design and environmental permitting of large trash capture devices at the following five (5) locations:

1. SR-108 (Irwin St & Francisco Blvd W)
2. SR-129 (Redwood Hwy)
3. SR-143 (Rossi Pump Station)
4. SR-002 (Canal Pump Station)
5. SR-110 (San Quentin Pump Station)

ANALYSIS:

The City released a Request for Proposals (RFP) for this project on June 13, 2024. The RFP described the selection criteria and process, including the potential for entering into separate professional services agreement with one or more consultants for the design of the large trash capture devices (TCD) and selecting consultant(s) for specific TCD locations based on consultant qualifications.

On July 11, 2024, the City received two (2) proposals from qualified firms for all five (5) TCD locations, excluding cost estimates. Each proposal was evaluated by a selection committee, consisting of City and MCSTOPPP staff, based on criteria specified in the RFP, including, but not limited to, completeness of the proposal, relevant experience and success in similar projects, experience and quality of project team, understanding of the project scope of work, ability to meet deadlines and operate within budget, and references by former clients on similar projects.

After reviewing the proposals, both firms were invited to participate in a video conference interview with the selection committee. The committee found both firms and their sub-consultants to be well qualified consultant teams for the large TCD projects and selected consultants for specific TCD locations based on consultant qualifications. City staff recommends awarding the design and permitting of trash capture devices at three (3) of the locations, namely SR-002, SR-129, and SR-143, to S&W and the remaining two (2) of the locations, namely SR-108 and SR-110, to BKF. Cost proposals were requested from each consultant for their respective TCD locations.

The recommended professional services agreements with S&W and BKF will provide professional services associated with developing designs for the respective TCDs, including project management, preliminary engineering, design, and environmental compliance and permitting.

FISCAL IMPACT:

The Large Trash Capture Device Projects are identified in the 2024-25 Capital Improvement Program. The two professional services agreements, totaling \$897,865, will be funded with the appropriations included in the FY 2024-25 Budget (Stormwater Fund - #205) approved by the City Council on [June 17, 2024](#). Underlying funding sources for these projects include \$906,653 in EPA WQIF grant funding, which will be used to reimburse the City for work performed under the two professional service agreements.

OPTIONS:

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

1. Authorize the City Manager to enter into the agreements as recommended.
2. Do not authorize the City Manager to enter into the agreements and provide further direction to staff.

RECOMMENDED ACTION:

Staff recommends the following:

1. Authorize the City Manager to enter into a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers ("S&W") to provide design services for large trash capture devices at three locations, in the amount not to exceed \$476,565.
2. Authorize the City Manager to enter into a Professional Services Agreement with BKF Engineers ("BKF") to provide design services for large trash capture devices at two locations, in the amount not to exceed \$421,300.

ATTACHMENT:

1. Agreement with Schaaf & Wheeler Consulting Civil Engineers (S&W) for large trash capture design services for three locations
2. Agreement with BKF Engineers (BKF) for large trash capture design services for two locations

**AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
THE CITY OF SAN RAFAEL
AND
SCHAAF & WHEELER, CONSULTING CIVIL ENGINEERS
FOR LARGE TRASH CAPTURE DESIGN SERVICES**

This Agreement is made and entered into as of _____ (the “Effective Date”), by and between the CITY OF SAN RAFAEL, a chartered California municipal corporation (hereinafter "**CITY**"), and SCHAAF & WHEELER, CONSULTING CIVIL ENGINEERS, a California corporation (hereinafter "**CONSULTANT**"). **CITY** and **CONSULTANT** may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

A. **CITY** desires to secure professional services more fully described in this Agreement, at **Exhibit A**, entitled “SCOPE OF SERVICES”; and

B. **CONSULTANT** represents that it, and its subcontractors, if any, have the professional qualifications, expertise, and necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of **CITY**; and

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

NOW, THEREFORE, the parties hereby agree as follows:

AGREEMENT

1. **SERVICES TO BE PROVIDED.**

Except as otherwise may be expressly specified in this Agreement, **CONSULTANT** shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as “Services”) to satisfactorily complete the work required by **CITY** at its sole risk and expense. Services to be provided to **CITY** are more fully described in **Exhibit A** entitled “SCOPE OF SERVICES.” **CONSULTANT** acknowledges that the execution of this Agreement by **CITY** is predicated upon representations made by **CONSULTANT** in that certain proposal (“Proposal”) set forth in **Exhibit A**, which constitutes the basis for this Agreement.

2. **COMPENSATION.**

In consideration for **CONSULTANT**’s complete performance of Services, **CITY** shall pay **CONSULTANT** for all materials provided and services rendered by **CONSULTANT** at the unit

rates and rates per hour for labor, as set forth in **Exhibit A**, for a total amount not to exceed \$476,565.

CONSULTANT will bill City on a monthly basis for Services provided by **CONSULTANT** during the preceding month, subject to verification by **CITY**. **CITY** will pay **CONSULTANT** within thirty (30) days of City's receipt of invoice.

3. **TERM OF AGREEMENT.**

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on March 1, 2027.

4. **PROJECT COORDINATION.**

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

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

5. **TERMINATION.**

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

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

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

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

6. OWNERSHIP OF DOCUMENTS.

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

7. INSPECTION AND AUDIT.

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

8. ASSIGNABILITY.

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

9. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in **Exhibit B**, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in **Exhibit B**.

10. INDEMNIFICATION.

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

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

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

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

11. **NONDISCRIMINATION.**

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

12. **COMPLIANCE WITH ALL LAWS.**

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

13. **NO THIRD PARTY BENEFICIARIES.**

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

14. NOTICES.

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

To **CITY**'s Project Manager:

Adeel Shaikh, Junior Engineer
111 Morphew Street
San Rafael, CA 94901

To **CONSULTANT**'s Project Director:

Caitlin Tharp
4699 Old Ironside Dr, Ste 350
Santa Clara, CA, 95054

15. INDEPENDENT CONTRACTOR.

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

16. ENTIRE AGREEMENT -- AMENDMENTS.

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

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

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

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

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

17. SET-OFF AGAINST DEBTS.

CONSULTANT agrees that **CITY** may deduct from any payment due to **CONSULTANT** under this Agreement, any monies which **CONSULTANT** owes **CITY** under any ordinance,

agreement, contract or resolution for any unpaid taxes, fees, licenses, assessments, unpaid checks or other amounts.

18. WAIVERS.

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

19. COSTS AND ATTORNEY'S FEES.

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

20. CITY BUSINESS LICENSE / OTHER TAXES.

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

21. SURVIVAL OF TERMS.

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

22. APPLICABLE LAW.

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

23. COUNTERPARTS AND ELECTRONIC SIGNATURE.

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

[Signatures are on the following page.]

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

CITY OF SAN RAFAEL:

CONSULTANT:

CRISTINE ALILOVICH, City Manager

By: _____

APPROVED AS TO FORM:
Office of the City Attorney

Name: _____

Title: _____

By: ROBERT F. EPSTEIN,
City Attorney

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

ATTEST:
City Clerk

By: _____

Name: _____

Title: _____

LINDSAY LARA, City Clerk

EXHIBIT A
SCOPE OF SERVICES

The Services to be performed for **CITY** by **CONSULTANT** under this Agreement are more fully described in **CONSULTANT's** proposal, which is attached to this Exhibit A.

Exhibit A

Cost Proposal for Canal SR-002, Redwood Hwy SR-129, Rossi SR-143		Principal Project Manager	Senior Project Manager	Senior Engineer	Assistant Engineer	CAD Designer	Schaaf & Wheeler Total	Kier + Wright	Shannon Wilson	Bess Testlab	Peoples Structural	NCE	Total
		Hourly Rates	\$295	\$270	\$250	\$200	\$175						
Task 1	Project Management	40	0	0	8	0	\$13,400	\$0	\$0	\$0	\$0	\$0	\$13,400
1.1	Invoicing	24					\$7,080						\$7,080
1.2	Meetings with Agenda's and Minutes	8			8		\$3,960						\$3,960
1.3	Schedules	8					\$2,360						\$2,360
Task 2	Preliminary Engineering	19	2	8	156	12	\$41,445	\$2,700	\$51,500	\$20,000	\$0	\$0	\$115,645
2.1	Field Visit	2			2		\$990						\$990
2.2	Utility Research, GPR and Potholing for Site 002	2			4		\$1,390	\$2,700		\$20,000			\$24,090
2.3	Boundary Research and Topographic Survey SR-129 and SR-002						\$0						\$0
2.4	Geotechnical Investigation for Site 002	4			4		\$1,980		\$51,500				\$53,480
2.5	Hydraulic Modeling & Pump Station Hydraulic Analysis	4		8	100		\$23,180						\$23,180
2.6	Cost Estimates	3			6		\$2,085						\$2,085
2.7	35% Concept Design for Site 002	4	2		40	12	\$11,820						\$11,820
Task 3	Design (assumes one bid package for all three sites)	36	16	0	400	72	\$107,540	\$0	\$5,000	\$0	\$40,000	\$0	\$152,540
3.1	Basis of Design Report	4	3		76		\$17,190						\$17,190
3.2	65% Design Package, including Canal 002 Piles	16	6		140	32	\$39,940		\$2,000		\$9,100		\$51,040
3.3	95% Design Package, including Canal 002 Piles	8	3		100	24	\$27,370		\$2,000		\$18,000		\$47,370
3.4	100% Design Package, including Canal 002 Piles	4	3		64	16	\$17,590		\$1,000		\$12,900		\$31,490
3.5	O&M Plan	2	1		12		\$3,260						\$3,260
3.6	Utility Coordination Site 002	2			8		\$2,190						\$2,190
Task 4	Environmental Compliance and Permitting	22	0	0	64	0	\$19,290	\$0	\$0	\$0	\$0	\$107,680	\$126,970
4.1	Meetings & Project Management	4			4		\$1,980					\$11,525	\$13,505
4.2	Technical Studies: biological, cultural, aquatic resources	2			4		\$1,390					\$40,895	\$42,285
4.4	Permit Applications	4			16		\$4,380					\$55,260	\$59,640
4.5	CEQA Catex; no additional work needed						\$0						\$0
4.6	Caltrans TMDL Compliance Report	4			16		\$4,380						\$4,380
4.7	Caltrans Encroachment Permit Site SR-129	8			24		\$7,160						\$7,160
Task 5	Bid Support Services (Optional)	12	3	0	15	6	\$8,400	\$0	\$0	\$0	\$3,500	\$0	\$11,900
5.1	Prepare RFI response and addenda	6			12	6	\$5,220				\$3,500		\$8,720
5.2	Review and Recommend Bids	6	3		3		\$3,180						\$3,180
Task 6	Construction Support Services (Optional)	38	0	0	66	0	\$24,410	\$0	\$4,700	\$0	\$17,000	\$0	\$46,110
6.1	Meetings (8 total)	12			8		\$5,140						\$5,140
6.2	RFI Response (5 total)	10			20		\$6,950		\$4,700				\$11,650
6.3	Submittal Review (10 total)	10			30		\$8,950				\$17,000		\$25,950
6.6	Punch List Final Walk (3 sites)	6			8		\$3,370						\$3,370
Task 7	Optional Services	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0	\$0	\$10,000
7.1	Geotechnical Boring Hot Patch Site 002						\$0		\$10,000				\$10,000
Total		167	21	8	709	90	\$214,485	\$2,700	\$61,200	\$20,000	\$60,500	\$107,680	\$476,565

EXHIBIT B INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth below, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in this Exhibit B.

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

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

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

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

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

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

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

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

ISO form CG20 01 04 13.

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

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

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

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

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

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

9. **CONSULTANT** agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by **CONSULTANT**, provide the same minimum insurance coverage required of **CONSULTANT**, except as with respect to limits. **CONSULTANT** agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. **CONSULTANT** agrees that upon request by **CITY**, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the performance of Services will be submitted to **CITY** for review.

10. **CONSULTANT** agrees to be responsible for ensuring that no contract used by any party involved in any way with the Services reserves the right to charge **CITY** or **CONSULTANT** for the cost of additional insurance coverage required by this Agreement. Any

such provisions are to be deleted with reference to **CITY**. It is not the intent of **CITY** to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against **CITY** for payment of premiums or other amounts with respect thereto.

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

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

**AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
THE CITY OF SAN RAFAEL
AND
BKF ENGINEERS
FOR LARGE TRASH CAPTURE DESIGN SERVICES**

This Agreement is made and entered into as of _____ (the “Effective Date”), by and between the CITY OF SAN RAFAEL, a chartered California municipal corporation (hereinafter “CITY”), and BKF ENGINEERS, a California corporation (hereinafter “CONSULTANT”). CITY and CONSULTANT may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

A. CITY desires to secure professional services more fully described in this Agreement, at **Exhibit A**, entitled “SCOPE OF SERVICES”; and

B. CONSULTANT represents that it, and its subcontractors, if any, have the professional qualifications, expertise, and necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of CITY; and

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

NOW, THEREFORE, the parties hereby agree as follows:

AGREEMENT

1. **SERVICES TO BE PROVIDED.**

Except as otherwise may be expressly specified in this Agreement, CONSULTANT shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as “Services”) to satisfactorily complete the work required by CITY at its sole risk and expense. Services to be provided to CITY are more fully described in **Exhibit A** entitled “SCOPE OF SERVICES.” CONSULTANT acknowledges that the execution of this Agreement by CITY is predicated upon representations made by CONSULTANT in that certain proposal, dated July 29, 2024 (“Proposal”) set forth in **Exhibit A**, which constitutes the basis for this Agreement.

2. **COMPENSATION.**

In consideration for CONSULTANT’s complete performance of Services, CITY shall pay CONSULTANT for all materials provided and services rendered by CONSULTANT at the unit rates and rates per hour for labor, as set forth in **Exhibit A**, for a total amount not to exceed

\$421,300.

CONSULTANT will bill City on a monthly basis for Services provided by **CONSULTANT** during the preceding month, subject to verification by **CITY**. **CITY** will pay **CONSULTANT** within thirty (30) days of City's receipt of invoice.

3. TERM OF AGREEMENT.

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on March 1, 2027.

4. PROJECT COORDINATION.

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

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

5. TERMINATION.

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

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

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

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

6. OWNERSHIP OF DOCUMENTS.

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

7. INSPECTION AND AUDIT.

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

8. ASSIGNABILITY.

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

9. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in **Exhibit B**, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in **Exhibit B**.

10. INDEMNIFICATION.

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

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

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

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

11. **NONDISCRIMINATION.**

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

12. **COMPLIANCE WITH ALL LAWS.**

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

13. **NO THIRD PARTY BENEFICIARIES.**

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

14. NOTICES.

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

To **CITY**'s Project Manager:

Adeel Shaikh, Junior Engineer
111 Morphew Street
San Rafael, CA 94901

To **CONSULTANT**'s Project Director:

Roger Chung
255 Shoreline Drive, Ste 200
Redwood City, CA, 94065

15. INDEPENDENT CONTRACTOR.

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

16. ENTIRE AGREEMENT -- AMENDMENTS.

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

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

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

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

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

17. SET-OFF AGAINST DEBTS.

CONSULTANT agrees that **CITY** may deduct from any payment due to **CONSULTANT** under this Agreement, any monies which **CONSULTANT** owes **CITY** under any ordinance,

agreement, contract or resolution for any unpaid taxes, fees, licenses, assessments, unpaid checks or other amounts.

18. WAIVERS.

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

19. COSTS AND ATTORNEY'S FEES.

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

20. CITY BUSINESS LICENSE / OTHER TAXES.

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

21. SURVIVAL OF TERMS.

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

22. APPLICABLE LAW.

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

23. COUNTERPARTS AND ELECTRONIC SIGNATURE.

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

[Signatures are on the following page.]

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

CITY OF SAN RAFAEL:

CONSULTANT:

CRISTINE ALILOVICH, City Manager

By: _____

APPROVED AS TO FORM:
Office of the City Attorney

Name: _____

Title: _____

By: ROBERT F. EPSTEIN,
City Attorney

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

ATTEST:
City Clerk

By: _____

Name: _____

Title: _____

LINDSAY LARA, City Clerk

EXHIBIT A
SCOPE OF SERVICES

The Services to be performed for **CITY** by **CONSULTANT** under this Agreement are more fully described in **CONSULTANT's** proposal, which is attached to this Exhibit A.

Exhibit A

City of San Rafael
 Design of Large Trash Capture Devices (City File No. 08.02.292) SR-108/SR-110 Survey for SR-108/SR-110/SR-129/SR-002
 July 29,2024



ESTIMATED FEES & EXPENSES

Tasks	Description	BKF Engineers						Total Fees		Expenses	Task Total		
		PIC	SPM	SPE	PE	DE	EA	2MC	hrs		Fees	hrs	Fees
		hrs	hrs	hrs	hrs	hrs	hrs	hrs					
1. Project Management													
	Meetings (5 Total, Virtual)	2	8	8					18	\$4,500		18	\$4,500
	Project Management and Coordination	4	40				6		50	\$12,444		50	\$12,444
2. Preliminary Engineering													
	2.1 Utility Locating (SR-110)					12	8		20	\$2,888	\$1,650	20	\$4,538
	2.2 Topographic Surveying and Boundary Reseach (SR-108/SR-110/SR-129/SR-002)	2	3	9		32		20	66	\$16,137		66	\$16,137
	2.3 Geotechnical Investigation (SR-108/SR-110)		4						4	\$1,060	\$52,140	4	\$53,200
	2.4 Hydraulic Flooding Impact Analysis (SR-108/SR-110)		8	24	40	40			112	\$22,048		112	\$22,048
	2.5 Caltrans Review Submittal (SR-110)	2	8	18		20			48	\$10,120		48	\$10,120
	2.6 35%-Level Concept Drawings and Cost Estimate (SR-110)	12	24	56	64	80			236	\$48,496		236	\$48,496
3. 65%-Level Engineering Plans, Specifications and Estimates (SR-110)													
		2	14	32	60	128			236	\$44,878		236	\$44,878
4. Environmental Compliance and Permitting (SR-108/SR-110)													
		2	8						10	\$2,724	\$97,790	10	\$100,514
5. Utility Potholing (SR-108/SR-110) - Assumes 4 potholes													
			2		3	4			9	\$1,795	\$27,500	9	\$29,295
6. Prepare Traffic Control Plans (SR-108/SR-110)													
		1	6		40	40			87	\$16,492		87	\$16,492
7. 95%-Level Plans, Specifications and Estimates (SR-108/SR-110)													
		2	12	24	24	40			102	\$20,592		102	\$20,592
8. 100%-Level Plans, Specifications and Estimates (SR-108/SR-110)													
		1	8	16	20	24			69	\$13,954		69	\$13,954
GRAND TOTAL HOURS		30	145	187	251	420	14	20	1067			1,067	
GRAND TOTAL FEES		\$9,060	\$38,425	\$41,514	\$48,945	\$71,400	\$1,484	\$7,300		\$218,128	\$179,080		\$397,208
9. Engineering Support Services During Bid Process (Optional)													
		1	8	12					21	\$5,086	\$2,200	21	\$7,286
10. Construction Support Services (Optional) - 4 meetings/5 submittals/5 RFIs													
		3	14	20	20				57	\$12,956	\$3,850	57	\$17,191
OPTIONAL TASKS TOTAL HOURS		4	22	32	20	0	0	0	78			78	
OPTIONAL TASKS TOTAL FEES		\$1,208	\$5,830	\$7,104	\$3,900	\$0	\$0	\$0		\$18,042	\$6,050		\$24,092
RATES (\$/Hr):		\$302	\$265	\$222	\$195	\$170	\$106	\$365					

BKF Classification Descriptions:

PIC = Principal in Charge

SPM = Senior Project Manager

PE = Project Engineer (Engineer II)

2MC = Two-Man Survey Crew

EXHIBIT B INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth below, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in this Exhibit B.

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

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

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

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

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

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

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

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

ISO form CG20 01 04 13.

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

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

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

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

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

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

9. **CONSULTANT** agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by **CONSULTANT**, provide the same minimum insurance coverage required of **CONSULTANT**, except as with respect to limits. **CONSULTANT** agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. **CONSULTANT** agrees that upon request by **CITY**, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the performance of Services will be submitted to **CITY** for review.

10. **CONSULTANT** agrees to be responsible for ensuring that no contract used by any party involved in any way with the Services reserves the right to charge **CITY** or **CONSULTANT** for the cost of additional insurance coverage required by this Agreement. Any

such provisions are to be deleted with reference to **CITY**. It is not the intent of **CITY** to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against **CITY** for payment of premiums or other amounts with respect thereto.

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

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



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 5.a

Meeting Date: August 19, 2024

SAN RAFAEL COUNCIL AGENDA REPORT

Department: City Manager

Prepared by: John Stefanski,
Assistant City Manager
Mel Burnette,
Homelessness and Housing Analyst
Bernadette Sullivan,
Senior Management Analyst

City Manager Approval: _____

A handwritten signature in blue ink, appearing to be 'CJ', is written over the City Manager Approval line.

TOPIC: PROPOSED CAMPING ORDINANCE AMENDMENTS, AND INFORMATIONAL REPORT ON HOMELESSNESS, INCLUDING SANCTIONED CAMPING PROGRAM, HOMELESS PROGRAM CONTRACTS AND APPROPRIATION OF FUNDS

SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING SAN RAFAEL MUNICIPAL CODE CHAPTER 19.50 -- CAMPING ON PUBLIC PROPERTY, AND RESOLUTION APPROPRIATING \$2,256,400 FROM THE GRANTS FUND 283 TO SUPPORT THE INITIAL COSTS AND CONTRACTS ASSOCIATED WITH THE SANCTIONED CAMPING PROGRAM AND AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS IN THE AMOUNT OF \$2,002,400 FOR THE FIRST PHASE OF THE ENCAMPMENT RESOLUTION FUND ROUND 3 (ERF3) GRANT PROGRAM AND OTHER HOMELESSNESS PROGRAM SERVICES

RECOMMENDATION:

1. Waive reading and introduce Ordinance amending San Rafael Municipal Code Chapter 19.50 -- Camping on Public Property
2. Adopt the resolution appropriating \$2,256,400 from the Grants Fund 283 to support the initial costs and contracts associated with the sanctioned camp program and authorizing the City Manager to execute contracts in the amount of \$2,002,400 for the first phase of the Encampment Resolution Fund Round 3 (ERF3) grant program and other homelessness program services.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

BACKGROUND:

National and Local Dynamics

Homelessness remains a significant challenge across the United States, and San Rafael is no exception. According to the U.S. Department of Housing and Urban Development's 2023 Annual Homelessness Assessment Report (AHAR) to Congress, approximately 653,104 individuals nationwide were affected by homelessness. Among these, 143,105 were chronically homeless, marking a 65% increase since 2017. California alone accounts for more than 180,000 homeless individuals, with 67,510 being chronically homeless, reflecting an 88% rise over the same period. Alarming, two-thirds of California's homeless population were unsheltered, comprising half of all unsheltered homeless individuals nationwide.

In Marin County, the 2024 Point-in-Time Count revealed a count of 1,090 individuals experiencing homelessness, 788 of whom are unsheltered and 217 chronically homeless. The total count showed a 2.77% decrease from the 2022 count of 1,121. While local data for San Rafael from the 2024 count is still unavailable, the City reported 348 homeless individuals during the 2022 Point-in-Time Count. According to a December 2023 survey of homeless individuals residing in the Mahon Creek Path area encampment, 90% of encampment residents have lived in the area for more than a year, and almost two-thirds have resided in San Rafael for more than a decade.

Several factors contribute to homelessness in San Rafael and beyond. The lack of affordable housing coupled with stagnant wages means that 42% of Marin renters spend more than 35% of their income on rent. The availability of shelter beds in Marin County is consistently limited as there are approximately 291 beds available for 1,090 individuals. However, there have been significant strides in addressing homelessness: since 2017; the County of Marin has housed 737 chronically homeless individuals. 94% of these individuals have remained housed due to ongoing support services and rental subsidies. Efforts to house veterans have also been significant, with 111 veterans housed during this same period.

The City of San Rafael's Camping Regulation Constraints - Year in Review

In July 2023, the [City Council voted](#) to amend the City's longstanding camping ordinance (San Rafael Municipal Code Chapter 19.50) to regulate camping in a manner that complied with the then-governing *Martin v. Boise* decision. Shortly after the City adopted its new ordinance amendments, a group of plaintiffs (Shaleeta Boyd, et al.) sued the City in federal court based on Americans with Disabilities Act (ADA) claims and other legal theories, in particular that the City's camping ordinance constituted a "state created danger". In response, the court entered a temporary restraining order and, later, a preliminary injunction that effectively blocked the City's ability to enforce its own local camping regulations.

During the period of the preliminary injunction, the City's ability to regulate the Mahon Creek Path Area encampment became significantly constrained. However, the City still took action utilizing other regulatory avenues to mitigate the broader public health and safety impacts of the encampment on the surrounding community. For example, in October and November 2023, the City enforced its fire code to abate the fire risks associated with the then proliferation of wooden pallets and illegal wooden structures in the Mahon Creek Path Area encampment.

[In December](#) 2023, the City Manager issued an order prohibiting camping along Lindaro Street and issued an additional order prohibiting new camping in the Mahon Creek Path Area encampment. During this time, the City also held a [services and outreach fair and surveyed](#) individuals experiencing homelessness in the encampment to better understand their service

needs. This information was instrumental in the development of the Encampment Resolution Fund 3 grant the City and County of Marin jointly applied for and received, and which is discussed further in this report.

From December 2023 to February 2024, the City attempted in good faith, to implement the Camping Ordinance under the restrictions and direction issued by the Federal District Court. Through this multi-month effort, the City attempted to work with the California Homeless Union and members of the Mahon Creek Path Area encampment to designate campsites and establish voluntary compliance with the direction of the Court. This work was ultimately abandoned as we were not able to achieve the level of cooperation needed in order for that approach to be effective. The City then refocused its attention towards amending the camping ordinance to address the concerns of the court, and to create a regulatory framework that we could use to mitigate impacts of the encampments.

Additionally, the City, on three separate occasions during the Spring and early Summer of this year participated in settlement conferences to attempt to settle the *Boyd case*. These efforts did not result in a settlement between the City and the California Homeless Union.

In May 2024, the City Council voted to further amend Chapter 19.50, by adopting [Ordinance 2035](#), to address the concerns expressed by the Federal District Court in its injunction order. The amended [Ordinance](#) made several key changes:

1. **Campsite Size Restrictions:** Campsites can now be up to 200 sq. ft. for one person and 400 sq. ft. for up to four people camping together, doubling the space allowed in the prior ordinance.
2. **Proximity and Safety Buffers:** Campsites must maintain a 10-foot clearance area around each site and a 10-foot setback from other campsites, public utility infrastructure, or neighboring private properties. The previous requirement of 200 ft spacing between campsites was eliminated.
3. **Proximity to Schools:** Camps must be located a minimum of 250 ft from the property line of any preschool or K-12 school.
4. **Enforcement Provisions:** Enforcement will only take place after individuals in violation receive notices and opportunities to comply, reflecting a commitment to a compassionate and balanced approach.

Recent Legal Actions Providing the City with the Ability to Enforce Camping Regulations

Latest Supreme Court Decision

On June 28, 2024, the Supreme Court issued its decision reversing the Ninth Circuit Court of Appeals in *Grants Pass v. Johnson*. Since 2018, *Martin v. Boise* (a prior Ninth Circuit decision upon which *Grants Pass* was based) had significantly limited local government's ability to regulate homeless encampments and has created a slew of lawsuits brought upon local government agencies. Applying *Martin*, the Ninth Circuit had held that the City of Grants Pass violated the "Cruel and Unusual Punishments" clause of the Eighth Amendment to the United States Constitution by prohibiting camping on public property when the City could not establish that there was enough alternative shelter available to accommodate the number of individuals experiencing homelessness in the community. The Supreme Court rejected this Eighth Amendment theory. While the Supreme Court's decision provides local governments with more flexibility in addressing

issues related to individuals experiencing homelessness, it only directly addressed one of the many legal theories homeless advocates have raised in lawsuits against cities, including San Rafael.

The Martin decision in 2018 spawned substantial litigation throughout California and elsewhere in the Ninth Circuit as cities attempted to enforce public camping ordinances. San Rafael itself has been sued multiple times, most recently in *Boyd v. City of San Rafael*.

Previous versions of the City's Camping Ordinance were drafted in a manner that complied with the Ninth Circuit's *Grants Pass* decision. Thus, when the Supreme Court ruled earlier this year, there was little to no immediate impact on the City. At that time, the City's ability to enforce the Camping Ordinance was limited by the preliminary injunction issued in the *Boyd* lawsuit. That injunction was not based on *Grants Pass* nor the Eighth Amendment. Rather, the injunction was based on claims brought under the state-created-danger doctrine via the Fourteenth Amendment, and under the Americans with Disabilities Act.

In light of the *Grants Pass* ruling, the City now has the ability to amend the Camping Ordinance to allow for more flexibility for the City in terms of enforcement and the prohibition of camping in particular locations when the City Council or City Manager deems a location inappropriate for camping. These amendments are contemplated in a proposed amended camping ordinance, discussed further in this staff report.

Recent Governor Newsom Executive Order

On July 25, 2024, Governor Newsom issued an [Executive Order](#) instructing State agencies to prioritize the humane removal of encampments, including conducting site assessments, providing advance notice, offering outreach services, and personal property storage for at least 60 days. The order encourages local governments to follow these same guidelines which the City is seeking to align with, as discussed further in this staff report.

Dismissal of Boyd Lawsuit

This past July 2024, the Federal District Court heard the City's motion to dismiss the Boyd case and on August 7, 2024, the Court granted the City's motion to dismiss and dissolved the injunction. The Court held that the City's amendments to Chapter 19.50 adequately addressed the legal concerns raised by the plaintiff's lawsuit and the Court.

The City of San Rafael remains committed to finding solutions that honor the dignity of every person living in San Rafael, while at the same time preserving the accessibility and cleanliness of shared public spaces something that is crucial for the well-being of everyone who calls San Rafael home.

Additional City Actions Taken to Address Impacts of Homelessness

The City has undertaken many actions and made significant investments towards addressing homelessness. In recent years, the City's affordable housing trust fund has invested more than \$3M for supportive housing developments, such as the 3301 Kerner and Jonathan's Place projects. The City has also utilized \$250,000 in state encampment resolution fund grants to expand case management services in partnership with the County of Marin.

The City's SAFE (Specialized Assistance for Everyone) team, a mobile mental health crisis response unit operated by Petaluma People Services Center, addresses various crises and provides critical support, operating twelve hours a day, seven days a week. The City has allocated

\$775,000 for the next three years for the initial pilot program to fund this critical service. In Fiscal Year 2023-24 the SAFE Team responded to 3,099 calls for service, with more than half of those calls responding to assist an individual experiencing homelessness.

Other efforts include high utilizer case management programs, mobile showers and laundry services provided by WeHope, and fully dedicated Community Mental Health Liaison who works for the San Rafael Police Department. The City's Housing and Homelessness Division oversees several programs, including the Downtown Streets Team, which offers cleanup crews and job training. The City has only three full time employees dedicated to homelessness services, all of which are funded by the City's General Fund. The City does not receive any direct, ongoing funding from the State or Federal government to support this work.

Last year, the City worked with Davidson Middle School to provide additional security services for children walking to and from the school in close proximity to the Mahon Creek Path Area encampment. In addition, the City took steps to successfully close Lindaro Street to camping, to provide children with a clear path to walk to school. Looking ahead at the 2024-25 school year, the City will be coordinating with Davidson Middle School and the San Rafael City School District to ensure there remains a safe route to school for children.

San Rafael's multifaceted and collaborative efforts underscore a commitment to addressing homelessness through both immediate and long-term solutions.

ANALYSIS:

Proposed Camping Ordinance Amendments

Considering the recent Grants Pass decision and the administrative burden associated with the proliferation of illegal structures being constructed in City parks and public rights of way, staff recommends the City Council adopt an amended ordinance (Attachment 1) further amending the City's regulation of camping on public property. The proposed amendments include the following:

1. **Grant's Pass Amendments:** Provides the City with greater flexibility to either prohibiting camping and/or adopting time, place or manner conditions on camping on public property.
2. **Unpermitted Structures and Building Materials:** Clarifies that no person shall occupy, construct, or erect on public property or affix or tie to public or private property any building, shed, shack, fence, or other structure made of building material or store any building material on public property for camping.

This provision further clarifies that fabric tents, fabric tarps, or other similar non-permanent, removable items may be used for temporary shelter within a campsite, provided they are not affixed to tied to any public property, private real property, vegetation, or infrastructure, except for the use of removable stakes to secure the item into unimproved ground on public property.

3. **Additional Safety Setbacks:** Campsites would be required to be at least 5 feet from the edge of roadway pavement. This is to ensure that campers are a safe distance from passing traffic and that their belongings do not impede the flow of traffic.
4. **Updated Enforcement Provisions:** The enforcement of this amended ordinance proposes to align with the provisions in Governor Newsom's recent [Executive Order](#).

Generally, the City will provide individuals with a 48-hour notice to cure the violation of the Camping Ordinance. However, the City will require immediate removal/abatement when the encampment poses an imminent threat to life, health, safety or infrastructure such that exigent circumstances require immediate action.

For violations relating to unpermitted structures and building materials, the proposed ordinance now permits the City to tag the structure with a notice to remove it from public property within 48 hours, again aligning with the Governor's recent [Executive Order](#). If the noticed structure is not removed within that timeframe, the City may immediately remove such structure and restore the public property. This would allow the City to remediate unpermitted structures in a much more efficient manner than the administrative hearing process the City currently has had to utilize to abate unpermitted structures.

It is important to note that the City maintains a standard practice whereby, the City first seeks voluntary compliance and works with its non-profit community service provider partners to provide additional notice and outreach, and where available, offers assistance to affected persons including but not limited to providing new tents and sleeping bags.

5. **Streamlined Definitions:** The proposed amended ordinance consolidates the term "Camp Facility" into the term "Camp paraphernalia." Now "camp paraphernalia" is defined as implements and equipment used for camping, including tents, cots, beds, hammocks, vehicles, other temporary physical shelters, camp facilities, tarpaulins, mattresses, sleeping bags, bedrolls, blankets, sheets, pillows, and cookware or cooking equipment, with the underlined portion representing the prior "Camp Facility" term. The definition for "public-right-of-way" now states the definition found in San Rafael Municipal Code Section 11.04.020(K)

Illegal Structure Enforcement Actions Completed & Underway

The City has been pursuing separate enforcement efforts aimed at addressing the proliferation of illegally constructed structures within the public right of way (SRMC 11.04.030.010) and in City parks (SRMC 19.20.080(Q-R)). Code Enforcement staff recently conducted inspections of encampment areas along Andersen Drive between Irwin Street to Rice Drive, the Mahon Creek Path, Andersen Drive adjacent to Mahon Creek Path, and Francisco Boulevard West between Mahon Creek and Irwin Street. Staff issued notices to remove encampment structures and fences that violated parks and encroachment codes. City Staff noticed 49 sites and gained compliance or abated violations in 42 cases, with 7 still working through a cumbersome administrative hearing process.

All structures that have been the subject of the administrative hearing process have been ordered to be removed by the City's appeal hearing officer, Hon. Beverly Wood (Ret.). The cleanup has included: 16 tons of debris removed on June 20, 2024, from Andersen Drive at Rice & Irwin; and 15 tons of debris removed on July 3, 2024, from Francisco Blvd West. City Staff provided replacement tents to all individuals who had been residing in the removed structures on public property. Boulders were placed along Francisco Blvd. and the area remains clear of camping.

During this and other enforcement actions, the City provides for the storage of personal property for up to 90 days, in accordance with the [City's guidelines](#) for removal and storage of unattended personal property. To note, the City cannot legally deprive someone of their personal property without providing "due process of law." One element of due process is adequate notice. If an individual is present when debris removal/clean-up efforts are occurring, they can be given a

choice of taking their personal belongings with them or abandoning them. But if an individual is not present, case law requires that the City either post a notice on the site before disposing of the personal property or post the site with a notice that all property has been seized and stored so that the individual can retrieve the property within a reasonable time frame.

Current Camping Ordinance Enforcement Plan

With the dismissal of the Boyd lawsuit, the City is focusing its urgent attention to addressing the significantly deteriorated conditions throughout the Mahon Creek Path Area encampment, including Anderson Drive.

In addition to the ongoing structure enforcement activities the City has taken in recent weeks, the City is now engaged in a multi-week effort to bring the Mahon Creek Path and surrounding areas into compliance with the current camping ordinance.

The City's approach to enforcement is described below in four phases:

Phase One: Menzies Parking Lot Enforcement (Week of August 12)

In July 2023, the City Manager issued an Administrative Order temporarily prohibiting camping in or on the non-Open Space portions of the Falkirk Cultural Center and Menzies Parking Lot. This notice was extended in perpetuity on October 2, 2023.

On Tuesday, August 13, 2024, the City Manager lifted the Administrative Order prohibiting camping on the non-open space portions of the Menzies Parking Lot only. With that Order lifted, the City's Camping Ordinance is now in effect for this property. The Camping Ordinance prohibits camping within 250 feet of a school and the Menzies property is within 250 feet of Marin Academy. Given this, the City issued a three-business day notice to the remaining individuals camping at the Menzies Property requiring them to move off of the property. The City will seek to fully restore the property to its original intended purpose by Monday, August 19.

Meanwhile, camping on the Falkirk Cultural Center Property remains prohibited by the Administrative Order.

Phase Two: Restoration of Emergency Vehicle Access on Mahon Creek Path (Week of August 12)

The City is currently noticing all individuals who are currently obstructing the Mahon Creek Path and blocking emergency vehicle access. The City will seek voluntary compliance from individuals, however the City will need to deploy additional resources and waste hauling contractors to haul away a significant number of materials, waste, and other refuse to restore emergency vehicle access. These individuals will need to then comply with the Camping Ordinance by Monday, August 19.

Phase Three: Campsite Size and Private Property Line Setback Compliance (Week of August 19th)

Following the cleanup and compliance efforts of the first two phases, the City will then begin to enforce the regulations where violations occur of the Camping Ordinance's campsite size maximums and setback requirements, most notably the 250 feet from schools, and the 10-foot setback from private property lines and other campsites.

Phase Four: Camping Ordinance Compliance Check (Weeks of August 26 and September 2, and ongoing)

Following the first three phases of this effort, the City will assess the entire Mahon Creek Path Area encampment, as well as all other camp sites in the City, and begin enforcing sites that have fallen out of compliance with the Camping Ordinance. This process will continue on an ongoing basis to ensure full compliance with the City's regulations.

Enforcement activities will be conducted in compliance with SRMC 19.50.050. This means that the City will provide written notices to individuals, providing 72-hours for them to comply with the Camping Ordinance. Those who do not comply by the end of that period will have their campsite abated by the City and its contractors. Throughout this process, the City will engage with non-profit service providers to support impacted individuals. The City will also provide replacement tents when necessary.

The amended ordinance (Attachment 1) proposes to reduce the noticing period to 48 hours and allows the city to require an individual experiencing homelessness to immediately comply with the ordinance when an encampment poses an imminent threat to life, health, safety or infrastructure such that exigent circumstances require immediate removal of the encampment. Should the City Council adopt the amended ordinance, these provisions would take effect 30 days from the second reading of the ordinance which would take place at the September 3, 2024, Regular City Council meeting. Until such time we must apply the regulations as defined in SRMC 19.50.050. Until that time, the City must abide by the existing regulations notes above.

Sanctioned Camping Program

State Encampment Resolution Fund (Round 3) Grant Programs.

The California Inter-agency Council on Homelessness (Cal ICH) established the Encampment Resolution Funding, Third Round (ERF3) Program to increase collaboration between itself, local jurisdictions, and continuums of care for the purposes of:

- Assisting local jurisdictions in ensuring the wellness and safety of people experiencing homelessness in encampments, including short-term needs arising from their unsheltered homelessness and their long-term needs through a path to safe and stable housing; and
- Providing grants to local jurisdictions and continuums of care to support innovative and replicable efforts to resolve critical encampment concerns, and to support individuals in accessing safe and stable housing, using Housing First approaches; and
- Encouraging a data-informed, coordinated approach to addressing unsheltered homelessness at encampments.

The City and the County of Marin partnered on an ERF3 grant application earlier this year. In April 2024, Cal ICH announced its intent to award the County of Marin and the City a total of \$5,999,241 in funding, specifically to jointly address San Rafael's Mahon Creek Path Area Encampment.

The Mahon Creek Path Area encampment includes two branch areas along the Mahon Creek Path and Andersen Drive from Lindaro Street to Rice Drive, as well as a previous branch area on Francisco Boulevard West between Mahon Creek and Irwin Street. At the time of the application, an estimated 65 individuals were residing in the Mahon Creek Path Area encampment. The project is designed to provide help and support to these individuals.

The proposed programs to assist individuals experiencing homelessness at the Mahon Creek Path Area Encampment will be conducted in partnership with the County of Marin's Department of Health and Human Services (HHS). HHS will contract one full-time equivalent (FTE) outreach worker and three FTE Housing-Based Case Managers (HBCM). These staff members will be dedicated to connecting 65 encampment residents to individualized case management, interim

and permanent housing, rapid re-housing subsidies, and other supportive services, with the goal of ending homelessness for these residents and returning the Mahon Creek Path to its originally intended public use.

Additionally, the grant seeks to fund two program phases. In the first phase, the City will establish a sanctioned camping program and make safety/sanitation improvements to the area. This phase will operate as a low-barrier, housing-focused safe sleeping site, and is described in detail below.

Overview of Sanctioned Camping Program

Utilizing the State ERF3 grant funds, the City will establish a sanctioned camping area program along the northern portion of the Mahon Creek Path. The City is proceeding with this location for a number of reasons.

Individuals experiencing homelessness have been camping in this area in recent years. When the City banned camping at Albert Park, members of that encampment relocated to the Mahon Creek Path Area, including a portion of Lindaro Street. In December of last year, the City then banned camping along Lindaro Street due to it being a school route, resulting in more individuals moving to the nearby Mahon Creek Path and along Andersen Drive.

ERF3 grant requires that the funds are used to provide alternative shelter in the general proximity of the existing unsanctioned Mahon Creek Path Area encampment. Given this, the City's ability to establish the sanctioned camping site is constrained. Furthermore, the City does not own land elsewhere that is suitable for this type of program, and the City's diligent year long search for a privately property alternative location for interim/transitional housing sites did not yield results. Lastly, service providers recommend that the City provide a site that individuals can walk to access services and food, and to provide a location that reduces disruption to those currently camping in the area.

The proposed sanctioned camping area will be open to individuals identified as residing in the Mahon Creek Area encampment prior to January 31, 2024 (the submission date of the ERF3 grant application). The sanctioned camping area will include up to 47 tent sites for enrolled participants and be located on the northern portion of the Mahon Creek Path (between Francisco Blvd. West and Lincoln Ave.). City staff anticipate the sanctioned camping area will operate for approximately 12-18 months. The goal of the program is to support these individuals on their path to housing.

Participation in the sanctioned camping area is voluntary and individuals will be prioritized based on the following criteria (in rank order):

1. Plaintiffs in *Boyd v. City of San Rafael*
2. VI-SPDAT¹ Score
3. Length of time residing in the Mahon Creek Path Area encampment
4. Previous participation in the City's Service Support Area

In advance of this, the City will provide notice to all Mahon Creek Path Area encampment residents regarding the new sanctioned camping program, including details on how to register to participate, the code of conduct required to participate, and the requirements for individuals on

¹ VI-SPDAT stands for the *Vulnerability Index – Service Prioritization Decision Assistance Tool* which is designed as a pre-screening or triage tool used by all providers within a community to develop deeper understanding of the needs of people experiencing homelessness and help make prioritization decisions for housing.

the northern portion of the path to work with the City to replace their tents and to adjust their location to an approved camping spot.

The City will also create a no-camping buffer along the southern portion of the Mahon Creek Path. This is a best practice and seeks to limit individuals from camping near the program to take advantage of its services and/or to engage in disruptive behavior that is counter to the mission of the program. Individuals who are camping in the buffer zone and who do not participate in the program will be permitted to camp elsewhere in the City subject to the Camping Ordinance.

The following items outline the proposed temporary infrastructure, service provision, community engagement, and reporting on outcomes.

Sanctioned Camping Site Preparation and Temporary Infrastructure:

1. Safety and Security:

- a. **Gates** - The northern Mahon Path Area, shown in Attachment 7, will be gated on the Lincoln Avenue and Francisco Boulevard West entrances. Both gates will have an Americans with Disabilities Act (ADA) compliant pedestrian entrance, as well as emergency vehicle access.
- b. **Fencing** - Chain link fencing will surround the sanctioned camping location and will be increased to a height of 8 feet.
- c. **Security Guards** – 24/7 security personnel will be on-site to assist with resident safety, uphold the no-visitor policy of the camping location, notify emergency services as needed, and monitor the overall location. Two guards will be stationed at each entrance and a third will regularly walk throughout the camping area at certain times during the day.
- d. **Fire Prevention** – Fire extinguishers will be placed in outdoor cabinet locations throughout the sanctioned camping area. The San Rafael Fire Department will conduct fire safety inspections on a regular basis throughout the camping area.

2. Living and Meeting Spaces:

- a. **Campsites:** The proposed program contemplates up to 47 total campsites, including tent size dimensions of both 7'x7' and 10'x10'. Participants residing in 7'x7' tents will be provided with a storage locker to remain directly outside of their tent for additional storage. Campsites will be placed no less than 6 feet apart within the managed camp location.
- b. **Temporary Office & Staff Storage Units** – Up to two small office units will be placed on-site to be used by housing case managers and outreach staff. One temporary storage container unit will be placed to offer staff a location to store replacement equipment and necessary essentials. The office units may be added later pending the required electrical utility access.
- c. **Meeting Space Canopies:** Shade canopies will be set up to provide meeting spaces for residents, as well as on-site staff.

3. Sanitation:

- a. **Portable Restrooms with Handwashing Stations** - Four standard restroom units and two ADA compliant units will be provided for residents. One restroom will be reserved for security and on-site staff use.
- b. **Garbage Pickup** – Garbage dumpsters will be internally placed at the camping area gates, as well as trash bins throughout the site. Garbage pickup service will be provided regularly by Marin Sanitary Service. Additionally, participants will only be able to keep items inside their campsite areas and not add additional items to the exterior of their tents. On-site staff will work with residents on maintaining their immediate campsite.
- c. **Designated Areas:**
 - i. **Smoking Area:** A designated smoking area will be provided to ensure smoking is safe and restricted to a managed location. Collection receptacles will be located in this area.
 - ii. **Pet Use Area:** An area will be designated for pet use to accommodate residents with dogs. Appropriate bags and garbage facilities will be placed in this area.

Services Provided at the Sanctioned Camping Area:

1. **Housing Case Management and Outreach:** Marin County Health and Human Services will contract with a housing case management provider to have three full-time housing case management staff and one full-time outreach worker dedicated to the Mahon Creek Path Area encampment through ERF3 funding. Participants enrolling in the sanctioned camping program may already be working with a housing case manager from a different agency and may still be eligible for a campsite based on their status as a Mahon Creek Path Area resident prior to January 31, 2024. Eligible participants choosing to enroll in the sanctioned camping program without a current housing case manager will be assigned to an ERF3 staff caseload.
2. **Weekly Shower Service:** the City and County of Marin will continue to partner with WeHope Mobile Homeless Services to provide weekly shower service to the sanctioned camping area.
3. **SAFE Team:** The San Rafael SAFE Team will be available with their services to the community including: emergency response for issues relating to mental health and addiction, as well as non-emergency response for people in need.
4. **Code of Conduct:** Participants will be required to sign and abide by a code of conduct (Attachment 8). This code of conduct details the rules and expectations of participants.

Community Engagement:

1. **Community Stakeholder Zoom Meetings:** City Staff and Defense Block Security contractors will host regular meetings starting two weeks prior to sanctioned camping program participant enrollment. These meetings will provide updates on site developments to the surrounding business community and offer a time to address questions and concerns to both City staff, service providers, the Marin County Lived Experience Board, and the community.

2. **Staff Contact Availability:** City Staff, Defense Block Security contractors, and County of Marin HHS staff will be available to discuss concerns regarding the sanctioned camping area as they arise. Contact information will be provided via QR code on signs posted at the sanctioned camping area gate locations and on the City's website.

Monitoring and Evaluation:

1. **Security Reporting:** Defense Block Security shall complete reports for all incidents or significant interactions with residents, community members, staff members, and for any unusual or general emergency situations. Daily reports will be made available to designated City staff for oversight and review.
2. **Program Management Reporting:** The program management contractor shall maintain accurate records of the resident list, significant interactions with participants, housing placements, resident information, and program outcomes. They will utilize data to inform site improvement recommendations and report on both completed and needed site maintenance. Regular site check-in meetings will be held to report project successes and challenges to City Staff.
3. **City Council & Community Updates:** City staff plan to provide a public update to the City Council on the sanctioned campsite program progress after six months of the site's opening date. The update report will include data points such as the number of participants enrolled, the number of residents transitioned to permanent or temporary housing, barriers to housing placement, case management and outreach activities, neighborhood improvements, services provided to residents, and an ERF3 grant expenditure summary.

Additional Homelessness Program Contracts:

The success of the sanctioned camping program heavily relies on the expertise and commitment of our partners. Earlier this year, the City released a [Request for Proposals](#) (RFP) for the various components of the Sanctioned Camping Area including:

- Property and program management, including operations and security oversight
- Security contractors, trained in de-escalation and harm reduction
- Mobile shower and laundry services,
- Waste management and hauling services (including hazardous material disposal)

As a result of this RFP, staff recommend adopting the resolution (Attachment 2) authorizing the City Manager to negotiate and execute contracts with Defense Block Security, FS Global Solutions, Other Junk Co., and WeHope Showers to ensure comprehensive support and services for the camp residents. These partnerships are crucial in maintaining a safe, clean, and supportive environment, ultimately contributing to the overall stability and success of the sanctioned camp.

By securing these contracts, the City can provide essential services that address the diverse needs of the individuals residing there and fostering a community where individuals have dignity, can improve their health, and work towards housing stability. A discussion of these contractors and their proposed scope of services is below:

1. Defense Block Security (DBS)

Defense Block Security (DBS) specializes in providing security solutions tailored to community needs. Their approach emphasizes the importance of creating a safe environment while maintaining the dignity and respect of all individuals. DBS has extensive experience in managing security for safe sleeping programs, as well as emergency, interim, and supportive housing environments in Sonoma County. Defense Block Security assisted with the launch and security services of Sonoma County's Emergency Shelter Site (ESS) which started with 87 tents and provided services to residents on their path to permanent housing. The City of Rohnert Park contracted with DBS to provide security coverage to the city's Safe Sleeping Program (SSP) in 2022. Defense Block Security worked closely with the City's Public Works, Police Department, Fire Department, Housing and Code Enforcement Divisions to prepare and coordinate the on-site program. DBS was the only contractor on the SSP site for the first 60 days and during that time the Rohnert Park Fire and Police Departments witnessed a 60% decrease in the calls for service. DBS will ensure the safety of camp residents and staff, thereby fostering a secure and supportive atmosphere conducive to recovery and growth.

City Staff have worked with DBS to select the following proposed staffing levels for the duration of the sanctioned camping area. The first three months will carry a daily staffing level of eight security guards on-site, totaling 64 hours per day. After the initial three-month start-up phase, there will be a daily staffing level of seven security guards, totaling 56 hours per day. Proposed staffing levels for each shift throughout the project's duration are outlined below.

DBS will provide mobile guard shacks and ensure all necessary equipment is included. The City will need to provide power, bathroom facilities, and lighting around the guard shacks. DBS staffing and equipment cost information is provided in Attachment 3.

Staff recommend proceeding with a contract not-to-exceed \$850,000, which includes a 7% contingency.

2. Foege Schumann Global Disaster Solutions (FS Global Solutions)

Foege Schumann Global Disaster Solutions (FS Global Solutions) specializes in emergency shelters, rescue support services, and disaster relief. In recent years, FS Global has served nearby communities in Sonoma County by supporting the operations of non-congregate shelters in Rohnert Park and Sonoma County's Emergency Shelter Site.

Based on their previous experience supporting shelter operations, FS Global proposes providing on-site services and 24-hour staffing five days a week. Under this proposed contract, they will:

- Facilitate and complete participant enrollment into the site.
- Conduct regular participant check-ins and assist case management staff in maintaining contact with participants.
- Document and maintain records of participant enrollment, conduct violations, equipment issued, and other pertinent information.
- Respond to emergencies and coordinate with relevant services.
- Issue replacement equipment and/or essential items as needed.
- Educate participants on code of conduct and work with individuals to gain compliance.

- Issue conduct violation warnings and manage termination process when necessary.
- Collaborate with security staff, waste hauling contractor, and mobile shower service provider to maintain site operations.
- Participate in stakeholder engagement and inquiry response, especially from surrounding businesses.

Staff recommend proceeding with a contract not to exceed \$675,000, which includes a 7% contingency.

3. Other Junk Co.

The Other Junk Co. specializes in managing and cleaning up unhoused encampments, particularly those near sensitive environmental areas like creeks. These encampments can pose significant health, safety, and environmental hazards due to the accumulation of trash, waste, and hazardous materials, leading to water pollution and the spread of diseases. The complexity of managing these encampments requires a nuanced approach that respects residents' possessions while ensuring public health and safety.

Founded on principles of sustainability and community support, The Other Junk Co. focuses on repurposing and donating items, furniture, and clothing collected during cleanup operations. This approach not only aids those in need but also significantly reduces the environmental impact of waste, aligning with the City Council's goals and objectives of sustainability.

The Other Junk Co. offers comprehensive services to address the needs of these encampments. They will remove, separate, and dispose of all materials, prioritizing recycling and repurposing to support those in need and minimize environmental impact. Their team is trained to handle hazardous waste safely in compliance with governing regulations, using personal protective equipment and following strict protocols to ensure the safety of everyone involved.

Community engagement is a key component of their philosophy, as they work compassionately with encampment residents, providing essential aid and promoting cleanliness. Additionally, they provide detailed reporting to offer transparency into the cleanup process and demonstrate the positive impact on the community and environment.

The City has contracted with The Other Junk Co. for the ongoing clean-up and waste hauling of the Mahon Creek Path Area encampment in the past. For the sanctioned camping area they will provide similar services during the period the City is establishing the sanctioned camping area for the northern portion of the Mahon Creek Path, as well as the cleanup of the southern portion of the path.

Staff recommend proceeding with a contract not-to-exceed \$650,000 which includes a 10% contingency (Attachment 4).

4. WeHope Showers

WeHope Showers provides mobile shower and hygiene services designed to meet the needs of unhoused populations. Their facilities offer clean, safe, and dignified environments where individuals can attend to personal hygiene, a critical aspect of

maintaining health and self-esteem. By partnering with WeHope Showers, the City will ensure that residents of the sanctioned camp will have regular access to essential hygiene services, thereby enhancing their overall well-being and quality of life.

WeHope's operations will include regular coordination with the City of San Rafael and the County of Marin Health and Human Services Division, as well as quarterly check-ins with City staff.

The City, through the Community Homeless Fund collaboration with the County of Marin, City of Novato, and Town of Fairfax, have contracted with WeHope to provide regular shower services to experiencing homelessness in each jurisdiction. WeHope proposes to increase the frequency of service to offer services specifically for the sanctioned camping area.

Staff recommend proceeding with a contract (Attachment 5) not-to-exceed \$112,400 for both sanctioned camping area services and ongoing services via the Community Homeless Fund.

The ERF3 Grant also includes the purchase of a new shower trailer to replace the current one used by WeHope. Staff will return to the City Council in the coming months to request approval for that purchase.

Additional Homelessness Services Contracts:

5. Downtown Streets Team

Downtown Streets Team is a nonprofit organization that addresses homelessness by providing employment opportunities, case management, and supportive services to individuals experiencing homelessness. Downtown Streets Team has been working closely with the downtown business community to ensure a clean and inviting downtown area since its launch in San Rafael in July of 2013. Their dedicated team responds to reports of trash dumping and actively engages individuals experiencing homelessness in clean-up efforts. Through their unique approach, they not only address cleanliness concerns but also provide opportunities for individuals experiencing homelessness to regain stability and improve their quality of life.

Downtown Streets Team provides regular progress reports, detailing the number of clean-ups conducted, trash dumping incidents addressed, and outcomes achieved in terms of housing placements and employment opportunities. Over the last eleven months, they have facilitated:

- 6,112 hours of cleanup services volunteered by as many as 23 team members (actual volunteer team size fluctuates)
- More than 100,000 gallons of trash removed from Downtown and the Canal neighborhood
- 16 net jobs (10 of these new jobs during the period) lasting more than 3 months
- An 85% retention rate (at least six months)

The FY 2024-25 agreement (Attachment 6) includes a scope of work which prioritizes two goals: 1) engagement of individuals in encampments into housing-focused case

management, and 2) placement of cleanup teams to improve environmental conditions within those encampments. City funding of \$200,000 would be combined with other DST funding sources -- including a \$713,336 contribution from the County of Marin Health and Human Services, and \$83,535 from private contracts.

DST will address encampments, waste-related issues, and provide housing-focused case management to individuals experiencing homelessness. At least 20 team members will focus on encampment "hot spots" while maintaining cleanup efforts in the City's downtown, including Fourth Street, and the Canal neighborhood. DST will be evaluated according to targeted outcomes that include housing-focused case management as a core competency, in addition to its existing employment-focused initiatives. City staff will continue to conduct periodic meetings and evaluations with DST to assess their progress, review monthly progress reports, review the allocation of funds, and ensure alignment with the City's goals and objectives.

City-County Partnership Development

Homelessness is a multifaceted and complicated issue that cannot be solved by one agency alone. Recognizing this, the City of San Rafael and the County of Marin key executives and staff are working collaboratively to create a more intentional and formalized City-County partnership to enhance interagency collaboration and address community needs to address homelessness in San Rafael.

Next Steps

In addition to taking the steps to implement and enforce the City's existing and proposed amended camping regulations, and establishing the sanctioned camping program, staff are working to identify a location for the second phase of the ERF3 Grant. This second phase will fund the creation of an interim, non-congregate shelter that may take the form of a tiny home village similar to what has been implemented in other jurisdictions. This work will require the on-going partnership with the County of Marin and other community partners to ensure that while Marin jurisdictions make investments in permanent supportive housing, similar investments are made toward creating interim shelter and transitional housing to support all individuals experiencing homelessness on their pathway to housing.

COMMUNITY OUTREACH:

Educational and community outreach is a key part of the City's approach to this work. Over the last year, the City has organized a [Zoom Town Hall](#) meeting with San Rafael Public Schools to address school community concerns about encampments near Davidson Middle School previously along Lindero St. The City also provides regular homelessness update e-newsletter updates, posts answers to [frequently asked questions](#), and publishes videos covering the City's response to homelessness via the [City's website](#). In addition, the City plans to coordinate with the Marin County Lived Experience Advisory Board (MC-LEAB), and individuals currently residing at the unsanctioned encampment, to get their feedback as we work to refine the implementation plan for the sanctioned camping program.

Additionally, City staff and the sanctioned camping program service providers and contractors will host regular meetings starting two weeks prior to sanctioned camping program participant enrollment. These meetings will provide updates on site developments to the surrounding business community and offer a time to address questions and concerns to both City staff, service providers, the Marin County Lived Experience Board, and the community at large.

FISCAL IMPACT:

The costs associated with the establishment of the Sanctioned Camping Area will be funded by a \$1M state appropriation provided by Senator McGuire and the County of Marin as well as approximately \$4M of the \$5M ERF3 Grant. While the County of Marin has yet to receive the ERF3 funds from the State, the County will be able to provide the \$1M from the state appropriation in September, pending authorization from the Marin County Board of Supervisors. The ERF3 Grant must be expended by June 30, 2027.

Costs associated with the site preparation and set-up of the Sanctioned Camping Area is estimated to cost \$500,000. This work includes site engineering, fencing, utility repairs, and other program assets like office spaces, tents, and other furniture, fixtures, and equipment. Contracts for these services and purchases are expected to fall within the City Manager’s signing authority.

The total cost associated with the site preparation, set-up and contract services for Sanctioned Camping Area is \$2,256,500. As shown in Table 1, Staff is requesting an appropriation from the Grants Fund 283 in this amount to support the initial costs and contracts associated with the Sanctioned Camp in order for the City to begin this work immediately.

Start Up Costs	\$	500,000
Defense Block	\$	850,000
FS Global	\$	675,000
We Hope	\$	26,400
Other Junk Co.	\$	165,000
Downtown Streets Team	\$	40,000
Total	\$	2,256,400

Staff is requesting corresponding authorization for the City Manager to execute and enter into contracts for these services, as well as for the Downtown Streets Team (DST) contract, as shown in Table 2. For the Downtown Streets Team (DST) contract, the fiscal impact is \$200,000. Of this, \$40,000 is funded by the ERF3 grant, and \$160,000 is funded by the FY 2024-25 General Fund budget.

Defense Block	\$	850,000
FS Global	\$	675,000
We Hope	\$	112,400
Other Junk Co.	\$	165,000
Downtown Streets Team	\$	200,000
Total	\$	2,002,400

Staff recommends the City Council adopt the Resolution (Attachment 2) which facilitates the requested appropriation of funds and authorization to enter into these agreements.

OPTIONS:

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

1. Approve the staff recommendations.
2. Approve the staff recommendations with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

1. Waive the reading and introduce the Ordinance Amending San Rafael Municipal Code Chapter 19.50 -- Camping on Public Property.
2. Adopt the Resolution appropriating \$2,256,400 from the Grants Fund 283 to support the initial costs and contracts associated with the Sanctioned Camp Area and authorizing the City Manager to execute contracts in the amount of \$2,002,400 for the first phase of the Encampment Resolution Fund Round 3 (ERF3) grant program and other homelessness program services.

ATTACHMENTS:

1. Ordinance
2. Resolution
3. Exhibit A to the Resolution - Defense Block
4. Exhibit B to the Resolution-The Other Junk Co.
5. Exhibit C to the Resolution- WeHope
6. Exhibit D to the Resolution- Downtown Streets Team
7. Sanctioned Camp Site Plan
8. Draft Sanctioned Camp Code of Conduct
9. Correspondence

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AMENDING CHAPTER 19.50 TO THE SAN RAFAEL MUNICIPAL CODE, ENTITLED “CAMPING ON PUBLIC PROPERTY” REGULATING CAMPING ON PUBLIC PROPERTY WITHIN THE CITY OF SAN RAFAEL

SECTION 1. FINDINGS

WHEREAS, the purpose of this Ordinance is to enact regulations to address camping in or on public property in the City of San Rafael. The City Council has authority to adopt this Ordinance pursuant to the California Constitution Article XI, section 7; and

WHEREAS, the City Council recognizes that camping in the City by persons with no alternative shelter, and the activities often attendant with camping, have created adverse public health, safety, and welfare conditions for the public, including those who live in the City’s encampments; and

WHEREAS, the City, along with the County of Marin and community partners, has been and is undertaking extensive actions to assist unsheltered persons in the City and region to find shelter and needed services; and

WHEREAS, on June 28, 2024, the Supreme Court issued its decision reversing the Ninth Circuit Court of Appeals in *Grants Pass v. Johnson* finding that the City of Grants Pass had not violated the “Cruel and Unusual Punishments” clause of the Eighth Amendment to the United States Constitution by prohibiting camping on public property when the City could not establish that there was enough alternative shelter available to accommodate the number of individuals experiencing homelessness in the community; and

WHEREAS, on July 25, 2024, Governor Gavin Newsom issued Executive Order N-1-24 instructing State agencies to prioritize the humane removal of encampments, including conducting site assessments, providing advance notice, offering outreach services, and personal property storage for at least 60 days, and encouraging local governments to adopt policies consistent with the order; and

WHEREAS, the City Council recognizes and finds that there are public health and safety hazards and public nuisance activities and conditions frequently associated with camping on public property, and that there are certain public properties where the existence of campsites is incompatible with the necessary use of the property by the public, or where camping presents unacceptable hazards and/or costs to the City’s operations and to the public; and

WHEREAS, some unsheltered persons in the City live in temporary shelters on public property, such as tents and tarps, and accumulate, store, or leave behind personal property, garbage, waste, and biohazards; and

WHEREAS, camping on public property can lead to damage to public property, or hindrance of the operation or protection of public infrastructure and utilities, creating a potential health and safety hazard; and

WHEREAS, camping on public property can have a deleterious impact on the public use of public property, businesses, private real property, and economic development within the City; and

WHEREAS, in July 2023, the City Council adopted Ordinance No. 2030, setting new spacing and density rules and other restrictions for camping on public property by persons with no

alternative shelter available; and

WHEREAS, in the case of Boyd et al. v. City of San Rafael, N.D. Cal., Case No. 23-cv-04085- EMC (“Boyd”), the Court issued a Preliminary Injunction Order under which the City was permitted to enforce Ordinance No. 2030 under Court-modified rules which were operationally impractical to implement, particularly as they involved procedures to administer the Ordinance’s spacing and density requirements; and

WHEREAS, in May 2024, the City Council adopted Ordinance No. 2035, which modified the regulations adopted through Ordinance No. 2030 by allowing campsites of up to 200 square feet for one person and 400 square feet for up to 4 persons camping together; eliminating the 200-foot spacing requirement; requiring a 10-foot safety clearance around each campsite and 10-foot setbacks from other campsites, public utility infrastructure, and private real property; specifying enforcement notice and due process requirements; and making other language changes set forth in the Ordinance; and

WHEREAS, by this Ordinance, the City Council seeks to modify the regulations adopted in Ordinance Nos. 2030 and 2035 to make amendments in light of the recent Supreme Court decision in Grants Pass v. Johnson, to clarify prohibitions against the construction of unpermitted structures and use of building materials for camping on public property, to provide additional safety setbacks from roadways, to update enforcement provisions to align with Governor Newsom’s Executive Order 1-N-24, and making other language changes set forth in the Ordinance; and

WHEREAS, by amending the City’s camping regulations, the City’s goal is to effectively regulate and enforce camping laws for the health and safety of all of the public, including residents who are experiencing homelessness; and

WHEREAS, for the reasons set forth above, this Ordinance is declared by the City Council to be necessary to protect public health, safety, and welfare; preserve public property for the enjoyment and safety of all members of the public; enhance and preserve the orderly administration and management of public property; and preserve, protect, and prevent damage to public resources, and the recitals above taken together constitute the City Council’s statement of the reasons for adopting this Ordinance.

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

SECTION 2. AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE CHAPTER 19.50

Chapter 19.50 of the San Rafael Municipal Code, entitled “Camping of Public Property” is hereby amended in its entirety to read as follows:

Chapter 19.50 - CAMPING ON PUBLIC PROPERTY

19.50.010. - Purpose.

The purposes of this chapter include but are not limited to: protecting public health, safety, and welfare; preserving public property for the enjoyment and safety of all members of the public; enhancing and preserving the orderly administration and management of public property; and preserving, protecting, and preventing damage to public resources. This chapter prohibits conduct that unreasonably interferes with the administration and lawful uses of public property by establishing reasonable time, place, and manner conditions related to camping on public property.

19.50.020 - Definitions.

As used in this chapter, the following terms shall have the following meanings:

- A. "Camp" or "Camping" means use of space on public property for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or using any tents or shelter or other structure or vehicle for sleeping. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are using the area as a living accommodation regardless of the nature of any other activities in which they may also be engaging.
- B. "Camp paraphernalia" means implements and equipment used for camping, including tents, cots, beds, hammocks, vehicles, other temporary physical shelters, tarpaulins, mattresses, sleeping bags, bedrolls, blankets, sheets, pillows, and cookware or cooking equipment.
- C. "Campsite" means the primary physical area of occupation of one person camping or up to four persons camping together, inclusive of camp facilities, camp paraphernalia, and personal property.
- D. "Open space property" means any area described in San Rafael Municipal Code Section 19.10.020. The city will maintain on its public website and in hard copy at the City Clerk's office a map of all open space property meeting this definition.
- E. "Playground" means an improved outdoor area designed, equipped, and set aside for children's play in a park or school that is not intended for use as an athletic playing field or athletic court, and also includes any playground equipment, fall zones, surface materials, access ramps, and all areas within and including any designated enclosure and barriers.
- F. "Public facility" means any building or structure on public property, whether secured, unsecured, locked, unlocked, open, or enclosed, as well as any area of public property enclosed by a locked fence.
- G. "Public property" means any real property within the jurisdiction of the City of San Rafael, which is owned, managed, or controlled by the City of San Rafael.
- H. "Public right-of-way" means land which by written instrument, usage or process of law is owned by, reserved for or dedicated to the public use for street or highway purposes, or other transportation purposes, whether or not such land is actually being used or developed specifically for those purposes.
- I. "Public utility infrastructure" means public bathrooms or infrastructure and equipment used to provide public utility services, including electricity, gas, water, stormwater, telecommunications, and sanitation services.

- J. "School" means any public or private institution of educational learning up to and including grade 12.
- K. "Sidewalk" means any area in the city provided for the use of pedestrians, including planting areas, driveway approaches, and parking strips, between the public vehicular roadway and the edge of public right-of-way bordering, fronting, or adjacent to private real property.
- L. "Store" means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.
- M. "Vehicle" means any wheeled conveyance, whether motor-powered or self-propelled, and includes any trailer in tow of any size, kind, or description.

19.50.030 - Prohibited Camping on Certain Public Property.

A. Prohibited Camping

1. Open space property. No person or persons shall camp in or on any open space property, or portion thereof.
 2. Parking garages. No person or persons shall camp in or on the premises of any parking garage, or portion thereof, owned or operated by the city.
 3. Public facilities. No person or persons shall camp in or on any public facility, or portion thereof, or in a manner that obstructs, blocks, or otherwise interferes with access to a public facility or private real property.
 4. Playgrounds. No person or persons shall camp within 100 feet of any playground.
 5. Schools. No person or persons shall camp within 250 feet of the property boundary of any school.
 6. Public right-of-way and sidewalks. No person or persons shall camp in or on any public right-of-way or sidewalk, or portion thereof, or in a manner that obstructs, blocks, or otherwise interferes with use of or access to a public right-of-way or sidewalk.
- B. The city council or city manager may, by resolution or administrative order, absolutely prohibit camping, or adopt time, place, or manner conditions on camping, at any time in or on one or more public properties, or portion thereof.
- C. The city shall maintain on its public website and in hard copy at the city clerk's office a current citywide map of all public property parcels prohibited to camping by subsections (A)(1), (A)(2), (A)(4), (A)(5), and (B) of this section 19.50.030.

19.50.040 - Prohibited Camping on Other Public Property; Exception.

A. As to public property not listed as prohibited for camping under Section 19.50.030, no person shall camp on such other public property, except as set forth below.

B. Time, place, and manner conditions:

1. Campsite size and occupancy.

- a. No campsite occupied by one person shall exceed an area of 200 sq. ft., inclusive of camp paraphernalia, and personal property.
- b. No campsite occupied by more than one person shall i) exceed an occupancy of four persons or ii) exceed an area of 400 sq. ft., inclusive of camp paraphernalia, and personal property.
- c. All camp paraphernalia, and other personal property shall be stored and kept within the maximum permitted campsite area.
- d. Items stored or discarded outside of the maximum permitted campsite area shall be presumed to be unattended personal property or trash or debris and may be stored or discarded by the city.
- e. No person shall establish or occupy more than one campsite.

2. Clearance and setbacks.

- a. A minimum clearance of 10 feet around all sides of any campsite allowed under this section shall be maintained free and clear of trash, debris, and personal property, including but not limited to camp facilities and camp paraphernalia. Items stored or discarded within the 10-foot clearance area shall be presumed to be unattended personal property or trash or debris and may be stored or discarded by the city.
- b. No campsite may be established or occupied within 10 feet of any other campsite allowed by this section, public utility infrastructure, or private real property, including a fence of such property.
- c. No campsite may be established or occupied within 5 feet of the edge of pavement of a roadway open to the use of the public for purposes of vehicular traffic.

3. Unpermitted structures and building materials. No person shall occupy, construct, or erect on public property, or affix or tie to public or private property, any building, shed, shack, fence, or other structure made of building material, or store any building material on public property for camping. For purposes of this paragraph, "building material" includes wood, steel, concrete, stone, brick, masonry, plastic, cement composites, glass, sand, or other similar material of a type and quantity normally used for construction purposes.

- a. Exception: Fabric tents, fabric tarps, or other similar non-permanent, removable items may be used for temporary shelter within a campsite, provided they are not affixed or tied to any public property, private real property, vegetation, or infrastructure, except for the use of removable stakes to secure the item to unimproved ground on public property.
- b. Exception: Removable plastic pallets or sandbags may be used to temporarily raise a tent or other camp facility off of the ground, provided that such items are not affixed or tied to any public property, private real property, vegetation, or infrastructure.

19.50.050 - Violations; Enforcement.

- A. In addition to enforcement as described below, the City may enforce this chapter pursuant to chapters 1.42, 1.44, and 1.46; provided, however, that no person shall be charged with a criminal violation unless their unlawful conduct is knowing or willful.
- B. The city manager or their designee shall be responsible for enforcement of this chapter.
- C. For a violation of section 19.50.030(A)-(B), the city manager or their designee may require the person in violation to immediately cease the prohibited camping.
- D. For violation of section 19.50.040(B)(1)-(2), related to the size, occupancy, and clearance or setbacks of a campsite, the person camping shall be given 48 hours to come into compliance with this chapter. The city manager or their designee shall provide upon request a physical demarcation of the allowed boundary to assist the person camping to comply with this chapter.
- E. Unpermitted structure. For a violation of section 19.50.040(B)(3), related to an unpermitted structure, the structure shall be tagged with a notice to remove the structure from public property within 48 hours. If the noticed structure is not removed from public property within 48 hours of notice, the city manager or their designee may immediately remove such structure and restore the public property.
- F. Exigent Circumstances. For a violation of section 19.50.040(B)(1)-(2) whereby there is an imminent threat to life, health, safety or infrastructure such that exigent circumstances require immediate action, the City Manager or their designee may require the person in violation to immediately cure the violation. The City Manager or their designee shall provide as much advance notice as reasonable under the circumstances.

19.50.060 - Conflict with Other Regulations.

To the extent that there is any conflict with any other provisions of this code, the standards and regulations of this chapter shall prevail.

SECTION 3. COMPLIANCE WITH CEQA

This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the city. The city council hereby finds that under section 15061(b)(3) of the State CEQA Guidelines, this Ordinance is exempt from the requirements of CEQA because it can be seen with certainty that the provisions contained herein would not have the potential for causing a significant effect on the environment. It also finds the Ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines sections 15307 and 15308 as an action by a regulatory agency taken to protect the environment and natural resources.

SECTION 4. SEVERABILITY

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared to be severable. If for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases, and the remaining portions of this Ordinance shall continue in full force and effect unless amended or modified by the city.

SECTION 5. EFFECTIVE DATE AND PUBLICATION

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

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 19th day of August 2024, and was passed and adopted at a regular meeting of the San Rafael City Council on the 3rd of September 2024, by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

Kate Colin, Mayor

ATTEST:

Lindsay Lara, City Clerk

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SAN RAFAEL**

APPROPRIATING \$2,256,400 FROM THE GRANTS FUND 283 TO SUPPORT THE INITIAL COSTS AND CONTRACTS ASSOCIATED WITH THE SANCTIONED CAMP AREA AND AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS IN THE AMOUNT OF \$2,002,400 FOR THE FIRST PHASE OF THE ENCAMPMENT RESOLUTION FUND ROUND 3 (ERF3) GRANT PROGRAM AND OTHER HOMELESSNESS PROGRAM SERVICES

WHEREAS, Homelessness remains a significant challenge across the United States and San Rafael is no exception; and

WHEREAS, the City Council through their Fiscal Year 2023-24 and 2024-25 Goals and Objectives has made Housing and Homelessness one of their top priorities; and

WHEREAS, The California Interagency Council on Homelessness (Cal ICH) established the Encampment Resolution Funding, Third Round (ERF3) Program to increase collaboration between itself, local jurisdictions, and continuums of care for the purposes of (1) Assisting local jurisdictions in ensuring the wellness and safety of people experiencing homelessness in encampments, including short-term needs arising from their unsheltered homelessness and their long-term needs through a path to safe and stable housing; (2) Providing grants to local jurisdictions and continuums of care to support innovative and replicable efforts to resolve critical encampment concerns, and to support individuals in accessing safe and stable housing, using Housing First approaches; and (3) Encouraging a data-informed, coordinated approach to addressing unsheltered homelessness at encampments; and

WHEREAS, The City and the County of Marin partnered on an ERF3 grant application earlier this year. In April, Cal ICH announced its intent to award the County of Marin and the City a total of \$5,999,241 in funding; and

WHEREAS, the City and County proposed utilizing the funds to address San Rafael's largest encampment, and Marin County's largest urban encampment, known as the Mahon Creek Area encampment, in two phases; and

WHEREAS, the first phase, the City will sanction an area for camping and make safety/sanitation improvements to the encampment area. This phase will operate as a low-barrier, housing-focused safe sleeping site, and is discussed in the staff report accompanying this resolution; and

WHEREAS, once it becomes feasible, the City will replace the sanctioned camp with a non-congregate, housing-focused, interim shelter program at a site still to be identified within the City; and

WHEREAS, the first phase requires several contractors to support the development and operation of the sanctioned camping site and issued and completed a Request for Proposals process to solicit and identify potential contractors to provide these services; and

WHEREAS, the City has identified Defense Block Security to sanctioned camp area provide security services in an amount not to exceed \$850,000 as detailed in Exhibit A to this Resolution; and

WHEREAS, The City has identified the Other Junk Company to provide sanctioned camp area and encampment waste hauling services in an amount not to exceed \$165,000 as detailed in Exhibit B to this Resolution; and

WHEREAS, the City has identified WeHope to provide shower services for the sanctioned camp area and in accordance with services provided through the Community Homeless Fund in an amount not to exceed \$112,400 as detailed in Exhibit C to this Resolution; and

WHEREAS, the City has identified FS Global to provide sanctioned camping area program and property management services in an amount not to exceed \$675,000; and

WHEREAS, the City funds additional annual Homelessness Program Services through a contract with the Downtown Streets Team in an amount not to exceed \$200,000 as detailed in Exhibit D to this Resolution.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of San Rafael does hereby appropriate and allocate \$2,256,400 from the Grants Fund 283 to support the initial costs and contracts associated with the Sanctioned Camp Area, and

FURTHER BE IT RESOLVED, that the City Council hereby authorizes the City Manager to execute and enter into agreements for services referenced in this Resolution and attached hereto as Exhibits A through D in the cumulative amount not to exceed \$2,002,400 for the first phase of the Encampment Resolution Fund Round 3 (ERF3) grant program and other homelessness program services as detailed in the accompanying staff report to this resolution.

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City on the 19th day of August 2024, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING AMENDMENTS TO THE CITY OF SAN RAFAEL BUDGET FOR FISCAL YEAR 2023-24 FOR THE PURPOSE OF CONFIRMING AUTHORIZED APPROPRIATIONS AND TRANSFERS

WHEREAS, the City Council approved Resolution No. 15221 adopting the fiscal year 2023-2024 budget; and

WHEREAS, the City Council approved other actions during the fiscal year to authorize spending; and

WHEREAS, as part of the fiscal year-end closing process, staff has reviewed and analyzed actual revenues, expenditures and transfers through June 30, 2024, has identified a need for additional budget adjustments, and has submitted its analysis and recommendations in a report to the City Council; and

WHEREAS, after examination, and due consideration, the City Council has accepted the same report and recommendations;

NOW, THEREFORE, BE IT RESOLVED, by the San Rafael City Council that Resolution No. 15221 for fiscal year 2023-2024 is further amended to authorize the following adjustments to resources and appropriations to selected funds:

Revenues:					
Fund	Current Budget	Resources	Transfers in	Revised Budget	
001 - General Fund	100,017,060		300,000	100,317,060	
242 - Measure C Wildfire Prevention Parcel Tax	1,956,238	750,000		2,706,238	
281 - Grants Fund - Safety	683,099		13,282	696,381	
420 - Measure E-Public Safety Facility	-		450,000	450,000	
Total Revenue Adjustments		750,000	763,282		
Expenditures:					
Fund	Current Budget	Appropriations	Transfers out	Revised Budget	
001 - General Fund	104,465,324	-	450,000	104,915,324	
216 - Measure G - Cannabis	180,246		300,000	480,246	
242 - Measure C Wildfire Prevention Parcel Tax	2,449,464	750,000		3,199,464	
Total Expenditure Adjustments		750,000	750,000		

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a special meeting of the Council of said City on Monday, the 19th day of August 2024 by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
THE CITY OF SAN RAFAEL
AND
DEFENSE BLOCK SECURITY
FOR SECURITY SERVICES IN SANCTIONED CAMPS**

This Agreement is made and entered into as of _____ (the “Effective Date”), by and between the CITY OF SAN RAFAEL, a chartered California municipal corporation (hereinafter "CITY"), and DEFENSE BLOCK SECURITY, a California corporation (hereinafter "CONSULTANT"). CITY and CONSULTANT may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

A. CITY desires to secure professional services more fully described in this Agreement, at **Exhibit A**, entitled “SCOPE OF SERVICES”; and

B. CONSULTANT represents that it, and its subcontractors, if any, have the professional qualifications, expertise, and necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of CITY; and

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

NOW, THEREFORE, the parties hereby agree as follows:

AGREEMENT

1. **SERVICES TO BE PROVIDED.**

Except as otherwise may be expressly specified in this Agreement, CONSULTANT shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as “Services”) to satisfactorily complete the work required by CITY at its sole risk and expense. Services to be provided to CITY are more fully described in **Exhibit A** entitled “SCOPE OF SERVICES.” CONSULTANT acknowledges that the execution of this Agreement by CITY is predicated upon representations made by CONSULTANT in that certain proposal (“Proposal”) set forth in **Exhibit A**, which constitutes the basis for this Agreement.

2. **COMPENSATION.**

In consideration for CONSULTANT’s complete performance of Services, CITY shall pay CONSULTANT for all materials provided and services rendered by CONSULTANT at the unit rates and rates per hour for labor, as set forth in **Exhibit A**, for a total amount not to exceed

\$850,000. This amount includes contingency funds in the amount of \$52,328, which would not be used without written authorization from the **CITY**.

CONSULTANT will bill City on a monthly basis for Services provided by **CONSULTANT** during the preceding month, subject to verification by **CITY**. **CITY** will pay **CONSULTANT** within thirty (30) days of City's receipt of invoice.

3. TERM OF AGREEMENT.

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate one (1) year from the Effective Date.

4. PROJECT COORDINATION.

A. **CITY'S Project Manager.** Homelessness and Housing Analyst, Mel Burnette is hereby designated the PROJECT MANAGER for the **CITY** and said PROJECT MANAGER shall supervise all aspects of the progress and execution of this Agreement.

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

5. TERMINATION.

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

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

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

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

6. OWNERSHIP OF DOCUMENTS.

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

7. INSPECTION AND AUDIT.

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

8. ASSIGNABILITY.

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

9. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in **Exhibit B**, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in **Exhibit B**.

10. INDEMNIFICATION.

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

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

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

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

11. **NONDISCRIMINATION.**

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

12. **COMPLIANCE WITH ALL LAWS.**

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

13. **NO THIRD PARTY BENEFICIARIES.**

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

14. NOTICES.

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

To **CITY**'s Project Manager:

Mel Burnette
Homelessness and Housing Analyst
1400 Fifth Avenue
San Rafael, CA 94901

To **CONSULTANT**'s Project Director:

Denise Little, Director of Operations
9238 Old Redwood Hwy Ste 202
Windsor, CA 95492

15. INDEPENDENT CONTRACTOR.

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

16. ENTIRE AGREEMENT -- AMENDMENTS.

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

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

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

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

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

17. SET-OFF AGAINST DEBTS.

CONSULTANT agrees that **CITY** may deduct from any payment due to **CONSULTANT**

under this Agreement, any monies which **CONSULTANT** owes **CITY** under any ordinance, agreement, contract or resolution for any unpaid taxes, fees, licenses, assessments, unpaid checks or other amounts.

18. WAIVERS.

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

19. COSTS AND ATTORNEY'S FEES.

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

20. CITY BUSINESS LICENSE / OTHER TAXES.

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

21. SURVIVAL OF TERMS.

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

22. APPLICABLE LAW.

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

23. COUNTERPARTS AND ELECTRONIC SIGNATURE.

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

[Signatures are on the following page.]

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

CITY OF SAN RAFAEL:

CONSULTANT:

CRISTINE ALILOVICH, City Manager

By: _____

APPROVED AS TO FORM:
Office of the City Attorney

Name: _____

Title: _____

By: ROBERT F. EPSTEIN, City Attorney

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

ATTEST:
City Clerk

By: _____

Name: _____

Title: _____

LINDSAY LARA, City Clerk

EXHIBIT A
SCOPE OF SERVICES

The Services to be performed for **CITY** by **CONSULTANT** under this Agreement are more fully described in **CONSULTANT's** proposal, which is attached to this Exhibit A.



Defense Block Security (DBS)
9238 Old Redwood Hwy Suite 202
Windsor Ca 95492
707-843-7194

SCOPE OF WORK AND SCHEDULE OF PERFORMANCE

Defense-Block Security will furnish licensed, uniformed, and trained security personnel 24 hours per day (or hours specified by the City), in the amounts requested by the City of San Rafael. The security guards will conduct random foot patrols of the site and provide security check-ins to any entrance and exits. Security will work as a team to identify suspicious and/or illegal behavior and report potential criminal behavior to the City and San Rafael Police Department when appropriate. The primary function of unarmed security is to deter criminal acts or behavior and observe and report. Security guards will be responsible for assisting in any emergency situation and observe and report criminal acts to Public Safety.

The security guards shall perform services to include: reporting any suspicious or criminal activity to City and/or Public Safety personnel, deterring loiterers or individuals in violation of city ordinances, and reporting any and all vandalism and safety/hazardous conditions (to include dangerous drug paraphernalia, hazardous material or weapons). The guards shall be available for security escorts for the City or staff to and from their parked vehicles when security staffing allows.

Defense Block Security has extensive and unique experience in facilitating a safe and organized transitional living site. Defense Block Security is experienced in customer service, de-escalation communication techniques, and firm, fair and compassionate security services. DBS will conduct walking patrols in the encampment on a regular basis, interacting with residents and maintain perimeter security of the encampment fencing; perform inspection, detection, and investigation of all security-related incidents, violation of rules and regulations, and matters of public safety and report the same to the appropriate authorities or designated personnel; prepare and submit written reports as directed by the City of San Rafael; respond promptly and appropriately to all security-related emergencies and assist service providers and the City with escorts on site and general security issues while personnel are on site.

The City reserves the right to request a change in staffing level at any time during this contract. If the City wishes to request a reduction in security staffing level, the City Project Manager will provide Defense Block Security notice in writing at least 15 business days before the change would take effect. Whenever possible, the City Project Manager will provide additional notice of change in staffing level.

General Duties:

Security staff will provide on uniformed security of the site through the duration of all shifts; guards should be on foot patrol for their shift. Guards will enforce all site rules as posted. Security will keep track of residents who are on site via a method designed and implemented by the City. Security staff will maintain the confidentiality of all residents and on these sites. Security will brief with City and/or service providers at beginning and end of shift to share any and all pertinent information.

Required Duties:

- Frequent foot patrols of the entire site (guards will be recommended to work in pairs for first 90 days), provide a visible presence to discourage vandalism, unauthorized entry, and personal threats between residents, staff, and community members. Encourage the "good neighbor" philosophy within the site and surrounding neighbors.
- Make scheduled and unscheduled rounds within the site, ensuring general order and safety.
- Notify appropriate law enforcement immediately of serious offenses.
- Interface immediately with law enforcement and be a good witness.
- Appear for work promptly, in uniform, and on time.
- Wear uniform and badges to easily identify themselves as an unarmed security professional.
- Drive safely and slowly onto the site and in designated parking areas
- Be equipped with portable radios communication devices so security may speak to each other throughout the camp.
- Visual searches of resident property will be conducted upon every entry. Unauthorized/prohibited items will not be allowed on site and resident will be denied entry if in possession of "weapon" as defined by the posted rules. All residents will be asked to submit to searching with a security wand. Security will document and report all search refusals and notify provider for follow up.

Reports:

- Defense Block Security (DBS) shall complete reports for all incidents or significant interactions with residents, community or staff members as well as unusual or general emergency situations. Reports will be made available to designated City staff.

Personnel:

Unarmed security guards assigned to perform work under this Agreement shall wear uniforms at all times. The uniform will clearly identify the Contractor and the name of the individual working. The unarmed security professional employed by the Contractor under this Agreement shall:

- Be able to communicate effectively in both written and oral English.
- Possess a valid California Driver's License.
- Have successfully completed the educational requirements and successfully passed

the examinations required by the State of California, Department of consumer Affairs, including the Power of Arrest course

Equipment:

Contractor shall furnish all equipment agreed upon necessary to perform the assigned and agreed upon duties. Guards will have access to:

- Flashlights
- Portable Radios
- Basic First Aid Kit
- Security Wand (for searching)
- All reporting and documentation supplies (cellular phones, digital reporting and scheduling system)
- All PPE necessary; sanitation and cleaning supplies
- 2 portable guard shacks leased to the City of San Rafael
- Narcan units at each guard shack

Pricing/Equipment/Staffing Recommendations: Budget \$850,000 for 1 year

Staffing recommendations/Pricing:

During build of fencing and encampment: first 30 days

Month 1 (30 days) (if less than 10 residents on site)

Hourly: \$36.50/hr per guard

Dayshift: 2 guards

Swingshift: 2 guards

Graveshift: 2 guards

48 hours of security service daily

Cost: \$36.50/hr per guard

Monthly approximate cost: \$54,330.00 (with 2% ins fee and PPE/Shack rental)

Months 2-4 (90 days)

Hourly: \$36.50 per guard

Hourly: \$33.00 per hour for Covershift #2

Dayshift: (2 guards)

Day/swing Covershift: (#1); 1 guard

Swingshift: 2 guards

Swing/Grave Covershift: (#2); 1 guard

Graveshift: 3 guards

64 hours of service per day @\$36.50

8 hours per day @ \$33.00/hr

Monthly approximate Cost: \$80,279.00 (with 2% ins fee and PPE/shack rental)

Months 5-10 (180 days)

Hourly: \$36.50/hr

Dayshift: 2 guards

Swingshift: 2 guards
Covershift: 1 guard
Graveshift: 3 guards

64 hours of security service daily

@\$36.50/hr

Monthly approximate cost: \$74, 583.00 (with 2% ins fee and PPE/guard shack rental)

Months 11-12 (last 60 days of project through closure)

Hourly : \$36.50/hr

Dayshift: 2 guards

Swingshift: 2 guards

Graveshift: 3 guards

56 hours of security service daily

@\$36.50/hr

Monthly approximate cost: \$63,265.50 (with 2% ins fee and PPE/guard shack rental)

Annual approximate cost:

Month 1: \$54, 330.00

Months 2-4: \$240,837.00

Months 5-10: \$ 372,915.00

Months 11-12: \$ 126,530.00

Holiday pay: (July 4, Thanksgiving, Christmas, New Years Day)

@\$45/hr : add'l cost approximately: \$3,060.00

Total: \$ 797672.00 (for 1 year, 12 calendar months); leaves excess in “bank” for extension of up to 1 month during closure (\$52,328.00)

Care Provider staffing suggestions:

With this staffing model through the entire 1 year of the site, the concern over care provider coverage being 24 hours per day can be alleviated some.

Suggestions for care provider scheduling:

Daytime coverage (for provider) is the least critical timeframe. Scheduling a care provider daily is optimal during hours of: **2pm-6am**... leaving 8hours daily vacant of a service provider to assist with costs. Most residents are gone during these hours (6am-2pm), or sleeping. Any issue, problem, or question that may come up that is not immediate and/or meet the threshold of police or emergency services can be reported and followed up when service provider is on site.

Additionally, City or County social service or mental health services are open and an option during business hours.

Optimal schedule for provider:

7 days per week, 2pm-6am

Power/Electricity issues:

Power source and PGE partnerships can be difficult. Defense Block Security can start a project prior to PGE electrical foundations with generator power sources. Generators would be required for proper lighting at search entrance areas, and power to the guard shacks.

EXHIBIT B INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth below, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in this Exhibit B.

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

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

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

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

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

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

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

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

ISO form CG20 01 04 13.

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

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

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

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

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

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

9. **CONSULTANT** agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by **CONSULTANT**, provide the same minimum insurance coverage required of **CONSULTANT**, except as with respect to limits. **CONSULTANT** agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. **CONSULTANT** agrees that upon request by **CITY**, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the performance of Services will be submitted to **CITY** for review.

10. **CONSULTANT** agrees to be responsible for ensuring that no contract used by any party involved in any way with the Services reserves the right to charge **CITY** or **CONSULTANT** for the cost of additional insurance coverage required by this Agreement. Any

such provisions are to be deleted with reference to **CITY**. It is not the intent of **CITY** to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against **CITY** for payment of premiums or other amounts with respect thereto.

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

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

**CONTRACT
BY AND BETWEEN
THE CITY OF SAN RAFAEL
AND
THE OTHER JUNK CO. LLC
FOR ENCAMPMENT TRASH REMOVAL SERVICES**

This contract ("Contract") is entered into by and between the City of San Rafael ("City") and The Other Junk Co. LLC ("Contractor"), a California Limited Liability Company, for work on the City's Encampment Trash Removal ("Project") and is effective on _____ ("Effective Date").

The parties agree as follows:

1. Scope of Work. Contractor will perform and provide all labor, materials, equipment, supplies, transportation, and any and all other items or services necessary to perform and complete the work required for the Project ("Work"), as specified in **Exhibit A, Scope of Work and Bid Proposal**, and according to the terms and conditions of this Contract, including all attachments to the Contract and any other documents and statutes incorporated by reference. To the extent that any attachment contains provisions that conflict or are inconsistent with the terms set forth in the body of this Contract, the Contract terms will control.

1.1 Subcontractors. Contractor acknowledges that it has listed all subcontractors it will subcontract with to complete the Work in **Exhibit B, Subcontractor List**.

2. Contract Documents. The Contract Documents incorporated into this Contract include and are comprised of all of the documents listed below:

- 2.1** Contract;
- 2.2** Addenda, if any;
- 2.3** Exhibit A – Scope of Work and Bid Proposal;
- 2.4** Exhibit B – Subcontractor List;
- 2.5** Exhibit C – Insurance Requirements.

3. Contract Price. As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor a not to exceed amount of \$165,000 (the "Contract Price"), for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with Contractor's Bid Proposal set forth in **Exhibit A** and the payment provisions contained herein. This amount includes a 10% contingency, in the amount of \$15,000, which would not be used without written authorization from City.

3.1 Payment. Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month, subject to verification by City. City will pay Contractor within thirty (30) days of City's receipt of invoice.

4. Contract Term. Unless otherwise set forth in this Contract or unless this paragraph is subsequently modified by a written amendment to this Contract, the term of this Contract shall begin on July 1, 2024 and terminate on June 30, 2025.

5. Standard of Care. All Work must be provided in a manner that meets or exceeds the standard of care applicable to the same type of work in the City of San Rafael. Contractor must promptly correct, at Contractor's sole expense, any Work that the City determines is deficient or defective.

6. Permits and Licenses. Contractor, at its sole expense, must obtain and maintain during the term of this Contract, all appropriate permits, certificates and licenses including, but not limited to, the required California contractor's license provided in Section 1, and a City business license.

7. Indemnification. Contractor will indemnify, defend with counsel acceptable to City, and hold harmless to the full extent permitted by law, City, its governing body, officers, agents, employees, and volunteers (the "Indemnitees") from and against any and all liability, demands, loss, damage, claims, settlements, expenses, and costs (including, without limitation, attorneys' fees, expert witness fees, and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with the acts or omissions of Contractor, its employees, subcontractors, representatives, or agents in performing the Work or failing to comply with any obligation of Contractor under this Contract, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnitee. This indemnification obligation is not limited by any limitation on the amount or type of damages or compensation payable under Workers' Compensation or other employee benefit acts, or by insurance coverage limits, and will survive the expiration or early termination of this Contract.

8. Insurance. Contractor will, at all times under this Contract, procure and maintain in full force and effect the insurance coverage provided in **Exhibit C, Insurance Requirements**, at no cost to City.

9. Labor Code Compliance. Unless the Contract Price is \$1,000 or less, the Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, beginning at section 1720, and the related regulations, including but not limited to requirements pertaining to wages, working hours and workers' compensation insurance. Contractor must also post all job site notices required by laws or regulations pursuant to Labor Code section 1771.4.

9.1 Prevailing Wages. Each worker performing Work under this Contract that is covered under Labor Code section 1720 or 1720.9, must be paid at a rate not less than the prevailing wage as defined in sections 1771 and 1774 of the Labor Code. The prevailing wage rates are on file with the City Engineer's office and are available online at <http://www.dir.ca.gov/DLSR>. Pursuant to Labor Code section 1775, Contractor and any subcontractor will forfeit to City as a penalty up to \$200 for each calendar day, or portion of a day, for each worker paid less than the applicable prevailing wage rate, in addition to paying each worker the difference between the applicable wage rate and the amount actually paid.

9.2 Working Day. Pursuant to Labor Code section 1810, eight hours of labor consists of a legal day's work. Pursuant to Labor Code section 1813, Contractor will forfeit to City as a penalty the sum of \$25 for each day during which a worker employed by Contractor or any subcontractor is required or permitted to work more than eight hours during any one calendar day, or more than 40 hours per calendar week, unless such workers are paid overtime wages under Labor Code section 1815. All Work must be carried out during regular City working days and hours unless otherwise specified in Exhibit A or authorized in writing by City.

9.3 Payroll Records. Contractor and its subcontractors must maintain certified payroll records in compliance with Labor Code sections 1776 and 1812, and all implementing regulations promulgated by the Department of Industrial Relations ("DIR"). For each payroll record, Contractor and its subcontractors must certify under penalty of perjury that the information in the record is true and correct, and that it has complied with the requirements of Labor Code sections 1771, 1811, and 1815. Unless the Contract Price is under \$25,000, Contractor must electronically submit certified payroll records to the Labor Commissioner as required under California law and regulations.

9.4 Apprentices. If the Contract Price is \$30,000 or more, Contractor must comply with the apprenticeship requirements in Labor Code section 1777.5.

9.5 DIR Monitoring, Enforcement, and Registration. This Project is subject to compliance monitoring and enforcement by the DIR pursuant to Labor Code section 1725.5, and, subject to the exception set forth below, Contractor and any subcontractors must be registered with the DIR to perform

public works projects. The registration requirements of Labor Code section 1725.5 do not apply if the Contract Price is for under \$25,000.

10. Workers' Compensation Certification. Under Labor Code section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

11. Termination.

11.1 Termination for Convenience. City reserves the right to terminate all or part of the Contract for convenience upon written notice to Contractor. Upon receipt of such notice, Contractor must: immediately stop the Work, including under any terms or conditions that may be specified in the notice; comply with City's instructions to protect the completed Work and materials; and use its best efforts to minimize further costs. In the event of City's termination for convenience, Contractor waives any claim for damages, including for loss of anticipated profits from the Project. If City terminates the Contract for convenience, City will only owe Contractor payment for the Work satisfactorily performed before Contract termination, as well as five percent of the total value of the Work performed as of the date of notice of termination or five percent of the value of the Work yet to be completed, whichever is less, which is deemed to cover all overhead and profit to date.

11.2 Termination for Default. The City may terminate this Contract for cause for any material default. Contractor may be deemed in default for a material breach of or inability to perform the Contract, including Contractor's refusal or failure to supply sufficient skilled workers, proper materials, or equipment to perform the Work within the Contract Time; refusal or failure to make prompt payment to its employees, subcontractors, or suppliers or to correct rejected work; disregard of laws, regulations, ordinances, rules, or orders of any public agency with jurisdiction over the Project; lack of financial capacity to complete the Work within the Contract Time; or responsibility for any other material breach of the Contract requirements. If City terminates the Contract for cause, City will only owe Contractor payment for the Work satisfactorily performed before Contract termination.

12. Dispute Resolution. Any dispute arising under or related to this Contract is subject to the dispute resolution procedures of Public Contract Code sections 9401 and 20104 et. seq., which are incorporated by reference.

13. Waiver. A waiver by City of any breach of any term, covenant, or condition in this Contract will not be deemed a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, regardless of the character of any such breach.

14. Warranty. Contractor guarantees and warrants the Work and the materials used or provided for the Project for a period of one year, beginning upon City's acceptance of the Work for the Project as complete ("Warranty Period"). During the Warranty Period, upon notice from the City of any defect in the Work or the materials, Contractor must, at its sole expense, promptly repair or replace the defective Work or materials, including repair or replacement of any other Work or materials that is or are displaced or damaged during the warranty work, excepting any damage resulting from ordinary wear and tear.

15. Worksite Conditions.

15.1 Clean and Safe. Contractor must maintain the Work site and staging and storage areas in a clean and neat condition and must ensure it is safe and secure. On a daily basis Contractor must remove and properly dispose of debris and waste materials from the Work site.

15.2 Inspection. Contractor will make the Work accessible at all times for inspection by the City.

15.3 Hazardous Materials. Hazardous materials handling and disposal shall be as specified in Exhibit A.

16. Conflicts of Interest. Contractor, its employees, subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or policy or in violation of any California law, including under Government Code section 1090 et seq. and under the Political Reform Act as set forth in Government Code section 81000 et seq. and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.

17. Non-Discrimination. No discrimination will be made in the employment of persons under this Contract because of the race, color, national origin, ancestry, religion, gender or sexual orientation of such person.

18. Independent Contractor. City and Contractor intend that Contractor will perform the Work under this Contract as an independent contractor. Contractor is solely responsible for its means and methods in performing the Work. Contractor is not an employee of City and is not entitled to participate in health, retirement or any other employee benefits from City.

19. Assignment of Unfair Business Practice Claims. Under Public Contract Code section 7103.5, Contractor and its subcontractors agree to assign to City all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. section 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or any subcontract. This assignment will be effective at the time City tenders final payment to Contractor, without further acknowledgement by the parties.

20. Notice. Any notice, billing, or payment required by or pursuant to the Contract documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

To **CITY's** Representative:

Mel Burnette
Homelessness and Housing Analyst
1400 Fifth Avenue
San Rafael, CA 94901

To **CONTRACTOR's** Representative:

Andrew Salter
Owner
49 Huntington Way
Petaluma, CA 94952

21. General Provisions.

21.1 Compliance with All Laws. Contractor will comply with all applicable federal, state, and local laws and regulations including, but not limited to, unemployment insurance benefits, FICA laws, conflict of interest laws, and local ordinances. Work may only be performed by qualified and experienced workers who are not employed by the City and who do not have any contractual relationship with City, with the exception of this Contract.

21.2 Provisions Deemed Inserted. Every provision of law required to be inserted in the Contract is deemed to be inserted, and the Contract will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Contract will be deemed amended accordingly.

21.3 Assignment and Successors. Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's and City's lawful heirs, successors and permitted assigns.

21.4 Third Party Beneficiaries. There are no intended third-party beneficiaries to this Contract.

21.5 Governing Law and Venue. This Contract will be governed by California law and venue will be in the Superior Court of Marin County, and no other place.

21.6 Amendment. No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.

21.7 Integration; Severability. This Contract and the Contract documents incorporated herein, including authorized amendments or change orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor. If any provision of the Contract documents, or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Contract documents will remain in full force and effect.

21.8 Authorization. Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code section 313.

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

[Signatures are on the following page.]

The parties agree to this Contract as witnessed by the signatures below:

CITY OF SAN RAFAEL:

CONTRACTOR:

CRISTINE ALILOVICH, City Manager

APPROVED AS TO FORM:
Office of the City Attorney

By: ROBERT F. EPSTEIN, City Attorney

ATTEST:
City Clerk

LINDSAY LARA, City Clerk

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

- Exhibit A: Scope of Work and Bid Proposal**
- Exhibit B: Subcontractor List**
- Exhibit C: Insurance Requirements**

Exhibit A
SCOPE OF WORK AND BID PROPOSAL

The Work to be performed by **CONTRACTOR** under this Agreement is more fully described in this Exhibit A.

1. Trash, Waste, and Debris Removal: The Contractor shall undertake the proper removal, separation, and disposal of all trash, waste, and debris as directed by the City of San Rafael, San Rafael Police Department and San Rafael Community Development Department. This includes materials present within unhoused encampments within designated areas. The Contractor acknowledges that removal shall not extend to items considered the property of encampment residents.

2. Creek Cleanup: The Contractor shall also be responsible for the removal of trash and debris along the creek in areas designated by the Client, specifically along the Mahone path.

3. Hazardous Waste Handling: All hazardous materials and waste encountered during the execution of services shall be handled and properly disposed of at the Household Hazardous Waste facility in compliance with all applicable federal, state and local laws and regulations.

4. Community Engagement: The Contractor shall engage with residents of encampments, encouraging cooperation in maintaining cleanliness. This may include distributing bags and essential clothing items to aid in waste containment and hygiene.

5. Reporting: The Contractor shall provide updates to the City detailing the progress of services rendered, including quantities of waste removed and any notable observations or challenges encountered.

For the services described above, City will pay Contractor as follows:

\$750 per load

\$150/hr per crew member

\$50 surcharge fee for mattress, large appliance, hazardous waste, concrete, electronic waste, wood debris, construction site waste, furniture, or any other items deemed as such at Contractor's discretion. Contractor will notify the City's representative, or their designee, before removing items where the surcharge fee will apply.

\$750 same-day cancellation fee. This fee will apply when City cancels service on the same day it is scheduled to take place.

Exhibit B
SUBCONTRACTOR LIST

Contractor hereby certifies that each and every Subcontractor that will perform a portion of the Work in an amount in excess of one-half of 1% of the total Contract Price, is provided below along with a description of the Work, the name of the Subcontractor, its California contractor license number, the location of its place of business, its DIR registration number, and the portion of the Work that the Subcontractor is performing based on a percentage of the total Contract Price.

DESCRIPTION OF WORK	SUBCONTRACTOR NAME	CALIFORNIA CONTRACTOR LICENSE NO.	LOCATION OF BUSINESS	DIR REG. NO.	PERCENT OF WORK

END OF SUBCONTRACTOR LIST

Exhibit C
INSURANCE REQUIREMENTS

Contractor will, at all times under this Contract, procure and maintain in full force and effect the insurance coverage required in this Exhibit C to cover the activities of Contractor and any subcontractors relating to or arising from performance of the Work. Each policy must be issued by a company licensed to do business in California, and with a strength and size rating from A.M. Best Company of A-VIII or better. Contractor must provide City with certificates of insurance and required endorsements as evidence of coverage with the executed Contract, or through the PINSAdvantage website <https://www.pinsadvantage.com/> upon request by the City, and before the City authorizes Contractor to proceed with the Work.

1. Workers' Compensation. Statutory coverage is required by the California Workers' Compensation Insurance and Safety Act. If Contractor is self-insured, it must provide its duly authorized Certificate of Permission to Self-Insure. In addition, Contractor must provide employer's liability insurance with limits of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease.

2. Liability. Commercial General Liability ("CGL") insurance issued on an occurrence basis, including coverage for liability arising from Contractor's or its subcontractor's acts or omissions in performing the Work, including Contractor's protected coverage, blanket contractual, products and completed operations, broad form property damage, vehicular coverage, and employer's non-ownership liability coverage, with limits of at least \$1,000,000 per occurrence and \$2,000,000 general aggregate.

3. Automotive. Commercial automotive liability coverage for owned, non-owned and hired vehicles must provide coverage of at least \$1,000,000 combined single limit per accident for bodily injury, death, or property damage.

4. Subrogation Waiver. Each required policy must include an endorsement that the insurer waives any right of subrogation it may have against the City or the City's insurers.

5. Required Endorsements. The CGL policy and the automotive liability policy must include the following specific endorsements:

(a) The City, including its Council, officials, officers, employees, agents, volunteers and consultants (collectively, "Additional Insured") must be named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and the policy must protect the Additional Insured against any and all liability for personal injury, death or property damage or destruction arising directly or indirectly in the performance of the Contract.

(b) The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(c) The insurance provided is primary and no insurance held or owned by City may be called upon to contribute to a loss ("primary and non-contributory").

(d) Any umbrella or excess insurance must contain or be endorsed to contain a provision that such coverage will also apply on a primary or non-contributory basis for the benefit of City before the City's own insurance or self-insurance will be called upon to protect it as a named insured.

(e) This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

**SERVICES CONTRACT
BY AND BETWEEN
THE CITY OF SAN RAFAEL
AND
WEHOPE
FOR FY 24-25 MOBILE SHOWER SERVICES**

This contract ("Contract") is entered into by and between the City of San Rafael ("City") and WeHope ("Contractor"), a California nonprofit Corporation, for work on the City's FY 24-25 Mobile Shower Services ("Project") and is effective on _____ ("Effective Date").

The parties agree as follows:

- 1. Scope of Work.** Contractor will perform and provide all labor, materials, equipment, supplies, transportation, and any and all other items or services necessary to perform and complete the work required for the Project ("Work"), as specified in **Exhibit A, Scope of Work and Bid Proposal**, and according to the terms and conditions of this Contract, including all attachments to the Contract and any other documents and statutes incorporated by reference. To the extent that any attachment contains provisions that conflict or are inconsistent with the terms set forth in the body of this Contract, the Contract terms will control.
- 2. Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the documents listed below:
 - 2.1** Contract;
 - 2.2** Addenda, if any;
 - 2.3** Exhibit A – Scope of Work and Bid Proposal;
 - 2.4** Exhibit B – Insurance Requirements.
- 3. Contract Price.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor a unit price of \$550 per shower session provided, for a total not to exceed amount of \$112,400 (the "Contract Price"), for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, and all overhead costs, in accordance with the Scope of Work set forth in **Exhibit A** and the payment provisions contained herein.
 - 3.1 Payment.** Contractor will bill City on a monthly basis for Services provided by Contractor during the preceding month, subject to verification by City. Contractor will submit itemized invoices that include the number of shower sessions provided and reporting as described in **Exhibit A**. City will pay Contractor within thirty (30) days of City's receipt of invoice.
- 4. Term of Agreement.** Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on July 1, 2024 and terminate on June 30, 2025.
- 5. Standard of Care.** All Work must be provided in a manner that meets or exceeds the standard of care applicable to the same type of work in the City of San Rafael. Contractor must promptly correct, at Contractor's sole expense, any Work that the City determines is deficient or defective.
- 6. Permits and Licenses.** Contractor, at its sole expense, must obtain and maintain during the term of this Contract, all appropriate permits, certificates and licenses including, but not limited to a City business license.
- 7. Indemnification.** Contractor will indemnify, defend with counsel acceptable to City, and hold harmless to the full extent permitted by law, City, its governing body, officers, agents, employees, and

volunteers (the “Indemnitees”) from and against any and all liability, demands, loss, damage, claims, settlements, expenses, and costs (including, without limitation, attorneys’ fees, expert witness fees, and costs and fees of litigation) (collectively, “Liability”) of every nature arising out of or in connection with the acts or omissions of Contractor, its employees, subcontractors, representatives, or agents in performing the Work or failing to comply with any obligation of Contractor under this Contract, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnitee. This indemnification obligation is not limited by any limitation on the amount or type of damages or compensation payable under Workers’ Compensation or other employee benefit acts, or by insurance coverage limits, and will survive the expiration or early termination of this Contract.

8. Insurance. Contractor will, at all times under this Contract, procure and maintain in full force and effect the insurance coverage provided in **Exhibit B, Insurance Requirements**, at no cost to City.

9. Termination.

9.1 Termination for Convenience. City reserves the right to terminate all or part of the Contract for convenience upon written notice to Contractor. Upon receipt of such notice, Contractor must: immediately stop the Work, including under any terms or conditions that may be specified in the notice; comply with City’s instructions to protect the completed Work and materials; and use its best efforts to minimize further costs. In the event of City’s termination for convenience, Contractor waives any claim for damages, including for loss of anticipated profits from the Project. If City terminates the Contract for convenience, City will only owe Contractor payment for the Work satisfactorily performed before Contract termination, as well as five percent of the total value of the Work performed as of the date of notice of termination or five percent of the value of the Work yet to be completed, whichever is less, which is deemed to cover all overhead and profit to date.

9.2 Termination for Default. The City may terminate this Contract for cause for any material default. Contractor may be deemed in default for a material breach of or inability to perform the Contract, including Contractor’s refusal or failure to supply sufficient skilled workers, proper materials, or equipment to perform the Work within the Contract Time; refusal or failure to make prompt payment to its employees, subcontractors, or suppliers or to correct rejected work; disregard of laws, regulations, ordinances, rules, or orders of any public agency with jurisdiction over the Project; lack of financial capacity to complete the Work within the Contract Time; or responsibility for any other material breach of the Contract requirements. If City terminates the Contract for cause, City will only owe Contractor payment for the Work satisfactorily performed before Contract termination.

10. Dispute Resolution. Any dispute arising under or related to this Contract is subject to the dispute resolution procedures of Public Contract Code sections 9401 and 20104 et. seq., which are incorporated by reference.

11. Waiver. A waiver by City of any breach of any term, covenant, or condition in this Contract will not be deemed a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, regardless of the character of any such breach.

12. Warranty. Contractor guarantees and warrants the Work and the materials used or provided for the Project for a period of one year, beginning upon City’s acceptance of the Work for the Project as complete (“Warranty Period”). During the Warranty Period, upon notice from the City of any defect in the Work or the materials, Contractor must, at its sole expense, promptly repair or replace the defective Work or materials, including repair or replacement of any other Work or materials that is or are displaced or damaged during the warranty work, excepting any damage resulting from ordinary wear and tear.

13. Worksite Conditions.

13.1 Clean and Safe. Contractor must maintain the Work site and staging and storage areas in a clean and neat condition and must ensure it is safe and secure. On a daily basis Contractor must remove and properly dispose of debris and waste materials from the Work site.

13.2 Inspection. Contractor will make the Work accessible at all times for inspection by the City.

13.3 Hazardous Materials. Unless otherwise specified in the Contract documents, this Contract does not include the removal, handling, or disturbance of any asbestos or other hazardous materials, as identified by any federal, state, or local law or regulation. If Contractor encounters materials on the Project site that Contractor reasonably believes to be asbestos or other hazardous materials, and the asbestos or other hazardous materials have not been rendered harmless, Contractor may continue Work in unaffected areas reasonably believed to be safe, but must immediately cease Work on the area affected and report the condition to City. No asbestos, asbestos-containing products or other hazardous materials may be used in performance of the Work.

14. Conflicts of Interest. Contractor, its employees, subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or policy or in violation of any California law, including under Government Code section 1090 et seq. and under the Political Reform Act as set forth in Government Code section 81000 et seq. and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.

15. Non-Discrimination. No discrimination will be made in the employment of persons under this Contract because of the race, color, national origin, ancestry, religion, gender or sexual orientation of such person.

16. Independent Contractor. City and Contractor intend that Contractor will perform the Work under this Contract as an independent contractor. Contractor is solely responsible for its means and methods in performing the Work. Contractor is not an employee of City and is not entitled to participate in health, retirement or any other employee benefits from City.

17. Assignment of Unfair Business Practice Claims. Under Public Contract Code section 7103.5, Contractor and its subcontractors agree to assign to City all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. section 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or any subcontract. This assignment will be effective at the time City tenders final payment to Contractor, without further acknowledgement by the parties.

18. Notice. Any notice, billing, or payment required by or pursuant to the Contract documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

To **CITY's** Representative:

Mel Burnette
Homelessness and Housing Analyst
1400 Fifth Avenue
San Rafael, CA 94901

To **CONTRACTOR's** Representative:

Alicia Garcia
Chief Operating Officer
1854 Bay Road
East Palo Alto, CA 94303

19. General Provisions.

19.1 Compliance with All Laws. Contractor will comply with all applicable federal, state, and local laws and regulations including, but not limited to, unemployment insurance benefits, FICA laws, conflict of interest laws, and local ordinances. Work may only be performed by qualified and experienced workers who are not employed by the City and who do not have any contractual relationship with City, with the exception of this Contract.

19.2 Provisions Deemed Inserted. Every provision of law required to be inserted in the Contract is deemed to be inserted, and the Contract will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Contract will be deemed amended accordingly.

19.3 Assignment and Successors. Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City's written consent. This Contract is binding on Contractor's and City's lawful heirs, successors and permitted assigns.

19.4 Third Party Beneficiaries. There are no intended third-party beneficiaries to this Contract.

19.5 Governing Law and Venue. This Contract will be governed by California law and venue will be in the Superior Court of Marin County, and no other place.

19.6 Amendment. No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.

19.7 Integration; Severability. This Contract and the Contract documents incorporated herein, including authorized amendments or change orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor. If any provision of the Contract documents, or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Contract documents will remain in full force and effect.

19.8 Authorization. Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code section 313.

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

[Signatures are on the following page.]

The parties agree to this Contract as witnessed by the signatures below:

CITY OF SAN RAFAEL:

CONTRACTOR:

CRISTINE ALILOVICH, City Manager

APPROVED AS TO FORM:
Office of the City Attorney

By: ROBERT F. EPSTEIN, City Attorney

ATTEST:
City Clerk

LINDSAY LARA, City Clerk

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Exhibit A: Scope of Work and Bid Proposal
Exhibit B: Insurance Requirements

Exhibit A
SCOPE OF WORK AND BID PROPOSAL

The Work to be performed for **CITY** by **CONTRACTOR** under this Agreement is more fully described in this Exhibit A.

The Homelessness and Housing Analyst is the PROGRAM MANAGER for the City. Programs and Services covered under this Agreement:

Operation of Mobile Showers:

- A. **CONTRACTOR** will adhere to the Shower Schedule attached to this Scope; any change to the Shower Schedule or locations must be approved by PROGRAM MANAGER in writing.
- B. In the event of any unexpected schedule change **CONTRACTOR** will inform PROGRAM MANAGER and operational contacts at any affected shower location at least 12 hours prior to change (including reasons for change).
- C. **CONTRACTOR** will provide a report of the number of showers provided (duplicated or otherwise) with each invoice.
- D. **CONTRACTOR** will regularly coordinate with the City of San Rafael and County of Marin Health and Human Services Division on program operation.
- E. **CONTRACTOR** will meet with **CITY** staff for quarterly check-ins.
- F. **CONTRACTOR** will maintain a schedule of all shower sessions provided in Marin County, distribute this schedule to **CITY** and collaborative partners, and make this schedule accessible on its website.
- G. **CONTRACTOR** will encourage all clients to complete Marin County's Coordinated Entry Assessment (VI-SPDAT and other service assessment tools when adopted by County); if Mobile Shower services team completes any such assessment with client, **CONTRACTOR** will notify PROGRAM MANAGER in monthly report.
- H. **CONTRACTOR** will ensure it is complying with state and federal policies, guidance, and laws regarding Human Resource best practices and requirements for creating a safe and professional workplace for **CONTRACTOR'S** staff members, host site staff, collaborative partners, and program users. **CONTRACTOR** will notify **CITY** PROGRAM MANAGER of any safety incidents or injuries, complaints or allegations of harassment or discrimination, or other serious program matters as soon as practical and no less than 24 hours from **CONTRACTOR'S** awareness of such incidents or complaints.

CONTRACTOR and **CITY** agree to the following schedule, which can only be modified in writing by mutual agreement. For billing purposes, each of the following time entries comprise one "shower session."

Site	Schedule for FY 2024-25
Ritter Center	Mondays, 1-4 pm
Fairfax Library	Thursdays, 4-7 pm
Mesa Park	Wednesdays, 10 am – 3 pm
Mahon Creek Path	Once a Week

Organizational Performance:

- A. **CONTRACTOR** will develop a process to ensure all **CONTRACTOR'S** employees, including management, acknowledge the employee handbook annually.
- B. **CONTRACTOR** will have a policy in place to address any potential conflicts of interest among **CONTRACTOR'S** staff, particularly among family members, and will provide employees with instructions on how to file a complaint or report inappropriate behavior related to these key management employees.
- C. **CONTRACTOR** will have an investigative procedure policy.

Exhibit B
INSURANCE REQUIREMENTS

Contractor will, at all times under this Contract, procure and maintain in full force and effect the insurance coverage required in this Exhibit B to cover the activities of Contractor and any subcontractors relating to or arising from performance of the Work. Each policy must be issued by a company licensed to do business in California, and with a strength and size rating from A.M. Best Company of A-VIII or better. Contractor must provide City with certificates of insurance and required endorsements as evidence of coverage with the executed Contract, or through the PINSAdvantage website <https://www.pinsadvantage.com/> upon request by the City, and before the City authorizes Contractor to proceed with the Work.

1. Workers' Compensation. Statutory coverage is required by the California Workers' Compensation Insurance and Safety Act. If Contractor is self-insured, it must provide its duly authorized Certificate of Permission to Self-Insure. In addition, Contractor must provide employer's liability insurance with limits of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease.

2. Liability. Commercial General Liability ("CGL") insurance issued on an occurrence basis, including coverage for liability arising from Contractor's or its subcontractor's acts or omissions in performing the Work, including Contractor's protected coverage, blanket contractual, products and completed operations, broad form property damage, vehicular coverage, and employer's non-ownership liability coverage, with limits of at least \$1,000,000 per occurrence and \$2,000,000 general aggregate.

3. Automotive. Commercial automotive liability coverage for owned, non-owned and hired vehicles must provide coverage of at least \$1,000,000 combined single limit per accident for bodily injury, death, or property damage.

4. Subrogation Waiver. Each required policy must include an endorsement that the insurer waives any right of subrogation it may have against the City or the City's insurers.

5. Required Endorsements. The CGL policy and the automotive liability policy must include the following specific endorsements:

(a) The City, including its Council, officials, officers, employees, agents, volunteers and consultants (collectively, "Additional Insured") must be named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and the policy must protect the Additional Insured against any and all liability for personal injury, death or property damage or destruction arising directly or indirectly in the performance of the Contract.

(b) The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(c) The insurance provided is primary and no insurance held or owned by City may be called upon to contribute to a loss ("primary and non-contributory").

(d) Any umbrella or excess insurance must contain or be endorsed to contain a provision that such coverage will also apply on a primary or non-contributory basis for the benefit of City before the City's own insurance or self-insurance will be called upon to protect it as a named insured.

(e) This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

**AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
THE CITY OF SAN RAFAEL
AND
DOWNTOWN STREETS, INC.
FOR IMPLEMENTATION AND MANAGEMENT OF EMPLOYMENT
DEVELOPMENT AND VOLUNTEER WORK PROGRAM SERVING THE HOMELESS**

This Agreement is made and entered into as of _____ (the “Effective Date”), by and between the CITY OF SAN RAFAEL, a chartered California municipal corporation (hereinafter "**CITY**"), and DOWNTOWN STREETS, INC., a California Nonprofit Corporation (hereinafter "**CONSULTANT**"). **CITY** and **CONSULTANT** may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

A. **CITY** desires to secure professional services more fully described in this Agreement, at **Exhibit A**, entitled “SCOPE OF SERVICES”; and

B. **CONSULTANT** represents that it, and its subcontractors, if any, have the professional qualifications, expertise, and necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of **CITY**; and

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

NOW, THEREFORE, the parties hereby agree as follows:

AGREEMENT

1. **SERVICES TO BE PROVIDED.**

Except as otherwise may be expressly specified in this Agreement, **CONSULTANT** shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as “Services”) to satisfactorily complete the work required by **CITY** at its sole risk and expense. Services to be provided to **CITY** are more fully described in **Exhibit A** entitled “SCOPE OF SERVICES.” **CONSULTANT** acknowledges that the execution of this Agreement by **CITY** is predicated upon representations made by **CONSULTANT** in that certain proposal (“Proposal”) set forth in **Exhibit A**, which constitutes the basis for this Agreement.

2. **COMPENSATION.**

In consideration for **CONSULTANT**’s complete performance of Services, as further described in **Exhibit A**, **CITY** shall pay **CONSULTANT** for all materials provided and services

rendered by **CONSULTANT** a total amount not to exceed \$200,000.

CONSULTANT will bill City on a monthly basis for Services provided by **CONSULTANT** during the preceding month, subject to verification by **CITY**. **CITY** will pay **CONSULTANT** within thirty (30) days of City's receipt of itemized invoices.

3. TERM OF AGREEMENT.

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on July 1, 2024 and terminate on June 30, 2025.

4. PROJECT COORDINATION.

A. **CITY'S Project Manager.** Mel Burnette, Homeless and Housing Analyst, is hereby designated the PROJECT MANAGER for the **CITY** and said PROJECT MANAGER shall supervise all aspects of the progress and execution of this Agreement.

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

5. TERMINATION.

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

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

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

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

6. OWNERSHIP OF DOCUMENTS.

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

7. INSPECTION AND AUDIT.

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

8. ASSIGNABILITY.

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

9. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in **Exhibit B**, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in **Exhibit B**.

10. INDEMNIFICATION.

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

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

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

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

11. **NONDISCRIMINATION.**

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

12. **COMPLIANCE WITH ALL LAWS.**

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

13. **NO THIRD PARTY BENEFICIARIES.**

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

14. NOTICES.

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

To **CITY**'s Project Manager:

Mel Burnette, Homeless and Housing Analyst
1400 Fifth Avenue
San Rafael, CA 94901

To **CONSULTANT**'s Project Director:

Chris Richardson, Chief Program Officer
Downtown Streets Team
1671 The Alameda Suite #301
San Jose, CA 95126

15. INDEPENDENT CONTRACTOR.

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

16. ENTIRE AGREEMENT -- AMENDMENTS.

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

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

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

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

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

17. SET-OFF AGAINST DEBTS.

CONSULTANT agrees that **CITY** may deduct from any payment due to **CONSULTANT**

under this Agreement, any monies which **CONSULTANT** owes **CITY** under any ordinance, agreement, contract or resolution for any unpaid taxes, fees, licenses, assessments, unpaid checks or other amounts.

18. WAIVERS.

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

19. COSTS AND ATTORNEY'S FEES.

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

20. CITY BUSINESS LICENSE / OTHER TAXES.

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

21. SURVIVAL OF TERMS.

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

22. APPLICABLE LAW.

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

23. COUNTERPARTS AND ELECTRONIC SIGNATURE.

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

[Signatures are on the following page.]

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

CITY OF SAN RAFAEL:

CONSULTANT:

CRISTINE ALILOVICH, City Manager

By: _____

APPROVED AS TO FORM:
Office of the City Attorney

Name: _____

Title: _____

By: ROBERT F. EPSTEIN, City Attorney

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

ATTEST:
City Clerk

By: _____

Name: _____

Title: _____

LINDSAY LARA, City Clerk

EXHIBIT A SCOPE OF SERVICES

The Services to be performed for **CITY** by **CONSULTANT** under this Agreement are more fully described in **CONSULTANT**'s proposal, which is attached to this Exhibit A.

A. Program Description

1. Volunteer Work Experience Program: the Streets Team Volunteers Program (STVP), DST's flagship program, invites people experiencing homelessness to volunteer on teams dedicated to cleaning streets, parks, encampments, and other public spaces. This program fosters community, builds confidence, reaffirms dignity, and develops employment soft skills such as punctuality, cooperation, and personal responsibility. Team Members, who are unhoused neighbors or at risk of homelessness, receive access to case management, system navigation, and employment placement services from trained DST Case Managers and Employment Specialists.

2. Workforce development through social enterprise: In 2019, Streets Team Enterprises (STE) was incorporated into DST as a social enterprise workforce development program. STE's mission is to help individuals attain permanent employment by providing training and transitional paying jobs. STE provides a steppingstone of supported employment to people impacted by homelessness, systemic trauma, and incarceration. Staff earn a wage while gaining practical employment experiences and are supported with case management, employment services, and housing linkage. Participation in STE is designed to be temporary, with the end goal of participant employees achieving self-sufficiency through lasting external employment.

3. Service types and locations:

a. Mahon Creek Path encampment:

DST has been operating throughout all facets of DST Marin County's programming to serve residents at the Mahon Creek Path Encampment in San Rafael since its inception. Since July 2023, our STVP Team has removed 24,500 gallons of debris from the Mahon Creek trail, and our case management staff have been the primary support in permanently housing 8 Mahon Creek residents. Furthermore, our bilingual outreach staff have been successfully building rapport and trust with the monolingual Spanish-speaking undocumented community members residing on Mahon Creek Trail and the surrounding areas, connecting them with vital services.

b. Downtown Business District

c. Canal Neighborhood

4. Program staffing offered: the following DST Staff are employed under this City of San Rafael contract:

- STVP & STE Program Manager (DST Marin Staff)
Manages the STVP and STE programs, ensuring alignment with programmatic and organizational goals. Directly supporting our STVP & STE Housing Case Manager, our STVP & STE Employment Specialist, and STE Participant Employees.
- STVP & STE Housing Case Manager (DST Marin Staff)
Provides housing case management services for both STVP and STE participants and alumni,

assisting them in removing clients' barriers to self-sufficiency with the ultimate goal of securing stable housing.

- STVP & STE Employment Specialist (DST Marin Staff): Provides employment services for both STVP and STE participants and alumni, assisting them in removing clients' barriers to self-sufficiency with the ultimate goal of securing employment placements.

- STVP Lead (STVP Participant Employee)

Supervises Teams of volunteers under our City of San Rafael contract conducting debris removal and beautification projects as well as administering peer-to-peer street outreach with individuals experiencing homelessness in efforts to increase volunteership as well as connect them to other services.

B. Operational Standards

Consultant will meet the following requirements in operations of the Downtown Streets Team's Volunteer Work Experience Program in San Rafael:

1. Consultant will continue the Volunteer model and Workforce Development Services launched in 2013 in San Rafael.
2. Consultant will provide at least two full-time staff members (1 FTE Project Manager and 1 FTE Case Manager/Employment Specialist) to supervise and administer the Volunteer Program and Workforce Development Services in San Rafael. Consultant will submit payroll summaries with monthly invoicing.
3. Consultant will provide a minimum of 10,000 hours of community cleanup services through the Street Beautification Program. A minimum of 15 and up to 20 individuals will be involved in the program at one time, with those individuals being people experiencing homelessness and/or people who are facing imminent housing insecurity (hereinafter referred to as "Team Members"). Consultant must maintain backup documentation, including but not limited to, a reconciliation of volunteer hours to stipends issued.
4. Consultant will continue operations of the Volunteer Work Experience Program in Downtown San Rafael, the Canal Neighborhood, as well as targeted "hot spots" and encampments as determined by the City of San Rafael within city limits.
5. Consultant will conduct outreach to individuals residing in encampments in San Rafael in preparation of encampment closures. Team Members may choose not to be present during encampment closure activities to maintain trusted relationships between Team Members and their peers residing in encampments. If additional cleanup is deemed necessary after encampment closure, Consultant may conduct debris removal at closed encampment site after closure has completed.
6. Consultant will operate the Volunteer Work Experience Program five days a week in agreed upon project areas. Team Members may not volunteer in inclement weather because of the increased health risk due to lack of housing. Inclement weather includes rain, extreme heat or cold, snow, or air quality. Team Members also do not volunteer during observed holidays.
7. Consultant will coordinate with the City of San Rafael on special projects including quarterly check-ins to determine the most appropriate deployment sites for Downtown Streets Team's services (e.g., Mahon Path, Canal Marsh, etc.).
8. Consultant will provide transportation for Team Members to deploy to cleanup sites throughout San Rafael when necessary.

9. Consultant will work closely with staff from City of San Rafael Community Development, San Rafael Police Department, and San Rafael Business Improvement District to identify encampments and other priority outreach and cleanup locations.

10. Consultant will provide workforce development services to assist Team Members transitioning to permanent employment. Such services may include job search classes and personalized job search support, resume and interview prep, developing internship placements, and developing mentor opportunities.

11. Consultant will conduct outreach to businesses to expedite hiring processes for Team Members.

12. To the extent possible, consultant will make general employment services, such as job search classes and employment leads, available to all persons experiencing homelessness in San Rafael, as well as people recently housed or sheltered in local programs.

13. Consultant will provide support services to assist Team Members with barriers to stable housing and employment. Such services may include enrolling in County benefits, record expungement, securing identification documents, completing work histories, providing transportation, referrals to hygiene services, and other similar support services.

14. Consultant will work collaboratively with case managers at partner agencies including, but not limited to, SAFE Team, St. Vincent de Paul Society of Marin, Community Action Marin, Homeward Bound of Marin, Ritter Center, Marin Community Clinics, and the County of Marin to provide wraparound support and care for Team Members.

15. Consultant will ensure it is complying with state and federal policies, guidance, and laws regarding Human Resource best practices and requirements for creating a safe and professional workplace for staff members and Team Members.

C. Impact measures and deliverables for FY 24-25:

DST will achieve the following outcomes for the Volunteer Work Experience and Workforce Development Services, reporting progress to the City monthly or quarterly on impact measures as described below.

- At least 50 STVP volunteers served
- At least 4 STE Participant Employees hired
- At least 15 Jobs secured
- At least 100,000 gals of debris removed

Downtown Streets Team Program Outcomes and Measures. Consultant

1. Consultant will maintain a Team size of 20 Team Members, with at least 10 based in Downtown and 6 based in the Canal neighborhood, 4 Team Members will target “hotspots” and encampment areas deemed by City of San Rafael Staff.

2. Consultant will remove a minimum of 100,000 gallons of blight from areas throughout San Rafael as demonstrated by before and after photos and quantified trash statistics.

3. Consultant will continue weekly collaboration with SAFE Team to ensure street outreach needs are being met throughout San Rafael.

4. Consultant will assist at least 15 Team Members in obtaining employment. Consultant will measure and report on employment retention and strive to achieve that 75% of such Team Members will retain employment for at least (3) months.

5. Consultant will assist 15 Team Members in finding secured housing placements.

6. Consultant will assist Team Members in removing at least 500 barriers to self-sufficiency (i.e. retrieving vital documents, completing resumes, accessing healthcare, enrolling in substance abuse treatment programs, record expungement, etc.)

7. Consultant will conduct quarterly anonymous surveys to collect self-reported data from Team Members:

a. Goal: 50% of Team Members with a mental health condition will seek out or remain in treatment.

b. Goal: 50% of Team Members with a substance use disorder will seek out or remain in treatment.

c. Goal: 50% of Team Members who have had an interaction with law enforcement/the criminal justice system will have reduced, or zero interactions after joining the Team.

d. Goal: 75% of Team Members will feel respected and heard by staff.

e. Goal: 75% of Team Members will report improved self-esteem and feelings of self-worth.

9. Consultant will provide monthly progress reports using a template provided by the City of San Rafael.

EXHIBIT B INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth below, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in this Exhibit B.

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

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

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

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

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

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

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

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

ISO form CG20 01 04 13.

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

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

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

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

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

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

9. **CONSULTANT** agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by **CONSULTANT**, provide the same minimum insurance coverage required of **CONSULTANT**, except as with respect to limits. **CONSULTANT** agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. **CONSULTANT** agrees that upon request by **CITY**, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the performance of Services will be submitted to **CITY** for review.

10. **CONSULTANT** agrees to be responsible for ensuring that no contract used by any party involved in any way with the Services reserves the right to charge **CITY** or **CONSULTANT** for the cost of additional insurance coverage required by this Agreement. Any











such provisions are to be deleted with reference to **CITY**. It is not the intent of **CITY** to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against **CITY** for payment of premiums or other amounts with respect thereto.

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

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

Sanctioned Encampment Site, 47 Total Campsites



- | | | |
|--|--|---|
|  Security Station/Gates |  Campsites, 7' x 7' and 10' x 10' |  Office Units 17' x 7' |
|  Portable Restrooms |  Storage Unit, 20' x 8' |  Smoking Area |
|  Garbage Dumpster |  Charging Docs located within Security Stations |  Pet Use Area |
|  Meeting Space Canopies | | |

San Rafael Sanctioned Camping Area
Draft Code of Conduct

1. Safety is the top priority. Violence of any kind and threats of violence of physical harm will not be tolerated (422 P.C statute). Any individual committing violence will be required to leave immediately and be barred from returning. Brandishing a weapon will not be tolerated.
2. Keeping the site organized and clean for the well-being of all residents is also a top priority. Individuals are required to maintain their personal belongings within their designated City-provided tent or storage unit. Items left outside the designated tent area including the fire lane or buffer between sites will be subject to removal.
3. All residents, authorized personnel and visitors shall be required to check in at the gate when entering the Sanctioned Camping Area. Residents will be subject to a visual check bag check by security when entering the site.
4. Dogs are permitted but must remain under the owner's control and on leash at all times while inside the sanctioned site and outside of participant's tents. Dogs must have leashes affixed upon entry into the site when checking-in with security. Any dog bite will require Marin Humane to assess the safety of the dog. Owners are responsible for promptly cleaning up all dog waste.
5. Open flames and any combustible materials are strictly prohibited within the site. Storage of gasoline, propane, torches, butane lighters, or other flammable substances is not permitted.
6. The use of extension cords is prohibited for any purpose. Charging of electrical devices may only occur in the designated charging area and is limited to cellphones, laptops, tablets, and other devices for communication. Generators, cooking appliances, and heaters are not permitted.
7. Each tent is designated for a specific individual. If a participant leaves the site for more than 48 hours, their space will be forfeited unless arrangements are made in advance with the management team or in cases of hospitalization. Tent spaces cannot be transferred to other individuals.
8. Only the tents, bases, and rain protection equipment provided by the City are permitted as camping structures. No additional structures, barriers or tents may be set up. Participants may not hang or affix any items to the inside or outside of tents within the sanctioned site.
9. No visitors are allowed within the sanctioned campsite area; all visitors must be met with outside the encampment. Service providers, health care professionals, City of San Rafael and County of Marin staff are allowed to visit the site.

10. Quiet hours must be observed between 11 p.m and 6 a.m. each day. Quiet hours are periods when noise must be kept to a minimum and contained within a participant's individual sleeping tent.
11. Respect for all neighbors and staff within the site is essential. We want this area to be a place of safety, comfort, and respect.

My signature below indicates my agreement with the above statements.

Signature: _____ Date: _____

Printed Name: _____

DRAFT

From: [REDACTED]
Sent: Friday, July 26, 2024 8:02 AM
To: Mayor Kate <Kate.Colin@cityofsanrafael.org>
Subject: Encampments

Dear Mayor Colin,

Now that San Francisco has started to clean up their city and the Governor has ordered cities to clean up the tents and trash. Is San Rafael finally going to clean up its city? I don't know if you are planning to run again for Mayor, but I can tell you that the large majority of resident don't have kind things to say right now and cleaning up ASAP will help change your image You can blame legal action and everything else but it still is happening under your watch.

Thanks,

Barbara Lutgue

Sent with [Proton Mail](#) secure email.

From: Brian Gellman [REDACTED]
Sent: Friday, August 9, 2024 9:08 AM
To: Mayor Kate <kate.colin@cityofsanrafael.org>
Subject: Bret Harte Resident Concerned with homelessness

Hello,

My wife and many neighbors have emailed you in the past couple years about the homeless CRISIS in San Rafael, an issue that simply does not exist, in this capacity, in any North Bay city. Each time it seemed you would respond with a "copy paste" response, pushing the blame onto the County.

I am wondering what the city is currently doing to clean up the creek trail camp and Anderson Ave camp. It is now time for the city to take action and clean itself up.

Thank you,

--

Brian Gellman
Real Estate Agent / Loan Officer
DRE 02028207 | NMLS 1589140
(408) 828-8727

Redwood Property Group
Western States Mortgage and Loan, INC.

From: Cayla Coleman [REDACTED]
Sent: Thursday, July 25, 2024 10:50 AM
To: Mayor Kate <Kate.Colin@cityofsanrafael.org>
Subject:

Dear mayor Kate:

Re the new ruling I am hoping that the shanty towns in San Rafael can be dismantled and the city can start feeling better and looking better

In addition I hope someone in charge of vandalism and graffiti can notify the owner of the bank bldg opp Kaiser on 3 rd street to remove the large graffiti defacing it and beckoning for more

Can our city revive itself ?

The many many empties on 4 th st say "no " but maybe if the huge homeless presence is removed we can take pride in San Rafael and its resources once again without people on our streets threatening, cursing the wind, and exhibiting their sad addiction and mental illness symptoms to all of us as we just go about daily business etc

(under " broken window theory ") are we going downhill or the other way ?

Thank you

Cayla Coleman lcsw

Sent from my iPhone

From: [REDACTED]
Sent: Monday, August 5, 2024 4:32 PM
To: Mayor Kate <kate.colin@cityofsanrafael.org>
Subject: Homeless encampments.

So with the executive order from Newsome, is there any chance your going to move on this disgusting and unsanitary disease Ridden area on anderson dr. God our taxes paid for the construction of that road. And it looks like hell. Are going to show some muster and have that disgusting mess cleaned out ? Or are you waiting for the next election and kick the can down the road. That way you can't keep ignoring the problem. I saw where the paper posted we've made progress. And 3 percent of the homeless peoples took the deal. 3 percent . Let's see 3 percent of let's say 175 is about 4 people ? Come on mayor how long does your community have to be patient. You should take a drive down there so you can be as depressed as you voters are. Don

From: Deschodt, Gregory [REDACTED]
Sent: Friday, August 9, 2024 12:45 PM
To: Mayor Kate <kate.colin@cityofsanrafael.org>
Subject: A typical drive through San Rafael

Hello Mayor, and thanks for having an available email for your constituents..

Just a quick story about today's drive in San Rafael... After taking my kid to a physical, I stop for gas downtown (shell). There I observe a couple homeless guys bothering a bunch of young girls refueling... They leave, one of them comes over and bothers me for money... After refueling, I am stopped at the light near another homeless guy soliciting more. Go home turning left after the bus station.. There's a homeless guy crossing illegally in traffic, not a care in the world. I continue onto Francisco blvd west, only to almost have an accident because the person in front of me slams on the brakes unexpectedly – you guessed it, a homeless person on a bike riding the wrong way up the road... Keep going, pass next to the lovely tent encampment on Andersen... Which incidentally extends a stone's throw to my kid's middle school (DMS)

I believe the governor passed a law giving you more latitude, I really think it is time to clean up san Rafael a little (a lot). It is frankly getting out of hand now.. thank you for reading, I imagine that is nothing new.

Greg Deschodt.

From: Laura Hamlin [REDACTED]
Sent: Sunday, August 11, 2024 11:01 AM
To: Mayor Kate <Kate.Colin@cityofsanrafael.org>
Cc: Don Jeppson <don.jeppson@cityofsanrafael.org>
Subject: Re: Fun Homeless Encampment

Good morning Kate and Don, hope you are doing well.

I'm following up on my e-mail dated April 11, 2024.

Today Sunday August 11, 2024, like every day I drove on Andersen drive. I had to zig zag to avoid large pieces of trash and a cart. The trash areas, which seem to be cleared on Thursdays, are already overflowing with large pieces of furniture and trash.

Today when I played tennis with my husband on the Woodland Avenue tennis courts we saw either dog or human feces. This is not the first time. Also now there is a tent by the tennis court, and school is starting soon.

After 32 years of living in this city, and paying a lot of money in taxes I think that I and the San Rafael residents deserve better.

I would like to know what the city is going to do now that the Supreme Court ruled on this issue as well as the governor. I would appreciate an answer and not a link to some convoluted explanation. I think I deserve it.

Many thanks,
Laura Hamkin

On Apr 11, 2024, at 10:36 AM, Laura Hamlin [REDACTED] wrote:

Good morning Kate, I just wanted to let you know that today I noticed an improvement on Andersen Drive, it was cleaner and the road was clear of debris
Thank you so much.
Have a nice day,
Laura
<PastedGraphic-2.pdf>

On Apr 9, 2024, at 7:24 PM, Mayor Kate <Kate.Colin@cityofsanrafael.org> wrote:

Hi Laura - I'm glad you enjoyed the event as it was an impromptu event that I organized for our employees and interested community members. And I loved sharing the moment with so many people are recognizing how we are specks on this earth!

Regarding your concern, I'm sharing below an email that I wrote this afternoon to a homeowner who expressed similar concerns. I hope you find it helpful and even though it doesn't have the simple/easy answer, it does provide the context of why we're in the situation we are in.

I'll just share a few brief things but I strongly encourage you to click through the many links on the page below as well as sign up for the newsletter updates. The most recent newsletter is on the landing page.

<https://www.cityofsanrafael.org/departments/homelessness/>

First of all, San Rafael is doing absolutely everything it is legally allowed to do in terms of regulating and relocating encampments. The options are few because we've been under a federal court order since last July when the plaintiffs sued the City after we passed a Restricted Camping ordinance. The City has passed 5 of these ordinances and been sued every time. The judge's Restraining Order limits the options available to the City. The basis of his ruling is the Martin v Boise federal case. You can read about it on the website but the gist is unless there are enough shelter beds for all the unhoused folks, they are legally allowed to camp wherever they want. As the County of the Marin is the agency that supplies the shelter beds, the City continues to advocate for more beds (and has for years) but haven't been able to convince the County to change the allocation of their resources towards interim shelter.

The judge has forbidden the removal of structures while the litigation is ongoing and the plaintiffs have filed additional ADA claims that provides another reason why the judge won't let the City remove them. The only tool that is available to the city is through the health and safety code and Fire Code and once a structure has received a notice that it is unsafe, the individual has the right to appeal. Which they have every single time as well as made the ADA claims. The city is commencing a voluntary compliance program through working with the individuals. I am optimistic that will be productive but if it isn't, then the City will continue to utilize the health and safety code which has its own set of time requirements as well as a mandatory appeal (if the individual refuses to remove the structure) before the Council.

Please know that the structures are a priority for the Council because they are unsafe for the occupants and the surrounding community. As your Mayor, I am committed to finding solutions that are safer for the unhoused and minimize the impact on the community in spite of the extreme restrictions placed on the City by the courts.

I welcome your engagement to learn the facts and support the City as we seek these tools. The City is considering a new ordinance at our Council meeting next Monday and I welcome your participation at the meeting. As the City has been sued the previous 5 times, I am cautiously optimistic that this new ordinance will be acceptable to the judge if/when we get sued again.

In closing, thanks for reaching out as sometimes people make the false assumption that the City isn't 'doing' anything to address the issue of homelessness and encampments and that is simply not true. I appreciate your willingness to learn the facts, context of the situation; as frustrating as it is.

Warmly,

Kate

Kate Colin (she/her/hers)
Mayor, City of San Rafael

<Outlook-2n53r0u2.png>

Follow the city on instagram: @thecityofsanrafael

From: Laura Hamlin [REDACTED]
Sent: Tuesday, April 9, 2024 1:32 PM
To: Mayor Kate <kate.colin@cityofsanrafael.org>

Cc: Don Jeppson <don.jeppson@cityofsanrafael.org>

Subject: Fun eclipse party and a question

Hello Mayor Colin,

Thank you so much for the fun eclipse gathering at City Hall. Those are the nice things about our City.

My name is Laura Hamlin, and I have been living in San Rafael for almost 32 years. My kids went to Glenwood, Davidson and San Rafael High where they got to enjoy the wonderful Music and Drama classes.

I live in the Bret Harte neighborhood. As an architect I have done many projects in the neighborhood, as well as working on the Community Center in the Pilgrim Park apartments near Los Ranchitos.

I'd like to express my concerns about the un-housed people living in tents on Andersen Drive. I know this is not a situation that can be resolved easily - I'm aware of the lawsuit that is pending - but as a taxpayer who follows the rules and respects my neighbors, it would be nice if the city could do something to improve the situation.

Every morning when I drive on Andersen, I have to avoid pieces of pipe and debris that have fallen onto the road from the encampments. A lot of trash, mattresses, shopping carts and other debris are scattered around the tents.

The fence installed to separate the commercial buildings is full of graffiti, and the trash cans are always full.

I was wondering if the city can at least make sure the area is cleaned more regularly, as well as requiring people living there to comply with some basic rules that would keep the area cleaner.

Andersen Drive was develop to provide a nice gateway into downtown San Rafael, leading all the way to the Mission. Right now it is very unattractive and unwelcoming. It doesn't make me proud of my city.

Thank you for listening to my concerns, and I hope the city can do something about it.

Sincerely,
Laura Hamlin

From: Mariah Baird [REDACTED]
Sent: Friday, August 9, 2024 9:19 AM
To: Mayor Kate <kate.colin@cityofsanrafael.org>
Subject: "This entire battle has been a total victory for the residents...at Mahon Creek."

Prince is exactly right. I am further disappointed that your statement quoted in the IJ about resolving encampments in an "empathetic" way totally ignores the residents of San Rafael --- your actual constituents - who have to bear the burden of this ongoing appropriation and abuse of public property. When will your office recognize that we are your constituents, and it is your job to make the necessary policy decisions on our behalf, rather than continuing to coddle a population that has no stake in the city, and the "nonprofit" industry that consumes city resources better used to benefit your constituents?

From: Mariah Baird [REDACTED]
Sent: Tuesday, August 13, 2024 3:10 PM
To: Mayor Kate <kate.colin@cityofsanrafael.org>
Subject: Does San Rafael have a new flag?

The Mahon Path camp has chosen one for you. Why are you continuing to permit this behavior?



From: Mariah Baird [REDACTED]
Sent: Tuesday, August 13, 2024 3:12 PM
To: Mayor Kate <kate.colin@cityofsanrafael.org>
Subject: New tent site forming

This is at Woodland and Auburn. Will the city allow this to grow?



From: Natalie [REDACTED]
Sent: Tuesday, August 13, 2024 1:49 PM
To: Mayor Kate <Kate.Colin@cityofsanrafael.org>
Subject: Re: Encampments

Hi Mayor Kate,

I hope this message finds you well. My name is Natalie, and I am reaching out as a San Rafael homeowner and concerned parent.

Last December, we had a troubling experience when an unhoused individual, who appeared intoxicated and unstable, was walking down Irwin Street late at night. This person walked onto my and my neighbors' private properties and made threatening remarks, creating a genuinely frightening situation for me and my infant son (we were home alone at the time). Despite a call to the police from a neighbor, I don't believe any assistance arrived.

I understand that being unhoused is not a crime, and I genuinely empathize with this population, but threatening and disturbing residents on their private property is deeply concerning. **The homeless encampments on Andersen and Francisco in their current state are not a viable solution for San Rafael residents, housed or unhoused.** While I recognize that the city has made some efforts on this issue, it's clear that the conditions of these camps are in no way contained to these areas, and are a threat to public safety and quality of life.

I have been closely following the Supreme Court's rulings and the subsequent state guidelines regarding these encampments. Many neighbors, including myself, are anxiously awaiting the city's response to Governor Newsom's recommendations to address and ultimately clear these encampments. However, it remains unclear how the city plans to move forward.

I'm disheartened to read that San Rafael is planning to further fund the Mahone Creek site using millions of dollars in grant money, legitimizing this hazardous and unsafe camp and ultimately designating it as a long-term solution. I'm also aware of the city's investment in the Kerner street building renovation, but don't see that as a holistic solution when many unhoused individuals decline services and prefer to remain outside of shelters or housing. To that point, while I recognize that the unhoused would ideally be located close to city services, it's not lost on me that other neighborhoods in San Rafael do not have to bear the burden of having a sanctioned, city-funded homeless encampment just blocks away from their homes (or any neighborhood in Southern Marin for that matter). The Bret Harte and Picnic Hill neighborhoods are full of working-class families, and it continues to feel like the city is indifferent to our safety and quality of life.

We chose to move to San Rafael three years ago with hopes of raising our family in a vibrant community. Unfortunately, if the current issues persist, we will have to reconsider our decision to stay. The safety and well-being of our community are at stake, and it feels as though the current measures are falling short.

Before the August 19th City Council meeting, I urge you and other city officials to please reconsider the designation of the Mahone Creek Path as a permanent camp location. This site, along with the illegal camp on Andersen, are not appropriate or fair solutions for our neighborhoods and could further impact our downtown area negatively.

Thank you for taking the time to read this message. I genuinely care about our community and have compassion for those facing hardships. However, it is essential to find a sustainable approach that ensures the safety and well-being of all residents.

Best,
Natalie

From: Thomas Montgomery [REDACTED]
Sent: Friday, August 9, 2024 11:33 AM
To: Mayor Kate <Kate.Colin@cityofsanrafael.org>
Subject: Marin Independent Journal: Federal judge: San Rafael can enforce homeless camping law

I thought you might like this story from Marin Independent Journal.

Time for action Ms. Mayor

Federal judge: San Rafael can enforce homeless camping law

<https://www.marinij.com/2024/08/08/federal-judge-san-rafael-can-enforce-homeless-camping-law/>



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Sarah Teplitsky,
Associate Civil Engineer
April Miller, Public Works Director
Micah Hinkle, Community and
Economic Development Director

City Manager Approval:  _____

TOPIC: AMENDMENTS TO CHAPTER 15.155 (URBAN LOT SPLITS) AND CHAPTER 15.03 (MINOR SUBDIVISIONS (FOUR OR FEWER LOTS)) OF THE SAN RAFAEL MUNICIPAL CODE

SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 15.155 (URBAN LOT SPLITS) AND CHAPTER 15.03 (MINOR SUBDIVISIONS (FOUR OR FEWER LOTS)) OF THE SAN RAFAEL MUNICIPAL CODE TO CLARIFY AND IMPROVE THE PROCEDURE FOR IMPLEMENTATION OF GOVERNMENT CODE SECTION 66411.7 (SENATE BILL 9) RELATED TO URBAN LOT SPLITS

RECOMMENDATION:

Introduce an Ordinance amending Chapter 15.155 (Urban Lot Splits) and Chapter 15.03 (Minor Subdivisions (Four or Fewer Lots)) of the San Rafael Municipal Code to clarify and improve the procedure for implementation of Government Code Section 66411.7 (Senate Bill 9) related to urban lot splits, waive further reading of the Ordinance, and refer to it by title only.

BACKGROUND:

On September 16, 2021, Governor Newsom signed [Senate Bill 9 \(SB 9\), the California Home Act](#), which requires municipalities to allow additional housing development on single-family zoned parcels through subdivisions and additional primary residential units.

This bill, which took effect on January 1, 2022, consists of two primary components:

1. SB 9 Housing Development (Government Code Section 65852.21). Provisions to allow development of up to two primary residential units on lots in single-family zoning districts; and
2. Urban Lot Splits (Government Code Section 66411.7). Provisions to allow the subdivision of lots in single-family zoning districts into two lots.

On [July 18, 2022](#), the City Council introduced Ordinance No. 2013 to add Section 14.16.282 (SB 9 Housing Developments) and Chapter 15.155 (Urban Lots Splits) to the San Rafael Municipal Code to implement Government Code Sections 65852.21 and 66411.7 (Senate Bill 9) related to SB 9 Housing

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

Developments and Urban Lot Splits. Ordinance No. 2013 was then adopted by the City Council at the [August 1, 2022](#) City Council meeting.

Since the adoption of Ordinance No. 2013, the City has received a number of Urban Lot Split development applications per the provisions of Chapter 15.155. The processing and review of these applications by the Departments of Community Development and Public Works has revealed some necessary changes to Chapter 15.155 to clarify and improve the procedure for Urban Lot Split applications.

ANALYSIS:

In the City of San Rafael, divisions of land into four or fewer lots are considered “Minor Subdivisions” and are governed by the procedures established by [Chapter 15.03](#) of the San Rafael Municipal Code. Under Chapter 15.03, applications for minor subdivisions follow a two-step process. First, the applicant must apply for a tentative map and receive approval from the Community Development Director or, if required per [Section 15.03.050](#), by the the Planning Commission. Once the tentative map has been approved, the applicant may submit a parcel map for approval by the City Engineer, and then record the approved parcel map with the County of Marin Recorder’s Office.

However, under [Chapter 15.155](#), Urban Lot Split applications currently only require the preparation of a parcel map, without the initial step of preparing a tentative map that is required for all other types of minor subdivisions. SB 9 makes the distinction between urban lot splits and other types of minor subdivisions by providing that urban lot splits shall be ministerially approved, without discretionary review or hearing, if the proposed urban lot split meets certain requirements. However, pursuant to Government Code Section 66428(a), SB 9 does not preclude a local agency’s ability to require a tentative map in addition to a parcel map. Other agencies in the Bay Area, such as the City of Walnut Creek, have implemented SB 9 with the requirement to prepare both a tentative map and a parcel map for an urban lot split application.

There are multiple benefits to requiring a tentative map prior to a parcel map:

1. Consistency with Other City Processes. All other types of minor subdivisions follow a two-step application process, with a tentative map followed by a parcel map. Mirroring other City processes as much as possible reduces confusion for applicants and for City staff responsible for reviewing the applications.
2. Reduce Unnecessary Burden on the applicant. A tentative map and parcel map serve different purposes. The tentative map is primarily a planning document, used by the Community Development Department to verify that the proposed subdivision meets all applicable requirements. In the case of an Urban Lot Split application, the tentative map can be used to verify that the proposed urban lot split meets the objective development standards of Chapter 15.155.030 and that none of the circumstances listed as “Limitations on Approval” in Chapter 15.155.020 apply. The engineering aspects of the tentative map, such as lot layout and dimensions, may be approximate at this stage. If the tentative map is approved, then the applicant may submit a parcel map, which is primarily a technical engineering document reviewed and approved by the Public Works Department. A parcel map must be prepared by a registered civil engineer or licensed land surveyor and must contain final lot layout, including traverse closures and the computation of all distances, angle and courses. By separating the content required on the tentative map and parcel map, the applicant can avoid the burden of submitting the technical engineering calculations and mapping until the Community Development Department has verified that the proposed urban lot split does in fact meet the objective development standards by

approving the tentative map. If the tentative map is not approved, there is no benefit to the applicant going through the process of preparing a parcel map.

Therefore, Public Works staff, in collaboration with Community Development staff, have prepared an Ordinance to amend Chapter 15.155 to include a two-step application process of tentative map and parcel map for urban lot splits. The revisions lay out application requirements that refer back to Chapter 15.03 (Minor Subdivisions) as much as possible to provide consistency with other existing City processes.

During the process of revising Chapter 15.155 to implement a two-step application process, staff noticed other revisions that may be made to the chapter for clarity and/or improvement of the urban lot split application process. Consequently, Ordinance amendments also include the following revisions to Chapter 15.155:

- The tentative map application will require the property owner to submit signed affidavits certifying the following:
 - The property owner intends to occupy one of the housing units as their principal residence for a minimum of three years from the date of approval of the urban lot split. This requirement is added pursuant to Government Code Section 66411.7(g).
 - No demolition or alteration of “protected housing” will be required for the proposed urban lot split. Demolition or alteration of “protected housing” is already not permitted per Section 15.155.020(F)(1), so the addition of an affidavit from the property owner provides further clarity that this requirement is fulfilled.
 - The property owner has not previously subdivided an adjacent parcel using an urban lot split. This is already not permitted per Section 15.155.020(F)(5), so the addition of an affidavit from the property owner provides further clarity that this requirement is fulfilled.
- The parcel map will be required to contain a note on the map indicating that both new parcels were created using the provisions of Chapter 15.155 and that no further subdivision of the parcels is permitted. This requirement will help ensure compliance with Section 15.155.020(F)(4) in the future.
- Prior to approval and recordation of the parcel map, the applicant will be required to record a restrictive covenant and agreement prohibiting further subdivision of the parcel, a limitation restricting the property to residential uses only, and a requirement for dwelling units on the property to be rented or leased only for periods longer than thirty days. This requirement is added pursuant to Government Code Sections 66411.7(a)(3)(F), 66411.7(f), and 66411.7(h).

Finally, two proposed amendments to Chapter 15.03 have also been included in the Ordinance to clarify that tentative maps and parcel maps for urban lot splits submitted pursuant to Chapter 15.155 shall be reviewed ministerially in accordance with the provisions of SB 9.

COMMUNITY OUTREACH:

On August 9, 2024, this public hearing was duly noticed in the Marin Independent Journal for the City Council to receive public comments and consider an Ordinance amending the San Rafael Municipal Code.

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

OPTIONS:

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

1. Introduce the Ordinance, waive further reading, and refer to it by title only.
2. Do not introduce the Ordinance, and direct staff to return with additional information or changes to the Ordinance.

RECOMMENDED ACTION:

Introduce an Ordinance amending Chapter 15.155 (Urban Lot Splits) and Chapter 15.03 (Minor Subdivisions (Four or Fewer Lots)) of the San Rafael Municipal Code to clarify and improve the procedure for implementation of Government Code Section 66411.7 (Senate Bill 9) related to urban lot splits, waive further reading of the Ordinance, and refer to it by title only.

ATTACHMENTS:

1. Ordinance

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AMENDING CHAPTER 15.155 (URBAN LOT SPLITS) AND CHAPTER 15.03 (MINOR SUBDIVISIONS (FOUR OR FEWER LOTS)) OF TITLE 15 (SUBDIVISIONS) OF THE SAN RAFAEL MUNICIPAL CODE TO CLARIFY AND IMPROVE THE PROCEDURE FOR IMPLEMENTATION OF GOVERNMENT CODE SECTION 66411.7 (SENATE BILL 9) RELATED TO URBAN LOT SPLITS

SECTION 1. FINDINGS

WHEREAS, Senate Bill 9 (Chapter 162, Statutes of 2021) enacted Section 66411.7 to the Government Code, effective January 1, 2022; and

WHEREAS, these provisions require the City to provide ministerial approval of urban lot splits; and

WHEREAS, the City Council adopted Ordinance No. 2013 on July 18, 2022 to add Chapter 15.155 (Urban Lot Splits) to Title 15 (Subdivisions) of the San Rafael Municipal Code to implement the provisions of Government Code Section 66411.7; and

WHEREAS, the application process for urban lot splits projects outlined in Chapter 15.155 does not include preparation of a tentative map prior to the parcel map; and

WHEREAS, requiring preparation of a tentative map prior to the parcel map will provide consistency with other City processes for review of subdivisions and is permitted pursuant to Government Code Section 66428(a); and

WHEREAS, modification to the City's ordinance as provided in the subject ordinance amendments is intended clarify and improve the application process for urban lot splits while continuing to implement the provisions of Government Code section 66411.7.

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

SECTION 2. AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE CHAPTER 15.155 OF TITLE 15

Section 15.155.020 of Chapter 15.155 (Urban Lot Splits) of Title 15 (Subdivisions) of the San Rafael Municipal Code is hereby amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strike through~~. All other provisions of Chapter 15.155 are unaffected by these amendments.

15.155.020 Filing, processing, and action.

- A. Ministerial Review. An urban lot split shall be ministerially approved, without discretionary review or hearing, if the proposed subdivision meets all provisions of this chapter and conforms to all applicable objective requirements of the Subdivision Map Act (Division 2) commencing with Section 66410 of the Government Code.

- B. Tentative Parcel Map. Applicants for urban lot splits shall submit a parcel map application. Pursuant to Government Code Section 66428(a), a tentative map and parcel map shall be required for all proposed urban lots splits. Tentative map applications shall be filed with the Department of Community Development by the property owner(s) of record or representatives of the property owner (subdivider) and must include all information specified in Section 15.02.020(a)-(f) of this title. The tentative map shall be reviewed and approved prior to submittal of the parcel map application. As part of the tentative map application, the property owner shall provide signed affidavits, all in a form approved by the City Attorney:
1. A statement that the property owner intends to occupy one of the housing units on the newly created lots as its principal residence for a minimum of three years from the date of the approval of the urban lot split. This subsection shall not apply to a property owner that is a "community land trust," as defined in clause (ii) of subparagraph (C) of paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code or is a "qualified nonprofit corporation" as described in Section 214.15 of the Revenue and Taxation Code.
 2. If any existing housing is proposed to be altered or demolished, the owner of the property's statement that none of the conditions listed in Section 15.155.020(E)(3) exist. This affidavit shall include a comprehensive history of the occupancy of the units to be altered or demolished for the past three years (five years if an existing unit is to be demolished).
 3. The property owner shall also sign an affidavit stating that neither the property owner nor any person acting in concert with the property owner, has previously subdivided an adjacent parcel using an urban lot split.
- C. Completeness Review of Tentative Map Application by Department of Community Development. Applications for a tentative map for an urban lot split shall be reviewed and processed by the Department of Community Development as follows:
1. Within thirty (30) days of receipt of the application, the Department of Community Development shall review the materials to determine if all information has been submitted to deem the application complete for processing; and shall advise the property owner and/or subdivider, in writing, whether the application is complete or is incomplete, listing the additional information needed for processing.
- ~~DC.~~ Action by Department of Community Development. The city-Department of Community Development shall act on a parcel tentative map application for an urban lot split within sixty (60) days of receipt of a complete application. If the applicant requests a delay in writing, the sixty-day time period shall be tolled for the period of the delay. The city Department of Community Development has acted on the application if it:
1. Approves or denies a parcel tentative map application for an urban lot split; or
 2. Informs the applicant in writing that changes to the proposed project are necessary to comply with this chapter or other applicable laws and regulations.
- D. ~~Parcel maps for urban lot splits shall not be conditioned on dedication of right-of-way or construction of offsite improvements.~~

~~E. Adverse Impact Upon Health and Safety. A proposed urban lot split shall be denied if the building official makes a written finding, based upon a preponderance of the evidence, that the proposed urban lot split would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.~~

EF. Limitations on Tentative Map Approval. A proposed tentative map for an urban lot split shall not be eligible for approval pursuant to this chapter if any of the following circumstances apply:

1. The proposed map is not consistent with the development standards as specified in Section 15.155.030 of this chapter.

2. The building official makes a written finding, based upon a preponderance of the evidence, that the proposed urban lot split would have a specific, adverse impact, as defined and determined in paragraph (2) of subdivision (d) of Section 65589.5 of the Government Code, upon public health and safety or the physical environment and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact.

34.The proposed urban lot split would require demolition or alteration of "protected housing." Protected housing includes:

- a. Housing that is subject to a recorded covenant, ordinance or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
- b. Housing that is subject to rent control through valid local rent control provisions.
- c. A parcel on which the owner of residential real property has withdrawn accommodations from rent or lease pursuant to Section 7060 of the Government Code within fifteen (15) years preceding the development application (i.e., an exit of the rental housing business pursuant to the Ellis Act).
- d. Housing that has been occupied by a tenant in the last three (3) years.

42.The parcel to be subdivided is located within a historic district, is included on the State Historic Resources Inventory, or is within a site that is legally designated or listed as a city or county landmark or historic property or district.

53.The parcel to be subdivided is located in any of the specified designated areas set forth in subparagraphs (B) to (K), inclusive, of paragraph (6) of subdivision (a) of Section 65913.4 of the Government Code and does not satisfy the eligibility requirements therein.

64.The parcel to be subdivided has been established through prior exercise of an urban lot split pursuant to this chapter.

75.Either the owner of the parcel to be subdivided or any person acting in concert with

the owner has previously subdivided an adjacent parcel using an urban lot split pursuant to this chapter. "Acting in concert" means the owner, or a person acting as an agent or representative of the owner, knowingly participated with another person in joint activity or parallel action toward a common goal of subdividing the adjacent parcel.

F. Tentative Map Conditions of Approval. A tentative map for an urban lot split may be approved subject to conditions of approval. Conditions of approval may include the imposing of restrictions and easements, consistent with the provisions of this title, and compliance with specific permit requirements such as set forth in Section 14.16.282. Tentative maps for urban lot splits shall not be conditioned on dedication of right-of-way or construction of offsite improvements. Tentative maps shall be conditioned to require approval of a parcel map by the Department of Public Works.

G. Review of Parcel Map Application. Parcel maps shall conform to the requirements of, and shall be reviewed and approved pursuant to, Sections 15.03.090 through 15.03.140, with the following additional requirements:

1. The parcel map created pursuant to an urban lot split shall contain a note on the map indicating that both new parcels were created using the provision of this chapter and Government Code Section 66411.7, and that no further subdivision of the parcels is permitted.

2. Prior to the approval and recordation of the parcel map, the applicant shall record a restrictive covenant and agreement in the form prescribed by the City Attorney, which shall run with the land and shall contain the provisions listed below.

a. A prohibition against further subdivision of the parcel using the urban lot split procedures as provided for in this chapter;

b. A limitation restricting the property to residential uses only; and

c. A requirement that dwelling units on the property may be rented or leased only for a period longer than thirty days.

SECTION 3. AMENDMENTS TO SAN RAFAEL MUNICIPAL CODE CHAPTER 15.03 OF TITLE 15

Sections 15.03.050 and 15.03.120 of Chapter 15.03 (Minor Subdivisions (Four or Fewer Lots)) of Title 15 (Subdivisions) of the San Rafael Municipal Code are hereby amended to read as follows. Additions are shown in underline, and deletions are shown in ~~strikethrough~~. All other provisions of Chapter 15.03 are unaffected by these amendments.

15.03.050 Referral to planning commission.

When the tentative map application is determined to be complete, the department of community development shall determine if the minor subdivision application is to be reviewed and acted on by the community development director or the planning commission, except for tentative maps submitted pursuant to Government Code 66411.7 and Chapter 15.155 of this

title, which shall be reviewed ministerially. All minor subdivision applications shall be referred to the planning commission when:

- (a) The application is determined to be subject to environmental review and the preparation of an initial study is required to assess the potential environmental impacts of the minor subdivision;
- (b) The application includes a request for an exception from one or more of the provisions of this title;
- (c) The property proposed for subdivision is located in a hillside area and is subject to the provisions of Chapter 15.07 of this title;
- (d) The application is being processed concurrently with other applications requiring planning commission or city council approval;
- (e) The application involves a division of land where one or more of the created lots or parcels does not have frontage on an existing public street;
- (f) The director of community development determines that there is extraordinary public concern about the proposed division; or
- (g) The director of community development determines that the proposed division is of a size, importance or unique nature such that it is judged not to be a routine matter.

All minor subdivision applications referred to the planning commission for review and action shall be processed consistent with the major subdivision procedures set forth in Chapter 15.02 of this title.

15.03.120 Review by city engineer.

- (a) Upon receipt of the parcel map application, the city engineer shall have sixty (60) calendar days to review and approve the parcel map and all supportive improvements plans and reports. Following initial review, the city engineer shall provide written comments and corrections on these materials to the subdivider's engineer, who shall, in turn, make corrections and/or additions until the map and supportive documents are acceptable to the city engineer, unless the project is approved pursuant to Government Code 66411.7 and Chapter 15.155 of this title, in which case the review shall adhere strictly to ministerial standards without requiring further modifications. The sixty (60) calendar days shall not include any days in which the improvement plans have been returned to the subdivider's engineer for correction or those days for which the plans are subject to review by agencies other than the city.
- (b) Upon making all final corrections and additions, the subdivider's engineer shall submit the original parcel map to the city engineer. This original shall be submitted with the signatures of all parties required to execute the statements on the parcel map.

SECTION 4. SEVERABILITY

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared to be

severable. If for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases, and the remaining portions of this Ordinance shall continue in full force and effect unless amended or modified by the city.

SECTION 5. COMPLIANCE WITH CEQA

Pursuant to Government Code Section 66411.7(n), enactment of this Ordinance is not considered a project under the California Environmental Quality Act (CEQA) as this action is to adopt an ordinance to implement the provisions of Section 66411.7 of the Government Code.

SECTION 6. EFFECTIVE DATE AND PUBLICATION

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

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.

THE FOREGOING ORDINANCE was first read and introduced at a regular meeting of the San Rafael City Council on the 19th day of August 2024, and was passed and adopted at a regular meeting of the San Rafael City Council on the 3rd of September by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk



Agenda Item No: 6.a
Meeting Date: August 19, 2024

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Sustainability

Prepared by: Kate Hagemann
Climate Adaptation and Resilience Planner

City Manager Approval: _____ 

TOPIC: RESPONSE TO THE GRAND JURY REPORT ON SEA LEVEL RISE

SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE RESPONSE TO THE MARIN COUNTY CIVIL GRAND JURY REPORT TITLED “SEA LEVEL RISE: THE WATER IS UPON US WE CANNOT RUN - WE CANNOT HIDE”

RECOMMENDATION:
Adopt a resolution approving and authorizing the Mayor to execute the City of San Rafael’s response to the Marin County Civil Grand Jury Report titled, “Sea Level Rise: The Water is Upon Us We Cannot Run - We Cannot Hide”.

BACKGROUND:
The City is not required to respond to the Grand Jury Report; however, the City was listed as an “invited” respondent and therefore staff is recommending the attached response.

Any response to this Grand Jury report from the City should be approved by resolution of the City Council and submitted to the Presiding Judge of the Marin County Superior Court and the Foreperson of the Grand Jury on or before August 29, 2024. A proposed resolution is provided as Attachment 1.

On May 31, 2024, the 2023-2024 Marin County Civil Grand Jury released a report entitled “Sea Level Rise: The Water is Upon Us We Cannot Run - We Cannot Hide”. The Grand Jury report addresses the vulnerability of Marin County to sea level rise and notes that “Marin has areas in which geographic, social, and financial stressors exist, creating or accentuation flooding vulnerabilities. These include the Canal neighborhood, Marin City, and areas of Novato”. The report focuses on the significant impact sea level rise will have and reviews on-going and recent efforts to plan for adaptation. The report highlights that the estimated adaptation costs in Marin County alone are expected to be approximately \$17 billion. This Grand Jury report is included as Attachment 2 and can also be accessed at the following link:

https://www.marincounty.gov/sites/g/files/fdkgoe241/files/2024-05/sea-level-rise_1.pdf

The Grand Jury Report presents the following findings:

F1. A comprehensive countywide agency is necessary to effectively address the impacts of sea level rise in Marin County.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

F2. To be effective, a countywide agency created to address sea level rise in Marin County should include the County of Marin, all cities and towns, and appropriate special districts in Marin County as funding participants.

F3. The complete failure to create and implement effective countywide sea level rise adaptation projects in Marin County will result in significant damages and losses to commercial and residential properties as well as infrastructure, both public and private.

F4. The 2034 deadline imposed by Sections 30985-30985.8 of the California Public Resources Code for each California county to submit its official sea level rise mitigation plan is “too little too late” for Marin County, and delaying action until then will expose coastal and Bay areas to unnecessary flooding risks, financial and other losses.

F5. Under-represented populations reside in areas that are severely vulnerable to sea level rise because they are in low-lying ground.

F6. Sea level rise plans to be developed by a countywide entity should include adaptation strategies that directly apply to under-represented communities in low-lying areas with great exposure to sea level rise, such as the Canal District, areas of Novato, and Marin City, among others.

The Grand Jury Report presents the following list of recommendations:

By March 20, 2025, the following actions should be implemented by:

R1. The Board of Supervisors, in collaboration with Marin county cities, towns, Bel Marin Keys Community Services District and Marin Water should create a comprehensive countywide agency with authority to plan and implement adaptation efforts addressing the impacts of sea level rise in Marin County.

R2. The Board of Supervisors should actively enlist the participation and support of state and federal legislators toward the creation and funding of this comprehensive countywide agency.

R3. The Board of Supervisors should require the newly created countywide entity to create plans that recognize and address sea level rise exposure and the specific risks to the populations in the Canal District, Marin City, specific areas in Novato, and all low-lying geographic regions where lower income populations reside. The plan should identify and address the risks impacting those populations, which include:

- (a) risks of becoming stranded due to inaccessible roads;*
- (b) lack of transportation if evacuations are called;*
- (c) mold that may grow inside their homes;*
- (d) exposure to infectious diseases due to contaminated standing water;*
- (e) need to relocate temporarily or permanently as a result of floods; and*
- (f) other community-specific risks identified in regional assessments.*

ANALYSIS:

The Grand Jury Report dated May 31, 2024, was distributed to the County of Marin and all cities/towns in Marin County.

Staff recommends that the City's response acknowledge the need to respond to rising sea levels, especially in the most vulnerable communities, but await the findings from the on-going sea level rise study being led by the County of Marin before recommending a particular governance structure or funding approach. This study, the Marin County Sea Level Rise Adaptation Organizational Structure and Decision-Making Process, is focused on recommending a Countywide sea level rise decision-making model.

As seen in Figure 1, many areas within San Rafael will be seriously impacted by relative sea level rise that is expected over the next 20 to 40 years and therefore it is essential that adaptation efforts move ahead as expeditiously as possible.

Figure 1: Areas vulnerable to flooding with 1 foot of sea level rise *Source: NOAA Sea Level Rise Viewer*
<https://coast.noaa.gov/slr/>



Responses to Findings:

The Marin Civil Grand Jury has invited the City to respond to findings F1-F6 and recommendations R1-R3.

F1. A comprehensive countywide agency is necessary to effectively address the impacts of sea level rise in Marin County.

Response: Partially disagree.

We agree that a comprehensive approach to adaptation is beneficial; however, there are inherent differences between jurisdictions and physical areas of the county. These differences should be adequately acknowledged and honored in any comprehensive approach to adaptation. At this moment, staff believes it is premature to recommend a specific governance or funding model to advance adaptation efforts and it is more appropriate to review the findings and recommendations that will arise from the County-led research project that is focused on answering these questions. The City of San Rafael is actively participating in that project and looks forward to contributing to the collaborative effort. The findings from that County-led study are expected in the first quarter of 2025.

F2. To be effective, a countywide agency created to address sea level rise in Marin County should include the County of Marin, all cities and towns, and appropriate special districts in Marin County as funding participants.

Response: Partially disagree

At this time there is an on-going study investigating the most appropriate governance and funding mechanisms to effectively address the challenges of sea level rise. We look forward to participating in that study and reviewing the findings and recommendations. Staff concludes that it would be premature to draw conclusions on the best governance model or funding structure before that study is concluded.

F3. The complete failure to create and implement effective countywide sea level rise adaptation projects in Marin County will result in significant damages and losses to commercial and residential properties as well as infrastructure, both public and private.

Response: Agree

A regional study led by the Bay Conservancy and Development Commission found that San Rafael is the community most at risk of significant impacts due to sea level rise expected in the short term in the entire Bay Area. The potential damages are significant to vulnerable residents, regional infrastructure, and commercial interests. San Rafael is closely connected to neighboring communities economically, socially, and through complex, interconnected infrastructure and transportation networks. Cross-jurisdictional planning will be essential in developing adequate solutions to sea level rise.

F4. The 2034 deadline imposed by Sections 30985-30985.8 of the California Public Resources Code for each California county to submit its official sea level rise mitigation plan is “too little too late” for Marin County, and delaying action until then will expose coastal and Bay areas to unnecessary flooding risks, financial and other losses.

Response: Agree

While planning work is underway and some adaptation projects have moved forward, adaptation efforts need to be scaled up and funding must be allocated from both the state and federal government to implement the measures that the studies identify. Given the long lead time needed to design, permit, fund, and construct large infrastructure projects, it is essential that adaptation be advanced as expeditiously as possible. This is particularly true for East San Rafael, which is already lower than today's highest tides and is experiencing impacts from sea level rise.

F5. Under-represented populations reside in areas that are severely vulnerable to sea level rise because they are in low-lying ground.

Response: Agree

In San Rafael, thousands of residents live on land that is already lower than today's high tides and will be increasingly vulnerable as sea level continues to rise and the ground continues to subside. Equity considerations must be at the forefront of all adaptation investments and under-represented communities in vulnerable areas, such as East San Rafael, should be prioritized given the life-safety and displacement risks that exist there.

F6. Sea level rise plans to be developed by a countywide entity should include adaptation strategies that directly apply to under-represented communities in low-lying areas with great exposure to sea level rise, such as the Canal District, areas of Novato, and Marin City, among others.

Response: Partially disagree

We strongly agree that adaptation investments should be prioritized in under-represented communities most exposed to sea level rise, including the Canal neighborhood. However, it is not yet clear whether a countywide entity would be the best way to advance this goal advancing adaptation strategies in under-represented communities.

RECOMMENDATIONS

By March 20, 2025, the following actions should be implemented by:

R1. The Board of Supervisors, in collaboration with Marin County cities, towns, Bel Marin Keys Community Services District and Marin Water should create a comprehensive countywide agency with authority to plan and implement adaptation efforts addressing the impacts of sea level rise in Marin County.

Response: The City of San Rafael does not have the authority to direct the Board of Supervisors to implement this recommendation. No further response by the City is required.

R2. The Board of Supervisors should actively enlist the participation and support of state and federal legislators toward the creation and funding of this comprehensive countywide agency.

Response: The City of San Rafael does not have the authority to direct the Board of Supervisors to implement this recommendation. No further response by the City is required.

R3. The Board of Supervisors should require the newly created countywide entity to create plans that recognize and address sea level rise exposure and the specific risks to the populations in the Canal District, Marin City, specific areas in Novato, and all low-lying geographic regions where lower income populations reside. The plan should identify and address the risks impacting those populations, which include:

- (a) risks of becoming stranded due to inaccessible roads;**
- (b) lack of transportation if evacuations are called;**
- (c) mold that may grow inside their homes;**
- (d) exposure to infectious diseases due to contaminated standing water;**
- (e) need to relocate temporarily or permanently as a result of floods; and**
- (f) other community-specific risks identified in regional assessments.**

Response: The City of San Rafael does not have the authority to direct the Board of Supervisors to implement this recommendation. No further response by the City is required.

FISCAL IMPACT:

There is no fiscal impact associated with this action.

OPTIONS:

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

1. Adopt the resolution.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.

RECOMMENDED ACTION:

Adopt a resolution approving and authorizing the Mayor to execute the City of San Rafael's response to the Marin County Civil Grand Jury Report entitled, "Sea Level Rise: The Water is Upon Us We Cannot Run - We Cannot Hide".

ATTACHMENTS:

1. Resolution, with attached City Response to the Grand Jury Report
2. Grand Jury Report dated May 31, 2024

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE RESPONSE TO THE MARIN COUNTY CIVIL GRAND JURY REPORT ENTITLED “SEA LEVEL RISE: THE WATER IS UPON US. WE CANNOT RUN - WE CANNOT HIDE”

WHEREAS, the City Council of the City of San Rafael has received and reviewed the Marin County Grand Jury Report, dated May 31, 2024, entitled “Sea Level Rise: The Water Is Upon Us. We Cannot Run - We Cannot Hide;” and

WHEREAS, the City of San Rafael was invited to respond

WHEREAS, pursuant to Penal Code section 933(c), a public agency which receives a final grand jury report addressing aspects of the public agency’s operations must, within ninety (90) days, provide a written response to the presiding judge of the Superior Court, with a copy to the foreperson of the grand jury, responding to the report’s findings and recommendations pertaining to matters under the control of the governing body; and

WHEREAS, Penal Code section 933(c) requires that the “governing body” of the public agency provide said response and, in order to lawfully comply, the governing body must consider and adopt the response at a noticed public meeting pursuant to the Brown Act; and

WHEREAS, Penal Code section 933.05 specifies the required contents of a city’s response to findings and recommendations of a civil grand jury; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Rafael hereby:

1. Approves and authorizes the Mayor to execute the City’s response to the Marin County Grand Jury’s dated May 31, 2024, entitled “Sea Level Rise: The Water Is Upon Us. We Cannot Run - We Cannot Hide;” a copy of which response is attached hereto as Attachment 1 and incorporated herein by reference.
2. Directs the City Clerk to forward the City’s response forthwith to the presiding judge of the Marin County Superior Court, with copy to the foreperson of the Marin County Grand Jury.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council held on the 19th day of August 2024, by the following vote to wit:

AYES:

NOES:

ABSENT:

LINDSAY LARA, City Clerk



RESPONSE TO GRAND JURY REPORT FINDINGS AND RECOMMENDATIONS

REPORT TITLE: "Sea Level Rise: The Water is Upon Us We Cannot Run - We Cannot Hide"
REPORT DATE: May 31, 2024
RESPONSE BY: San Rafael City Council

GRAND JURY FINDINGS

- The City agrees with the finding(s) numbered: **F3, F4, F5**
- The City disagrees partially with the finding(s) numbered: **F1, F2, F6**

GRAND JURY RECOMMENDATIONS

- Recommendations numbered **R1, R2, and R3** do not require a response by the City of San Rafael because they are recommendations for the Board of Supervisors, not the City of San Rafael.

Date: _____

Signed: _____
Mayor Kate Colin



City of San Rafael Response to Grand Jury Report Findings and Recommendations
“Sea Level Rise: The Water is Upon Us We Cannot Run - We Cannot Hide”
May 31, 2024

RESPONSE TO GRAND JURY FINDINGS

F1. A comprehensive countywide agency is necessary to effectively address the impacts of sea level rise in Marin County.

Response: Partially disagree.

We agree that a comprehensive approach to adaptation is beneficial; however, there are inherent differences between jurisdictions and physical areas of the county. These differences should be adequately acknowledged and honored in any comprehensive approach to adaptation. At this moment, staff believes it is premature to recommend a specific governance or funding model to advance adaptation efforts and it is more appropriate to review the findings and recommendations that will arise from the County-led research project that is focused on answering these questions. The City of San Rafael is actively participating in that project and looks forward to contributing to the collaborative effort.

F2. To be effective, a countywide agency created to address sea level rise in Marin County should include the County of Marin, all cities and towns, and appropriate special districts in Marin County as funding participants.

Response: Partially disagree

At this time there is an on-going study investigating the most appropriate governance and funding mechanisms to effectively address the challenges of sea level rise. We look forward to participating in that study and reviewing the findings and recommendations. Staff concludes that it would be premature to draw conclusions on the best governance model or funding structure before that study is concluded.

F3. The complete failure to create and implement effective countywide sea level rise adaptation projects in Marin County will result in significant damages and losses to commercial and residential properties as well as infrastructure, both public and private.

Response: Agree

A regional study led by the Bay Conservancy and Development Commission found that San Rafael is the community most at risk of significant impacts due to sea level rise expected in the short term. The potential damages are significant to vulnerable residents, regional infrastructure, and commercial interests. San Rafael is closely connected to neighboring communities economically, socially, and through complex, interconnected infrastructure and transportation networks. Cross-jurisdictional coordination will be essential in developing adequate solutions to sea level rise.



City of San Rafael Response to Grand Jury Report Findings and Recommendations
“Sea Level Rise: The Water is Upon Us We Cannot Run - We Cannot Hide”
May 31, 2024

F4. The 2034 deadline imposed by Sections 30985-30985.8 of the California Public Resources Code for each California county to submit its official sea level rise mitigation plan is “too little too late” for Marin County, and delaying action until then will expose coastal and Bay areas to unnecessary flooding risks, financial and other losses.

Response: Agree

While planning work is underway and some adaptation projects have moved forward, adaptation efforts need to be scaled up and funding must be allocated from both the state and federal government to implement the measures that the studies identify. Given the long lead time needed to design, permit, fund, and construct large infrastructure projects, it is essential that adaptation be advanced as expeditiously as possible. This is particularly true for East San Rafael, which is already lower than today’s highest tides and is experiencing impacts from sea level rise.

F5. Under-represented populations reside in areas that are severely vulnerable to sea level rise because they are in low-lying ground.

Response: Agree

In San Rafael, thousands of residents live on land that is already lower than today’s high tides and will be increasingly vulnerable as sea level continues to rise and the ground continues to subside. Equity considerations must be at the forefront of all adaptation investments and under-represented communities in vulnerable areas, such as East San Rafael, should be prioritized given the life-safety and displacement risks that exist there.

F6. Sea level rise plans to be developed by a countywide entity should include adaptation strategies that directly apply to under-represented communities in low-lying areas with great exposure to sea level rise, such as the Canal District, areas of Novato, and Marin City, among others.

Response: Partially disagree

We strongly agree that adaptation investments should be prioritized in under-represented communities most exposed to sea level rise, including the Canal neighborhood. It is not yet clear whether a countywide entity would be the best way to advance this goal advancing adaptation strategies in under-represented communities.



City of San Rafael Response to Grand Jury Report Findings and Recommendations
“Sea Level Rise: The Water is Upon Us We Cannot Run - We Cannot Hide”
May 31, 2024

RECOMMENDATIONS

By March 20, 2025, the following actions should be implemented by:

R1. The Board of Supervisors, in collaboration with Marin County cities, towns, Bel Marin Keys Community Services District and Marin Water should create a comprehensive countywide agency with authority to plan and implement adaptation efforts addressing the impacts of sea level rise in Marin County.

Response: The City of San Rafael does not have the authority to direct the Board of Supervisors to implement this recommendation. No further response by the City is required.

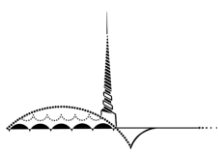
R2. The Board of Supervisors should actively enlist the participation and support of state and federal legislators toward the creation and funding of this comprehensive countywide agency.

Response: The City of San Rafael does not have the authority to direct the Board of Supervisors to implement this recommendation. No further response by the City is required.

R3. The Board of Supervisors should require the newly created countywide entity to create plans that recognize and address sea level rise exposure and the specific risks to the populations in the Canal District, Marin City, specific areas in Novato, and all low-lying geographic regions where lower income populations reside. The plan should identify and address the risks impacting those populations, which include:

- (a) risks of becoming stranded due to inaccessible roads;**
- (b) lack of transportation if evacuations are called;**
- (c) mold that may grow inside their homes;**
- (d) exposure to infectious diseases due to contaminated standing water;**
- (e) need to relocate temporarily or permanently as a result of floods; and**
- (f) other community-specific risks identified in regional assessments.**

Response: The City of San Rafael does not have the authority to direct the Board of Supervisors to implement this recommendation. No further response by the City is required.



Sea Level Rise: The Water is Upon Us We Cannot Run - We Cannot Hide

May 31, 2024



Source: County of Marin: <https://www.marincounty.org/main/sea-level-rise> Rising sea levels resulting from climate change. Mill Valley, Marin, circa 2020.

SUMMARY

The National Oceanic and Atmospheric Administration (NOAA) projects a 12-inch increase in sea level for the San Francisco Bay Area between now and 2050. This means that for the young girl in the photo above, the water may reach higher than the top of her green boots. The girl in the photograph, and others, may often find themselves in a knee-deep-in-water situation throughout the coming years. Twelve inches in 26 years.

Sea level rise can be as impactful as the fires seen across California and elsewhere in recent years. How? By damaging or destroying properties, rendering homes uninhabitable, making roads impassable, impacting power lines and pipes above and below ground, and threatening lives. However, since the effects of sea level rise are projected for years from now, more immediate issues may be prioritized, regardless of future risks. In addition, the complexity of addressing sea level rise may result in the postponement of critical adaptation actions such as building barrier walls to protect shoreline properties and hardening underground electric and sewage infrastructure. This approach will leave communities exposed to growing flood vulnerabilities.

The consequences of sea level rise will not suddenly bubble up in 2050 in Marin, or elsewhere. Impacts are already being seen and felt and they will become even more apparent and damaging over the coming years. What are the consequences for Marin? A 2017 Marin-focused vulnerability assessment conducted by The Bay Waterfront Adaptation and Vulnerability Evaluation (BayWAVE) describes potential risks caused by a ten-inch increase in sea level by 2050. The assessment points out that in just fifteen years sea level rise may threaten and damage

shoreline buildings, roads and utility systems, impacting all of Marin. The evaluation also finds that a one hundred year storm surge, which would rise sea waters as a result, would render ferry facilities unusable and impede commuters from traveling across the San Francisco Bay. Fire stations in low-lying areas would flood and emergency vehicles would lack the ability to respond to calls for assistance. Some levees, such as those south of Novato would be overtopped, flooding surrounding areas. Pipelines under vulnerable roads, as well as those in and around flood-prone properties would be squeezed between rising groundwater and the roads. As a result, pipes would break, leak, damage roads, impede the movement of cars, and flood properties, including critical infrastructure.¹

Marin is facing 10-12 inches of sea level rise in the span of 26 years. But the water has already arrived. Marin residents have been experiencing sea level rise and related tidal flooding in Corte Madera, Marin City, Mill Valley, and Sausalito, among other towns. This trend will only increase in frequency and intensity over the coming years.

Focusing on Marin County's bayside areas, this Grand Jury report addresses the following five aspects of sea level rise:

1. Sea level rise projections for 2050, resulting in possible financial losses and other impacts.
2. SB272, titled Sea Level Rise Planning and Adaptation, a 2023 state law requiring all California coastal cities to formulate sea level rise plans to be completed no later than 2034.
3. Information about newly emerging efforts to create a county-wide agency to address sea level rise in Marin, spearheaded by the Board of Supervisors.
4. Details about sea level rise initiatives in Marin that are being conducted independently by cities and towns with great exposure to flooding.
5. A description of how OneShoreline, also known as the San Mateo County Flood and Sea Level Rise Resiliency District, functions. The report describes how OneShoreline functions, its advantages and challenges. OneShoreline offers insights as to how a Marin countywide sea level rise entity could be formed and operate.

Based on its findings, the Grand Jury recommends that the county create an overarching, countywide agency with the ability to require all cities and towns to participate in sea level rise adaptation efforts. In addition, the Board of Supervisors should enlist the participation and support of state and federal legislators in its efforts to create the above-mentioned agency. While the new California sea level rise law establishes a 2034 deadline for each county to submit sea level rise adaptation plans, the Grand Jury concludes that Marin cannot wait ten years to complete such a plan because sea level rise is already impacting its communities, and flood risks will only increase over time.

Scientific assessments and sea level rise descriptions can be found in Appendix A in this report.

¹ Marin Shoreline Sea Level Rise Vulnerability Assessment. June 2017. Bay Waterfront Adaptation and Vulnerability Evaluation, BayWAVE. Executive Summary, page 18.

BACKGROUND

Why write this sea level rise report now?

*Because by 2050, NOAA predicts floods will occur ten times more than they do currently.*²

A 2020 Marin County Civil Grand Jury report about climate change, including sea level rise, urged the county government to create a multijurisdictional entity to focus on this issue. That Grand Jury found that this new entity should include all eleven cities and towns in Marin and should be able to design and undertake comprehensive adaptation and mitigation initiatives. The impetus for the 2020 report was the persistent lack of a countywide climate change agenda.³

In late 2023, the Board of Supervisors heeded the 2020 Grand Jury recommendation.⁴ Subsequently, they hired AECOM, a Dallas infrastructure consulting firm, to find the best approach to create such a countywide entity.⁵ The Grand Jury advises that as this new process unfolds it behooves the county government to widely inform and educate the public about the nature of this risk and impending sea level rise consequences directly impacting them. Public support for any effort in this area can only be gained if the full impact of sea level rise on both coastal and non-coastal areas is widely understood.

Marin will greatly benefit from acting on the insights and recommendations that this report offers about sea level rise adaptation plans and actions. These insights are based on a review of Marin's bayside cities and towns undertakings to date, as well as examples of sea level rise adaptation efforts elsewhere in the Bay Area.

This Grand Jury report is directed at the Marin County Board of Supervisors. The Grand Jury also seeks to reach the public at large, providing Marin County residents with the most up-to-date sea level rise information. This is as much a service to the community as it is making people aware of rising sea levels and associated risks to them.

² National Oceanic and Atmospheric Administration, *U.S. coastline to see up to a foot of sea level rise by 2050*, February 15, 2022, <https://www.noaa.gov/news-release/us-coastline-to-see-up-to-foot-of-sea-level-rise-by-2050>, (accessed 3/8/24).

³ Marin County Civil Grand Jury, *Climate Change: How will Marin Adapt?*, September 11, 2020, <https://www.marincounty.gov/sites/g/files/fdkgoe241/files/2024-01/climate-change-how-will-marin-adapt-2.pdf>, (accessed 5/3/24).

⁴ Government Contracts & Bids - GOVCB, *Marin County Sea Level Rise Adaptation Organizational Structure and Decision Making Process*, October 3, 2023, <https://www.govcb.com/government-bids/Marin-County-Sea-Level-Rise-Adaptation-And-NBD10537709459578961.htm>, (accessed 5/3/24).

⁵ "Marin County allocates \$500K for sea level rise plan." *Marin Independent Journal*, March 19, 2024, <https://www.marinij.com/2024/03/19/marin-county-allocates-500k-for-sea-level-rise-plan/>, (accessed 5/10/24).

APPROACH

To undertake this sea level rise investigation, the Grand Jury conducted interviews with key stakeholders in Marin in a range of departments within county government offices. Additionally, the Grand Jury interviewed sea level rise experts and non-profit leaders. The Grand Jury also interviewed sea level rise leaders outside of Marin to assess how other Bay Area counties are tackling risks through countywide agencies.

The Grand Jury reviewed the Request For Proposal the county government issued in 2023 to identify and hire consultants that will help find the best approach for a countywide, cohesive, and sustained collaboration among all eleven cities and counties in Marin.

A wide range of Marin-centered sea level rise assessments, as well as scientific reports about climate change and sea level rise on a global scale also inform this report. The Grand Jury reviewed local, state, and national media articles on the subject.

In mid-2023, the Grand Jury identified sea level rise as a topic of critical importance, conducting research for ten months. This report was completed on May 15, 2024.

DISCUSSION



Flooded path in Mill Valley. King tide on Friday, Jan. 11, 2024
Source: Sherry LaVars, Marin Independent Journal, January 12, 2024

NOAA has estimated that the San Francisco Bay Area will experience at least 12 inches of sea level rise by 2050.⁶ The most recent calculations presented by the California Ocean Protection Council indicate that in the next 30 years sea levels are likely to rise between 0.8 feet to one foot in California. This state-wide range starts at a slightly lower level than NOAA's San Francisco Bay Area's estimate.⁷ Either way, sea levels between 2050-2055 will be at, or near, one foot higher than they are today.

While mitigation, such as actions conducted to reduce human-caused gas emissions into the atmosphere, is very important, this report focuses on adaptation strategies. Adaptation actions include, among others, building sea walls, protecting above and underground critical infrastructure, and restoring marshlands to reduce the physical impact of raising waters. The Grand Jury focuses on adaptation because mitigation requires global attention. Marin's mitigation actions alone cannot make an immediate and significant difference for its residents to safeguard them from flooding. By implementing adaptation strategies, Marin can protect a wide range of personal property and critical infrastructure faster than any mitigation action could achieve. Through adaptation, Marin will preserve its natural sites, which offer ample recreational opportunities. Furthermore, natural sites help absorb the brunt of climate change in general, and sea level rise in particular.

Marin's cities and towns with greater exposure to sea level rise

This year, 2024, the Transportation Authority of Marin's Board of Commissioners approved funding for a sea level rise study to pinpoint the most exposed and vulnerable areas in the

⁶ Richard Halstead, "Marin sea level defense costs estimated at \$17B," *Marin Independent Journal*, October 30, 2023, <https://www.marinij.com/2023/10/28/marin-sea-level-defense-costs-estimated-at-17b>, (accessed 3/8/24).

⁷ California Ocean Protection Council and California Ocean Science Trust, *State of California sea level rise guidance: 2024 science and policy update (draft)*, January 2024, p. 7, <https://opc.ca.gov/wp-content/uploads/2024/01/SLR-Guidance-DRAFT-Jan-2024-508.pdf>, (accessed 5/10/24).

county. In its latest draft, this study indicates it will focus on adaptation planning and solutions to sea level rise risks. The study is expected to be completed by the end of 2024.⁸

According to the above-mentioned study's observations to date, there are 19 geographic areas of concern in Marin; most are coastal. Those areas that are not on the coast are nonetheless exposed to groundwater rise and flooding.⁹ The areas of concern are the following: Bel Marin Keys, Belvedere and Tiburon, Bolinas, the Hamilton Wetlands, Inverness, Marin City, Manzanita and Tamalpais Junction, Mill Valley, downtown and western Novato, Santa Venetia, Sausalito, Stinson Beach, Highway 37, Highway 101, San Rafael, Kentfield, Corte Madera, Terra Linda, and Larkspur.¹⁰

The Transportation Authority of Marin's Board of Commissioners indicates that critical infrastructure sites in Marin are at risk of sea level rise. These include: bus stops, hospitals; municipal facilities; fire and police stations; schools; and childcare centers; among others.¹¹

The timing and degree of adaptation action will have socio-economic consequences that could lead to unequal results across the Bay Area region and beyond. The San Francisco Bay Conservation and Development Commission (BCDC) indicates that low-income, at-risk communities, particularly those in low-lying areas, are exposed to high levels of disruption caused by sea level rise.¹² Thus, adaptation action plans will be most effective by including components that pinpoint where the highest and most immediate risks are, who is at risk, and what is at risk. As a result, these plans will be able to specify what has to be done and when in order to respond to sea level rise strategically and equitably.

Marin has areas in which geographic, social, and financial stressors exist, creating or accentuation flooding vulnerabilities. These include the Canal neighborhood, Marin City, and areas of Novato.

Marin County Health and Human Services released its climate change vulnerability dashboard in 2024.¹³ This dashboard discusses coastal flooding as a result of sea level rise and related risks to vulnerable populations. The document identifies low-lying areas where the elderly, as well as low-income populations reside. During floods, people in these areas may become stranded due to inaccessible roads, or they may lack transportation access if flood evacuations are ordered. Mold

⁸ Caitlin Hamer, Marin Living, *New study to look at sea level impact in Marin*, 2024, <https://marinlivingmagazine.com/new-study-to-look-at-sea-level-impact-in-marin>, (accessed 3/7/24).

⁹ Krissy Waite, "Marin agency's sea level rise study highlights vulnerable areas", *Marin Independent Journal*, February 29, 2024, <https://www.marinij.com/2024/02/29/marin-agencys-sea-level-study-highlights-vulnerable-areas>, (accessed 3/7/24).

¹⁰ Waite, "Marin agency's sea level rise study highlights vulnerable areas"

¹¹ Waite, "Marin agency's sea level rise study highlights vulnerable areas"

¹² San Francisco Bay Conservation and Development Commission, *Bridging the gap: Funding sea level rise adaptation in the Bay Area*, December 2021, p. 4, https://www.adaptingtorisingtides.org/wp-content/uploads/2021/12/ART_FundingFinancingPaper2021.12.20.pdf, (accessed 3/18/24).

¹³ Marin Health and Human Services, *Marin County Climate and Health*, <https://www.marinhhs.org/marin-county-climate-and-health>, (accessed 4/22/24).

may grow inside their homes, they may be exposed to infectious diseases due to contaminated standing water, and relocation may be difficult due to economic hardships.¹⁴

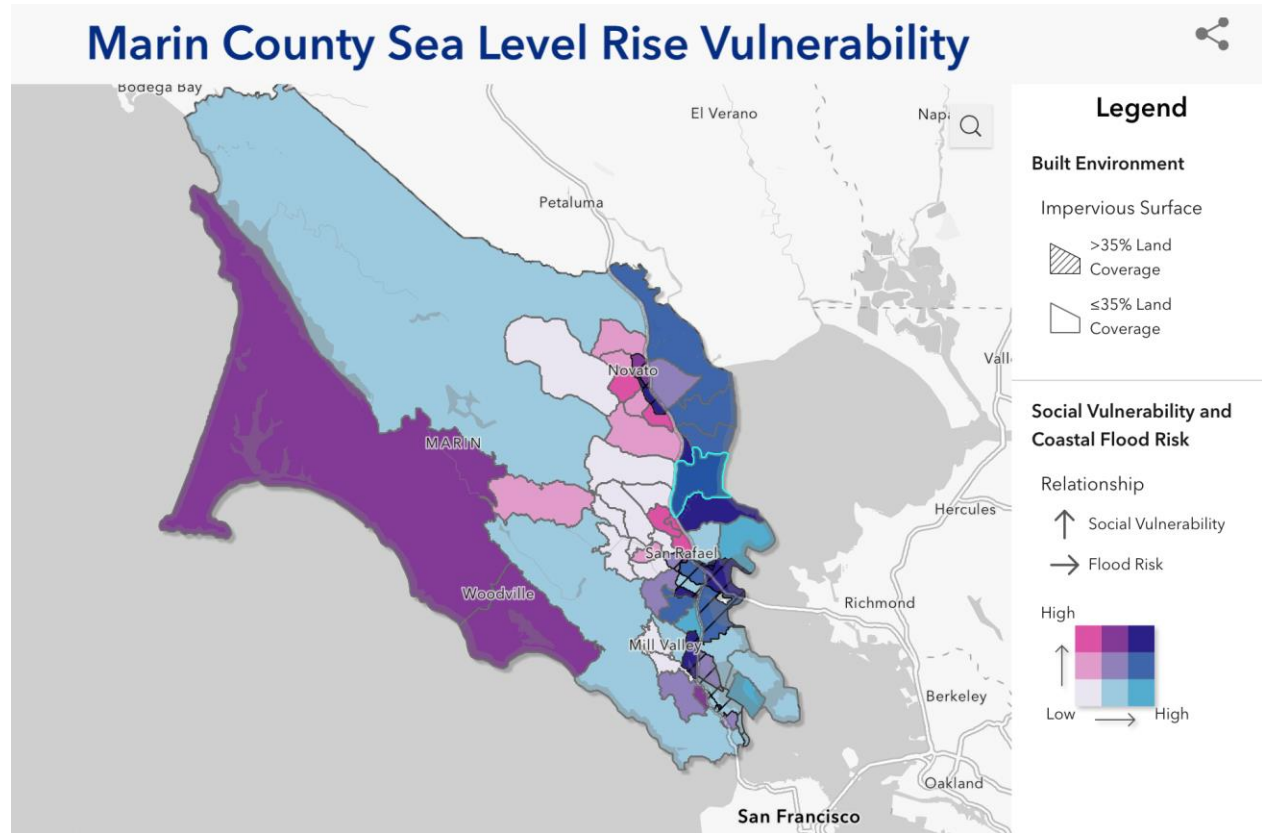
The dashboard provides detailed maps for each town in Marin. These maps identify flooding and vulnerability risk areas due to sea level rise, categorizing these as low, moderate, and higher for each town and city in the county. Anyone with computer access can view these maps by going to Marin County Climate and Health (<https://www.marinhhs.org/marin-county-climate-and-health>) and scrolling through this document to identify relevant information.

The Grand Jury surmises that by creating and making public a climate change and sea level rise dashboard, Marin Health and Human Services has made strides in the area of access to information and equity Marin.

The map below, recently released on the Department of Health and Human Services dashboard, offers a view of sea level rise vulnerability areas in Marin with color-coded coastal flood risk levels.

¹⁴ Editorial, “Marin’s plan to address sea level rise must strive for social, economic equity”, *Marin Independent Journal*, April 18, 2024, <https://www.marinij.com/2024/04/18/editorial-marins-plan-to-address-sea-level-rise-must-strive-for-social-economic-equity>, (accessed 4/22/24).

Map 1



Source: Marin Health and Human Services, Marin County Climate and Health <https://marinhhs.org/marin-county-climate-and-health>, (accessed 4/30/24)

Sea level rise and financial costs

Sea level rise costs will be significant if inaction trumps adaptation advancement. What does this mean for Marin? The county’s more than seventy miles of coastline and forty miles of shoreline are subject to sea level rise, tidal, creek, and storm flooding. In fact, 10,000 buildings and 120 miles of roads are found to be exposed to sea level rise risks by 2100.¹⁵

The San Francisco Bay Conservation and Development Commission estimates that the cost of adaptation in Marin will be approximately \$17 billion.¹⁶ This agency sees dire sea level rise consequences for the Bay Area within the next 40 years. The Commission has also calculated that adaptation costs for the nine Bay Area counties will reach \$110 billion. However, lack of action will result in an estimated \$230 billion in costs related to damages and losses—more than double, compared to adaptation costs.¹⁷ If Marin does not undertake adaptation actions, the costs could be higher than \$34 billion, based on the overall Bay Area projections for inaction.

In 2017, the Bay Waterfront Adaptability & Vulnerability Evaluation program (BayWAVE) completed the Marin Shoreline Sea Level Rise Vulnerability Assessment. The authors of this sea

¹⁵ Richard Halstead, “Marin County allocates \$500K for sea-level rise plan”, *Marin Independent Journal*, March 21, 2024, <https://www.marinij.com/2024/03/19/marin-county-allocates-500k-for-sea-level-rise-plan>, (accessed 5/10/24).

¹⁶ Halstead, “Marin sea level defense costs estimated at \$17B”.

¹⁷ Wren Farrell, KALW Public Media, *Marin County is preparing for rising sea levels*, October 26, 2023, <https://www.kalw.org/climate/2023-10-26/marin-county-is-preparing-for-rising-sea-levels>, (accessed 4/22/24).

level rise technical report found that shoreline flooding will worsen over the coming years if no countywide actions are taken. They also found that “the market value of vulnerable single family homes could exceed \$20 billion in 2016 dollars.”¹⁸ In 2024 dollars, this figure is nearly \$6 billion higher, or \$26 billion. Notably, this is an estimate for single family homes, and it does not include other structures such as condominiums and apartment buildings, businesses, local government offices, parks, roads, and other critical infrastructure. Thus, the market value of vulnerable properties as a whole, and the resulting risks of financial losses are much bigger.

Collaboration is key for effective sea level rise action

Given the Grand Jury’s jurisdiction, this report concentrates solely on Marin’s governmental agencies. Action needs to be undertaken on a broad scale. Marin’s governmental agencies alone cannot fix the county’s sea level rise risks. Addressing sea level rise requires the knowledge of the scientific community as well as local, state, and federal governmental support—strategic and financial. In addition, philanthropy, non-profit, and for profit entities, working in concert, can and should be part of a broad spectrum of agencies addressing and supporting sea level rise adaptation efforts.

In the San Francisco Bay Area, collaborative efforts are underway. The countywide entity to be established in Marin needs to examine these and other agencies for possible collaborations. The following are seven examples of participating agencies:¹⁹

1. The Metropolitan Transportation Commission/Association of Bay Area Governments’ (MTC/ABAG) Plan Bay Area 2050
2. Bay Area Climate Adaptation Network (BayCAN)
3. San Francisco Estuary Partnership’s (SFEP) Estuary Blueprint
4. San Francisco Bay Restoration Authority’s (SFBRA) Measure AA
5. San Francisco Estuary Institute’s (SFEI) Adaptation Atlas3
6. San Francisco Bay Conservation and Development Commission’s (BCDC) ART Bay Area project, and
7. BCDC-facilitated Bay Adapt2 initiative

In the following section the Grand Jury provides the most up-to-date available information concerning the following: a new state sea level rise law impacting Marin and all of California’s coastal areas in its 58 counties. The report also details sea level rise actions taken by Bel Marin Keys, Corte Madera, Larkspur, Mill Valley, Novato, Sausalito and San Rafael. While there are eleven cities and towns in Marin, the Grand Jury has chosen to address these seven jurisdictions because of their high levels of exposure to sea level rise.

¹⁸ Bay Waterfront Adaptability & Vulnerability Evaluation (BayWAVE), *Marin shoreline sea level rise vulnerability assessment*, June 7, 2017, https://www.marincounty.org/-/media/files/departments/cd/planning/slr/baywave/vulnerability-assessment-final/final_allpages_bvbconsulting_reduced.pdf?la=en, p. xxiv, (accessed 5/10/24).

¹⁹ San Francisco Bay Conservation and Development Commission, *Bridging the gap: Funding sea level rise adaptation in the Bay Area*, December 2021, p. 7, https://www.adaptingtorisingtides.org/wp-content/uploads/2021/12/ART_FundingFinancingPaper2021.12.20.pdf, (accessed 3/18/24).

Additionally, in the following section, the report describes OneShoreline, a district that directly addresses flood control and sea level rise in San Mateo County. OneShoreline illustrates how a formal, countywide effort can be planned and established. To provide insight for the Board of Supervisors as they work on creating the Marin countywide sea level rise entity, this report describes how OneShoreline was created, as well as the methods it employs to advance sea level rise knowledge, generate action plans, and work collaboratively with its cities and towns.

California Sea level rise planning and adaptation bill SB272

On October 7, 2023, Governor Gavin Newsom signed into law Senate Bill 272 entitled “Sea level rise: planning and adaptation”. The new law, sections 30985-30985.8 of the California Public Resources Code, requires local governments in bay and coastal jurisdictions to create sea-level rise plans based on the best available science, conduct vulnerability assessments, determine adaptation strategies, and identify a list of recommended projects with timelines. Local governments have until January 2034 to develop their state-mandated sea level rise plans.

Reception of SB 272 has been mixed. For example, “the state legislation is a game changer in some ways, but not in others,” says Dana Brechwald, Assistant Planning Director for Climate Adaptation with BCDC. “Before we were trying to get this done on the basis of collaboration, engagement, and goodwill; now it is legislatively mandated.”²⁰ While the new law stops short of declaring exactly where state funding will come from for sea level rise plans and adaptation projects, it allows the state to prioritize funding for cities and counties with plans in place. The law also empowers BCDC to provide oversight and accountability to accelerate consistent, equitable, and effective shoreline resilience plans that protect vulnerable communities.

Some in the Bay Area are concerned that the 2034 deadline is too late. Others point out that the law applies to cities and counties, but does not include specific requirements for infrastructure such as airports, hospitals, and harbors. No local government can address climate threats alone, so resilience and adaptation plans and activities should align protection across multiple jurisdictions.²¹

Sea level rise initiatives in Marin’s bayside communities

The Marin Climate and Energy Partnership (MCEP) was created in 2007. MCEP is a partnership of the eleven Marin cities and towns, the county government, and three public agencies serving Marin. This partnership was established to provide a vehicle through which members can share resources and secure funding to discuss policies and programs, including emissions and adaptation strategies, as well as collecting data and sharing progress on their plans and actions.²²

²⁰ Ariel Rubissow Okamoto, KneeDeep Times, *Nested Plans Neck and Neck With Rising Bay*, Nov 1, 2023, <https://www.kneedeep.com/nested-plans-neck-and-neck-with-rising-bay>, (accessed 5/3/24).

²¹ Ezra David Romero, KQED, *California Mandates Coastal Cities Plan for Future Sea-Level Rise*, Oct 18, 2023, <https://www.kqed.org/science/1984830/california-mandates-coastal-cities-plan-for-future-sea-level-rise>, (accessed 5/3/24).

²² The Marin Climate and Energy Partnership, <https://marinclimate.org/about-us>, (accessed 4/30/24).

The bayside cities and towns discussed below are part of Marin Climate and Energy Partnership. By virtue of their geographic location, these jurisdictions are directly threatened by sea level rise. They have created independent mitigation or adaptation plans, or a combination of both.

To date, a countywide sea level rise adaptation entity is still absent. As a result, the plans put forth by each city and town remain without integration into a broader, countywide vision and adaptation framework. These individual plans and actions taken to date still have validity. The plans include a plethora of adaptation strategies, such as building walls and protecting marshland, and recognize equity as a key factor to be taken into account. These cities and towns also understand that, in some cases, managed retreat from coastal areas may become the only option. If, and when, the countywide sea level rise adaptation entity is created, these city and town plans will add value to the broader endeavor. They will help reduce the amount of time it will take to create a comprehensive, countywide sea level rise adaptation plan, and offer proven methods that could be expanded.

Bel Marin Keys

Bel Marin Keys is a waterfront development of 702 single family homes located in northeastern Marin. It is bordered by Novato to the west and the San Francisco Bay to the east. The community of Bel Marin Keys is serviced and funded by the Bel Marin Keys Community Services District (BMK Services District). The BMK Services District is a non-enterprise Special District. It is a public entity, not a homeowners association. As such it derives virtually all its revenue from a percentage of the property taxes collected by the County of Marin. The total population serviced by the District is approximately 2,500.

Because Bel Marin Keys borders the San Francisco Bay and surrounds two large lagoons which open into Novato Creek and the Bay, the community is very susceptible to sea level rise. BMK Services District therefore placed a measure on the ballot for March 5, 2024, called Measure G. The ballot title for Measure G was as follows:

Bel Marin Keys Community Services District Infrastructure Special Tax. To protect against climate impacts and establish funding that cannot be taken by the State of California, shall Bel Marin Keys Community Services District's measure levying a special tax for 21 years to finance costs of maintaining, improving, acquiring and constructing existing and new infrastructure, including locks and levees, and dredging waterways, at an initial annual rate of \$1,800 (\$150/month) per taxable parcel (generating \$1,263,600 in tax year 2024-25), increasing 2.5 percent annually thereafter, be adopted?

The measure required a 66.67% majority to pass, and it passed with 79.64 percent of the vote.²³

²³ Bel Marin Keys Community Services District, California, Measure G, Parcel Tax Measure (March 2024) - Ballotpedia, [https://ballotpedia.org/Bel_Marin_Keys_Community_Services_District,_California,_Measure_G,_Parcel_Tax_Measure_\(March_2024\)](https://ballotpedia.org/Bel_Marin_Keys_Community_Services_District,_California,_Measure_G,_Parcel_Tax_Measure_(March_2024)), (accessed 5/15/24).

As observed by one of Bel Marin Keys' residents, "This area is the perfect lab for exploring native solutions to sea level rise. It's where people are working to correct the mistakes that were made."²⁴

Corte Madera

In 2018, Corte Madera received funds from Caltrans to develop a climate change assessment, which the town conducted between 2019 and 2020.²⁵ The Climate Adaptation Assessment (CAA) was released in May 2021, and provides action steps to build resilience in light of climate change.

In its plan, Corte Madera addresses historically disadvantaged communities in its community who are at high risk of floods due to their geographic location. The plan highlights the importance of equity in adapting to climate change and sea level rise. This approach, according to the Corte Madera plan, will help to build equitable resilience.²⁶

Corte Madera's Climate Adaptation Assessment provides strategies to address the growing risk of sea level rise floods. The authors of this document identify key elements of the adaptation process, which include: "flood accommodation; shoreline protection; and managed retreat."²⁷ It is important to recognize that there may come a time when managed coastal retreat is the answer. This recognition points to specific critical action, as difficult and costly as it may happen to be. In Corte Madera, "a large portion of the town currently lies in the floodplain, which is considered a Special Flood Hazard Area (SFHA) designated by FEMA."²⁸

Corte Madera is already experiencing floods. Leaders, as well as residents, are aware that frequency and intensity are on the rise. Thus, Corte Madera sees the importance and urgency of building resilience to cope with what is to come. The town understands that flooding conditions may change over time, requiring responsive adjustments to plans and actions. For Corte Madera, flexibility is fundamental.²⁹

²⁴ John King, "People who move here don't leave: Why this rich California enclave is bracing homes for rising seas," *San Francisco Chronicle*, March 20, 2024.

²⁵ *Corte Madera Town Council Staff Report*, November 19, 2020, <https://www.townofcortemadera.org/DocumentCenter/View/5697/6B-Staff-Report-and-Attachments>, (accessed 5/3/24).

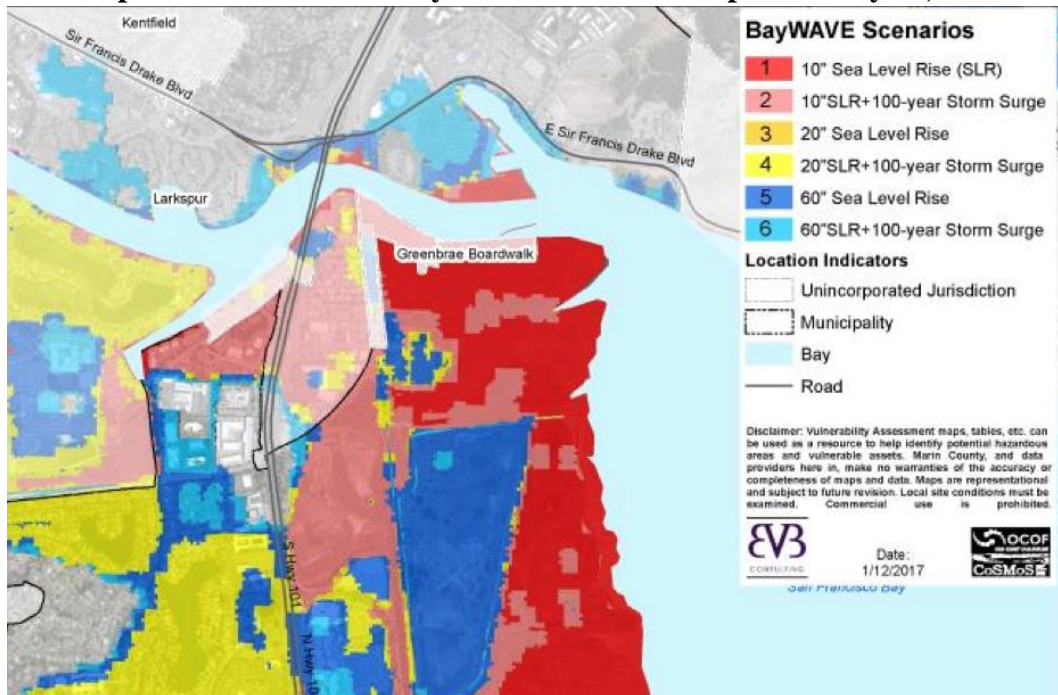
²⁶ *The Corte Madera Climate Adaptation Assessment: A Roadmap to Resilience*, May 2021, p. 15, <https://www.townofcortemadera.org/DocumentCenter/View/6473/Climate-Adaptation-Assessment>, (accessed 5/3/24).

²⁷ *The Corte Madera Adaptation Assessment*, p. 71.

²⁸ *The Corte Madera Adaptation Assessment*, p. 75.

²⁹ *The Corte Madera Adaptation Assessment*, p. 73.

Map 2 – Corte Madera Bay Wave Scenarios Map - January 12, 2017



Source: Marin Shoreline Vulnerability Assessment, [https://marinflooddistrict.org/documents/corte-madera/?filter_categories\[\]=579](https://marinflooddistrict.org/documents/corte-madera/?filter_categories[]=579), (accessed 5/3/24)

Larkspur

The City of Larkspur is concerned about climate change and its consequences, including fires, heat waves and sea level rise. As a result, Larkspur produced a Climate Action Plan. This plan has focused on mitigation, and most of the current efforts are aimed at reducing greenhouse gas emissions.³⁰ Mitigation alone is insufficient to tackle ongoing rising sea levels. Larkspur has yet to address sea level rise adaptation.

For the City of Larkspur, the role of local governments centers on reducing greenhouse gas emissions to minimize the impact of climate change. Its Action Plan focuses on practices that can reduce dependence on fossil fuels.³¹

Larkspur presents what it argues are the roles of international, national, and state governments. For Larkspur, these governments should also concentrate on the reduction of gas emissions.³² To achieve this, Larkspur highlights renewable energy, low carbon transportation, composting, and water conservation. Indeed, the Grand Jury believes that these are all valuable and needed long term strategies and goals, but not enough for Marin to brace for and adapt to rising seas. Even if

³⁰ City of Larkspur, *Climate Action Plan 2030 - Draft*, June 2021, pp. 1, 15, A-5, <https://www.ci.larkspur.ca.us/DocumentCenter/View/13376/Larkspur-CAP-2030-June-2021-Clean-Copy>, (accessed 5/4/24).

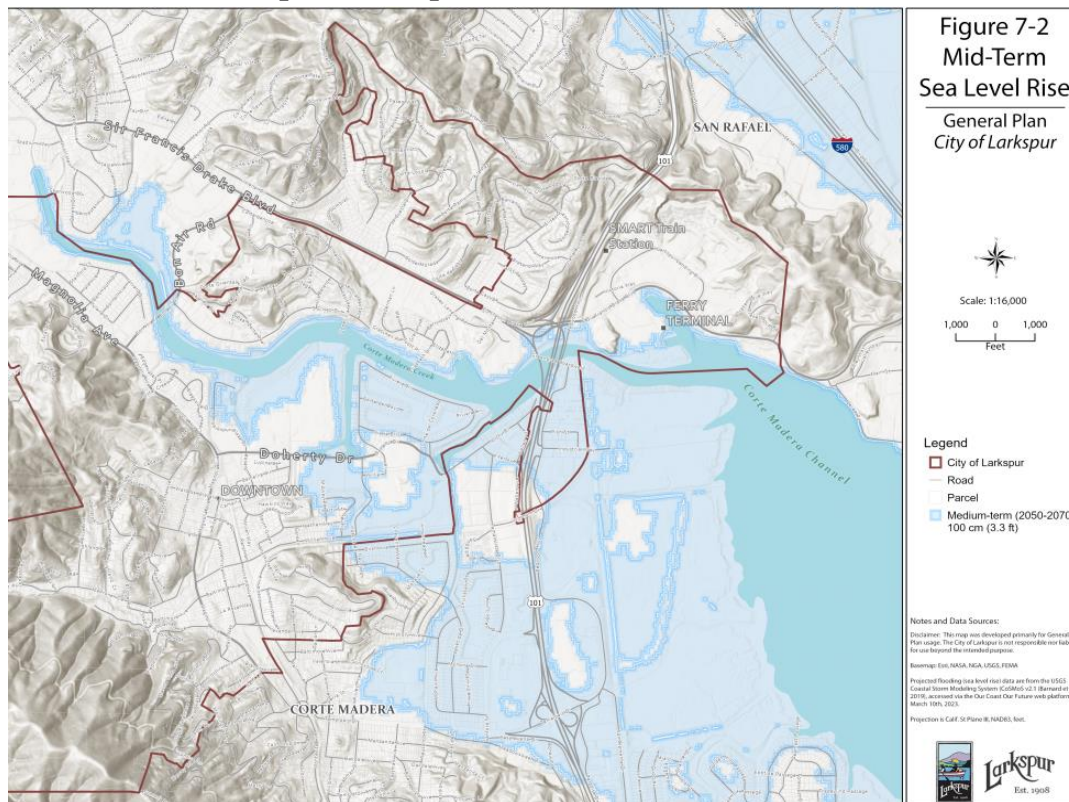
³¹ City of Larkspur, *Climate Action Plan 2030 - Draft*, June 2021.

³² City of Larkspur, *Climate Action Plan 2030 - Draft*, June 2021.

carbon dioxide emissions completely stop now, the carbon will remain in the Earth’s atmosphere for centuries, continuing to warm the planet.³³

In its plan, Larkspur, like other cities and towns mentioned in this report, recognizes the importance of addressing inequities, and ensuring a “just and fair inclusion into a society in which all can participate, prosper, and reach their full potential.”³⁴ The map below shows a mid-term sea level rise estimate of up to 3.3 feet between 2050-2070.

Map 3 - Larkspur - Mid-Term Sea Level Rise



Source: Larkspur Mid-Term Sea Level Rise, City of Larkspur 2040 General Plan, Draft Environmental Report Plan, figure 7-2 <https://www.ci.larkspur.ca.us/DocumentCenter/View/17220/Draft-Safety-Element-41503-draft-pdf>, (accessed 5/15/24).

Mill Valley: Mitigation and Adaptation

Mill Valley’s 2040 Climate Action Plan (CAP), adopted by a unanimous vote of the City Council on May 6, 2024, was incorporated into its General Plan. The CAP details actions the community and local government have taken to reduce greenhouse gas emissions and implement adaptation strategies going forward.³⁵ Mill Valley successfully achieved its 2020 emission reduction targets (20 percent below year 2000 levels). This city is currently working to identify reduction opportunities, while addressing the need to develop and fund sea level rise adaptation

³³ Morgan Kelly, “Even if emissions stop, carbon dioxide could warm earth for centuries.” Princeton University, <https://www.princeton.edu/news/2013/11/24/even-if-emissions-stop-carbon-dioxide-could-warm-earth-centuries>, November 24, 2023, (accessed 5/14/24).

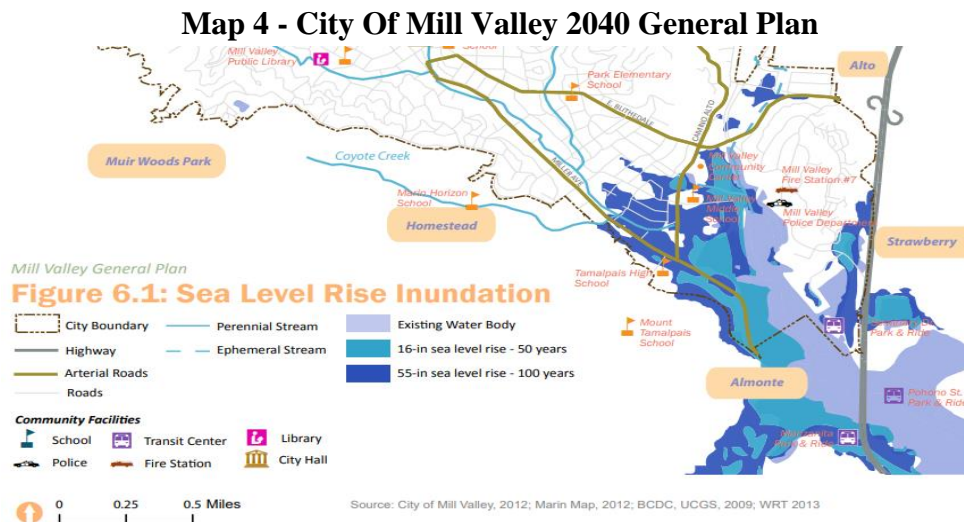
³⁴ City of Larkspur, *Climate Action Plan 2030 - Draft*, June 2021.

³⁵ City of Mill Valley, *Mill Valley General Plan 2040, Chapter 6, Climate Action*, <https://www.cityofmillvalley.org/DocumentCenter/View/950/Climate-Action-PDF>, (accessed 5/3/24).

plans. In furtherance of these goals, Mill Valley in conjunction with Tiburon, approved the hiring of a Climate Action Sustainability Coordinator in early 2023.³⁶

Mill Valley has begun to evaluate long term adaptation strategies. The city proposes to establish a permanent funding mechanism through its budget. In doing so, Mill Valley will be able to address natural systems and infrastructure that are vulnerable to sea level rise and more extreme storm conditions.³⁷

The Mill Valley 2040 General Plan acknowledges that sea level rise will increase the “areas subject to flooding to include the low-lying areas of Mill Valley from Bothin Marsh to Sycamore Park.” The extent of flooding due to sea level rise, as shown in Figure 6.1 below, is extensive. “By 2050, daily high tides are projected to inundate the same area that is currently subject to flooding by a 100-year flood event.”³⁸ Mill Valley is endeavoring to build a comprehensive approach that prepares for and responds to the expected impacts of climate change and sea level rise, including the identification of populations and neighborhoods most vulnerable to these impacts in conjunction with all levels of government and stakeholders.³⁹



Source: City of Mill Valley, 2012, Mill Valley 2040 General Plan, Climate Action, Chapter 6, <https://www.cityofmillvalley.org/518/MV2040-General-Plan>, (accessed 5/15/24)

³⁶ Town of Tiburon, *Tiburon and Mill Valley Join Forces to Hire a Climate Action Sustainability Coordinator*, February 7, 2023, <https://www.townoftiburon.org/CivicAlerts.aspx?AID=348>, (accessed 5/3/24).

³⁷ City of Mill Valley, *Mill Valley General Plan 2040, Chapter 6, Climate Action*.

³⁸ City of Mill Valley, *Mill Valley General Plan 2040, Chapter 6, Climate Action*.

³⁹ City of Mill Valley, *Mill Valley General Plan 2040, Chapter 6, Climate Action*.

Novato

The City of Novato published a White Paper on Sea Level Rise and Adaptation in March of 2015, with stated goals for 2035. Novato then identified funding as a critical element in its efforts to address sea level rise. Also, Novato asserted that “while we will not be able to stop the rise in sea levels resulting from these changes, we have the opportunity and must plan to adapt to this change.”⁴⁰

In the City of Novato, a range of areas are at risk of flooding, including its valley floors, properties in low-lying areas, and regions that were once marshland and have since been filled. Novato’s main transportation corridors (Highway 101 and Highway 37) are at risk of sea level rise flooding, while the Novato Sanitary District, located on the shoreline (in particular its electrical systems), is also vulnerable.⁴¹

Novato is a member of the North Bay Watershed Association (NBWA), which includes Marin, Napa and Sonoma Counties. NBWA seeks to engage jurisdictions across county lines to work together on the protection of local watershed resources. This entity analyzes and addresses issues tied to the management of the North Bay watersheds, and it has also been working on sea level rise research.⁴²

In its General Plan 2035, Novato addresses climate change and highlights the importance of reductions in emissions. In its climate change agenda, Novato also emphasizes the protection of creeks and streams through zoning codes and restoration of previously damaged waterways as conditions for approval of development projects, all of which are adaptation strategies.⁴³

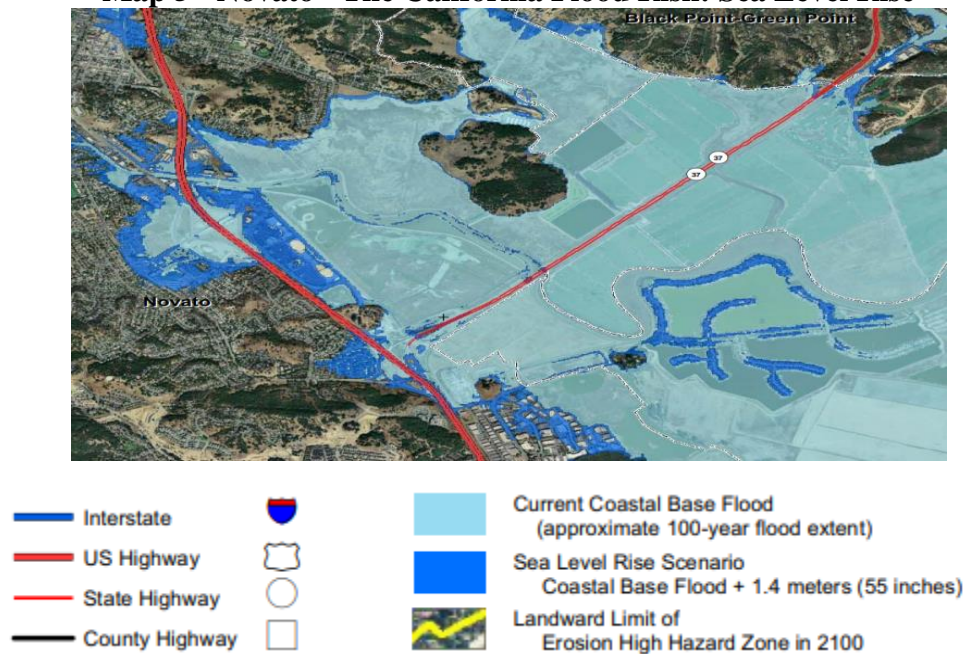
⁴⁰ City of Novato, *General Plan 2035 Policy White Paper, Sea Level Rise and Adaptation*, March 2015, <https://www.novato.org/home/showpublisheddocument/12603/635609875925570000>, (accessed 5/1/24).

⁴¹ City of Novato, *General Plan 2035 Policy White Paper, Sea Level Rise and Adaptation*, p. 18.

⁴² City of Novato, *General Plan 2035 Policy White Paper, Sea Level Rise and Adaptation*, p. 9.

⁴³ City of Novato, *General Plan 2035, Adopted October 27, 2020. Chapter 3, Environmental Stewardship*, p. 26, <https://www.novato.org/home/showpublisheddocument/32287/637526315486370000>, (accessed 5/1/24).

Map 5 - Novato - The California Flood Risk: Sea Level Rise



Source: Pacific Institute, Sea Level Rise, Hazmaps, Novato, https://pacinst.org/reports/sea_level_rise/hazmaps/Novato.pdf, (accessed 5/3/24)

Sausalito

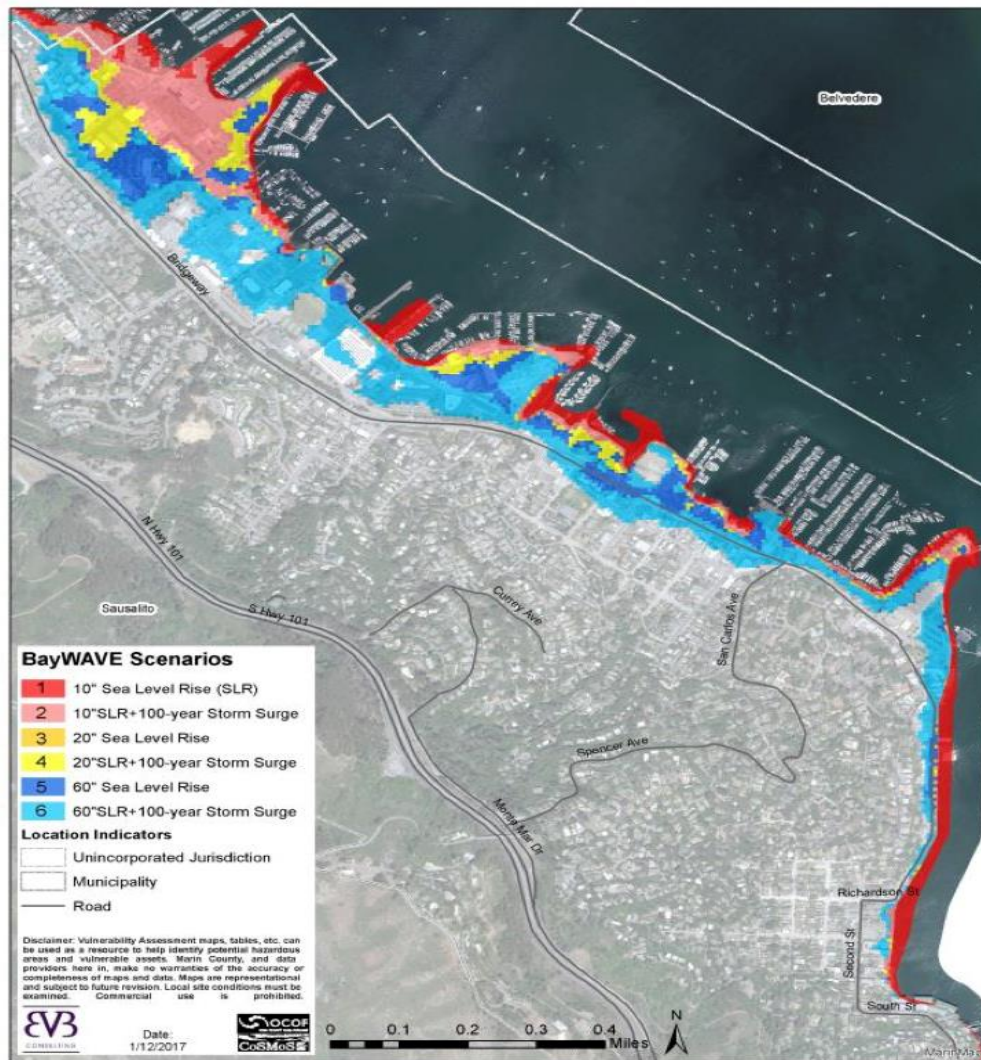
Sausalito has been addressing sea level rise.⁴⁴ Although much of the housing in Sausalito is above current sea level, parts of its critical infrastructure are in areas exposed to sea level rise, thus needing adaptation measures. Damages such as floods impacting sewer and stormwater systems and major roads could interfere with people's ability to reach places such as work, schools, hospitals, and airports, among others. Sausalito's main underwater sewer pipes are already vulnerable to rising seas.

Sausalito established a Sea Level Rise Task Force created by Mayor Jill Hoffman in March 2021 "to kick start our sea level rising planning as a community."⁴⁵ The city has adopted a Shoreline Adaptation Plan that includes community engagement, and it is scheduled to begin during the spring of 2024.

⁴⁴ City of Sausalito, *Sea Level Rise*, p. 11, <https://www.sausalito.gov/city-government/hot-topics/sea-level-rise>, (accessed 5/3/24).

⁴⁵ City of Sausalito, *Sea Level Rise Task Force*, <https://www.sausalito.gov/city-government/hot-topics/sea-level-rise/sea-level-rise-task-force>, (accessed 5/2/24).

Map 6 - Bay Wave Scenarios Map - January 12, 2017 Sausalito



Source: Marin Shoreline Vulnerability Assessment, [https://marinflooddistrict.org/documents/corte-madera/?filter_categories\[\]=579](https://marinflooddistrict.org/documents/corte-madera/?filter_categories[]=579), (accessed 5/15/24)

San Rafael

Within San Rafael, the Canal neighborhood sits in low-lying ground which is significantly vulnerable to sea level rise.⁴⁶

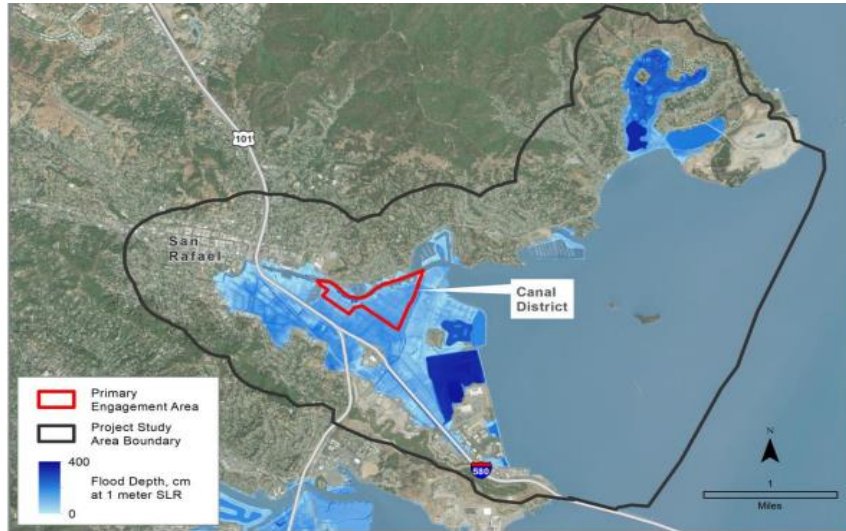
In order to address the significant vulnerability of the Canal area, San Rafael put forth a Request for Proposal (RFP) in August 2023, requesting sea level rise adaptation planning services to conduct community-centered studies and create an actionable plan. The proposal indicates that the Canal District is at greatest risk of flooding due to sea level rise, when compared to other areas in the city of San Rafael.⁴⁷

⁴⁶ Annie Sneed, Bay Adapt, *Elevate Communities to Lead: A Story from San Rafael's Canal Neighborhood*, January 19, 2024, <https://www.bayadapt.org/blog/elevate-communities-to-lead-a-story-from-san-rafaels-canal-neighborhood>, (accessed 5/10/24).

⁴⁷ City of San Rafael, *Request for Proposal (RFP): Sea Level Rise Adaptation Planning Services*, August 21, 2023, <https://www.cityofsanrafael.org/rfp-slr>, (accessed 5/1/24).

The project, with equity as a central tenet, is led by the City of San Rafael, the County of Marin, two community-based organizations, which are the Canal Alliance, and the Multicultural Center of Marin, as well as the University of California at Berkeley. The State Coastal Conservancy and the Governor’s Office of Policy & Research have provided funding for this undertaking.⁴⁸

Map 7 - San Rafael Depicting Flooding In The Canal District



Source: City of San Rafael, Request for Proposal for sea level rise adaptation planning services, August 21, 2023.

Tiburon

Based largely on the Marin Shoreline Sea Level Rise Vulnerability Assessment prepared in June 2017 as part of the BayWAVE program, Tiburon is in the process of confronting the threats it faces from sea level rise. The primary vulnerabilities are the Downtown area, the Blackie's Pasture area, and the Greenwood Cove area of Tiburon, pictured below.

⁴⁸ City of San Rafael, *Request for Proposal (RFP): Sea Level Rise Adaptation Planning Services*.

Map 8 - Sea Level Rise In Tiburon

SEA LEVEL RISE IN TIBURON

- Main Street/ Downtown
- Blackie's Pasture
- Greenwood Cove

- Legend**
- Shallow Groundwater
 - Existing Water Bodies
 - 60 inches SLR + 100-year storm
 - City Boundary



Source: Sea Level Rise in Tiburon [PowerPoint Presentation \(createtiburon2040.org\)](#), (accessed 4/25/24)

In March 2021, Tiburon launched its survey on “Adapting to Sea Level Rise.” The purpose of the survey was to seek public input on how Tiburon should respond to rising seas in the three areas discussed above. The survey also sought to assist Tiburon planners in preparing its General Plan 2040. Concurrently, Tiburon created a sea level page as part of the Tiburon Town website, this contains a PowerPoint presentation on the issue of sea level rise.⁴⁹

The Tiburon Town Council adopted its General Plan 2040 and certified the Final Environmental Impact Report (FEIR) on May 22, 2023.⁵⁰ Section 11.5 of the Tiburon General Plan 2040 (under Chapter 11, Safety and Resilience), discusses the threats to Tiburon from sea level rise, its vulnerabilities, and the possible adaptation strategies to confront those threats.

San Mateo County Flood Control and Sea Level Rise Resiliency District, also known as OneShoreline

The Grand Jury studied San Mateo County’s OneShoreline as part of its investigation to learn how the county was able to create a countywide agency. The Grand Jury was interested in identifying specific elements of this effort (i.e. political support, public response, funding sources) that can serve as potential guidance for Marin County’s current efforts to plan and establish its own countywide sea level rise entity.

In 2015, the San Mateo Civil Grand Jury issued a Report, “Flooding Ahead: Planning for Sea Level Rise,” that posed the following question: “What actions can the County of San Mateo, and the 20 cities and two relevant local special agencies within the county, take now to plan for sea

⁴⁹ Tiburon General Plan Update, *Adapting to Sea Level Rise*, March 2021, <https://createtiburon2040.org/wp-content/uploads/2021/03/Adapting-to-Sea-Level-Rise-Presentation-March-2021.pdf>, (accessed 5/3/24).

⁵⁰ Create Tiburon 2040, *General Plan 2040*, <https://createtiburon2040.org/draft-general-plan>, (accessed 5/3/24).

level rise?” San Mateo county concluded that it was best to create a single, countywide entity to address sea level rise planning.⁵¹

In April of 2018, the City/County Association of Governments of San Mateo County (C/CAG) Countywide Water Coordination Committee began to develop a proposal to form a countywide agency to address sea level rise, flooding, coastal erosion, and regional stormwater infrastructure. The Committee recommended that new legislation could expand the scope of the existing San Mateo County Flood Control District to incorporate sea level rise in its mission. As a result, a new law was instituted in 2019, Assembly Bill 825. This new law gave rise to the San Mateo County Flood and Sea Level Rise Resiliency District.⁵² This District, also called OneShoreline, was established in 2020.

From interviews, the Grand Jury learned that two important elements enabled the creation and operations of OneShoreline. First, the passing of Assembly Bill 825 stemmed from direct support from Congresswoman Jackie Speier, Dave Pine of the San Mateo County Board of Supervisors, and Paul Okada, Chief Deputy County Counsel for San Mateo.

Second, OneShoreline received funding from each of its cities and towns. In addition, the District began receiving funding through taxes from local entities. OneShoreline has been able to stimulate and garner support from local entities by pointing out the increasing cost of flood insurance premiums.

In 2023, OneShoreline created and released its countywide Administrative Draft of the Planning Policy Guidance, after receiving input from a wide range of relevant entities.⁵³ The Marin County Civil Grand Jury learned through interviews that seeking community input was an important step in creating the expansion of the original District. Such input came from the San Francisco Bay Conservation and Development Commission, the City and County Association of Governments of San Mateo County, and the San Francisco Estuary, among others. The policy guide is available to San Mateo’s county cities and towns for the creation and implementation of effective sea level rise adaptation plans. In addition, the policy is a useful resource and tool available to any other entity working on sea level rise issues, Marin County included.

Marin County tax and bond fatigue

The financial resources required to identify and assess current and future risks posed by sea level rise, as well as the costs to develop and implement protective solutions are estimated to reach \$17 billion. Raising the funds to identify and assess the risks through taxation, while possible, is not a given. Recent bond measures designed to raise several hundred million dollars for infrastructure were defeated at the polls, raising the specter of tax and bond fatigue in the county.

⁵¹ 2014-2015 San Mateo Grand Jury Final Report, *Flooding Ahead: Planning For Sea Level Rise*, p. 1, https://www.sanmateo.courts.ca.gov/system/files/sea_level_rise.pdf, (accessed 5/3/24).

⁵² OneShoreline, *Our History*, <https://oneshoreline.org/our-history>, (accessed 5/3/24).

⁵³ OneShoreline, *Building Solutions for a Changing Climate. Planning Policy Guidance*, June 2023, pp. 9-12, <https://oneshoreline.org/wp-content/uploads/2023/09/OneShoreline-Planning-Policy-Guidance-Final-June-21-2023-For-Web.pdf>, (accessed 5/3/24).

Raising \$17 billion far exceeds the county's ability to achieve via taxation. The funds to address sea level rise will need to be amassed over decades, and Marin will need to rely upon state and federal resources to address the shortfall. In addition, philanthropic funds may be available.

Marin will need to execute a strong public relations effort to create and maintain public endorsement of its work to mitigate the effects of sea level rise. These efforts will need to include both coastal and non-coastal areas as everyone in the county will be affected by this problem.

Grand Jury's Key Observations

The Grand Jury's investigation shows that 2050 sea level rise projections for Marin are significant and have been identified by a range of scientific studies. This report's review of cities and towns shows that while there is no countywide action in Marin yet, some of these jurisdictions have been in collaboration with other entities, including Napa and Sonoma. Additionally, whether through science, or direct observation of climate conditions, cities and towns in Marin have made efforts to understand and create plans to address sea level rise trends. These towns understand that sea level rise can undermine the safety and stability of their natural environments, as well as private property and critical infrastructure. The Bel Marin Keys example shows that this jurisdiction has taken direct sea level rise action, starting with recognizing the issue, creating adaptation plans, followed by raising funds, and ultimately implementing its strategies.

The Grand Jury observes that the actions taken by the cities and towns point to an adaptation mode that is already in place and functioning. The next logical step is multijurisdictional coordination involving planning and action. This appears to be achievable.

Regional sea level rise projections show that the impacts will be felt not just in Marin, but across the Bay Area. No county can function in isolation from others, which is why collaborations are already underway, and should be continued, expanded and strengthened. Marin must not be an exception to this approach.

Due to where low-income, under-represented communities reside, namely low-lying coastal areas, the impact of sea level rise will affect them sooner and perhaps harder than others. As a result, a plethora of studies, several of the cities and towns described in this report, and the Marin Health and Human Services Department point out how important it is to address equity as it pertains to sea level rise adaptation, while also tackling the county as a whole.

Delaying adaptation actions across the county until 2034 as provided by SB272 leaves Marin unnecessarily vulnerable to sea level rise. Immediate action is imperative.

Stemming from the facts gathered for this investigation, both scientific and action-oriented, the Grand Jury arrives at the following findings and recommendations:

FINDINGS

- F1.** A comprehensive countywide agency is necessary to effectively address the impacts of sea level rise in Marin County.
- F2.** To be effective, a countywide agency created to address sea level rise in Marin County should include the County of Marin, all cities and towns, and appropriate special districts in Marin County as funding participants.
- F3.** The complete failure to create and implement effective countywide sea level rise adaptation projects in Marin County will result in significant damages and losses to commercial and residential properties as well as infrastructure, both public and private.
- F4.** The 2034 deadline imposed by Sections 30985-30985.8 of the California Public Resources Code for each California county to submit its official sea level rise mitigation plan is “too little too late” for Marin county, and delaying action until then will expose coastal and Bay areas to unnecessary flooding risks, financial and other losses.
- F5.** Under-represented populations reside in areas that are severely vulnerable to sea level rise because they are in low-lying ground.
- F6.** Sea level rise plans to be developed by a countywide entity should include adaptation strategies that directly apply to under-represented communities in low-lying areas with great exposure to sea level rise, such as the Canal District, areas of Novato, and Marin City, among others.

RECOMMENDATIONS

By March 20, 2025, the following actions should be implemented by:

- R1.** The Board of Supervisors, in collaboration with Marin county cities, towns, Bel Marin Keys Community Services District and Marin Water should create a comprehensive countywide agency with authority to plan and implement adaptation efforts addressing the impacts of sea level rise in Marin County.
- R2.** The Board of Supervisors should actively enlist the participation and support of state and federal legislators toward the creation and funding of this comprehensive countywide agency.
- R3.** The Board of Supervisors should require the newly created countywide entity to create plans that recognize and address sea level rise exposure and the specific risks to the populations in the Canal District, Marin City, specific areas in Novato, and all low-lying geographic regions where lower income populations reside. The plan should identify and address the risks impacting those populations, which include:
 - (a) risks of becoming stranded due to inaccessible roads;
 - (b) lack of transportation if evacuations are called;
 - (c) mold that may grow inside their homes;
 - (d) exposure to infectious diseases due to contaminated standing water;
 - (e) need to relocate temporarily or permanently as a result of floods; and
 - (f) other community-specific risks identified in regional assessments.

REQUIRED RESPONSES

Pursuant to Penal Code section 933.05, the Grand Jury requires responses from the following governing bodies within 90 days:

- The Marin County Board of Supervisors [F1-6, and R1-3 (a), (b), (c), (d), (e), (f)]

INVITED RESPONSES

For the following invited respondents, the Grand Jury would greatly appreciate responses within 90 days.

- Bel Marin Keys Community Services District
- City of Corte Madera
- City of Larkspur
- City of Mill Valley
- City of Novato
- City of Sausalito
- City of San Rafael
- City of Tiburon
- Marin Municipal Water District

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code section 933 (c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

Note: At the time this report was prepared information was available at the websites listed.

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury. The California State Legislature has stated that it intends the provisions of Penal Code Section 929 prohibiting disclosure of witness identities to encourage full candor in testimony in Grand Jury investigations by protecting the privacy and confidentiality of those who participate in any Civil Grand Jury investigation.

APPENDIX A: Sea Level Rise Background Information

What contributes to climate change

The California Ocean Protection Council projects that sea level will rise by 1.6 ft to 3.1 ft, and possibly higher by 2100.⁵⁴ The melting of glaciers and increasing temperatures due to emissions will determine the specific degree of sea level rise by the end of this century.⁵⁵ However, sea level rise will not be immediately stopped even if emissions are reduced. In fact, temperatures and sea level would continue to rise for several decades.⁵⁶

Where does sea level rise come from? Sea level rise results from the effect of rising temperatures on the melting of ice sheets and glaciers, as well as the expansion of water as it warms.⁵⁷ Sea level rise is one of a multitude of outcomes of climate change, including increases in droughts and fires, bigger storms and related flooding, and a warming climate.

National and international scientific entities, including oceanic, climatological, and astronomical organizations are calling for a redoubling of efforts towards adaptation and mitigation, as are financial bodies across the globe. The goal is to reduce the negative effects of climate change and sea level rise as much as possible. The agencies calling for these efforts include National Aeronautics and Space Administration (NASA), Environmental Protection Agency (EPA), NOAA, the European Union (EU), Environmental Resilience Institute, World Economic Forum, California Ocean Protection Council, California Ocean Science Trust, San Francisco Bay and Conservation Commission, and many others; all are cited in this report.

Is it human activity? Years of research consistently show that human activity created the atmospheric conditions that unleashed the rapid warming of Earth. Scientists have shown with a great degree of confidence (greater than 95 percent) that climate change is the result of emissions caused by human activity since the start of the Industrial Revolution. Thus, now “carbon dioxide, methane, and nitrous oxide concentrations are more abundant in the earth’s atmosphere than any time in the last 800,000 years.”⁵⁸ The scientific record shows climate changes naturally occur over very long periods of time. Earth has undergone major climate change events, leading to periods of a very warm planet, as well as periods as an icy one. However, these slow changes do not account for the rapid warming the planet has experienced in the last several decades.⁵⁹

There are other theories about climate change causes that have been tested by NASA, NOAA, and other space and climatological institutions. For background purposes, it is important to point these out, given the variety of opinions that surround climate change. Here are two of these alternatives explained:

⁵⁴ California Ocean Protection Council, *State of California Sea Level Rise Guidance: 2024 Science and Policy Update*, 2024, <https://opc.ca.gov/2024/01/draft-slr-guidance-2024>, (accessed 4/1/24).

⁵⁵ Princeton University, Center for Policy Research in Energy and the Environment, *Sea Level Rise*, <https://cpree.princeton.edu/sea-level-rise>, (accessed 4/1/24).

⁵⁶ David Herring and Rebecca Lindsey, NOAA, *Can we Slow or even Reverse Global Warming?*, October 12, 2022, <https://www.climate.gov/news-features/climate-qa/can-we-slow-or-even-reverse-global-warming>, (accessed 4/1/24).

⁵⁷ NOAA-National Oceanic and Atmospheric Administration, *Is sea level rising? Yes, sea level is rising at an increasing rate*, January 20, 2023, <https://oceanservice.noaa.gov/facts/sealevel.html>, (accessed 2/29/24).

⁵⁸

U.S. Environmental Protection Agency, *Causes of Climate Change*, <https://www.epa.gov/climatechange-science/causes-climate-change#3-foot>, (accessed 3/13/24).

⁵⁹ U.S. Environmental Protection Agency, *Causes of Climate Change*.

Is it the sun's activity? NASA points out that since 1978, data show that the amount of solar energy reaching Earth has not increased. This indicates that the sun is not the culprit, nor is it a contributing factor of climate change, which has accelerated since then.⁶⁰ Further, NASA explains that “the amount of solar energy Earth receives has followed the Sun’s natural eleven-year cycle of small ups and downs with no net increase since the 1950s. Over the same period, global temperature has risen markedly.”⁶¹

Is it the volcanoes’ activities? NASA research demonstrates that while volcanic eruptions release CO₂ and other gasses into the atmosphere, emissions due to human activity surpass those of all volcanic eruptions combined by more than 100 times.⁶²

The European Commission indicates that changes in solar radiation or volcanic activity have led to less than plus or minus 0.1 degrees Celsius rising temperatures since 1890.⁶³ In contrast, since 1982, temperatures have been increasing at a rate of plus 0.2 degrees Celsius per decade.⁶⁴ NOAA reports the same 0.2 degrees Celsius decadal increase for the same period.⁶⁵

How much will sea level rise cost in California and across the globe?

Nearly seventy percent of California’s residents live in coastal areas. In addition, millions of people visit yearly, making this a \$45 billion-dollar a year coastal economy.⁶⁶ Sea level rise puts this state-wide economic engine at risk.

Across the globe, sea level rise is projected to cost trillions of dollars in damages by 2100. Estimates about the estimated costs of global sea level rise vary; however, all are in the trillions of dollars. With an increase of 1.5 degrees Celsius, global sea level rise could cost \$10.2 trillion per year by 2100.⁶⁷ The Energy Policy Institute at The University of Chicago estimates that “the global economy would face damages reaching \$2.9 trillion to \$3.4 trillion per year from sea level

⁶⁰ NASA Global Climate Change, *Is the sun causing global warming?*, <https://climate.nasa.gov/faq/14/is-the-sun-causing-global-warming>, (accessed 2/29/24).

⁶¹ NASA Global Climate Change, *Is the sun causing global warming?*.

⁶² NASA Global Climate Change, *What do volcanoes have to do with climate change?*, <https://science.nasa.gov/climate-change/faq/what-do-volcanoes-have-to-do-with-climate-change>, (accessed 2/29/24).

⁶³ European Commission, Climate Action, *Causes of climate change*, https://climate.ec.europa.eu/climate-change/causes-climate-change_en, (accessed 3/11/24).

⁶⁴ European Commission, Climate Action, *Causes of climate change*.

⁶⁵ National Oceanic and Atmospheric Administration, *Climate change: Global temperature*, January 18, 2024, <https://www.climate.gov/news-features/understanding-climate/climate-change-global-temperature>, (accessed 3/11/24).

⁶⁶ California Ocean Protection Council and California Ocean Science Trust, *State of California sea level rise guidance: 2024 science and policy update (draft)*, January 2024, p. 5, <https://opc.ca.gov/wp-content/uploads/2024/01/SLR-Guidance-DRAFT-Jan-2024-508.pdf>, (accessed 5/10/24).

⁶⁷ Rebecca Ochs, European Scientist, *Rising sea levels could cost \$14 trillion a year by 2100*, 05.07.2018, <https://www.europeanscientist.com/en/environment/rising-sea-levels-could-cost-14-trillion-a-year-by-2100>, (accessed 3/13/24).

rise by the end of the century.”⁶⁸ Alternatively, through adaptation and mitigation measures, the Institute estimates the annual cost of sea level rise would be \$400-\$520 billion annually.⁶⁹

⁶⁸ Energy Policy Institute at The University of Chicago, *Sea Level Rise will Cost the Global Economy Trillions without Efforts to Adapt*, May 6, 2022, <https://epic-staging.uchicago.edu/insights/sea-level-rise-will-cost-the-global-economy-billions-trillions-without-efforts-to-adapt>, (accessed 3/4/24).

⁶⁹ Energy Policy Institute at The University of Chicago, *Sea Level Rise will Cost the Global Economy Trillions without Efforts to Adapt*.

APPENDIX B: PHOTOGRAPHS AND FIGURES USED IN REPORT

Photographs

1. First Photograph - Little girl running through water page 1. **Source:** County of Marin: <https://www.marincounty.org/main/sea-level-rise> Rising sea levels resulting from climate change. Mill Valley, Marin, circa 2020.
2. Second Photograph - Flooded bike path at Exit 445B page 5. Flooded path in Mill Valley. King tide on Friday, Jan. 11, 2024 **Source:** Sherry LaVars, Marin Independent Journal, January 12, 2024

Maps


1. Marin County Sea Level Vulnerability. **Source:** *Marin Health and Human Services, Marin County Climate and Health*, <https://marinhhs.org/marin-county-climate-and-health>
2. BayWave Scenarios January 12, 2017 Corte Madera. **Source:** Marin Shoreline Vulnerability Assessment, [https://marinflooddistrict.org/documents/corte-madera/?filter_categories\[\]=579](https://marinflooddistrict.org/documents/corte-madera/?filter_categories[]=579)
3. **Source:** Larkspur Mid-Term Sea Level Rise, City of Larkspur 2040 General Plan, Draft Environmental Report Plan, figure 7-2, <https://www.ci.larkspur.ca.us/DocumentCenter/View/17220/Draft-Safety-Element-41503-draft--pdf>
4. City of Mill Valley 2040 General Plan. **Source:** City of Mill Valley, 2012, Marin Map, 2012. Mill Valley 2040 General Plan, Climate Action, Chapter 6, <https://www.cityofmillvalley.org/518/MV2040-General-Plan>
5. Novato The California Flood Risk: Sea Level Rise. **Source:** Pacific Institute, Sea Level Rise, Hazmaps, Novato, https://pacinst.org/reports/sea_level_rise/hazmaps/Novato.pdf
6. BayWave Scenarios January 12, 2017 Sausalito. **Source:** Marin Shoreline Vulnerability Assessment, <https://marinflooddistrict.org/documents/sausalito/>
7. Map of San Rafael Depicting the Canal District. **Source:** City of San Rafael, Request for Proposal for sea level rise adaptation planning services, August 21, 2023, https://storage.googleapis.com/proudcity/sanrafaelca/uploads/2023/08/RFP-compled-8_21_23-CLEAN-1.pdf
8. Sea Level Rise in Tiburon. **Source:** Seal Level Rise in Tiburon, <https://createtiburon2040.org/wp-content/uploads/2021/03/Adapting-to-Sea-Level-Rise-Presentation-March-2021.pdf>



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Jonathan Schellin,
Public Works Deputy Director
April Miller, Public Works Director

City Manager Approval: _____ 

TOPIC: SIDEWALK REPAIR PROGRAM UPDATE

SUBJECT: APPROVE THE SIDEWALK REPAIR PROGRAM AS A PERMANENT PROGRAM AND AUTHORIZE A \$1,000 INCREASE IN ALLOWABLE REIMBURSEMENT AMOUNT, FOR A NEW TOTAL REIMBURSEMENT UP TO \$2,000 IN FISCAL YEAR 2024-25, WITH AN ALLOWABLE YEARLY INCREASE TIED TO THE CONSUMER PRICE INDEX, UP TO A MAXIMUM OF 3.5% A YEAR.

RECOMMENDATION:
Approve the Sidewalk Repair Program as a permanent program and authorize a \$1,000 increase in allowable reimbursement amount, for a new total reimbursement up to \$2,000 in Fiscal Year 2024-25, with an allowable yearly increase tied to the Consumer Price Index, up to a maximum of 3.5% a year.

BACKGROUND:
In Fiscal Year 2016-17 the City conducted considerable community outreach on sidewalk issues, including three public meetings held at various community centers, and through an online survey. The City also received input from the community through the CP Connect Constituent Relationship Management (CRM) system, as well as the City’s “Contact Public Works” [webpage](#).

In 2017 the City adopted [Municipal Code Chapter 11.60](#), which, in accordance with California Streets and Highway Code Section 5610, confirms that the responsibility of sidewalk maintenance lies with the adjacent property owner. In conjunction with the adoption of Municipal Code Chapter 11.60, the City Council called for the development of a pilot program which attempted to share the financial burden associated with sidewalk maintenance between the City and the property owners.

The program initially had an application process through CP Connect (a precursor to SeeClickFix). All repairs were grouped together by neighborhood and a pre-construction inspection was completed by City staff. The program provided repairs for sidewalks that had a tripping hazard of 2 inches or more, and waived permit fees for program participants.

The City used one contractor during this first phase of the program to secure preferred pricing for the work. Under the program, the City paid the contractor directly for the work and then sought

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Council Meeting: _____

Disposition: _____

reimbursement from the property owner once the work was completed. The City would cover 50% of the sidewalk repair cost up to \$1,000 and 100% of curb and gutter repair up to \$4,000. During this work, trees were assessed for their role in the sidewalk damage. The trees were removed if they were Liquid Ambers, a type of tree known for their roots damaging sidewalks, or if it was determined they would not survive a root trimming.

Over the course of phase one 431 properties participated, with an average of more than 100 properties participating in a year. The average reimbursement was \$1,388 and the average cost to the property owner was \$2,297. Because of phase one's structure, where the City paid for the work and then billed the resident, some participants were late in repaying the City, or in some cases have yet to still make payment. The City continues to send invoice reminders to those with outstanding balances.

While phase one was successful in increasing sidewalk repairs in the City, there were clear needs for structural improvements to the program to address issues which included decreasing the burden on staff time, expanding beyond one contractor or area at a time and addressing unpaid invoices by participants.

Phase two began in April 2022 and is still in effect. Its new structure sought to alleviate the burden of staff time, expand beyond one contractor, and eliminate non-payment by participants in the program. In phase two, property owners apply for the program via SeeClickFix and an Encroachment Permit is issued at no charge. The Public Works (DPW) inspector completes a pre-construction inspection and logs the measurements the City designates as reimbursable. The owner is sent a copy of the measurements to give to a contractor of their choice. Once the owner has received a proposal from their contractor, they email it to DPW and an agreement is created. Once all parties have signed the agreement, the Encroachment Permit is approved, and construction can begin. After construction is complete, a final inspection is performed by the City. Once inspected, the property owner can apply for reimbursement from the City. The key difference in this phase is now the property owner is leading the process from coordinating with the contractor to making the payment, and the City has moved to a supporting role with inspections and reimbursing the property owner.

This new proposed process allows owners to select their own contractors, thereby eliminating the capacity and geographic constraints of one contractor and reducing staff time to coordinate every project between owner and contractor. It also put the responsibility to pay the contractor onto the owner, thereby eliminating the City's need to invoice owners, as well as the risk of not being reimbursed. The reimbursement amount of up to \$1,000 for phase two is the same as phase one.

ANALYSIS:

The reimbursement rate has not increased since the program's inception in 2017, while the cost of concrete and labor has increased significantly. Subsequently the City has seen a decline in program participation partly due to these increased costs. Therefore, staff recommends increasing the program reimbursable amount by \$1,000, for a new maximum reimbursement of \$2,000 for sidewalk replacement work. This updated reimbursement amount aims to help increase program participation and improve walkability for all pedestrians.

Staff recommends a 3rd phase, with a targeted, proactive approach in areas of high traffic and/or increased risk for trip-and-fall incidents. This would yield increased safety for the greatest number of pedestrians in a more cost-effective manner as opposed to phase two's entirely voluntary citywide inspection and noticing effort. As a result of this there would be occasional instances where the City moves forward with repairs to the property and bills the resident afterwards when a property owner does not voluntarily participate in the reimbursable sidewalk repair program. This would be done in conjunction

with either nearby repairs, or in batches to reduce the overall cost and achieve better rates for each property. To support this proactive approach the City will utilize a combination of staff time and contractors to conduct additional inspections in high traffic areas, along with the implementation of the City's asset management system to collect, track, and coordinate sidewalk repair needs throughout the City.

Staff are in the process of exploring a program for property owners who may have a financial hardship. Staff will bring financial hardship program options to the City Council Finance Subcommittee for review in the coming months.

COMMUNITY OUTREACH:

In phase one property owners applied for the program via the City's former CRM system and repairs were grouped together by neighborhoods. Currently, the program participants mainly hear of the program via word-of-mouth in the community and through a local contractor, who does many of the projects in the program. Property owners often see the construction company working on a neighboring property and inquire with them about the program and are directed to the City.

In addition, the program is advertised on the City's website, and information on the program is provided via the City's current CRM system (SeeClickFix) portal. Finally, any time the City becomes aware of a segment of sidewalk needing repair, a notice letter is sent to the adjacent property owner(s), which directs them to the appropriate DPW contact and the website.

FISCAL IMPACT:

By increasing the available City reimbursement amount by \$1,000 the City would expect costs to increase by almost the full \$1,000 for each participant given the rise in construction and labor costs. This would result in an estimated increase of \$45,000 each year with the current participation rate of roughly 50 participants a year, however the proposed increase could result in more community interest in the program. Staff will closely monitor the budget to ensure all expenses are covered.

The current FY 2024-25 budget appropriated \$350,000 for the Sidewalk Repair Program. The program funds sidewalk shaving, tree root trimming and replacement, and sidewalk, curb and gutter repairs and replacement. This budget is anticipated to cover the increased costs of the recommended additional \$1,000 reimbursement increase. The additional investment in sidewalk repairs is expected to be partially offset by corresponding risk reduction in potential claim payouts by the City. This is supported by the fact that since the implementation of the sidewalk repair program in 2017, the City's payout for trip-and-fall claims has decreased in number of instances and average amount paid out per claim.

On top of the \$1,000 reimbursement increase, staff anticipates the next phases of the program will have a more proactive, targeted approach could increase costs for future fiscal years because of more inspections resulting in added sidewalk segments identified as needing repair. Further analysis will be needed to determine how much the program costs may increase with this proactive approach, and these increased costs would be included in the next fiscal year budget request.

Authorizing a CPI increase with a maximum amount of 3.5% allows the program to stay current with growing costs for property owners, while capping its growth potential for more reliable budget estimates.

If authorized, the overdue grace period payment, could recover up to \$85,433 if 100% of delinquent payments are made, however it's more likely that at least some of those invoices would need to be sent to a collection agency, which would take a percentage of the payment for their administrative fee. The overdue payments sent to collections would be conducted as part of a wider City program that includes how best to collect on all City department's overdue fees or unpaid fines.

OPTIONS:

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

1. Authorize the Sidewalk Repair Program's transition to a permanent program and approve staff's recommended actions.
2. Direct staff to return with more information.
3. Take no action and continue with the current program procedures.

RECOMMENDED ACTION:

Approve the Sidewalk Repair Program as a permanent program and authorize a \$1,000 increase in allowable reimbursement amount, for a new total reimbursement up to \$2,000 in Fiscal Year 2024-25, with an allowable yearly increase tied to the Consumer Price Index, up to a maximum of 3.5% a year.



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 6.c

Meeting Date: August 19, 2024

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Finance

Prepared by: Paul Navazio, Finance Director
Shawn Plate, Finance Manager

City Manager Approval: 

TOPIC: FISCAL YEAR 2023-24 BUDGET AMENDMENTS

SUBJECT: RESOLUTION ADOPTING AMENDMENTS TO THE CITY OF SAN RAFAEL BUDGET FOR FISCAL YEAR 2023-24 FOR THE PURPOSE OF CONFIRMING AUTHORIZED APPROPRIATIONS AND TRANSFERS

RECOMMENDATION: Adopt a resolution adopting amendments to the Fiscal Year (FY) 2023-24 budget for the purposes of confirming authorized appropriations and transfers.

BACKGROUND:

Staff is in the process of completing the accounting close for the fiscal year ended June 30, 2024, and are reviewing the revenues and expenditure activity in the General Fund, Special Revenue funds and other special purpose funds. This review has identified the need for additional budget adjustments for which City Council approval is requested.

ANALYSIS:

The purpose of these amendments is to formally authorize the appropriations supporting expenditures and transfers required in certain funds to fulfill their respective purposes and functions through June 30, 2024. City Council approval of the proposed resolution provides formal authority to incorporate adjustments as part of the final FY 2023-24 budget, summarized as follows:

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

Revenues:				
Fund	Current Budget	Resources	Transfers in	Revised Budget
001 - General Fund	100,017,060		300,000	100,317,060
242 - Measure C Wildfire Prevention Parcel Tax	1,956,238	750,000		2,706,238
281 - Grants Fund - Safety	683,099		13,282	696,381
420 - Measure E-Public Safety Facility	-		450,000	450,000
Total Revenue Adjustments		750,000	763,282	
Expenditures:				
Fund	Current Budget	Appropriations	Transfers out	Revised Budget
001 - General Fund	104,465,324	-	450,000	104,915,324
216 - Measure G - Cannabis	180,246		300,000	480,246
242 - Measure C Wildfire Prevention Parcel Tax	2,449,464	750,000		3,199,464
Total Expenditure Adjustments		750,000	750,000	

Details of the proposed budget amendments are reflected in Attachment 1 to this report, and described as follows:

General Fund

Transfers-In

- Amendment to reflect the transfer of \$300,000 from the Measure G - Cannabis Special Revenue Fund (216) to support a portion of FY 2023-24 contract costs for the SAFE Team. The three-year SAFE team pilot is funded by a combination of opioid settlement funds, cannabis taxes, and general fund dollars, if necessary.

Transfers-Out:

- Amendment to reflect the anticipated transfer of \$450,000 from the General Fund to the Essential Facilities Capital Projects Fund (420) consistent with prior City Council policy directing one-third of Measure E Transaction and Use Tax, less debt service on the outstanding 2018 bonds, be transferred to support specific capital projects as reflected included in the Essential Facilities Master Plan.
- Amendment to reflect the transfer of \$13,282 from the General Fund to the Public Safety Grant Fund (281), to reflect the City’s matching contribution to the Bulletproof Vest Partnership program. This transfer is supported by a corresponding reduction in expenditure appropriations within the General Fund, resulting in no net General Fund impact.

Other Funds

Staff is requesting the approval of a total of \$1,213,282 in increased resources and \$1,050,000 in increased appropriations to Other Funds, reflecting the amendments included above as well as selected adjustments impacting only other funds, including:

Measure G – Cannabis Special Revenue Fund (216)

- Amendment to reflect the transfer-out of \$300,000 from the Measure G - Cannabis Special Revenue Fund (216) to support a portion of FY2023-24 contract costs for the SAFE Team.

Measure C – Wildfire Mitigation Fund (242)

- Amendment to reflect the estimated \$750,000 in reimbursement revenue from the Marin Wildfire Prevention Agency (MWPA) for enhanced contract work funded through the Measure C - Wildfire Mitigation (Fund 242) during the fiscal year
- Amendment to increase expenditure appropriations with the Measure C – Wildfire Mitigation Fund by \$750,000 to cover fully-reimbursed contract work performed during the fiscal year.

Grants Fund – Public Safety (281)

- Amendment to reflect the transfer-in of \$13,282 from the General Fund to the Public Safety Grant Fund (281), to reflect the City’s matching contribution to the Bulletproof Vest Partnership program.

Essential Facilities Capital Projects Fund (420)

- Amendment to reflect the anticipated transfer-in of \$450,000 from the General Fund to the Essential Facilities Capital Projects Fund (420) consistent with prior Council policy directing one-third of Measure E Transaction and Use Tax, less debt service on the outstanding 2018 bonds, be transferred to support specific capital projects as reflected included in the Essential Facilities Master Plan.

FISCAL IMPACT: This action authorizes the formal appropriation of resources in the FY 2023-24 budget to support the actual expenditure and transfer activity through June 30, 2024, as described in this report. No spending authority beyond what was spent or committed as of June 30, 2024, is created through this action.

OPTIONS:

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

1. Adopt the resolution.
2. Adopt the resolution with modifications.
3. Take no action.

RECOMMENDATION: Adopt a resolution adopting amendments to the Fiscal Year (FY) 2023-24 budget for the purposes of confirming authorized appropriations and transfers.

ATTACHMENTS:

1. Resolution approving fiscal year 2023-24 amendments
2. Proposed FY 2023-24 Budget Amendments

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING AMENDMENTS TO THE CITY OF SAN RAFAEL BUDGET FOR FISCAL YEAR 2023-24 FOR THE PURPOSE OF CONFIRMING AUTHORIZED APPROPRIATIONS AND TRANSFERS

WHEREAS, the City Council approved Resolution No. 15221 adopting the fiscal year 2023-2024 budget; and

WHEREAS, the City Council approved other actions during the fiscal year to authorize spending; and

WHEREAS, as part of the fiscal year-end closing process, staff has reviewed and analyzed actual revenues, expenditures and transfers through June 30, 2024, has identified a need for additional budget adjustments, and has submitted its analysis and recommendations in a report to the City Council; and

WHEREAS, after examination, and due consideration, the City Council has accepted the same report and recommendations;

NOW, THEREFORE, BE IT RESOLVED, by the San Rafael City Council that Resolution No. 15221 for fiscal year 2023-2024 is further amended to authorize the following adjustments to resources and appropriations to selected funds:

Revenues:					
Fund	Current Budget	Resources	Transfers in	Revised Budget	
001 - General Fund	100,017,060		300,000	100,317,060	
242 - Measure C Wildfire Prevention Parcel Tax	1,956,238	750,000		2,706,238	
281 - Grants Fund - Safety	683,099		13,282	696,381	
420 - Measure E-Public Safety Facility	-		450,000	450,000	
Total Revenue Adjustments		750,000	763,282		
Expenditures:					
Fund	Current Budget	Appropriations	Transfers out	Revised Budget	
001 - General Fund	104,465,324	-	450,000	104,915,324	
216 - Measure G - Cannabis	180,246		300,000	480,246	
242 - Measure C Wildfire Prevention Parcel Tax	2,449,464	750,000		3,199,464	
Total Expenditure Adjustments		750,000	750,000		

I, LINDSAY LARA, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a special meeting of the Council of said City on Monday, the 19th day of August 2024 by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Proposed FY2023-24 Budget Amendments - Final Budget

	General Fund		Other Funds		
	Revenues & Transfers In	Expenditures & Transfers Out	Revenues & Transfers In	Expenditures & Transfers Out	
<i>Revenue Adjustments</i>					
Increased support from Marin Wildfire Prevention authority for additional contract work performed throughout the year			750,000		Wildfire (242)
<i>Expenditure Appropriations</i>					
Increased appropriations to Measure C - Wildfire Mitigation (420) to support enhanced contract work during the year				750,000	Wildfire (242)
Reduce expenditure appropriation in General Fund match for bullet-proof vest partnership program (re-allocated to Transfers Out)		(13,282)			
<i>Transfers</i>					
Transfer of General Fund match to Grants Fund - Safety (281) for bulletproof vest partnership program		13,282	13,282		Grants Fund - Safety (281)
Transfer from Measure G - Cannabis Fund (216) to the General Fund to support SAFE team activities	300,000			300,000	Cannabis (216)
Transfer of one third Measure E use tax, less debt service, to the Essential Facilities Fund (420)		450,000	450,000		Essential Facilities (420)
Proposed Amendments (9/18/2023)	300,000	450,000	1,213,282	1,050,000	



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Grey Melgard, Associate Civil Engineer
April Miller, Public Works Director

City Manager Approval: 

File No.: 16.06.101

TOPIC: PAVEMENT MAINTENANCE PROJECT FISCAL YEAR 2024-25

SUBJECT: AWARD THE CONSTRUCTION AGREEMENT FOR THE PAVEMENT MAINTENANCE PROJECT FY 2024-25 TO PAVEMENT COATINGS CO. AND AUTHORIZE \$1,900,000 FOR PROJECT CONSTRUCTION

RECOMMENDATION:

1. Approve plans and specifications for the Pavement Maintenance Project FY 2024-25 (also referred to as “City Project No. 11454” and “the Project”), deemed reasonable by the City Engineer, on file in the Department of Public Works.
2. Award a construction agreement (the “Construction Agreement”) for the Project to Pavement Coatings Co., authorize the City Manager to execute the Construction Agreement in the amount of \$1,655,880, and authorize the City Manager to amend the contract amount using contingency funds of \$244,120 for a total not to exceed amount of \$1,900,000 for the Project.
3. Appropriate \$400,000 from the Gas Tax Fund (206) for the Construction Agreement to supplement the previously appropriated amount of \$1,500,000 from the Gas Tax Fund (206) included in the FY 2024-25 adopted budget approved on [June 17, 2024](#).

BACKGROUND:

The City’s annual pavement management program (“PMP”) provides vital updates to the City’s 333-lane mile network. One of the most important aspects of managing a road network is a continual investment toward preserving recently rehabilitated roads. These types of preservation projects represent relatively low-cost improvements that prolong the effective life of roadways in good condition. The City utilizes the industry standard Pavement Condition Index (“PCI”) system to identify streets needing preventative maintenance and then conducts field investigations to analyze conditions. Additionally, the City intentionally applies an equity lens to ensure that pavement conditions are being improved in all neighborhoods across the City on an annual basis.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

In FY 2023-24, the pavement maintenance project included crack sealing, slurry sealing, fiberized micro-surfacing, and the installation of new traffic striping, crosswalks, and legends to streets located in the Terra Linda neighborhood. Additional slurry sealing took place on Treehaven Drive and Culloden Road following the trenching work by the Marin Municipal Water District (“MMWD”) for the District Pipeline Replacement Project.

For FY 2024-25, the proposed pavement maintenance project includes crack sealing, slurry sealing, micro-surfacing, and the installation of new traffic striping, crosswalks, and legends to the current standards for streets located in the West San Rafael neighborhoods as shown in Attachment 1.

ANALYSIS:

On July 3, 2024, the Project was advertised in accordance with San Rafael Municipal Code Chapter 11.50. The plans and specifications, deemed reasonable by the City Engineer, are available at the Department of Public Works and on the City’s website: <https://www.cityofsanrafael.org/pavement/>

On July 24, 2024, the following bids were received and read aloud:

Name of Bidder	Bid Total
Pavement Coatings Co.	\$1,655,880.00
VSS International, Inc.	\$1,867,000.00

Public Works staff reviewed the construction bids, and the low bid from Pavement Coatings Co. in the amount of \$1,655,880 was found to be both responsive and responsible.

City staff recommends awarding the construction agreement to Pavement Coatings Co. for the bid amount and recommends the City Council authorize a construction contingency of \$244,120, approximately 15%, for a total appropriated amount of \$1,850,000. Staff does not anticipate major scope changes for the project; however, the contingency will provide some financial assurance for minor striping changes within the project, street selection variation based on utility coordination, and varying quantities based on actual amount of slurry product placed. For example, recently enacted [Assembly Bill 413](#) prohibits the stopping, standing, or parking of a vehicle within 20 feet of the vehicle approach side of any marked or unmarked crosswalk. The City anticipates some additional striping and parking modifications on impacted streets to comply with this Bill.

The Public Works Director would be authorized to issue any change order to the contract within the total contingency amount. The Construction Agreement is in a form approved by the City Attorney.

PUBLIC OUTREACH:

In July 2024, staff worked with a consultant, CAL Pavement, to develop the list of roadways under consideration for slurry sealing or micro-surfacing and notified utility companies of the project. These utility coordination efforts will minimize the need for repairs within the limits of the newly resurfaced roadways. A mailer will be sent to residents within the project limits describing the project and its impacts, along with an FAQ about the City’s annual pavement management program and the proposed roadway treatments. Staff presented the map of proposed streets at the Bicycle and Pedestrian Advisory Committee (“BPAC”) during the August meeting. In addition, staff posted updates on the Department of Public Works news blogs and updated the City’s Pavement Management Program [website](#).

ENVIRONMENTAL DETERMINATION:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 3

In July 2024, a notice of exemption (NOE) was filed with the County of Marin for the Pavement Maintenance Project FY 2024-25 for categorical exemption based on existing facilities (§15301).

FISCAL IMPACT:

The recommendation included in this staff report would authorize expenditures not to exceed \$1,900,000 in support of the Pavement Maintenance Project FY 2024-25. Appropriations in the amount of \$1,500,000 supporting this project were included in the FY 2024-25 Budget approved by City Council on [June 17, 2024](#). An additional appropriation of \$400,000 from available fund balance within the Gas Tax Fund (206) is required to support this project.

OPTIONS:

1. Award the Construction Agreement as recommended, appropriate additional funds from the Gas Tax Fund (206) and approve the plans and specifications for the Project.
2. Do not award the contract and provide further direction to staff.

RECOMMENDED ACTION:

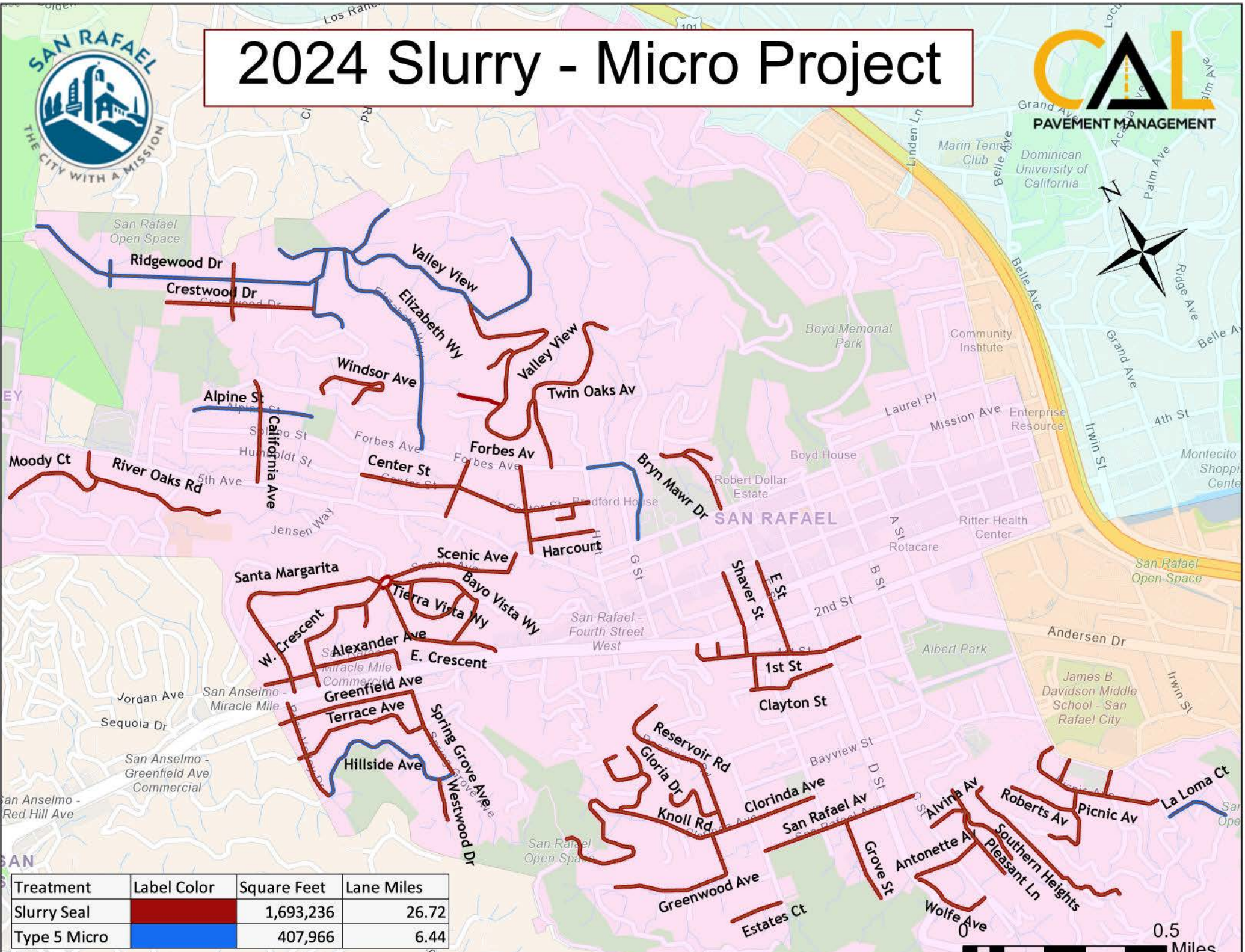
1. Approve plans and specifications for the Pavement Maintenance Project FY 2024-25, deemed reasonable by the City Engineer, for City Project No. 11454 on file in the Department of Public Works.
2. Award a construction agreement for the Project to Pavement Coatings Co., authorize the City Manager to execute the Construction Agreement in the amount of \$1,655,880, and authorize the City Manager to amend the contract amount using contingency funds of \$244,120 for a total not to exceed amount of \$1,900,000 for the Project.
3. Appropriate \$400,000 from the Gas Tax Fund (206) for the Construction Agreement to supplement the previously appropriated amount of \$1,500,000 from the Gas Tax Fund (206) included in the FY 2024-25 adopted budget approved on [June 17, 2024](#).

ATTACHMENTS:

1. Map of Proposed Streets, Pavement Maintenance Project FY 2024-25
2. Filed Notice of Exemption for the Pavement Maintenance Project FY 2024-25
3. Draft Construction Agreement with Pavement Coating Co.



2024 Slurry - Micro Project



Treatment	Label Color	Square Feet	Lane Miles
Slurry Seal	Red	1,693,236	26.72
Type 5 Micro	Blue	407,966	6.44



Notice of Exemption 21-2024-133

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: Marin
3501 Civic Center Dr. #234
San Rafael, CA 94303

From: (Public Agency): City of San Rafael
111 Morphew St
San Rafael, CA 94901
(Address)

FILED

AUG 01 2024

SHELLY SCOTT
MARIN COUNTY CLERK
BY: [Signature], Deputy

Project Title: Pavement Maintenance Project FY 2024/25

Project Applicant: City of San Rafael

Project Location - Specific:

Sun Valley, West End and Gerstle Park neighborhoods of San Rafael. See map.

Project Location - City: San Rafael Project Location - County: Marin

Description of Nature, Purpose and Beneficiaries of Project:

The project is part of the City of San Rafael's Annual Pavement Management Program. It consists of the rehabilitation of various roads in the City of San Rafael. The work includes crack sealing, slurry sealing, micro-surfacing, and traffic striping certain roads within the City's neighborhoods listed above.

Name of Public Agency Approving Project: City of San Rafael

Name of Person or Agency Carrying Out Project: City of San Rafael

Exempt Status: (check one):

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

Reasons why project is exempt:

The project consists of rehabilitating existing roadways in the public right-of-way within the City of San Rafael.

Lead Agency
Contact Person: Grey Melgard Area Code/Telephone/Extension: 415-256-5501

If filed by applicant:

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

Signature: [Signature] Date: July 29, 2024 Title: Associate Civil Engineer

▪ Signed by Lead Agency Signed by Applicant

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

Date Received for filing at OPR: _____

POSTED 08/01/2024 TO 08/31/2024

Contract

This public works contract ("Contract") is entered into by and between the City of San Rafael ("City") and Pavement Coatings Co. ("Contractor"), for work on the Pavement Maintenance FY 2024-2025 ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform the Work to construct the Project. On _____, City authorized award of this Contract to Contractor for the amount set forth in Section 4, below.
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the documents listed below. The definitions provided in Article 1 of the General Conditions apply to all of the Contract Documents, including this Contract.
 - 2.1 Notice Inviting Bids;
 - 2.2 Instructions to Bidders;
 - 2.3 Addenda, if any;
 - 2.4 Bid Proposal and attachments thereto;
 - 2.5 Contract;
 - 2.6 Payment and Performance Bonds;
 - 2.7 General Conditions;
 - 2.8 Special Conditions;
 - 2.9 Project Plans and Specifications;
 - 2.10 Change Orders, if any;
 - 2.11 Notice of Potential Award;
 - 2.12 Notice to Proceed; and
3. **Contractor's Obligations.** Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.
4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor \$1,655,880 ("Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with the payment provisions in the General Conditions.
5. **Time for Completion.** Contractor will fully complete the Work for the Project, meeting all requirements for Final Completion, within 35 working days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.
6. **Liquidated Damages.** As further specified in Section 5.4 of the General Conditions, if Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of \$4,200 per day for each day of unexcused delay in achieving Final Completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract.

7. Labor Code Compliance.

7.1 General. This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance, as further specified in Article 9 of the General Conditions.

7.2 Prevailing Wages. This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.

7.3 DIR Registration. City may not enter into the Contract with a bidder without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations to perform public work pursuant to Labor Code § 1725.5, subject to limited legal exceptions.

8. Workers' Compensation Certification. Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work on this Contract."

9. Conflicts of Interest. Contractor, its employees, Subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or requirement, or in violation of any California law, including Government Code § 1090 et seq., or the Political Reform Act, as set forth in Government Code § 81000 et seq. and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.

10. Independent Contractor. Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of City and are not entitled to participate in any health, retirement, or any other employee benefits from City.

11. Notice. Any notice, billing, or payment required by or pursuant to the Contract Documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF file. Notice is deemed effective upon delivery, except that service by U.S. Mail is deemed effective on the second working day after deposit for delivery. Notice for each party must be given as follows:

City:

City of San Rafael
Department of Public Works
111 Morphew Street
San Rafael, CA 94901
Attn: Grey Melgard, Associate Civil Engineer
Grey.melgard@cityofsanrafael.org

Contractor:

Name: Pavement Coatings Co.
Address: 10240 San Sevaine Way
City/State/Zip: Jurupa Valley, CA, 91452
Phone: 916-642-1751
Attn: Mike Bombard
Email: michaelbombard@pavementcoatings.com

12. General Provisions.

- 12.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without City’s written consent. This Contract is binding on Contractor’s and City’s lawful heirs, successors and permitted assigns.
- 12.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract.
- 12.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Marin County Superior Court, and no other place. Contractor waives any right it may have pursuant to Code of Civil Procedure § 394, to file a motion to transfer any action arising from or relating to this Contract to a venue outside of Marin County, California.
- 12.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 12.5 Integration.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between City and Contractor.
- 12.6 Severability.** If any provision of the Contract Documents is determined to be illegal, invalid, or unenforceable, in whole or in part, the remaining provisions of the Contract Documents will remain in full force and effect.
- 12.7 Iran Contracting Act.** If the Contract Price exceeds \$1,000,000, Contractor certifies, by signing below, that it is not identified on a list created under the Iran Contracting Act, Public Contract Code § 2200 et seq. (the “Act”), as a person engaging in investment activities in Iran, as defined in the Act, or is otherwise expressly exempt under the Act.
- 12.8 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code § 313.

The parties agree to this Contract as witnessed by the signatures below:

CITY:

Approved as to form:

s/ _____
CRISTINE ALILOVICH, City Manager

s/ _____
ROBERT F. EPSTEIN, City Attorney

Date: _____

Date: _____

Attest:

s/ _____
LINDSAY LARA, City Clerk

Date: _____

CONTRACTOR: _____
Business Name

s/ _____

Seal:

Name, Title

Date: _____

Second Signature (See Section 12.8):

s/ _____

Name, Title

Date: _____

Contractor's California License Number(s) and Expiration Date(s)

END OF CONTRACT

Exhibit A

General Info

Total:

\$1,655,880.00

Number	Description
Pavement Maintenance Project FY 2024/25	The Project is located in the Sun Valley, West End, and Gerstle Park neighborhoods of San Rafael and is described as follows: the removal of existing striping; the placement of crack seal, slurry seal, and fiberized micro-surfacing on various roadways; and the installation of new striping.
Deadline	
07/24/2024 03:00 PM PDT	The estimated construction cost is \$1.4 million.
Vendor	
Pavement Coatings Co.	Allows zero unit prices and labor
Submitted	No
07/24/2024 02:19 PM PDT	Allows negative unit prices and labor
Signed by	No
Tim Schmid Account Holder Tim Schmid	
Opened	
07/24/2024 03:01 PM PDT By grey.melgard@cityofsanrafael.org	

ATTACHMENT LIST

Specifications and Contracts Documents.pdf (6.42 MB)

2024.07.03_Map of Proposed Streets.pdf (480 KB)

Bidder's Questionnaire.docx (89.2 KB)

BID PROPOSAL

(“Bidder”) *

Pavement Coatings Co.

hereby submits this Bid Proposal to the City of San Rafael (“City”) for the above-referenced project (“Project”) in response to the Notice Inviting Bids and in accordance with the Contract Documents referenced in the Notice.

1. **Base Bid.** Bidder proposes to perform and fully complete the Work for the Project as specified in the Contract Documents, within the time required for full completion of the Work, including all labor, materials, supplies, and equipment and all other direct or indirect costs including, but not limited to, taxes, insurance and all overhead for the following price ("Base Bid"):

\$: *

\$1,655,880.00

2. **Addenda.** Bidder agrees that it has confirmed receipt of or access to, and reviewed, all addenda issued for this Bid. Bidder waives any claims it might have against the City based on its failure to receive, access, or review any addenda for any reason. Bidder specifically acknowledges receipt of the following addenda (click "+" to add addenda. Type "N/A" if no addenda have been issued):

Addendum #: *

N/A

Addendum Date: *

N/A

3. **Bidder's Certifications and Warranties.** By signing and submitting this Bid Proposal, Bidder certifies and warrants the following:

3.1 Examination of Contract Documents. Bidder has thoroughly examined the Contract Documents and represents that, to the best of Bidder's knowledge, there are no errors, omissions, or discrepancies in the Contract Documents, subject to the limitations of Public Contract Code§ 1104.

3.2 Examination of Project Site. Bidder has had the opportunity to examine the Project site and local conditions at the Project location.

3.3 Bidder Responsibility. Bidder is a responsible bidder, with the necessary ability, capacity, experience, skill, qualifications, workforce, equipment, and resources to perform or cause the Work to be performed in accordance with the Contract Documents and within the Contract Time.

3.4 Responsibility for Bid. Bidder has carefully reviewed this Bid Proposal and is solely responsible for any errors or omissions contained in its completed Bid. All statements and information provided in this Bid Proposal and enclosures are true and correct to the best of Bidder's knowledge.

3.5 Nondiscrimination. In preparing this Bid, the Bidder has not engaged in discrimination against any prospective or present employee or Subcontractor on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status.

3.6 Iran Contracting Act. If the Contract Price exceeds \$1,000,000, Bidder is not identified on a list created under the Iran Contracting Act, Public Contract Code § 2200 et seq. (the "Act"), as a person engaging in investment activities in Iran, as defined in the Act, or is otherwise expressly exempt under the Act.

4. Award of Contract. By signing and submitting this Bid Proposal, Bidder agrees that if Bidder is awarded the Contract for the Project, within ten days following issuance of the Notice of Award to Bidder, Bidder will do all of the following:

4.1 Execute Contract. Enter into the Contract with City in accordance with the terms of this Bid Proposal, by signing and submitting to City the Contract prepared by City using the form included with the Contract Documents;

4.2 Submit Required Bonds. Submit to City a payment bond and a performance bond, each for 100% of the Contract Price, using the bond forms provided and in accordance with the requirements of the Contract Documents; and

4.3 Insurance Requirements. Submit to City the insurance certificate(s) and endorsement(s) as required by the Contract Documents.

This Bid Proposal is hereby submitted on [Date] *

07/24/2024

s/ *

Tim Schmid

Name and Title *

Tim Schmid, President

s/ *

Tom Mucenski

Name and Title *

Tom Mucenski, Secretary

Company Name *

Pavement Coatings Co.

License #, Expiration Date, and Class *

303609 , 09/30/2024, A, C32

Address *

2150 Bell Ave 125

DIR Registration # *

1000003382

City, State, Zip *

Sacramento, CA 95838-3000

Phone *

(916) 642-1751

Contact Name *

Tim Schmid

Contact Email *

estnorth@pavementcoatings.com

END OF BID PROPOSAL

BID SCHEDULE - DIRECTIONS

This Bid Schedule must be completed electronically and included with the Electronic Bid Proposal. Pricing must be provided for each Bid Item as indicated. The lump sum or unit cost for each item must be inclusive of all costs, whether direct or indirect, including profit and overhead. The sum of all amounts entered in the "Extended Total Amount" column must be identical to the Base Bid price entered in Section 1 of the Bid Proposal form.

AL = Allowance LF = Linear Foot CF = Cubic Feet LS = Lump Sum CY = Cubic Yard SF = Square Feet EA = Each TON = Ton (2000lbs)

LB = Pounds

BID SCHEDULE

\$1,655,880.00

Bid Item No.	Item Description	Est Qty.	Unit	Unit Cost	Extension
1	Mobilization	1.00	LS	\$76,250.00	\$76,250.00
Total:					\$1,655,880.00

Bid Item No.	Item Description	Est Qty.	Unit	Unit Cost	Extension
2	Signs and Traffic Control	1.00	LS	\$340,000.00	\$340,000.00
3	Crack Seal	1.00	LS	\$150,000.00	\$150,000.00
4	Accelerated Curing Slurry Seal, Type II	190,000.00	SY	\$2.72	\$516,800.00
5	Micro-Surfacing, Type III with Fiber Additive	46,000.00	SY	\$4.64	\$213,440.00
6	Micro-Surfacing, Type II	46,000.00	SY	\$2.85	\$131,100.00
7	Install Detail 1 (Thermoplastic)	3,000.00	LF	\$1.85	\$5,550.00
8	Install Detail 22 (Thermoplastic)	8,500.00	LF	\$4.25	\$36,125.00
9	Install Solid Yellow Centerline (Thermoplastic)	600.00	LF	\$2.10	\$1,260.00
10	Install Pavement Markings (Thermoplastic)	2,000.00	SY	\$11.65	\$23,300.00
11	Install Ladder Crosswalk (Thermoplastic)	50.00	EA	\$3,201.60	\$160,080.00
12	Install Solid White Parking Line (Thermoplastic)	500.00	LF	\$3.95	\$1,975.00
Total:					\$1,655,880.00

SUBCONTRACTOR LIST - INSTRUCTIONS

For each Subcontractor that will perform a portion of the Work in an amount in excess of one-half of 1% of the bidder's total Contract Price,[1] the bidder must list a description of the Work, the name of the Subcontractor, its California contractor license number, the location of its place of business, its DIR registration number, and the portion of the Work that the Subcontractor is performing based on a percentage of the Base Bid price.

[1] For street or highway construction this requirement applies to any subcontract of \$10,000 or more.

SUBCONTRACTOR LIST

Description Of Work	Subcontractor Name	California Contractor License Number	Location Of Business	Dir Reg No.	Percent Of Work
Thermoplastic	Chrisp	374600	43650 Osgood Rd,	1000000306	23.22

Description Of Work	Subcontractor Name	California Contractor License Number	Location Of Business	Dir Reg No.	Percent Of Work
Striping, Markings	Company		Fremont, CA 94539		

NON-COLLUSION DECLARATION

TO BE EXECUTED BY BIDDER AND SUBMITTED WITH BID

The undersigned declares:

I am the *

President

of: *

Pavement Coatings Co.

the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid and will not pay, any person or entity for such purpose.

This declaration is intended to comply with California Public Contract Code § 7106 and Title 23 U.S.C § 112.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on

[date], *

7/24/2024

[city] *

Sacramento

[state] *

CA

I agree that my digital or electronic signature applies to this form

*

Name *

Tim Schmid

Bid Security

As a guarantee that, if awarded the Contract, Bidder will perform its obligations under Section 4 above, Bidder is enclosing bid security in the amount of ten percent of its maximum bid amount in one of the following forms (select one). Upload a scan of the paper bid security.

Within ten calendar days following City’s issuance of the Notice of Award to the apparent low bidder, the bidder must submit original hardcopies of the payment and performance bonds to City as specified in the Contract Documents using the bond forms included in the Contract Documents.

Guarantee Method *

Paper Bid Security, Cashier's Check, or Certified Check:

Paper Bid Security, Cashier's Check, or Certified Check:

Confirmation: *

A bid security, using the Bid Security form included with the Contract Documents, payable to City and executed by a surety licensed to do business in the State of California.

REQUIRED DOCUMENTS LIST

Name	Omission Terms	Submitted File
Scan of Bond Forms Upload scan of bond forms. The originals will only be requested of the apparent low bidder.	I am verifying my bid security electronically.	Bid Bond (to upload).pdf
Bidder's Questionnaire Submission of Bidder's Questionnaire is required. Bidder's Questionnaire can be found in the Specifications and Contract Documents.		Bidder's Questionnaire (to upload).pdf
2 Required Documents		

Bid Bond

Pavement Coatings Co. ("Bidder") has submitted a bid, dated July 24, 2024 ("Bid"), to the City of San Rafael ("City") for work on the Pavement Maintenance Project FY 2024/25 ("Project"). Under this duly executed bid bond ("Bid Bond"), Bidder as Principal and The Ohio Casualty Insurance Company, its surety ("Surety"), are bound to City as obligee in the penal sum of ten percent of the maximum amount of the Bid (the "Bond Sum"). Bidder and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, as follows:

1. **General.** If Bidder is awarded the Contract for the Project, Bidder will enter into the Contract with City in accordance with the terms of the Bid.
2. **Submittals.** Within ten days following issuance of the Notice of Potential Award to Bidder, Bidder must submit to City the following:
 - 2.1 **Contract.** The executed Contract, using the form provided by City in the Project contract documents ("Contract Documents");
 - 2.2 **Payment Bond.** A payment bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Payment Bond form included with the Contract Documents;
 - 2.3 **Performance Bond.** A performance bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Performance Bond form included with the Contract Documents; and
 - 2.4 **Insurance.** The insurance certificate(s) and endorsement(s) required by the Contract Documents, and any other documents required by the Instructions to Bidders or Notice of Potential Award.
3. **Enforcement.** If Bidder fails to execute the Contract and to submit the bonds and insurance certificates as required by the Contract Documents, Surety guarantees that Bidder forfeits the Bond Sum to City. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: Grey Shankel Melgard, Associate Civil Engineer
Address: 111 Morpew Street
City/State/Zip: San Rafael, CA 94901
Phone: 415-256-5501
Email: Grey.Melgard@cityofsanrafael.org
4. **Duration and Waiver.** If Bidder fulfills its obligations under Section 2, above, then this obligation will be null and void; otherwise, it will remain in full force and effect for 60 days following the bid opening or until this Bid Bond is returned to Bidder, whichever occurs first. Surety waives the provisions of Civil Code §§ 2819 and 2845.

[Signatures are on the following page.]

This Bid Bond is entered into and effective on July 22, 2024.

SURETY:

The Ohio Casualty Insurance Company
Business Name

s/ [Signature]

Evet Lam, Attorney-in-Fact
Name, Title

July 22, 2024
Date



(Attach Acknowledgment with Notary Seal and Power of Attorney)

BIDDER:

Pavement Coatings Co.
Business Name

s/ [Signature]

Tim Schmid, President
Name, Title

July 24, 2024
Date

END OF BID BOND



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On July 22, 2024 before me, Brigid Lopez, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Evelt Lam
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature *Brigid Lopez*
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8208193-971991

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Brian A. McGoldrick, Brigid Lopez, Evett Lam, Marisella Rivera

all of the city of Placentia state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 21st day of June, 2022.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 21st day of June, 2022 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



Commonwealth of Pennsylvania - Notary Seal
Teresa Pastella, Notary Public
Montgomery County
My commission expires March 28, 2025
Commission number 1126044
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

For bond and/or Power of Attorney (POA) verification inquiries, please call 610-832-8240 or email HOSUR@libertymutual.com.

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorizing - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 22nd day of July, 2024.



By: Renee C. Llewellyn, Assistant Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Sacramento)

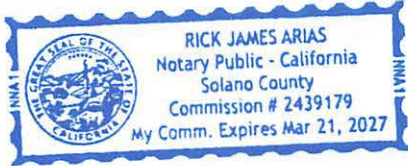
On July 24, 2024 before me, Rick James Arias, Notary Public,
Date Here Insert Name and Title of the Officer

personally appeared Tim Schmid
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____
Document Date: _____ Number of Pages: _____
Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Bidder's Questionnaire

Pavement Maintenance Project FY 2024/25

Within 48 hours following a request by City, a bidder must submit to City a completed, signed Bidder's Questionnaire using this form and all required attachments, including clearly labeled additional sheets as needed. City may request the Questionnaire from one or more of the apparent low bidders following the bid opening, and may use the completed Questionnaire as part of its investigation to evaluate a bidder's qualifications for this Project. The Questionnaire must be filled out completely, accurately, and legibly. Any errors, omissions, or misrepresentations in completion of the Questionnaire may be grounds for rejection of the bid or termination of a Contract awarded pursuant to the bid.

Part A: General Information

Bidder Business Name: Pavement Coatings Co. ("Bidder")

Check One: Corporation (State of incorporation: California)
 Partnership
 Sole Proprietorship
 Joint Venture of: _____
 Other: _____

Main Office Address and Phone: 10240 San Sevaine Way Jurupa Valley, CA 91752
714. 826. 3011

Local Office Address and Phone: 2150 Bell Ave., Suite 125 Sacramento, CA 95838
916. 642. 1751

Website address: estnorth@pavementcoatings.com

Owner of Business: Employee Owned

Contact Name and Title: Tim Schmid, President

Contact Phone and Email: 916. 642. 1751, estnorth@pavementcoatings.com

Bidder's California Contractor's License Number(s): 303609

Bidder's DIR Registration Number: 1000003382

Part B: Bidder Experience

1. How many years has Bidder been in business under its present business name? 50 years
2. Has Bidder completed projects similar in type and size to this Project as a general contractor?
 Yes No
3. Has Bidder ever been disqualified from a bid on grounds that it is not responsible, or otherwise disqualified or disbarred from bidding under state or federal law?
 Yes No

If yes, provide additional information on a separate sheet regarding the disqualification or disbarment, including the name and address of the agency or owner of the project, the type and size of the project, the reasons that Bidder was disqualified or disbarred, and the month and year in which the disqualification or disbarment occurred.

4. Has Bidder ever been terminated for cause, alleged default, or legal violation from a construction project, either as a general contractor or as a subcontractor?

 Yes X No

If yes, provide additional information on a separate sheet regarding the termination, including the name and address of the agency or owner of the subject project, the type and size of the project, whether Bidder was under contract as a general contractor or a subcontractor, the reasons that Bidder was terminated, and the month and year in which the termination occurred.

5. Provide information about Bidder’s past projects performed as general contractor as follows:

- 5.1 Six most recently completed public works projects within the last three years;
- 5.2 Three largest completed projects within the last three years; and
- 5.3 Any project which is similar to this Project including scope and character of the work. *PLEASE SEE ATTACHED

6. Use separate sheets to provide all of the following information for each project identified in response to the above three categories:

- 6.1 Project name, location, and description;
- 6.2 Owner (name, address, email, and phone number);
- 6.3 Prime contractor, if applicable (name, address, email, and phone number);
- 6.4 Architect or engineer (name, email, and phone number);
- 6.5 Project and/or construction manager (name, email, and phone number);
- 6.6 Scope of work performed (as general or as subcontractor);
- 6.7 Initial contract price and final contract price (including change orders);
- 6.8 Original scheduled completion date and actual date of completion;
- 6.9 Time extensions granted (number of days);
- 6.10 Number and amount of stop notices or mechanic’s liens filed;
- 6.11 Amount of any liquidated damages assessed against Bidder; and
- 6.12 Nature and resolution of any project-related claim, lawsuit, mediation, or arbitration involving Bidder.

Part C: Safety

1. Provide Bidder’s Experience Modification Rate (EMR) for the last three years:

Year	EMR
2023	0.66
2022	0.73
2021	0.69

2. Complete the following, based on information provided in Bidder’s Cal/OSHA Form 300 or Form 300A, Annual Summary of Work-Related Illnesses and Injuries, from the most recent past calendar year:

- 2.1 Number of lost workday cases: 3
- 2.2 Number of medical treatment cases: 4
- 2.3 Number of deaths: 0

3. Has Bidder ever been cited, fined, or prosecuted by any local, state, or federal agency, including OSHA, CalOSHA, or EPA, for violation of any law, regulation, or requirements pertaining to health and safety?

_____ Yes No

If yes, provide additional information on a separate sheet regarding each such citation, fine, or prosecution, including the name and address of the agency or owner of the project, the type and size of the project, the reasons for and nature of the citation, fine, or prosecution, and the month and year in which the incident giving rise to the citation, fine, or prosecution occurred.

4. Name, title, and email for person responsible for Bidder's safety program:

N/A
Name Title Email

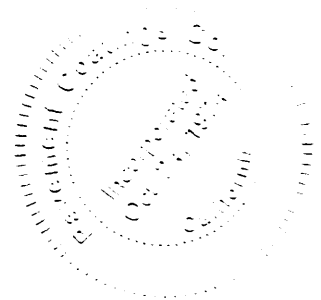
Part D: Verification

In signing this document, I, the undersigned, declare that I am duly authorized to sign and submit this Bidder's Questionnaire on behalf of the named Bidder, and that all responses and information set forth in this Bidder's Questionnaire and accompanying attachments are, to the best of my knowledge, true, accurate and complete as of the date of submission. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature: [Signature] Date: 7/24/2024

By: Tim Schmid, President
Name and Title

END OF BIDDER'S QUESTIONNAIRE



Payment Bond

The City of San Rafael ("City") and Pavement Coatings Co. ("Contractor") have entered into a contract for work on the Pavement Maintenance FY 2024-2025 Project ("Project"). The Contract is incorporated by reference into this Payment Bond ("Bond").

- 1. General.** Under this Bond, Contractor as principal and _____, its surety ("Surety"), are bound to City as obligee in an amount not less than \$ _____, under California Civil Code § 9550 et seq., to ensure payment to authorized claimants. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.
- 2. Surety's Obligation.** If Contractor or any of its Subcontractors fails to pay a person authorized in California Civil Code § 9100 to assert a claim against a payment bond, any amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Contractor and its Subcontractors under California Unemployment Insurance Code § 13020 with respect to the work and labor, then Surety will pay the obligation.
- 3. Beneficiaries.** This Bond inures to the benefit of any of the persons named in California Civil Code § 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Bond. Contractor must promptly provide a copy of this Bond upon request by any person with legal rights under this Bond.
- 4. Duration.** If Contractor promptly makes payment of all sums for all labor, materials, and equipment furnished for use in the performance of the Work required by the Contract, in conformance with the time requirements set forth in the Contract and as required by California law, Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.
- 5. Waivers.** Surety waives any requirement to be notified of alterations to the Contract or extensions of time for performance of the Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845. City waives the requirement of a new bond for any supplemental contract under Civil Code § 9550. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: _____
Address: _____
City/State/Zip: _____
Phone: _____
Email: _____

- 6. Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Marin County Superior Court, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.

[Signatures are on the following page.]

7. **Effective Date; Execution.** This Bond is entered into and is effective on _____,
20__.

SURETY:

Business Name

s/ _____

Date

Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

CONTRACTOR:

Business Name

s/ _____

Date

Name, Title

APPROVED BY CITY:

s/ _____
ROBERT F. EPSTEIN, City Attorney

Date

END OF PAYMENT BOND

Performance Bond

The City of San Rafael ("City") and Pavement Coatings Co. ("Contractor") have entered into a contract for work on the Pavement Maintenance FY 2024-2025 Project ("Project"). The Contract is incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and _____, its surety ("Surety"), are bound to City as obligee for an amount not less than \$_____ to ensure Contractor's faithful performance of its obligations under the Contract. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.
2. **Surety's Obligations.** Surety's obligations are co-extensive with Contractor's obligations under the Contract. If Contractor fully performs its obligations under the Contract, including its warranty obligations under the Contract, Surety's obligations under this Bond will become null and void. Otherwise, Surety's obligations will remain in full force and effect.
3. **Waiver.** Surety waives any requirement to be notified of and further consents to any alterations to the Contract made under the applicable provisions of the Contract Documents, including changes to the scope of Work or extensions of time for performance of Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845.
4. **Application of Contract Balance.** Upon making a demand on this Bond for completion of the Work prior to acceptance of the Project, City will make the Contract Balance available to Surety for completion of the Work under the Contract. For purposes of this provision, the Contract Balance is defined as the total amount payable by City to Contractor as the Contract Price minus amounts already paid to Contractor, and minus any liquidated damages, credits, or backcharges to which City is entitled under the terms of the Contract.
5. **Contractor Default.** Upon written notification from City of Contractor's termination for default under Article 13 of the Contract General Conditions, time being of the essence, Surety must act within the time specified in Article 13 to remedy the default through one of the following courses of action:
 - 5.1 Arrange for completion of the Work under the Contract by Contractor, with City's consent, but only if Contractor is in default solely due to its financial inability to complete the Work;
 - 5.2 Arrange for completion of the Work under the Contract by a qualified contractor acceptable to City, and secured by performance and payment bonds issued by an admitted surety as required by the Contract Documents, at Surety's expense; or
 - 5.3 Waive its right to complete the Work under the Contract and reimburse City the amount of City's costs to have the remaining Work completed.
6. **Surety Default.** If Surety defaults on its obligations under the Bond, City will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.
7. **Notice.** Any notice to Surety may be given in the manner specified in the Contract and sent to Surety as follows:

Attn: _____

Address: _____
City/State/Zip: _____
Phone: _____
Fax: _____
Email: _____

8. **Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Marin County Superior Court, and no other place. Surety will be responsible for City's attorneys' fees and costs in any action to enforce the provisions of this Bond.
9. **Effective Date; Execution.** This Bond is entered into and effective on _____, 20____.

SURETY:

Business Name

s/ _____

Date

Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

CONTRACTOR:

Business Name

s/ _____

Date

Name, Title

APPROVED BY CITY:

s/ _____

ROBERT F. EPSTEIN, City Attorney

Date

END OF PERFORMANCE BOND

General Conditions

Article 1 - Definitions

Definitions. The following definitions apply to all of the Contract Documents unless otherwise indicated, e.g., additional definitions that apply solely to the Specifications or other technical documents. Defined terms and titles of documents are capitalized in the Contract Documents, with the exception of the following (in any tense or form): “day,” “furnish,” “including,” “install,” “work day” or “working day.”

Allowance means a specific amount that must be included in the Bid Proposal for a specified purpose.

Article, as used in these General Conditions, means a numbered Article of the General Conditions, unless otherwise indicated by the context.

Change Order means a written document duly approved and executed by City, which changes the scope of Work, the Contract Price, or the Contract Time.

City means the municipality which has entered into the Contract with Contractor for performance of the Work, acting through its City Council, officers, employees, City Engineer, and any other authorized representatives.

City Engineer means the City Engineer for City and his or her authorized delegee(s).

Claim means a separate demand by Contractor for a change in the Contract Time or Contract Price, that has previously been submitted to City in accordance with the requirements of the Contract Documents, and which has been rejected by City, in whole or in part; or a written demand by Contractor objecting to the amount of Final Payment.

Contract means the signed agreement between City and Contractor for performing the Work required for the Project, and all documents expressly incorporated therein.

Contract Documents means, collectively, all of the documents listed as such in Section 2 of the Contract, including the Notice Inviting Bids; the Instructions to Bidders; addenda, if any; the Bid Proposal, and attachments thereto; the Contract; the Notice of Potential Award and Notice to Proceed; the payment and performance bonds; the General Conditions; the Special Conditions; the Project Plans and Specifications; any Change Orders; and any other documents which are clearly and unambiguously made part of the Contract Documents. The Contract Documents do not include documents provided “For Reference Only,” or documents that are intended solely to provide information regarding existing conditions.

Contract Price means the total compensation to be paid to Contractor for performance of the Work, as set forth in the Contract and as may be amended by Change Order or adjusted for an Allowance. The Contract Price is not subject to adjustment due to inflation or due to the increased cost of labor, material, supplies or equipment following submission of the Bid Proposal.

Contract Time means the time specified for complete performance of the Work, as set forth in the Contract and as may be amended by Change Order.

Contractor means the individual, partnership, corporation, or joint-venture that has signed the Contract with City to perform the Work.

Day means a calendar day unless otherwise specified.

Design Professional means the licensed individual(s) or firm(s) retained by City to provide architectural, engineering, or electrical engineering design services for the Project. If no Design Professional has been retained for this Project, any reference to Design Professional is deemed to refer to the Engineer.

DIR means the California Department of Industrial Relations.

Drawings has the same meaning as Plans.

Engineer means the City Engineer for the City of San Rafael and his or her authorized delegees.

Excusable Delay is defined in Section 5.3(B), Excusable Delay.

Extra Work means new or unforeseen work added to the Project, as determined by the Engineer in his or her sole discretion, including Work that was not part of or incidental to the scope of the Work when the Contractor's bid was submitted; Work that is substantially different from the Work as described in the Contract Documents at bid time; or Work that results from a substantially differing and unforeseeable condition.

Final Completion means Contractor has fully completed all of the Work required by the Contract Documents to the City's satisfaction, including all punch list items and any required commissioning or training, and has provided the City with all required submittals, including the instructions and manuals, product warranties, and as-built drawings.

Final Payment means payment to Contractor of the unpaid Contract Price, including release of undisputed retention, less amounts withheld or deducted pursuant to the Contract Documents.

Furnish means to purchase and deliver for the Project.

Government Code Claim means a claim submitted pursuant to California Government Code § 900 et seq.

Hazardous Materials means any substance or material identified now or in the future as hazardous under any Laws, or any other substance or material that may be considered hazardous or otherwise subject to Laws governing handling, disposal, or cleanup.

Including, whether or not capitalized, means "including, but not limited to," unless the context clearly requires otherwise.

Inspector means the individual(s) or firm(s) retained or employed by City to inspect the workmanship, materials, and manner of construction of the Project and its components to ensure compliance with the Contract Documents and all Laws.

Install means to fix in place for materials, and to fix in place and connect for equipment.

Laws means all applicable local, state, and federal laws, regulations, rules, codes, ordinances, permits, orders, and the like enacted or imposed by or under the auspices of any governmental entity with jurisdiction over any of the Work or any performance of the Work, including health and safety requirements.

Non-Excusable Delay is defined in Section 5.3(D), Non-Excusable Delay.

Plans means the City-provided plans, drawings, details, or graphical depictions of the Project requirements, but does not include Shop Drawings.

Project means the public works project referenced in the Contract.

Project Manager means the individual designated by City to oversee and manage the Project on City's behalf and may include his or her authorized delegee(s) when the Project Manager is unavailable. If no Project Manager has been designated for this Project, any reference to Project Manager is deemed to refer to the Engineer.

Recoverable Costs is defined in Section 5.3(F), Recoverable Costs.

Request for Information or **RFI** means Contractor's written request for information about the Contract Documents, the Work or the Project, submitted to City in the manner and format specified by City.

Section, when capitalized in these General Conditions, means a numbered section or subsection of the General Conditions, unless the context clearly indicates otherwise.

Shop Drawings means drawings, plan details or other graphical depictions prepared by or on behalf of Contractor, and subject to City acceptance, which are intended to provide details for fabrication, installation, and the like, of items required by or shown in the Plans or Specifications.

Specialty Work means Work that must be performed by a specialized Subcontractor with the specified license or other special certification, and that the Contractor is not qualified to self-perform.

Specifications means the technical, text specifications describing the Project requirements, which are prepared for and incorporated into the Contract by or on behalf of City, and does not include the Contract, General Conditions or Special Conditions.

Subcontractor means an individual, partnership, corporation, or joint-venture retained by Contractor directly or indirectly through a subcontract to perform a specific portion of the Work. The term Subcontractor applies to subcontractors of all tiers, unless otherwise indicated by the context. A third party such as a utility performing related work on the Project is not a Subcontractor, even if Contractor must coordinate its Work with the third party.

Technical Specifications has the same meaning as Specifications.

Work means all of the construction and services necessary for or incidental to completing the Project in conformance with the requirements of the Contract Documents.

Work Day or **Working Day**, whether or not capitalized, means a weekday when the City is open for business, and does not include holidays observed by the City.

Worksite means the place or places where the Work is performed, which includes, but may extend beyond the Project site, including separate locations for staging, storage, or fabrication.

Article 2 - Roles and Responsibilities

2.1 City.

(A) **City Council.** The City Council has final authority in all matters affecting the Project, except to the extent it has delegated authority to the Engineer.

(B) **Engineer.** The Engineer, acting within the authority conferred by the City Council, is responsible for administration of the Project on behalf of City, including authority to provide directions to the Design Professional and to Contractor to ensure proper and timely completion of the Project. The Engineer's decisions are final and

conclusive within the scope of his or her authority, including interpretation of the Contract Documents.

(C) **Project Manager.** The Project Manager assigned to the Project will be the primary point of contact for the Contractor and will serve as City's representative for daily administration of the Project on behalf of City. Unless otherwise specified, all of Contractor's communications to City (in any form) will go to or through the Project Manager. City reserves the right to reassign the Project Manager role at any time or to delegate duties to additional City representatives, without prior notice to or consent of Contractor.

(D) **Design Professional.** The Design Professional is responsible for the overall design of the Project and, to the extent authorized by City, may act on City's behalf to ensure performance of the Work in compliance with the Plans and Specifications, including any design changes authorized by Change Order. The Design Professional's duties may include review of Contractor's submittals, visits to any Worksite, inspecting the Work, evaluating test and inspection results, and participation in Project-related meetings, including any pre-construction conference, weekly meetings, and coordination meetings. The Design Professional's interpretation of the Plans or Specifications is final and conclusive.

2.2 Contractor.

(A) **General.** Contractor must provide all labor, materials, supplies, equipment, services, and incidentals necessary to perform and timely complete the Work in strict accordance with the Contract Documents, and in an economical and efficient manner in the best interests of City, and with minimal inconvenience to the public.

(B) **Responsibility for the Work and Risk of Loss.** Contractor is responsible for supervising and directing all aspects of the Work to facilitate the efficient and timely completion of the Work. Contractor is solely responsible for and required to exercise full control over the Work, including the construction means, methods, techniques, sequences, procedures, safety precautions and programs, and coordination of all portions of the Work with that of all other contractors and Subcontractors, except to the extent that the Contract Documents provide other specific instructions. Contractor's responsibilities extend to any plan, method or sequence suggested, but not required by City or specified in the Contract Documents. From the date of commencement of the Work until either the date on which City formally accepts the Project or the effective date of termination of the Contract, whichever is later, Contractor bears all risks of injury or damage to the Work and the materials and equipment delivered to any Worksite, by any cause including fire, earthquake, wind, weather, vandalism or theft.

(C) **Project Administration.** Contractor must provide sufficient and competent administration, staff, and skilled workforce necessary to perform and timely complete the Work in accordance with the Contract Documents. Before starting the Work, Contractor must designate in writing and provide complete contact information, including telephone numbers and email address, for the officer or employee in Contractor's organization who is to serve as Contractor's primary representative for the Project, and who has authority to act on Contractor's behalf. A Subcontractor may not serve as Contractor's primary representative.

(D) **On-Site Superintendent.** Contractor must, at all times during performance of the Work, provide a qualified and competent full-time superintendent acceptable to City, and assistants as necessary, who must be physically present at the Project site while any aspect of the Work is being performed. The superintendent must have full authority to act and communicate on behalf of Contractor, and Contractor will be bound by the

superintendent's communications to City. City's approval of the superintendent is required before the Work commences. If City is not satisfied with the superintendent's performance, City may request a qualified replacement of the superintendent. Failure to comply may result in temporary suspension of the Work, at Contractor's sole expense and with no extension of Contract Time, until an approved superintendent is physically present to supervise the Work. Contractor must provide written notice to City, as soon as practicable, before replacing the superintendent.

(E) **Standards.** Contractor must, at all times, ensure that the Work is performed in an efficient, skillful manner following best practices and in full compliance with the Contract Documents and Laws and applicable manufacturer's recommendations. Contractor has a material and ongoing obligation to provide true and complete information, to the best of its knowledge, with respect to all records, documents, or communications pertaining to the Project, including oral or written reports, statements, certifications, Change Order requests, or Claims.

(F) **Meetings.** Contractor, its project manager, superintendent and any primary Subcontractors requested by City, must attend a pre-construction conference, if requested by City, as well as weekly Project progress meetings scheduled with City. If applicable, Contractor may also be required to participate in coordination meetings with other parties relating to other work being performed on or near the Project site or in relation to the Project, including work or activities performed by City, other contractors, or other utility owners.

(G) **Construction Records.** Contractor will maintain up-to-date, thorough, legible, and dated daily job reports, which document all significant activity on the Project for each day that Work is performed on the Project. The daily report for each day must include the number of workers at the Project site; primary Work activities; major deliveries; problems encountered, including injuries, if any; weather and site conditions; and delays, if any. Contractor will take date and time-stamped photographs to document general progress of the Project, including site conditions prior to construction activities, before and after photographs at offset trench laterals, existing improvements and utilities, damage and restoration. Contractor will maintain copies of all subcontracts, Project-related correspondence with Subcontractors, and records of meetings with Subcontractors. Upon request by the City, Contractor will permit review of and/or provide copies of any of these construction records.

(H) **Responsible Party.** Contractor is solely responsible to City for the acts or omissions of any Subcontractors, or any other party or parties performing portions of the Work or providing equipment, materials or services for or on behalf of Contractor or the Subcontractors. Upon City's written request, Contractor must promptly and permanently remove from the Project, at no cost to City, any employee or Subcontractor or employee of a Subcontractor who the Engineer has determined to be incompetent, intemperate or disorderly, or who has failed or refused to perform the Work as required under the Contract Documents.

(I) **Correction of Defects.** Contractor must promptly correct, at Contractor's sole expense, any Work that is determined by City to be deficient or defective in any way, including workmanship, materials, parts or equipment. Workmanship, materials, parts or equipment that do not conform to the requirements under the Plans, Specifications and every other Contract Document, as determined by City, will be considered defective and subject to rejection. Contractor must also promptly correct, at Contractor's sole expense, any Work performed beyond the lines and grades shown on the Plans or established by City, and any Extra Work performed without City's prior written approval. If Contractor fails to correct or to take reasonable steps toward correcting defective Work within five days following notice from City, or within the time specified in City's notice to correct, City

may elect to have the defective Work corrected by its own forces or by a third party, in which case the cost of correction will be deducted from the Contract Price. If City elects to correct defective Work due to Contractor's failure or refusal to do so, City or its agents will have the right to take possession of and use any equipment, supplies, or materials available at the Project site or any Worksite on City property, in order to effectuate the correction, at no extra cost to City. Contractor's warranty obligations under Section 11.2, Warranty, will not be waived nor limited by City's actions to correct defective Work under these circumstances. Alternatively, City may elect to retain defective Work, and deduct the difference in value, as determined by the Engineer, from payments otherwise due to Contractor. This paragraph applies to any defective Work performed by Contractor during the one-year warranty period under Section 11.2.

(J) **Contractor's Records.** Contractor must maintain all of its records relating to the Project in any form, including paper documents, photos, videos, electronic records, approved samples, and the construction records required pursuant to paragraph (G), above. Project records subject to this provision include complete Project cost records and records relating to preparation of Contractor's bid, including estimates, take-offs, and price quotes or bids.

(1) Contractor's cost records must include all supporting documentation, including original receipts, invoices, and payroll records, evidencing its direct costs to perform the Work, including, but not limited to, costs for labor, materials and equipment. Each cost record should include, at a minimum, a description of the expenditure with references to the applicable requirements of the Contract Documents, the amount actually paid, the date of payment, and whether the expenditure is part of the original Contract Price, related to an executed Change Order, or otherwise categorized by Contractor as Extra Work. Contractor's failure to comply with this provision as to any claimed cost operates as a waiver of any rights to recover the claimed cost.

(2) Contractor must continue to maintain its Project-related records in an organized manner for a period of five years after City's acceptance of the Project or following Contract termination, whichever occurs first. Subject to prior notice to Contractor, City is entitled to inspect or audit any of Contractor's records relating to the Project during Contractor's normal business hours. The record-keeping requirements set forth in this subsection 2.2(J) will survive expiration or termination of the Contract.

(K) **Copies of Project Documents.** Contractor and its Subcontractors must keep copies, at the Project site, of all Work-related documents, including the Contract, permit(s), Plans, Specifications, Addenda, Contract amendments, Change Orders, RFIs and RFI responses, Shop Drawings, as-built drawings, schedules, daily records, testing and inspection reports or results, and any related written interpretations. These documents must be available to City for reference at all times during construction of the Project.

2.3 Subcontractors.

(A) **General.** All Work which is not performed by Contractor with its own forces must be performed by Subcontractors. City reserves the right to approve or reject any and all Subcontractors proposed to perform the Work, for reasons including the subcontractor's poor reputation, lack of relevant experience, financial instability, and lack of technical ability or adequate trained workforce. Each Subcontractor must obtain a City business license before performing any Work.

(B) **Contractual Obligations.** Contractor must require each Subcontractor to comply with the provisions of the Contract Documents as they apply to the Subcontractor's portion(s) of the Work, including the generally applicable terms of the Contract Documents, and to likewise bind their subcontractors. Contractor will provide that the rights that each Subcontractor may have against any manufacturer or supplier for breach of warranty or guarantee relating to items provided by the Subcontractor for the Project, will be assigned to City. Nothing in these Contract Documents creates a contractual relationship between a Subcontractor and City, but City is deemed to be a third-party beneficiary of the contract between Contractor and each Subcontractor.

(C) **Termination.** If the Contract is terminated, each Subcontractor's agreement must be assigned by Contractor to City, subject to the prior rights of any surety, but only if and to the extent that City accepts, in writing, the assignment by written notification, and assumes all rights and obligations of Contractor pursuant to each such subcontract agreement.

(D) **Substitution of Subcontractor.** If Contractor requests substitution of a listed Subcontractor under Public Contract Code § 4107, Contractor is solely responsible for all costs City incurs in responding to the request, including legal fees and costs to conduct a hearing, and any increased subcontract cost to perform the Work that was to be performed by the listed Subcontractor. If City determines that a Subcontractor is unacceptable to City based on the Subcontractor's failure to satisfactorily perform its Work, or for any of the grounds for substitution listed in Public Contract Code § 4107(a), City may request removal of the Subcontractor from the Project. Upon receipt of a written request from City to remove a Subcontractor pursuant to this paragraph, Contractor will immediately remove the Subcontractor from the Project and, at no further cost to City, will either (1) self-perform the remaining Work to the extent that Contractor is duly licensed and qualified to do so, or (2) substitute a Subcontractor that is acceptable to City, in compliance with Public Contract Code § 4107, as applicable.

2.4 Coordination of Work.

(A) **Concurrent Work.** City reserves the right to perform, have performed, or permit performance of other work on or adjacent to the Project site while the Work is being performed for the Project. Contractor is responsible for coordinating its Work with other work being performed on or adjacent to the Project site, including by any utility companies or agencies, and must avoid hindering, delaying, or interfering with the work of other contractors, individuals, or entities, and must ensure safe and reasonable site access and use as required or authorized by City. To the full extent permitted by law, Contractor must hold harmless and indemnify City against any and all claims arising from or related to Contractor's avoidable, negligent, or willful hindrance of, delay to, or interference with the work of any utility company or agency or another contractor or subcontractor.

(B) **Coordination.** If Contractor's Work will connect or interface with work performed by others, Contractor is responsible for independently measuring and visually inspecting such work to ensure a correct connection and interface. Contractor is responsible for any failure by Contractor or its Subcontractors to confirm measurements before proceeding with connecting Work. Before proceeding with any portion of the Work affected by the construction or operations of others, Contractor must give the Project Manager prompt written notification of any defects Contractor discovers which will prevent the proper execution of the Work. Failure to give notice of any known or reasonably discoverable defects will be deemed acknowledgement by Contractor that the work of others is not defective and will not prevent the proper execution of the Work. Contractor must also promptly notify City if work performed by others, including work or activities performed by City's own forces, is operating to hinder, delay, or interfere with Contractor's timely

performance of the Work. City reserves the right to backcharge Contractor for any additional costs incurred due to Contractor's failure to comply with the requirements in this Section 2.4.

2.5 Submittals. Unless otherwise specified, Contractor must submit to the Engineer for review and acceptance, all schedules, Shop Drawings, samples, product data, and similar submittals required by the Contract Documents, or upon request by the Engineer. Unless otherwise specified, all submittals, including Requests for Information, are subject to the general provisions of this Section, as well as specific submittal requirements that may be included elsewhere in the Contract Documents, including the Special Conditions or Specifications. The Engineer may require submission of a submittal schedule at or before a pre-construction conference, as may be specified in the Notice to Proceed.

(A) **General.** Contractor is responsible for ensuring that its submittals are accurate and conform to the Contract Documents.

(B) **Time and Manner of Submission.** Contractor must ensure that its submittals are prepared and delivered in a manner consistent with the current City-accepted schedule for the Work and within the applicable time specified in the Contract Documents, or if no time is specified, in such time and sequence so as not to delay the performance of the Work or completion of the Project.

(C) **Required Contents.** Each submittal must include the Project name and contract number, Contractor's name and address, the name and address of any Subcontractor or supplier involved with the submittal, the date, and references to applicable Specification section(s) and/or drawing and detail number(s).

(D) **Required Corrections.** If corrections are required, Contractor must promptly make and submit any required corrections as specified in full conformance with the requirements of this Section, or other requirements that apply to that submittal.

(E) **Effect of Review and Acceptance.** Review and acceptance of a submittal by City will not relieve Contractor from complying with the requirements of the Contract Documents. Contractor is responsible for any errors in any submittal, and review or acceptance of a submittal by City is not an assumption of risk or liability by City.

(F) **Enforcement.** Any Work performed or any material furnished, installed, fabricated or used without City's prior acceptance of a required submittal is performed or provided at Contractor's risk, and Contractor may be required to bear the costs incident thereto, including the cost of removing and replacing such Work, repairs to other affected portions of the Work or material, and the cost of additional time or services required of City, including costs for the Design Professional, Project Manager, or Inspector.

(G) **Excessive RFIs.** A RFI will be considered excessive or unnecessary if City determines that the explanation or response to the RFI is clearly and unambiguously discernable from the Contract Documents. City's costs to review and respond to excessive or unnecessary RFIs may be deducted from payments otherwise due to Contractor.

2.6 Shop Drawings. When Shop Drawings are required by the Specifications or requested by the Engineer, they must be prepared according to best practices at Contractor's expense. The Shop Drawings must be of a size and scale to clearly show all necessary details. Unless otherwise specified by City, Shop Drawings must be provided to the Engineer for review and acceptance at least 30 days before the Work will be performed. If City requires changes, the corrected Shop Drawings must be resubmitted to the Engineer for review within the time specified by the Engineer. For all Project components

requiring Shop Drawings, Contractor will not furnish materials or perform any Work until the Shop Drawings for those components are accepted by City. Contractor is responsible for any errors or omissions in the Shop Drawings, shop fits and field corrections; any deviations from the Contract Documents; and for the results obtained by the use of Shop Drawings. Acceptance of Shop Drawings by City does not relieve Contractor of Contractor's responsibility.

- 2.7 Access to Work.** Contractor must afford prompt and safe access to any Worksite by City and its employees, agents, or consultants authorized by City; and upon request by City, Contractor must promptly arrange for City representatives to visit or inspect manufacturing sites or fabrication facilities for items to be incorporated into the Work.
- 2.8 Personnel.** Contractor and its Subcontractors must employ only competent and skillful personnel to perform the Work. Contractor and its Subcontractor's supervisors, security or safety personnel, and employees who have unescorted access to the Project site must possess proficiency in English sufficient to read, understand, receive, and implement oral or written communications or instructions relating to their respective job functions, including safety and security requirements. Upon written notification from the Engineer, Contractor and its Subcontractors must immediately discharge any personnel who are incompetent, disorderly, disruptive, threatening, abusive, or profane, or otherwise refuse or fail to comply with the requirements of the Contract Documents or Laws, including Laws pertaining to health and safety. Any such discharged personnel may not be re-employed or permitted on the Project in any capacity without City's prior written consent.

Article 3 - Contract Documents

3.1 Interpretation of Contract Documents.

(A) **Plans and Specifications.** The Plans and Specifications included in the Contract Documents are complementary. If Work is shown on one but not on the other, Contractor must perform the Work as though fully described on both, consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. The Plans and Specifications are deemed to include and require everything necessary and reasonably incidental to completion of the Work, whether or not particularly mentioned or shown. Contractor must perform all Work and services and supply all things reasonably related to and inferable from the Contract Documents. In the event of a conflict between the Plans and Specifications, the Specifications will control, unless the drawing(s) at issue are dated later than the Specification(s) at issue. Detailed drawings take precedence over general drawings, and large-scale drawings take precedence over smaller scale drawings. Any arrangement or division of the Plans and Specifications into sections is for convenience and is not intended to limit the Work required by separate trades. A conclusion presented in the Plans or Specifications is only a recommendation. Actual locations and depths must be determined by Contractor's field investigation. Contractor may request access to underlying or background information in City's possession that is necessary for Contractor to form its own conclusions.

(B) **Duty to Notify and Seek Direction.** If Contractor becomes aware of a changed condition in the Project, or of any ambiguity, conflict, inconsistency, discrepancy, omission, or error in the Contract Documents, including the Plans or Specifications, Contractor must promptly submit a Request for Information to the Engineer and wait for a response from City before proceeding further with the related Work. The RFI must notify City of the issue and request clarification, interpretation or direction. The Engineer's clarification, interpretation or direction will be final and binding on Contractor. If Contractor proceeds with the related Work before obtaining City's response, Contractor will be responsible for any resulting costs, including the cost of correcting any incorrect or

defective Work that results. Timely submission of a clear and complete RFI is essential to avoiding delay. Delay resulting from Contractor's failure to submit a timely and complete RFI to the Engineer is Non-Excusable Delay. If Contractor believes that City's response to an RFI justifies a change to the Contract Price or Contract Time, Contractor must perform the Work as directed, but may submit a timely Change Order request in accordance with the Contract Documents. (See Article 5 and 6.)

(C) **Figures and Dimensions.** Figures control over scaled dimensions.

(D) **Technical or Trade Terms.** Any terms that have well-known technical or trade meanings will be interpreted in accordance with those meanings, unless otherwise specifically defined in the Contract Documents.

(E) **Measurements.** Contractor must verify all relevant measurements in the Contract Documents and at the Project site before ordering any material or performing any Work, and will be responsible for the correctness of those measurements or for costs that could have been avoided by independently verifying measurements.

(F) **Compliance with Laws.** The Contract Documents are intended to comply with Laws and will be interpreted to comply with Laws.

3.2 Order of Precedence. Information included in one Contract Document but not in another will not be considered a conflict or inconsistency. Unless otherwise specified in the Special Conditions, in case of any conflict or inconsistency among the Contract Documents, the following order of precedence will apply, beginning from highest to lowest, with the most recent version taking precedent over an earlier version:

- (A) Change Orders;
- (B) Addenda;
- (C) Contract;
- (D) Notice to Proceed;
- (E) Attachment B – Federal Contract Requirements (only if used);
- (F) Special Conditions;
- (G) General Conditions;
- (H) Payment and Performance Bonds;
- (I) Specifications;
- (J) Plans;
- (K) Notice of Potential Award;
- (L) Notice Inviting Bids;
- (M) Attachment A – Federal Bidding Requirements (only if used);
- (N) Instructions to Bidders;
- (O) Contractor's Bid Proposal and attachments;
- (P) the City's standard specifications, as applicable; and
- (Q) Any generic documents prepared by and on behalf of a third party, that were not prepared specifically for this Project, such as the Caltrans Standard Specifications or Caltrans Special Provisions.

3.3 Caltrans Standard Specifications. Any reference to or incorporation of the Standard Specifications of the State of California, Department of Transportation ("Caltrans"), including "Standard Specifications," "Caltrans Specifications," "State Specifications," or "CSS," means the most current edition of Caltrans' Standard Specifications, unless otherwise specified ("Caltrans Standard Specifications"), including the most current amendments as of the date that Contractor's bid was submitted for this Project. The following provisions apply to use of or reference to the Caltrans Standard Specifications or Special Provisions:

(A) **Limitations.** The “General Provisions” of the Caltrans Standard Specifications, i.e., sections 1 through 9, do not apply to these Contract Documents with the exception of any specific provisions, if any, which are expressly stated to apply to these Contract Documents.

(B) **Conflicts or Inconsistencies.** If there is a conflict or inconsistency between any provision in the Caltrans Standard Specifications or Special Provisions and a provision of these Contract Documents, as determined by City, the provision in the Contract Documents will govern.

(C) **Meanings.** Terms used in the Caltrans Standard Specifications or Special Provisions are to be interpreted as follows:

(1) Any reference to the “Engineer” is deemed to mean the City Engineer.

(2) Any reference to the “Special Provisions” is deemed to mean the Special Conditions, unless the Caltrans Special Provisions are expressly included in the Contract Documents listed in Section 2 of the Contract.

(3) Any reference to the “Department” or “State” is deemed to mean City.

3.4 For Reference Only. Contractor is responsible for the careful review of any document, study, or report provided by City or appended to the Contract Documents solely for informational purposes and identified as “For Reference Only.” Nothing in any document, study, or report so appended and identified is intended to supplement, alter, or void any provision of the Contract Documents. Contractor is advised that City or its representatives may be guided by information or recommendations included in such reference documents, particularly when making determinations as to the acceptability of proposed materials, methods, or changes in the Work. Any record drawings or similar final or accepted drawings or maps that are not part of the Contract Documents are deemed to be For Reference Only. The provisions of the Contract Documents are not modified by any perceived or actual conflict with provisions in any document that is provided For Reference Only.

3.5 Current Versions. Unless otherwise specified by City, any reference to standard specifications, technical specifications, or any City or state codes or regulations means the latest specification, code or regulation in effect at the time the Contract is signed.

3.6 Conformed Copies. If City prepares a conformed set of the Contract Documents following award of the Contract, it will provide Contractor with two hard copy (paper) sets and one copy of the electronic file in PDF format. It is Contractor’s responsibility to ensure that all Subcontractors, including fabricators, are provided with the conformed set of the Contract Documents at Contractor’s sole expense.

3.7 Ownership. No portion of the Contract Documents may be used for any purpose other than construction of the Project, without prior written consent from City. Contractor is deemed to have conveyed the copyright in any designs, drawings, specifications, Shop Drawings, or other documents (in paper or electronic form) developed by Contractor for the Project, and City will retain all rights to such works, including the right to possession.

Article 4 - Bonds, Indemnity, and Insurance

4.1 Payment and Performance Bonds. Within ten days following issuance of the Notice of Potential Award, Contractor is required to provide a payment bond and a performance bond, each in the penal sum of not less than 100% of the Contract Price, and each

executed by Contractor and its surety using the bond forms included with the Contract Documents.

(A) **Surety.** Each bond must be issued and executed by a surety admitted in California. If an issuing surety cancels the bond or becomes insolvent, within seven days following written notice from City, Contractor must substitute a surety acceptable to City. If Contractor fails to substitute an acceptable surety within the specified time, City may, at its sole discretion, withhold payment from Contractor until the surety is replaced to City's satisfaction, or terminate the Contract for default.

(B) **Supplemental Bonds for Increase in Contract Price.** If the Contract Price increases during construction by five percent or more over the original Contract Price, Contractor must provide supplemental or replacement bonds within ten days of written notice from City pursuant to this Section, covering 100% of the increased Contract Price and using the bond forms included with the Contract Documents.

4.2 Indemnity. To the fullest extent permitted by law, Contractor must indemnify, defend, and hold harmless City, its Council, officers, officials, employees, agents, volunteers, and consultants (individually, an "Indemnitee," and collectively the "Indemnitees") from and against any and all liability, loss, damage, claims, causes of action, demands, charges, fines, costs, and expenses (including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, "Liability") of every nature arising out of or in connection with the acts or omissions of Contractor, its employees, Subcontractors, representatives, or agents, in bidding or performing the Work or in failing to comply with any obligation of Contractor under the Contract, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnitee. This indemnity requirement applies to any Liability arising from alleged defects in the content or manner of submission of Contractor's bid for the Contract. Contractor's failure or refusal to timely accept a tender of defense pursuant to this Contract will be deemed a material breach of the Contract. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code § 9201. Contractor waives any right to express or implied indemnity against any Indemnitee. Contractor's indemnity obligations under this Contract will survive the expiration or any early termination of the Contract.

4.3 Insurance. No later than ten days following issuance of the Notice of Potential Award, Contractor must procure and provide proof of the insurance coverage required by this Section in the form of certificates and endorsements acceptable to City. The required insurance must cover the activities of Contractor and its Subcontractors relating to or arising from the performance of the Work, and must remain in full force and effect at all times during the period covered by the Contract, through the date of City's acceptance of the Project. All required insurance must be issued by a company licensed to do business in the State of California, and each such insurer must have an A.M. Best's financial strength rating of "A" or better and a financial size rating of "VIII" or better. If Contractor fails to provide any of the required coverage in full compliance with the requirements of the Contract Documents, City may, at its sole discretion, purchase such coverage at Contractor's expense and deduct the cost from payments due to Contractor, or terminate the Contract for default. The procurement of the required insurance will not be construed to limit Contractor's liability under this Contract or to fulfill Contractor's indemnification obligations under this Contract.

(A) **Policies and Limits.** The following insurance policies and limits are required for this Contract, unless otherwise specified in the Special Conditions:

(1) **Commercial General Liability ("CGL") Insurance:** The CGL insurance policy must be issued on an occurrence basis, written on a comprehensive general

liability form, and must include coverage for liability arising from Contractor's or its Subcontractor's acts or omissions in the performance of the Work, including contractor's protected coverage, contractual liability, products and completed operations, and broad form property damage, with limits of at least \$2,000,000 per occurrence and at least \$4,000,000 general aggregate. The CGL insurance coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth in this Section, including required endorsements.

(2) *Automobile Liability Insurance*: The automobile liability insurance policy must provide coverage of at least \$2,000,000 combined single-limit per accident for bodily injury, death, or property damage, including hired and non-owned auto liability.

(3) *Workers' Compensation Insurance and Employer's Liability*: The workers' compensation and employer's liability insurance policy must comply with the requirements of the California Labor Code, providing coverage of at least \$1,000,000 or as otherwise required by the statute. If Contractor is self-insured, Contractor must provide its Certificate of Permission to Self-Insure, duly authorized by the DIR.

(4) *Pollution Liability Insurance*: The pollution liability insurance policy must be issued on an occurrence basis, providing coverage of at least \$2,000,000 for all loss arising out of claims for bodily injury, death, property damage, or environmental damage caused by pollution conditions resulting from the Work.

(5) *Builder's Risk Insurance*: The builder's risk insurance policy must be issued on an occurrence basis, for all-risk or "all perils" coverage on a 100% completed value basis on the insurable portion of the Project for the benefit of City.

(B) **Notice.** Each certificate of insurance must state that the coverage afforded by the policy or policies will not be reduced, cancelled or allowed to expire without at least 30 days written notice to City, unless due to non-payment of premiums, in which case ten days written notice must be made to City.

(C) **Waiver of Subrogation.** Each required policy must include an endorsement providing that the carrier will waive any right of subrogation it may have against City.

(D) **Required Endorsements.** The CGL policy, automobile liability policy, pollution liability policy, and builder's risk policy must include the following specific endorsements:

(1) The City, including its Council, officials, officers, employees, agents, volunteers and consultants (collectively, "Additional Insured") must be named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and the policy must protect the Additional Insured against any and all liability for personal injury, death or property damage or destruction arising directly or indirectly in the performance of the Contract. The additional insured endorsement must be provided using ISO form CG 20 10 11 85 or an equivalent form approved by the City.

(2) The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(3) The insurance provided by Contractor is primary and no insurance held or owned by any Additional Insured may be called upon to contribute to a loss.

(4) This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

(E) **Contractor's Responsibilities.** This Section 4.3 establishes the minimum requirements for Contractor's insurance coverage in relation to this Project, but is not intended to limit Contractor's ability to procure additional or greater coverage. Contractor is responsible for its own risk assessment and needs and is encouraged to consult its insurance provider to determine what coverage it may wish to carry beyond the minimum requirements of this Section. Contractor is solely responsible for the cost of its insurance coverage, including premium payments, deductibles, or self-insured retentions, and no Additional Insured will be responsible or liable for any of the cost of Contractor's insurance coverage.

(F) **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions that apply to the required insurance (collectively, "deductibles") in excess of \$100,000 are subject to approval by the City's Risk Manager, acting in his or her sole discretion, and must be declared by Contractor when it submits its certificates of insurance and endorsements pursuant to this Section 4.3. If the City's Risk Manager determines that the deductibles are unacceptably high, at City's option, Contractor must either reduce or eliminate the deductibles as they apply to City and all required Additional Insured; or must provide a financial guarantee, to City's satisfaction, guaranteeing payment of losses and related investigation, claim administration, and legal expenses.

(G) **Subcontractors.** Contractor must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 4.3, with respect to its performance of Work on the Project, including those requirements related to the Additional Insureds and waiver of subrogation, but excluding pollution liability or builder's risk insurance unless otherwise specified in the Special Conditions. A Subcontractor may be eligible for reduced insurance coverage or limits, but only to the extent approved in writing in advance by the City's Risk Manager. Contractor must confirm that each Subcontractor has complied with these insurance requirements before the Subcontractor is permitted to begin Work on the Project. Upon request by the City, Contractor must provide certificates and endorsements submitted by each Subcontractor to prove compliance with this requirement. The insurance requirements for Subcontractors do not replace or limit the Contractor's insurance obligations.

Article 5 - Contract Time

5.1 Time is of the Essence. Time is of the essence in Contractor's performance and completion of the Work, and Contractor must diligently prosecute the Work and complete it within the Contract Time.

(A) **General.** Contractor must commence the Work on the date indicated in the Notice to Proceed and must fully complete the Work in strict compliance with all requirements of the Contract Documents and within the Contract Time. Contractor may not begin performing the Work before the date specified in the Notice to Proceed.

(B) **Authorization.** Contractor is not entitled to compensation or credit for any Work performed before the date specified in the Notice to Proceed, with the exception of any schedules, submittals, or other requirements, if any, that must be provided or performed before issuance of the Notice to Proceed.

(C) **Rate of Progress.** Contractor and its Subcontractors must, at all times, provide workers, materials, and equipment sufficient to maintain the rate of progress necessary to ensure full completion of the Work within the Contract Time. If City determines that Contractor is failing to prosecute the Work at a sufficient rate of progress, City may, in its sole discretion, direct Contractor to provide additional workers, materials, or equipment, or to work additional hours or days without additional cost to City, in order to achieve a rate of progress satisfactory to City. If Contractor fails to comply with City's directive in this regard, City may, at Contractor's expense, separately contract for additional workers, materials, or equipment or use City's own forces to achieve the necessary rate of progress. Alternatively, City may terminate the Contract based on Contractor's default.

5.2 Schedule Requirements. Contractor must prepare all schedules using standard, commercial scheduling software acceptable to the Engineer, and must provide the schedules in electronic and paper form as requested by the Engineer. In addition to the general scheduling requirements set forth below, Contractor must also comply with any scheduling requirements included in the Special Conditions or in the Technical Specifications.

(A) **Baseline (As-Planned) Schedule.** Within ten calendar days following City's issuance of the Notice to Proceed (or as otherwise specified in the Notice to Proceed), Contractor must submit to City for review and acceptance a baseline (as-planned) schedule using critical path methodology showing in detail how Contractor plans to perform and fully complete the Work within the Contract Time, including labor, equipment, materials and fabricated items. The baseline schedule must show the order of the major items of Work and the dates of start and completion of each item, including when the materials and equipment will be procured. The schedule must also include the work of all trades, reflecting anticipated labor or crew hours and equipment loading for the construction activities, and must be sufficiently comprehensive and detailed to enable progress to be monitored on a day-by-day basis. For each activity, the baseline schedule must be dated, provided in the format specified in the Contract Documents or as required by City, and must include, at a minimum, a description of the activity, the start and completion dates of the activity, and the duration of the activity.

(1) **Specialized Materials Ordering.** Within five calendar days following issuance of the Notice to Proceed, Contractor must order any specialized material or equipment for the Work that is not readily available from material suppliers. Contractor must also retain documentation of the purchase order date(s).

(B) **City's Review of Schedules.** City will review and may note exceptions to the baseline schedule, and to the progress schedules submitted as required below, to assure completion of the Work within the Contract Time. Contractor is solely responsible for resolving any exceptions noted in a schedule and, within seven days, must correct the schedule to address the exceptions. City's review or acceptance of Contractor's schedules will not operate to waive or limit Contractor's duty to complete the Project within the Contract Time, nor to waive or limit City's right to assess liquidated damages for Contractor's unexcused failure to do so.

(C) **Progress Schedules.** After City accepts the final baseline schedule with no exceptions, Contractor must submit an updated progress schedule and three-week look-ahead schedule, in the format specified by City, for review and acceptance with each application for a progress payment, or when otherwise specified by City, until completion of the Work. The updated progress schedule must: show how the actual progress of the Work as constructed to date compares to the baseline schedule; reflect any proposed changes in the construction schedule or method of operations, including to achieve Project milestones within the Contract Time; and identify any actual or potential impacts

to the critical path. Contractor must also submit periodic reports to City of any changes in the projected material or equipment delivery dates for the Project.

(1) *Float*. The progress schedule must show early and late completion dates for each task. The number of days between those dates will be designated as the "float." Any float belongs to the Project and may be allocated by the Engineer to best serve timely completion of the Project.

(2) *Failure to Submit Schedule*. Reliable, up-to-date schedules are essential to efficient and cost-effective administration of the Project and timely completion. If Contractor fails to submit a schedule within the time periods specified in this Section, or submits a schedule to which City has noted exceptions that are not corrected, City may withhold up to ten percent from payment(s) otherwise due to Contractor until the exceptions are resolved, the schedule is corrected and resubmitted, and City has accepted the schedule. In addition, Contractor's failure to comply with the schedule requirements in this Section 5.2 will be deemed a material default and a waiver of any claims for Excusable Delay or loss of productivity arising during any period when Contractor is out of compliance, subject only to the limits of Public Contract Code § 7102.

(D) **Recovery Schedule**. If City determines that the Work is more than one week behind schedule, within seven days following written notice of such determination, Contractor must submit a recovery schedule, showing how Contractor intends to perform and complete the Work within the Contract Time, based on actual progress to date.

(E) **Effect of Acceptance**. Contractor and its Subcontractors must perform the Work in accordance with the most current City-accepted schedule unless otherwise directed by City. City's acceptance of a schedule does not operate to extend the time for completion of the Work or any component of the Work, and will not affect City's right to assess liquidated damages for Contractor's unexcused delay in completing the Work within the Contract Time.

(F) **Posting**. Contractor must at all times prominently post a copy of the most current City-accepted progress or recovery schedule in its on-site office.

(G) **Reservation of Rights**. City reserves the right to direct the sequence in which the Work must be performed or to make changes in the sequence of the Work in order to facilitate the performance of work by City or others, or to facilitate City's use of its property. The Contract Time or Contract Price may be adjusted to the extent such changes in sequence actually increase or decrease Contractor's time or cost to perform the Work.

(H) **Authorized Working Days and Times**. Contractor is limited to working Monday through Friday, excluding holidays, during City's normal business hours, except as provided in the Special Conditions or as authorized in writing by City. City reserves the right to charge Contractor for additional costs incurred by City due to Work performed on days or during hours not expressly authorized in the Contract Documents, including reimbursement of costs incurred for inspection, testing, and construction management services.

5.3 Delay and Extensions of Contract Time.

(A) **Notice of Delay**. If Contractor becomes aware of any actual or potential delay affecting the critical path, Contractor must promptly notify the Engineer in writing, regardless of the nature or cause of the delay, so that City has a reasonable opportunity to mitigate or avoid the delay.

(B) **Excusable Delay.** The Contract Time may be extended if Contractor encounters "Excusable Delay," which is an unavoidable delay in completing the Work within the Contract Time due to causes completely beyond Contractor's control, and which Contractor could not have avoided or mitigated through reasonable care, planning, foresight, and diligence, provided that Contractor is otherwise fully performing its obligations under the Contract Documents. Grounds for Excusable Delay may include fire, natural disasters including earthquake or unusually severe weather, acts of terror or vandalism, epidemic, unforeseeable adverse government actions, unforeseeable actions of third parties, encountering unforeseeable hazardous materials, unforeseeable site conditions, or suspension for convenience under Article 13. The Contract Time will not be extended based on circumstances which will not unavoidably delay completing the Work within the Contract Time based on critical path analysis.

(C) **Weather Delays.** A "Weather Delay Day" is a Working Day during which Contractor and its forces, including Subcontractors, are unable to perform more than 40% of the critical path Work scheduled for that day due to adverse weather conditions which impair the ability to safely or effectively perform the scheduled critical path Work that day. Adverse weather conditions may include rain, saturated soil, and Project site clean-up required due to adverse weather. Determination of what constitutes critical path Work scheduled for that day will be based on the most current, City-approved schedule. Contractor will be entitled to a non-compensable extension of the Contract Time for each Weather Delay Day in excess of the normal Weather Delay Days within a given month as determined by reliable records, including monthly rainfall averages, for the preceding ten years (or as otherwise specified in the Special Conditions or Specifications).

(1) Contractor must fully comply with the applicable procedures in Articles 5 and 6 of the General Conditions regarding requests to modify the Contract Time.

(2) Contractor will not be entitled to an extension of time for a Weather Delay Day to the extent Contractor is responsible for concurrent delay on that day.

(3) Contractor must take reasonable steps to mitigate the consequences of Weather Delay Days, including prudent workforce management and protecting the Work, Project Site, materials, and equipment.

(D) **Non-Excusable Delay.** Delay which Contractor could have avoided or mitigated through reasonable care, planning, foresight and diligence is "Non-Excusable Delay." Contractor is not entitled to an extension of Contract Time or any compensation for Non-Excusable Delay, or for Excusable Delay that is concurrent with Non-Excusable Delay. Non-Excusable Delay includes delay caused by:

(1) weather conditions which are normal for the location of the Project, as determined by reliable records, including monthly rainfall averages, for the preceding ten years;

(2) Contractor's failure to order equipment and materials sufficiently in advance of the time needed for completion of the Work within the Contract Time;

(3) Contractor's failure to provide adequate notification to utility companies or agencies for connections or services necessary for completion of the Work within the Contract Time;

- (4) foreseeable conditions which Contractor could have ascertained from reasonably diligent inspection of the Project site or review of the Contract Documents or other information provided or available to Contractor;
- (5) Contractor's failure, refusal, or financial inability to perform the Work within the Contract Time, including insufficient funds to pay its Subcontractors or suppliers;
- (6) performance or non-performance by Contractor's Subcontractors or suppliers;
- (7) the time required to respond to excessive RFIs (see Section 2.5(G));
- (8) delayed submission of required submittals, or the time required for correction and resubmission of defective submittals;
- (9) time required for repair of, re-testing, or re-inspection of defective Work;
- (10) enforcement of Laws by City, or outside agencies with jurisdiction over the Work; or
- (11) City's exercise or enforcement of any of its rights or Contractor's duties pursuant to the Contract Documents, including correction of defective Work, extra inspections or testing due to non-compliance with Contract requirements, safety compliance, environmental compliance, or rejection and return of defective or deficient submittals.

(E) **Compensable Delay.** Pursuant to Public Contract Code § 7102, in addition to entitlement to an extension of Contract Time, Contractor is entitled to compensation for costs incurred due to delay caused solely by City, when that delay is unreasonable under the circumstances involved and not within the contemplation of the parties ("Compensable Delay"). Contractor is not entitled to an extension of Contract Time or recovery of costs for Compensable Delay that is concurrent with Non-Excusable Delay. Delay due to causes that are beyond the control of either City or Contractor, including Weather Delay Days, discovery of Historic or Archeological Items pursuant to Section 7.18, or the actions or inactions of third parties or other agencies, is not Compensable Delay, and will only entitle Contractor to an extension of time commensurate with the time lost due to such delay.

(F) **Recoverable Costs.** Contractor is not entitled to compensation for Excusable Delay unless it is Compensable Delay, as defined above. Contractor is entitled to recover only the actual, direct, reasonable, and substantiated costs ("Recoverable Costs") for each working day that the Compensable Delay prevents Contractor from proceeding with more than 50% of the critical path Work scheduled for that day, based on the most recent progress schedule accepted by City. Recoverable Costs will not include home office overhead or lost profit.

(G) **Request for Extension of Contract Time or Recoverable Costs.** A request for an extension of Contract Time or any associated Recoverable Costs must be submitted in writing to City within ten calendar days of the date the delay is first encountered, even if the duration of the delay is not yet known at that time, or any entitlement to the Contract Time extension or to the Recoverable Costs will be deemed waived. In addition to complying with the requirements of this Article 5, the request must be submitted in compliance with the Change Order request procedures in Article 6 below. Strict compliance with these requirements is necessary to ensure that any delay or consequences of delay may be mitigated as soon as possible, and to facilitate cost-

efficient administration of the Project and timely performance of the Work. Any request for an extension of Contract Time or Recoverable Costs that does not strictly comply with all of the requirements of Article 5 and Article 6 will be deemed waived.

(1) *Required Contents.* The request must include a detailed description of the cause(s) of the delay and must also describe the measures that Contractor has taken to mitigate the delay and/or its effects, including efforts to mitigate the cost impact of the delay, such as by workforce management or by a change in sequencing. If the delay is still ongoing at the time the request is submitted, the request should also include Contractor's plan for continued mitigation of the delay or its effects.

(2) *Delay Days and Costs.* The request must specify the number of days of Excusable Delay claimed or provide a realistic estimate if the duration of the delay is not yet known. If Contractor believes it is entitled to Recoverable Costs for Compensable Delay, the request must specify the amount and basis for the Recoverable Costs that are claimed or provide a realistic estimate if the amount is not yet known. Any estimate of delay duration or cost must be updated in writing and submitted with all required supporting documentation as soon as the actual time and cost is known. The maximum extension of Contract Time will be the number of days, if any, by which an Excusable Delay or a Compensable Delay exceeds any concurrent Non-Excusable Delay. Contractor is entitled to an extension of Contract Time, or compensation for Recoverable Costs, only if, and only to the extent that, such delay will unavoidably delay Final Completion.

(3) *Supporting Documentation.* The request must also include any and all supporting documentation necessary to evidence the delay and its actual impacts, including scheduling and cost impacts with a time impact analysis using critical path methodology and demonstrating the unavoidable delay to Final Completion. The time impact analysis must be submitted in a form or format acceptable to City.

(4) *Burden of Proof.* Contractor has the burden of proving that: the delay was an Excusable or Compensable Delay, as defined above; Contractor has fully complied with its scheduling obligations in Section 5.2, Schedule Requirements; Contractor has made reasonable efforts to mitigate the delay and its schedule and cost impacts; the delay will unavoidably result in delaying Final Completion; and any Recoverable Costs claimed by Contractor were actually incurred and were reasonable under the circumstances.

(5) *Legal Compliance.* Nothing in this Section 5.3 is intended to require the waiver, alteration, or limitation of the applicability of Public Contract Code § 7102.

(6) *No Waiver.* Any grant of an extension of Contract Time, or compensation for Recoverable Costs due to Compensable Delay, will not operate as a waiver of City's right to assess liquidated damages for Non-Excusable Delay.

(7) *Dispute Resolution.* In the event of a dispute over entitlement to an extension of Contract Time or compensation for Recoverable Costs, Contractor may not stop Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work. Contractor's sole recourse for an unresolved dispute based on City's rejection of a Change Order request for an extension of Contract Time or compensation for Recoverable Costs is to comply with the dispute resolution provisions set forth in Article 12 below.

5.4 Liquidated Damages. It is expressly understood that if Final Completion is not achieved within the Contract Time, City will suffer damages from the delay that are difficult to determine and accurately specify. Pursuant to Public Contract Code § 7203, if Contractor fails to achieve Final Completion within the Contract Time due to Contractor's Non-Excusable Delay, City will charge Contractor in the amount specified in the Contract for each calendar day that Final Completion is delayed beyond the Contract Time, as liquidated damages and not as a penalty. Any waiver of accrued liquidated damages, in whole or in part, is subject to approval of the City Council or its authorized delegee.

(A) **Liquidated Damages.** Liquidated damages will not be assessed for any Excusable or Compensable Delay, as set forth above.

(B) **Milestones.** Liquidated damages may also be separately assessed for failure to meet milestones specified elsewhere in the Contract Documents.

(C) **Setoff.** City is entitled to deduct the amount of liquidated damages assessed against any payments otherwise due to Contractor, including progress payments, Final Payment, or unreleased retention. If there are insufficient Contract funds remaining to cover the full amount of liquidated damages assessed, City is entitled to recover the balance from Contractor or its performance bond surety.

(D) **Occupancy or Use.** Occupancy or use of the Project in whole or in part prior to Final Completion does not constitute City's acceptance of the Project and will not operate as a waiver of City's right to assess liquidated damages for Contractor's Non-Excusable Delay in achieving Final Completion.

(E) **Other Remedies.** City's right to liquidated damages under this Section applies only to damages arising from Contractor's Non-Excusable Delay or failure to complete the Work within the Contract Time. City retains its right to pursue all other remedies under the Contract for other types of damage, including damage to property or persons, costs or diminution in value from defective materials or workmanship, costs to repair or complete the Work, or other liability caused by Contractor.

Article 6 - Contract Modification

6.1 Contract Modification. Subject to the limited exception set forth in subsection (D) below, any change in the Work or the Contract Documents, including the Contract Price or Contract Time, will not be a valid and binding change to the Contract unless it is formalized in a Change Order, including a "no-cost" Change Order or a unilateral Change Order. Changes in the Work pursuant to this Article 6 will not operate to release, limit, or abridge Contractor's warranty obligations pursuant to Article 11 or any obligations of Contractor's bond sureties.

(A) **City-Directed Changes.** City may direct changes in the scope or sequence of Work or the requirements of the Contract Documents, without invalidating the Contract. Such changes may include Extra Work as set forth in subsection (C) below, or deletion or modification of portions of the Work. Contractor must promptly comply with City-directed changes in the Work in accordance with the original Contract Documents, even if Contractor and City have not yet reached agreement as to adjustments to the Contract Price or Contract Time for the change in the Work or for the Extra Work. Contractor is not entitled to extra compensation for cost savings resulting from "value engineering" pursuant to Public Contract Code § 7101, except to the extent authorized in advance by City in writing, and subject to any applicable procedural requirements for submitting a proposal for value engineering cost savings.

(B) **Disputes.** In the event of a dispute over entitlement to or the amount of a change in Contract Time or a change in Contract Price related to a City-directed change in the Work, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute. Likewise, in the event that City and Contractor dispute whether a portion or portions of the Work are already required by the Contract Documents or constitute Extra Work, or otherwise dispute the interpretation of any portion(s) of the Contract Documents, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute, as directed by City. If Contractor refuses to perform the Work in dispute, City may, acting in its sole discretion, elect to delete the Work from the Contract and reduce the Contract Price accordingly, and self-perform the Work or direct that the Work be performed by others. Alternatively, City may elect to terminate the Contract for convenience or for cause. Contractor's sole recourse for an unresolved dispute related to changes in the Work or performance of any Extra Work is to comply with the dispute resolution provisions set forth in Article 12, below.

(C) **Extra Work.** City may direct Contractor to perform Extra Work related to the Project. Contractor must promptly perform any Extra Work as directed or authorized by City in accordance with the original Contract Documents, even if Contractor and City have not yet reached agreement on adjustments to the Contract Price or Contract Time for such Extra Work. If Contractor believes it is necessary to perform Extra Work due to changed conditions, Contractor must promptly notify the Engineer in writing, specifically identifying the Extra Work and the reason(s) the Contractor believes it is Extra Work. This notification requirement does not constitute a Change Order request pursuant to Section 6.2, below. Contractor must maintain detailed daily records that itemize the cost of each element of Extra Work, and sufficiently distinguish the direct cost of the Extra Work from the cost of other Work performed. For each day that Contractor performs Extra Work, or Work that Contractor contends is Extra Work, Contractor must submit no later than the following Working Day, a daily report of the Extra Work performed that day and the related costs, together with copies of certified payroll, invoices, and other documentation substantiating the costs ("Extra Work Report"). The Engineer will make any adjustments to Contractor's Extra Work Report(s) based on the Engineer's records of the Work. When an Extra Work Report(s) is agreed on and signed by both City and Contractor, the Extra Work Report(s) will become the basis for payment under a duly authorized and signed Change Order. Failure to submit the required documentation by close of business on the next Working Day is deemed a full and complete waiver for any change in the Contract Price or Contract Time for any Extra Work performed that day.

(D) **Minor Changes and RFIs.** Minor field changes, including RFI replies from City, that do not affect the Contract Price or Contract Time and that are approved by the Engineer acting within his or her scope of authority, do not require a Change Order. By executing an RFI reply from City, Contractor agrees that it will perform the Work as clarified therein, with no change to the Contract Price or Contract Time.

(E) **Remedy for Non-Compliance.** Contractor's failure to promptly comply with a City-directed change is deemed a material breach of the Contract, and in addition to all other remedies available to it, City may, at its sole discretion, hire another contractor or use its own forces to complete the disputed Work at Contractor's sole expense, and may deduct the cost from the Contract Price.

6.2 Contractor Change Order Requests. Contractor must submit a request or proposal for a change in the Work, compensation for Extra Work, or a change in the Contract Price or Contract Time as a written Change Order request or proposal.

(A) **Time for Submission.** Any request for a change in the Contract Price or the Contract Time must be submitted in writing to the Engineer within ten calendar days of the date that Contractor first encounters the circumstances, information or conditions giving rise to the Change Order request, even if the total amount of the requested change in the Contract Price or impact on the Contract Time is not yet known at that time. If City requests that Contractor propose the terms of a Change Order, unless otherwise specified in City's request, Contractor must provide the Engineer with a written proposal for the change in the Contract Price or Contract Time within five working days of receiving City's request, in a form satisfactory to the Engineer.

(B) **Required Contents.** Any Change Order request or proposal submitted by Contractor must include a complete breakdown of actual or estimated costs and credits, and must itemize labor, materials, equipment, taxes, insurance, subcontract amounts, and, if applicable, Extra Work Reports. Any estimated cost must be updated in writing as soon as the actual amount is known.

(C) **Required Documentation.** All claimed costs must be fully documented, and any related request for an extension of time or delay-related costs must be included at that time and in compliance with the requirements of Article 5 of the General Conditions. Upon request, Contractor must permit City to inspect its original and unaltered bidding records, subcontract agreements, subcontract change orders, purchase orders, invoices, or receipts associated with the claimed costs.

(D) **Required Form.** Contractor must use City's form(s) for submitting all Change Order requests or proposals, unless otherwise specified by City.

(E) **Certification.** All Change Order requests must be signed by Contractor and must include the following certification:

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Change Order request are true and correct. Contractor warrants that this Change Order request is comprehensive and complete as to the Work or changes referenced herein, and agrees that any known or foreseeable costs, expenses, or time extension requests not included herein, are deemed waived."

6.3 Adjustments to Contract Price. The amount of any increase or decrease in the Contract Price will be determined based on one of the following methods listed below, in the order listed with unit pricing taking precedence over the other methods. Markup applies only to City-authorized time and material Work, and does not apply to any other payments to Contractor. For Work items or components that are deleted in their entirety, Contractor will only be entitled to compensation for those direct, actual, and documented costs (including restocking fees), reasonably incurred before Contractor was notified of the City's intent to delete the Work, with no markup for overhead, profit, or other indirect costs.

(A) **Unit Pricing.** Amounts previously provided by Contractor in the form of unit prices, either in a bid schedule or in a post-award schedule of values pursuant to Section 8.1, Schedule of Values, will apply to determine the price for the affected Work, to the extent applicable unit prices have been provided for that type of Work. No additional markup for overhead, profit, or other indirect costs will be added to the calculation.

(B) **Lump Sum.** A mutually agreed upon, all-inclusive lump sum price for the affected Work with no additional markup for overhead, profit, or other indirect costs.

(C) **Time and Materials.** On a time and materials basis, if and only to the extent compensation on a time and materials basis is expressly authorized by City in advance of Contractor's performance of the Work and subject to any not-to-exceed limit. Time and materials compensation for increased costs or Extra Work (but not decreased costs or deleted Work), will include allowed markup for overhead, profit, and other indirect costs, calculated as the total of the following sums, the cumulative total of which may not exceed the maximum markup rate of 15%:

- (1) All direct labor costs provided by the Contractor, excluding superintendence, project management, or administrative costs, plus 15% markup;
- (2) All direct material costs provided by the Contractor, including sales tax, plus 15% markup;
- (3) All direct plant and equipment rental costs provided by the Contractor, plus 15% markup;
- (4) All direct additional subcontract costs plus 10% markup for Work performed by Subcontractors; and
- (5) Increased bond or insurance premium costs computed at 1.5% of total of the previous four sums.

6.4 Unilateral Change Order. If the parties dispute the terms of a proposed Change Order, including disputes over the amount of compensation or extension of time that Contractor has requested, the value of deleted or changed Work, what constitutes Extra Work, or quantities used, City may elect to issue a unilateral Change Order, directing performance of the Work, and authorizing a change in the Contract Price or Contract Time for the adjustment to compensation or time that the City believes is merited. Contractor's sole recourse to dispute the terms of a unilateral Change Order is to submit a timely Claim pursuant to Article 12, below.

6.5 Non-Compliance Deemed Waiver. Contractor waives its entitlement to any increase in the Contract Price or Contract Time if Contractor fails to fully comply with the provisions of this Article. Contractor will not be paid for unauthorized Extra Work.

Article 7 - General Construction Provisions

7.1 Permits, Fees, Business License, and Taxes.

(A) **Permits, Fees, and City Business License.** Contractor must obtain and pay for all permits, fees, or licenses required to perform the Work, including a City business license. Contractor must cooperate with and provide notifications to all government agencies with jurisdiction over the Project, as may be required. Contractor must provide City with copies of all records of permits and permit applications, payment of required fees, and any licenses required for the Work.

(B) **Taxes.** Contractor must pay for all taxes on labor, material and equipment, except Federal Excise Tax to the extent that City is exempt from Federal Excise Tax.

7.2 Temporary Facilities. Contractor must provide, at Contractor's sole expense, any and all temporary facilities for the Project, including an onsite staging area for materials and equipment, a field office, sanitary facilities, utilities, storage, scaffolds, barricades, walkways, and any other temporary structure required to safely perform the Work along with any incidental utility services. The location of all temporary facilities must be

approved by the City prior to installation. Temporary facilities must be safe and adequate for the intended use and installed and maintained in accordance with Laws and the Contract Documents. Contractor must fence and screen the Project site and, if applicable, any separate Worksites, including the staging area, and its operation must minimize inconvenience to neighboring properties. Additional provisions pertaining to temporary facilities may be included in the Specifications or Special Conditions.

(A) **Utilities.** Contractor must install and maintain the power, water, sewer and all other utilities required for the Project site, including the piping, wiring, internet and wifi connections, and any related equipment necessary to maintain the temporary facilities.

(B) **Removal and Repair.** Contractor must promptly remove all such temporary facilities when they are no longer needed or upon completion of the Work, whichever comes first. Contractor must promptly repair any damage to City's property or to other property caused by the installation, use, or removal of the temporary facilities, and must promptly restore the property to its original or intended condition.

7.3 Noninterference and Site Management. Contractor must avoid interfering with City's use of its property at or adjacent to the Project site, including use of roadways, entrances, parking areas, walkways, and structures. Contractor must also minimize disruption of access to private property in the Project vicinity. Contractor must coordinate with affected property owners, tenants, and businesses, and maintain some vehicle and pedestrian access to their residences or properties at all times. Temporary access ramps, fencing or other measures must be provided as needed. Before blocking access to a private driveway or parking lot, Contractor must provide effective notice to the affected parties at least 48 hours in advance of the pending closure and allow them to remove vehicles. Private driveways, residences and parking lots must have access to a roadway during non-Work hours.

(A) **Offsite Acquisition.** Unless otherwise provided by City, Contractor must acquire, use and dispose of, at its sole expense, any Worksites, licenses, easements, and temporary facilities necessary to access and perform the Work.

(B) **Offsite Staging Area and Field Office.** If additional space beyond the Project site is needed, such as for the staging area or the field office, Contractor may need to make arrangements with the nearby property owner(s) to secure the space. Before using or occupying any property owned by a third party, Contractor must provide City with a copy of the necessary license agreement, easement, or other written authorization from the property owner, together with a written release from the property owner holding City harmless from any related liability, in a form acceptable to the City Attorney.

(C) **Traffic Management.** Contractor must provide traffic management and traffic controls as specified in the Contract Documents, as required by Laws, and as otherwise required to ensure public and worker safety, and to avoid interference with public or private operations or the normal flow of vehicular, bicycle, or pedestrian traffic.

7.4 Signs. No signs may be displayed on or about City's property, except signage which is required by Laws or by the Contract Documents, without City's prior written approval as to size, design, and location.

7.5 Project Site and Nearby Property Protections.

(A) **General.** Contractor is responsible at all times, on a 24-hour basis and at its sole cost, for protecting the Work, the Project site, and the materials and equipment to be incorporated into the Work, until the City has accepted the Project, excluding any exceptions to acceptance, if any. Except as specifically authorized by City, Contractor

must confine its operations to the area of the Project site indicated in the Plans and Specifications. Contractor is liable for any damage caused by Contractor or its Subcontractors to the Work, City's property, the property of adjacent or nearby property owners and the work or personal property of other contractors working for City, including damage related to Contractor's failure to adequately secure the Work or any Worksite.

(1) Subject to City's approval, Contractor will provide and install safeguards to protect the Work; any Worksite, including the Project site; City's real or personal property and the real or personal property of adjacent or nearby property owners, including plant and tree protections.

(2) City wastewater systems may not be interrupted. If the Work disrupts existing sewer facilities, Contractor must immediately notify City and establish a plan, subject to City's approval, to convey the sewage in closed conduits back into the sanitary sewer system. Sewage must not be permitted to flow in trenches or be covered by backfill.

(3) Contractor must remove with due care, and store at City's request, any objects or material from the Project site that City will salvage or reuse at another location.

(4) If directed by Engineer, Contractor must promptly repair or replace any property damage, as specified by the Engineer. However, acting in its sole discretion, City may elect to have the property damage remedied otherwise, and may deduct the cost to repair or replace the damaged property from payment otherwise due to Contractor.

(5) Contractor will not permit any structure or infrastructure to be loaded in a manner that will damage or endanger the integrity of the structure or infrastructure.

(B) **Securing Project Site.** After completion of Work each day, Contractor must secure the Project site and, to the extent feasible, make the area reasonably accessible to the public unless City approves otherwise. All excess materials and equipment not protected by approved traffic control devices must be relocated to the staging area or demobilized. Trench spoils must be hauled off the Project site daily and open excavations must be protected with steel plates. Contractor and Subcontractor personnel may not occupy or use the Project site for any purpose during non-Work hours, except as may be provided in the Contract Documents or pursuant to prior written authorization from City.

(C) **Unforeseen Conditions.** If Contractor encounters facilities, utilities, or other unknown conditions not shown on or reasonably inferable from the Plans or apparent from inspection of the Project site, Contractor must immediately notify the City and promptly submit a Request for Information to obtain further directions from the Engineer. Contractor must avoid taking any action which could cause damage to the facilities or utilities pending further direction from the Engineer. The Engineer's written response will be final and binding on Contractor. If the Engineer's subsequent direction to Contractor affects Contractor's cost or time to perform the Work, Contractor may submit a Change Order request as set forth in Article 6 above.

(D) **Support; Adjacent Properties.** Contractor must provide, install, and maintain all shoring, bracing, and underpinning necessary to provide support to City's property and adjacent properties and improvements thereon. Contractor must provide notifications to adjacent property owners as may be required by Laws. See also, Section 7.15, Trenching of Five Feet or More.

(E) **Notification of Property Damage.** Contractor must immediately notify the City of damage to any real or personal property resulting from Work on the Project. Contractor must immediately provide a written report to City of any such property damage in excess of \$500 (based on estimated cost to repair or replace) within 24 hours of the occurrence. The written report must include: (1) the location and nature of the damage, and the owner of the property, if known; (2) the name and address of each employee of Contractor or any Subcontractor involved in the damage; (3) a detailed description of the incident, including precise location, time, and names and contact information for known witnesses; and (4) a police or first responder report, if applicable. If Contractor is required to file an accident report with another government agency, Contractor will provide a copy of the report to City.

7.6 Materials and Equipment.

(A) **General.** Unless otherwise specified, all materials and equipment required for the Work must be new, free from defects, and of the best grade for the intended purpose, and furnished in sufficient quantities to ensure the proper and expeditious performance of the Work. Contractor must employ measures to preserve the specified quality and fitness of the materials and equipment. Unless otherwise specified, all materials and equipment required for the Work are deemed to include all components required for complete installation and intended operation and must be installed in accordance with the manufacturer's recommendations or instructions. Contractor is responsible for all shipping, handling, and storage costs associated with the materials and equipment required for the Work. Contractor is responsible for providing security and protecting the Work and all of the required materials, supplies, tools and equipment at Contractor's sole cost until City has formally accepted the Project as set forth in Section 11.1, Final Completion. Contractor will not assign, sell, mortgage, or hypothecate any materials or equipment for the Project, or remove any materials or equipment that have been installed or delivered.

(B) **City-Provided.** If the Work includes installation of materials or equipment to be provided by City, Contractor is solely responsible for the proper examination, handling, storage, and installation in accordance with the Contract Documents. Contractor must notify City of any defects discovered in City-provided materials or equipment, sufficiently in advance of scheduled use or installation to afford adequate time to procure replacement materials or equipment as needed. Contractor is solely responsible for any loss of or damage to such items which occurs while the items are in Contractor's custody and control, the cost of which may be offset from the Contract Price and deducted from any payment(s) due to Contractor.

(C) **Intellectual Property Rights.** Contractor must, at its sole expense, obtain any authorization or license required for use of patented or copyright-protected materials, equipment, devices or processes that are incorporated into the Work. Contractor's indemnity obligations in Article 4 apply to any claimed violation of intellectual property rights in violation of this provision.

7.7 Substitutions.

(A) **"Or Equal."** Any Specification designating a material, product, or thing (collectively, "item") or service by specific brand or trade name, followed by the words "or equal," is intended only to indicate the quality and type of item or service desired, and Contractor may request use of any equal item or service. Unless otherwise stated in the Specifications, any reference to a specific brand or trade name for an item or service that is used solely for the purpose of describing the type of item or service desired, will be deemed to be followed by the words "or equal." A substitution will only be approved if it is a true "equal" item or service in every aspect of design, function, and quality, as

determined by City, including dimensions, weight, maintenance requirements, durability, fit with other elements, and schedule impacts.

(B) **Request for Substitution.** A post-award request for substitution of an item or service must be submitted in writing to the Engineer for approval in advance, within the applicable time period provided in the Contract Documents. If no time period is specified, the substitution request may be submitted any time within 35 days after the date of award of the Contract, or sufficiently in advance of the time needed to avoid delay of the Work, whichever is earlier.

(C) **Substantiation.** Any available data substantiating the proposed substitute as an equal item or service must be submitted with the written request for substitution. Contractor's failure to timely provide all necessary substantiation, including any required test results as soon as they are available, is grounds for rejection of the proposed substitution, without further review.

(D) **Burden of Proving Equality.** Contractor has the burden of proving the equality of the proposed substitution at Contractor's sole cost. City has sole discretion to determine whether a proposed substitution is equal, and City's determination is final.

(E) **Approval or Rejection.** If the proposed substitution is approved, Contractor is solely responsible for any additional costs or time associated with the substituted item or service. If the proposed substitution is rejected, Contractor must, without delay, install the item or use the service as specified by City.

(F) **Contractor's Obligations.** City's approval of a proposed substitution will not relieve Contractor from any of its obligations under the Contract Documents. In the event Contractor makes an unauthorized substitution, Contractor will be solely responsible for all resulting cost impacts, including the cost of removal and replacement and the impact to other design elements.

7.8 Testing and Inspection.

(A) **General.** All materials, equipment, and workmanship used in the Work are subject to inspection and testing by City at all times and locations during construction and/or fabrication and at any Worksite, including at shops and yards as well as at the Project site. All manufacturers' application or installation instructions must be provided to the Inspector at least ten days prior to the first such application or installation. Contractor must, at all times, make the Work available for testing or inspection. Neither City's inspection or testing of Work, nor its failure to do so, operate to waive or limit Contractor's duty to complete the Work in accordance with the Contract Documents.

(B) **Scheduling and Notification.** Contractor must cooperate with City in coordinating the inspections and testing. Contractor must submit samples of materials, at Contractor's expense, and schedule all tests required by the Contract Documents in time to avoid any delay to the progress of the Work. Contractor must notify the Engineer no later than noon of the Working Day before any inspection or testing and must provide timely notice to the other necessary parties as specified in the Contract Documents. If Contractor schedules an inspection or test beyond regular Work hours, or on a Saturday, Sunday, or recognized City holiday, Contractor must notify the Engineer at least two Working Days in advance for approval. If approved, Contractor must reimburse City for the cost of the overtime inspection or testing. Such costs, including the City's hourly costs for required personnel, may be deducted from payments otherwise due to Contractor.

(C) **Responsibility for Costs.** City will bear the initial cost of inspection and testing to be performed by independent testing consultants retained by City, subject to the following exceptions:

(1) Contractor will be responsible for the costs of any subsequent tests which are required to substantiate compliance with the Contract Documents, and any associated remediation costs.

(2) Contractor will be responsible for inspection costs, at City's hourly rates, for inspection time lost because the Work is not ready or Contractor fails to appear for a scheduled inspection.

(3) If any portion of the Work that is subject to inspection or testing is covered or concealed by Contractor prior to the inspection or testing, Contractor will bear the cost of making that portion of the Work available for the inspection or testing required by the Contract Documents, and any associated repair or remediation costs.

(4) Contractor is responsible for properly shoring all compaction test sites deeper than five feet below grade, as required under Section 7.15 below.

(5) Any Work or material that is defective or fails to comply with the requirements of the Contract Documents must be promptly repaired, removed, replaced, or corrected by Contractor, at Contractor's sole expense, even if that Work or material was previously inspected or included in a progress payment.

(D) **Contractor's Obligations.** Contractor is solely responsible for any delay occasioned by remediation of defective or noncompliant Work or material. Inspection of the Work does not in any way relieve Contractor of its obligations to perform the Work as specified. Any Work done without the required inspection(s) will also be subject to rejection by City.

(E) **Distant Locations.** If required off-site testing or inspection must be conducted at a location more than 100 miles from the Project site, Contractor is solely responsible for the additional travel costs required for testing and/or inspection at such locations.

(F) **Final Inspection.** The provisions of this Section 7.8 also apply to final inspection under Article 11, Completion and Warranty Provisions.

7.9 Project Site Conditions and Maintenance. Contractor must at all times, on a 24-hour basis and at its sole cost, maintain the Project site and staging and storage areas in clean, neat, and sanitary condition and in compliance with all Laws pertaining to safety, air quality, and dust control. Adequate toilets must be provided, and properly maintained and serviced for all workers on the Project site, located in a suitably secluded area, subject to City's prior approval. Contractor must also, on a daily basis and at its sole cost, remove and properly dispose of the debris and waste materials from the Project site.

(A) **Air Emissions Control.** Contractor must not discharge smoke or other air contaminants into the atmosphere in violation of any Laws.

(B) **Dust and Debris.** Contractor must minimize and confine dust and debris resulting from the Work. Contractor must abate dust nuisance by cleaning, sweeping, and immediately sprinkling with water excavated areas of dirt or other materials prone to cause dust, and within one hour after the Engineer notifies Contractor that an airborne nuisance exists. The Engineer may direct that Contractor provide an approved water-spraying truck for this purpose. If water is used for dust control, Contractor will only use

the minimum necessary. Contractor must take all necessary steps to keep waste water out of streets, gutters, or storm drains. See Section 7.19, Environmental Control. If City determines that the dust control is not adequate, City may have the work done by others and deduct the cost from the Contract Price. Contractor will immediately remove any excess excavated material from the Project site and any dirt deposited on public streets.

(C) **Clean up.** Before discontinuing Work in an area, Contractor must clean the area and remove all debris and waste along with the construction equipment, tools, machinery, and surplus materials.

(1) Except as otherwise specified, all excess Project materials, and the materials removed from existing improvements on the Project site with no salvage value or intended reuse by City, will be Contractor's property.

(2) Hauling trucks and other vehicles leaving the Project site must be cleaned of exterior mud or dirt before traveling on City streets. Materials and loose debris must be delivered and loaded to prevent dropping materials or debris. Contractor must immediately remove spillage from hauling on any publicly traveled way. Streets affected by Work on the Project must be kept clean by street sweeping.

(D) **Disposal.** Contractor must dispose of all Project debris and waste materials in a safe and legal manner. Contractor may not burn or bury waste materials on the Project site. Contractor will not allow any dirt, refuse, excavated material, surplus concrete or mortar, or any associated washings, to be disposed of onto streets, into manholes or into the storm drain system.

(E) **Completion.** At the completion of the Work, Contractor must remove from the Project site all of its equipment, tools, surplus materials, waste materials and debris, presenting a clean and neat appearance. Before demobilizing from the Project site, Contractor must ensure that all surfaces are cleaned, sealed, waxed, or finished as applicable, and that all marks, stains, paint splatters, and the like have been properly removed from the completed Work and the surrounding areas. Contractor must ensure that all parts of the construction are properly joined with the previously existing and adjacent improvements and conditions. Contractor must provide all cutting, fitting and patching needed to accomplish that requirement. Contractor must also repair or replace all existing improvements that are damaged or removed during the Work, both on and off the Project site, including curbs, sidewalks, driveways, fences, signs, utilities, street surfaces and structures. Repairs and replacements must be at least equal to the previously existing improvements, and the condition, finish and dimensions must match the previously existing improvements. Contractor must restore to original condition all property or items that are not designated for alteration under the Contract Documents and leave each Worksite clean and ready for occupancy or use by City.

(F) **Non-Compliance.** If Contractor fails to comply with its maintenance and cleanup obligations or any City clean up order, City may, acting in its sole discretion, elect to suspend the Work until the condition(s) is corrected with no increase in the Contract Time or Contract Price, or undertake appropriate cleanup measures without further notice and deduct the cost from any amounts due or to become due to Contractor.

7.10 Instructions and Manuals. Contractor must provide to City three copies each of all instructions and manuals required by the Contract Documents, unless otherwise specified. These must be complete as to drawings, details, parts lists, performance data, and other information that may be required for City to easily maintain and service the materials and equipment installed for this Project.

(A) **Submittal Requirements.** All manufacturers' application or installation instructions must be provided to City at least ten days prior to the first such application. The instructions and manuals, along with any required guarantees, must be delivered to City for review.

(B) **Training.** Contractor or its Subcontractors must train City's personnel in the operation and maintenance of any complex equipment or systems as a condition precedent to Final Completion, if required in the Contract Documents.

7.11 As-built Drawings. Contractor and its Subcontractors must prepare and maintain at the Project site a detailed, complete and accurate as-built set of the Plans which will be used solely for the purpose of recording changes made in any portion of the original Plans in order to create accurate record drawings at the end of the Project.

(A) **Duty to Update.** The as-built drawings must be updated as changes occur, on a daily basis if necessary. City may withhold the estimated cost for City to have the as-built drawings prepared from payments otherwise due to Contractor, until the as-built drawings are brought up to date to the satisfaction of City. Actual locations to scale must be identified on the as-built drawings for all runs of mechanical and electrical work, including all site utilities installed underground, in walls, floors, or otherwise concealed. Deviations from the original Plans must be shown in detail. The exact location of all main runs, whether piping, conduit, ductwork or drain lines, must be shown by dimension and elevation. The location of all buried pipelines, appurtenances, or other improvements must be represented by coordinates and by the horizontal distance from visible above-ground improvements.

(B) **Final Completion.** Contractor must verify that all changes in the Work are depicted in the as-built drawings and must deliver the complete set of as-built drawings to the Engineer for review and acceptance as a condition precedent to Final Completion and Final Payment.

7.12 Existing Utilities.

(A) **General.** The Work may be performed in developed, urban areas with existing utilities, both above and below ground, including utilities identified in the Contract Documents or in other informational documents or records. Contractor must take due care to locate identified or reasonably identifiable utilities before proceeding with trenching, excavation, or any other activity that could damage or disrupt existing utilities. This may include excavation with small equipment, potholing, or hand excavation, and, if practical, using white paint or other suitable markings to delineate the area to be excavated. Except as otherwise provided herein, Contractor will be responsible for costs resulting from damage to identified or reasonably identifiable utilities due to Contractor's negligence or failure to comply with the Contract Documents, including the requirements in this Article 7.

(B) **Unidentified Utilities.** Pursuant to Government Code § 4215, if, during the performance of the Work, Contractor discovers utility facilities not identified by City in the Contract Documents, Contractor must immediately provide written notice to City and the utility. City assumes responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Project site if those utilities are not identified in the Contract Documents. Contractor will be compensated in accordance with the provisions of the Contract Documents for the costs of locating, repairing damage not due to Contractor's failure to exercise reasonable care, and removing or relocating utility facilities not indicated in the Plans or Specifications with reasonable accuracy, and for equipment on the Project necessarily idled during such work. Contractor will not be

assessed liquidated damages for delay in completion of the Work, to the extent the delay was caused by City's failure to provide for removal or relocation of the utility facilities.

7.13 Notice of Excavation. Contractor must comply with all applicable requirements in Government Code §§ 4216 through 4216.5, which are incorporated by reference herein. Government Code § 4216.2 requires that, except in an emergency, Contractor must contact the appropriate regional notification center, or Underground Services Alert, at least two working days, but not more than 14 calendar days, before starting any excavation if the excavation will be conducted in an area that is known, or reasonably should be known, to contain subsurface installations. Contractor may not begin excavation until it has obtained and submitted to Engineer an inquiry identification number from Underground Services Alert.

7.14 Trenching and Excavations of Four Feet or More. As required by Public Contract Code § 7104, if the Work includes digging trenches or other excavations that extend deeper than four feet below the surface, the provisions in this Section apply to the Work and the Project.

(A) **Duty to Notify.** Contractor must promptly, and before the following conditions are disturbed, provide written notice to City if Contractor finds any of the following conditions:

(1) Material that Contractor believes may be a hazardous waste, as defined in § 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing Laws;

(2) Subsurface or latent physical conditions at the Project site differing from those indicated by information about the Project site made available to bidders prior to the deadline for submitting bids; or

(3) Unknown physical conditions at the Project site of any unusual nature, materially different from those ordinarily encountered and generally recognized as inherent in work of the character required by the Contract Documents.

(B) **City Investigation.** City will promptly investigate the conditions and if City finds that the conditions materially differ from those indicated, apparent, or reasonably inferred from information about the Project site made available to bidders, or involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, City will issue a Change Order.

(C) **Disputes.** In the event that a dispute arises between City and Contractor regarding any of the conditions specified in subsection (B) above, or the terms of a Change Order issued by City, Contractor will not be excused from completing the Work within the Contract Time, but must proceed with all Work to be performed under the Contract. Contractor will retain any and all rights provided either by the Contract or by Laws which pertain to the resolution of disputes between Contractor and City.

7.15 Trenching of Five Feet or More. As required by Labor Code § 6705, if the Contract Price exceeds \$25,000 and the Work includes the excavation of any trench or trenches of five feet or more in depth, a detailed plan must be submitted to City for acceptance in advance of the excavation. The detailed plan must show the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation. If the plan varies from the shoring system standards, it must be prepared by a California registered civil or structural engineer. Use of a shoring,

sloping, or protective system less effective than that required by the Construction Safety Orders is prohibited.

7.16 New Utility Connections. Except as otherwise specified, City will pay connection charges and meter costs for new permanent utilities required by the Contract Documents, if any. Contractor must notify City sufficiently in advance of the time needed to request service from each utility provider so that connections and services are initiated in accordance with the Project schedule.

7.17 Lines and Grades. Contractor is required to use any benchmark provided by the Engineer. Unless otherwise specified in the Contract Documents, Contractor must provide all lines and grades required to execute the Work. Contractor must also provide, preserve, and replace if necessary, all construction stakes required for the Project. All stakes or marks must be set by a California licensed surveyor or a California registered civil engineer. Contractor must notify the Engineer of any discrepancies found between Contractor's staking and grading and information provided by the Contract Documents. Upon completion, all Work must conform to the lines, elevations, and grades shown in the Plans, including any changes directed by a Change Order.

7.18 Historic or Archeological Items.

(A) **Contractor's Obligations.** Contractor must ensure that all persons performing Work at the Project site are required to immediately notify the Project Manager, upon discovery of any potential historic or archeological items, including historic or prehistoric ruins, a burial ground, archaeological or vertebrate paleontological site, including fossilized footprints or other archeological, paleontological or historical feature on the Project site (collectively, "Historic or Archeological Items").

(B) **Discovery; Cessation of Work.** Upon discovery of any potential Historic or Archeological Items, Work must be stopped within an 85-foot radius of the find and may not resume until authorized in writing by City. If required by City, Contractor must assist in protecting or recovering the Historic or Archeological Items, with any such assistance to be compensated as Extra Work on a time and materials basis under Article 6, Contract Modification. At City's discretion, a suspension of Work required due to discovery of Historic or Archeological Items may be treated as Excusable Delay pursuant to Article 5, or as a suspension for convenience under Article 13.

7.19 Environmental Control. Contractor must not pollute any drainage course or its tributary inlets with fuels, oils, bitumens, acids, insecticides, herbicides or other harmful materials. Contractor must prevent the release of any hazardous material or hazardous waste into the soil or groundwater, and prevent the unlawful discharge of pollutants into City's storm drain system and watercourses as required below. Contractor and its Subcontractors must at all times in the performance of the Work comply with all Laws concerning pollution of waterways.

(A) **Stormwater Permit.** Contractor must comply with all applicable conditions of the State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity ("Stormwater Permit").

(B) **Contractor's Obligations.** If required for the Work, a copy of the Stormwater Permit is on file in City's principal administrative offices, and Contractor must comply with it without adjustment of the Contract Price or the Contract Time. Contractor must timely and completely submit required reports and monitoring information required by the conditions of the Stormwater Permit. Contractor also must comply with all other Laws

governing discharge of stormwater, including applicable municipal stormwater management programs.

- 7.20 Noise Control.** Contractor must comply with all applicable noise control Laws. Noise control requirements apply to all equipment used for the Work or related to the Work, including trucks, transit mixers or transient equipment that may or may not be owned by Contractor.
- 7.21 Mined Materials.** Pursuant to the Surface Mining and Reclamation Act of 1975, Public Resources Code § 2710 et seq., any purchase of mined materials, such as construction aggregate, sand, gravel, crushed stone, road base, fill materials, and any other mineral materials must originate from a surface mining operation included on the AB 3098 List, which is available online at:
<ftp://ftp.consrv.ca.gov/pub/omr/AB3098%20List/AB3908List.pdf>.

Article 8 - Payment

- 8.1 Schedule of Values.** Prior to submitting its first application for payment, Contractor must prepare and submit to the Project Manager a schedule of values apportioned to the various divisions and phases of the Work, including mobilization and demobilization. If a Bid Schedule was submitted with Contractor's bid, the amounts in the schedule of values must be consistent with the Bid Schedule. Each line item contained in the schedule of values must be assigned a value such that the total of all items equals the Contract Price. The items must be sufficiently detailed to enable accurate evaluation of the percentage of completion claimed in each application for payment, and the assigned value consistent with any itemized or unit pricing submitted with Contractor's bid.
- (A) **Measurements for Unit Price Work.** Materials and items of Work to be paid for on the basis of unit pricing will be measured according to the methods specified in the Contract Documents.
- (B) **Deleted or Reduced Work.** Contractor will not be compensated for Work that City has deleted or reduced in scope, except for any labor, material or equipment costs for such Work that Contractor reasonably incurred before Contractor learned that the Work could be deleted or reduced. Contractor will only be compensated for those actual, direct and documented costs incurred, and will not be entitled to any mark up for overhead or lost profits.
- 8.2 Progress Payments.** Following the last day of each month, or as otherwise required by the Special Conditions or Specifications, Contractor will submit to the Project Manager a monthly application for payment for Work performed during the preceding month based on the estimated value of the Work performed during that preceding month.
- (A) **Application for Payment.** Each application for payment must be itemized to include labor, materials, and equipment incorporated into the Work, and materials and equipment delivered to the Project site, as well as authorized and approved Change Orders. Each payment application must be supported by the unit prices submitted with Contractor's Bid Schedule and/or schedule of values and any other substantiating data required by the Contract Documents.
- (B) **Payment of Undisputed Amounts.** City will pay the undisputed amount due within 30 days after Contractor has submitted a complete and accurate payment application, subject to Public Contract Code § 20104.50. City will deduct a percentage from each progress payment as retention, as set forth in Section 8.5, below, and may withhold additional amounts as set forth in Section 8.3, below.

8.3 Adjustment of Payment Application. City may adjust or reject the amount requested in a payment application, including application for Final Payment, in whole or in part, if the amount requested is disputed or unsubstantiated. Contractor will be notified in writing of the basis for the modification to the amount requested. City may also deduct or withhold from payment otherwise due based upon any of the circumstances and amounts listed below. Sums withheld from payment otherwise due will be released when the basis for that withholding has been remedied and no longer exists.

(A) For Contractor's unexcused failure to perform the Work as required by the Contract Documents, including correction or completion of punch list items, City may withhold or deduct an amount based on the City's estimated cost to correct or complete the Work.

(B) For loss or damage caused by Contractor or its Subcontractors arising out of or relating to performance of the Work or any failure to protect the Project site, City may deduct an amount based on the estimated cost to repair or replace.

(C) For Contractor's failure to pay its Subcontractors and suppliers when payment is due, City may withhold an amount equal to the total of past due payments and may opt to pay that amount separately via joint check pursuant to Section 8.6(B), Joint Checks.

(D) For Contractor's failure to timely correct rejected, nonconforming, or defective Work, City may withhold or deduct an amount based on the City's estimated cost to correct or complete the Work.

(E) For any unreleased stop notice, City may withhold 125% of the amount claimed.

(F) For Contractor's failure to submit any required schedule or schedule update in the manner and within the time specified in the Contract Documents, City may withhold an amount equal to five percent of the total amount requested until Contractor complies with its schedule submittal obligations.

(G) For Contractor's failure to maintain or submit as-built documents in the manner and within the time specified in the Contract Documents, City may withhold or deduct an amount based on the City's cost to prepare the as-builts.

(H) For Work performed without Shop Drawings that have been accepted by City, when accepted Shop Drawings are required before proceeding with the Work, City may deduct an amount based on the estimated cost to correct unsatisfactory Work or diminution in value.

(I) For fines, payments, or penalties assessed under the Labor Code, City may deduct from payments due to Contractor as required by Laws and as directed by the Division of Labor Standards Enforcement.

(J) For any other costs or charges that may be withheld or deducted from payments to Contractor, as provided in the Contract Documents, including liquidated damages, City may withhold or deduct such amounts from payment otherwise due to Contractor.

8.4 Early Occupancy. Neither City's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of any part of the Work.

8.5 Retention. City will retain five percent of the full amount due on each progress payment (i.e., the amount due before any withholding or deductions pursuant to Section 8.3, Adjustment of Payment Application), or the percentage stated in the Notice Inviting Bids, whichever is greater, as retention to ensure full and satisfactory performance of the Work.

Contractor is not entitled to any reduction in the rate of withholding at any time, nor to release of any retention before 35 days following City's acceptance of the Project.

(A) **Substitution of Securities.** As provided by Public Contract Code § 22300, Contractor may request in writing that it be allowed, at its sole expense, to substitute securities for the retention withheld by City. Any escrow agreement entered into pursuant to this provision must fully comply with Public Contract Code § 22300 and will be subject to approval as to form by City's legal counsel. If City exercises its right to draw upon such securities in the event of default pursuant to section (7) of the statutory Escrow Agreement for Security Deposits in Lieu of Retention, pursuant to subdivision (f) of Public Contract Code § 22300 ("Escrow Agreement"), and if Contractor disputes that it is in default, its sole remedy is to comply with the dispute resolution procedures in Article 12 and the provisions therein. It is agreed that for purposes of this paragraph, an event of default includes City's rights pursuant to these Contract Documents to withhold or deduct sums from retention, including withholding or deduction for liquidated damages, incomplete or defective Work, stop payment notices, or backcharges. It is further agreed that if any individual authorized to give or receive written notice on behalf of a party pursuant to section (10) of the Escrow Agreement are unavailable to give or receive notice on behalf of that party due to separation from employment, retirement, death, or other circumstances, the successor or delegee of the named individual is deemed to be the individual authorized to give or receive notice pursuant to section (10) of the Escrow Agreement.

(B) **Release of Undisputed Retention.** All undisputed retention, less any amounts that may be assessed as liquidated damages, retained for stop notices, or otherwise withheld pursuant to Section 8.3, Adjustment of Payment Application, will be released as Final Payment to Contractor no sooner than 35 days following recordation of the notice of completion, and no later than 60 days following acceptance of the Project by City's governing body or authorized designee pursuant to Section 11.1(C), Acceptance, or, if the Project has not been accepted, no later than 60 days after the Project is otherwise considered complete pursuant to Public Contract Code § 7107(c).

8.6 Payment to Subcontractors and Suppliers. Each month, Contractor must promptly pay each Subcontractor and supplier the value of the portion of labor, materials, and equipment incorporated into the Work or delivered to the Project site by the Subcontractor or supplier during the preceding month. Such payments must be made in accordance with the requirements of Laws pertaining to such payments, and those of the Contract Documents and applicable subcontract or supplier contract.

(A) **Withholding for Stop Notice.** Pursuant to Civil Code § 9358, City will withhold 125% of the amount claimed by an unreleased stop notice, a portion of which may be retained by City for the costs incurred in handling the stop notice claim, including attorneys' fees and costs, as authorized by law.

(B) **Joint Checks.** City reserves the right, acting in its sole discretion, to issue joint checks made payable to Contractor and a Subcontractor or supplier, if City determines this is necessary to ensure fair and timely payment for a Subcontractor or supplier who has provided services or goods for the Project. As a condition to release of payment by a joint check, the joint check payees may be required to execute a joint check agreement in a form provided or approved by the City Attorney's Office. The joint check payees will be jointly and severally responsible for the allocation and disbursement of funds paid by joint check. Payment by joint check will not be construed to create a contractual relationship between City and a Subcontractor or supplier of any tier beyond the scope of the joint check agreement.

- 8.7 Final Payment.** Contractor's application for Final Payment must comply with the requirements for submitting an application for a progress payment as stated in Section 8.2, above. Corrections to previous progress payments, including adjustments to estimated quantities for unit priced items, may be included in the Final Payment. If Contractor fails to submit a timely application for Final Payment, City reserves the right to unilaterally process and issue Final Payment without an application from Contractor in order to close out the Project. For the purposes of determining the deadline for Claim submission pursuant to Article 12, the date of Final Payment is deemed to be the date that City acts to release undisputed retention as final payment to Contractor, or otherwise provides written notice to Contractor of Final Payment or that no undisputed funds remain available for Final Payment due to offsetting withholdings or deductions pursuant to Section 8.3, Adjustment of Payment Application. If the amount due from Contractor to City exceeds the amount of Final Payment, City retains the right to recover the balance from Contractor or its sureties.
- 8.8 Release of Claims.** City may, at any time, require that payment of the undisputed portion of any progress payment or Final Payment be contingent upon Contractor furnishing City with a written waiver and release of all claims against City arising from or related to the portion of Work covered by those undisputed amounts subject to the limitations of Public Contract Code § 7100. Any disputed amounts may be specifically excluded from the release.
- 8.9 Warranty of Title.** Contractor warrants that title to all work, materials, or equipment incorporated into the Work and included in a request for payment will pass over to City free of any claims, liens, or encumbrances upon payment to Contractor.

Article 9 - Labor Provisions

- 9.1 Discrimination Prohibited.** Discrimination against any prospective or present employee engaged in the Work on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status is strictly prohibited. Contractor and its Subcontractors are required to comply with all applicable Laws prohibiting discrimination, including the California Fair Employment and Housing Act (Govt. Code § 12900 et seq.), Government Code § 11135, and Labor Code §§ 1735, 1777.5, 1777.6, and 3077.5.
- 9.2 Labor Code Requirements.**
- (A) **Eight Hour Day.** Pursuant to Labor Code § 1810, eight hours of labor constitute a legal day's work under this Contract.
- (B) **Penalty.** Pursuant to Labor Code § 1813, Contractor will forfeit to City as a penalty, the sum of \$25.00 for each day during which a worker employed by Contractor or any Subcontractor is required or permitted to work more than eight hours in any one calendar day or more than 40 hours per calendar week, except if such workers are paid overtime under Labor Code § 1815.
- (C) **Apprentices.** Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code § 1777.5, which is fully incorporated by reference.
- (D) **Notices.** Pursuant to Labor Code § 1771.4, Contractor is required to post all job site notices prescribed by Laws.

9.3 Prevailing Wages. Each worker performing Work under this Contract that is covered under Labor Code §§ 1720 or 1720.9, including cleanup at the Project site, must be paid at a rate not less than the prevailing wage as defined in §§ 1771 and 1774 of the Labor Code. The prevailing wage rates are on file with the City and available online at <http://www.dir.ca.gov/dlsr>. Contractor must post a copy of the applicable prevailing rates at the Project site.

(A) **Penalties.** Pursuant to Labor Code § 1775, Contractor and any Subcontractor will forfeit to City as a penalty up to \$200.00 for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wage rate. Contractor must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.

(B) **Federal Requirements.** If this Project is subject to federal prevailing wage requirements in addition to California prevailing wage requirements, Contractor and its Subcontractors are required to pay the higher of the currently applicable state or federal prevailing wage rates.

9.4 Payroll Records. Contractor must comply with the provisions of Labor Code §§ 1771.4, 1776, and 1812 and all implementing regulations, which are fully incorporated by this reference, including requirements for monthly electronic submission of payroll records to the DIR.

(A) **Contractor and Subcontractor Obligations.** Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct; and

(2) Contractor or the Subcontractor has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Work performed by its employees on the Project.

(B) **Certified Record.** A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to City, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.

(C) **Enforcement.** Upon notice of noncompliance with Labor Code § 1776, Contractor or Subcontractor has ten days in which to comply with the requirements of this section. If Contractor or Subcontractor fails to do so within the ten-day period, Contractor or Subcontractor will forfeit a penalty of \$100.00 per day, or portion thereof, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.

9.5 Labor Compliance. Pursuant to Labor Code § 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the DIR.

Article 10 - Safety Provisions

10.1 Safety Precautions and Programs. Contractor and its Subcontractors are fully responsible for safety precautions and programs, and for the safety of persons and property in the performance of the Work. Contractor and its Subcontractors must at all times comply with all applicable health and safety Laws and seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect its employees and other persons at any Worksite, materials and equipment stored on or off site, and property at or adjacent to any Worksite.

(A) **Reporting Requirements.** Contractor must immediately notify the City of any death, serious injury or illness resulting from Work on the Project. Contractor must immediately provide a written report to City of each recordable accident or injury occurring at any Worksite within 24 hours of the occurrence. The written report must include: (1) the name and address of the injured or deceased person; (2) the name and address of each employee of Contractor or of any Subcontractor involved in the incident; (3) a detailed description of the incident, including precise location, time, and names and contact information for known witnesses; and (4) a police or first responder report, if applicable. If Contractor is required to file an accident report with a government agency, Contractor will provide a copy of the report to City.

(B) **Legal Compliance.** Contractor's safety program must comply with the applicable legal and regulatory requirements. Contractor must provide City with copies of all notices required by Laws.

(C) **Contractor's Obligations.** Any damage or loss caused by Contractor arising from the Work which is not insured under property insurance must be promptly remedied by Contractor.

(D) **Remedies.** If City determines, in its sole discretion, that any part of the Work or Project site is unsafe, City may, without assuming responsibility for Contractor's safety program, require Contractor or its Subcontractor to cease performance of the Work or to take corrective measures to City's satisfaction. If Contractor fails to promptly take the required corrective measures, City may perform them and deduct the cost from the Contract Price. Contractor agrees it is not entitled to submit a Claim for damages, for an increase in Contract Price, or for a change in Contract Time based on Contractor's compliance with City's request for corrective measures pursuant to this provision.

10.2 Hazardous Materials. Unless otherwise specified in the Contract Documents, this Contract does not include the removal, handling, or disturbance of any asbestos or other Hazardous Materials. If Contractor encounters materials on the Project site that Contractor reasonably believes to be asbestos or other Hazardous Materials, and the asbestos or other Hazardous Materials have not been rendered harmless, Contractor may continue Work in unaffected areas reasonably believed to be safe, but must immediately cease work on the area affected and report the condition to City. No asbestos, asbestos-containing products or other Hazardous Materials may be used in performance of the Work.

10.3 Material Safety. Contractor is solely responsible for complying with § 5194 of Title 8 of the California Code of Regulations, including by providing information to Contractor's employees about any hazardous chemicals to which they may be exposed in the course of the Work. A hazard communication program and other forms of warning and training about such exposure must be used. Contractor must also maintain Safety Data Sheets ("SDS") at the Project site, as required by Laws, for materials or substances used or consumed in the performance of the Work. The SDS will be accessible and available to Contractor's employees, Subcontractors, and City.

(A) **Contractor Obligations.** Contractor is solely responsible for the proper delivery, handling, use, storage, removal, and disposal of all materials brought to the Project site and/or used in the performance of the Work. Contractor must notify the Engineer if a specified product or material cannot be used safely.

(B) **Labeling.** Contractor must ensure proper labeling on any material brought onto the Project site so that any persons working with or in the vicinity of the material may be informed as to the identity of the material, any potential hazards, and requirements for proper handling, protections, and disposal.

10.4 Hazardous Condition. Contractor is solely responsible for determining whether a hazardous condition exists or is created during the course of the Work, involving a risk of bodily harm to any person or risk of damage to any property. If a hazardous condition exists or is created, Contractor must take all precautions necessary to address the condition and ensure that the Work progresses safely under the circumstances. Hazardous conditions may result from, but are not limited to, use of specified materials or equipment, the Work location, the Project site condition, the method of construction, or the way any Work must be performed.

10.5 Emergencies. In an emergency affecting the safety or protection of persons, Work, or property at or adjacent to any Worksite, Contractor must take reasonable and prompt actions to prevent damage, injury, or loss, without prior authorization from the City if, under the circumstances, there is inadequate time to seek prior authorization from the City.

Article 11 - Completion and Warranty Provisions

11.1 Final Completion.

(A) **Final Inspection and Punch List.** When the Work required by this Contract is fully performed, Contractor must provide written notification to City requesting final inspection. The Engineer will schedule the date and time for final inspection, which must include Contractor's primary representative for this Project and its superintendent. Based on that inspection, City will prepare a punch list of any items that are incomplete, missing, defective, incorrectly installed, or otherwise not compliant with the Contract Documents. The punch list to Contractor will specify the time by which all of the punch list items must be completed or corrected. The punch list may include City's estimated cost to complete each punch list item if Contractor fails to do so within the specified time. The omission of any non-compliant item from a punch list will not relieve Contractor from fulfilling all requirements of the Contract Documents. Contractor's failure to complete any punch list item within the time specified in the punch list will not waive or abridge its warranty obligations for any such items that must be completed by the City or by a third party retained by the City due to Contractor's failure to timely complete any such outstanding item.

(B) **Requirements for Final Completion.** Final Completion will be achieved upon completion or correction of all punch list items, as verified by City's further inspection, and upon satisfaction of all other Contract requirements, including any commissioning required under the Contract Documents and submission of all final submittals, including instructions and manuals as required under Section 7.10, and complete, final as-built drawings as required under Section 7.11, all to City's satisfaction.

(C) **Acceptance.** The Project will be considered accepted upon City Council action during a public meeting to accept the Project, unless the Engineer is authorized to accept

the Project, in which case the Project will be considered accepted upon the date of the Engineer's issuance of a written notice of acceptance. In order to avoid delay of Project close out, the City may elect, acting in its sole discretion, to accept the Project as complete subject to exceptions for punch list items that are not completed within the time specified in the punch list.

(D) **Final Payment and Release of Retention.** Final Payment and release of retention, less any sums withheld pursuant to the provisions of the Contract Documents, will not be made sooner than 35 days after recordation of the notice of completion. If Contractor fails to complete all of the punch list items within the specified time, City may withhold up to 150% of City's estimated cost to complete each of the remaining items from Final Payment and may use the withheld retention to pay for the costs to self-perform the outstanding items or to retain a third party to complete any such outstanding punch list item.

11.2 Warranty.

(A) **General.** Contractor warrants that all materials and equipment will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Contractor further warrants that the Work will be free from material defects not intrinsic in the design or materials required in the Contract Documents. Contractor warrants that materials or items incorporated into the Work comply with the requirements and standards in the Contract Documents, including compliance with Laws, and that any Hazardous Materials encountered or used were handled as required by Laws. At City's request, Contractor must furnish satisfactory evidence of the quality and type of materials and equipment furnished. Contractor's warranty does not extend to damage caused by normal wear and tear, or improper use or maintenance.

(B) **Warranty Period.** Contractor's warranty must guarantee its Work for a period of one year from the date of Project acceptance (the "Warranty Period"), except when a longer guarantee is provided by a supplier or manufacturer or is required by the Specifications or Special Conditions. Contractor must obtain from its Subcontractors, suppliers and manufacturers any special or extended warranties required by the Contract Documents.

(C) **Warranty Documents.** As a condition precedent to Final Completion, Contractor must supply City with all warranty and guarantee documents relevant to equipment and materials incorporated into the Work and guaranteed by their suppliers or manufacturers.

(D) **Subcontractors.** The warranty obligations in the Contract Documents apply to Work performed by Contractor and its Subcontractors, and Contractor agrees to be co-guarantor of such Work.

(E) **Contractor's Obligations.** Upon written notice from City to Contractor of any defect in the Work discovered during the Warranty Period, Contractor or its responsible Subcontractor must promptly correct the defective Work at its own cost. Contractor's obligation to correct defects discovered during the Warranty Period will continue past the expiration of the Warranty Period as to any defects in Work for which Contractor was notified prior to expiration of the Warranty Period. Work performed during the Warranty Period ("Warranty Work") will be subject to the warranty provisions in this Section 11.2 for a one-year period that begins upon completion of such Warranty Work to City's satisfaction.

(F) **City's Remedies.** If Contractor or its responsible Subcontractor fails to correct defective Work within ten days following notice by City, or sooner if required by the circumstances, City may correct the defects to conform with the Contract Documents at Contractor's sole expense. Contractor must reimburse City for its costs in accordance with subsection (H), below.

(G) **Emergency Repairs.** In cases of emergency where any delay in correcting defective Work could cause harm, loss or damage, City may immediately correct the defects to conform with the Contract Documents at Contractor's sole expense. Contractor or its surety must reimburse City for its costs in accordance with subsection (H), below.

(H) **Reimbursement.** Contractor must reimburse City for its costs to repair under subsections (F) or (G), above, within 30 days following City's submission of a demand for payment pursuant to this provision. If City is required to initiate legal action to compel Contractor's compliance with this provision, and City is the prevailing party in such action, Contractor and its surety are solely responsible for all of City's attorney's fees and legal costs expended to enforce Contractor's warranty obligations herein, in addition to any and all costs City incurs to correct the defective Work.

11.3 Use Prior to Final Completion. City reserves the right to occupy or make use of the Project, or any portions of the Project, prior to Final Completion if City has determined that the Project or portion of it is in a condition suitable for the proposed occupation or use, and that it is in its best interest to occupy or make use of the Project, or any portions of it, prior to Final Completion.

(A) **Non-Waiver.** Occupation or use of the Project, in whole or in part, prior to Final Completion will not operate as acceptance of the Work or any portion of it, nor will it operate as a waiver of any of City's rights or Contractor's duties pursuant to these Contract Documents, and will not affect nor bear on the determination of the time of substantial completion with respect to any statute of repose pertaining to the time for filing an action for construction defect.

(B) **City's Responsibility.** City will be responsible for the cost of maintenance and repairs due to normal wear and tear with respect to those portions of the Project that are being occupied or used before Final Completion. The Contract Price or the Contract Time may be adjusted pursuant to the applicable provisions of these Contract Documents if, and only to the extent that, any occupation or use under this Section actually adds to Contractor's cost or time to complete the Work within the Contract Time.

11.4 Substantial Completion. For purposes of determining "substantial completion" with respect to any statute of repose pertaining to the time for filing an action for construction defect, "substantial completion" is deemed to mean the last date that Contractor or any Subcontractor performs Work on the Project prior to City acceptance of the Project, except for warranty work performed under this Article.

Article 12 - Dispute Resolution

12.1 Claims. This Article applies to and provides the exclusive procedures for any Claim arising from or related to the Contract or performance of the Work.

(A) **Definition.** "Claim" means a separate demand by Contractor, submitted in writing by registered or certified mail with return receipt requested, for a change in the Contract Time, including a time extension or relief from liquidated damages, or a change in the Contract Price, when the demand has previously been submitted to City in accordance with the requirements of the Contract Documents, and which has been

rejected or disputed by City, in whole or in part. A Claim may also include that portion of a unilateral Change Order that is disputed by the Contractor.

(B) **Limitations.** A Claim may only include the portion of a previously rejected demand that remains in dispute between Contractor and City. With the exception of any dispute regarding the amount of money actually paid to Contractor as Final Payment, Contractor is not entitled to submit a Claim demanding a change in the Contract Time or the Contract Price, which has not previously been submitted to City in full compliance with Article 5 and Article 6, and subsequently rejected in whole or in part by City.

(C) **Scope of Article.** This Article is intended to provide the exclusive procedures for submission and resolution of Claims of any amount and applies in addition to the provisions of Public Contract Code § 9204 and § 20104 et seq., which are incorporated by reference herein.

(D) **No Work Delay.** Notwithstanding the submission of a Claim or any other dispute between the parties related to the Project or the Contract Documents, Contractor must perform the Work and may not delay or cease Work pending resolution of a Claim or other dispute, but must continue to diligently prosecute the performance and timely completion of the Work, including the Work pertaining to the Claim or other dispute.

(E) **Informal Resolution.** Contractor will make a good faith effort to informally resolve a dispute before initiating a Claim, preferably by face-to-face meeting between authorized representatives of Contractor and City.

12.2 Claims Submission. The following requirements apply to any Claim subject to this Article:

(A) **Substantiation.** The Claim must be submitted to City in writing, clearly identified as a "Claim" submitted pursuant to this Article 12 and must include all of the documents necessary to substantiate the Claim including the Change Order request that was rejected in whole or in part, and a copy of City's written rejection that is in dispute. The Claim must clearly identify and describe the dispute, including relevant references to applicable portions of the Contract Documents, and a chronology of relevant events. Any Claim for additional payment must include a complete, itemized breakdown of all known or estimated labor, materials, taxes, insurance, and subcontract, or other costs. Substantiating documentation such as payroll records, receipts, invoices, or the like, must be submitted in support of each component of claimed cost. Any Claim for an extension of time or delay costs must be substantiated with a schedule analysis and narrative depicting and explaining claimed time impacts.

(B) **Claim Format and Content.** A Claim must be submitted in the following format:

(1) Provide a cover letter, specifically identifying the submission as a "Claim" submitted under this Article 12 and specifying the requested remedy (e.g., amount of proposed change to Contract Price and/or change to Contract Time).

(2) Provide a summary of each Claim, including underlying facts and the basis for entitlement, and identify each specific demand at issue, including the specific Change Order request (by number and submittal date), and the date of City's rejection of that demand, in whole or in part.

(3) Provide a detailed explanation of each issue in dispute. For multiple issues included within a single Claim or for multiple Claims submitted concurrently, separately number and identify each individual issue or Claim, and include the following for each separate issue or Claim:

- a. A succinct statement of the matter in dispute, including Contractor's position and the basis for that position;
- b. Identify and attach all documents that substantiate the Claim, including relevant provisions of the Contract Documents, RFIs, calculations, and schedule analysis (see subsection (A), Substantiation, above);
- c. A chronology of relevant events; and
- d. Analysis and basis for claimed changes to Contract Price, Contract Time, or any other remedy requested.

(4) Provide a summary of issues and corresponding claimed damages. If, by the time of the Claim submission deadline (below), the precise amount of the requested change in the Contract Price or Contract Time is not yet known, Contractor must provide a good faith estimate, including the basis for that estimate, and must identify the date by which it is anticipated that the Claim will be updated to provide final amounts.

(5) Include the following certification, executed by Contractor's authorized representative:

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Claim submittal are true and correct. Contractor warrants that this Claim submittal is comprehensive and complete as to the matters in dispute, and agrees that any costs, expenses, or delay not included herein are deemed waived."

(C) ***Submission Deadlines.***

(1) A Claim disputing rejection of a request for a change in the Contract Time or Contract Price must be submitted within 15 days following the date that City notified Contractor in writing that a request for a change in the Contract Time or Contract Price, duly submitted in compliance with Article 5 and Article 6, has been rejected in whole or in part. A Claim disputing the terms of a unilateral Change Order must be submitted within 15 days following the date of issuance of the unilateral Change Order. These Claim deadlines apply even if Contractor cannot yet quantify the total amount of any requested change in the Contract Time or Contract Price. If the Contractor cannot quantify those amounts, it must submit an estimate of the amounts claimed pending final determination of the requested remedy by Contractor.

(2) With the exception of any dispute regarding the amount of Final Payment, any Claim must be filed on or before the date of Final Payment or will be deemed waived.

(3) A Claim disputing the amount of Final Payment must be submitted within 15 days of the effective date of Final Payment, under Section 8.7, Final Payment.

(4) Strict compliance with these Claim submission deadlines is necessary to ensure that any dispute may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project. ***Any Claim that is not submitted within the specified deadlines will be deemed waived by Contractor.***

12.3 City's Response. City will respond within 45 days of receipt of the Claim with a written statement identifying which portion(s) of the Claim are disputed, unless the 45-day period is extended by mutual agreement of City and Contractor or as otherwise allowed under Public Contract Code § 9204. However, if City determines that the Claim is not adequately substantiated pursuant to Section 12.2(A), Substantiation, City may first request in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses to the Claim that City may have against the Claim.

(A) **Additional Information.** If additional information is thereafter required, it may be requested and provided upon mutual agreement of City and Contractor. If Contractor's Claim is based on estimated amounts, Contractor has a continuing duty to update its Claim as soon as possible with information on actual amounts in order to facilitate prompt and fair resolution of the Claim.

(B) **Non-Waiver.** Any failure by City to respond within the times specified above will not be construed as acceptance of the Claim, in whole or in part, or as a waiver of any provision of these Contract Documents.

12.4 Meet and Confer. If Contractor disputes City's written response, or City fails to respond within the specified time, within 15 days of receipt of City's response or within 15 days of City's failure to respond within the applicable 45-day time period under Section 12.3, respectively, Contractor may notify City of the dispute in writing sent by registered or certified mail, return receipt requested, and demand an informal conference to meet and confer for settlement of the issues in dispute. If Contractor fails to notify City of the dispute and demand an informal conference to meet and confer in writing within the specified time, Contractor's Claim will be deemed waived.

(A) **Schedule Meet and Confer.** Upon receipt of the demand to meet and confer, City will schedule the meet and confer conference to be held within 30 days, or later if needed to ensure the mutual availability of each of the individuals that each party requires to represent its interests at the meet and confer conference.

(B) **Location for Meet and Confer.** The meet and confer conference will be scheduled at a location at or near City's principal office.

(C) **Written Statement After Meet and Confer.** Within ten working days after the meet and confer has concluded, City will issue a written statement identifying which portion(s) of the Claim remain in dispute, if any.

(D) **Submission to Mediation.** If the Claim or any portion remains in dispute following the meet and confer conference, within ten working days after the City issues the written statement identifying any portion(s) of the Claim remaining in dispute, the Contractor may identify in writing disputed portion(s) of the Claim, which will be submitted for mediation, as set forth below.

12.5 Mediation and Government Code Claims.

(A) **Mediation.** Within ten working days after the City issues the written statement identifying any portion(s) of the Claim remaining in dispute following the meet and confer, City and Contractor will mutually agree to a mediator, as provided under Public Contract Code § 9204. Mediation will be scheduled to ensure the mutual availability of the selected mediator and all of the individuals that each party requires to represent its interests. If there are multiple Claims in dispute, the parties may agree to schedule the mediation to address all outstanding Claims at the same time. The parties will share the costs of the mediator and mediation fees equally, but each party is otherwise solely and separately

responsible for its own costs to prepare for and participate in the mediation, including costs for its legal counsel or any other consultants.

(B) **Government Code Claims.**

(1) Timely presentation of a Government Code Claim is a condition precedent to filing any legal action based on or arising from the Contract. Compliance with the Claim submission requirements in this Article 12 is a condition precedent to filing a Government Code Claim.

(2) The time for filing a Government Code Claim will be tolled from the time Contractor submits its written Claim pursuant to Section 12.2, above, until the time that Claim is denied in whole or in part at the conclusion of the meet and confer process, including any period of time used by the meet and confer process. However, if the Claim is submitted to mediation, the time for filing a Government Code Claim will be tolled until conclusion of the mediation, including any continuations, if the Claim is not fully resolved by mutual agreement of the parties during the mediation or any continuation of the mediation.

12.6 Tort Claims. This Article does not apply to tort claims and nothing in this Article is intended nor will be construed to change the time periods for filing tort-based Government Code Claims.

12.7 Arbitration. It is expressly agreed, under Code of Civil Procedure § 1296, that in any arbitration to resolve a dispute relating to this Contract, the arbitrator's award must be supported by law and substantial evidence.

12.8 Burden of Proof and Limitations. Contractor bears the burden of proving entitlement to and the amount of any claimed damages. Contractor is not entitled to damages calculated on a total cost basis, but must prove actual damages. Contractor is not entitled to speculative, special, or consequential damages, including home office overhead or any form of overhead not directly incurred at the Project site or any other Worksite; lost profits; loss of productivity; lost opportunity to work on other projects; diminished bonding capacity; increased cost of financing for the Project; extended capital costs; non-availability of labor, material or equipment due to delays; or any other indirect loss arising from the Contract. The Eichleay Formula or similar formula will not be used for any recovery under the Contract. The City will not be directly liable to any Subcontractor or supplier.

12.9 Legal Proceedings. In any legal proceeding that involves enforcement of any requirements of the Contract Documents, the finder of fact will receive detailed instructions on the meaning and operation of the Contract Documents, including conditions, limitations of liability, remedies, claim procedures, and other provisions bearing on the defenses and theories of liability. Detailed findings of fact will be requested to verify enforcement of the Contract Documents. All of the City's remedies under the Contract Documents will be construed as cumulative, and not exclusive, and the City reserves all rights to all remedies available under law or equity as to any dispute arising from or relating to the Contract Documents or performance of the Work.

12.10 Other Disputes. The procedures in this Article 12 will apply to any and all disputes or legal actions, in addition to Claims, arising from or related to this Contract, including disputes regarding suspension or early termination of the Contract, unless and only to the extent that compliance with a procedural requirement is expressly and specifically waived by City. Nothing in this Article is intended to delay suspension or termination under Article 13.

Article 13 - Suspension and Termination

13.1 Suspension for Cause. In addition to all other remedies available to City, if Contractor fails to perform or correct Work in accordance with the Contract Documents, including non-compliance with applicable environmental or health and safety Laws, City may immediately order the Work, or any portion of it, suspended until the circumstances giving rise to the suspension have been eliminated to City's satisfaction.

(A) **Notice of Suspension.** Upon receipt of City's written notice to suspend the Work, in whole or in part, except as otherwise specified in the notice of suspension, Contractor and its Subcontractors must promptly stop Work as specified in the notice of suspension; comply with directions for cleaning and securing the Worksite; and protect the completed and in-progress Work and materials. Contractor is solely responsible for any damages or loss resulting from its failure to adequately secure and protect the Project.

(B) **Resumption of Work.** Upon receipt of the City's written notice to resume the suspended Work, in whole or in part, except as otherwise specified in the notice to resume, Contractor and its Subcontractors must promptly re-mobilize and resume the Work as specified; and within ten days from the date of the notice to resume, Contractor must submit a recovery schedule, prepared in accordance with the Contract Documents, showing how Contractor will complete the Work within the Contract Time.

(C) **Failure to Comply.** Contractor will not be entitled to an increase in the Contract Time or Contract Price for a suspension occasioned by Contractor's failure to comply with the Contract Documents.

(D) **No Duty to Suspend.** City's right to suspend the Work will not give rise to a duty to suspend the Work, and City's failure to suspend the Work will not constitute a defense to Contractor's failure to comply with the requirements of the Contract Documents.

13.2 Suspension for Convenience. City reserves the right to suspend, delay, or interrupt the performance of the Work in whole or in part, for a period of time determined to be appropriate for City's convenience. Upon notice by City pursuant to this provision, Contractor must immediately suspend, delay, or interrupt the Work and secure the Project site as directed by City except for taking measures to protect completed or in-progress Work as directed in the suspension notice, and subject to the provisions of Section 13.1(A) and (B), above. If Contractor submits a timely request for a Change Order in compliance with Articles 5 and 6, the Contract Price and the Contract Time will be equitably adjusted by Change Order pursuant to the terms of Articles 5 and 6 to reflect the cost and delay impact occasioned by such suspension for convenience, except to the extent that any such impacts were caused by Contractor's failure to comply with the Contract Documents or the terms of the suspension notice or notice to resume. However, the Contract Time will only be extended if the suspension causes or will cause unavoidable delay in Final Completion. If Contractor disputes the terms of a Change Order issued for such equitable adjustment due to suspension for convenience, its sole recourse is to comply with the Claim procedures in Article 12.

13.3 Termination for Default. City may declare that Contractor is in default of the Contract for a material breach of or inability to fully, promptly, or satisfactorily perform its obligations under the Contract.

(A) **Default.** Events giving rise to a declaration of default include Contractor's refusal or failure to supply sufficient skilled workers, proper materials, or equipment to perform the Work within the Contract Time; Contractor's refusal or failure to make prompt

payment to its employees, Subcontractors, or suppliers or to correct defective Work or damage; Contractor's failure to comply with Laws, or orders of any public agency with jurisdiction over the Project; evidence of Contractor's bankruptcy, insolvency, or lack of financial capacity to complete the Work as required within the Contract Time; suspension, revocation, or expiration and nonrenewal of Contractor's license or DIR registration; dissolution, liquidation, reorganization, or other major change in Contractor's organization, ownership, structure, or existence as a business entity; unauthorized assignment of Contractor's rights or duties under the Contract; or any material breach of the Contract requirements.

(B) **Notice of Default and Opportunity to Cure.** Upon City's declaration that Contractor is in default due to a material breach of the Contract Documents, if City determines that the default is curable, City will afford Contractor the opportunity to cure the default within ten days of City's notice of default, or within a period of time reasonably necessary for such cure, including a shorter period of time if applicable.

(C) **Termination.** If Contractor fails to cure the default or fails to expediently take steps reasonably calculated to cure the default within the time period specified in the notice of default, City may issue written notice to Contractor and its performance bond surety of City's termination of the Contract for default.

(D) **Waiver.** Time being of the essence in the performance of the Work, if Contractor's surety fails to arrange for completion of the Work in accordance with the Performance Bond within seven calendar days from the date of the notice of termination pursuant to paragraph (C), City may immediately make arrangements for the completion of the Work through use of its own forces, by hiring a replacement contractor, or by any other means that City determines advisable under the circumstances. Contractor and its surety will be jointly and severally liable for any additional cost incurred by City to complete the Work following termination, where "additional cost" means all cost in excess of the cost City would have incurred if Contractor had timely completed Work without the default and termination. In addition, City will have the right to immediate possession and use of any materials, supplies, and equipment procured for the Project and located at the Project site or any Worksite on City property for the purposes of completing the remaining Work.

(E) **Compensation.** Within 30 days of receipt of updated as-builts, all warranties, manuals, instructions, or other required documents for Work installed to date, and delivery to City of all equipment and materials for the Project for which Contractor has already been compensated, Contractor will be compensated for the Work satisfactorily performed in compliance with the Contract Documents up to the effective date of the termination pursuant to the terms of Article 8, Payment, subject to City's rights to withhold or deduct sums from payment otherwise due pursuant to Section 8.3, and excluding any costs Contractor incurs as a result of the termination, including any cancellation or restocking charges or fees due to third parties. If Contractor disputes the amount of compensation determined by City, its sole recourse is to comply with the Claim Procedures in Article 12, by submitting a Claim no later than 30 days following notice from City of the total compensation to be paid by City.

(F) **Wrongful Termination.** If Contractor disputes the termination, its sole recourse is to comply with the Claim procedures in Article 12. If a court of competent jurisdiction or an arbitrator later determines that the termination for default was wrongful, the termination will be deemed to be a termination for convenience, and Contractor's damages will be strictly limited to the compensation provided for termination for convenience under Section 13.4, below. Contractor waives any claim for any other damages for wrongful termination including special or consequential damages, lost

opportunity costs, or lost profits, and any award of damages is subject to Section 12.8, Burden of Proof and Limitations.

13.4 Termination for Convenience. City reserves the right, acting in its sole discretion, to terminate all or part of the Contract for convenience upon written notice to Contractor.

(A) **Compensation to Contractor.** In the event of City's termination for convenience, Contractor waives any claim for damages, including for loss of anticipated profits from the Project. The following will constitute full and fair compensation to Contractor, and Contractor will not be entitled to any additional claim or compensation:

(1) **Completed Work.** The value of its Work satisfactorily performed as of the date notice of termination is received, based on Contractor's schedule of values and unpaid costs for items delivered to the Project site that were fabricated for incorporation in the Work;

(2) **Demobilization.** Demobilization costs specified in the schedule of values, or if demobilization costs were not provided in a schedule of values pursuant to Section 8.1, then based on actual, reasonable, and fully documented demobilization costs; and

(3) **Termination Markup.** Five percent of the total value of the Work performed as of the date of notice of termination, including reasonable, actual, and documented costs to comply with the direction in the notice of termination for convenience, and demobilization costs, which is deemed to cover all overhead and profit to date.

(B) **Disputes.** If Contractor disputes the amount of compensation determined by City pursuant to paragraph (A), above, its sole recourse is to comply with the Claim procedures in Article 12, by submitting a Claim no later than 30 days following notice from City of total compensation to be paid by City.

13.5 Actions Upon Termination for Default or Convenience. The following provisions apply to any termination under this Article, whether for default or convenience, and whether in whole or in part.

(A) **General.** Upon termination, City may immediately enter upon and take possession of the Project and the Work and all tools, equipment, appliances, materials, and supplies procured or fabricated for the Project. Contractor will transfer title to and deliver all completed Work and all Work in progress to City.

(B) **Submittals.** Unless otherwise specified in the notice of termination, Contractor must immediately submit to City all designs, drawings, as-built drawings, Project records, contracts with vendors and Subcontractors, manufacturer warranties, manuals, and other such submittals or Work-related documents required under the terms of the Contract Documents, including incomplete documents or drafts.

(C) **Close Out Requirements.** Except as otherwise specified in the notice of termination, Contractor must comply with all of the following:

(1) Immediately stop the Work, except for any Work that must be completed pursuant to the notice of termination and comply with City's instructions for cessation of labor and securing the Project and any other Worksite(s).

(2) Comply with City's instructions to protect the completed Work and materials, using best efforts to minimize further costs.

(3) Contractor must not place further orders or enter into new subcontracts for materials, equipment, services or facilities, except as may be necessary to complete any portion of the Work that is not terminated.

(4) As directed in the notice, Contractor must assign to City or cancel existing subcontracts that relate to performance of the terminated Work, subject to any prior rights, if any, of the surety for Contractor's performance bond, and settle all outstanding liabilities and claims, subject to City's approval.

(5) As directed in the notice, Contractor must use its best efforts to sell any materials, supplies, or equipment intended solely for the terminated Work in a manner and at market rate prices acceptable to City.

(D) **Payment Upon Termination.** Upon completion of all termination obligations, as specified herein and in the notice of termination, Contractor will submit its request for Final Payment, including any amounts due following termination pursuant to this Article 13. Payment will be made in accordance with the provisions of Article 8, based on the portion of the Work satisfactorily completed, including the close out requirements, and consistent with the previously submitted schedule of values and unit pricing, including demobilization costs. Adjustments to Final Payment may include deductions for the cost of materials, supplies, or equipment retained by Contractor; payments received for sale of any such materials, supplies, or equipment, less re-stocking fees charged; and as otherwise specified in Section 8.3, Adjustment of Payment Application.

(E) **Continuing Obligations.** Regardless of any Contract termination, Contractor's obligations for portions of the Work already performed will continue and the provisions of the Contract Documents will remain in effect as to any claim, indemnity obligation, warranties, guarantees, submittals of as-built drawings, instructions, or manuals, record maintenance, or other such rights and obligations arising prior to the termination date.

Article 14 - Miscellaneous Provisions

- 14.1 Assignment of Unfair Business Practice Claims.** Under Public Contract Code § 7103.5, Contractor and its Subcontractors agree to assign to City all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or any subcontract. This assignment will be effective at the time City tenders Final Payment to Contractor, without further acknowledgement by the parties.
- 14.2 Provisions Deemed Inserted.** Every provision of law required to be inserted in the Contract Documents is deemed to be inserted, and the Contract Documents will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Contract Documents will be deemed amended accordingly.
- 14.3 Waiver.** City's waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the Contract Documents will not be effective unless it is in writing and signed by City. City's waiver of any breach, failure, right, or remedy will not be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless specified in writing by City.

- 14.4 Titles, Headings, and Groupings.** The titles and headings used and the groupings of provisions in the Contract Documents are for convenience only and may not be used in the construction or interpretation of the Contract Documents or relied upon for any other purpose.
- 14.5 Statutory and Regulatory References.** With respect to any amendments to any statutes or regulations referenced in these Contract Documents, the reference is deemed to be the version in effect on the date that bids were due.
- 14.6 Survival.** The provisions that survive termination or expiration of this Contract include Contract Section 11, Notice, and subsections 12.1, 12.2, 12.3, 12.4, 12.5, and 12.6, of Section 12, General Provisions; and the following provisions in these General Conditions: Section 2.2(J), Contractor's Records, Section 2.3(C), Termination, Section 3.7, Ownership, Section 4.2, Indemnity, Article 12, Dispute Resolution, and Section 11.2, Warranty.

END OF GENERAL CONDITIONS