



SAN RAFAEL CITY COUNCIL – MONDAY, AUGUST 19, 2019

**SPECIAL MEETING @ 6:00PM
CITY MANAGER'S CONFERENCE ROOM, CITY HALL
1400 FIFTH AVENUE, SAN RAFAEL, CALIFORNIA**

1. Citizens Advisory Committee Interviews

Interview Applicants and Consider Appointments to Fill One Unexpired Four-Year Term to the End of June 2021 on the Citizens Advisory Committee on Economic Development & Affordable Housing Due to the Resignation of Andrea de la Fuente (CC)

Recommended Action – Interview applicants and make appointments

**REGULAR MEETING
COUNCIL CHAMBERS, CITY HALL
1400 FIFTH AVENUE, SAN RAFAEL, CALIFORNIA**

AGENDA

OPEN SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

1. None.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

2. Closed Session: - None.

OPEN TIME FOR PUBLIC EXPRESSION – 7:00 PM

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

CITY MANAGER'S REPORT:

3. City Manager's Report:

CONSENT CALENDAR:

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

4. Consent Calendar Items:

- a. **Approval of Minutes**

Approve Minutes of City Council / Successor Agency Regular and Special Meetings of Monday, August 5, 2019 (CC)

Recommended Action – Approve as submitted

b. ADA Access Advisory Committee Appointment and Vacancies

- 1) Appointment of Timothy Lord to Fill One Unexpired Four-Year Term on the ADA Access Advisory Committee to the End of October 2019 Due to Resignation of Carol Manashil (CC)
Recommended Action - Approve staff recommendation
- 2) Call for Applications to Fill Four Four-Year Terms and One Alternate Four-Year Term on the ADA Access Advisory Committee to the End of October 2023 Due to the Expiration of Terms of Ewen McKechnie, Ashley Tomerlin, Jonathan Frieman, Carol Manashil and Alternate Member John Erdmann (CC)
Recommended Action - Approve as submitted

c. Liability Claims Administration Services

Resolution Authorizing the City Manager to Execute an Agreement with George Hills Company for the Provision of Third-Party Liability Claims Administration Services for a One-Year Period, In an Amount Not to Exceed \$93,350 (CA)
Recommended Action - Adopt Resolution

d. City-Wide Budget Amendments

Resolution Adopting Amendments to the City of San Rafael Budget for Fiscal Year 2018-2019 for the Purpose of Confirming Authorized Appropriations and Transfers (Fin)
Recommended Action - Adopt Resolution

SPECIAL PRESENTATIONS:

5. Special Presentations:

- a. Presentation of a Proclamation to Jack Robertson for Eight Years of Service on the Planning Commission

PUBLIC HEARINGS:

6. Public Hearings:

a. **Alarm Ordinance Revision**

Consideration of an Ordinance of the City of San Rafael Amending Chapter 8.20 of the San Rafael Municipal Code Regulating Intrusion Detection Alarm Systems (PD)
Recommended Action - Pass Ordinance to print

OTHER AGENDA ITEMS:

7. Other Agenda Items:

a. **Grand Jury Report: "Marin's Telecommunications Disconnect"**

Resolution Approving and Authorizing the Mayor to Execute the City's Response to the June 13, 2019 Marin County Civil Grand Jury Report Entitled, "Marin's Telecommunications Disconnect" (CM)
Recommended Action - Adopt Resolution

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

8. Councilmember Reports:

SAN RAFAEL SUCCESSOR AGENCY:

1. Consent Calendar: - None.

ADJOURNMENT:

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection in the City Clerk's Office, Room 209, 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 and assistive listening devices may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request. Public transportation is available through Golden Gate Transit, Line 22 or 23. Paratransit is available by calling Whistlestop. Wheels at (415) 454-0964. To allow individuals with environmental illness or multiple chemical sensitivity to attend the meeting/hearing, individuals are requested to refrain from wearing scented products.



SAN RAFAEL CITY COUNCIL STAFF REPORT

Department: City Clerk

Prepared by: Lindsay Lara, City Clerk

City Manager Approval: 

TOPIC: Citizens Advisory Committee on Economic Development & Affordable Housing Interviews

SUBJECT: INTERVIEW APPLICANTS AND CONSIDER APPOINTMENTS TO FILL ONE UNEXPIRED FOUR-YEAR TERM TO THE END OF JUNE 2021, ON THE CITIZENS ADVISORY COMMITTEE ON ECONOMIC DEVELOPMENT & AFFORDABLE HOUSING DUE TO THE RESIGNATION OF ANDREA DE LA FUENTE

RECOMMENDATION:

Interview the following applicants and make appointments to the Citizens Advisory Committee:

Name
Allan Aranha
Andrew Cullen
Greg Hingsbergen
Joe McCallum
Madeline Silva Khan
Susan Clark
Torina Wilson

BACKGROUND:

At the meeting of [June 17, 2019](#), the City Council called for applications for the Citizens Advisory Committee to fill one unexpired four-year term to the end of June 2021 due to the resignation of Andrea de la Fuente. Twelve (12) applications were received in the City Clerk’s Office by the deadline of Tuesday, July 9, 2019. Due to the high volume of applications received, a subcommittee of the City Council carried out an initial review of the twelve applications and selected seven to be interviewed by the full City Council.

COMMUNITY OUTREACH:

The call for applications for the Citizens Advisory Committee was advertised in Snapshot (the City Manager’s e-newsletter), the City website, Nextdoor and Facebook social media platforms.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

FOR CITY CLERK ONLY

File Number:

Council Meeting:

Disposition:

RECOMMENDED ACTION:

Interview applicants and make appointments.

ATTACHMENTS

1. Seven (7) applications
2. Citizens Advisory Committee Guidelines

Profile

Question applies to ADA Access Advisory Committee, Citizens Advisory Committee on Economic Development & Affordable Housing

ADA Advisory Committee: The deadline for filing applications is **Tuesday, June 25, 2019 at 5:00 p.m.** in the City Clerk's Office.

CAC Advisory Committee: The deadline for filing applications is **Tuesday, July 9, 2019 at 5:00 p.m.** in the City Clerk's Office.

Alan _____ Aranha _____
First Name Middle Initial Last Name

Which Boards would you like to apply for?

Citizens Advisory Committee on Economic Development & Affordable Housing: Submitted

Email Address

Street Address

Suite or Apt

San Rafael _____ CA _____ 94903
City State Postal Code

Are you a resident of San Rafael

Yes No

10
Resident of the City of San Rafael for how many years?

Primary Phone

Alternate Phone

Exchange Bank _____ VP - Business Development _____
Employer Job Title

Business Address

How did you learn about this vacancy? *

City Council Agenda

Interests & Experiences

Do you participate in any civic activities?

Chair - Economic Vitality Committee San Rafael Chamber of Commerce. Past Volunteer Banking Chair, Italian Street Painting Marin. Board member San Rafael Chamber and Marin Arts. Graduate Leadership San Rafael. Volunteer Committee member, Marin Kickball fundraiser for NexGen Scholars in San Rafael. Raised \$30,000 in 2019.

List any civic organizations of which you are a member:

San Rafael Chamber of Commerce, Marin Builders Association, North Bay Leadership Council, Novato Chamber of Commerce

Education:

BA Economics and Sociology St Xavier's

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

Economic Development and Affordable Housing are very important to me, to vitalize and sustain the City we love. I hope you bring new ideas, provide input and contribute to the discussions, with my knowledge of the business community and its needs, both from my work in commercial banking and engagement with our local Chamber.

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

I cannot think of any.

[From_Linked_-_Resume_Alan_Aranha.docx](#)

Upload a Resume

Demographics (Optional)

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

Ethnicity:

To which gender to your most identify?



How old are you?



From Linked-In

Experience

Exchange Bank Business Development

Dates Employed

Oct 2016 – Present

Employment Duration

·2 yrs 9 mos

Location

San Rafael CA

Senior sales leader responsible for acquiring new relationships in the North Bay. Develop and execute strategic sales plans to expand banks footprint to Marin.

Founded in 1890 as a Community bank, Exchange bank celebrated the 126-year anniversary of the founding of the bank on May 1, 2016. The strong commitment to the community continues to be our legacy.

Chase Bank (San Rafael) Business Relationship Manager

Dates Employed

Sep 2009 – Sep 2016

Employment Duration

·7 yrs 1 mo

Location

SF - North Bay

Senior sales leader responsible for acquiring and growing profitable relationships for Chase's business banking portfolio. Develop and execute strategic sales plans for prospects with revenue size ranging from \$2MM to \$40MM.

- Significant experience with conventional and SBA 504, 7A - Commercial Real Estate and Equipment loans. Consistently deliver bookings of Loans and Cash Management / Treasury products. Acquired and manage a portfolio of over 75 clients.... See more

Citi Bank (San Rafael) Business Development Manager

Dates Employed

Jan 2004 – Aug 2009

Employment Duration

·5 yrs 8 mos

Location

SF - Northbay

Conducted financial analysis for prospects using CSR Suite (Citibusiness Solutions Review, Cash Flow Analysis and Relationship Pricing Module); maintained an active and strong sales pipeline.

Chambers of Commerce

Executive Director

Company Name

Chambers of Commerce

Dates Employed

Jan 1999 – Dec 2004

Employment Duration

·6 yrs

Location

Novato and San Rafael CA

Executive Director – Novato Chamber of Commerce 2003 - 2004

- Responsible for the communication, implementation and execution of the Chamber mission. Spokesperson for businesses, their concerns and economic vitality of the region. Designed, executed annual business plans and budgets.

- Led business advocacy and design of membership benefit programs.... See more

Savi-O Commerce Company

Proprietor

Company Name

Savi-O Commerce Company

Dates Employed

Jan 1995 – Dec 1999

Employment Duration

·5 yrs

Location

San Jose CA

Launched an image analysis systems export business serving a global community with a concentration in SE Asia. Purchased computers, peripherals and software internationally and integrated the systems as per customer requirements. Created strategic alliances and negotiated contracts with vendors worldwide.

Show 1 more experience

Education

St Xavier

St Xavier

Degree Name

Bachelor's Degree,

Field Of Study

Economics and Sociology

Leadership Palo Alto (1993), Leadership San Rafael (1999) and Leadership Novato

Leadership Palo Alto (1993), Leadership San Rafael (1999) and Leadership Novato

Profile

Question applies to Citizens Advisory Committee on Economic Development & Affordable Housing

CAC Advisory Committee: The deadline for filing applications is **Tuesday, July 9, 2019 at 5:00 p.m.** in the City Clerk's Office.

Andrew _____ J _____ Cullen _____
First Name Middle Initial Last Name

Which Boards would you like to apply for?

Citizens Advisory Committee on Economic Development & Affordable Housing: Submitted

Email Address

Street Address

Suite or Apt

San Rafael _____
City

CA _____
State

94901 _____
Postal Code

Are you a resident of San Rafael

Yes No

Resident of the City of San Rafael for how many years?

14

Primary Phone

Alternate Phone

Lawrence Berkeley National
Laboratory _____
Employer

Environment, Health and Safety
Professional _____
Job Title

Business Address

How did you learn about this vacancy? *

Other

Interests & Experiences

Do you participate in any civic activities?

I participate in bicycle and pedestrian civic activities through the Marin County Cycle Coalition (MCBC) to increase accessibility and safety.

List any civic organizations of which you are a member:

MCBC

Education:

UC Berkeley, B.S. Chemistry, 2013 UC Berkeley, M.P.H. 2018-Present

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

I grew up in San Rafael and plan to reside in the city foreseeable future. I have a deep interest in making San Rafael the best that it can be. In the last 4 years that I have returned to living in San Rafael (post college), I have seen the city dramatically improve. Businesses are revitalizing the downtown and mass transit is coming to town. Issues still exist that I want to help shape the future of. Homelessness is still too prevalent, affordable housing is on the decline, and bicycle/pedestrian safety remains a challenge. My studies in public health program at UC Berkeley has engaged me in many areas of community health and built environment. I am interested in serving on the Citizens Advisory Committee on Economic Development and Affordable Housing to implement solutions that improve every corner of San Rafael. I have the perspective, skills and experience to make a difference in my city and I want to be a part of the change. As an Environment, Health and Safety professional at Berkeley Lab, I am passionate about creating a safe work place and protecting the environment. In working for a compliance driven department within the Department of Energy, I have repeatedly collaborated with stakeholders to develop solutions that enables world-class science while meeting regulatory requirements. I know that these skills will translate well to the challenging and diverse problems that San Rafael has. I firmly believe that the San Rafael needs a young adult voice on this committee. San Rafael is a place that I can see myself starting and raising a family in the next 5 years. I want to make San Rafael a place that people can and want to raise their own families.

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

None.

[Andrew Cullen Resume_061919.pdf](#)

Upload a Resume

Demographics (Optional)

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

Ethnicity:

To which gender to your most identify?



How old are you?



ANDREW CULLEN

CONTACT



[REDACTED]



[REDACTED]



Linkedin.com/andrew-cullen



[REDACTED]
San Rafael, CA, 94901

Certifications

CHMM, 2018-Present

Certified Hazardous Materials Manager

ASP, 2019-Present

Associate Safety Professional

Training

- OSHA 40-Hour HAZWOPER
- DOT Basic Awareness
- DOT Advance Radiation Shipper
- EPA RCRA/CWA/CAA
- CA Title 22/HSC
- IATA

Skills and Abilities

- Project Management
- Program Development/Implementation
- Research Methods
- Waste Management Regulations
- Chemistry, Statistics and Public Health
- Written and Oral Communication
- Self-Motivated and Independent
- Collaborative with Diverse Groups
- Resourceful

PUBLICATIONS

Peyton Shieh, M. Sloan Siegrist, **Andrew J. Cullen**, and Carolyn R. Bertozzi. "Imaging bacterial peptidoglycan with near-infrared fluorogenic azide probes" *Proceedings of the National Academy of Sciences U. S. A.* **2014**, *111*, 5456-6461.

EDUCATION

University of California, Berkeley

Anticipated 2020

School of Public Health

Masters of Public Health, Environmental Health Sciences

University of California, Berkeley

2013

College of Chemistry

Bachelors of Science, Chemistry

RELEVANT EXPERIENCE

Waste Management Chemist

June 2018 - Present

Lawrence Berkeley National Laboratory

- Provided guidance, direction and recommendations to research and operations personnel to improve safety and regulatory compliance of hazardous waste
- Developed close relationships with multi-disciplinary teams to support planning and implementing improvements to EH&S programs
- Identified and strengthened technical program areas to ensure compliance with applicable regulations and to reduce risk to the institution
- Classified and certified waste with the application of generator process knowledge to meet on-site and off-site TSDF WACs and DOT regulations
- Interpreted federal, state and local regulations applicable to waste management

Chemistry Lab Technician

August 2016 – June 2018

College of Marin

- Oversaw and strengthened EH&S procedures in chemistry teaching labs
- Optimized chemical inventories, safety inspections and labeling programs
- Projected and purchased supplies and equipment by managing a budget
- Strategized meeting program needs of students, faculty and staff

Junior Research Specialist I

July 2013 – July 2014

University of California, Berkeley

- Influenced and implemented new EH&S policies by participating in the Chemical Safety Committee
- Optimized EH&S controls in a research space that contained chemical, biological (BSL2), and radioactive hazards
- Oriented and oversaw training of new lab members in EH&S
- Conducted organic synthesis and biological labeling research under limited supervision and collaborated with a team of scientists
- Communicated research findings through written reports and presentations

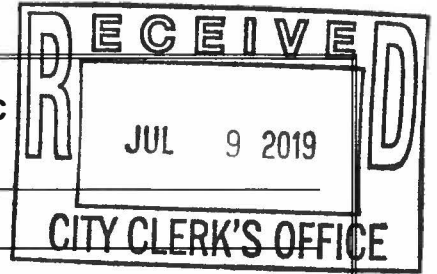
Undergraduate Researcher

August 2012 – July 2013

University of California, Berkeley

- Invented a synthetic pathway for Si-Rhodamines and cyclooctynes for use in copper-free click labeling in bacterial and mammalian cells
- Analyzed data and constructed manuscripts to communicate results
- Publicized research results through poster and PowerPoint presentations

CITY OF SAN RAFAEL
APPLICATION TO SERVE AS MEMBER OF CAC



NAME: Greg Hingsbergen

STREET ADDRESS: [REDACTED]

CITY/STATE/ZIP CODE: San Rafael, CA 94903

RESIDENT OF THE CITY OF SAN RAFAEL FOR Six YEARS

PRESENT POSITION: VP - Controller

NAME OF FIRM: Navitas Organics

BUSINESS ADDRESS: 15 Pamaron Way, Novato, CA 94949

*HOME & BUSINESS PHONE: [REDACTED] | [REDACTED]

*E-MAIL ADDRESS: [REDACTED]

EDUCATION: Rutherford B. Hayes High School, Delaware, Ohio - 1988

Washington University in St. Louis, Major in Psychology, Minors in Economics and Fine Arts - 1992

Golden Gate University, Graduate Certificate in Accounting - 2013

PARTICIPATION IN THE FOLLOWING CIVIC ACTIVITIES: Troop leader, Boy Scouts;

Coaching - youth soccer, youth baseball; Coaching - First Lego League

MEMBER OF FOLLOWING CIVIC ORGANIZATIONS: _____

MY REASONS FOR WANTING TO SERVE ARE: To get involved in local government and to do what
what I can to help people and contribute to society.

DESCRIBE POSSIBLE AREAS OF CONFLICT OF INTEREST: As a homeowner in the Terra Linda neigh-
borhood of San Rafael, decisions affecting home values in that area could present a conflict of interest.

DATE: 7/9/19

SIGNATURE: [Signature] for Greg Hingsbergen

Filing Deadline:
Date: Tuesday, July 9, 2019
Time: 5:00 p.m.

Mail or deliver to:
City of San Rafael, City Hall, Dept. of City Clerk
1400 Fifth Avenue, Room 209, San Rafael, CA 94901

* This information will be kept confidential, to the extent permitted by law

Profile

Question applies to Citizens Advisory Committee on Economic Development & Affordable Housing

CAC Advisory Committee: The deadline for filing applications is **Tuesday, July 9, 2019 at 5:00 p.m.** in the City Clerk’s Office.

Joe _____ Mccallum _____
First Name Middle Initial Last Name

Which Boards would you like to apply for?

Citizens Advisory Committee on Economic Development & Affordable Housing: Submitted

Email Address

Street Address

Suite or Apt

San Rafael _____
City

CA _____
State

94901 _____
Postal Code

Are you a resident of San Rafael

Yes No

Resident of the City of San Rafael for how many years?

5

Primary Phone

Alternate Phone

Newmark Knight Frank _____
Employer

Transaction Services Specialist _____
Job Title

Business Address

How did you learn about this vacancy? *

Friend / Colleague

Interests & Experiences

Do you participate in any civic activities?

I am a graduate of the San Rafael Chamber of Commerce Leadership Institute (Class of 2019). I am also a volunteer karate instructor for children and adults at the Shotokan Karate Institute in Richmond (2009 to present).

List any civic organizations of which you are a member:

San Rafael Chamber of Commerce Economic Vitality Committee

Education:

University of Oregon (B.S.) - Class of 2014 Sir Francis Drake High School - Class of 2010

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

I have become inspired to volunteer and get more involved in the local community after recently graduating from the San Rafael Chamber of Commerce Leadership Institute. The CAC is of particular interest with its function of advising the City Council on matters relating to the local economy, the development of affordable housing projects and the fostering of a more vibrant San Rafael. As a commercial real estate agent, I am often exposed to the concerns of the local business community as it pertains to San Rafael. Having grown up in Marin County, from a young age I have been exposed to the region's growth and development challenges. As a current resident of San Rafael who both lives and works downtown, I live and breathe the communities issues, such as business retention, homelessness and lack of affordable housing. I am interested in serving on the CAC to contribute to finding creative solutions to these issues in order to benefit the community as a whole.

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

In my line of work I am involved with local commercial property owners, tenants, investors and other real estate and business professionals which may disqualify me from offering advice on certain matters that overlap with these relationships.

[Joe McCallum NKF Resume.pdf](#)

Upload a Resume

Demographics (Optional)

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Ethnicity:

To which gender to your most identify?



How old are you?



JOE MCCALLUM

Transaction Services Specialist

CA RE License #02048815



Newmark Knight Frank
 [Redacted]
 Suite 230
 San Rafael, CA 94901
 [Redacted]

Years of Experience

5 Years

Areas of Specialization

- Investment Sales
- Landlord Representation
- Market Analysis

Professional Background

As a transaction services specialist in Newmark Knight Frank’s San Rafael office, Joe McCallum focuses on investment sales and agency leasing throughout Marin and Sonoma counties. Mr. McCallum transitioned to his current position in 2018, after serving as research coordinator of NKF’s North Bay offices where he provided critical analysis concerning the pricing, marketing and due diligence of several major investment sale transactions. Mr. McCallum has worked with NKF full time since 2014, after first interning with the firm the previous year.

Partial Client List

- 401 Miller Avenue, LLC
- Brown & Riding
- Clementine Interiors, LLC
- The Dias Group, LLC
- Glasshouse Productions, Inc.
- JOBA Investments, LLC
- Marin Holistic Health & Acupuncture, Inc.
- Pantec Group, Inc.
- Redwood Lumber & Supply Co., LLC
- Ross Valley Sanitary District
- Sycamore MV, LLC

Professional Affiliations

Mr. McCallum is actively engaged in the North Bay community and is a current member of the San Rafael Chamber of Commerce Economic Vitality Committee. He is also a graduate of the San Rafael Chamber of Commerce Leadership Institute.

Education

Mr. McCallum is a graduate of the University of Oregon, where he earned a bachelor’s degree in general social science with a focus in applied business and economics and a minor in computer information technology. Mr. McCallum was raised in Marin County and graduated from Sir Francis Drake High School.

Profile

Question applies to Citizens Advisory Committee on Economic Development & Affordable Housing

CAC Advisory Committee: The deadline for filing applications is **Tuesday, July 9, 2019 at 5:00 p.m.** in the City Clerk’s Office.

Madeline _____ R. _____ Silva Khan _____
First Name Middle Initial Last Name

Which Boards would you like to apply for?

Citizens Advisory Committee on Economic Development & Affordable Housing: Submitted

Email Address

Street Address

Suite or Apt

San Rafael _____
City

CA _____
State

94903 _____
Postal Code

Are you a resident of San Rafael

Yes No

Resident of the City of San Rafael for how many years?

2.5

Primary Phone

Alternate Phone

Pacific Gas and Electric Company _____
Employer

Manager, State Infrastructure Projects _____
Job Title

Business Address

How did you learn about this vacancy? *

- City Manager’s Newsletter
- Other

Interests & Experiences

Do you participate in any civic activities?

At this time I do not, but I am actively trying to get involved in civic activities. I recently applied to the Design Review Board and was ultimately not selected, but actually feel that the CAC will be a better fit for me, and hope to gain civic experience through this avenue.

List any civic organizations of which you are a member:

None at this time.

Education:

- Lewis & Clark College, Portland OR - BA in International Affairs, 2007 - Columbia University, School of International and Public Affairs, New York, NY - MPA in Energy Policy, 2014

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

I am interested in increasing my civic participation and representing what I feel is the currently under-represented population on the boards and commissions right now. I am a relatively new resident of Marin County, a single mother of a 3 year old, and I have a full time job that includes a daily commute into San Francisco. Though I am fortunate to own my condo, and was able to get into the market at an opportune time, I feel that affordable housing is an issue in our city that needs to be addressed carefully. Additionally, I have vested interest in the economic development of our community as I hope to continue to reside and raise my child here for many years to come.

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

I work for Pacific Gas and Electric - this may be a help to the City or a conflict :)

[Madeline_SK - 2019_Resume.pdf](#)

Upload a Resume

Demographics (Optional)

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

Ethnicity:

None Selected

To which gender to your most identify?

[Redacted]

How old are you?

[Redacted]



Madeline Silva Khan



Personal Info

Address

[Redacted], San Rafael CA

Phone

[Redacted]

E-mail

[Redacted]

LinkedIn

www.linkedin.com/in/madelinesk



Summary

Loyal, driven, and extroverted professional seeking opportunities to build upon existing experience in governmental and agency relations. Highly skilled at explaining and lobbying complicated concepts in regulatory and governmental environments.



Experience

03.2018 - present

Manager, Agency Program Management

Pacific Gas & Electric Company

- Lead team of program managers who manage PG&E's involvement in statewide projects resulting in a portfolio of approximately \$2 billion of work performed in the next 10 years.
- Programs in my portfolio include the High-Speed Rail Project, Caltrain Modernization Project, BART Phase II Extension, Diridon Area Redevelopment, California WaterFix program, and several large Caltrans projects.
- Resolve escalated issues with the agencies and provide discovery responses and testimony preparation on all portfolio regulatory matters at the California Public Utilities Commission (CPUC) and Federal Energy Regulatory Commission (FERC).

03.2015 - 03.2018

Principal Program Manager, High-Speed Rail

Pacific Gas & Electric Company

- Negotiated and oversaw several contracts with the High-Speed Rail Authority (HSRA) for the relocation of utility assets, as well as engineering of ten interconnection sites into PG&E's transmission grid for the electrification of the railway.
- Mitigated political, regulatory, and financial risks developing long-term strategy and tactics for day-to-day issues as PG&E's single point of contact.

06.2014 - 03.2015

Expert State Agency Relations Representative

Pacific Gas & Electric Company

- Liaised with California Energy Commission on behalf of PG&E regarding energy policies affecting the company including combined heat and power, renewable energy, electric vehicles, data privacy issues, and environmental remediation.

03.2013 - 05.2014

Research Assistant

Columbia University

Department Research Assistant for Energy & Environment Concentration

- Addressed students' academic concerns and provided mentorship. Ran a benchmarking study and surveys to help improve the program. Organized department events for both student and faculty.

Research Assistant for the Earth Institute

- Researched and wrote case studies for the Executive Director, Steve Cohen to use in his syllabus and at conferences. Subjects ranged from hydraulic fracturing, the Keystone XL pipeline, and sustainability initiatives.

08.2011 - 07.2012

State Agency Relations Representative

Pacific Gas & Electric Company

- Liaised to the California Air Resources Board (CARB) Staff and other utilities, environmental groups, and industrial sector representatives.
- Successfully coordinated policy positions and ensured internal readiness on cap-and-trade and other measures designed to reduce California's greenhouse gas emissions to 1990 levels by 2020.
- Maintained consistency with company policy stance between CARB and the CPUC in various proceedings resulting from the cap-and-trade regulation

01.2011 - 08.2011

Senior Regulatory Case Manager

Pacific Gas & Electric Company

- Effectively managed regulatory cases on departed load issues, community choice aggregation, and cap-and-trade allowances at the CPUC by facilitating a final company stance on the issues internally, reviewing written testimony, and preparing witnesses for hearings.



Skills

External Communications

Executive Communication

Contract Negotiation

Testimony Preparation

Discovery Response

Employee Engagement

Policy and Regulatory Analysis

09.2008 -
01.2011

● **Senior Financial Analyst, Investor Relations**

PG&E Corporation

- Supported quarterly earnings calls and investor conferences by collaborating on the following products: talking points and script, question and answer document, PowerPoint and book presentations, and earnings tables.
- Communicated regularly with members of the investment community as one of the primary company contacts.
- Provided concise summaries of Wall Street analyst reports, conveying relevant points and stock performance to the officers, directors, and the Finance Organization.

06.2007 -
09.2008

● **Financial Analyst, Management Reporting**

Pacific Gas & Electric Company

- Managed production of performance metric reporting from all lines of business within PG&E
- Consolidated and reviewed operating performance information contributing to various monthly reports delivered to the Utility Officer Committee, COO, CFO, Project Management and Program Office, and Board of Directors.



Education

08.2012 -
05.2014

● **Columbia University, School of International and Public Affairs (SIPA)**

Master of Public Administration in International Energy Management and Policy

08.2003 -
05.2007

● **Lewis and Clark College**

Bachelor of Arts in International Affairs, Minor in Economics

Profile

Question applies to Citizens Advisory Committee on Economic Development & Affordable Housing

CAC Advisory Committee: The deadline for filing applications is **Tuesday, July 9, 2019 at 5:00 p.m.** in the City Clerk's Office.

Susan _____ B _____ Clark _____
First Name Middle Initial Last Name

Which Boards would you like to apply for?

Citizens Advisory Committee on Economic Development & Affordable Housing: Submitted

Email Address

Street Address

Suite or Apt

San Rafael _____
City

CA _____
State

94903 _____
Postal Code

Are you a resident of San Rafael

Yes No

Resident of the City of San Rafael for how many years?

5

Primary Phone

Alternate Phone

Zazzle _____
Employer

Director of Content & Community _____
Job Title

Business Address

How did you learn about this vacancy? *

Other

Interests & Experiences

Do you participate in any civic activities?

Not at the present time but I would like to.

List any civic organizations of which you are a member:

None

Education:

Masters of Science from Ithaca College

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

I care about Marin County and San Rafael very much and I want to see that we grow in a way that benefits everyone in our community.

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

I do not believe I have any conflicts.

[Susan B Clark Resume 2018.doc](#)

Upload a Resume

Demographics (Optional)

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

Ethnicity:

To which gender to your most identify?

How old are you?

SUSAN B. CLARK

[linkedin.com/in/sbclark](https://www.linkedin.com/in/sbclark)

vimeo.com/susanbclark

CAREER SUMMARY

I'm a hands-on, strategic **Director of Content** with a track record of successfully creating smart, engaging content for high profile web properties in news, entertainment and e-commerce.

SKILL SET

- Leads content marketing creative and syndication strategy that reaches targeted audiences in unique and differentiated ways.
- Drives content creation by using social intelligence and analytics to inform future topics and optimize engagement.
- Tells complicated stories in fun, smart, engaging ways in a variety of formats.
- Manages editorial team and content flow for blogs, emails, social media, syndicated publications, videos, etc.
- Hands-on content creator who ensures all content is on-brand and complies with SEO best practices.
- Understands drivers of engagement and how to tap into influencers and user generated content.

PROFESSIONAL EXPERIENCE

Zazzle - Director of Content & Community

Redwood City, CA

2014 - Present

Create content in the form of videos, tutorials, blog and social media posts to help build our community and monetization efforts.

eBay Advertising / Triad Retail Media - Director of Strategy & Content

San Jose, CA

2011 - 2014

Developed various types of content -- e.g. video, articles, tools, etc. -- that engaged users while building brands.

Cluck Productions - Co-Founder/Content Producer

Larkspur, CA

2007 - 2011

Created strategies to help non-profit organizations drive their online business goals.

The Tonight Show with Jay Leno - Head of Digital Content

Burbank, CA

2001 - 2007

Grew the site to the #1 destination on NBC.com with original content while driving revenue through cross-platform sponsorship opportunities.

Jay Leno's Garage - Co-Producer

Burbank, CA

2006 - 2007

Launched this Emmy-winning site which was the precursor to the CNBC show.

Access Hollywood.com - Co-Managing Editor

Burbank, CA

2001 - 2002

Pitched and conceived story ideas, wrote and edited news and feature content for the website.

Spiderdance - Senior Producer

Venice Beach, CA

2000 - 2001

Won 2 Bandie Awards for Best 2-Screen iTV implementation of NBC's "Weakest Link" and GSN's "Inquizition."

Sony Online - Senior Producer / Game Designer

Culver City, CA

1999 - 2000

Created the multiplayer web game around the popular "Dating Game" TV franchise, as well as an ancillary content portal and avatar generator.

CheckOut.com - Managing Editor, Music

Beverly Hills, CA

1999 (10 months)

Oversaw the editorial (music reviews and interviews) and a team of 12 writers for this e-commerce startup.

GTE MainStreet Interactive Television - Senior Content Producer

Santa Monica, CA

1995 - 1999

Produced the most robust iTV programming at that time, running the gamut from kids' programming to game shows.

TECHNICAL SKILLS

Software: Adobe Creative Suite (PhotoShop, Illustrator, Premiere, After Effects, Audition), Camtasia, AVID, Final Cut, Visio, Autodesk Fusion 360

Web Development: HTML, CSS, PHP, JavaScript; Data Analytics, SEO/SEM, CMS

EDUCATION

ITHACA COLLEGE || Ithaca, NY >>>> **Masters of Science in Communications Innovation**

FLORIDA-ATLANTIC UNIVERSITY || Boca Raton, FL >>>> **Bachelor of Arts in Humanities, Minor in Journalism**

PROFESSIONAL AFFILIATIONS

Member, **PRODUCERS GUILD OF AMERICA**, Member, **WRITERS GUILD OF AMERICA, EAST**, Member, **ACADEMY OF TELEVISION ARTS & SCIENCES**, Former Board Member and Treasure for **GLAAD**

**A more detailed resume is available on request*

Profile

Question applies to Citizens Advisory Committee on Economic Development & Affordable Housing

CAC Advisory Committee: The deadline for filing applications is **Tuesday, July 9, 2019 at 5:00 p.m.** in the City Clerk’s Office.

Torina _____ N _____ Wilson _____
First Name Middle Initial Last Name

Which Boards would you like to apply for?

Citizens Advisory Committee on Economic Development & Affordable Housing: Submitted

Email Address

Street Address

Suite or Apt

San Rafael _____
City

CA _____
State

94903 _____
Postal Code

Are you a resident of San Rafael

Yes No

Resident of the City of San Rafael for how many years?

~2.5

Primary Phone

Alternate Phone

PlaceWorks _____
Employer

Environmental and
Comprehensive Planner _____
Job Title

Business Address

How did you learn about this vacancy? *

Friend / Colleague

Interests & Experiences

Do you participate in any civic activities?

As a practicing planner in the Bay Area I am quite engaged in civic activities related to my profession. Since city planning, and civic participation in general, is my profession, I am not currently involved in extra-curricular civic activities. However, I have recently been looking at ways I can get more involved in the San Rafael community in particular and hope to increase my civic activity significantly.

List any civic organizations of which you are a member:

I am a member of the American Association of University Women (AAUW). AAUW is an organization that advances equity for women through advocacy, education, philanthropy, and research. Beginning in June 2019 I will have a small role on the AAUW board, planning events aimed at fundraising money for scholarships for women, and advancing education for AAUW members in Marin County.

Education:

I have a Bachelors of Science in City and Regional Planning from California Polytechnic State University-San Luis Obispo.

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

There are several reasons I would like to serve on a commission. My family has lived in San Rafael for approximately 6 years (I have only lived here approximately 2.5 years because I was gone for college), and I feel such an immense connection to this city that I am certain it is my forever home. San Rafael is a dynamic and exciting place, with so much potential to become even greater. I believe that my youthful energy, my unique perspective, and my education and professional experience in City Planning, means I am an extremely well-rounded individual who can thrive on a commission, particularly because I understand the dynamic and the importance of commissions such as this CAC. Additionally, as a renter in San Rafael, I feel I can provide a good perspective, particularly when it comes to affordable housing, market rate rentals, and the overall economic well-being of those who rent in San Rafael.

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

I currently work for PlaceWorks, who is a subconsultant hired by the City of San Rafael to conduct the environmental review for the General Plan Update and Downtown Precise Plan. While this means I am extremely familiar with the city's General Plan 2020, and will be extremely familiar with the General Plan 2040, There may be come cases where I might be prohibited in participating in CAC activities, if they happen to involve the General Plan.

[TorinaWilson_Resume2019.pdf](#)

Upload a Resume

Demographics (Optional)

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

Ethnicity:

To which gender to your most identify?



How old are you?





TORINA WILSON

San Rafael, CA 94903

EXPERIENCE

PlaceWorks- Environmental and Comprehensive Planner | July 2018 to Present

- Author and Assistant Project Manager of several Environmental Impact Reports on the program- and project- level.
- Acting Assistant Project Manager for a public outreach campaign for the City of Sunnyvale in their switch to district- based elections.
- Author of white papers and event organizer for series a of transportation related seminars for planning and transportation directors in Contra Costa County.

City of Atascadero- Planning Intern | January 2017 to June 2018

- Writing and presenting staff reports for the Planning Commission.
- Drafting Initial Study Mitigated Negative Declarations for mixed- use projects.
- Plan check review, inspections, and GIS mapping.
- Public outreach and front counter service work.

Mass Transportation Committee- Student Representative | October 2017 to June 2018

- Served as the student representative, appointed by the City of San Luis Obispo City Council, to represent student interests on the City's Mass Transportation Committee. Conducted a campuswide student survey to assist the committee in understanding student transit needs.

Transportation Authority of Marin- Planning Intern | Summer 2013 and 2014

- Helped manage public outreach for the Novato Community Based Transportation Plan, alongside Fehr & Peers consultants.

Bed Bath & Beyond- Customer Service and Front Lead Associate | January 2014 to October 2017

EDUCATION

Bachelor's of Science in City & Regional Planning from California Polytechnic State University at San Luis Obispo. Graduated June 2018.

LEADERSHIP

- Event planning board member for the American Association of University Women- Starting June 2019
- President of Associated Students in Planning for 2016 to 2017 academic year
- Student Ambassador for the Cal Poly College of Architecture and Environmental Design from 2016 to 2018

CITIZENS ADVISORY COMMITTEE ON ECONOMIC DEVELOPMENT AND AFFORDABLE HOUSING

Guidelines for Advisory Committee

1. Purpose - The purpose of the Citizens Advisory Committee (CAC) is to advise City Council on economic development and affordable housing projects. In addition, the Committee provides residents, business owners and property owners with a forum to express their views on economic development and affordable housing projects.
2. Scope of the Committee - The Citizens Advisory Committee is a special single purpose body focused on economic development related projects in San Rafael. From time to time, the City Council may assign the Committee specific issues, outside of the Committee's normal purview, to consider and receive public input.
3. Functions - The Citizens Advisory Committee advises the City Council in two ways:
 - a) The Committee provides ongoing advice and feed back to the City staff in an informal liaison manner.
 - b) The Committee makes official recommendations to the City Council on those items which may be considered at City Council meetings.
4. Membership - Members of the Committee shall be appointed by the City Council. They shall be residents, property owners, or business people within the City of San Rafael. While meetings of the Advisory Committee shall be open to the public, only members of the Committee, appointed by the City Council, shall have voting rights.
5. Office and Staff - The office of the Committee for the transaction of business shall be the office of the City of San Rafael. City staff shall provide all necessary staff services to the Committee.
6. Meetings - The Committee shall adopt a regularly scheduled meeting time. They shall meet once a month at a set designated place. That meeting shall be open to the public, and the Committee may have other meetings as it deems advisable. Such special meetings may be called by the Chair, or by a majority of the Committee Members. Notice of each such meeting shall be given to each member twenty-four (24) hours in advance of the meeting, either by mail or telephone. A quorum of the meeting shall be constituted if 50 percent of the members are present.
7. Officers - The Committee shall select from among its members a Chair, a Vice-Chair, and a Secretary.
 - Chair - The Chair shall be the Chief Officer of the Committee and shall preside at all meetings. He/she shall be an ex-officio member of all sub-committees and shall have the general powers and duties usually vested in the office of Chair.
 - Vice-Chair - The Vice-Chair shall assume the office of Chair in the absence of the Chair.
 - Secretary - The Secretary shall keep or cause to be kept at the principal office of the Committee a book of Minutes of all meetings and record of attendance of all members. The Secretary shall also keep or cause to be kept such other records as shall be directed by the Committee.Officers shall be elected at the first meeting of the Committee each year and shall serve for a one (1) year term.

In the Council Chambers of the City of San Rafael, Monday, August 5, 2019 at 7:00 p.m.



Regular Meeting

San Rafael City Council

Minutes

Present: Mayor Phillips
Councilmember Bushey
Councilmember Colin
Councilmember Gamblin
Absent: Vice-Mayor McCullough
Also City Manager Jim Schutz
Present: City Attorney Robert Epstein
City Clerk Lindsay Lara

[How to participate in your City Council meeting](#)

Mayor Phillips called the meeting to order at 7:03 p.m.

OPEN SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

1. - None.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

2. Closed Session: - None.

OPEN TIME FOR PUBLIC EXPRESSION – 7:00 PM

- Clay Shank addressed the City Council regarding skate parks in San Rafael
- Michael Parsons addressed the City Council regarding homelessness
- Tom Short addressed the City Council regarding a leaf blower ban
- Jaimi Cortez addressed the City Council regarding short-term rentals
- Jonathan Frieman addressed the City Council regarding a leaf blower ban

CITY MANAGER’S REPORT:

3. **City Manager’s Report:**

- Jim Schutz reported on wildfire prevention and announced the Fire Department's "Get Ready" class to be held on Thursday, August 8th at 6:30 p.m. at the Terra Linda Community Center. He noted the recent Marin IJ article regarding decreasing homeless numbers in Marin, and specifically, in San Rafael. Lastly, he noted on three arts related items: an Art Works Exhibition called ZENPOP, a large sign that Parking Services will be using for a short-term art exhibit, and that San Rafael was named in a top 25 list of America's most unique art towns, calling out Art Works, Marin Society of Artists, the Cultural Arts District and the California Film Institute.

In the wake of the shootings in El Paso, Texas, and Dayton, Ohio, Mayor Phillips announced his recent order that all American flags on City property be lowered to half-staff until significant progress has been made by Congress on this issue. City Attorney Robert Epstein provided comments relating to the City of San Rafael's Flag Protocol Policy.

CONSENT CALENDAR:

4. Consent Calendar Items:

Councilmember Bushey moved and Councilmember Colin seconded to approve Consent Calendar Items:

- a. **Approval of Minutes**
Approve Minutes of City Council / Successor Agency Regular Meeting of Monday, July 15, 2019 (CC)
[Approval of Minutes](#)
Approved as submitted

- b. **Park and Recreation Commission Vacancies**
Call for Applications to Fill Two Four-Year Terms to the End of October 2023 and One Unexpired Four-Year Term to the End of May 2022, on the Park and Recreation Commission Due to the Expiration of Terms of Mark Bustillos and Mark Machado and the Resignation of Nicholas Skewes-Cox (CC)
[Park and Recreation Commission Vacancies](#)

Approved staff recommendation

- c. **City Quarterly Investment Report**
Acceptance of City Quarterly Investment Report for the Quarter Ending June 30, 2019 (Fin)
[City Quarterly Investment Report](#)
Accepted report

- d. **Lincoln Avenue Curb Ramps Project Engineering Design Services**
Resolution Approving and Authorizing the City Manager to Execute a First Amendment to the Agreement with BKF Engineers for Engineering Design Services Associated with the Lincoln Avenue Curb Ramps Project, In the Amount of \$56,800, for a Total Contract Not-to-Exceed Amount of \$177,350 (PW)
[Lincoln Avenue Curb Ramps Project Engineering Design Services](#)
RESOLUTION 14715 - RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO THE AGREEMENT WITH BKF ENGINEERS FOR ENGINEERING DESIGN SERVICES ASSOCIATED WITH THE LINCOLN AVENUE CURB RAMPS PROJECT, IN THE AMOUNT OF \$56,800, FOR A TOTAL CONTRACT NOT-TO-EXCEED AMOUNT OF \$177,350

- e. **Grand Avenue Pathway Connector Project Completion**
Accept Completion of the Grand Avenue Pathway Connector Project (City Project No. 11173) and Authorize the City Clerk to File the Notice of Completion (PW)
[Grand Avenue Pathway Connector Project Completion](#)
Accepted report

AYES: Councilmembers: Bushey, Colin, Gamblin & Mayor Phillips
NOES: Councilmembers: None
ABSENT: Councilmembers: McCullough

OTHER AGENDA ITEMS:

5. Other Agenda Items:

**a. Retirement Benefit Report
Accept Informational Report Relating to the San Rafael 2019 Independent
Committee on Employee Retirement Benefits' Report Dated June 20, 2019 (Fin)
[Retirement Benefit Report](#)**

Finance Director Nadine Hade presented the staff report

Mayor Phillips provided comments and invited Jeff Schoppert, Independent Committee of Employment Retirement Benefits Chairperson, to provide additional comments

Staff and Chairperson Schoppert responded to questions from the City Council.

Mayor Phillips thanked the Jeff Schoppert and the Committee for their work and provided them with certificates of appreciation

Mayor Phillips invited public comment

Speakers: Dick Tate, Citizens for Sustainable Pension Plans

There being no further comment from the audience, Mayor Phillips closed the public comment period

Councilmember Bushey moved and Councilmember Gamblin seconded to accept the report

Accepted report

AYES: Councilmembers: Bushey, Colin, Gamblin & Mayor Phillips

NOES: Councilmembers: None

ABSENT: Councilmembers: McCullough

**b. Short-Term Rentals
Accept Informational Report on Short-Term Rental Policy Analysis, Community
Outreach, and Draft Ordinance (CD)
[Short-Term Rentals](#)**

Community Development Director Paul Jensen commented on the item and introduced Community Development Department Professional Analyst Ethan Guy who presented the staff report

Staff responded to questions from the City Council

Mayor Phillips invited public comment

Speakers: Chris Beal, Sandy Luna, Johna Grim, John Perry, Richard Meyerhoff, Susan Hanshaw, Dean Goudani, Chris Ward, Nancy Callahan, Charlie Camella, Susan Proaps, John Lewis, Linda Krueger, Lee Dorfman, Sean Terheyden, Timothy Sneed

Minutes subject to approval at the City Council meeting of August 19, 2019

There being no further comment from the audience, Mayor Phillips closed the public comment period

Staff responded to comments and questions from the public and the City Council

Councilmember Colin moved and Councilmember Bushey seconded to accept the report with feedback to staff to follow-up with additional research on shared driveways and non-permanent structures for potential short-term rental regulations and to return with an ordinance

Accepted report and provided feedback to staff

AYES: Councilmembers: Bushey, Colin, Gamblin & Mayor Phillips
NOES: Councilmembers: None
ABSENT: Councilmembers: McCullough

c. Digital Strategic Framework
Accept Informational Report and Provide Feedback on the Draft Strategic Framework for the Department of Digital Service and Open Government (DS)
[Digital Strategic Framework](#)

City Manager Jim Schutz commented on the item and introduced Digital Service and Open Government Director Rebecca Woodbury who presented the staff report

Staff responded to questions, and the City Council provided comments.

Mayor Phillips invited public comment

Speakers: Christine Bogman

There being no further comment from the audience, Mayor Phillips closed the public comment period

Councilmember Gamblin moved and Councilmember Colin seconded to accept the report

Accepted report

AYES: Councilmembers: Bushey, Colin, Gamblin & Mayor Phillips
NOES: Councilmembers: None
ABSENT: Councilmembers: McCullough

d. Grand Jury Report: "School Resource Officers"
Resolution Approving and Authorizing the Mayor to Execute the Response to the Marin County Civil Grand Jury Report Entitled, "School Resource Officers Revisited" (PD)
[Response to the Grand Jury Report - School Resources Officers](#)

Police Captain Glenn McElderry presented the staff report

Staff responded to questions from the City Council

Minutes subject to approval at the City Council meeting of August 19, 2019

Mayor Phillips invited public comment

Speakers: Christine Bogman

There being no further comment from the audience, Mayor Phillips closed the public comment period

Councilmember Colin moved and Councilmember Bushey seconded to adopt the Resolution

RESOLUTION 14716 - RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE RESPONSE TO THE MARIN COUNTY CIVIL GRAND JURY REPORT ENTITLED, "SCHOOL RESOURCE OFFICERS REVISITED"

AYES: Councilmembers: Bushey, Colin, Gamblin & Mayor Phillips
NOES: Councilmembers: None
ABSENT: Councilmembers: McCullough

COUNCILMEMBER REPORTS / REQUESTS FOR FUTURE AGENDA ITEMS:

6. Councilmember Reports:

- Councilmember Colin announced she would be throwing the first pitch at the San Rafael Pacifics' game on Sunday, August 11, 2019 at 1:00 p.m.

SAN RAFAEL SUCCESSOR AGENCY

1. Consent Calendar:

Member Bushey moved and Member Gamblin seconded to approve the Consent Calendar:

- a. Successor Agency Quarterly Investment Report**
Acceptance of Successor Agency Quarterly Investment Report for the Quarter Ending June 30, 2019 (Fin)
[Successor Agency Quarterly Investment Report](#)
Accepted report

AYES: Members: Bushey, Colin, Gamblin & Chairman Phillips
NOES: Members: None
ABSENT: Members: McCullough

ADJOURNMENT:

Mayor Phillips adjourned the City Council meeting at 10:05 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2019

GARY O. PHILLIPS, Mayor

**In the City Manager's Conference Room of City Hall of the
City of San Rafael, Monday, August 5, 2019**



Special Meeting

San Rafael City Council

Minutes

Present: Mayor Phillips
Councilmember Colin
Councilmember Gamblin

Absent: Vice-Mayor McCullough
Councilmember Bushey

Also Present: City Manager Jim Schutz
City Clerk Lindsay Lara
Community Development Director Paul Jensen

Mayor Phillips called the meeting to order at 5:36 p.m.

Jonathan Frieman addressed the City Council regarding the history of the ADA Access Advisory Committee and Department of Justice settlement agreement, assisted listening devices in City facilities, Brown Act compliance, and recommended the appointment of Timothy Park, Dianne Wolfe, Fredric Divine and John Erdmann

**1. ADA Access Advisory Committee Interviews
Interviews of Applicants and Consideration of Appointments to Fill Three
Four-Year Terms on the San Rafael ADA Access Advisory Committee to
the End of October 2022, Due to the Expiration of Terms of Frederic Divine,
Rob Simon and the Resignation of Brooklyn Rodden (CC)**

[ADA Access Advisory Committee Interviews](#)

The City Council interviewed the following applicants: Andrew Cullen, Dianne Wolfe, Fredric Divine, Michael Farris, Timothy Lord and Timothy Park. John Erdmann and Ross Elkins to not attend the interview.

After discussion, there was City Council consensus to reappoint Fredric Divine, and to appoint Dianne Wolfe and Timothy Park to the end of October 2022 and recommended staff return to the City Council with a recommendation to appoint Timothy Lord to fill the additional vacant term on the ADA Access Advisory Committee.

ADJOURNMENT:

Mayor Phillips adjourned the Special City Council meeting at 6:24 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS _____ DAY OF _____, 2019

GARY O. PHILLIPS, Mayor

DRAFT



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Clerk's Office

Prepared by: Lindsay Lara, City Clerk

City Manager Approval:

A handwritten signature in black ink, appearing to be 'AS', written over a horizontal line.

TOPIC: ADA Access Advisory Committee Appointment and Vacancies

SUBJECT: APPOINTMENT OF TIMOTHY LORD TO FILL ONE UNEXPIRED FOUR-YEAR TERM ON THE ADA ACCESS ADVISORY COMMITTEE TO THE END OF OCTOBER 2019 DUE TO RESIGNATION OF CAROL MANASHIL

CALL FOR APPLICATIONS TO FILL FOUR FOUR-YEAR TERMS AND ONE ALTERNATE FOUR-YEAR TERM ON THE ADA ACCESS ADVISORY COMMITTEE TO THE END OF OCTOBER 2023 DUE TO THE EXPIRATION OF TERMS OF EWEN MCKECHNIE, ASHLEY TOMERLIN, JONATHAN FRIEMAN, CAROL MANASHIL AND ALTERNATE MEMBER JOHN ERDMANN

RECOMMENDATION

- 1) Appoint Timothy Lord to the ADA Access Advisory Committee to the end of October 2019.
- 2) Call for applications to fill four four-year terms and one alternate four-year term on the ADA Access Advisory Committee to the end of October 2023 due to the expiration of terms of Ewen McKechnie, Ashley Tomerlin, Jonathan Frieman, Carol Manashil/Timothy Lord and Alternate member John Erdmann.

BACKGROUND

The [ADA Access Advisory Committee](#) provides valuable input in determining disability policy for the City of San Rafael. The ADA Access Advisory Committee provides input, advises the City on matters relating to people with disabilities, and is a primary public networking resource between persons with disabilities, disability service agencies, representatives from government agencies, and others. Members of the committee represent a broad cross-section of members of the community with disabilities, reflecting multiple disabilities, and the cultural and gender diversity of the wider disability community. The ADA Access Advisory Committee works in conjunction with the City of San Rafael. [Meetings](#) are held on the first Wednesday of March, June, September and December at 2:00 p.m. in the Third Floor Conference Room of City Hall, 1400 Fifth Avenue, San Rafael, CA 94901.

ANALYSIS

At its meeting of [August 5, 2019](#), the City Council held a special meeting to interview applicants to fill three four-year terms on the ADA Access Advisory Committee. During discussion and deliberation, there was City Council consensus to appoint Fredric Divine, Dianne Wolfe and Timothy Park to three

FOR CITY CLERK ONLY

File No.:

Council Meeting:

Disposition:

four-year terms ending in October 2022 and recommended that staff bring back a recommendation to appoint Timothy Lord to an unexpired four-year term, currently vacant on the ADA Access Advisory Committee due to the resignation of Carol Manashil, to the end of October 2023. The City Attorney has advised that at this time, the appointment of Timothy Lord can only be made to complete the current term of Carol Manashil. When that term expires in October 2019, a new appointment must be made, and Mr. Lord can be considered for reappointment at that time (with or without an interview), along with other interested applicants. By approving staff's recommendation, the City Clerk's Office would release a Call for Applications to fill four four-year terms and one alternate four-year term ending in October 2023 and process the documentation to appoint Timothy Lord to complete the unexpired term of Carol Manashil, through October 2019.

FISCAL IMPACT

There is no fiscal impact associated with this action.

RECOMMENDED ACTION

- 1) It is recommended that the City Council appoint Timothy Lord to the ADA Access Advisory Committee to the end of October 2019.
- 2) Call for applications to fill four four-year terms and one alternate four-year term on the ADA Access Advisory Committee to the end of October 2023 due to the expiration of terms of Ewen McKechnie, Ashley Tomerlin, Jonathan Frieman, Carol Manashil/Timothy Lord and alternate member John Erdmann.

ATTACHMENTS

1. Applications – Timothy Lord
2. Application Materials
3. ADA Access Advisory Committee Bylaws

Profile

Timothy

First Name

R

Middle Initial

Lord

Last Name

Which Boards would you like to apply for?

ADA Access Advisory Committee: Submitted

[Redacted]

Email Address

[Redacted]

Street Address

[Redacted]

Suite or Apt

san rafael

City

CA

State

94903

Postal Code

Are you a resident of San Rafael

Yes No

20 years

Resident of the City of San Rafael for how many years?

[Redacted]

Primary Phone

[Redacted]

Alternate Phone

TrueNorth Projects, LLC

Employer

Counsel

Job Title

Business Address

[Redacted]

How did you learn about this vacancy? *

None Selected

Interests & Experiences

Do you participate in any civic activities?

Little League and High School baseball Boards and field maintenance activities

List any civic organizations of which you are a member:

Dixie Terra Linda Little League Board (6 years); Member, Terra Linda High School Athletic Boosters (1 year)

Education:

Tulane Law School, Juris Doctor, 1992 University of California, Riverside, Bachelor of Science, Economics, 1988

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

Provide assistance to the City in in compliance with ADA

Question applies to ADA Access Advisory Committee

Please describe your involvement with the disabled community in San Rafael:

Personal experience with neighbor who has a disabled daughter.

Question applies to ADA Access Advisory Committee

If selected to serve, what reasonable accommodation requests should the committee facilitator know in order for you to fully participate?

None

Question applies to ADA Access Advisory Committee

Do you officially represent an organization, agency, or group with services for people with disabilities?

Yes No

Question applies to ADA Access Advisory Committee

If Yes to the question above, please indicate the name of the group and your position, and attach a letter of reference:

n/a

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

None

[Resume of Timothy R Lord Esq..pdf](#)

Upload a Resume

Demographics (Optional)

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

Ethnicity:

None Selected

To which gender to your most identify?

None Selected

How old are you?

None Selected

TIMOTHY R. LORD

San Rafael, California 94903

PROFESSIONAL EXPERIENCE

General Litigation and Trial Counsel, TrueNorth LLC Groups (2010-Present)

Provide legal advises to diversified domestic and international maritime transportation group of companies on business. Supervise and implement all phases of company risk management including insurance and claims handling, foreign and domestic litigation/arbitration supervise outside counsel and handle litigation as First Chair;

Co-Chair, Admiralty/Energy Group, Lewis, Brisbois, Bisgaard & Smith (2004-2010)

Develop and Supervised Am-Jur 100 law firm's national Admiralty/Energy Practice Group handling of maritime matters: personal injury including Jones Act, products liability, vessel arrests, limitation of liability, in rem, salvage, collisions, regulatory, environmental (OPA'90); maritime and government contracts; property damage claims; shipboard investigations and marine insurance coverage.

Partner-in-Charge, Kaye, Rose and Maltzman (2001-2004)

Partner in San Francisco Office of mid-sized P&I correspondent maritime firm; handled and supervised broad range of defense litigation including personal injury for major international ocean carriers and cruise lines; negotiated maritime contracts and drafted charter parties and bills of lading and advised on environmental and compliance issues.

Trial Attorney, Civil Div., Torts Branch, Admiralty/Aviation Section (1992-2001)

Represented the United States Departments and Agencies nation-wide in over 25 federal trial and appellate courts and Supreme Court involving maritime personal injury including wrongful death and Jones Act claims, cargo claims, OPA'90 civil prosecution/criminal assist, salvage, ship mortgage foreclosures, property claims; Oceania Regional Response Team Representative.

EDUCATION/BAR ADMISSIONS/MEMBERSHIP:

Tulane Law School, Juris Doctor, 1992 Editor: Tulane Maritime Law Journal
University of California, Riverside, Bachelor of Science, Economics, 1988
Pennsylvania Bar: 1992 (inactive); California Bar: 2001; Washington Bar: 2003
Maritime Law Association, Proctor in Admiralty

**Five Vacancies
ADA Access Advisory Committee**

Applications to serve on the ADA Access Advisory Committee to fill four four-year terms and one alternate four-year term to the end of October 2023, may be obtained online at <https://www.cityofsanrafael.org/boards-commissions/> and may be completed and submitted electronically. Hard copies of the application are also available in the City Clerk's Office.

Deadline for filing applications: **Tuesday, September 10, 2019 at 5:00 p.m.**

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

Only persons may apply who are: 1) Persons who are, or family members of, City of San Rafael residents with disabilities; and/or 2) Individuals residing in the City of San Rafael serving persons with disabilities in Marin County; and/or 3) Property owners, business owners, or individuals residing in the City of San Rafael with expertise and/or affiliations with private or public organizations concerned with issues of accessibility and/or other issues of concern to persons with disabilities; and/or 4) One member of the Committee may represent the San Rafael business community interest.

The ADA Access Advisory Committee meets on the 1st Wednesday of March, June, September & December from 2:00 - 3:00 p.m. in City Hall's Community Development Conference Room, 3rd Floor. These meetings shall comply with all provisions of the Brown Act.

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

San Rafael City Council Resolution No. 14673, adopted June 3, 2019, outlines the powers and duties of committee members, etc.

Lindsay Lara
City Clerk
City of San Rafael

Dated: August 20, 2019



CITY OF SAN RAFAEL

APPLICATION TO SERVE AS MEMBER OF ADA ACCESS ADVISORY COMMITTEE

NAME: _____

STREET ADDRESS: _____

CITY/STATE/ZIP CODE: _____

RESIDENT OF THE CITY OF SAN RAFAEL FOR _____ YEARS

PRESENT WORK POSITION: _____

NAME OF FIRM: _____

BUSINESS ADDRESS: _____

* HOME & BUSINESS PHONE #'s: _____

* E-MAIL ADDRESS (optional): _____

EDUCATION: _____

DESCRIBE YOUR INVOLVEMENT WITH THE DISABLED COMMUNITY IN SAN RAFAEL:

DO YOU OFFICIALLY REPRESENT AN ORGANIZATION, AGENCY, OR GROUP WITH SERVICES FOR PEOPLE WITH DISABILITIES? YES _____ NO _____

IF YES, PLEASE INDICATE THE NAME OF THE GROUP AND YOUR POSITION, AND ATTACH A LETTER OF REFERENCE:

DO YOU REPRESENT THE BUSINESS COMMUNITY? YES _____ NO _____

IF YES, PLEASE INDICATE THE NAME OF THE BUSINESS AND YOUR POSITION:

YOUR REASONS FOR WANTING TO SERVE:

IF SELECTED TO SERVE, WHAT REASONABLE ACCOMMODATION REQUESTS SHOULD THE COMMITTEE FACILITATOR KNOW, IN ORDER FOR YOU TO FULLY PARTICIPATE?

DESCRIBE POSSIBLE AREAS IN WHICH YOU MAY HAVE A CONFLICT OF INTEREST WITH THE CITY:

Demographics (Optional)

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

Ethnicity:

- American Indian or Alaska Native (for example, Navajo Nation, Blackfeet Tribe, Mayan, Aztec, Native Village or Barrow Inupiat Traditional Government, Nome Eskimo Community, etc.)
- Asian (For example, Chinese, Filipino, Asian Indian, Vietnamese, Korean, Japanese, etc.)
- Black or African American (For example, African American, Jamaican, Haitian, Nigerian, Ethiopian, Somalian, etc.)
- Hispanic, Latino, or Spanish origin (For example, Mexican or Mexican American, Puerto Rican, Cuban, Salvadoran, Guatemalan, Dominican, Colombian, etc.)
- Middle Eastern or North African (For example, Lebanese, Iranian, Egyptian, Syrian, Moroccan, Algerian, etc.)
- Native Hawaiian or Other Pacific Islander (For example: Native Hawaiian, Samoan, Chamorro, Tongan, Fijian, Marshallese, etc.)
- White (For example: German, Irish, English, Italian, Polish, French, etc.)
- Other race, ethnicity or origin: _____

To which gender to your most identify?

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

How old are you?

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

SIGNATURE: _____ DATE: _____

FILING DEADLINE:

Date: Tuesday, September 10, 2019
Time: 5:00 p.m.

MAIL OR DELIVER TO:

City of San Rafael
City Hall, Dept. of City Clerk
1400 Fifth Avenue, Room 209
San Rafael, CA 94915-1560

*Information kept confidential to the extent permitted by law

AMERICANS WITH DISABILITIES ACT ACCESS ADVISORY COMMITTEE BYLAWS

ARTICLE I. NAME AND PURPOSE

Section 1.1. Name. The name of this body shall be the City of San Rafael Americans with Disabilities Act Access Advisory Committee, hereinafter referred to as the "ADA Access Advisory Committee," or the "Committee."

Section 1.2. Purpose. The ADA Access Advisory Committee provides valuable input in determining disability policy for the City of San Rafael. The ADA Access Advisory Committee provides input, advises the City on matters relating to people with disabilities, and is a primary public networking resource between persons with disabilities, disability service agencies, representatives from government agencies, and others. Members of the committee represent a broad cross-section of members of the community with disabilities, reflecting multiple disabilities, and the cultural and gender diversity of the wider disability community. The ADA Access Advisory Committee works in conjunction with the City of San Rafael.

Section 1.3. Committee Responsibility. The ADA Access Advisory Committee's authority is advisory only. The ADA Access Advisory Committee has no power to act on behalf of the City of San Rafael or any other entity. The ADA Access Advisory Committee's responsibilities shall be in accord with these Bylaws, as amended from time-to-time by the City Council.

The ADA Access Advisory Committee may:

1. Act as a liaison between the City and the disabled community living and doing business in the City of San Rafael;
2. Assist the City with ADA projects including, but not limited to the: Self Evaluation, Transition Plan, publicity, website content, training, and emergency planning for persons with disabilities;
3. Solicit public input on city-related ADA projects and programs and provide a public forum for individuals with disabilities and groups representing people with disabilities;
4. Facilitate community awareness and advocacy by identifying and articulating common concerns;
5. Advise and educate members of the disability community, City staff, and the public about disability rights and accessibility issues;
6. Provide input to the City for the removal of physical barriers in City facilities, on City property, and the public rights-of-way based upon identified needs and budget;
7. Work to improve accessibility for persons with disabilities throughout the community;

8. Promote emerging state and national disability issues relevant to the City;
9. Provide input for prioritizing barrier removal projects that are funded in the Capital Improvement Plan. The Director of Public Works shall have the final decision over the approval and authorization of projects;
10. Provide input on Disabled Access Hardship Applications submitted to the Building Division on permitted projects. The Chief Building Official shall have the final decision over the Disabled Access Hardship Application.

The ADA Access Advisory Committee is **not** involved in:

1. ADA compliance related to private development applications, approvals, or enforcement other than Disabled Access Hardship Applications as described above. This responsibility is carried out by the Community Development Department.
2. Grievances under the ADA directed toward the City. Anyone who wishes to file a complaint alleging discrimination on the basis of disability in the provision of services, activities, programs, or benefits by the City of San Rafael shall fall under the provisions of the City's grievance procedure.
3. Project review and approval. Existing Boards or Commissions (such as the Design Review Board or Planning Commission) that are established for public or private project review and approval, which includes full ADA compliance, shall remain with those Boards and Commissions.
4. City bids, contracts and agreements. The City has full responsibility to ensure that all approved bids, contracts and agreements are in full compliance under the ADA.

Section 1.4. Brown Act. All meetings of the ADA Access Advisory Committee shall be open and public, and all persons shall be permitted to attend any meeting of the ADA Access Advisory Committee, except as otherwise provided in the Ralph M. Brown Act. (Government Code Sections 54950 et seq.) Meetings will be accessible to all, with accommodations for accessibility issues made upon request. Any person who disrupts the meeting may be asked to leave and be removed.

ARTICLE II. MEMBERSHIP

Section 2.1. Number of Members. The ADA Access Advisory Committee shall consist of seven (7) voting members, one (1) alternate member, and one (1) non-voting City staff member who will act as the Committee Chairperson. The City staff member will typically be the City's ADA Coordinator, but in all instances shall be the person appointed by the City Manager.

Section 2.2. Eligibility. The seven (7) voting ADA Committee members and one (1) alternate shall consist of the following, each having the same duties and responsibilities:

1. Persons who are, or family members of, City of San Rafael residents with disabilities; and/or

2. Individuals residing in the City of San Rafael serving persons with disabilities in Marin County; and/or
3. Property owners, business owners, or individuals residing in the City of San Rafael with expertise and/or affiliations with private or public organizations concerned with issues of accessibility and/or other issues of concern to persons with disabilities; and/or
4. One member of the Committee may represent the San Rafael business community interest.

Membership on the Committee shall not be limited based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age or sexual orientation. An effort will be made to ensure that the membership is balanced and diverse based on the eligibilities above.

Section 2.3. Appointment of Committee Members. Voting Committee members and alternate member shall be appointed by the City Council. Appointments shall be published on the website for the City of San Rafael and as otherwise determined by the City Clerk.

Section 2.4. Terms of Appointment. Each Committee member shall serve a minimum term of four (4) years but not more than two terms. An effort will be made to ensure that the terms are staggered, and not all of the appointments expire in the same year. A Committee member whose term is expiring should notify the Chairperson at least ninety (90) days before the end of his/her term whether he/she wishes to continue his/her membership.

Section 2.5. Resignation. All resignations from the ADA Access Advisory Committee shall be submitted in writing to the Chairperson. The resigning Committee member should provide as much notice as possible.

Section 2.6. Absence and Removal. Attendance at any regularly scheduled meeting is a necessary part of being an effective Committee member. If a member is unable to attend a regularly scheduled meeting, the member should notify the Chairperson at least twenty-four (24) hours in advance of a regularly scheduled meeting to have an excused absence. An unexcused absence from three (3) consecutive ADA Committee meetings without notification to the Chairperson, or six absences (whether excused or unexcused) in any term, shall result in immediate review of Committee membership by the Committee. If agendized for such action, the Committee may vote to remove the absent Committee member and declare the position to be vacant. Such voting may be on the same day as the review or at a future meeting. Previously dismissed Committee members may be eligible for reappointment to the Committee in accordance with Section 2.4.

Section 2.7. Vacancies. Vacancies, no matter how arising, shall be published on the website for the City of San Rafael and as otherwise determined by the City Clerk.

Section 2.8. Compensation. Committee members serve without compensation.

Section 2.9. Duties of the Chairperson. The Chairperson shall preside over all ADA Access Advisory Committee meetings and shall be responsible for preparing agendas, meeting minutes, and maintaining records of documents submitted to the Committee for consideration at the meeting. If the Chairperson is unable to attend a regularly scheduled meeting, the regularly scheduled meeting shall be cancelled and resumed at the next regularly scheduled meeting.

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. Meetings shall be held quarterly on the first Wednesday of March, June, September and December at 2:00 p.m. at City Hall. If the regular meeting dates fall on a legal holiday, that meeting may be held on a date selected by the Committee at the regular meeting preceding the holiday.

Section 3.2. Agenda. Items may be placed on the agenda by the Chairperson or at the request of a member if approved by the Chairperson. The Chairperson will be responsible for preparing an agenda item cover sheet and for the initial presentation at the meeting. Items to be included on the agenda should be submitted to the Chairperson no later than two weeks before the scheduled Committee meeting. Agenda packets for regular meetings will be provided to the Committee members at least two (2) business days before the scheduled meeting.

Section 3.3. Special Meetings. Special meetings may be called by the Chairperson.

Section 3.4. Quorum. Four (4) voting members of the Committee shall constitute a quorum for the transaction of business at any regular or special meeting of the ADA Access Advisory Committee.

Section 3.5. Voting. A majority vote of those present and constituting a quorum shall be required to agree to any business of the Committee, including making any recommendation that will be presented to the City Council, City Manager, Director of Public Works, or Chief Building Official, provided that any Committee member who abstains due to a legal conflict of interest shall not be counted in determining the existence of a quorum or a majority vote.

ARTICLE IV. ADOPTION AND AMENDMENT

Section 4.1. Effective Date. The Bylaws shall become effective immediately upon a majority vote of approval by the City Council.

Section 4.2. Amendments. These Bylaws may be amended by majority vote of the City Council at any regular meeting of the City Council. All proposed amendments to the Bylaws shall be made available to the membership at least ten (10) days prior to the meeting at which the City Council will vote on the proposed changes. The amendment shall become effective immediately upon a majority vote of

NOTICE TO BOARD & COMMISSION APPLICANTS

REGARDING ETHICS TRAINING

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

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

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

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

Chapter 700, Statutes of 2005

This law does the following:


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



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: CITY ATTORNEY

**Prepared by: Lisa Goldfien,
Assistant City Attorney**

City Manager Approval: 

TOPIC: LIABILITY CLAIMS ADMINISTRATION SERVICES

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH GEORGE HILLS COMPANY FOR THE PROVISION OF THIRD-PARTY LIABILITY CLAIMS ADMINISTRATION SERVICES FOR A ONE-YEAR PERIOD, IN AN AMOUNT NOT TO EXCEED \$93,350

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to approve a one-year agreement with George Hills Company for the provision of third-party liability claims administration services in an amount not to exceed \$93,350.

BACKGROUND:

In 2001, after an extensive Request for Proposals (RFP) process to qualify, investigate, and interview candidates to administer the City's third-party liability claims, the City awarded a contract to George Hills Company, a long-established Northern California provider of third-party liability claims administration for public entities. Since then, George Hills has handled the City's liability claims out of its Sonoma and Solano County offices. The claims have been handled efficiently, promptly and at reasonable cost.

ANALYSIS:

For cities the size of San Rafael, with our level of staffing, it is not possible to reliably maintain the capacity to manage claims adjustments, investigations, and other liability claims administration functions in-house. Therefore, the City will continue to need to contract for these services.

The City's current five-year contract with George Hills Company expired at the end of June, and the City has been contracting with George Hills Company on a month-to-month basis, pending approval of a new agreement. City staff has been happy with the services provided by George Hills Company. Mr. Rodger Hayton, the account manager for the City's claims, has actively and very successfully investigated and resolved third-party claims and has diligently supervised litigation of those claims that have not been

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

resolved at an early stage. City staff has confidence in the company's ability to effectively manage the City's liability claims.

While George Hills Company offered the City a new five-year agreement, Staff has concluded that a new RFP for these services should be prepared and issued. Therefore, Staff recommends renewing the current agreement with George Hills Company for a one-year period through June 30, 2020 and then pursuing an RFP process for services thereafter.

FISCAL IMPACT:

The compensation payable for Fiscal Year 2018-19 was \$88,500. Under the proposed contract, the compensation would increase to \$89,500 for services. Additionally, George Hills has instituted new administrative fees of \$3,850, which, among other things, allow the City direct access to the company's claims data system and covers the provision of monthly reports and loss runs, assistance with audits, and filing of regulatory reports. The total cost for Fiscal Year 2019-20 would be of \$93,350, an increase of slightly less than 6%. This increase is greater than the year-to-year increase in past years and is one of the factors leading staff to conclude that a new RFP process should be undertaken for next year. There are sufficient funds and current-year appropriations in the City's general liability internal service fund to support the proposed contract.

OPTIONS:

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

1. Adopt the resolution as recommended by staff approving a one-year agreement.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt a resolution authorizing the City Manager to approve a one-year agreement with George Hills Company for the provision of third-party liability claims administration services in an amount not to exceed \$93,350.

ATTACHMENTS:

1. Resolution
2. Draft Agreement for Claims Adjusting and Administration Services

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH GEORGE HILLS COMPANY FOR THE PROVISION OF THIRD-PARTY LIABILITY CLAIMS ADMINISTRATION SERVICES FOR A ONE-YEAR PERIOD, IN AN AMOUNT NOT TO EXCEED \$93,350

WHEREAS, the City of San Rafael's third-party liability claims administration services have been provided by George Hills Company for the past several years; and

WHEREAS, the City has been very satisfied with the services provided by George Hills Company, and the City wishes to continue to contract for such services for an additional year;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael hereby approves and authorizes the City Manager to execute an Agreement with George Hills Company for the Provision of Third-Party Liability Claims Administration Services for a term of one year (July 1, 2019 to June 30, 2020), in an amount not to exceed \$93,350 and in a form approved by the City Attorney.

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 2019, by the following vote to wit:

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

LINDSAY LARA, City Clerk

CLAIMS ADJUSTING AND ADMINISTRATION
SERVICE CONTRACT

This contract is made and entered into this 1st day of July 2019 by and between the CITY OF SAN RAFAEL, hereinafter referred to as "CLIENT", and GEORGE HILLS COMPANY, INC., hereinafter referred to as "GH".

GH is a California Corporation doing business as licensed, independent insurance adjusters and administrators, with John Chaquica, CEO, responsible for contract compliance and terms. Chris Shafer, Vice President Claims Administration, shall oversee the daily operations. The company's corporate office is located at 3043 Gold Canal Dr, Suite 200, Rancho Cordova, California, 95670, telephone, (916) 859-4800.

The CLIENT is the City of San Rafael, located at 1400 Fifth Avenue, San Rafael, CA 94901.

IT IS HEREBY AGREED by and between the parties signing this contract as follows:

I. GENERAL

CLIENT is desirous of availing itself of liability claims adjusting and administration services. GH is a Third-Party Claims Administrator handling self-insured claims and is ready to and capable of performing such services. As such, GH may act as a representative of the CLIENT when directed for the investigation, adjustment, processing, and evaluation of general liability, motor vehicle, and potential money damage claims or incidents filed by third parties against the CLIENT, or against parties for whom the CLIENT is alleged to be legally responsible, which are premised upon allegations of willful, intentional, negligent, or careless acts and/or omissions ("CLAIMS").

II. SCOPE OF SERVICES

GH agrees to provide complete claim handling services on each accident or incident, as directed by CLIENT. Each CLAIM will be subject to the GH Client Expressed Scope of Work Standards and Instructions form in practice at that time. CLIENT shall determine the scope of services to be provided by GH by signing the Client Expressed Scope of Work Standards and Instructions for each contract. The Client Expressed Scope of Work Standards and Instructions form shall be the controlling document for the scope of claims adjusting services to be provided by GH for CLIENT. Services to be provided by GH on behalf of CLIENTS for a CLAIM may include all or some of the following:

A. INVESTIGATIVE SERVICES

- 1) Receipt and examination of all reports of accidents or incidents that are or may be the subject of claims.
- 2) Investigate accidents or incidents as warranted, to include on-site investigation, photographs, witness interviews, determination of losses and other such investigative services necessary to determine all CLIENT losses but not to include extraordinary investigative services outside the expertise of GH.
- 3) In the event CLIENT or other agency conducts any investigation, GH shall review for completeness.

- 4) Maintain service on a 24-hour, 7 days per week basis, to receive reports of any incident or accident which may be the subject of a liability claim and provide immediate investigative services to the extent necessary to provide a complete investigation.
- 5) Undertake items of investigation requiring special handling for CLIENT at the direction of the CLIENT's Attorney or authorized representative.

B. LIABILITY CLAIM HANDLING SERVICES

- 1) Promptly set up a claim file upon receipt of the claim and maintain a claim file on each potential or actual claim reported.
- 2) Assess and evaluate the nature and extent of each claim and establish claims reserves for indemnity and legal expense.
- 3) GH will follow any CLIENT policy regarding rejection instructions, individual to send the rejection and if a denial letter should be sent simultaneously.
- 4) Ensure timely claim handling, including contact and follow-up with claimants regarding claim issues and processing.
- 5) Any bodily injury claim that is being pursued shall be indexed. Notice only matters or precautionary bodily injury claims that are not pursued do not need to be indexed.
- 6) Determine the need for defense representation, recommend legal counsel, and manage litigation activity.
- 7) Report claims to the excess insurer in compliance with excess carrier's reporting requirements and coordinate with the excess insurer on a claim's progress in accordance with the excess insurer's reporting requirements.
- 8) Maintain records on any such claim and notify CLIENT when CLIENT is about to exhaust the Self-Insured Retention.
- 9) Obtain settlement contracts and releases upon settlement of claims or potential claims not in litigation.
- 10) Perform periodic quality control reviews of CLIENT and excess insurance (if applicable) statutory requirements to ensure compliance.
- 11) Perform the necessary data gathering for the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) and the Set Aside Contracts in compliance with Section 111 of the MMSEA including the required reporting. (*See Attachment B*)
- 12) To the extent there is privileged information shared between agencies, which is subject to protection under the HIPAA/PHI Act, GH shall implement all necessary measures in compliance with the Act, via a Business Associates Agreement (BAA) to be issued by the CLIENT.

- 13) GH shall notify CLIENT via electronic mail at such time a file has been closed.

C. LEGAL SUPPORT SERVICES

- 1) Upon notification by the CLIENT that litigation has been filed on an open claim, GH shall follow the litigation referral process as outlined in the Client Expressed Scope of Work Instructions form.
- 2) Obtain and maintain a Litigation Plan and Budget.
- 3) Review legal bills for compliance with Litigation Plan and reasonableness.
- 4) Cooperate with and assist any defense counsel assigned to litigation of open claims and provide such investigative services as directed during pre-trial and trial stages.
- 5) Assist in responding to discovery or preparing discovery.
- 6) At the request of the CLIENT, attend mandatory settlement conferences on behalf of CLIENT.
- 7) Appear on behalf of CLIENT in small claims actions filed against CLIENT on open claims handled by GH.
- 8) Review, evaluate and adjust defense counsel invoices for services.
- 9) Regularly discuss, review, and direct investigation issues, discovery, and case strategy with counsel.
- 10) Review and evaluate case evaluations, correspondence and status reports forwarded to GH by counsel.
- 11) Cooperate with counsel as a team with an open communication approach on each case to obtain the most economical and best result for the CLIENT.

D. REPORTS AND PROCEDURES:

- 1) Within thirty (30) days of assignment, or sooner if practicable, required, or requested, GH will provide CLIENT with a full factual report pursuant to specified claims handling instructions, showing name(s) of claimant(s), type of claim, date of loss, comments on liability, reserve recommendations, settlement recommendations, and other pertinent information. Subsequent to the initial thirty (30) day report, the GH will report as often as warranted by any important change in status but no longer than every (90) days until the claim closes unless extended diary is appropriate.
- 2) All original reports, documents, and claim data of every kind or description, that are prepared in whole or in part by or for the GH in connection with this contract shall be CLIENT's property and constitute the GH's work product for which compensation is paid. A copy of all reports, documents, and claim data of every kind or description that is in

whole or in part by or for the CLIENT is the property of the GH. Additional copies of original reports, documents, and data requested by the CLIENT will be at the CLIENT's expense in accordance with this contract.

- 3) GH agrees that CLIENT have access and the right to audit and reproduce any of the GH's relevant records to ensure that the CLIENT is receiving all services to which the CLIENT is entitled under this Contract or for any purpose relating to the Contract.
- 4) CLIENT shall provide GH with written authorization allowing any other agency or person to obtain similar access to confidential information as noted in 3 above. Such authorization is inclusive of HIPAA Act or PHI privileged information.

E. DATA

- 1) Utilize its claims system—CXP (Claims Xpress).
- 2) Record all claim information including all financial data.
- 3) Provide CLIENT and broker Read only on-line access to the claims data system, if desired by CLIENT. (up to five users)
- 4) Provide monthly standard loss run and check register.
- 5) Provide annual claims data report upon request. Written authorization may be required for confidential information.
- 6) Provide assistance to CLIENT in developing customized reports when requested (may require additional charge).
- 7) Arrange for electronic file conversion for any open and closed claims at the direction of CLIENT.

F. CLAIM REVIEW MEETINGS

GH shall, on a mutually agreed periodic basis, meet with Client to review and discuss claims inventory and claims results of past period and delivery of services by CLAIM ADMINISTRATOR.

G. FINANCIAL ACCOUNTING

- 1) Establish and maintain a trust fund for the purpose of paying indemnity and expenses that may be due on the claims. The amount to be maintained in the trust fund shall be determined by the Client.
- 2) Maintain a copy of all checks drawn by the GH to pay claims and claims related expenses.
- 3) Submit monthly check registers of all transactions made for the period.
- 4) Complete or update Attachment B "Preferred Method of Check Processing" for check processing options.

- 5) Approval process shall be documented in GH Client Expressed Scope of Work Standards and Instruction Form.
- 6) GH will provide monthly bank reconciliation reports to CLIENT for audit purposes.

H. SUBROGATION SERVICES

GH is a claim administrative firm experienced in the handling of subrogation claims and is ready and capable of performing such services. CLIENT may retain GH for Subrogation Services by signing a separate agreement, an example of which is attached hereto as Exhibit A. Such services are distinct from subrogating a loss from an additional insured from a claim filed by a third party. Our services are unique to a first party loss of the CLIENT caused by the intentional or negligent act of a third party. Such losses generally are for the recovery of damages, loss, and/or additional types of damages.

- Labor costs, fully loaded and including benefit costs, for district or other personnel responding to or in any manner providing services;
- Services or materials provided by outside vendors or contractors;
- Internal or external Vehicle or equipment use and/or rental;
- Materials and/or goods utilized for the repair/replacement of damaged property; and/or
- Additional fees that may be specific to the individual entity that are provided for within district ordinances or other governing document.

III. **DENIAL, COMPROMISE OR SETTLEMENT OF CLAIMS**

It is agreed that CLIENT has granted \$0 authority to GH for the purpose of compromising, settling, and paying any claims against CLIENT being handled by GH. GH will issue payment for legal expenses as defined in the Client Expressed Scope of Work form. Prior approval to compromise or settle any claim, or pay any expense will be obtained from the designated claims officer or employee on matters exceeding the authority granted above.

IV. **FILE RETENTION**

GH shall electronically retain CLIENT's records consistent with CLIENT's retention policy or up to a maximum of seven (7) years whichever is shorter. CLIENT and GH may agree via a separate signed agreement to retain records for a longer period of time.

V. **CONFIDENTIALITY**

All data, documents, discussions, or other information developed or received by or for GH in PERFORMANCE of this contract are confidential and not to be disclosed to any person except as authorized by CLIENT or CLIENT's designee, or as required by law.

VI. CONFLICT OF INTEREST

In the event GH receives a claim from the CLIENT in which there arises a "conflict of interest," GH shall immediately notify CLIENT. CLIENT may then, at their expense choose to hire another well-qualified claims firm to handle that particular claim to a conclusion. GH covenants that it presently knows of no interest, direct or indirect, which would conflict in any manner with the performance of services required under this contract.

VII. CLIENT RESPONSIBILITY

CLIENT agrees to the following:

- 1) CLIENT shall cooperate with GH as reasonably necessary for GH to perform its services.
- 2) CLIENT agrees to provide direction to GH as requested regarding particular project requirements.
- 3) CLIENT shall identify a primary contact person(s) for an account as well as for billing and loss run submission. In addition, CLIENT shall be responsible for reporting all changes in the primary point of contact to GH.
- 4) CLIENT shall be responsible for reporting all Bodily Injury Claims in addition to all other items noted in Attachment B to this Agreement "Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA)"
- 5) CLIENT shall be responsible for updating GH on any changes to coverage/policy language; including limits, retentions/deductibles and coverage changes by April 30 of each year.
- 6) CLIENT shall obtain any necessary consent in the collection of any CLIENT data that is transmitted to a third party (ie. actuary or auditor). CLIENT shall provide GH with reasonable assurances that it has the necessary consent to transmit CLIENT data to a third party. CLIENT acknowledges that the claims data may contain confidential and/or protected health information. In the event CLIENT authorizes and directs GH to provide claims data to a third party, CLIENT will indemnify, defend and hold harmless GH from and against all claims, damages, losses and expenses, including court costs and reasonable attorneys' fees, arising out of or resulting from:(i) any action against GH that is based on any negligent act or omission of CLIENT or a third party in transmitting and/or disclosing the claims data; or (ii) the violation of any statute, ordinance, or regulation by CLIENT or a third party in transmitting and/or disclosing the claims data.

VIII. COMPENSATION

CLIENT agrees to pay GH for services described in Section II – Scope of Services.

Adjuster fees will be incurred only when necessarily required in the form of adjuster's fees as delineated in Section II, Scope of Services and will be invoiced as worked.

1) Adjuster fees will be as follows:

a. Annual Flat Fee as follows:

- FY19-20 \$89,500

The above compensation shall apply to services provided during the year of this contract. Compensation for services provided during subsequent years shall be re-negotiated as a result of services or other factors unanticipated by either party.

b. Compensation: Is based on the Client Expressed Scope of Work Instructions form, completed and signed by CLIENT. In the event claims volume has deviated from information provided due to being incomplete, inaccurate, or claims being re-opened additional fees shall be discussed to reconcile with scope of services. (*Applicable to Flat Fee and Time and Expense with a Cap billing*)

c. Auto Expense: Standard IRS rate

d. Claims Processor: Should there be a need for a Claims Processor, the rate shall be \$70* per hour.

e. Allocated file expenses to be paid at cost. (*See Attachment D*)

f. Custom reporting beyond the above will be furnished upon request at an additional cost to be agreed upon by the GH and CLIENT.

g. Catastrophic: Should a catastrophic event occur resulting in 10 or more claimants or claims from a single occurrence, CLIENT shall be billed as follows:

- Time and Expense at a rate of \$95*.

2) Startup Fee: N/A.

There is a one-time startup fee to include, but not limited to, onboarding process and documentation, data entry, location code hierarchy setup, report template creation, new client setup – bank account, vendors, W-9, etc.

3) MMSEA Reporting Fee(s):

a. One-time CMS setup fee (paid to ExamWorks): \$150 N/A

b. Annual Account Maintenance/Reporting Fee (paid to ExamWorks): \$250

4) Annual Administration Fee as Follows:

- FY19-20 \$3,600

And shall be for the following:

a. Data access to claims data system.

b. Monthly listing of open claims by date of loss, department, location, and alpha by name showing expense categories, reserves and total incurred.

- c. Monthly claim summary reports, within 15 days of month-end .
- d. Provide loss run data required reports and respond to/discuss with actuaries and auditors (claims and financials).
- e. Provide annual reports to outside agencies.
- f. Financial accounting if applicable.
- g. Filing of regulatory reports such as 1099, W-9, etc.

5) Legal Services and Consultation (Optional):

- a. Litigation Management: \$ _N/A_ * p/hour
These services include the oversight of all assigned claims adjusters and monitoring and handling of “watch list” (highest exposure, most complex litigation). These services are also available on a claim by claim basis in support of the Lead Adjuster assigned due to the complexity of the claims.
- b. Monitoring Counsel: \$ _N/A* p/hour
This case specific service includes evaluating coverage issues, monitoring claim and litigation strategy, analyzing liability and damage issues, participating in discussions regarding resolution by trial or settlement, and controlling costs.
- c. Outside General and Special Counsel: \$ _N/A* p/hour
These services include confidential analysis and problem solving for managing risk and avoiding unnecessary litigation and provides immediate access to legal advice This includes analyzing coverage issues, Public Records Act Requests, tort claim handling and strategy, conflicts of interest, oversight of outside litigation counsel and providing legal opinions on potential and active litigation.
- d. Coverage Counsel: \$ _N/A* p/hour
These services include review and analysis of memorandums of coverage and excess/umbrella policies to address and offer advice and consultation regarding coverage issues.
- e. Trial/Mediation/Board Meetings Attendance: \$ N/A* p/hour
These services include attending Board Meetings, trial, mediation, and other court hearing attendance including appearing before Courts of Appeal. Analysis and consultation provided before, during and after these significant litigation events can reduce exposure and maximize opportunities for resolution.
- f. Legal Training and Seminars:\$N/A* p/hour
These services include providing customized seminars and training upon request. Subject areas include memorandums of coverage, all aspects of risk management, claims handling and litigation, employment law and general liability claims. Courses are customized to address the client’s specific needs.

NOTE: These services are traditionally Time and Expense; however, an annual fee can be considered.

- 6) Conversion Fee: \$0
GH will charge for any services related to conversion storage, copying, scanning, shipping and disposal. This fee is intended to cover costs associated with data conversion, transition, and contract close out. The data conversion fee is dependent on many factors which will need to be discussed. N/A
- 7) The above compensation shall apply to services provided during the term of this contract. Any changes in the terms of compensation shall be submitted to CLIENT by June 1st each year. Submission changes in the terms of compensation shall be in writing and subject to mutual agreement that shall be an amendment to this Agreement.
- 8) A General Administrative File shall be established and maintained to track effort related to services necessary to fulfill the contractual obligations not otherwise associated to a claim.
- 9) *GH Hourly Rate – The hourly rates identified in this Agreement are subject to an annual COLA of up to 3%.

IX. PAYMENT SCHEDULE

GH will submit its invoices to CLIENT, and payment shall be made by CLIENT, within a reasonable period of time, not to exceed thirty (30) days from the date of the invoice.

X. TERM AND TERMINATION

The term of this contract shall commence on July 1, 2019 through and including June 30, 2020. Either party may terminate this contract for any reason upon issuing a 90 day written notice to the other party.

Termination for Convenience: CLIENT may at any time and for any reason terminate this Agreement upon ninety (90) days written notice to GH. Notice shall be deemed served on the date of mailing. Upon receipt of such notice, GH shall immediately discontinue services in connection with the scope of services of this Agreement. Upon such termination, GH shall be entitled to payment from CLIENT for services completed and provided prior to notice of termination, at GH's current hourly rate.

Upon completion of data conversion and return of data back to CLIENT (electronic and/or hard copy), GH will destroy any remaining files.

XI. FAIR EMPLOYMENT

It is the policy of GH to provide fair and equal treatment to all staff members. GH is an Equal Opportunity Employer and does not discriminate in any way against any person on the basis of age, race, sex, color, national origin, national ancestry, physical disability, medical condition, mental disability, religion, creed, marital status, sexual orientation, gender identification, gender expression, use of family care leave or any other classification deemed protected by law.

XII. INDEPENDENT CONTRACTOR

In performing claims administrative services herein agreed upon, GH shall have the status of an independent contractor and shall not be deemed to be an officer, employee, or agent of CLIENT.

XIII. INDEMNIFICATION

GH will defend, indemnify, and hold harmless CLIENT from and against all claims, demands, actions, or causes of action, which may arise, from the action, conduct, or failure to act by GH personnel ("Indemnity Event"). For an Indemnity Event, the maximum amount recoverable by CLIENT against GH for damages and costs (inclusive of attorneys' fees) is limited to the insurance policy limits in place at the time of the Indemnity Event.

In those cases wherein the GH is named in a filed or verified complaint simply by virtue of the fact it is the CLAIMS ADMINISTRATION firm on a given claim, the CLIENT will defend the GH, at no cost to the GH; CLIENT will defend, indemnify, and hold harmless the GH from and against all claims, demands, actions, or causes of action, which may arise, from the action, conduct, or failure to act by CLIENT.

XIV. INSURANCE

The GH shall provide CLIENT with Certificates of Insurance duly executed by an insurance company or companies authorized to transact business in the State of California, and said Certificates shall certify that the GH has in full force and effect: (1) \$1,000,000 coverage applying to bodily injury, personal injury, property damage; (2) \$1,000,000 coverage applying to errors and omissions; (3) statutory limits for workers compensation coverage; and (4) GH shall maintain an employee fidelity bond in the amount of \$500,000, (5) GH shall name CLIENT as additional insured by separate endorsement.

GH will provide thirty (30) days written notice, prior to the cancellation or reduction in insurance coverage will be provided.

XV. EMPLOYEE SOLICITATION

During the period of this contract, and for a period of one (1) year thereafter, GH agrees not to solicit for employment any CLIENT employee contacted during the performance of this contract; CLIENT agrees not to solicit for employment, or employ, during the period of this contract, and for a period of one (1) year thereafter, any employee of GH contacted by the CLIENT during the performance of this contract.

XVI. PERMITS, LICENSES, CERTIFICATES

GH, at GH'S sole expense, shall obtain and maintain during the term of this Contract, all permits, licenses, and certificates required in connection with the performance of services under this Contract, including appropriate business license.

XVII. ARBITRATION

GH and CLIENT agree that in the event of any dispute with regard to the provisions of the Contract, the services rendered or the amount of GH'S compensation the dispute shall be submitted to arbitration upon mutual contract of the parties, under such

ATTACHMENT A SUBROGATION AGREEMENT

This Subrogation Agreement is made and entered into this ___ day of _____ 2019 by and between the CITY OF SAN RAFAEL, hereinafter referred to as "CLIENT", and GEORGE HILLS COMPANY, INC., hereinafter referred to as "GH".

I. CLIENT may, at CLIENT's own expense:

- a. Authorize GH to act as a representative of CLIENT for the investigation, adjustment, processing, supervision and evaluation of an ultimate recovery of potential money from damage claims against parties for whom it is alleged to be legally responsible.
- b. Authorize GH to engage the services of a litigation attorney to consult, review, and determine the best legal strategy available at the time to obtain the best possible result for CLIENT. Upon determination by the attorney that a civil action is in the best interest of CLIENT, GH will notify CLIENT and obtain authorization to pursue recovery in accordance with the recommendations of the litigation attorney; orc.
- c. While GH is handling a subrogation claim for CLIENT pursuant to the terms of this Contract, the institution of a civil action is determined by CLIENT to be the best course of action, CLIENT may elect to do so at CLIENT's own expense.
 - i. Recall the claim to CLIENT's control so that CLIENT may pursue recovery in a manner to be determined by the CLIENT's attorney to be in the best interest of the CLIENT.
 - ii. In the event CLIENT recalls the claim as indicated above, CLIENT shall be responsible for payment to GH for any and all time and expense incurred by GH's subrogation claim adjuster and/or other subrogation division staff up to the time wherein the claim has been recalled by CLIENT.

II. Subrogation Fee in the amount of 30% of each and every recovery obtained. The minimum amount to be paid to GH will be \$250 per claim upon recovery. However, GH has the authority to reject any claim for any reason, relieving CLIENT of any fiscal responsibility for rejected claims only.

- a. Generally, no recovery shall be agreed to involving payment plans if the recovery is less than \$5,000 and/or greater than a one-year term. Exceptions can be made on a case-by-case basis. If a recovery is agreed to exceed this amount and/or length of time, Subrogation fee shall be 45%. In the event a payment plan is authorized and entered into, the subrogation fee will be based upon the total amount of the lien and will be invoiced to the CLIENT upon the entry of the payment agreement. GH will make every attempt to enforce the provisions of the payment agreement with the claimant, but in no way guarantees the fulfillment of the terms of the payment agreement. In the event the terms of the payment agreement are not fulfilled and warrant pursuit through the small

claims process, authority to pursue through small claims will be requested.

- b. Authorize GH to appear in small claims court for recovery of funds. Authority for the pursuit of recovery through small claims will be requested prior to the filing of documents with the court to initiate the small claims action. Each appearance will be an additional fee of \$150. All costs for the handling of the small claims, i.e. service of process of documents on the responsible parties, mileage, parking, and toll shall be an additional cost and will be the responsibility of the CLIENT. Additional allocated costs shall be billed separately upon the cost being incurred, such as, but not limited to: skip tracing, service of process, and third-party sub contracted investigation.
- c. GH reserves the right to cease working on any claim whereas information has not been made available to GH within 120 days after GH has submitted the information and/or documentation request to CLIENT, at such time the claim will be closed.
- d. Due to the nature of these services, in that compensation is contingent upon recovery, if the contract is terminated prior to recovery or other closure of any claim, the CLIENT shall pay GH for all expenses and time spent, to date, on any claim(s) currently open and recovery in process. Payment shall be based on the current hourly rate of GH. GH will submit the final invoice within five business days of termination.

General Terms and Conditions

A. Successors and Assigns.

All of the rights, benefits, duties, liabilities, and obligations of the parties shall inure to the benefit of, and be binding upon, their respective successors and assigns.

B. Construction.

The title and headings of the Sections in this Agreement are intended solely for reference and do not modify, explain, or construe any provision of this Agreement. All references to sections, recitals, and the preamble shall, unless otherwise stated, refer to the Sections, Recitals, and Preamble of this Agreement. In construing this Agreement, the singular form shall include the plural and vice versa. This Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if both parties have prepared the Agreement.

C. Integration.

This Agreement, and all related documents referred to in this Agreement, constitute the entire Agreement between the parties. There are no oral agreements which are not expressly set forth in this Agreement and the related documents being executed in connection with this Agreement. This Agreement may not be modified, amended, or otherwise changed except by a writing executed by the party to be charged.

D. Third-Party Rights.

Nothing in this Agreement, express or implied, is intended to confer upon any person, other than the parties and their respective successors and assigns, any rights or remedies.

E. Severability.

If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall not be affected.

F. Waivers.

No waiver or breach of any provision shall be deemed a waiver of any other provision, and no waiver shall be valid unless it is in writing and executed by the waiving party. No extension of time for performance of any obligation or act shall be deemed an extension of time for any other obligation or act.

G. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. The execution of this Agreement shall be deemed to have occurred, and this Agreement shall be enforceable and effective, only upon the complete execution of this Agreement by Seller and Purchaser.

H. Authority of Parties.

All persons executing this Agreement on behalf of a party warrant that they have the authority to execute this Agreement on behalf of that party.

I. Governing Law.

This Agreement shall be governed by and construed in accordance with California law.

Date

BY: _____
John E. Chaquica, CEO
GEORGE HILLS COMPANY INC.

Date

BY: _____
Jim Schutz, City Manager
CITY OF SAN RAFAEL

ATTACHMENT B

MEDICARE, MEDICAID, AND SCHIP EXTENSION ACT OF 2007 (MMSEA)

This law requires liability insurers, self-insurers, no fault insurers and workers' compensation insurers to report certain information to The Centers for Medicare and Medicaid Services (CMS) concerning Medicare beneficiaries. The penalty for failure to comply is \$1,000 per day, per claimant.

George Hills Company, Inc. (GH) has contracted with ExamWorks for Mandatory Insurer Reporting (MIR) for the CLIENT. ExamWorks shall represent the CLIENT—and Responsible Reporting Entity (RRE) to this existing contract and this addendum, and will be the designated reporting agent. GH will be responsible for gathering and reporting accurate claims data required by MMSEA to ExamWorks in a timely manner. GH agrees to assume the responsibility for reporting data to ExamWorks to meet all reporting requirements in accordance with MMSEA, on behalf of the RRE; including assuming responsibility for any fines or penalties that are directly caused by GH's non-compliance. GH further agrees to indemnify and hold-harmless, RRE, and staff, for any penalties or fines resulting from GH's direct failure to timely and accurately provide the reporting data to ExamWorks. The above-mentioned obligations to indemnify and hold-harmless shall not be applicable to matters relating to delays caused by RRE or other third parties, or inaccurate data supplied to GH by RRE or other third parties.

By contract with GH, ExamWorks will indemnify and hold GH harmless from and against any claim, damage, fine, loss and expense, arising in connection with, or as a result of, any error, omission, or negligent performance of its obligations as reporting agent, which indemnity will include all reasonable costs of litigation and attorneys' fees incurred. Without in any way limiting the indemnity set forth in this Contract, all work performed by ExamWorks will be done in a professional manner.

GH shall perform the necessary data gathering for RRE and ExamWorks; as such GH shall include in our monthly invoicing the time incurred for such work at our contract hourly rate, or will be included in your monthly flat fee or claims adjusting.

ExamWorks will perform the MMSEA Mandatory Insurer Reporting function for GH, and its RREs, shall be charged as an Allocated Expense, as defined in Attachment C, subject to the following. RRE will designate ExamWorks, unless otherwise requested, as its exclusive vendor for all of RRE's "Qualified Referrals" (those claims determined to require Medicare Set Aside (MSA) or a Claim Settlement Allocation (CSA) and RRE will utilize other ExamWorks services related to Medicare Secondary Payer (MSP) compliance identified in their fee schedule.

**ATTACHMENT C
PREFERRED METHOD OF CHECK PROCESSING**

1. Selection of Bank

- a) Clients Choice

Name

Address

Please provide signature cards, sample check, starting check number, name of contact person

- b) GH uses CA Bank & Trust

2. Trust Balance Desired \$_____

3. Account funding: GH will notify client when the balance falls below required balance

4A. Number of Signatures Required

- a) One
b) Two on all checks
c) Two on checks in excess of \$_____

4B If two signatures are required please specify:

- a) Both GH
b) One GH, one client

GH signers: John Chaquica, CEO; Randy Rendig, President; Kimberly Santin, Finance Director

5. Accountability

- a) Yes No Positive Pay

GH recommends positive pay to mitigate the potential for fraud.

- b) Yes No Daily check registers
c) Statement to be balanced by client, or
d) Statement to be balanced by GH with copies to client

ATTACHMENT D ALLOCATED EXPENSES

Allocated Expenses

Typically, allocated expenses are those expenses that are generated by a claim (by outside vendors other than George Hills) that cannot be foreseen nor included in an agreement. These are generally allocated back to the specific claim file for which the cost was incurred and then charged back to the entity whose claim incurred that cost. In most situations are pass-through costs (with processing fees) for services and/or fees not directly generated by the TPA, but rather by a third-party consultant where the TPA has acted as an agent on behalf of the entity to necessarily outsource services to a third-party consultant and/or miscellaneous fees applicable to the specific claim applied by an outside entity, such as a court or copy service. Below, George Hills has provided a list, by no means an exhaustive list, of typical allocated expenses.

- Fees of outside counsel for claims in suit, coverage opinions, and litigation, and for representation and hearings or pretrial conferences;
- Fees of court reporters;
- All court costs, court fees, and court expenses;
- Fees for service of process;
- CMS reporting costs and fees (ExamWorks);
- Costs of undercover operatives and detectives;
- Costs for employing experts for the preparation of maps, professional photographs, accounting, chemical or physical analysis, or diagrams;
- Costs for employing experts for the advice, opinions, or testimony concerning claims under investigation or in litigation of for which a declaratory judgment is sought;
- Costs for independent medical examination or evaluation for rehabilitation;
- Costs of legal transcripts of testimony taken at coroner's inquests, or criminal or civil proceeding;
- Costs for copies of any public records or medical records;
- Costs of depositions and court reporting;
- Costs and expenses of subrogation, (if not George Hills);
- Costs of engineers, handwriting experts, or any other type of expert used in the preparation of litigation or used in a one-time basis to resolve disputes;
- Witness fees and travel expenses;
- Costs of photographers and photocopy services (if not George Hills—our costs for this is included in our rate);
- Costs of appraisal fees and expenses not included in flat fee or performed by others;
- Costs of indexing claimants;
- Services performed outside the TPA's normal geographical regions;
- Costs associated with Medicare Set-Aside analysis and submission or Medicare Conditional Lien negotiation;
- Investigation of possible fraud including SIU services and related expenses; and/or
- Any other similar cost, fee, or expense that is not otherwise included in the TPA's service fees that is reasonably chargeable to the investigation, negotiation, settlement, or defense of a claim or loss or to the protection or perfection of the subrogation rights of the entity.

**ATTACHMENT E
CLIENT EXPRESSED SCOPE OF WORK FORM**

CLIENT NAME: San Rafael, City of	CONTRACT PERIOD: 7/1/19 – 6/30/20
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This document is intended to provide specific service expectations in the Service Contract, that would not otherwise require revision during the contract period that may differ or elaborate from our Client Service Profile.

Scope of Services

INVESTIGATION:

- George Hills will conduct all investigations
- CLIENT will conduct all investigations

XX CLIENT will direct GH on each claim as to who performs investigations

In the event the Client or other agency conducts any investigation, GH shall review for completeness.

Retention of Vendors (appraisers, translators, copy services, Independent Adjuster, IME's Surveillance, etc.):

- XX Must be preauthorized by CLIENT
- Does not need preauthorization

REJECTION OF CLAIMS:

CLIENTS position regarding rejections (*e.g. if entity so dictates, a claim will be rejected for insufficiency*)

Protocols for Rejections

- XX GH needs authorization
- GH does not need authorization
- XX GH sends the Rejection
- CLIENT sends the Rejection
- XX GH sends out Denial Letter simultaneously with Rejection outlining the reason

LITIGATION:

- GH will handle litigated claims
 - Full
 - XX As assigned
 - XX Check Issuance and Data Input
 - Data Input only
- CLIENT will handle litigated claims inhouse, with GH to capture data into SIMS
 - CLIENT will send data to GH weekly
 - CLIENT will send data to GH monthly

Mandatory Settlement Conferences

XX GH always attends

At CLIENT request only

Small Claims Actions filed against CLIENT

XX GH always appears

At CLIENT request only

Legal Counsel

XX GH must have CLIENT authorization to refer to outside Legal Counsel

GH does not need CLIENT authorization to refer to outside Legal Counsel

GH must use CLIENT approved Legal Panel for Attorney selection

CLIENT does not have an approved Legal Panel for Attorney selection

All Litigation to be handled by CLIENT inhouse Legal

GH sends Litigation Assignment packets to Legal Counsel

CLIENT specific Litigation Guidelines: Yes XX No N/A

CLIENT specific Litigation Referral Form/Letter: Yes XX No N/A

CLIENT specific Litigation Budget Form: Yes XX No N/A

Pay fees for Experts, photocopies, medical records as: XX Expense XX Legal

AUTHORITY LEVELS:

Reserve within SIR:

XX \$500,000.00 Other: \$

Adjuster must seek approval from (client contact) to post indemnity reserves above authority level.

Medical Treatment:

XX Medical Authorizations should only be sent to the claimant once liability is determined to be adverse to the CLIENT.

Medical Authorizations should go out as soon as it is determined that a BI claim is being pursued.

CLAIMS EXCEEDING SIR:

GH stops tracking activity once the SIR has been reached.

XX GH will continue to track all activity at and/or above the SIR.

XX GH will reserve to Full Value and track recoveries.



Agenda Item No: 4.d
Meeting Date: August 19, 2019

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Finance

Prepared by: Nadine Hade,
Finance Director

City Manager Approval: 

TOPIC: CITY-WIDE BUDGET AMENDMENTS

SUBJECT: RESOLUTION ADOPTING AMENDMENTS TO THE CITY OF SAN RAFAEL BUDGET FOR FISCAL YEAR 2018-2019 FOR THE PURPOSE OF CONFIRMING AUTHORIZED APPROPRIATIONS AND TRANSFERS

RECOMMENDATION: Accept report and adopt resolution as presented.

BACKGROUND: During the process of developing and recommending the fiscal year 2019-2020 budget, staff provided updates on the fiscal performance of the General Fund and projections through fiscal year-end. There have been no substantive changes since then and at completion of the year-end audit, the final financial results will be presented.

The fiscal year 2018-2019 City-wide budget was last amended by the City Council on December 17, 2018, during an interim budget review. Since the close of the fiscal year on June 30, 2019, staff has reviewed the revenues and expenditures, particularly those in special revenue funds and other special purpose funds. This review has yielded a small number of adjustments that are clean up in nature. These adjustments are recommended by the City's outside auditors and their approval by the City Council provides for complete budget accountability.

The purpose of these amendments is to formally authorize the expenditures and transfers required in certain funds to fulfill their respective purposes and functions through June 30, 2019. None of these amendments results in a deficit fund balance in any of the subject funds.

ANALYSIS:

General Fund

Revenues and Other Sources:

Already previewed to Council as part of the CIP plan, staff is recommending the annual \$400,000 Gas Tax transfer to the General Fund be increased by \$400,000 for the current FY 2018-19. The annual transfer is designed to cover a portion of the Public Works salaries and benefits related to street and road maintenance (estimated at \$2 million/year). Additionally, staff estimates an increase in the

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

Measure E quarter-cent sales tax allocated to the Essential Facilities Fund of approximately \$120,000. Changes in revenues and other sources are detailed in the chart below.

Expenditures and Other Uses:

Staff is requesting the approval of \$520,000 of expenditures and transfers out, detailed in the chart below.

Resources	
Proposed revenue changes	\$120,000
Estimated Measure E sales tax increase	
Proposed transfers in changes	
Gas Tax Fund transfer to the General Fund to support street and road maintenance	\$400,000
Total proposed changes to resources	
	\$520,000
Uses	
Proposed expenditure changes	\$400,000
General Fund charge to the Building Maintenance Fund to support City-owned property and parks projects	
General Fund match for Police Department vest grant	(\$10,145)
General Fund match for Fire FEMA fitness grant	(\$21,474)
Proposed transfers out changes	\$120,000
Estimated Measure E sales tax increase transfer to Essential Facilities Fund	
Police Department vest grant match from the General Fund	\$10,145
Fire Department FEMA fitness grant match from the General Fund	\$21,474
Total proposed changes to uses	
	\$520,000
Net proposed changes (Resources less Uses)	
	-
Expenditures and Transfers out as adopted fiscal year 2018-2019	\$81,063,636
Expenditures and Transfers out as approved through June 30, 2019	\$83,336,623
Expenditures and Transfers out with proposed changes	\$83,856,623

Other Funds

Staff is requesting the approval of \$991,644 of increased resources of which \$400,000 is related to the increase in revenue to the Building Maintenance Fund, \$214,750 is a Firefighter FEMA fitness grant, \$126,000 is for the collection of cannabis gross receipts taxes, and \$120,000 is a transfer from the General Fund to the Essential Facilities Fund as it is projected the Measure E sales tax will be higher than originally budgeted. The remainder of the \$991,644 consists of transfers in from the General Fund for its portion of the grant funding for the Police vests and Fire equipment, and the transfer in of dormant funds into active funds.

Staff is requesting the approval of \$796,799 increased uses of which \$400,000 is the transfer from the Gas Tax Fund to the General Fund, \$236,224 is the expense related to the Fire FEMA fitness grant,

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 3

\$50,000 is personnel expenses allocated to the Cannabis tax administration and the remaining balance is the transfer out of dormant funds.

Proposed changes to the Other Funds revenues, expenditures and transfers are detailed in the following table:

Resources	
Proposed revenue changes	\$400,000
General Fund charge to the Building Maintenance Fund to support City-owned property and parks projects	
Fire FEMA fitness grant proceeds	\$214,750
Collection of cannabis gross receipts taxes	\$126,000
Proposed transfers in changes	\$120,000
Estimated Measure E sales tax increase transfer to Essential Facilities Fund	
Police Department vest grant match from the General Fund	\$10,145
Fire Department fitness grant match from the General Fund	\$21,474
Dormant Community Services Funds to active fund	\$60,660
Dormant Police Project Funds to active fund	\$38,615
Total proposed changes to resources	\$991,644
Uses	
Proposed expenditure changes	\$236,224
Fire Department fitness grant from FEMA and General Fund match	
Personnel expenses allocated to Cannabis tax administration	\$50,000
Budget to actual variance of amount spent offset by revenues	\$11,300
Proposed transfers out changes	\$400,000
Gas Tax Fund transfer to the General Fund to support street and road maintenance	
Dormant Community Services Funds to active fund	\$60,660
Dormant Police Project Funds to active fund	\$38,615
Total proposed changes to uses	\$796,799
Net proposed changes to Other Funds (Resources less Uses)	\$194,845
Expenditures and Transfers out as adopted fiscal year 2018-2019	\$88,490,002
Expenditures and Transfers out as approved through June 30, 2019	\$132,516,983
Expenditures and Transfers out with proposed changes	\$133,313,782

The net impact of all proposed changes on Other Funds is \$194,845 of additional revenues due to increases in estimated Measure E sales tax and Measure G cannabis gross receipts tax for the Fiscal Year.

FISCAL IMPACT: This action authorizes the formal appropriation of resources in the 2018-2019 fiscal year to support the actual expenditure and transfer activity through June 30, 2019 as described in this report. No spending authority beyond what was actually spent or committed as of June 30, 2019 is created through this action.

RECOMMENDATION: Staff recommends that the City Council accept the report and adopt the Resolution as presented.

ATTACHMENT:

1. Resolution with exhibit

RESOLUTION NO. _____

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING AMENDMENTS TO THE CITY OF SAN RAFAEL BUDGET FOR FISCAL YEAR 2018-2019 FOR THE PURPOSE OF CONFIRMING AUTHORIZED APPROPRIATIONS AND TRANSFERS

WHEREAS, the City Council approved Resolution 14525 adopting the fiscal year 2018-2019 budget; and

WHEREAS, the City Council approved Resolution 14617 amending the fiscal year 2018-2019 budget, and took other actions during the 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, 2019, 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, deliberation and due consideration, the City Council has approved the same report and recommendations;

NOW, THEREFORE, BE IT RESOLVED, by the San Rafael City Council that Resolution 14525 for fiscal year 2018-2019 is further amended to authorize the following adjustments to resources and appropriations, which are reflected in the Consolidated Funds Schedule (Exhibit I attached hereto and incorporated herein by reference):

Fund	Amount
General Fund – 001 resources	\$520,000
General Fund – 001 appropriations	\$520,000
Safety Grants - 281	\$246,369
Building Maintenance - 603	\$400,000
Community Services - 222	\$60,660
Essential Facilities Fund - 420	\$120,000
Police Youth Services - 230	\$38,615
Measure G – Cannabis – 216	\$126,000
Total Other Funds resources	\$991,644
Safety Grants - 281	\$236,224
PT San Pedro Assessment - 409	\$5,000
Childcare Preschool Grant - 260	\$6,300
Gas Tax - 206	\$400,000
Falkirk; Arts Program - 276	\$11,011
Recreation Fiduciary - 711	\$23,850
Falkirk Revolving - 211	\$25,799
Asset Seizure - 202	\$38,615
Measure G – Cannabis – 216	\$50,000
Total Other Funds appropriations	\$796,799

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 of August 2019, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Consolidated Funds Schedule

Figure 1

General Fund	Adopted Budget FY 2018-19	Approved Changes	Current Budget	Proposed Changes	Revised Budget
Revenues	78,503,000	-	78,503,000	120,000	78,623,000
Transfers in	1,686,911	2,234,450	3,921,361	400,000	4,321,361
FY18-19 Resources	80,189,911	2,234,450	82,424,361	520,000	82,944,361
FY17-18 P.O. reserve	-	38,537	38,537	-	38,537
Total Resources	80,189,911	2,272,987	82,462,898	520,000	82,982,898
Expenditures	75,188,636	1,982,241	77,170,877	368,381	77,539,258
P.O. Rollover	-	38,537	38,537	-	38,537
Operating Transfer out	1,850,000	252,209	2,102,209	31,619	2,133,828
Capital Transfer out (from Measure E to SREF)	4,025,000	-	4,025,000	120,000	4,145,000
Total Appropriations	81,063,636	2,272,987	83,336,623	520,000	83,856,623
Net Results	(873,725)	-	(873,725)	-	(873,725)

Figure 2

Other Funds	Adopted Budget FY 2018-19	Approved Changes	Current Budget	Proposed Changes	Revised Budget
Revenues	77,092,045	4,455,000	81,547,045	740,750	82,287,795
Transfers in	5,975,000	4,122,120	10,097,120	250,894	10,348,014
FY18-19 Sources	83,067,045	8,577,120	91,644,165	991,644	92,635,809
FY17-18 Rollover		12,691,572	12,691,572		12,691,572
Total Resources	83,067,045	21,268,692	104,335,737	991,644	105,327,381
Expenditures	86,703,091	37,922,620	124,625,711	297,524	124,923,235
Transfer out	1,786,911	6,104,361	7,891,272	499,275	8,390,547
Total Appropriations	88,490,002	44,026,981	132,516,983	796,799	133,313,782
Net Results	(5,422,957)	(22,758,289)	(28,181,246)	194,845	(27,986,401)

Figure 3

All Funds	Adopted Budget FY 2018-19	Approved Changes	Current Budget	Proposed Changes	Revised Budget
General Fund	81,063,636	2,272,987	83,336,623	520,000	83,856,623
Other Funds	88,490,002	44,026,981	132,516,983	796,799	133,313,782
Total Expenditures and transfers	169,553,638	40,195,607	209,749,245	1,316,799	211,066,044



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: POLICE

Prepared by: Dan Fink, Police Lieutenant

City Manager Approval: 

TOPIC: REVISION OF THE CITY OF SAN RAFAEL ALARM ORDINANCE

SUBJECT: INTRODUCTION OF AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING CHAPTER 8.20 OF THE SAN RAFAEL MUNICIPAL CODE REGULATING INTRUSION DETECTION ALARM SYSTEMS

RECOMMENDATION:

Hold a public hearing to consider adoption of an ordinance amending San Rafael Municipal Code 8.20 regulating intrusion detection alarm systems, and pass the ordinance to print.

BACKGROUND:

In its current form, Chapter 8.20 of the San Rafael Municipal Code (SRMC) - "Intrusion Detection and/or Burglar Alarm and Fire Alarm Systems" - is outdated. The San Rafael Fire Department uses Chapter 4 of the SRMC to enforce fire alarm systems and the language regarding the fire alarms is obsolete. The provisions governing intrusion detection alarm systems, commonly known as "burglar alarms," have not been updated for over fifteen years.

Burglar alarms were the fourth most frequent type of call for service for the San Rafael Police Department (SRPD) in 2018, with 2,412 calls. That is an average of 6.6 alarm calls per day, of which over 99% are false alarms. These alarms are false mainly due to human error, but significant weather can also trigger false alarms.

When SRPD receives an alarm call, typically two officers are sent to the call. This is because if an officer is alone on an alarm call and finds an unlocked door to the residence or business, they must go inside and search the residence/building. It is unsafe for an officer to do this alone. Additionally, some of our commercial warehouses are so large that it takes more officers, resources (sometimes a K-9 handler), and a significant amount of time to search the building.

Our false alarm program is currently run by the Police Chief's administrative assistant. This job duty has been held by different people over the last fifteen years.

SRPD looked at best practices for burglar alarms ordinances from other jurisdictions in our area, such as Novato and Petaluma, as well as other Bay Area agencies, such as Morgan Hill and Benicia.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

Additionally, we spoke with the Security Industry Alarm Coalition, who advises local governments on best practices for their alarm programs. Their best practices can be found in Attachment 1.

ANALYSIS:

Staff's overall goal is to address the insufficiencies of the current program and design the service so that it is smooth for all parties involved. After approval of the ordinance and the selection of the third-party vendor to operate the program, the City of San Rafael Alarm Program will be much more efficient and streamlined for our residents and business owners. The program will be accessible online, will be user-friendly, and people will receive timely reminders regarding their renewals. Any payments for registration fees and false alarm fees can be paid online as opposed to having to come to City Hall.

The proposed ordinance continues the requirement for an alarm permit/registration and reinstates an alarm registration fee which was removed about five years ago. An unintended consequence of removing the fee for registering an alarm was that there was no incentive for people to register. That in turn caused us to have either old information on alarm owners or no information on alarms activated in the City. Having up-to-date information is important because it is often necessary to call the responsible party for the property to meet on-scene officers. Not having accurate information causes significant issues and results in officers spending more time on the alarm call than necessary.

The previous alarm registration fee was a one-time fee of \$74. The proposed fee is \$20 per year. This fee is sufficient to cover the City's administrative costs for the alarm ordinance.

Currently, we have over 5,000 "active" burglar alarm permits; however, it is impossible to tell how many of these no longer exist. For a city of our size, we should have around 3,000 alarm permits.

Section 8.20.060 of the proposed ordinance addresses the new fees for false alarms and other ordinance violations. They are as follows:

False Alarms Penalties/Failure to Register. Civil penalties and constraints around police response for false alarms within a permit year may be assessed against an alarm user as follows:

- | | |
|---|----------|
| 1) First false alarm..... | \$ 50.00 |
| 2) Second false alarm..... | \$100.00 |
| 3) Third false alarm..... | \$150.00 |
| 4) Fourth false alarm..... | \$200.00 |
| 5) Fifth and above false alarm... | \$250.00 |
| 6) Failure to Register or failure of Renewal... | \$100.00 |
| 7) Other violations | \$100.00 |

Additionally, excessive alarms, which have been an issue, are addressed in the proposed ordinance:

Excessive false alarms. It is hereby found and determined that eight (8) or more false alarms within a permit year is excessive, constitutes a public nuisance, and shall be unlawful. After eight (8) false alarms within a permit year, the police response will be restricted to dispatching to only verified burglar alarms.

A verified alarm is defined in the ordinance as:

an electronic security system event in which a trained central station operator utilizing a standardized protocol has determined the presence of human(s) and the high probability

that a criminal offense is in progress. A verified alarm system may consist of a two-zone alarm activation, or an installed video, audio, or other approved verification technology.

Verification of alarm responses would not apply to duress, robbery, holdup, and panic alarms. Staff's intention, after the adoption of a new ordinance, is to outsource the administration of the alarm program. This will free up time for the Chief's Assistant to perform other job duties, as well as streamline the registration and collection of fees for the program.

Staff is also recommending that the new ordinance go into effect January 1, 2020 to allow staff to find a suitable company for the outsourcing of the program and to give alarm owners and alarm companies the opportunity to prepare for the changes.

COMMUNITY OUTREACH:

Police Chief Bishop has reached out to the San Rafael Chamber of Commerce to let them know about the proposed ordinance. Staff will be publishing the changes on all City social media platforms to alert the public.

FISCAL IMPACT:

The proposed ordinance will result in additional revenues, which will be partly offset by fees paid to a third-party company that will operate the burglar alarm program on the City's behalf. If staff assumes 3,000 annual permit renewals, this would result in \$60,000 of annual revenue, of which approximately 25 percent would be paid to the to be determined third-party company. The remaining revenues will cover a small portion of the operating fees incurred with responding to false alarms.

OPTIONS:

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

1. Conduct a public hearing and pass the ordinance to print.
2. Conduct a public hearing and pass the ordinance to print as amended.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Hold a public hearing to consider adoption of an ordinance amending San Rafael Municipal Code 8.20 regulating intrusion detection alarm systems, and pass the ordinance to print.

ATTACHMENT:

1. Best Practices
2. Ordinance

Attachment #1 Best Practices

Registration of Alarm Systems: You can't measure what you don't count. Without registrations it is almost impossible to easily enforce an ordinance. The most vital part of registrations is the identification of the responsible party for the alarm system.

- Annual Renewals: All registrations should include an annual renewal. Between account cancelations and properties changing hands the registration information will require an annual renewal to assure as accurate information as possible.
- Registration and Renewal Fees: Charging a fee provides for revenue neutral administration of the ordinance.
- Should require that the industry assist in initial registration of all existing customers, provide the jurisdiction with an electronic list, and all new customers after the ordinance is passed.

Enhanced Call Confirmation (ECC): ECC is a process that requires that all intrusion/burglar alarms be verified by telephone calls to two different phone numbers prior to attempting dispatch. This process delivers up to 40% reductions on its own and no ordinance should be passed without it. ECC is now an industry standard (ANIS/ CSAA CS-V-01).

CP-01 Control Panels: The industry passed an American National Standards Institute (ANIS) Standard for alarm control panels. These panels are designed and programmed to address the high incidence of user-initiated false dispatches. The panels are listed as ANSI/ SIA CP-01 Control Panels and any ordinance should require that after the effective date of an ordinance that all new installations and all service replacement equipment be listed to this standard.

False Dispatch Fines: The concept of fining has been a staple of ordinances from the beginning of such types of legislation. On its own, fining will not provide any real measurable reductions. When fines are too steep they tend to go unpaid.

Suspension of Response to Abusers: More effective than escalating fines is a strictly enforced position of suspending response to abusers. It is well-documented that a small percentage of the total alarm users cause a disproportionate number of false dispatches. Therefore, there should be a point where response is denied or restricted until the alarm is repaired or the users are trained.

Appeals: Fines and suspension of response should be able to be appealed and should be reviewable by the alarm administrator. When the evidence clearly shows that no fine is appropriate the administrator can resolve it without the need for a formal appeal.

Enforcement: Virtually every ordinance that has failed has at the source of the failure a lack of uniform enforcement. Don't pass an ordinance that can't be enforced and make certain that whatever is passed is capable of being enforced.

In conjunction with these best practices, the proposed alarm ordinance is enforceable as well as fair to the consumer.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF SAN RAFAEL AMENDING
CHAPTER 8.20 OF THE SAN RAFAEL MUNICIPAL CODE
REGULATING INTRUSION DETECTION
ALARM SYSTEMS**

**THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS
FOLLOWS:**

DIVISION 1. FINDINGS.

1. In its current form, Chapter 8.20 of the San Rafael Municipal Code (“SRMC”) entitled “Intrusion Detection and/or Burglar Alarm and Fire Alarm Systems,” is outdated. The San Rafael Fire Department uses SRMC Chapter 4 to enforce fire alarm systems, therefore the language in SRMC Chapter 8.20 regarding the fire alarms is obsolete. The provisions governing intrusion detection alarm systems, commonly known as “burglar alarms,” have not been updated for over fifteen years.
2. Intrusion detection alarms were the fourth most frequent type of call for service for the San Rafael Police Department (SRPD) in 2018, with 2,412 calls. That is an average of 6.6 alarm calls per day, of which over 99% are false alarms. These alarms are false mainly due to human error, but significant weather can also trigger false alarms.
3. Since false alarms create a significant demand on the services of the City’s Police Department, City staff recommends, and the City Council finds, that SRMC Chapter 8.20 should be amended as set forth in this Ordinance, to incorporate best practices implemented by other Bay Area jurisdictions.

DIVISION 2. AMENDMENT OF MUNICIPAL CODE

Chapter 8.20 of the San Rafael Municipal Code, entitled “Intrusion Detection and/or Burglar Alarm and Fire Alarm Systems” is hereby amended to read in its entirety as follows:

Chapter 8.20 - INTRUSION DETECTION ALARM SYSTEMS

8.20.010 – Definitions

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them, except where the context clearly indicates a different meaning:

- (a) ***Alarm Administrator*** means a person or persons designated by the City to administer the provisions of this ordinance.
- (b) ***Alarm Company*** means a person, company, firm, or corporation which has the contractual agreement with the alarm user and is subject

to the licensing requirements, and engaged in selling, leasing, installing, servicing and/or monitoring alarm systems; this entity shall be licensed in compliance with city, county and state laws.

- (c) **Alarm event** means an alarm system activation, to which law enforcement is requested to respond.
- (d) **Alarm permit** means a permit issued to an alarm user by the City, allowing the operation of an alarm system within the City.
- (e) **Alarm system or Alarm** means an assembly of equipment installed at a fixed location designed to detect and/or verify an occurrence of an illegal or unauthorized entry or other activity to which law enforcement is requested to respond.
- (f) **Alarm user** means any person, corporation, partnership, proprietorship, governmental or educational entity or any other entity owning, leasing, or operating an alarm system, or on whose premises an alarm system is maintained for the protection of such premises.
- (g) **Alarm User Awareness Class** means a class conducted for the purpose of educating alarm users about the responsible use, operation, maintenance of alarm systems and effective verification and false alarm reduction strategies.
- (h) **Cancellation** means that the alarm company provides notification that response by law enforcement is no longer being requested in connection with an alarm event. If cancellation occurs prior to law enforcement arriving at the scene, this will not be deemed to be a false alarm under this Chapter, and no penalty will be assessed.
- (i) **City** means the City of San Rafael or its agent.
- (j) **CP-01** means the ANSI - American National Standard Institute-approved Security Industry Association - SIA CP-01 Control Panel Standard, as may be updated from time to time, that details recommended design features for security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms. Control panels built and tested to this standard by Underwriters Laboratory (UL), or other nationally recognized testing organizations are marked as follows: "Design evaluated in accordance with SIA CP-01 Control Panel Standard Features for False Alarm Reduction."
- (k) **Communications Center** means the San Rafael Police Department's communications/dispatch center.
- (l) **Enhanced Call Confirmation** means an attempt by the alarm system monitoring company to contact the alarm site and/or alarm user, to determine whether an alarm event is valid before requesting law enforcement response. A second call will be made to contact the alarm user if the first attempt fails EXCEPT as defined by ANSI/CSAA CS V 01 2016 or current version, in case of a fire, panic, robbery-in-progress alarm or verified alarm.
- (m) **False Alarm** means the activation of an alarm system when, upon observation by law enforcement, there is no evidence of unauthorized entry, robbery, or other such crime attempted in or on the premises.
- (n) **Permit Year** means a twelve (12) month period beginning on the day and month on which an alarm permit is issued.

- (o) **Verified Alarm** is defined as an electronic security system event in which a trained central station operator utilizing a standardized protocol has determined the presence of human(s) and/or the high probability that a criminal offense is in progress. A verified alarm system may consist of a two-zone alarm activation, or an installed video, audio, or other approved verification technology. Verification of alarm response does not apply to duress, robbery, holdup, and panic alarms.

8.20.020 – Alarm Permit

- (a) **Permit Required.** No alarm user shall use an alarm system in the City without first registering for and obtaining a permit for such alarm system from the City. Each alarm permit shall be assigned a unique permit number, and the user shall provide the permit number to the alarm company to facilitate law enforcement dispatch.
- (b) **Application.** The permit shall be requested on an application form provided by the City. The application will include at least the following information:
 - 1) **Multiple Alarm Systems.** If an alarm user has one or more alarm systems protecting two or more separate structures or units having different addresses and/or tenants, a separate permit shall be required for each structure and/or unit.
 - 2) **Type of Verified Alarm System.** If an alarm user has an electronic verified alarm system protecting the premises, the permit application shall identify the type of verification system used (for example, video verification or audio verification.)
 - 3) **Installer of the Alarm System.** The name of service provider that installed the system, or if installed by the alarm user DIY (“do it yourself”).
 - 4) **Monitoring Agency.** The name of the monitoring station that is monitoring the alarm system.
- (c) **Annual Renewal Required.** Alarm permits must be renewed annually. Police response to a property without a valid annual renewal will be subject to the same fine as failing to register.
- (d) **Permit Fees.** A permit fee will be required for the initial registration and annual permit renewals. The fee will be established by resolution of the City Council adopted from time to time. No fee will be required for merely updating information on a valid permit.
- (e) **Reporting Updated Information.** Whenever the information provided on the alarm permit application changes, the alarm user shall provide correct information to the City within thirty (30) days of the change. In addition, each year after the issuance of the permit, permit holders will receive from the City a form requesting updated information. The permit holder shall complete and return this form to the City whether or not any of the requested information has changed; failure to comply

will constitute a violation of this Chapter and may result in a civil penalty.

- (f) ***Transfer of Possession.*** Alarm permits are not transferable. When the possession of the premises at which an alarm system is maintained is transferred, the alarm user obtaining possession of the property shall file an application for an alarm permit within thirty (30) days of obtaining possession of the property.

8.20.030 – Duties of the Alarm User

Every alarm user in the City has a duty to comply with the following requirements:

- (a) Maintain the premises and the alarm system in a method that will reduce or eliminate false alarms.
- (b) Provide the alarm company with the alarm user's alarm permit number so that the alarm company can provide it to the communications center to facilitate dispatch.
- (c) Respond or cause a representative to respond to the alarm system's location within a reasonable amount of time when notified by the San Rafael Police Department.
- (d) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report.
- (e) Obtain a new permit and pay any associated fees if there is a change in address or ownership of the location of the alarm system.
- (f) Annually renew the alarm permit.
- (g) An alarm user that installs the system themselves (Do It Yourself or DIY) is subject to the same duties as described in Section 8.20.040 - Duties of the Alarm Company.

8.20.040 – Duties of the Alarm Company

- (a) Every alarm company engaged in business in the City shall comply with the following requirements:
 - 1) Obtain and maintain the required state, county and/or city license(s).
 - 2) Provide name, address, and telephone numbers of the alarm company license holder or a designee who can be called in an emergency, twenty-four (24) hours a day; and be able to respond to an alarm call, when notified, within a reasonable amount of time.
 - 3) Be able to provide the most current contact information for the alarm user; and to contact a key holder for a response, if requested.
 - 4) Prior to activation of the alarm system, the alarm company must provide instructions to the alarm user explaining the proper operation of the alarm system.

- 5) Provide alarm user customers with information on how to obtain service from the alarm company for the alarm system.
 - 6) After the effective date of this ordinance, for commercial accounts, alarm companies shall not install, modify or repair “single action” devices for the activation of Hold-up, Robbery or Panic Alarms. New devices for those purposes shall require two actions or an activation time delay to provide more positive assurance that the user intends to activate the device.
 - 7) After the effective date of this ordinance, alarm companies shall install only CP-01 compliant security system control panels and their associated arming and disarming devices to reduce the incidence of false alarms,
 - 8) An alarm company responsible for monitoring services shall:
 - a. Ensure the monitoring center utilizes Enhanced Call Confirmation. The monitoring center shall make two (2) attempts to contact the user or users of an alarm system prior to requesting law enforcement response.
 - b. Provide the alarm user’s alarm permit number to the communications center to facilitate dispatch and/or cancellations.
 - c. Communicate to the communications center any available information regarding specifics of the alarm event.
 - d. Communicate a cancellation to the communications center as soon as possible following a determination that response is unnecessary.
- (b) **Existing alarm systems.** Within thirty (30) days after being notified in writing by the Alarm Administrator, an alarm company must provide to the alarm administrator a list of the names and addresses of existing alarm users in the City.
 - (c) **New alarm systems.** Any alarm company that installs an alarm system on premises located within the City after the effective date of this ordinance must notify the Alarm Administrator within ten (10) days after the date of installation that an alarm system has been installed and provide the name and address of the alarm user.
 - (d) **Purchased accounts.** An alarm company that purchases any alarm system account from another person or alarm company shall notify the Alarm Administrator of such purchase and shall provide the Alarm Administrator a complete list of the acquired customers. This information shall include the customer name, alarm site address, alarm permit number, and alarm company license number.
 - (e) **Yearly account updates.** On or before the first of January of each year, an alarm installation company or monitoring company shall provide the Alarm Administrator with a complete list of active customers to assist the Alarm Administrator with creating and maintaining tracking data. The customer information must include: the customer name, the alarm site address, permit number, and the alarm company license number.

8.20.050 – Prohibited Acts

- (a) It shall be unlawful for any person to activate an alarm system for the purpose of summoning law enforcement when no burglary, robbery, or other crime dangerous to life or property is being committed or attempted on the premises, or otherwise to cause a false alarm.
- (b) It shall be unlawful to install, maintain, or use an audible alarm system that can sound continually for more than ten (10) minutes.

8.20.060 – Enforcement of Provisions

Civil Non-Criminal Violation. A violation of any of the provisions of this Chapter shall be a civil violation and shall not constitute a misdemeanor or infraction. In addition to any other remedies available to the City under this Code or state law, violations of this Chapter may be enforced as follows:

- (a) **Penalties for false alarms and other violations.** Upon occurrence of a false alarm or other violation of this Chapter, the Alarm Administrator may issue a notice of penalty to an alarm user imposing civil penalties as follows:
 - 1) First false alarm during permit year \$ 50.00
 - 2) Second false alarm during permit year \$100.00
 - 3) Third false alarm during permit year \$150.00
 - 4) Fourth false alarm during permit year \$200.00
 - 5) Fifth and subsequent false alarm during permit year \$250.00
 - 6) Failure to register or failure to renew permit \$100.00
 - 7) Other violations of this Chapter \$100.00
- (b) **Excessive false alarms.** It is hereby found and determined that eight (8) or more false alarms within a permit year is excessive, constitutes a public nuisance, and shall be unlawful. After eight (8) false alarms within a permit year, the police response may be restricted to dispatching to only verified alarms.
- (c) **Payment of Civil Penalty(ies).** Civil penalty(ies) shall be paid within thirty (30) days from the date of the administrative citation.
- (d) **Discontinuance of Law Enforcement Response.** The failure of an alarm user to make payment of any civil penalty(ies) assessed under this ordinance within thirty (30) days from the date of an administrative citation may result in discontinuance of law enforcement response to alarm signals that may occur at the premises described in the alarm user's permit until payment is received.

8.20.070 – Alarm User Awareness Class

Alarm User Awareness Class. The City may establish an Alarm User Awareness Class and may request the assistance of the area alarm companies to assist in developing and conducting the class. The class shall inform alarm users of the problems created by false alarms and instruct alarm users how to help reduce false alarms. The City may grant the option of attending an alarm user awareness class in lieu of paying one assessed penalty, not to exceed \$50.00. Alternatively, if the class can be delivered to the user as an online training module, the City may authorize the alarm user to satisfy the attendance requirement by participating in the online training module.

8.20.080 – Appeals

- (a) **Appeals Process.** Assessments of civil penalty(ies) and other enforcement decisions made under this Chapter may be appealed by filing a written notice of appeal with the San Rafael Police Department within thirty (30) days after the date of notification of the assessment of civil penalty(ies) or other enforcement decision. The failure to file a notice of appeal within this time period shall constitute a waiver of the right to contest the assessment of penalty(ies) or other enforcement decision. Appeals shall be determined through an administrative process established by the City including a hearing by a hearing officer appointed by the City. Any person aggrieved by the decision of the hearing officer may obtain review of the decision by filing a notice of appeal with the Marin County courts in accordance with the timelines and provisions set forth in California Government Code section 53069.4.
- (b) **Appeal Standard.** The hearing officer shall review an appeal from the assessment of civil penalty(ies) or other enforcement decisions using a preponderance of the evidence standard. Notwithstanding a determination that the preponderance of the evidence supports the assessment of civil penalty(ies) or other enforcement decision, the hearing officer shall have the discretion to dismiss or reduce civil penalty(ies) or reverse any other enforcement decision where warranted.

8.20.090 – Confidentiality

In the interest of public safety, all information contained in and gathered through the alarm registration/permit applications, response records, applications for appeals and/or any other alarm records of the City shall be held in confidence by all employees and/or representatives of the City to the maximum extent allowed by law.

8.20.100 – Government Immunity

Alarm registration is not intended to, nor will it, create a contract, duty or obligation, either expressed or implied, of response on the part of the City of San Rafael, the San Rafael Police Department, or any of their officers, employees or agents. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm registration, the alarm user acknowledges that the San Rafael Police Department response may be influenced by a variety of factors including but not limited to: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels and prior response history.

DIVISION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

The City Council finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines in that this Ordinance regulates only the permitting, maintenance and use of intrusion detection ("burglar") alarm systems, and it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment,

DIVISION 4. SEVERABILITY.

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

DIVISION 5. EFFECTIVE DATE; 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 as of January 1, 2020. If published in summary form, the summary shall also be published within fifteen (15) days after the adoption, together with the names of those Councilmembers voting for or against same, in a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

GARY O. PHILLIPS, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. _____ was read and introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the _____ day of _____, 2019 and ordered passed to print by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the _____ day of _____, 2019.

LINDSAY LARA, City Clerk

Marin Independent Journal

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

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

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

STATE OF CALIFORNIA County of Marin

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

08/09/2019

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

Dated this 9th day of August, 2019.



Signature

PROOF OF PUBLICATION

Legal No. **0006381241**

CITY OF SAN RAFAEL NOTICE OF PUBLIC HEARING

DATE/TIME: Monday, August 19, 2019 at 7:00 p.m.

LOCATION: City Council Chambers, 1400 Fifth Avenue, San Rafael, CA

PURPOSE: The San Rafael City Council will hold a public hearing to consider adopting an ordinance to amend Chapter 8.20 of the San Rafael Municipal Code Chapter entitled "Intrusion Detection and/or Burglar Alarm and Fire Alarm Systems". In its current form, Chapter 8.20 is and needs to be brought into conformance with current best practices.

The proposed ordinance would completely revise Chapter 8.20. The ordinance would continue the current requirement for an annual alarm permit that allows the City's Police Department to keep an up-to-date record of properties with alarm systems, with contact information for the occupants. The ordinance would require alarm users to obtain an alarm permit and to properly maintain and use their alarm. The ordinance would also impose duties on the alarm company.

The ordinance would provide for enforcement by civil penalties, including penalties for false alarms ranging from \$50 for the first false alarm to \$250 for the fifth or subsequent false alarms within the permit year. The proposed ordinance would also define the occurrence of 8 or more false alarms during a permit year to be a public nuisance that may result in a limitation or termination of police response to the offending property.

You may comment on the proposed ordinance in person at the public hearing or submit written comments, which must be received by the City prior to the hearing.

IF YOU CANNOT ATTEND: Written comments should be sent to Lindsay Lara, City Clerk, City of San Rafael, P.O. Box 151560, San Rafael, CA 94915-1560, City of San Rafael, 1400 Fifth Avenue, Room 209, San Rafael, CA 94901.

FOR MORE INFORMATION: Contact Lieutenant Dan Fink at (415) 485-3148 or at 447@srdp.org

SAN RAFAEL CITY COUNCIL

LINDSAY LARA
CITY CLERK, CITY OF SAN RAFAEL

No. 1028 August 9, 2019



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Manager's Office

Prepared by: Daniel Soto
Associate Management Analyst

City Manager Approval:

TOPIC: GRAND JURY REPORT ON MARIN'S TELECOMMUNICATIONS DISCONNECT

SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE CITY OF SAN RAFAEL'S RESPONSE TO THE 2018-2019 MARIN COUNTY CIVIL GRAND JURY REPORT ENTITLED, "MARIN'S TELECOMMUNICATIONS DISCONNECT"

RECOMMENDATION: Adopt a resolution approving the City of San Rafael's response to the Marin County Civil Grand Jury's report entitled, "Marin's Telecommunications Disconnect."

BACKGROUND:

On June 13, 2019, the [2018-19 Marin County Civil Grand Jury](#) issued a report entitled *Marin's Telecommunications Disconnect* relating to telecommunications-related activity in Marin County. The report focuses on the role and responsibility of the Marin Telecommunications Agency (MTA), a countywide joint powers authority, of which the City of San Rafael is a part, to support telecommunications infrastructure and services in Marin County.

The City of San Rafael is required to respond to all Grand Jury reports. Penal Code section 933 states, in part, the following:

No later than 90 days after the Grand Jury submits a final report...the governing body of the public agency shall comment to the presiding Judge of the Superior Court on the findings and recommendations contained in the report.

To comply with this statute, the City's response to the Grand Jury report must 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 by September 11, 2019. Staff recommends that the City Council adopt the attached resolution approving the City of San Rafael's response to the Grand Jury's report (Attachment 1).

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

ANALYSIS:

In their report, the Grand Jury evaluated the telecommunications environment in Marin County, along with the role and responsibility of the MTA. Below are the Grand Jury's findings:

- F1: Neither the County nor any of its agencies is providing strategic leadership or advice for telecommunications services such as broadband internet access or 5G, leaving Marin poorly served.
- F2: Each municipality has been obliged to negotiate separately with 5G and fiber to the home telecom providers, so the potential benefits of aggregation have been lost and some communities remain unserved or underserved.
- F3: The MTA has chosen to abandon its policy making and coordinating mission, so the MTA serves no strategic or advisory function to the county.
- F4: Currently, the main function of the MTA which is to collect and distribute cable franchise and PEG fees to its members, could be efficiently performed by the MGSA.
- F5: CMCM is a nonprofit tax-exempt corporation which is governed by its own board so it could operate without MTA oversight.
- F6: The MTA has applied for few of the available Federal or CPUC grants, and it has missed opportunities to access existing fiber networks, all of which has caused Marin County to fall behind the levels of telecom service provided to other areas in California.
- F7: The MTA's income is declining and may be eliminated altogether; as a result, the MTA will have no function and is likely to disband or it will need to be funded by its constituent municipalities or from some other source.
- F8: The county could benefit from strategic guidance and leadership in technical, business and regulatory matters regarding telecommunications for its businesses and residents.

Based upon their findings, below are the Grand Jury's recommendations:

- R1: By December 31, 2019, the Board of Supervisors should appoint a citizen's advisory committee that will provide advice and information on telecommunications services and policy. The Grand Jury recommends that citizens with telecommunications expertise be appointed to the committee.
- R2: The MTA's franchise fee collection and disbursement responsibilities should be moved to the MGSA.
- R3: MTA's responsibilities for CMCM should be terminated.
- R4: The MTA should be dissolved.

The City of San Rafael is required to respond to Recommendations R2, R3, and R4. In concurrence with the Marin Telecommunications Agency Board of Directors, the City of San Rafael disagrees with recommendations R2, R3, and R4. The City's detailed response is attached to this staff report (Attachment 2).

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

OPTIONS:

The City Council has the following options to consider relating to this item:

1. Adopt the resolution as presented.
2. Adopt the resolution as amended.
3. Direct staff to return with additional information.

RECOMMENDED ACTION:

Adopt a resolution approving the City of San Rafael's response to the Marin County Civil Grand Jury's report entitled, "Marin's Telecommunications Disconnect."

ATTACHMENTS:

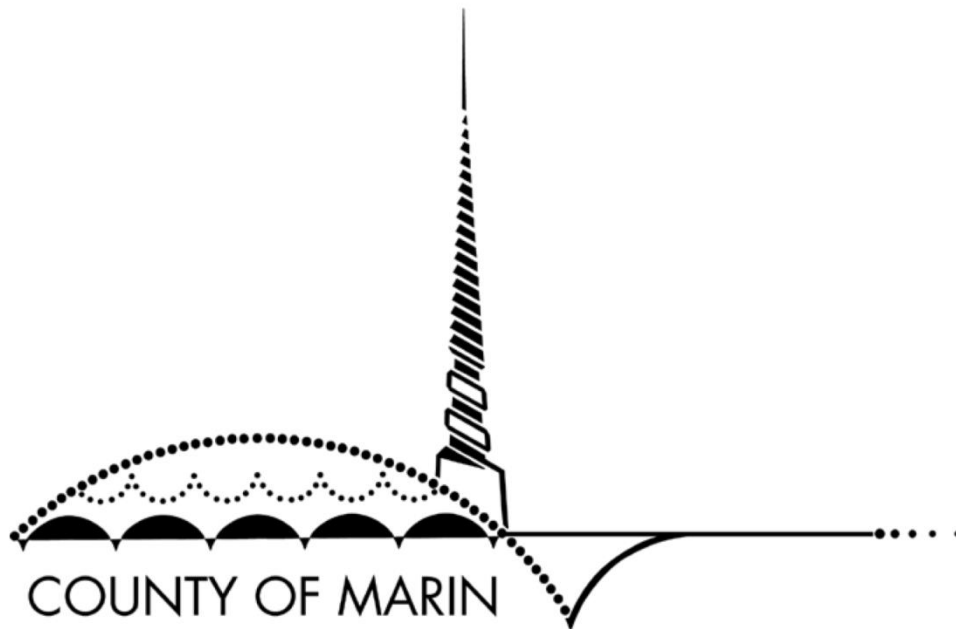
1. Grand Jury Report
2. Response to Grand Jury Report
3. Resolution

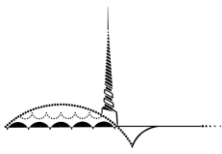
2018–2019 MARIN COUNTY CIVIL GRAND JURY

Marin's Telecommunications Disconnect

Report Date: June 6, 2019

Public Release Date: June 13, 2019





Marin's Telecommunications Disconnect

SUMMARY

Marin has been short-changed by a lack of telecommunications leadership by county and municipal officials. Because of this, the public does not have countywide fiber to the home and has only limited ability to aggregate demand. Aggregation strengthens the ability to negotiate cost, coverage, and other contractual terms with telecom providers. Our officials have turned over network development policy to commercial network providers, resulting in a patchwork of network services that benefit the companies' profit-making priorities. Our officials have not ensured that all county residents receive the best value in telecom services. Effective leadership that has technical expertise in telecom business, regulation, and technology is needed so that individuals, businesses, and government entities will better understand what is happening and what is possible, and choose what is best for all.

Major telecom opportunities were missed by existing agencies. Few applications were made for available federal and state funds to provide high quality broadband internet access to unserved and poorly served areas such as West Marin and the Canal Area of San Rafael. The opportunities to use existing fiber optic networks to provide broadband for businesses and residents were ignored. The opportunity to negotiate favorable terms for countywide 5G (the next generation cellular technology) installations was ineffectively addressed. A detailed review of 5G deployment issues is not included in this report in part because federal law precludes health effects from being used to prevent installation of cell phone transmitting stations.

The lack of countywide telecom leadership and coordination means that the various government entities did not and do not formally seek or use opportunities to plan and cooperate with each other.

The Marin Telecommunications Agency (MTA) was intended to provide leadership, coordination, and policy guidance in the county; however, it has abandoned these functions. With the MTA's originally stated mission, interested parties could have expected that countywide leadership was being provided. However, the MTA's Board decided over a decade ago to focus essentially on the collection and distribution of franchise fees and oversight of the Community Media Center of Marin and to ignore its policymaking leadership mission.

Marin County needs competent and effective guidance on telecom. The Board of Supervisors should set up a commission or a public advisory group to monitor telecom activities and propose appropriate actions to best serve the telecommunications interests of Marin's residents.

BACKGROUND

Through requests for investigation submitted by concerned members of the public and articles and opinion pieces in the Marin Independent Journal, the Marin Civil Grand Jury became aware that questions exist regarding the telecommunications services provided and the management of telecommunications by county and municipal agencies.

APPROACH

The Grand Jury used the following methods in developing this report:

- Interviewing representatives from public and governmental agencies, consultants and citizens.
- Attending public meetings of agencies and city councils.
- Researching websites.
- Examining documents.
- Reviewing documentation provided with citizens' complaints.

DISCUSSION

Telecommunications is ever more important to the functions of daily life. It is an essential medium affecting all sectors of the Marin community. Telecom technologies enable broadband transmission (capacity for sending high speed data over any medium), which can be in the form of coaxial cable, wireless radio, optical fiber, or satellite links.

The deployment of telecommunications technology in the county has been handled by several government entities:

- **Marin General Services Authority (MGSA)** is a Joint Powers Authority which was created in 2005 by the cities, towns, and the County of Marin to administer various public services effectively and efficiently throughout the county in a uniform manner with minimal overhead expense. The MGSA owns most of the street light poles in the county and licenses what is mounted on them, for example, 5G cellular equipment.
- **Information Services and Technology Department (IST)** of Marin County government focuses on government computing and communication needs. IST creates and maintains the infrastructure that supports official county services delivered through the Marin Information Data Access Services (MIDAS), which links county government, cities, and other institutions together in a shared high-speed network.
- **Community Development Agency (CDA)** protects public health and safety, preserves environmental quality, and plans sustainable, diverse communities. Among its responsibilities, the CDA controls the siting of cellphone towers within the county through land use regulation.

- **The Marin Telecommunications Agency (MTA)** was established in 1998 to negotiate, collect and disburse cable tv franchise fees and Public, Education and Government (PEG) fees, and to coordinate telecommunications issues for its members. It is a joint powers authority (JPA) that consists of Marin County and all the cities and towns in Marin, except Novato and Larkspur, which have separate cable franchise agreements. Its purpose, as published on the MTA website, is described as follows:

The mission of the MTA is to be the key policy-making and coordinating body related to telecommunications matters in Marin. This is in line with the core values that have defined the MTA throughout its history of promoting availability, accessibility, affordability and public inclusion in the advancement and enhancement of telecommunications infrastructure and services in Marin.¹

The MTA also established the Community Media Center of Marin (CMCM), which operates Marin TV. Created with PEG fees, CMCM is a non-profit corporation with its own board of directors, and is responsible for Marin County's non-commercial public access, educational and governmental cable channels. For example, residents can watch broadcasts of their town council and board of supervisors meetings on the CMCM government channel. It also provides residents with access to communication technologies, media training, and the latest digital tools to create original content for cable TV and online media.

None of these government agencies, individually or together, functions to ensure that Marin's residents, businesses, schools and county government enjoy the greatest benefit from telecom service providers and their technologies.

MTA's Changing Role

The MTA's role as the "key policy-making and coordinating body related to telecommunications matters in Marin," has changed. In September 2006, California enacted the Digital Infrastructure and Video Competition Act of 2006 (DIVCA). This legislation removed local bargaining power and mandated that the cable industry pay local governments a 5% franchise fee for allowing cable franchisees access to the public right of way and a 1% PEG fee to fund public access broadcasting. DIVCA was intended to even the telecom playing field and close the digital divide.²

Cable subscribers pay these fees as a percentage of the monthly bill they pay to the cable providers. They are based on only that portion of the provider's bill attributable to basic tier cable TV services, not the wi-fi, internet, and other services portions of the service bundle. The precise portion of the bill allocated for basic cable TV service among all the services provided is

¹ "[Marin Telecommunications Agency](#)." *Marin Telecommunications Agency*. Accessed 17 May 2019.

² "[Video Franchising](#)." *California Public Utilities Commission*. Accessed 17 May 2019.

proprietary information, so the exact total of fees paid by all subscribers in each jurisdiction is only verifiable by independent auditors.

As a consequence of DIVCA, the MTA changed its direction and focused primarily on the collection, distribution and auditing of the fees collected from Comcast, AT&T, and Horizon Cable TV. Essentially, the MTA's broader strategic role was reduced to monitoring and collecting streams of income from the telecom industry and receiving cable and internet complaints. Its mission of providing telecom policy leadership has not been carried out. The individual members of the JPA (the towns, cities and county) have expressed no interest in paying any portion of their income for telecom policy purposes, preferring instead to maximize distributions to the JPA members' general funds.

As for handling complaints, the MTA's consumer support consists of offering a link on its website to connect consumers directly to the complaint pages of the websites of AT&T, Comcast, and Horizon and providing an MTA general complaint form on a separate page on its website. As a test, the Grand Jury sent in a consumer complaint to the MTA on its general complaint form, and, to date, no response has been received.

After deductions for overhead and professional costs, the MTA distributes the net proceeds of the franchise fees to the general funds of its constituent government members, and it uses the PEG fees to fund the capital costs of public access broadcasting by CMCM. The MTA budget covers hiring an outside accounting firm to audit the fees due from the cable franchise companies and the costs of running an office with a part time executive director and some clerical support. The overall cost of running the MTA amounts to over \$200,000 per year, a significant expense for MTA's largely ministerial role.

Even these limited functions of the MTA are unlikely to survive into the future because the continued payment of these fees by the cable companies is unlikely to last. With the availability of broadband streaming services, consumers are now "cutting the cord," so the payment of franchise fees is declining and is likely to eventually cease altogether. Additionally, the cable companies are challenging their obligation to pay the franchise fees at all, claiming that it is anticompetitive compared to other non-cable providers, such as DirecTV and DISH. Added to all of this, cable providers may be able to offset some of the amount paid to the MTA because the FCC has ruled that providers may charge entities like Marin TV for use of the providers' facilities to distribute the entities' content. The future of this income stream to local governments is in jeopardy which brings even the diminished function of the MTA into question.

Detrimental Results and Missed Opportunities

As a result of the lack of coordinated and properly supported oversight, the county has not taken advantage of important opportunities:

- Each municipality has negotiated separately with telecom providers and the potential benefits of a proactive strategy and aggregation have been lost. For example, cities are separately engaging legal counsel in determining local rules for deploying 5G technology. Additionally, there is no coordinated strategy for investigation of the use, benefits, detriments or installation of this technology.
- Exclusive use of six strands of optical fiber alongside the SMART tracks was offered to Marin County to service its telecom needs free for 20 years by SONIC, but these fibers have sat idle for several years.
- Only a few attempts were made belatedly by the MTA to connect the existing Skywalker Ranch broadband fiber network to underserved communities in West Marin. Nicasio and Bolinas did succeed in getting fiber to the home projects going with support and partial funding by the California Public Utilities Commission and the County of Marin and with support from Marin County's Information Systems and Technology Departments.^{3,4}
- The MTA made no application for Obama-era funds specifically dedicated to the delivery of broadband to underserved and unserved areas, such as the Canal area of San Rafael and West Marin.⁵ California Public Utilities Commission (CPUC) funds were also available, though again, the MTA for the most part, did not apply for them.⁶

The MTA took no advantage of these opportunities, offered no strategy to the cities and towns of Marin, and provided no oversight of telecommunications services for Marin County as a whole. Unlike the City of San Jose that, as an example of proactive telecom planning, negotiated agreements for 5G cellular deployment with Verizon, Mobilitie and AT&T to ensure service to all areas of the city so that redlining (not providing service to less profitable areas) was prevented. Additionally, the vendors will be contributing to a \$24M Digital Divide Fund for San Jose over the next decade that will support programs and initiatives for residents who lack access to broadband internet services.⁷

³ Avants, Maggie. "[Skywalker Ranch Broadband Carrier Tapped for New Nicasio Network](#)." *Patch*. 15 July 2016.

⁴ Evans, Beau. "[West Marin's Internet woes and hopes](#)." *Point Reyes Light*. 25 Jun. 2015.

⁵ "[Secretary Locke Announces Recovery Act Investments To Expand Broadband Internet Access And Spur Economic Growth](#)." *National Telecommunications and Information Administration*. 27 Sep. 2010.

⁶ "[California Advanced Services Fund \(CASF\) Grant Program and Revolving Loan \(California\)](#)." *Grants Office*. Accessed 17 May 2019.

⁷ "[City of San Jose Announces Major Agreements with Verizon, AT&T & Mobilitie to Significantly Enhance Broadband Infrastructure in San Jose](#)." *City of San Jose*. 15 Jun. 2018.

JPA Structural Limitations

JPA's exist in special obscurity because their directors are elected to other councils or boards from which they are assigned to serve on JPA boards. The MTA is an example of this. Its members — the County of Marin, and the cities and towns of Belvedere, Corte Madera, Fairfax, Mill Valley, Ross, San Anselmo, San Rafael, Sausalito and Tiburon — each appoint one of their council members to the MTA board. No council candidate campaigns on issues related to a JPA because their election to a city or town council does not guarantee appointment to any specific JPA board. As a consequence, it is unlikely that JPA board members would have telecommunications expertise, and in fact, they do not.

Possible Solutions

What can the county do to ensure that future telecom opportunities and benefits are not missed? What organization would be suited to oversee the provision of the best telecom services (such as broadband internet, television programming, 5G, or future telecom technologies) in the best possible way?

Whatever form it takes, the county needs competent guidance and leadership in technical, business and regulatory matters regarding telecom. Simply allowing market forces to determine telecom deployment without government intervention will produce service area gaps that leave less populated communities without connection — as has occurred in the more remote areas of Marin County. Dense population areas are more profitable for telecom providers because they can get the highest returns on the costs of extending their infrastructure and siting their equipment.

To address these issues, the Grand Jury proposes that a citizen advisory commission be created to monitor and address telecom matters for the whole county. The commission should be made up of members of the public who have the interest and expertise to provide advice on telecom issues.

FINDINGS

- F1. Neither the County nor any of its agencies is providing strategic leadership or advice for telecommunications services such as broadband internet access or 5G, leaving Marin poorly served.
- F2. Each municipality has been obliged to negotiate separately with 5G and fiber to the home telecom providers, so the potential benefits of aggregation have been lost and some communities remain unserved or underserved.
- F3. The MTA has chosen to abandon its policy making and coordinating mission, so the MTA serves no strategic or advisory function to the county.
- F4. Currently, the main function of the MTA which is to collect and distribute cable franchise and PEG fees to its members, could be efficiently performed by the MGSA.
- F5. CMCM is a nonprofit tax-exempt corporation which is governed by its own board so it could operate without MTA oversight.
- F6. The MTA has applied for few of the available Federal or CPUC grants, and it has missed opportunities to access existing fiber networks, all of which has caused Marin County to fall behind the levels of telecom service provided to other areas in California.
- F7. The MTA's income is declining and may be eliminated altogether; as a result, the MTA will have no function and is likely to disband or it will need to be funded by its constituent municipalities or from some other source.
- F8. The county could benefit from strategic guidance and leadership in technical, business and regulatory matters regarding telecommunications for its businesses and residents.

RECOMMENDATIONS

- R1. By December 31, 2019, the Board of Supervisors should appoint a citizen's advisory committee that will provide advice and information on telecommunications services and policy. The Grand Jury recommends that citizens with telecommunications expertise be appointed to the committee.
- R2. The MTA's franchise fee collection and disbursement responsibilities should be moved to the MGSA.
- R3. MTA's responsibilities for CMCM should be terminated.
- R4. The MTA should be dissolved.

REQUEST FOR RESPONSES

Pursuant to Penal code section 933.05, the grand jury requests responses as follows:

From the following governing bodies:

- Marin County Board of Supervisors (R1, R2, R3, R4)
- Marin Telecommunications Agency Board of Directors (R2, R3, R4)
- Belvedere City Council (R2, R3, R4)
- Corte Madera Town Council (R2, R3, R4)
- Fairfax Town Council (R2, R3, R4)
- Mill Valley City Council (R2, R3, R4)
- Ross Town Council (R2, R3, R4)
- San Anselmo Town Council (R2, R3, R4)
- San Rafael City Council (R2, R3, R4)
- Sausalito City Council (R2, R3, R4)
- Tiburon Town Council (R2, R3, R4)

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.

The following individuals are invited to respond:

- CIO, County of Marin
- General Manager, Sonoma Marin Area Rail Transit (SMART)

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.

RESPONSE TO GRAND JURY REPORT FORM

Report Title: Marin's Telecommunications Disconnect
Report Date: June 13, 2019

Response By: San Rafael City Council
Title: Mayor and City Council

FINDINGS:

- We agree with the findings numbered N/A
- We disagree wholly or partially with the findings numbered N/A

RECOMMENDATIONS:

- Recommendations numbered N/A have been implemented.
- Recommendations numbered N/A have not yet been implemented, but will be implemented in the future.
- Recommendations numbered N/A requires further analysis.
(Attach an explanation.)
- Recommendations numbered **R2, R3, and R4** will not be implemented because they are not warranted or are not reasonable.
(See Attachment A)

DATED: _____

Signed: _____
GARY O. PHILLIPS, Mayor

ATTEST: _____
Lindsay Lara, City Clerk

Number of pages attached: 2

**ATTACHMENT A: RESPONSE OF THE CITY OF SAN RAFAEL TO GRAND JURY
REPORT “MARIN’S TELECOMMUNICATIONS DISCONNECT”**

RECOMMENDATIONS AND RESPONSES

R2: *The MTA’s franchise fee collection and disbursement responsibilities should be moved to the MGSA.*

Response: In concurrence with the Marin Telecommunications Agency Board of Directors, the City of San Rafael disagrees with this recommendation.

The City of San Rafael is a member of both the Marin Telecommunications Agency (MTA) and the Marin General Services Authority (MGSA). According to the MTA, these two joint powers authorities have engaged in discussions regarding the assumption by MGSA of MTA’s functions related to the collection and disbursement of franchise fees. More recently, in 2018, the MTA’s Executive Officer and MGSA’s Executive Director met to discuss possible arrangements and determined that incorporating the responsibilities of MTA into MGSA’s existing staffing and programmatic structure was not feasible. These conversations resulted in MTA retaining that function. Should the current franchise fee revenue stream decline, it may be advisable at some point to reevaluate the most cost-effective approach. However, at this time, the City recommends that the MTA retain its franchise fee collection and disbursement responsibilities.

R3. *MTA’s responsibilities for CMCM should be terminated.*

Response: In concurrence with the Marin Telecommunications Agency Board of Directors, the City of San Rafael disagrees with this recommendation.

The relationship between MTA and Community Media Center of Marin (CMCM) is built upon two foundations, which are as follows: the Designated Access Provider (DAP) contractual agreement between the MTA and CMCM; and Section 5780(b) of the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), which states the following: “The PEG channels shall be for the exclusive use of the local entity or its designee to provide public, educational, and governmental channels.” The MTA has entered into a contractual agreement with CMCM, a non-profit organization, to serve as the Designated Access Provider to control and manage the use of PEG access facilities and equipment. The provisions of this agreement include MTA’s ownership of the capital equipment that CMCM purchases using PEG funds to establish the broadcast and transmission capabilities at each city, town and the County. This agreement provides that CMCM shall manage the exclusive provision of public, education, and government channels. MTA oversight of the CMCM activities and expenditures are duties required to ensure compliance with state law and the Designated Access Provider (DAP) agreement. At this time, the City of San Rafael recommends that the MTA continue its responsibilities for CMCM.

R4: *The MTA should be dissolved.*

Response: In concurrence with the Marin Telecommunications Agency Board, the City of San Rafael disagrees with this recommendation.

The MTA is a joint powers authority that was formed in 1998 to provide participating agencies increased coordination with respect to franchising and regulating telecommunications services and to set policies that provide more effective and efficient telecommunications benefits to the community. On September 29, 2006, the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) was passed into law, which required that video franchises be issued by the California Public Utilities Commission, rather than local entities. The effect of DIVCA, and its later amendments, was to divest the MTA and its member jurisdictions (i.e., Marin County and its municipalities) of control over local telecommunications (including internet access), leaving it with specific authority only over cable TV franchise and PEG fees. Given this reduction in its responsibility, the MTA narrowed its mission statement in 2016 but still identified telecommunications as an area of continuing local concern, as follows:

Support availability, accessibility, affordability and public inclusion in the advancement and enhancement of telecommunications infrastructure and services in Marin on behalf of MTA's members and the community.

In alignment with their mission, the MTA has four Strategic Directions:

1. Continue to Perform Cable Franchise Administration, including, but not limited to, Provider Revenue Audits and Customer Service Assistance, and Other Administrative Functions.
2. Support and Oversee Public, Educational and Governmental (PEG) Access.
3. Provide Coordination, Policy Guidance and Advocacy Related to Telecommunications on Behalf of MTA's Members and the Community.
4. Support Broadband Infrastructure Expansion, Services, Affordability and Accessibility

The MTA Board of Directors is aware of the changing environment of the administration of telecommunications services at the local level, and has involved each of its member agencies, including the City of San Rafael, in discussions surrounding appropriate and responsible actions to accommodate those changes. If the MTA Board of Directors decides to reconsider its activities, it will conduct a detailed evaluation of its options, and make decisions based on its findings. As a member agency of the Marin Telecommunications Agency, the City of San Rafael will continue to be part of that evaluation, and will take action accordingly.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE THE CITY'S RESPONSE TO THE JUNE 13, 2019 MARIN COUNTY CIVIL GRAND JURY REPORT ENTITLED "MARIN'S TELECOMMUNICATIONS DISCONNECT"

WHEREAS, pursuant to Penal Code section 933, a public agency which receives a 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; and

WHEREAS, Penal Code section 933 specifically 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, the City Council of the City of San Rafael has received and reviewed the Marin County Grand Jury Report, dated June 13, 2019, entitled "Marin's Telecommunications Disconnect", and has added the discussion of this report to the August 19, 2019 City Council meeting agenda to consider the City's response.

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 June 13, 2019 report, entitled "Marin's Telecommunications Disconnect", a copy of which is attached hereto 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 and 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 2019, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk