



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Community Development Department

Paul A. Jensen

Prepared by: Paul A. Jensen, AICP [SK]
Community Development Director

City Manager Approval: *AS*

TOPIC: BIOMARIN DEVELOPMENT AGREEMENT

SUBJECT: RESOLUTION APPROVING THE FIRST ANNIVERSARY ANNUAL REPORT FOR THE EXECUTED DEVELOPMENT AGREEMENT (ORDINANCE 1982) BETWEEN BIOMARIN PHARMACEUTICAL AND THE CITY OF SAN RAFAEL FOR THE DEVELOPMENT OF AN EXPANDED SAN RAFAEL CORPORATE CENTER (750-790 LINDARO STREET AND 781-791 LINCOLN AVENUE AND 999 3RD STREET); CASE NO.: P21-007

RECOMMENDATION:

It is recommended that the City Council:

1. Open the public hearing and accept public testimony on the Annual Review Report;
2. Close the public hearing; and
3. Adopt resolution approving Annual Review Report (Attachment 1)

EXECUTIVE SUMMARY:

On [March 23, 2020](#), the City Council adopted Ordinance No. 1982 approving a Development Agreement (DA) between BioMarin Pharmaceutical (BioMarin) and the City of San Rafael. This DA permits the phased development and expansion of the San Rafael Corporate Center and the 999 3rd Street property with laboratory and research and development (R&D) buildings. The DA vests the land use and development entitlements/approvals for 10 years.

The procedures and requirements for reviewing and approving DAs are prescribed by City Resolution 6089. The procedures require periodic review to ensure that the project is proceeding in good faith and that the terms of the DA are being met. Ordinance No. 1982 specifically requires an annual review for this DA. This report presents the first anniversary annual review, and a public hearing is required to solicit comments on the Annual Review Report. BioMarin has submitted an Annual Report (Attachment 2) which demonstrates progress and compliance with the terms of the DA. A draft resolution has been prepared (see attached Attachment 1) outlining findings that support the approval of this Annual Review Report.

FOR CITY CLERK ONLY

File No.: _____

Council Meeting: _____

Disposition: _____

BACKGROUND:

In 2012, BioMarin purchased the San Rafael Corporate Center (SRCC), a 15.54-acre campus of office buildings located south of Second Street. Since the initial purchase, BioMarin has built-out the original campus of buildings (five office buildings and two parking garages) and now occupies the campus with corporate office, R&D, and laboratory uses. In 2015, BioMarin was granted entitlements to expand the SRCC campus to develop a sixth office/lab building on the surface parking lot west of Lindaro Street (755 Lindaro Street), and to expand the existing parking garage located east of Lincoln Avenue. This expansion has not been built.

In 2018, BioMarin purchased the three-acre site at 999 3rd Street, formerly owned and occupied by PG & E. This property, which also fronts on Lindaro Street and 2nd Street is contiguous to the SRCC. This three-acre site previously underwent a two-phased soils remediation project administered by both PG&E and BioMarin. The fully remediated site is now vacant and paved with asphalt.

BioMarin & Vivalon/EDEN Housing Development Approvals

On March 23, 2020, the City Council approved entitlements to redevelop the 999 3rd Street site and append this site to the SRCC for an expanded campus. BioMarin intends to develop the properties over a phased period to maintain its corporate campus and increase laboratory and research and development space. The City Council actions for this approval included the following:

- Certification of a Final Environmental Impact Report (FEIR).
- Expansion of the Planned Development (PD) zoning District adopted for the SRCC to encompass/incorporate the 999 3rd St. property. Within the expanded PD District, a General Plan Amendment was granted to allow for a new floor area ratio allowance (development intensity) to govern the expanded SRCC as one project site. The approvals also extended and incorporated the previously approved expansion of the SRCC campus, which, as noted above is the development of an office/lab building at 755 Lindaro Street and expanded parking garage.
- Approval of a Master Use Permit, Environmental and Design Review Permit, and Tentative Parcel Map. The Vesting Parcel Map divides the three-acre, 999 3rd Street into two parcels: a large parcel (116,680 square feet), and a small parcel (15,000 square feet) at the northwestern portion of the site.
- Approval of most of the 999 3rd Street site (large parcel reference above) for development of the expanded BioMarin campus with 207,000 sq. ft. of laboratory/research and development (R&D) and office space (split about equally between the two uses). This development is contained in two, 72-ft tall, four-story buildings. The ground floor is designed to provide amenities to support the BioMarin campus, which may include lobbies; an auditorium; conference rooms; a small café; and dining space. A useable roof top deck (above the ground floor between the two buildings) is proposed for employee use as noted in the concept drawing package.
- Approval of a senior center and senior housing on northwest portion of the property (15,000 square foot small parcel reference above) was allocated to Vivalon (formerly Whistlestop) and EDEN Housing was approved for development of a six-story building for a new senior center and senior housing (67 low-income rental units). The expanded PD District does not apply to this parcel.
- Approval of a Development Agreement (DA) (adopted on April 6, 2020) to vest the approvals for an extended period of time (10 years). The DA freezes the City's development fees at the current fee schedule rates in exchange for BioMarin providing certain public benefits (discussed below). The DA is applicable to the expanded BioMarin campus development only. Vivalon and EDEN Housing are not party to this DA, so the vesting does not apply to the senior center and senior housing.

A complete and detailed Background and Project Description discussion can be found in the [January 28, 2020 Planning Commission staff report](#) and the [March 23, 2020 City Council staff report](#). The Planning Commission and City Council meetings can also be viewed on the Meeting Agendas & Videos page, online at: <http://www.cityofsanrafael.org/meetings>. Referenced application material exhibits are also included within FEIR attachments, also online at: <https://www.cityofsanrafael.org/999-3rd>.

Terms of the Development Agreement

The DA affords the City and the developer (BioMarin) the opportunity to negotiate terms and conditions, as well as public benefits, in exchange for the 10-year vesting of the project approvals. The executed DA, which can be accessed [here](#) includes the following list of the public benefits, as well as other obligations and requirements:

1. Northwestern Portion Donation. BioMarin is required to donate the 15,000 square foot northwestern parcel on the 999 3rd Street site to Vivalon (formerly Whistlestop). The donation is part of a land exchange through which the delta in value of the exchanged properties, as of a June 2018 appraisal, results in a \$1,200,000 donation.
2. Remediation. For the benefit of development of a healthy aging campus and affordable senior housing, BioMarin is required to complete the second phase of the soil remediation for the 999 3rd Street Property by performing an investigation and cleanup under the State Department of Toxic Substance Control (DTSC) Voluntary Cleanup Program. BioMarin is responsible to fund this remediation (\$2,000,000). The total remediation costs for the entire three-acre site are over \$16,000,000.
3. Retail Space. BioMarin agreed to provide 3,500 square feet of retail space on a portion of the 999 3rd Street property (the actual layout and location of such space to be determined by BioMarin). The retail space is required to be open to the public during BioMarin's business hours (from 9 a.m. to 5:00 p.m.).
4. Public Plaza. BioMarin agreed to provide an approximately 6,000 square feet of landscaped plaza "Front Porch" located at the corner of 3rd Street and Lindaro Street (the actual layout of such plaza to be determined by BioMarin). This plaza is required to be open to the public from dawn to dusk.
5. Striping for Bike Lane. BioMarin is required to add striping for Class II Bike lane on Lindaro Street from 3rd Street to Andersen Drive or up to one mile of an equivalent section of roadway in San Rafael that is determined by the City to meet the City's Bicycle & Pedestrian Master Plan.
6. Restriping for Pedestrian Safety. BioMarin is required to improve pedestrian safety with restriping at the corner of Lindaro Street and 3rd Street.
7. Contribution for Traffic Light Synchronization. BioMarin is required to contribute \$500,000 to the City towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as reasonably determined by the City. This obligation may be payable in full at the first anniversary of the Effective Date, or \$125,000 each year for four (4) years (commencing on the first anniversary of the Effective Date and continuing for the next three (3) anniversaries of the Effective Date), at the option and sole discretion of BioMarin.
8. Contribution for Shuttle Service. BioMarin is required to contribute \$400,000 to the City for purposes of implementing a first mile/last mile shuttle service or for other

traffic/circulation/parking improvement measures as reasonably determined by the City. This obligation shall be payable in increments of \$100,000 each year for four (4) years (commencing on the first anniversary of the Effective Date and continuing for the next three (3) anniversaries of the Effective Date).

9. City's Use for Public Parking and Ancillary Uses. Upon the effective date of the DA and until BioMarin submits any construction related permit (grading, building, etc.) for either Building A or B, BioMarin is required to allow the City to utilize up to 70% of the surface area of the 999 3rd Street property (the exact layout to be reasonably negotiated and agreed to by the parties so as to maximize the utility of the portion to be used by the City and the remaining portion) for public parking and ancillary uses (such as food truck market, etc.) until such time as commencement of construction activities for either building on this property.
10. Donation of Lease to Vivalon. Upon BioMarin's acquisition of the Vivalon property at 648 Lindaro Avenue (land exchanged referenced above), BioMarin is required to donate to Vivalon a leaseback of 930 Tamalpais Avenue for three (3) years, valued at approximately \$256,000 as of May 2019.

Additional Obligations. BioMarin agreed to the following additional obligations if certain timing milestones in the DA are not met:

- If construction on the 999 3rd Street property has not commenced by the sixth (6th) anniversary of the effective date of this DA, then BioMarin is required to construct the Class II Bike lane along Lindaro Street from 3rd Street to Andersen Drive (Item # 5 Above) and required improvements to the 2nd Street and Lindaro Street intersection; and
- If construction of the second building at the 999 3rd Street property has not commenced by the eighth (8th) anniversary of the effective date of the DA, then the vesting of the entitlements for the SRCC expansion (approved office/lab building at 755 Lindaro Street) shall expire.

Continuing Obligations Relating to the Original SRCC Development Agreement. The 1998 DA executed for the SRCC campus (initially executed between Fair Isaac and the City of San Rafael) included the following ongoing obligations (in perpetuity), which were carried over into the current DA between the City and BioMarin:

1. Public Parking on Nights and Weekends. The Project shall continue to make available to the public parking on the western SRCC surface parking lot and garage (west of Lindaro Street) during evening and weekend hours.
2. Park Area. The Project shall continue to provide the publicly accessible park located along the south side of the SRCC campus (south of and between Building A at 750 Lindaro Street and Building B at 781 Lincoln Avenue). This park area shall open to the public from dawn to dusk. The public's use of the park area shall be subject the Reservation Rules and Policies on file with the City.
3. Conference Facility. The Project will continue to offer an after-business-hours publicly accessible, interior conference facility consisting of 2,500 square feet. At the sole option of BioMarin, this facility may be relocated from the current location on the SRCC property to a location within the 999 3rd Street property that provides substantially equivalent amenities and space, as determined upon the completion of the retail and plaza portions of the R&D Development Property. The public's use of the Conference Facility shall be subject to the

scheduling, fee, priority use and rules, regulations and guidelines provisions set forth in the Reservation Rules and Policies on file with the City.

Annual Reporting. Upon the City's request, BioMarin is required to report to the City, no more frequently than once per calendar year, on the status of its development plans related to the DA.

ANALYSIS:

Annual Report on Development Agreement

Per City Resolution No. 6089, periodic review is required to ensure that the project is proceeding in good faith and that the terms of the DA are being met. Per the terms of the DA, BioMarin has submitted an Annual Report (Attachment 2), which represents the first-year anniversary status of the project. While the Annual Report states that there are no updates on the start of the project construction, it reports on the status of the DA terms and obligations. The following is the status of the key terms and obligations (listed above) that are pertinent to this first anniversary annual review:

- Northwestern Portion Donation (Item #1). On September 14, 2020, BioMarin and Vivalon negotiated and executed a Charitable Contribution and Exchange Agreement to effectuate BioMarin's donation of the northwestern, 15,000 square foot portion of the 999 3rd Street site. It is expected that this agreement will close in early May 2021. The closing date is contingent upon: 1) the recently completed site certification for remediation by DTSC; and 2) approval and recordation of the Final Parcel Map (creating the parcel).
- Remediation (Item #2). BioMarin has completed the remediation of the western portion of the 999 3rd Street property. Final site certification for the completed remediation (for the entire three-acre site) was provided by DTSC on March 24, 2021.
- Contribution for Traffic Light Synchronization (Item #7). BioMarin has submitted a check to the City in the amount of \$125,000 for the traffic light synchronization. This is the first of four annual payments to the City for a total contribution of \$500,000.
- Contribution to Shuttle Service (Item #8). BioMarin has submitted a check to the City in the amount of \$100,000 as a contribution to a future shuttle service. This is the first of four annual payments to the City for a total contribution of \$400,000.
- City's Use for Public Parking and Ancillary Uses (Item #9). The City and BioMarin have been working to complete a license agreement for the City's temporary use of 70% of 999 3rd Street property. A draft license agreement is completed, which identifies the footprint of the temporary use area (eastern portion of the site), public parking details and specified temporary uses. Vivalon/EDEN Housing needs a construction staging area near their project site. City staff and BioMarin are discussing the inclusion of a construction staging use in the license agreement, which may result in some adjustments to the allowable use footprint. It is expected that the agreement will be completed and executed this month.

BioMarin has demonstrated good faith in meeting the terms and obligations of the DA. As required by Resolution No. 6089, a resolution has been prepared (Attachment 1) for City Council adoption, which confirms compliance with the terms and obligations of the DA for this first anniversary annual review.

Status of Vivalon/EDEN Housing Senior Center and Senior Housing

As discussed above, the Vivalon/EDEN Housing Senior Center and Senior Housing project was entitled concurrent with the BioMarin project approvals. However, Vivalon/EDEN Housing is not party to the

DA. This project is progressing through the City building permit process and initial construction phase. It is expected that construction will commence this summer.

Environmental Review

As discussed above, the BioMarin and Vivalon/EDEN Housing development projects were subject to environmental review and a Final Environmental Impact Report was prepared and certified. As required by State law (California Environmental Quality Act), action on the annual review of the Development Agreement must be reviewed to determine if it is subject to environmental review. As the Annual Review is an informational report, it will have no physical impact on the environment, and is therefore exempt from environmental review per CEQA Guidelines under 14 CRR Section 15061(b).

PUBLIC NOTICING AND OUTREACH:

Notice of this public hearing has been conducted in accordance with the City's noticing requirements. A Notice of Public Hearing was mailed to all property owners and occupants within a 300-foot radius of the project site, the appropriate neighborhood groups (Federation of San Rafael Neighborhoods and the Gerstle Park Neighborhood), and all other interested parties, 15 calendar days prior to the date of this meeting. Public notice was also posted on the project site (Exhibit 3).

FISCAL IMPACT:

This project is a private development and does not have a negative impact on the City budget given that the planning review and processing of these applications are subject to 100% cost recovery fees, paid for by the applicant.

As discussed above, the DA for the project will be subject to the City's development fees but the required fees and fee amounts are locked-in at the time the DA is executed. In exchange for the vesting of the fees, the DA obligates BioMarin to other financial contributions to the City which are discussed above.

OPTIONS:

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

1. Adopt Resolution to approve the Annual Report as recommended by staff;
2. Adopt Resolution with modifications; or
3. Continue the public hearing and require additional information, study, or analysis.

ATTACHMENTS:

1. Draft City Council resolution approving the Annual Review Report for the approved Development Agreement with BioMarin
2. BioMarin Annual Report, April 5, 2021
3. City Council Public Hearing Notice

ATTACHMENT 1

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING THE FIRST ANNIVERSARY ANNUAL REPORT FOR THE EXECUTED DEVELOPMENT AGREEMENT (ORDINANCE 1982) BETWEEN BIOMARIN PHARMACEUTICAL AND THE CITY OF SAN RAFAEL FOR THE DEVELOPMENT OF AN EXPANDED SAN RAFAEL CORPORATE CENTER (750-790 LINDARO STREET AND 781-791 LINCOLN AVENUE AND 999 3rd STREET) CASE NO. P21-007 (APN'S: 011-265-01, 013-012-38 AND -39 AND 013-021-50, -51, -52 -53, -54, -55)

WHEREAS, on October 10, 2018, BioMarin Pharmaceutical (BioMarin), in conjunction with Vivalon (formerly Whistlestop)/EDEN Housing, submitted planning applications to the City of San Rafael Community Development Department for the development of the three-acre parcel located at 999 3rd Street (former PG &E property). The planning applications included: a) a General Plan Amendment (GPA18-001) and Zoning Text Amendment (ZO18-003); b) an amendment to the Planned Development (PD) District Amendment (ZC18-002); c) a Master Use Permit (UP18-034); d) an Environmental and Design Review Permit (ED18-087); e) a Development Agreement (DA19-001); f) a Small Subdivision/Tentative Parcel Map (S18-001); and g) and a Sign Program Amendment (SP18-006). These applications presented the development of two projects: BioMarin's proposal to build two, 72-foot tall, four-story laboratory/research and development buildings, totaling 207,000 sq. ft. on a 115,680 square foot portion of this site; and the Vivalon/EDEN Housing proposal to build a 67-unit, 70-foot tall, six-story senior center and affordable senior housing building on a 15,000 square foot portion of this; and

WHEREAS, the BioMarin applications included a request to incorporate its laboratory/research and development portion of the project into the existing, contiguous 15.5-acre San Rafael Corporate Center (SRCC) campus located south of 2nd Street. The application for the PD District amendment Z18-002 (referenced above) proposed to extend this District to include this 115,680 square foot portion of the 999 3rd Street site. The expanded SRCC campus would total 18 acres; and

WHEREAS, the Development Agreement DA19-001 application filed by BioMarin requested a 10-year time frame for buildout of the expanded campus approvals, which would freeze the development application and impact fees for this 10-year period. In exchange for this vested time period, BioMarin offered the City a series of public benefits as consideration for the Development Agreement. Vivalon/EDEN Housing was not party to this Development Agreement request; and

WHEREAS, a Development Agreement was drafted to incorporate the proposed terms and obligations for both parties. Further, it was processed in accordance with the requirements set forth in City Council Resolution No. 6089, which establishes the City's rules and regulations for the consideration of Development Agreements; and

WHEREAS, on March 23, 2020, through the adoption of ordinances and resolutions, the San Rafael City Council certified a Final Environmental Impact Report (FEIR) and approved the collective planning applications. This action included the approval of a Development Agreement through adoption of Ordinance No. 1982; and

WHEREAS, on April 13, 2020 the Development Agreement was executed; and

ATTACHMENT 1

WHEREAS, the procedures and requirements for reviewing and approving Development Agreements are prescribed by City Council Resolution No. 6089. As the Development Agreement vests entitlement approvals for up to 10 years, the procedures require periodic review to ensure that the project is proceeding in good faith and that the terms of the Development Agreement are being met. Ordinance 1982 specifically requires an annual review of this Development Agreement through the 10-year term; and

WHEREAS, in April 2021, BioMarin submitted the first anniversary Annual Report (dated April 5, 2021), which provides information on the status of the project and compliance with the terms and obligations of the Development Agreement; and

WHEREAS, pursuant to Resolution No. 6089, on May 3, 2021, the City Council held a duly noticed public hearing to review the Development Agreement Annual Review Report prepared by the Community Development Department and considered all oral and written public testimony; and

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

WHEREAS, pursuant to Resolution No. 6089, the City Council finds and determines based on substantial evidence presented in the Annual Review Report that the BioMarin, developer has complied in good faith with the terms and the conditions of the Development Agreement during this first anniversary period of review.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of San Rafael does hereby approve the BioMarin Development Agreement Annual Review Report dated May 3, 2021.

I, LINDSAY LARA, the Clerk of the City of San Rafael hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on Monday, the 3rd day of May 2021, by the following vote to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

LINDSAY LARA, City Clerk



BioMarin Annual Report

Obligations Relating to the R&D Development Property

April 5, 2021



BioMarin Annual Report

Obligations Relating to the R&D Development Property

April 5, 2021

As required by the Development Agreement (“DA”), BioMarin is pleased to submit this annual report to provide an update on the current status of the new projects and compliance with the DA’s terms and obligations, due on the first anniversary of the Effective Date. While there are no updates on the start of construction of new R&D projects, the following addresses compliance with the obligations to date.

Northwestern Portion Donation. Developer shall donate the Northwestern Portion to Whistlestop as part of a land swap through which the delta in value of the swapped properties, as of a June 2018 appraisal, results in a One Million Two Hundred Thousand Dollars (\$1,200,000) donation. Developer shall donate the Northwestern Portion in its then current as-is condition, for development of a healthy aging campus and affordable senior housing.

BioMarin and Vivalon (previously Whistlestop) negotiated and executed a Charitable Contribution and Exchange Agreement on September 14, 2020 to effectuate BioMarin’s donation of the northwest portion of the property for the benefit of development of a healthy aging campus and affordable senior housing. We expect to close on this agreement in early May 2021, as the closing date is contingent upon the recently completed site certification from DTSC and the parcel separation approval by the City of San Rafael. Parcel separation application and maps were submitted to the City of San Rafael in January 2021 in preparation for this donation.

Remediation. For the benefit of development of a healthy aging campus and affordable senior housing, Developer shall complete the second phase of the soil remediation for the 999 3rd Street Property by performing an investigation and cleanup under the DTSC’s Voluntary Cleanup Program. Developer shall complete such second phase of remediation prior to commencement of construction and development activities for the R&D Development Property, resulting in out-of-pocket costs for Developer of over Two Million Dollars (\$2,000,000) and total remediation costs of over Sixteen Million Dollars (\$16,000,000).

BioMarin completed the remediation of the west portion of the property and received DTSC’s final site certification for the entire property on March 24, 2021.

Retail Space: Developer agrees that a portion of the R&D Development Property consisting of approximately 3,500 square feet of retail space (the actual layout and location of such space to be determined by Developer) (the “Retail Space”) shall be open to the public during Developer’s business hours (from 9 a.m. to 5:00 p.m.). This obligation shall commence upon the issuance of the certificate of occupancy for the Retail Space and when the Retail Space is open for business and continue until such time as the Retail Space is vacant because a tenant cannot be found despite commercially reasonable efforts to market the space at a commercially reasonable rent for three years.

This obligation will commence upon the issuance of the certificate of occupancy for retail space.



Public Plaza: Developer agrees to provide an approximately 6,000 square feet of landscaped plaza “Front Porch” located at the corner of 3rd Street and Lindaro Street (the actual layout of such plaza to be determined by Developer) that will be open to the public from dawn to dusk. This obligation shall commence upon the issuance of the certificate of occupancy for such plaza.

This obligation will commence upon the issuance of the certificate of occupancy for retail space.

Striping for Bike Lane: Developer shall add striping for Class II Bike lane on Lindaro Street from 3rd Street to Anderson Drive or up to one mile of an equivalent section of roadway in San Rafael that is determined by the City to meet the City’s Bicycle & Pedestrian Plan. This obligation shall be required at the time of the issuance of the first certificate of occupancy for either Building A or B, unless otherwise required by Section 4.11.1.

This obligation will commence upon issuance of the certificate of occupancy for either building A or B.

Contribution for Traffic Light Synchronization: Developer shall contribute \$500,000 to the City towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as reasonably determined by the City. This obligation may be payable in full at the first anniversary of the Effective Date, or \$125,000 each year for four (4) years (commencing on the first anniversary of the Effective Date and continuing for the next three (3) anniversaries of the Effective Date), at the option of Developer, in Developer’s sole discretion. In exchange for this \$500,000 contribution and in light of significant concerns about pedestrian safety and the fact that a parallel public path already exists, the City is eliminating a prior requirement that the Lindaro and Parking Expansion Project develop and maintain a trail along the backside of the Lincoln Avenue garage which is along southern edge of the campus abutting Mahon Creek.

BioMarin submitted a check in the amount of \$125,000 to the City of San Rafael in April 2021 as contribution towards the synchronization of traffic lights along the 2nd and 3rd Street corridors to improve traffic flow or for other traffic/circulation/parking improvement measures as reasonably determined by the City. This is the first of 4 annual payments for a total of \$500,000.

Contribution for Shuttle Service: Developer shall contribute \$400,000 to the City for purposes of implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as reasonably determined by the City. This obligation shall be payable in increments of \$100,000 each year for four (4) years (commencing on the first anniversary of the Effective Date and continuing for the next three (3) anniversaries of the Effective Date).

BioMarin submitted a check in the amount of \$100,000 to the City of San Rafael in April 2021. This contribution is to support the City of San Rafael implementing a first mile/last mile shuttle service or for other traffic/circulation/parking improvement measures as reasonably determined by the City. This is the first of 4 annual payments for a total of \$400,000.



City's Use for Public Parking and Ancillary Uses. As of the Effective Date of this Agreement and until Developer submits any construction related permit (grading, building, etc.) for either Building A or B, the Developer shall allow the City to utilize up to 70% of the surface area of the R&D Development Property (the exact layout to be reasonably negotiated and agreed to by the parties so as to maximize the utility of the portion to be used by the City and the remaining portion) for public parking and ancillary uses (such as food truck market, etc.) (the "Temporary Public Parking Parcel") until such time as commencement of construction activities for either building on the R&D Development Property. City shall be financially and legally responsible for (i) any improvements or modifications to the R&D Development Property that

BioMarin negotiated a license agreement for temporary public parking and ancillary uses as noted above with San Rafael Assistant City Attorney, Lisa Goldfien. BioMarin submitted the final draft of this agreement in September 2020 and it is pending the San Rafael Department of Public Works' review and approval.

**CITY OF SAN RAFAEL
NOTICE OF PUBLIC HEARING**

Notice is hereby given that the San Rafael City Council will hold a public hearing on the following project:

- MEETING DATE/TIME/LOCATION:** **Monday, May 3, 2021 7:00 p.m. COVID-19 ADVISORY NOTICE**
Consistent with Executive Orders No.-25-20 and No. N-29-20 from the Executive Department of the State of California and the Marin County March 16, 2020 Shelter in Place Order, the San Rafael City Council meeting of May 3, 2021 will not be physically open to the public and the meeting will be streamed live to YouTube at <https://www.youtube.com/cityofsanrafael> and through Zoom. Instructions on how to participate online, will be available on the YouTube channel.
- PROJECT DESCRIPTION:** **ANNUAL REVIEW OF BIOMARIN DEVELOPMENT AGREEMENT – 999 3RD STREET, 750-790 LINDARO STREET, & 781-791 LINCOLN AVE –**
On April 6, 2020, the San Rafael City Council adopted Ordinance 1982 approving a Development Agreement between BioMarin Pharmaceutical and the City of San Rafael. This Development Agreement permits the phased development and expansion of the San Rafael Corporate Center and the 999 3rd Street property with laboratory/research and development buildings, vesting these approvals for 10 years. Per City Resolution 6089, annual review of the Development Agreement is required through the term of this Agreement. The City Council will receive the first anniversary annual review report and will conduct a public hearing to solicit comments on the annual review report. File No.: P21-007.
As required by State law (California Environmental Quality Act), review and action on the Annual Review of the Development Agreement must be reviewed to determine if it is subject to environmental review. As the Annual Review is an informational report, it will have no physical impact on the environment, and is therefore exempt from environmental review per CEQA Guidelines under 14 CRR Section 15061(b).
- WHAT WILL HAPPEN:** You may comment on the annual review of the Development Agreement online. The City Council will consider public comment/testimony and decide whether to accept the annual review report.
- IF YOU CANNOT PARTICIPATE:** You may send a letter to Lindsay Lara, City Clerk by email to Lindsay.Lara@cityofsanrafael.org.
- FOR MORE INFORMATION:** Contact Sean Kennings, Project Planner at (415) 533-2111 or sean@lakassociates.com. **The Community Development Department is open to public walk-in service on Tuesday and Thursday mornings from 8:30am-12:30pm only. For more information, you can contact the project planner.** You can also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>.

SAN RAFAEL CITY COUNCIL

/s/ Lindsay Lara
Lindsay Lara
CITY CLERK