



## AGENDA

SAN RAFAEL CITY COUNCIL – MONDAY, NOVEMBER 1, 2021

REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2021-11-01>

Watch on YouTube: [www.youtube.com/cityofsanrafael](http://www.youtube.com/cityofsanrafael)

Listen by phone: (669) 900-9128

ID: 817-3692-0337#

### **CORONAVIRUS (COVID-19) ADVISORY NOTICE**

In response to Executive Order N-29-20, the City of San Rafael will no longer offer an in-person meeting location for the public to attend. This meeting will be held virtually using Zoom and is being streamed to YouTube at [www.youtube.com/cityofsanrafael](http://www.youtube.com/cityofsanrafael).

How to participate in the meeting:

- Submit public comment in writing before 4:00 p.m. the day of the meeting to [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org).
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
- Dial-in to Zoom's telephone number using the meeting ID and provide verbal public comment.

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

### **OPEN SESSION - (669) 900-9128 ID: 895-5623-2853# - 6:15 P.M.**

1. Mayor Kate to announce Closed Session items.

### **CLOSED SESSION**

2. Closed Session:

- a. Conference with Legal Counsel  
Existing Litigation – Government Code section 54946,9(d)(a)  
Arnold-Ince v. City of San Rafael, Marin Superior Court No. CIV 2000926

### **OPEN TIME FOR PUBLIC EXPRESSION**

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

### **CITY MANAGER'S REPORT:**

3. City Manager's Report:

### **COUNCILMEMBER REPORTS:**

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

4. Councilmember Reports:

## **CONSENT CALENDAR:**

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

### 5. Consent Calendar Items:

#### a. **Approval of Minutes**

Approve Minutes of City Council / Successor Agency Regular Meeting of Monday, October 18, 2021 (CC)

*Recommended Action - Approve minutes as submitted*

#### b. **Use of Teleconferencing for Public Meetings During State of Emergency**

Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for Continued Use of Teleconferencing to Hold Public Meetings of the San Rafael City Council and City Boards and Commissions During the Continuing State of Emergency Relating to the COVID-19 Pandemic (CA)

*Recommended Action - Adopt Resolution*

#### c. **Northgate Mall Redevelopment Project Environmental Consulting Services**

Resolution Approving and Authorizing the City Manager to Execute an Agreement for Professional Services with LSA Associates, Inc. for Environmental Consulting Services for the Northgate Mall Redevelopment Project in an Amount Not to Exceed \$260,350 (CD)

*Recommended Action - Adopt Resolution*

#### d. **Agreement for Project Specific and On-Call Planning Consulting Services**

Resolution Approving and Authorizing the City Manager to Execute an Agreement for Professional Services with MIG, Inc. for Project Specific and On-Call Contract Planning and Environmental Consulting Services in an Amount Not to Exceed \$217,000 (CD)

*Recommended Action - Adopt Resolution*

#### e. **Information Technology Services Agreement Renewal**

Resolution Authorizing the City Manager to Execute a General Service Agreement with Addendum with Xantrion, Inc., for Information Technology Services from November 1, 2021 Through October 31, 2022 In An Amount Not to Exceed \$1,027,260 (DS)

*Recommended Action - Adopt Resolution*

#### f. **Agreement to Participate in Emergency Medical Service/Ambulance Transport Service Cost Recovery Program**

Resolution Authorizing the City Manager to Execute an Agreement to Allow the San Rafael Fire Department to Participate in an Intergovernmental Transfer with The California Department of Health Care Services (DHCS) In Order to Increase the Department's Reimbursement for Emergency Medical Service Ambulance Transport Services for the Service Period of January 1, 2021 Through December 31, 2021 (FD)

*Recommended Action - Adopt Resolution*

## **SPECIAL PRESENTATIONS**

### 6. Special Presentations:

- a. Presentation of Proclamation Supporting United Against Hate Week and Support for Not In Our Town (CM)
- b. Presentation by Marin County on Furthering Fair Housing (CD)
- c. Presentation by Caltrans on Proposed Roundabout at Freitas Parkway Off-Ramp (PW)

## **OTHER AGENDA ITEMS**

### 7. Other Agenda Items:

- a. **Notice of Funding Availability for Affordable Housing**  
Informational Report on the Status and Scope of City of San Rafael Notice of Funding Availability (CD)  
*Recommended Action – Accept report*
- b. **Approval of the Memorandum of Understanding with SEIU Local 1021 Child Care**  
Resolution Approving a Memorandum of Understanding Pertaining to Compensation and Working Conditions for SEIU Local 1021 Child Care (November 1, 2021 Through October 31, 2024) (HR)  
*Recommended Action – Adopt Resolution*

## **SAN RAFAEL SUCCESSOR AGENCY:**

1. Consent Calendar: - None.

## **ADJOURNMENT:**

*Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection online. Sign Language interpreters may be requested by calling (415) 485-3066 (voice), emailing [Lindsay.lara@cityofsanrafael.org](mailto: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.*



## MINUTES

SAN RAFAEL CITY COUNCIL – MONDAY, OCTOBER 18, 2021

REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2021-10-18>

Watch on YouTube: [www.youtube.com/cityofsanrafael](http://www.youtube.com/cityofsanrafael)

Listen by phone: (669) 900-9128

ID: 899-2635-9885#

### **CORONAVIRUS (COVID-19) ADVISORY NOTICE**

In response to Executive Order N-29-20, the City of San Rafael will no longer offer an in-person meeting location for the public to attend. This meeting will be held virtually using Zoom and is being streamed to YouTube at [www.youtube.com/cityofsanrafael](http://www.youtube.com/cityofsanrafael).

How to participate in the meeting:

- Submit public comment in writing before 4:00 p.m. the day of the meeting to [city.clerk@cityofsanrafael.org](mailto:city.clerk@cityofsanrafael.org).
- Join the Zoom webinar and use the 'raise hand' feature to provide verbal public comment.
- Dial-in to Zoom's telephone number using the meeting ID and provide verbal public comment.

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

Present: Mayor Kate  
Vice Mayor Bushey  
Councilmember Hill  
Councilmember Kertz

Absent: Councilmember Llorens Gulati

Also Present: City Manager Jim Schutz  
City Attorney Robert Epstein  
City Clerk Lindsay Lara

### **OPEN SESSION - (669) 900-9128 ID: 884-5199-9092# - 6:15 P.M.**

1. Mayor Kate to announce Closed Session items.

Councilmember Hill recused himself and left the Closed Session at 6:17 p.m. He returned at the start of the regular meeting at 7:01 p.m.

### **CLOSED SESSION**

2. Closed Session:

- a. Conference with Legal Counsel  
Anticipated Litigation (Government Code Section 54956.9(d)(4))  
Number of Potential Cases: One

Mayor Kate called the meeting to order at 7:01 p.m. and invited City Clerk Lindsay Lara to call the roll. All members of the City Council were present, except for Councilmember Llorens Gulati.

City Attorney Robert Epstein announced that no reportable action was taken in the Closed Session held prior to the meeting.

Mayor Kate provided opening remarks, which included the recent rain, a water conservation reminder, Halloween trick-or-treating downtown this Saturday 1-3 p.m. and a land acknowledgment.

City Clerk Lindsay Lara informed the community that the meeting would be recorded and streamed live to YouTube and through Zoom and members of the public would provide public comment either on the telephone or through Zoom. She explained the process for community participation on the telephone or through Zoom.

### **OPEN TIME FOR PUBLIC EXPRESSION**

- Susan W., addressed the City Council regarding a recent Planning Commission assisted living development resolution adoption.

### **CITY MANAGER'S REPORT:**

#### **3. City Manager's Report:**

City Manager Jim Schutz announced:

- Caltrans closure of the US 101 northbound Central San Rafael off-ramp due to the replacement of the Caltrans bridge construction from Friday, October 22 at 10 p.m. through Monday, October 25 at 5 a.m.
- Halloween trick-or-treating downtown Saturday from 1-3 p.m., Día de los Muertos alters in store fronts and Day of the Dead car parade starting at 3 p.m.
- Feedback survey on the County's proposed reusable food ware Ordinance
- The passing of City employee Ann Bauer

### **COUNCILMEMBER REPORTS:**

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

#### **4. Councilmember Reports:**

- Councilmember Bushey reported on Central Marin Sanitation Agency and Loch Lomond Marina Oversight Committee meetings.
- Councilmember Hill reported on City/School Liaison Committee and Priority Setting Committee meetings.
- Councilmember Kertz reported on MCCMC Homeless, Homeless Policy Steering Committee and upcoming Marin Wildfire Prevention Authority meetings.

[6.a Presentation of Funding for the Library by Assemblymember Levine \(LR\)](#) was advanced on the Agenda and heard at this time.

### **CONSENT CALENDAR:**

Mayor Kate held item 5.e from the Consent Calendar.

Mayor Kate invited public comment; however, there was none.

Councilmember Bushey moved and Councilmember Kertz seconded to approve the Consent Calendar, excluding item 5.e.

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

5. Consent Calendar Items:

- a. **Approval of Minutes**  
**Approve Minutes of City Council / Successor Agency Regular Meeting of Monday, October 4, 2021 (CC)**  
*Approved minutes as submitted*
- b. **Special Library Parcel Tax Oversight Committee Appointments**  
**Approve Reappointment of Phyllis Brinckerhoff and Appointment of Braydan Young to the Special Library Parcel Tax Oversight Committee to the End of July 2025 Due to the Expiration of Terms of Phyllis Brinckerhoff and Peter Lee (CC)**  
*Approved appointments*
- c. **Use of Teleconferencing for Public Meetings During State of Emergency**  
**Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for Continued Use of Teleconferencing to Hold Public Meetings of the San Rafael City Council and City Boards and Commissions During the Continuing State of Emergency Relating to the COVID-19 Pandemic (CA)**  
*Resolution 14984 - Resolution Pursuant to Assembly Bill 361 Making Findings and Confirming the Need for Continued Use of Teleconferencing to Hold Public Meetings of the San Rafael City Council and City Boards and Commissions During the Continuing State of Emergency Relating to the COVID-19 Pandemic*
- d. **B Street Culvert Replacement Project**  
**Resolution Awarding and Authorizing the City Manager to Execute a Construction Agreement for B Street Culvert Replacement Project, City Project No. 11380 to Maggiora & Ghilotti, Inc. in the Amount of \$273,273 and Authorizing Contingency Funds in the Amount of \$46,727 for a Total Appropriated Amount of \$320,000 (PW)**  
*Resolution 14985 - Resolution Awarding and Authorizing the City Manager to Execute a Construction Agreement for B Street Culvert Replacement Project, City Project No. 11380 to Maggiora & Ghilotti, Inc. in the Amount of \$273,273 and Authorizing Contingency Funds in the Amount of \$46,727 for a Total Appropriated Amount of \$320,000*
- e. **[Consultant Services for Canal Community-Based Transportation Plan](#)**  
**Resolution Approving and Authorizing the City Manager to Execute an Agreement for Professional Services with Fehr & Peers for the Preparation of the Canal Community-Based Transportation Plan (CBTP) in an Amount Not to Exceed \$79,750 and a Funding Agreement with Transportation Authority of Marin ("TAM") in an Amount Not to Exceed \$66,230 (PW)**

This item was held from the Consent Calendar

Bill Guerin, Public Works Director provided comments.

Councilmember Kertz moved and Councilmember Hill seconded to approve item 5.e on the Consent Calendar.

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

*Resolution 14987 - Resolution Approving and Authorizing the City Manager to Execute an Agreement for Professional Services with Fehr & Peers for the Preparation of the Canal Community-Based Transportation Plan (CBTP) in an Amount Not to Exceed \$79,750 and a Funding Agreement with Transportation Authority of Marin ("TAM") in an Amount Not to Exceed \$66,230*

- f. **City Quarterly Investment Report**  
**Acceptance of City of San Rafael Quarterly Investment Report for the Quarter Ending September 30, 2021 (Fin)**  
*Accepted report*
  
- g. **Continuing City Loans from Centertown Project at 855 C Street**  
**Resolution Agreeing to Accept a New \$909,876 Promissory Note from Centertown II, LP, Representing the Remaining Obligations Under Two Outstanding Promissory Notes from Centertown Associates, Ltd., and Related Matters (ED)**  
*Resolution 14986 - Resolution Agreeing to Accept a New \$909,876 Promissory Note from Centertown II, LP, Representing the Remaining Obligations Under Two Outstanding Promissory Notes from Centertown Associates, Ltd., and Related Matters*

#### **SPECIAL PRESENTATIONS**

##### 6. Special Presentations:

- a. [Presentation of Funding for the Library by Assemblymember Levine \(LR\)](#)

This item was advanced on the agenda and heard before the Consent Calendar.

Assemblymember Marc Levine provided comments.

Mayor Kate displayed the check from the State and provided comments.

Mayor Kate invited public comment; however, there was none.

- b. [Presentation of Beacon Award by the Institute for Local Government \(CM\)](#)

Nikita Sinha, Institute of Local Government gave a presentation.

Mayor Kate displayed the plaque from the Institute and provided comments.

Mayor Kate invited public comment.

**Speaker:** Bill Carney, Sustainable San Rafael

#### **PUBLIC HEARINGS**

##### 7. Public Hearings:

- a. [Urgency Ordinance Regarding Accessory Dwelling Units](#)

**An Urgency Ordinance of the City Council of the City of San Rafael Establishing a Temporary Moratorium on Accessory Dwelling Units and Junior Accessory Dwelling Units on Properties Accessed Solely from Certain Hillside Streets Within City of San Rafael, and Declaring the Urgency Thereof (CD)**

Ali Giudice, Community Development Director introduced Jacob Noonan, Housing Program Manager who presented the Staff Report.  
Staff responded to questions from Councilmembers.

Mayor Kate invited public comment.

**Speakers:** Victoria DeWitt, John Reynolds

Councilmembers provided comments.

Councilmember Hill moved and Councilmember Bushey seconded to adopt the urgency ordinance.

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

*Adopted Urgency Ordinance 2001 - An Urgency Ordinance of the City Council of the City of San Rafael Establishing a Temporary Moratorium on Accessory Dwelling Units and Junior Accessory Dwelling Units on Properties Accessed Solely from Certain Hillside Streets Within City of San Rafael, and Declaring the Urgency Thereof*

**OTHER AGENDA ITEMS**

**8. Other Agenda Items:**

- a. [City of San Rafael Essential Facilities Construction Project – Fire Stations 54 and 55:](#)  
**City of San Rafael Essential Facilities Construction Project – Fire Stations 54 and 55: (PW)**

Bill Guerin, Public Works Director introduced Fabiola Guillen-Urfer, Senior Project Manager who presented the Staff Report.

Staff responded to questions from Councilmembers.

Mayor Kate invited public comment; however, there was none.

Councilmembers provided comments.

- i. **Resolution Awarding and Authorizing the City Manager to Execute a Construction Contract to Wickman Development and Construction, Inc. for the City of San Rafael Essential Facilities Construction Project – Fire Stations 54 and 55, in the Amount of \$8,809,000, and Authorizing Construction Contingency Funds in the Amount of \$880,900, for a Total Appropriated Amount of \$9,689,000**

Councilmember Bushey moved and Councilmember Kertz seconded to adopt the resolution.



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

*Resolution 14988 - Resolution Awarding and Authorizing the City Manager to Execute a Construction Contract to Wickman Development and Construction, Inc. for the City of San Rafael Essential Facilities Construction Project – Fire Stations 54 and 55, in the Amount of \$8,809,000, and Authorizing Construction Contingency Funds in the Amount of \$880,900, for a Total Appropriated Amount of \$9,689,000*

**ii. Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Loving Campos Associates Architects, Inc. for Construction Administration, Scheduling, and Additional Services for Phase 2 Essential Facilities Projects – Fire Stations 54 and 55, in the Amount of \$280,300**

Councilmember Bushey moved and Councilmember Kertz seconded to adopt the resolution.

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

*Resolution 14989 - Resolution Authorizing the City Manager to Execute a Professional Services Agreement with Loving Campos Associates Architects, Inc. for Construction Administration, Scheduling, and Additional Services for Phase 2 Essential Facilities Projects – Fire Stations 54 and 55, in the Amount of \$280,300*

**b. [SEIU Local 1021 Child Care Successor Memorandum of Understanding](#) Discussion and Consideration of a Memorandum of Understanding Pertaining to Compensation and Working Conditions for SEIU Local 1021 Child Care (November 1, 2021 Through October 31, 2024) (HR)**

Sylvia Gonzalez, HR Operations Manager presented the Staff Report.

Mayor Kate invited public comment; however, there was none.

Councilmembers provided comments.

Councilmember Hill moved and Councilmember Kertz seconded to accept the report and direct staff to return with resolution adopting MOU.

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

*Accepted report and directed staff to return with resolution adopting MOU*

**[SAN RAFAEL SUCCESSOR AGENCY:](#)**

Chair Kate invited public comment; however, there was none.

Member Kertz moved and Member Hill seconded to approve the Consent Calendar.

1. Consent Calendar:

- a. **Successor Agency Quarterly Investment Report**  
**Acceptance of Successor Agency Quarterly Investment Report for the Quarter Ending September 30, 2021 (Fin)**

*Accepted report*

AYES: Members: Bushey, Hill, Kertz & Chair Kate

NOES: Members: None

ABSENT: Members: Llorens Gulati

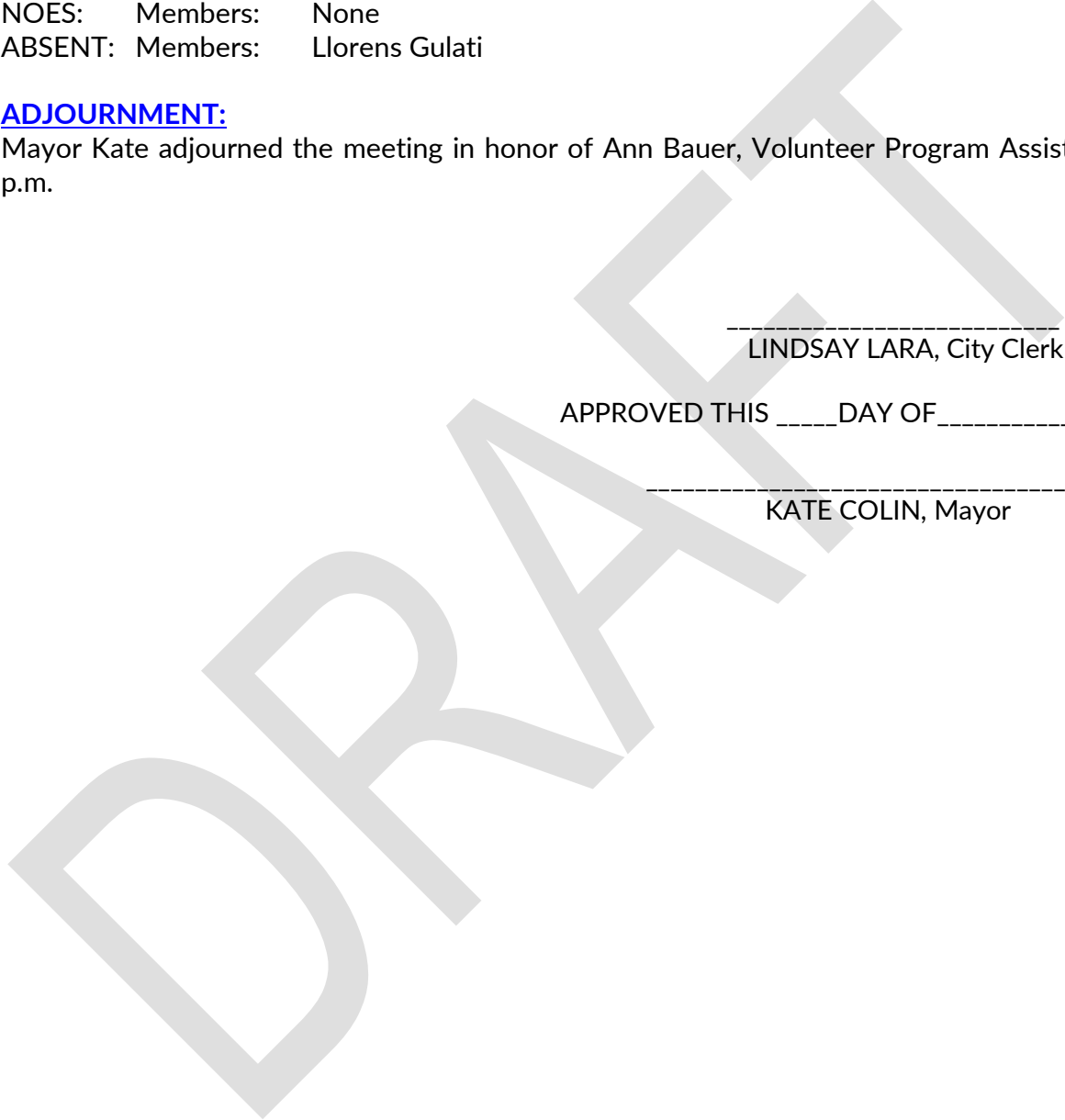
**ADJOURNMENT:**

Mayor Kate adjourned the meeting in honor of Ann Bauer, Volunteer Program Assistant at 8:39 p.m.

\_\_\_\_\_  
LINDSAY LARA, City Clerk

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021

\_\_\_\_\_  
KATE COLIN, Mayor





**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: City Attorney

Prepared by: Lisa Goldfien,  
Assistant City Attorney

City Manager Approval: \_\_\_\_\_

**TOPIC: USE OF TELECONFERENCING FOR PUBLIC MEETINGS DURING STATE OF EMERGENCY**

**SUBJECT: RESOLUTION PURSUANT TO ASSEMBLY BILL 361 MAKING FINDINGS AND CONFIRMING THE NEED FOR CONTINUED USE OF TELECONFERENCING TO HOLD PUBLIC MEETINGS OF THE SAN RAFAEL CITY COUNCIL AND CITY BOARDS AND COMMISSIONS DURING THE CONTINUING STATE OF EMERGENCY RELATING TO THE COVID-19 PANDEMIC**

**RECOMMENDATION:**

Adopt the resolution.

**BACKGROUND:**

The Ralph M. Brown Act (“Brown Act”) requires that except as specifically provided, “meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body”. (Gov. Code §54953(a).) For many years, the Brown Act has authorized members of a local agency’s legislative body to attend a public meeting by teleconference in compliance with strict procedural requirements. Under Government Code section 54953(b)(3), to use teleconferencing, at least a quorum of the legislative body must participate from locations within agency’s boundaries, and the agency must give notice of each teleconference location, post an agenda at each teleconference location, provide for public access to each teleconference location, and allow members of the public to address the Council at each teleconference location.

On March 4, 2020, Governor Newsom declared a statewide state of emergency in connection with the COVID-19 pandemic. Subsequently, on March 18, 2020, the Governor issued Executive Order [No. N-29-20](#) suspending the Brown Act’s requirements for in-person meetings and facilitating the use of teleconferencing for public meetings during the state of emergency. The Executive Order authorized public meetings to be held by teleconference only, provided that notice and accessibility requirements are met, members of the public are allowed to observe and address the legislative body at the meeting, and there is a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities. This order has allowed the City Council and the City’s other formal boards and commissions to hold their public meetings using teleconferencing technologies, with the requisite notice and public participation; however, the order was due to expire on September 30, 2021, and without

---

**FOR CITY CLERK ONLY**

Council Meeting: \_\_\_\_\_

Disposition: \_\_\_\_\_

legislative action, in-person meetings and the strict teleconferencing procedures of the Brown Act would again be required.

Because the statewide state of emergency continues and the COVID-19 pandemic still poses a health risk for public meetings, on September 16, 2021, Governor Newsom signed into law as an urgency measure Assembly Bill (AB) 361. [AB 361](#) amends the Brown Act provisions governing the use of teleconferencing for public meetings of a local agency's legislative bodies, allowing more liberal teleconferencing requirements to continue during the current and future state-declared emergencies.

**ANALYSIS:**

Executive Order N-29-20 has now expired, but AB 361 is now in effect, and its amendments to the Brown Act will allow the City to continue to hold its meetings using teleconferencing technology after September 30. Government Code section 54953, as amended by AB 361, now provides in new subsection (e)(1), that during the current and any future state-declared state of emergency, the legislative body of a local agency may use teleconferencing without complying with the procedural requirements of Government Code section 54953(b)(3) in any of three circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Certain additional requirements would apply under the new law, however, including specific requirements as to how public comment must be allowed and heard, with which the City already complies. In addition:

- In the event of a disruption which prevents the City from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.
- If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:
  - The legislative body has reconsidered the circumstances of the state of emergency.
  - Any of the following circumstances exist:
    - (i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

- (ii) State or local officials continue to impose or recommend measures to promote social distancing.

The resolution before the City Council is intended to comply with the requirement to make specified findings every 30 days. The resolution finds that the state of emergency continues in effect, that measures to promote social distancing are still being imposed by the state and county, and that the state of emergency directly impacts the ability of the public and the members of the City's Council, boards, and commissions to meet safely in person. The proposed resolution confirms the City Council's determination that all public meetings of the City's legislative bodies (the Council and all formal boards and commissions) should continue to be held using only teleconferencing technology.

Staff plans to agendize the same type of resolution at each regular City Council meeting during the pendency of the statewide state of emergency, so that the Council may continue to reconsider these findings at least every 30 days.

The Brown Act amendments adopted by AB 361 will be operative until January 1, 2024, and will then expire unless extended by new legislation.

**FISCAL IMPACT:**

There is no fiscal impact associated with the adoption of the attached resolution.

**OPTIONS:**

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

1. Adopt the resolution as proposed.
2. Adopt a modified resolution.
3. Direct staff to return with more information.
4. Take no action.

**RECOMMENDED ACTION:**

Adopt the resolution pursuant to Assembly Bill 361 making findings pursuant to Government Code section 54953(e) to support continued use of teleconferencing to hold public meetings of the City Council and City boards and commissions during the continuing statewide state of emergency proclaimed by Governor Newsom on March 4, 2020.

**ATTACHMENTS:**

1. Resolution pursuant to Assembly Bill 361 making findings and confirming the need for continued use of teleconferencing to hold public meetings of the San Rafael City Council and City boards and commissions during the continuing state of emergency relating to the COVID-19 pandemic

**RESOLUTION NO.**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL PURSUANT TO ASSEMBLY BILL 361 MAKING FINDINGS AND CONFIRMING THE NEED FOR CONTINUED USE OF TELECONFERENCING TO HOLD PUBLIC MEETINGS OF THE SAN RAFAEL CITY COUNCIL AND CITY BOARDS AND COMMISSIONS DURING THE CONTINUING STATE OF EMERGENCY RELATING TO THE COVID-19 PANDEMIC**

**WHEREAS**, on March 4, 2020 Governor Newsom issued a proclamation pursuant to Government Code Section 8625 declaring a state of emergency in California due to the COVID-19 pandemic; and

**WHEREAS**, the Ralph M. Brown Act (Gov. Code §§ 54950 et seq.) (hereafter, the “Brown Act”) provides in Government Code section 54953 that “all meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided by this chapter”; and

**WHEREAS**, Government Code section 54953(b)(3) permits the legislative body of a local agency to use teleconferencing for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law, subject to specified procedural requirements including, but not limited to, the posting of agendas at all teleconference locations, the opportunity for members of the public to address the legislative body directly at each teleconference location, and that at least a quorum of the members of the legislative body participate from locations within the boundaries of the territory over which the legislative body exercises jurisdiction; and

**WHEREAS**, Government Code section 54953(e), added by Assembly Bill 361 effective September 16, 2021, provides, in section 54953(e)(1), that during a state of emergency proclaimed pursuant to Government Code section 8625, the legislative body of a local agency may hold a meeting using teleconferencing without complying with the procedural requirements of section 54953(b)(3), provided that the legislative body complies with the requirements of section 54953(e)(2); and

**WHEREAS**, pursuant to Government Code section 54953(e)(3), if a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, then in order to continue to teleconference without compliance with the requirements of section 54953(b)(3), the legislative body shall make specified findings at least every 30 days; and

**WHEREAS**, the City Council has reconsidered the circumstances of the proclaimed COVID-19-related state of emergency and finds that it remains active; and

**WHEREAS**, the City Council finds that state and/or local officials continue to impose or recommend measures to promote social distancing, as follows:

- a. The July 28, 2021 California Department of Public Health Guidance for the Use of Face Coverings recommending universal masking indoors statewide to promote social distancing is still in effect; and

- b. The August 2, 2021 Marin County Department of Public Health order requiring all people to wear masks in public indoor settings to promote social distancing is still in effect; and

**WHEREAS**, the City Council finds that the state of emergency continues to directly impact the ability of the members of the City Council and other City boards and commissions to meet safely in person;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of San Rafael that in order to protect the safety of the members of the public, the City Council and all City boards and commissions, for the 30 days following adoption of this resolution, public meetings of the City's legislative bodies shall continue to be held using teleconferencing technology in compliance with the requirements of Government Code section 54953(e)(2) and all other applicable laws.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 1<sup>st</sup> day of November 2021, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

\_\_\_\_\_  
Lindsay Lara, City Clerk




**Agenda Item No: 5.c**  
**Meeting Date: November 1, 2021**

**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

**Department: Community Development**

**Prepared by: Leslie Mendez**  
Planning Manager

**City Manager Approval:** \_\_\_\_\_ 

**TOPIC: NORTHGATE MALL REDEVELOPMENT PROJECT ENVIRONMENTAL CONSULTING SERVICES**

**SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES WITH LSA ASSOCIATES, INC. FOR ENVIRONMENTAL CONSULTING SERVICES FOR THE NORTHGATE MALL REDEVELOPMENT PROJECT IN AN AMOUNT NOT TO EXCEED \$260,350**

**RECOMMENDATION:**

Adopt the resolution authorizing the City Manager to execute a Professional Services Agreement with LSA Associates, Inc. for environmental consulting services for the Northgate Mall Redevelopment Project.

**BACKGROUND:**

The Northgate Mall is a 44.76-acre site consisting of six parcels (APNs: 175-060-12, -40, -59, -61, -66 & -67). Originally opened in 1965 with The Emporium as its original anchor tenant, the Mall is currently developed with 766,512 square feet of commercial space, surface parking lots, and one parking garage structure. In 2017, Melone Geier acquired the project and in March 2021, filed an application for the phased redevelopment of the Mall through the demolition of most of the mall structure including the Sears, Macy's, and Kohl's anchor buildings, redevelopment of commercial spaces, the construction of new commercial pads at the northern periphery of the property, construction of new structured and surface level parking facilities, development of approximately 1,320 multi-family dwelling units, and new community open space and amenities. The applicant proposes to complete this [redevelopment](#) in two phases pursuant to its 2025 Master Plan and 2040 Vision Plan. The project will require environmental review pursuant to the California Environmental Quality Act (CEQA).

In September 2021, following a Request for Proposal (RFP) process, staff selected the firm of LSA Associates, Inc. ("LSA") as the Environmental Impact Report (EIR) consultant to prepare an Environmental Impact Report for the Northgate Mall redevelopment project. LSA is a Bay Area-based firm that provides comprehensive environmental planning and documentation services. LSA, one of the City-approved environmental consultants, was selected based on the firm's previous experience

---

**FOR CITY CLERK ONLY**

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_



preparing environmental documents for projects throughout Northern California and specifically within the Bay Area, including the City of San Rafael and County of Marin; their familiarity with the local political, planning, and environmental landscapes; and their familiarity with the issues that are important to residents in San Rafael, and the ability to customize our environmental assistance accordingly.

LSA's scope of work for services is outlined in Attachment 2, Exhibit A. A summary of this scope is provided as follows:

- Preparation of an Environmental Impact Report. Preparation of an EIR is laid out in tasks from project initiation; technical study peer review; preparation of setting, impacts, and mitigation measures for CEQA topics; identification and evaluation of alternatives; preparation of appropriate conclusions to fulfill CEQA requirements by providing an assessment of several mandatory impact categories; and responding to public comments.
- Schedule/Timeline. LSA has prepared a schedule/timeline for this scope, which is presented in Table G of Exhibit A. The preliminary schedule estimates completion of the CEQA process with a Final EIR within 11 months of the City's issuance of a Notice to Proceed.
- Budget. The contract is proposed with a not-to-exceed amount of \$260,350 which includes a 10% contingency of \$23,700.

**ANALYSIS:**

Staff has reviewed the proposal for services, as well as the qualifications of LSA and presents the following findings and recommendations:

1. The City sent out an RFP for the proposed environmental work to a short-list of City approved environmental consultants. The City received two proposals, both from highly qualified consulting firms that have extensive expertise and experience with conducting environmental review in the Bay area. As previously mentioned, LSA is a well-established environmental and planning consulting firm. LSA's experience in CEQA review for large, phased mixed-use redevelopment projects is well suited for the services needed.
2. After the interviews, LSA was selected based on the project management structure, where an LSA Principal will also be in charge as project manager, which the City felt was essential for a project of this scope and nature. The proposed budget was consistent with, and slightly below the other proposal.
3. Further, LSA is among a handful of Bay Area firms that the City has placed on a short-list of approved environmental consultants. The City-approved environmental consultant list was created through a previous selective Request for Qualifications (RFQ) process. This list is used for a formal, competitive bidding process (Request for Proposal) or for a sole source hire. LSA has not been recently selected for work within San Rafael, so its selection was also consistent with the staff's "rotational" policy providing for even distribution of contract work within the City.

**COMMUNITY OUTREACH:**

On September 14<sup>th</sup>, the City held a joint [Study Session](#) with the Planning Commission and Design Review Board to provide project feedback on land use and design and allow early opportunity for public input. The Study Session included information on steps in the entitlement process, including environmental review. As the project moves forward, the environmental review phase of the Northgate Mall Redevelopment Project is subject to the provisions of the CEQA Guidelines. The CEQA Guidelines

include prescribed steps for public notification and comment. These prescribed steps will be appropriately followed during the environmental review process.

**FISCAL IMPACT:**

The proposed Professional Services Agreement totals a not-to-exceed amount of \$260,350 for environmental documentation and supportive technical studies for one project: the Northgate Mall Redevelopment Project. The funds needed to cover the cost of this service will be covered by the project applicant as agreed upon in the executed Reimbursement Agreement.

**OPTIONS:**

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

1. Adopt the resolution as presented approving the Professional Services Agreement;
2. Adopt resolution with modifications to the Professional Services Agreement;
3. Direct staff to return with more information; or
4. Take no action.

**RECOMMENDED ACTION:**

Adopt the resolution authorizing the City Manager to execute a Professional Services Agreement with LSA Associates, Inc. for environmental consulting services required for the Northgate Mall Redevelopment Project.

**ATTACHMENTS:**

1. Resolution
2. Professional Services Agreement-  
Exhibit A - Proposal for Services Northgate Mall Redevelopment Project Environmental Impact Report for the City of San Rafael, August 2021

**RESOLUTION NO.**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES WITH LSA ASSOCIATES, INC. FOR ENVIRONMENTAL CONSULTING SERVICES FOR THE NORTHGATE MALL REDEVELOPMENT PROJECT IN AN AMOUNT NOT TO EXCEED \$260,350**

(Term of Agreement: through August 31, 2022)

**WHEREAS**, the owner of the Northgate Mall property has submitted a proposal to redevelop the existing mall site and replace it with a mix of commercial and residential uses; and

**WHEREAS**, the City of San Rafael has a need for a consultant to provide professional services to the City, its Planning Commission, City Council and staff in the environmental review process for the Northgate Mall redevelopment project, in accordance with the California Environmental Quality Act (CEQA), including providing CEQA guidance and preparation of an Environmental Impact Report; and

**WHEREAS**, LSA Associates, Inc. has submitted a proposal to provide the necessary professional planning services for a sum not to exceed \$260,350, and staff has determined that the proposal is sufficient and that LSA Associates, Inc. is qualified to perform the services;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of San Rafael does hereby approve and authorize the City Manager to execute, on behalf of the City of San Rafael, an Agreement for Professional Planning Services with LSA Associates Inc. in the form included with the staff report for this resolution, subject to approval as to form 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 City Council of said City held on Monday, the 1<sup>st</sup> day of November 2021, by the following vote, to wit:

AYES:            COUNCILMEMBERS:

NOES:            COUNCILMEMBERS:

ABSENT:        COUNCILMEMBERS:

\_\_\_\_\_  
Lindsay Lara, City Clerk

**AGREEMENT FOR PROFESSIONAL SERVICES WITH  
LSA ASSOCIATES, INC. FOR ENVIRONMENTAL CONSULTING SERVICES FOR THE  
NORTHGATE MALL REDEVELOPMENT APPLICATION**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF SAN RAFAEL (hereinafter "**CITY**"), and LSA ASSOCIATES, INC., a corporation authorized to do business in California (hereinafter "**CONSULTANT**").

**RECITALS**

**WHEREAS**, the property owner at Northgate Mall has submitted a proposal to redevelop the existing mall site and replace it with a mix of commercial and residential uses; and

**WHEREAS**, **CONSULTANT** has submitted its “Proposal for Services Northgate Mall Redevelopment Project Environmental Impact Report for the City of San Rafael” dated August 2021, which is attached hereto as Attachment A and incorporated by reference herein; and

**WHEREAS**, **CITY** desires to retain **CONSULTANT** to perform professional services necessary to render advice and assistance to the **CITY**, the **CITY**’s Planning Commission, City Council and staff in the environmental review process in accordance with the California Environmental Quality Act (CEQA), which in this phase would include providing CEQA guidance and preparation of an Environmental Impact Report; and

**WHEREAS**, **CONSULTANT** represents that it is qualified to perform such services and is willing to perform such professional services as hereinafter defined;

**AGREEMENT**

**NOW, THEREFORE**, the parties hereby agree as follows:

1. **PROJECT COORDINATION.**

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

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

2. DUTIES OF CONSULTANT.

**CONSULTANT** shall perform the duties and/or provide professional services under the supervision of the Project Manager as described in Attachment A hereto.

3. DUTIES OF CITY.

**CITY** shall pay the compensation as provided in Paragraph 4, and shall provide suitable workspace, if necessary, that is accessible to telephone and computer facilities. **CITY** shall provide **CONSULTANT** with copies/sets of project plans and materials, historical files on this development, local plans, ordinances and reports that are pertinent to the project that has been assigned to the **CONSULTANT**. The **CITY** shall provide **CONSULTANT** with supervision and direction on processing the development application in accordance with local procedures.

4. COMPENSATION.

For the full performance of the services described herein by **CONSULTANT**, **CITY** shall pay **CONSULTANT** on a time and materials basis at the rates set forth in Attachment A, in a total amount not to exceed \$260,350. This amount includes contingency funds in the amount on \$23,700 which would not be used without written authorization from **CITY**.

Payment will be made monthly upon receipt by PROJECT MANAGER of itemized invoices submitted by **CONSULTANT** that include a summary cover sheet and a detailed report with labor hours and costs by individual and direct expenses.

5. TERM OF AGREEMENT.

The term of this Agreement shall commence on October 4, 2021 and shall end on August 31, 2022. Upon mutual agreement of the parties, and subject to the approval of the City Manager the term of this Agreement may be extended for an additional period of up to (\_\_\_\_) year(s).

6. TERMINATION.

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

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

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

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

7. OWNERSHIP OF DOCUMENTS.

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

8. INSPECTION AND AUDIT.

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

9. ASSIGNABILITY.

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

10. INSURANCE.

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

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

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

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

4. If it employs any person, **CONSULTANT** shall maintain worker's

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

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

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

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

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

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

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

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

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

8. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to **CITY** or any other additional insured party. Furthermore, the requirements for coverage and limits shall be: (1) the minimum coverage and limits specified in this Agreement; or

(2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum Insurance requirements of this agreement are sufficient to cover the obligations of the **CONSULTANT** under this agreement.

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

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

## 11. INDEMNIFICATION.

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



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

12. NONDISCRIMINATION.

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

13. COMPLIANCE WITH ALL LAWS.

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

14. NO THIRD PARTY BENEFICIARIES.

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

15. NOTICES.

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

TO **CITY**'s Project Manager:

Leslie Mendez, Planning Manager  
City of San Rafael  
1400 Fifth Avenue  
San Rafael, CA 94901

TO **CONSULTANT**'s Project Director:

Theresa Wallace, AICP  
Principal/Environmental Planner  
LSA Associates, Inc.  
157 Park Place  
Point Richmond, CA 94801

16. INDEPENDENT CONTRACTOR.

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

17. ENTIRE AGREEMENT -- AMENDMENTS.

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

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

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

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

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

18. SET-OFF AGAINST DEBTS.

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

19. WAIVERS.

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

20. COSTS AND ATTORNEY'S FEES.

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

21. CITY BUSINESS LICENSE / OTHER TAXES.

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

22. SURVIVAL OF TERMS.

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

23. APPLICABLE LAW.

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

24. COUNTERPARTS AND ELECTRONIC SIGNATURE.

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

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

**CITY OF SAN RAFAEL**

**CONSULTANT**

\_\_\_\_\_  
JIM SCHUTZ, City Manager

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

Name: Mike Trotta

Title: CEO

ATTEST:

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

\_\_\_\_\_  
LINDSAY LARA, City Clerk

By: Anthony Petros

APPROVED AS TO FORM:

Name: Anthony Petros

Title: President

\_\_\_\_\_  
ROBERT F. EPSTEIN, City Attorney

**Attachment:**

- A. Proposal for Services Northgate Mall Redevelopment Project Environmental Impact Report for the City of San Rafael, August 2021



**LSA**

*PROPOSAL FOR SERVICES*

**NORTHGATE MALL REDEVELOPMENT PROJECT  
ENVIRONMENTAL IMPACT REPORT**

*FOR THE*  
**CITY OF SAN RAFAEL**

**AUGUST 2021**



## Table of Contents

<b>1. Cover Letter .....</b>	<b>1</b>
<b>2. Project Understanding .....</b>	<b>3</b>
<b>3. Project Approach .....</b>	<b>5</b>
<b>4. Project Team .....</b>	<b>6</b>
<b>5. Budget .....</b>	<b>26</b>
<b>6. Schedule .....</b>	<b>31</b>
<b>7. Conflict of Interest .....</b>	<b>33</b>
<b>8. Relevant Experience.....</b>	<b>34</b>
<b>9. References .....</b>	<b>39</b>

**Appendix A: Resumes**

**Appendix B: Budget Spreadsheet**



# 1. Cover Letter

August 30, 2021

City of San Rafael  
Community Development Department, Planning Division  
ATTN: Leslie Mendez  
1400 Fifth Ave  
P.O. Box 151560  
San Rafael, CA 94915-1560

**Subject: Northgate Mall Redevelopment Project EIR – Proposal for Services**

Dear Ms. Mendez:

LSA welcomes the opportunity to provide the City of San Rafael (City) with this proposal to prepare an Environmental Impact Report (EIR) and related documentation in compliance with the California Environmental Quality Act (CEQA) for the Northgate Mall Redevelopment Project. LSA understands this project consists of the phased redevelopment of the existing Northgate Mall, including converting the aging mall into a modern, pedestrian-oriented town-center development that includes new retail and entertainment offerings, as well as integrated multifamily housing, open space, and community amenities. LSA is confident in our ability to provide the City with a legally robust and comprehensive EIR that will identify the potential impacts from this project in accordance with the CEQA, and the City’s Environmental Review Procedures.

LSA provides comprehensive environmental planning and documentation services. With 45 years of experience, our certified planners have prepared thousands of environmental documents for municipal clients throughout California. Our key qualifications for conducting this work are: (1) our previous experience preparing environmental documents for projects throughout Northern California and specifically within the Bay Area, including the City of San Rafael and Marin County; (2) our knowledge of the local political, planning, and environmental landscapes; (3) our solid understanding of CEQA and the environmental review process; (4) our in-house technical specialists in CEQA documentation and supporting technical studies; and (5) our familiarity with the issues that are important to residents in San Rafael, and the ability to customize our environmental assistance accordingly.

Our team brings experience in preparing environmental documents for residential, commercial and mixed-use developments throughout the San Francisco Bay Area. We have prepared comprehensive and focused EIRs for a number of high-profile projects in recent years, and these documents have been subject to and have withstood a high level of scrutiny. Many clients have recognized LSA’s ability to work collaboratively with agencies, project sponsors, and technical consultants, and to communicate effectively with diverse audiences at public forums. Our solid understanding of the CEQA environmental review process and other environmental laws helps anticipate our clients’ needs and

**LSA**

**LSA’s Point of Contact:**

**Theresa Wallace, AICP**  
*Principal/Environmental Planner*

157 Park Place  
Point Richmond, CA 94801  
[Theresa.Wallace@lsa.net](mailto:Theresa.Wallace@lsa.net)  
(510) 236-6810

*Our Bay Area office is only 9.8 miles away from the City of San Rafael’s Community Development office, and only 16 min or 12.3 miles away from the Project Site.*



provide a customized approach to each assignment, while balancing cost efficiency, schedule constraints, and the regulatory requirements.

**Theresa Wallace, AICP**, will serve as the Principal in Charge and Project Manager and bring 18 years of experience in managing and preparing a variety of environmental documents for CEQA compliance throughout the Bay Area. Matthew Wiswell, AICP, will be the Assistant Project Manager and Planner. Over the last 5 years, our planning and management team have successfully completed a wide range of CEQA documentation. LSA's in-house technical specialists will complete the cultural resources, air quality, greenhouse gas emissions, and noise analyses. To supplement our team, we have included two longstanding teaming partners: Baseline Environmental Consulting to provide the hazards, geology, and hydrology analyses, and Parisi Transportation Consulting for the transportation analysis.

We submit this proposal with a great deal of enthusiasm and believe that our experience will help the City achieve a legally sound EIR document for this project. Additionally, LSA has reviewed and acknowledges the City's Draft Professional Services Agreement (Attachment A in the RFQ) and finds the terms acceptable and does not have any exceptions or change requests to the contract provisions. Should you have any questions, please contact Theresa Wallace at (510) 236-6810 or [Theresa.Wallace@lsa.net](mailto:Theresa.Wallace@lsa.net).

Sincerely,

**LSA ASSOCIATES, INC.**

A handwritten signature in black ink that reads "Theresa Wallace".

**Theresa Wallace, AICP**  
**Principal**





## 2. Project Understanding

Our project understanding and approach to environmental review are based on the information provided in the Request for Proposal (RFP) released by the City on August 9, 2021 and review of the background documents provided by the City and the project pre-application materials provided by the project sponsor.<sup>1</sup>

The approximately 45-acre project site consists of the existing Northgate Mall, a shopping center located within the City of San Rafael, north of the Town Center. The site is situated to the west of US Highway 101 and south of Manuel T. Freitas Parkway and is bounded by Northgate Drive and Las Gallinas Avenue. The site is accessible via Nova Albion Way, Los Ranchitos Road, and Del Presidio Boulevard.

The Northgate Mall opened in 1965 and underwent a major renovation in 1987, with subsequent renovation in 2008. The facility remains the only enclosed regional shopping center in Marin County. In addition to the three anchor tenants that consist of retail department stores, the site currently contains indoor and outdoor retail space. The mall also contains a 15-screen movie theatre and a food court. The mall is generally located in the center of the project site and is surrounded by a public surface parking lot. A two-story parking garage is located in the southwest corner of the site. Structures within the mall average approximately 37 feet in height, with a maximum of approximately 43 feet at the tower feature. The anchor tenant buildings have a maximum height of approximately 42 to 54 feet in height.

The project sponsor is proposing to redevelop the existing mall with a mix of uses through the demolition of most of the mall structures and ultimately two of the anchor buildings. The project consists of redevelopment of commercial spaces, the construction of new commercial pads at the northern periphery of the site, construction of new structured and surface level parking facilities, development of multi-family dwelling units, and community open space amenities. Ultimately, a total of 1,356 new multi-family residential units and 125,477 square feet of new commercial space would be constructed. The project sponsor would complete redevelopment of the project site in two phases pursuant to the proposed 2025 Master Plan and 2040 Vision Plan:

### Phase 1: Northgate 2025

Phase 1 consists of 1) demolition of the portions of indoor mall to create gathering areas, walking and bike paths, and outdoor connectivity throughout the site; 2) an entire remodel of the current multi-screen cinema with an IMAX theater; 3) phased construction of 896 housing units; and 4) additional retail spaces along Las Gallinas Avenue.

### Phase 2: Northgate 2040

Phase 2 is intended to provide flexibility for the evolving retail environment and future trends by reconfiguring retail sites to reflect smaller footprint tenant spaces, including additional new retail

---

<sup>1</sup> The proposed unit counts and square footages identified in the project pre-application materials and RFP differ in some instances. All unit count and square footage information identified in this proposal reflect the 2025 Mater Plan and 2040 Vision Plan, dated March 10, 2021. It is assumed that these numbers will be refined throughout the planning and environmental review process.



storefronts and standalone restaurant pads along Las Gallinas Avenue. Phase 2 includes an additional 460 multi-family units. A Town Square is also proposed.

The following entitlements would likely be required: 1) Zoning Map and Text Amendment to the Planned Development (PD) Overlay Zone that outlines allowable uses, development standards, and a development plan for the proposed project; 2) Development Agreement that sets forth the terms and requirements of the City; 3) Tentative Parcel Map for potential subdivision; 4) Master Use Permit to allow the proposed mix of uses and address the proposed phasing; and 5) Environmental and Design Review Permit to evaluate the site plan, architecture, landscaping, building design, and other site improvements.

LSA understands that the proposed project is subject to refinement pending design review. It is assumed that the “worst-case” or maximum development potential for each phase of the project and project buildout will be identified by the project sponsor for use in the environmental analysis.



## 3. Project Approach and Work Program

### LSA's Approach

The City is the Lead Agency for environmental review of the proposed project. Based on our review of the City's RFP, review of the project background materials, familiarity with the local area, and the known level of public interest and engagement anticipated for the project, LSA believes that a comprehensive EIR is the appropriate environmental document to satisfy the requirements of CEQA. Our proposed work program, which includes peer review of existing technical studies and preparation of all supplemental technical materials that the LSA team believes would be appropriate to provide for an adequate and legally robust environmental review effort, is detailed in the Proposed Work Program on the following page.

The EIR and environmental review process in general will provide a comprehensive evaluation of the proposed project and will comply with the City's Environmental Review Procedures. [The EIR will include a project-level analysis of the 2025 Master Plan and a program-level analysis of the 2040 Vision Plan \(project buildout\), to allow for future flexibility throughout the course of project implementation.](#) The analysis will separately identify the impacts and mitigation measures of each of the two phases of development. Issues specific to each technical topic to be evaluated under CEQA are detailed in the proposed work program. Our proposed work program is intended to accomplish the following key objectives:

- Collaborate with the City and project sponsor to [define the project for CEQA purposes](#) in order to craft an appropriately detailed project description that accurately reflects all elements of the proposed project.
- To compress the schedule and in acknowledgement that the EIR will be comprehensive, [dispense with preparation of an Initial Study/Preliminary Environmental Assessment](#) and discuss all environmental topics in the appropriate topical sections of the EIR. This approach will allow us to undertake preparation of the EIR soon after authorization to proceed (as opposed to directing project team resources into preparation and review of multiple internal drafts of an Initial Study).
- Utilize LSA's [experience preparing environmental documents for large, complex residential, mixed-use, and institutional projects in urbanized settings](#) to customize the environmental review effort to address the unique use characteristics of the project.
- Achieve a [high level of communication and interaction](#) among the project team so that the CEQA environmental analyses and public outreach efforts consider the broad range of environmental constraints that could affect project development.
- Make the environmental documentation as accessible and relevant as possible through [thoughtful and concise writing and use of data-rich graphics](#).
- Provide a [rigorous project- and program-level analysis](#) of the environmental effects of each phase of the proposed development.
- Use and leverage the [LSA team's technical expertise](#) to prepare an environmental review document that addresses and responds to agency and public concerns about the project.
- Maximize the [use of environmental data that have already been assembled](#) for the project site.



The EIR will include all of the topics required by CEQA. All issue topics will be comprehensively addressed at a level appropriate for the proposed project. LSA will rely, in part, on the peer-reviewed technical analyses prepared by the project sponsor for use in the applicable topical sections.

It is anticipated that up to four alternatives, in addition to the No-Project alternative, will be evaluated in the EIR. While most of the analysis will focus on a qualitative comparison of project impacts, LSA understands that a more comprehensive and quantitative analysis of some or all of the project alternatives may be necessary, and this is reflected in our scope of work.

LSA also understands that given the nature and location of the proposed project, it is anticipated to be the subject of community interest. Key members of the LSA team will be available to attend internal team meetings with City staff to strategize, to review preliminary findings, and to present and answer questions at public hearings considering certification of the Final EIR.

## Proposed Work Program

This chapter outlines the LSA team’s approach and specific work program for completing the Northgate Mall Redevelopment Project EIR, in compliance with CEQA. An outline of the overall work program is presented in **Table 1**.

### Task 1. Project Initiation

The project initiation task will provide an opportunity for the LSA team to collaborate and strategize with City staff to refine our recommended approach and work program, as appropriate, and assemble materials for the analysis of the project. Other key project initiation tasks will involve conducting a site visit, gathering and reviewing background information, preparing the project description, and distributing the Notice of Preparation (NOP) and facilitating the scoping session.

#### 1.1 Start-Up Meeting and Site Visit

LSA will meet with City staff to discuss expectations regarding the tasks to be undertaken as part of the environmental documentation effort for the proposed project. As a part of the meeting, LSA will:

- Confirm the proposed scope of work and expectations for use of background materials provided by the project sponsor team;
- Identify relevant information and data needs regarding the project site, and environmental documents beyond those the City and project sponsor have already made available;

**Table 1: Work Program Outline**

<b>TASK 1. PROJECT INITIATION</b>
1.1 Start-Up Meeting and Site Visit
1.2 Data Gathering and Evaluation
1.3 Project Description
1.4 Notice of Preparation and Scoping Session
1.5 Work Program Refinement
<b>TASK 2. TECHNICAL STUDY PEER REVIEW</b>
<b>TASK 3. SETTING, IMPACTS, AND MITIGATION MEASURES</b>
3.1 Land Use and Planning
3.2 Population and Housing
3.3 Visual Resources
3.4 Cultural Resources
3.5 Tribal Cultural Resources
3.6 Geology and Soils
3.7 Hydrology and Water Quality
3.8 Hazards and Hazardous Materials
3.9 Transportation
3.10 Air Quality
3.11 Greenhouse Gas Emissions
3.12 Noise
3.13 Public Services and Recreation
3.14 Utilities and Service Systems
3.15 Energy
<b>TASK 4. ALTERNATIVES</b>
<b>TASK 5. CEQA-REQUIRED ASSESSMENT CONCLUSIONS</b>
<b>TASK 6. DRAFT ENVIRONMENTAL IMPACT REPORT</b>
6.1 Administrative Draft EIR
6.2 Screencheck Draft EIR
6.3 Public Review Draft EIR
<b>TASK 7. FINAL ENVIRONMENTAL IMPACT REPORT</b>
7.1 Administrative Draft RTC
7.2 Screencheck Draft RTC
7.3 Final RTC
7.4 Mitigation Monitoring and Reporting Program
7.5 Administrative Record
<b>TASK 8. PROJECT MANAGEMENT</b>
<b>TASK 9. MEETINGS</b>



- Discuss the City’s desired approach to involving the project sponsor team and various City departments during preparation of the environmental documentation and review of the administrative and screencheck drafts;
- Discuss the overall environmental review schedule and associated milestones; and
- Review the required entitlements/planning approvals and lead agency roles.

In conjunction with the start-up meeting, LSA staff will visit the project site and photograph the surroundings, document existing conditions and site features, and confirm information provided in the background studies or data provided by the City and the project sponsor.

*Deliverable: After the start-up meeting LSA will provide a summary of the meeting minutes, final schedule identifying key project milestones and dates, and a list of identified information needs (preliminary list identified in Task 1.2, below). LSA will also establish a file transfer link to be used throughout the course of the project.*

## 1.2 Data Gathering and Evaluation

Existing data and analyses applicable to the project site and vicinity, including the City of San Rafael General Plan, General Plan EIR, and Zoning Code, will be collected, evaluated, and distributed to the project team. Prior to preparation of the project description and initiation of the technical evaluations, LSA will request the following from the project sponsor, if not already provided:

- Site Survey Mapping and Data
- Conceptual Site Plan(s) by phase
- Proposed Building Elevations
- Proposed Building Sections
- Landscape Plan
- Circulation Plan
- Utility Plan

Construction schedule and data by phase, including depth of excavation, soil import/export, and equipment use and duration (worksheet to be provided by LSA). In the event that equipment data is not available, default assumptions will be used.

LSA will also prepare a base map of the project site and vicinity for use in the environmental document, using the best available information from the City. The base map will be used to illustrate the features of the site and its vicinity, such as streets and surrounding land uses, general plan designations, and zoning. Copies of the base map will be available for consultant and City staff use during meetings and presentations.

## 1.3 Project Description

Based on the submitted site plans, technical studies completed for the proposed project, and consultation with City staff and the project team, LSA will draft a project description that includes all elements necessary to comply with CEQA, including, but not limited to, the purpose, phasing, and physical elements of the project, including building use, square footage, and height. LSA will also request anticipated employment data. The project description will include maps showing the existing buildings on and adjacent to the site, and the location and boundaries of the proposed project, as well as a written description of the existing uses so that the changes between existing and proposed uses can be identified



by phase. In addition, the project description will include a discussion of the background, objectives of the project, and construction phasing plan. The project description will describe the overall approval process for the project and identify all discretionary and anticipated subsequent approvals. All relevant agencies and reviewing bodies will also be identified.

Crafting an appropriately detailed and illustrated project description is often the single most time-consuming (as well as important) element of a CEQA review document. LSA will work closely with the City to ensure that the project description provides a level of detail appropriate for CEQA analysis. Up to two drafts of draft project description will be submitted to the City and project sponsor for review and comment before the LSA team begins conducting any impact analyses. The information compiled as part of this task will inform the project description used in the NOP and the Draft EIR.

***Deliverable:** Administrative Draft Project Description (up to two rounds)*

#### **1.4 Notice of Preparation and Scoping Session**

LSA will prepare an NOP in accordance with the requirements of CEQA. The NOP will include a project description, location map, and outline of the expected environmental topics to be covered in the EIR. LSA will be responsible for distributing the NOP to the State Clearinghouse. In addition, LSA will work with the City to circulate the NOP to the appropriate local, regional, State, and federal agencies, as well as additional distribution and posting consistent with City practices. Following the 30-day comment period, LSA will review all comments, distribute comments to members of the LSA team as necessary, and recommend any needed changes to the proposed work program (see Task 1.5).

LSA will also attend one public scoping session for the EIR. The Principal in Charge/Project Manager and Assistant Project Manager will attend the session and assist City staff as necessary. For the purposes of this scope and cost estimate, it is assumed that the scoping session will be conducted virtually. The NOP, along with the written comment letters received on the NOP, will be included in an appendix of the EIR.

***Deliverable:** Draft and Final NOP; Summary of scoping meeting minutes*

#### **1.5 Work Program Refinement**

It may be necessary to refine the work program in accordance with information compiled in the above subtasks or as a result of the technical report peer review task (Task 2). Upon receipt and review of all of the comments on the NOP (see Task 1.4) and taking into consideration comments heard at the scoping session, LSA will work with City staff to refine the scope of work and budget, if necessary, to address any environmental issues that are not yet adequately addressed in this revised work program.

***Deliverable:** Memorandum detailing revisions to the proposed work program and cost estimate, if required*

### **TASK 2. Technical Study Peer Review**

The LSA team will conduct peer reviews of the project-sponsor prepared technical studies. The peer reviews will concentrate on the methodologies and conclusions contained in the reports for legal and scientific adequacy and accuracy. LSA will ensure that the analyses are consistent with all applicable procedures and requirements of the City and other regulatory agencies. This task assumes that field



reviews and additional background documentation or technical evaluations will not be conducted by LSA’s natural resources or technical specialists. Upon conclusion of the peer review tasks, the LSA team will provide a summary of the findings to the City for review and recommend any additional technical analyses that may be required. With approval of City staff and use of contingency funds identified in the cost estimate, the LSA team could perform supplemental technical analyses, if warranted, for inclusion in the EIR. If scope and budget adjustments are necessary, LSA would address this with City staff prior to performing any additional work. The LSA team will peer review the following technical studies that are assumed to be prepared by the project sponsor; it is assumed that up to two rounds of peer review could be required:

- Photo Simulations
- Transportation Impact Study
- Air Quality Analysis and Risk Hazard Assessment
- Noise and Vibration Study
- Cultural Resources Assessment/Historic Resources Evaluation Report
- Greenhouse Gas Emissions Assessment
- Geotechnical Investigation<sup>2</sup>
- Phase I Environmental Site Assessment (ESA)
- Water Supply Assessment
- Utilities and Infrastructure Studies

It is assumed that utilities and infrastructure studies, the preliminary stormwater control plan, and other similar reports prepared by the project sponsor will also be internally reviewed and approved by City Public Works and engineering staff prior to use in the Draft EIR analysis.

***Deliverable:** Memorandum(s) documenting the peer review findings for each project sponsor-prepared technical study and recommendations for supplemental technical analyses*

### **TASK 3. Setting, Impacts, and Mitigation Measures**

The setting, impacts, and mitigation measures documentation for each of the issue areas described below will be incorporated into the EIR. All issue topics identified in the State CEQA Guidelines, Article 9, will be comprehensively addressed. The topics below are presented in the order in which we suggest the EIR be organized, to allow decision-makers, responsible agencies, and the public to easily read the document through from beginning to end as certain topical discussions build upon previous analyses (e.g., the air quality discussion will build upon data gathered as part of the transportation analysis). Cross referencing

---

<sup>2</sup> The geotechnical investigation will be reviewed by a California State-certified Professional Geologist to ensure that the study is appropriate to support the CEQA analysis and that the assumptions used in the geotechnical analysis are appropriate. It should be noted that the CEQA team will not accept geotechnical liability or provide “stamped” geotechnical plans or reports.



to previous discussions will be utilized as necessary to reduce repetitiveness. LSA will confirm the organizational outline of the EIR before proceeding with the analysis.

The analysis for each issue topic will clearly describe the affected environment and the environmental consequences of implementation of the proposed project. The agreed upon significance thresholds, which will be based on the CEQA Guidelines and City policies and standards, will be clearly stated within each section and will be used to determine impacts. Where relevant, impacts will be separately identified by their occurrence during either the construction or operations periods. Feasible mitigation measures (as well as the residual impacts or effects of each measure) will be identified. As described above, the proposed project would be constructed in two phases; each issue topic of the EIR will analyze the project in two phases.

Section 15130 of the CEQA Guidelines requires that an EIR evaluate potential environmental impacts that are individually limited but cumulatively significant. These impacts can result from the proposed project alone or together with other projects. Each of the topical sections discussed below will include an analysis of cumulative effects. The analysis of cumulative effects will address the potential impacts of the proposed project in conjunction with other past, present, or probable future projects. Reasonable, feasible options for mitigating or avoiding the project's contribution to any significant cumulative effects will be identified. It is assumed that the cumulative analysis will rely on both a list-based and projections level approach, using information provided by the City, as needed. The preferred method for conducting the cumulative impact analysis will be developed and agreed upon prior to conducting the impact analysis.

*Deliverable: Proposed outline of the Draft EIR organization and draft significance thresholds*

### 3.1 Land Use and Planning

As previously described, the project site is currently developed with the Northgate Mall, which includes an enclosed mall with three anchor tenants, retail space, and surface and garage parking. The project site is zoned for commercial use and is surrounded by commercial, residential, and institutional uses. The proposed redevelopment of the site with a mix of residential and commercial uses would alter the existing land use characteristics of the site. LSA will describe the land uses on and surrounding the project site. Existing on-site and surrounding land uses will be described based on the base map task identified in Task 1.2, information gathered on the site visit, and information provided by the City and project sponsor.

In addition, development of the proposed project would require a Rezoning. This section will include a comprehensive discussion of applicable local and regional planning documents and land use policies relevant to the project area and proposed development. The proposed project will be compared to the policies and guidelines adopted by the City, including the General Plan and Zoning Ordinance. Relevant land use policies of the City of San Rafael will also be discussed, as applicable. Land use plan compliance and conflicts will be described and procedural mitigation will be outlined, as appropriate. Any policy inconsistencies and potential planning conflicts will be identified in a table format, and the potential policy conflicts will be described in greater textual detail. Under CEQA, policy conflicts in and of themselves (in the absence of direct physical effects) are not considered to have a significant effect on the environment, and will therefore be differentiated from impacts described in the other topical sections of the EIR. Any physical impacts associated with policy conflicts will be addressed in the appropriate technical sections.





### 3.2 Population and Housing

The proposed project would result in the redevelopment of the project site with a mix of residential and commercial uses and would directly increase the population of this area of the City, both through the introduction of new residents and potential increased employment. The project's potential to result in direct or indirect population growth within the area, the City, and the region will be discussed in this section. The extension of roadways and other infrastructure is not anticipated to increase opportunities for growth in the area as the project site is surrounded by development and existing recreational uses on all sides.

The existing demographics of the area will be identified and described based on the most current data available, including the General Plan, Department of Finance population and housing estimates, and Census data. Population growth associated with the proposed project will be determined through the preparation of the project description in consultation with the City. LSA will assess the population and housing impacts that will be created by the proposed project, only to the extent that they will directly or indirectly result in physical changes to the environment.

### 3.3 Visual Resources

The existing setting would be altered by the construction of new residential and commercial buildings and the removal of existing buildings. The new development would be visible from public vantage points primarily available from surrounding roadways and open spaces, including Oliver Hartzell Park. LSA will describe the area's existing visual character using photographs and narrative, and will include views from and to the site, noting the site's visibility as seen from key public vantage points located within the vicinity. The visual attributes and patterns of the project site and its surroundings will be assessed according to the following descriptive categories: site location and spatial organization, land form, vegetation, land uses, cultural features, and specific objects having aesthetic significance.

Effects of the proposed development on the existing visual character of the site and its surroundings will be described and analyzed, and the information and materials gathered via Tasks 1 and 2 (sponsor-prepared visual simulations) will be utilized in the analysis. LSA will address the project's potential visibility and visual contrast and compatibility as seen from key public view corridors and sensitive viewing locations.

### 3.4 Cultural Resources

An LSA architectural historian and archaeologist will peer review the Cultural Resources Assessment to be prepared for the project site, will prepare a memorandum documenting peer review comments (refer to Task 2), and will utilize this analysis to prepare this section of the EIR. It is assumed that the Cultural Resources Assessment will include an analysis of both archaeological and historic period built environment resources in the project site. Field reviews and supplemental archival and background research are not assumed to be required once adequate peer-reviewed cultural resources are provided by the project sponsor, although these additional tasks could be completed with use of the contingency, if necessary. It is assumed that standard construction-period mitigation measures and/or conditions of approval would be recommended to address the potential for accidental discovery of archaeological



deposits and human remains during the project construction period, and this scope of work reflects this level of effort.

### 3.5 Tribal Cultural Resources

As of July 2015, the provisions of Assembly Bill 52 provide for consultation with Native American tribal organizations during the CEQA process. Prior to release of an EIR for a project, a lead agency must provide the opportunity to consult to tribes that are traditionally and culturally affiliated with the geographic area in which a project is located, and must conduct such consultation, if requested by the tribes in writing within 30 days of notification of the proposed project. Should any Native American tribes have concerns about Tribal Cultural Resources (TCRs) within the project site, consultation outreach should document potential impacts to such resources, as well as feasible means to avoid, or significantly reduce, impacts to those resources during project implementation. In addition, Senate Bill 18 requires planning agencies to consult with California Native American tribes during the preparation, updating, or amendment of all General/Specific Plans proposed on or after March 1, 2005. The purpose of Senate Bill 18 consultation is to identify and preserve specified places, features, and objects located within the City's jurisdiction that have a unique and significant meaning to California Native Americans.

On behalf of the City, LSA will contact the Native American Heritage Commission (NAHC) in Sacramento to request a review of its Sacred Lands File for the project site, as well as a list of tribes that have requested notification pursuant to the requirements of Assembly Bill 52 and Senate Bill 18 for projects within the City's jurisdiction. LSA will prepare a combined Assembly Bill 52 and Senate Bill 18 draft outreach letter template for use by the City in sending this correspondence on City letterhead, which will notify tribes of the opportunity to consult on the potential for encountering Tribal Cultural Resources during the project. As an optional task, LSA can assist the City in facilitating requested meetings with tribes, should such tribes indicate a desire to consult. This scope does not include LSA printing or distributing letters on behalf of the City or time for LSA to follow up with tribes to confirm receipt of the letters.

This section of the EIR will be prepared based on the results of the NAHC Sacred Lands File search and the outcome of any consultation between the City and local tribal governments.

### 3.6 Geology and Soils

The project site is not located in an Alquist-Priolo (AP) Fault Zone; however, the project site is located in a seismically active area. A significant earthquake on one of the regional faults near the project site will likely produce strong ground shaking during the life of the project. The project site is located in an area where liquefaction hazards have not been evaluated by the California Geologic Survey. Based on the site-specific geotechnical study and other available reports and maps, Baseline will prepare a summary of the geologic setting and regulatory framework related to geology and soils. Baseline will evaluate potential impacts related to geology and soils, and will develop mitigation measures, as needed, to reduce the potential impacts related to geology and soils to a less-than-significant level. Baseline will also evaluate potential impacts of the project related to paleontological resources. Monitoring and accidental discovery mitigation measures are likely to be recommended.

### 3.7 Hydrology and Water Quality

Federal Emergency Management Agency (FEMA) mapping indicates that the project site is not located within a flood hazard zone. Baseline will evaluate the project's potential impacts related to hydrology and



water quality. Construction activities and changes in land uses at the project site could increase the discharge of pollutants to surface waters. Implementation of the project would alter impervious surfaces and could alter existing drainage patterns at the project site, which can impact groundwater recharge and existing stormwater drainage infrastructure.

Baseline will prepare a summary of the setting related to hydrology and water quality based on the preliminary stormwater control plan for the project, and other published materials/maps. Baseline will evaluate potential impacts to surface and groundwater quality, flooding, alterations to surface flows/runoff, erosion and sedimentation, stormwater treatment, and drainage into existing off-site stormwater drainage systems.

Baseline will prepare a summary of the regulatory framework related to hydrology and water quality, including applicable National Pollutant Discharge Elimination System (NPDES) construction and post-construction requirements. Baseline will evaluate the project's proposed approach to NPDES compliance. Baseline will develop mitigation measures, as necessary, to minimize any identified impacts to a less-than-significant level.

### 3.8 Hazards and Hazardous Materials

Baseline will evaluate potential impacts associated with hazards and hazardous materials in accordance with CEQA requirements for the project. Demolition of existing structures at the project site could result in the release of hazardous building materials into the environment. The routine transportation and use of hazardous materials (e.g., fuel, oils, and paints) would occur during project construction. Baseline will discuss the potential for use, transport, and releases of hazardous materials to occur during project construction and operation. Existing laws and regulations for hazards and hazardous materials that are applicable to the project will be discussed. Based on the findings of the Phase I ESA, Baseline will discuss whether past land uses at the project site and surrounding area may have resulted in the release of hazardous materials that could impact the proposed project. Baseline understands that it has not been determined whether a Phase II ESA will be necessary for the project site. Based on a preliminary review of the project site, we understand that past occupants of the project site included an automotive repair center; therefore, the potential exists for a Phase II ESA and remediation activities to be required at the project site. Baseline assumes that if a Phase II ESA or remediation of the project site is necessary, the Phase II ESA and plans for remediation would be provided for use in this analysis. Baseline will also discuss potential impacts associated with implementation of emergency response plans. Baseline will develop mitigation measures, as necessary, to minimize any identified impacts to a less-than-significant level.

### 3.9 Transportation

It is assumed that this section of the EIR will be entirely based on the Traffic Impact Study prepared by the project sponsor's consultant, and the peer review and supplemental technical analysis (if required) to be prepared by the LSA team (Parisi). The Traffic Impact Study and technical analyses must be deemed adequate by City staff prior to preparation of the EIR section. At a minimum, it is assumed that the Traffic Impact Study will include a description of the transportation and circulation setting within the study area and evaluate: the project's trip generation against local and regional thresholds for significance; all applicable City programs, plans, ordinances, and policies addressing circulation systems (including transit, roadway, bicycle, and pedestrian facilities); the project's Vehicle Miles Traveled (VMT) per CEQA Guidelines section 15064.3, subdivision (b); the project's geometric design features and adequacy of site access; and feasible mitigation measures, if necessary.



### 3.10 Air Quality

Development activity associated with the proposed project could increase pollutant concentrations in San Rafael through increased vehicle trips and building operations. Construction activities associated with project development, including grading and ground disturbance, could increase concentrations of particulate matter. This increase could contribute to existing air pollution in the San Francisco Bay Area Air Basin. Increased air pollution could affect compliance with existing air quality plans.

Once LSA has received an acceptable peer-reviewed Air Quality Analysis and Risk Hazard Assessment report from the project sponsor, LSA will incorporate the findings of the Air Quality Analysis and Risk Hazard Assessment into the air quality section of the EIR. The EIR section will include a description of the regulatory framework for air quality, including existing air quality laws and regulations and the roles of the local agencies, including the California Air Resources Board (CARB), the Bay Area Air Quality Management District (BAAQMD), and City of San Rafael. Project setting meteorological and air quality data developed through the CARB and climatological and air quality profile data gathered by the BAAQMD will be utilized for the description of existing ambient air quality. The most recent published air quality data from air quality monitoring stations in the vicinity of the project site for the past 3 years will be included to characterize existing air quality. In addition, regulatory documents, professional publications, and past LSA experience in the project area will supplement background information.

LSA will review adopted plans related to clean air in the State of California and the BAAQMD and determine the project's consistency with these plans. Construction activities associated with the proposed project would generate increased particulate emissions associated with grading, soil hauling, and other construction activities on the project site. Construction equipment exhaust would also be a source of air pollution. Using the construction emissions identified in the Air Quality Analysis and Risk Hazard Assessment, LSA will determine if emissions would result in a cumulatively considerable net increase of any criteria pollutant. Emissions associated with long-term operations will be reported based on the findings of the Air Quality Analysis and Risk Hazard Assessment. Operational-period emissions will be analyzed to determine if emissions would result in a cumulatively considerable net increase of any criteria pollutant. LSA will also identify the potential health risk impacts associated with project construction based on the findings of the Air Quality Analysis and Risk Hazard Assessment. Based on the findings of the Air Quality Analysis and Risk Hazard Assessment, the proposed project will also be assessed to determine if it would result in objectionable odors affecting a substantial number of people. Practical mitigation measures will be identified to address any significant project or cumulative impacts. Both an evaluation of the potential mitigation measures and a discussion of their effectiveness will be provided.

### 3.11 Greenhouse Gas Emissions

Construction and operation of the proposed project would result in the consumption of fuel and energy resulting in the emission of greenhouse gases. Typically, an individual project does not generate sufficient greenhouse gas emissions to influence global climate change significantly on its own; therefore, the issue of global climate change is cumulative in nature. Implementation of the project, through construction and operational activities, would generate greenhouse gas emissions that would cumulatively contribute to global climate change.

LSA will prepare the greenhouse gas section of the EIR based upon receipt of an acceptable peer-reviewed Air Quality Analysis and Risk Hazard Assessment. LSA will summarize up-to-date information related to global climate change, along with the climate/meteorology conditions in the project area, and the State



and regional setting. The existing regulatory framework for global climate change will also be described, including applicable federal, State, and San Rafael City policies, regulations, and programs.

Based on the findings of the Air Quality Analysis and Risk Hazard Assessment, LSA will compare the quantitative assessment of greenhouse gas emissions associated with all relevant sources related to the project, including construction activities, new vehicle trips, energy consumption, and water usage to significance thresholds established by the BAAQMD. LSA will also provide a qualitative assessment of the project's consistency with relevant plans and regulations adopted for the purpose of reducing greenhouse gas emissions. Where necessary, practical mitigation measures will be identified to address any significant project or cumulative impacts. Mitigation may include sustainable development practices and design measures such as transportation demand management measures, site disturbance reduction measures, energy conservation measures and renewable energy sources, solid waste reduction measures, sustainable solid waste management practices, and water conservation and efficiency measures, over and above any already identified by the project sponsor.

### 3.12 Noise

The proposed project would generate new vehicle trips in the project vicinity as well as mechanical equipment and commercial operations which could expose surrounding uses to an unacceptable increase in noise levels. In addition, construction activities could result in short-term increases in noise and vibration levels. LSA will prepare the noise section of the EIR based upon receipt of an acceptable peer-reviewed Noise and Vibration Study. This section will assess the potential effects of the proposed project on the existing and future noise environments in the project vicinity and provide a determination as to whether the project would result in exposure of individuals to unacceptable noise levels.

Applicable State of California and City of San Rafael noise and land use compatibility criteria for the project area will be identified. Noise standards including General Plan Noise Element Policies and the City Noise Ordinance will be discussed. Existing sources of noise in the project vicinity, such as traffic on adjacent roadways, will be identified. Existing noise-sensitive land uses in the project site vicinity will also be identified using aerial images and field reconnaissance. Existing noise conditions will be documented based on the measured noise levels identified in the Noise and Vibration Study.

Noise and vibration impacts from construction of the proposed project on adjacent land uses will be analyzed based on the findings of the Noise and Vibration Study. The construction noise impact will be evaluated in terms of maximum levels ( $L_{max}$ ) and/or hourly equivalent continuous noise levels ( $L_{eq}$ ) and their frequency of occurrence. The vibration impacts will be evaluated and compared to the applicable City standards. If City standards are not available, Federal Transit Administration criteria will be utilized. The impact analysis will be based on the sensitivity of the area and the requirements of the Municipal Code. Avoidance, minimization, and mitigation measures will be identified to address potential adverse construction-related short-term noise and vibration impacts on sensitive receptors.

Using the findings of the Noise and Vibration Study, LSA will evaluate noise impacts from project-related and cumulative vehicular trips. Projections of the future noise levels along selected roadway segments will be provided in a table format to show the relationship between vehicle-related noise and distance from the roadway. In addition, using the findings of the Noise and Vibration Study, LSA will quantitatively analyze operational impacts from stationary noise sources, such as new mechanical equipment such as HVAC systems, and any other project-related noise associated with the proposed project. Both stationary and mobile operational noise impacts for both on-site and off-site sensitive land uses will be assessed.



As warranted, LSA will identify practical measures to address significant project or cumulative noise impacts. LSA will incorporate measures designed to reduce interior and exterior noise levels to meet applicable standards as identified in the Noise and Vibration Study. Any measures required to reduce the project's short-term construction and/or long-term noise impacts to acceptable levels will also be identified. Both an evaluation of the potential measures and a discussion of their effectiveness will be provided.

### 3.13 Public Services and Recreation

The proposed project would include a mix of commercial and residential uses, and therefore would increase demand for fire and police services within the City, result in an increase in school-aged children within the City, and increase the use of recreational facilities within the City and the region. The EIR will include a concise summary of each agency that would provide service to the site, their individual responsibilities, and existing service constraints. The EIR will also include a summary of the existing and planned enrollments and capacities at schools that residents of the project site would attend. LSA will review the General Plan EIR and the San Rafael City Schools Master Facilities Plan, as well as other background reports, and then work with the City to contact each service provider to determine if they have any concerns about providing services to the proposed project or physical constraints to doing so. The assessment in the EIR will examine the demand for services generated by the change in use on the site, and the physical impacts of this demand on existing public services. The need for coordination among facility and service providers and the project sponsor for on- or off-site improvements (if any) will be addressed to ensure that any potentially significant impacts are mitigated to less-than-significant levels.

### 3.14 Utilities and Service Systems

The project site is currently served by water, wastewater, solid waste disposal, and other utility services. The proposed project would increase the demand for water, wastewater, solid waste, telecommunications, electricity, and natural gas service and could require installation of new infrastructure both on and off the site. Storm drainage issues would be evaluated in the hydrology and water quality section of the EIR (refer to Task 3.7).

The EIR will include a concise summary of each agency that would provide service to the site, their individual responsibilities, and existing service constraints. LSA will review the General Plan EIR, technical studies provided by the project sponsor, and other background reports and then contact each service provider to determine if they have any concerns about providing services to the proposed project or physical constraints to doing so. The assessment in the EIR will examine the demand for services generated by the change in use on the site, and the physical impacts of this demand on existing utility services and infrastructure.

Senate Bill 610 requires an assessment of whether available water supplies are sufficient to serve the demand generated by new projects of a certain size. The proposed project would include more than 500 residential units, and therefore a Water Supply Assessment (WSA) would be required (refer to Task 2). This scope of work assumes that the project sponsor would provide existing and proposed water demand calculations. LSA and the City would provide the water calculations to the Marin Municipal Water District (Marin Water) to prepare the WSA. This information will be compiled and used in the evaluation of available water supply in the EIR.



### 3.15 Energy

The proposed project would increase the demand for energy consumption during both construction and operation of the proposed project, including diesel fuel use for construction off-road equipment, diesel and gasoline fuel use for construction on-road vehicles, diesel and gasoline fuel use from vehicle trips generated by the project, operational natural gas usage, and operational electricity consumption. LSA will evaluate the project's impacts related to energy use for construction and operation of the proposed project based on the air quality model output data included in the Air Quality Analysis and Risk Hazard Assessment.

Specifically, construction-period energy usage associated with diesel fuel use for construction off-road equipment and diesel and gasoline fuel use for construction on-road vehicles will be identified, using the results of the air quality model output data and fuel consumption provided in the CARB EMFAC2021 model. Once operational, energy use consumed by the proposed project would be associated with natural gas use, electricity consumption, and fuel used for vehicle trips associated with the project. LSA will estimate natural gas and energy consumption using default energy intensities by building type in the air quality model output data. Fuel use associated with vehicle trips generated by the proposed project will be calculated based on the trip generation rates identified in the project's trip generation estimates and vehicle fuel consumption provided in EMFAC2021. The analysis will also address the project's compliance with applicable energy efficiency standards and will cross-reference the discussion provided in the greenhouse gas emissions discussion (Task 3.11) as necessary.

## TASK 4. Alternatives

The LSA team will identify and fully evaluate up to four feasible alternatives to the proposed project that would avoid or reduce significant impacts, one of which will be the CEQA-required No Project alternative. The alternatives will be developed in consultation with City staff and will be informed by input received during the scoping session and in response to the NOP, and the significant impacts of the project that are identified in the impact analysis for each topical section of the EIR. Alternatives considered but rejected from further analysis will be identified.

According to the CEQA Guidelines, alternatives can be evaluated in less detail than the project, and the discussion for each issue topic will be of sufficient detail to evaluate the benefits and drawbacks of each alternative, and to provide some qualitative conclusions regarding the alternatives. In addition, it is assumed that quantitative evaluation of issues related to transportation, air quality, and greenhouse gas emissions may also be required. A summary table will be included in this section that identifies the level of significance of each environmental topic for each alternative as compared to implementation of the proposed project. Based on this analysis, the Environmentally Superior Alternative will be identified (as required by CEQA).

## TASK 5. CEQA-Required Assessment Conclusions

LSA will prepare the appropriate conclusions to fulfill CEQA requirements by providing an assessment of several mandatory impact categories, including:

- Growth-inducing impacts;
- Significant irreversible environmental changes;



- Unavoidable significant environmental impacts; and
- Effects found not to be significant.

The Effects Found Not to be Significant discussion will address the topics of agriculture and forestry resources, biological resources, mineral resources, and wildfire. These topics are not anticipated to result in significant environmental impacts, and therefore will only be briefly addressed in this section.

## **TASK 6. Draft Environmental Impact Report**

LSA will prepare three versions of the Draft EIR, including up to an Administrative Draft, a Screencheck Draft, and a Public Review Draft.

### **6.1 Administrative Draft EIR**

The information developed in Tasks 2 through 6 will be organized into an Administrative Draft EIR. In addition to each of the topical sections, the EIR will include the following components:

- Introduction
- Executive Summary
- Project Description
- Setting, Impacts, and Mitigation Measures
- Alternatives to the Proposed Project
- CEQA-Required Assessment Conclusions
- List of Persons and Organizations Contacted
- References
- Technical Appendices

One digital version (in both Word and PDF formats) of the Administrative Draft EIR will be provided to City staff for distribution, review, and comment. LSA will discuss comments on the Administrative Draft EIR with the City over the phone or via videoconference.

***Deliverable: One electronic version of Administrative Draft EIR***

### **6.2 Screencheck Draft EIR**

LSA will amend the Administrative Draft EIR based on a single set of non-contradictory comments provided by City staff. One digital version (in both Word and PDF formats) of the Screencheck Draft EIR will be provided to City staff for distribution, review, and comment. LSA will also provide an electronic version of the Screencheck Draft that retains all comments and edits in on the Administrative Draft in tracked changes, for City staff to easily verify that all requested changes have been made and all comments addressed.

***Deliverable: One electronic version of the Screencheck Draft EIR (clean and tracked changes versions) and one Administrative Draft version of the MMRP (see Task 7.4 below)***





### 6.3 Public Review Draft EIR

Upon successful completion and approval of the Screencheck Draft EIR, LSA will provide up to three (3) paper copies of the Public Review Draft EIR for public distribution and submittal to the City. A high-resolution compiled electronic PDF version will be provided, as will a PDF version suitable for posting on the City’s website (i.e., individual, searchable low-resolution chapters). Word versions will also be provided for the City’s files.

LSA will prepare the Notice of Availability (NOA) and Notice of Completion (NOC), and will be responsible for distribution of the Public Review Draft EIR to the State Clearinghouse.

*Deliverable: Up to 3 paper copies of the Public Review Draft EIR, as well as electronic versions of the NOA and NOC*

## TASK 7. Final Environmental Impact Report

Following the 45-day public review period of the Draft EIR, LSA will prepare the Response to Comments (RTC) Document. The RTC Document, together with the Draft EIR, will comprise the Final EIR. LSA will prepare three versions of the RTC Document, including the Administrative Draft, the Screencheck Draft, and a Final Draft. As part of the Final EIR, LSA will also prepare and produce a Mitigation Monitoring and Reporting Program and the Administrative Record.

### 7.1 Administrative Draft RTC

The LSA team will formulate responses to comments received on the Draft EIR, including written comments received from the public and agencies, and prepare an Administrative Draft RTC Document. Included in this document will be: 1) a list of persons, organizations, and public agencies commenting on the Draft EIR; 2) copies of all written comments, and the responses to these comments; 3) written comments and any verbal comments received at a public hearing and responses to these comments; and 4) any necessary revisions to the Draft EIR. The budget estimate in [Appendix B](#) shows the level of professional effort assumed for this task. Should an unexpectedly large volume of comments be submitted (e.g., an organized letter-writing campaign by anti-development advocates or a substantial package of comments by a law firm representing union interests), an adjustment in the budget to cover work beyond the assumed level would be needed. The Administrative Draft RTC Document will be submitted to the City in electronic format (Word and PDF files) for staff distribution, review, and comment. LSA will discuss comments on the Administrative Draft RTC Document with the City over the phone or via videoconference.

*Deliverable: One electronic version of Administrative Draft RTC*

### 7.2 Screencheck Draft RTC

LSA will amend the Administrative Draft RTC Document based on a single set of non-contradictory comments provided by City staff. One digital version (in both Word and PDF formats) of the Screencheck Draft RTC Document will be provided to City staff for distribution, review, and comment. LSA will also provide an electronic version of the Screencheck Draft that retains all comments and edits on the Administrative Draft in tracked changes, for City staff to easily verify that all requested changes have been made and all comments addressed.



*Deliverable: One electronic version of the Screencheck Draft RTC (clean and tracked changes versions)*

### 7.3 Final RTC

Upon successful completion and approval of the Screencheck RTC Document, LSA will provide up to three (3) paper copies of the RTC Document for public distribution and submittal to the City. A high-resolution compiled electronic PDF version will be provided, as will a PDF version suitable for posting on the City’s website (i.e., individual, searchable low-resolution chapters). Word versions will also be provided for the City’s files. LSA will provide a draft Notice of Determination (NOD) for the City to file with the City Clerk upon certification of the EIR.

*Deliverable: Up to 3 paper copies of the Final RTC Document and electronic copy of the NOD*

### 7.4 Mitigation Monitoring and Reporting Program

LSA will prepare a Mitigation Monitoring and Reporting Program (MMRP) for the project and will identify responsibility for implementing and monitoring each mitigation measure, along with monitoring triggers and reporting frequency, subject to approval by City staff. LSA will also work closely with City staff to ensure the program is prepared in a format that will be easy for staff to implement and be tailored to the City’s procedures. The Administrative Draft MMRP will be provided with the Screencheck Draft EIR (under Task 6.2) and the Final MMRP will be provided with the Final EIR.

*Deliverable: Electronic versions of the Administrative Draft and Final Draft MMRP*

### 7.5 Administrative Record

This task will include compilation of the Administrative Record in electronic format, organized by subject. The Administrative Record will be maintained throughout the environmental review process and will be finalized as part of the Final EIR.

*Deliverable: Electronic copy of the Draft EIR and Final EIR Administrative Record*

## TASK 8. Project Management

Theresa Wallace, with assistance from Matthew Wiswell, will undertake a variety of general project management tasks throughout the process of preparing the EIR and presenting it to decision-makers.

Theresa will be in charge of day-to-day activities associated with the project and will ultimately be responsible for quality assurance for all work undertaken. Project management tasks include regular client contact; oversight of subconsultants and team members; schedule coordination; contract negotiation and management; and development of products. As Project Manager, Theresa will attend all meetings and maintain a project schedule. She will monitor the project budget in light of progress in the project schedule and will communicate any potential deviations with the City in a timely manner. She will also provide direction to all team members that will ensure an internally consistent, coherent document. She will review all subconsultant submittals and in-house prepared text, tables, and graphics before these materials are presented to the City as administrative review documents.



To ensure the timely and accurate conveyance of information, LSA recommends that monthly standing teleconference or videoconference calls be established (up to 12 calls of approximately 1 hour are assumed). Attendees would be Ms. Wallace and select EIR team technical staff on an as-needed basis, as well as City staff. In the event that we all agree that any given month's call is unnecessary, it could be canceled the day before. Setting a day, time, and frequency would avoid the effort required to set up unscheduled calls. LSA will develop the agenda for these calls, and meeting notes and action items will be distributed. The meeting notes and action items will also serve as a monthly progress report.

## **TASK 9. Meetings**

Theresa and Matthew will be available throughout the environmental review period to meet with the project team to gather information, review progress, review preliminary findings, discuss staff comments, offer input into discussions on project modifications, and consult on CEQA procedural matters. In addition to the project start-up meeting identified under Task 1.1 and the NOP scoping session identified under Task 1.4, the project management team and select technical staff as needed will be available to attend up to five, four-hour public hearings, including the Draft EIR and Final EIR hearings.

It is assumed that LSA would attend and present findings related to the environmental review at these public hearings, as necessary. At this time, it is assumed that all meetings and hearings would be attended via videoconference, due to the ongoing COVID-19 pandemic. Therefore, attendance at these meetings does not include travel time. In the event that in-person meeting attendance is required, use of contingency funds would be requested.

For additional meeting attendance not identified in this scope of work, attendance would be billed on a time and materials basis and contingency funds could be utilized. The cost for the Project Manager's attendance at additional meetings would be billed at the hourly rate (\$245/hour).



## 4. Project Team

### LSA Team Information

With 200+ employees firm wide, LSA has the depth and breadth of experience to cover almost every aspect of environmental documentation services for CEQA compliance. Our team of planners, in-house technical experts, and subconsultants will be led by Theresa Wallace, AICP, Principal. She will be available throughout the duration of the project to provide consistent leadership. We are joined by Baseline Environmental Consulting to provide the hazards, geology, and hydrology analyses, and Parisi Transportation Consultants for the transportation analysis aspect. Below is a brief summary of our project team. Full resumes, including technical staff and subconsultants, are located in Appendix A.



### Project Management Team

Effective project management is critical to the success of environmental analysis, especially for complex projects. Theresa Wallace, AICP, Principal/Project Manager, and Matthew Wiswell, AICP, Assistant Project Manager, will undertake a variety of general project management tasks throughout the environmental documentation period. With assistance from Matthew, Theresa will be in charge of day-to-day activities associated with the project. Project management tasks include regular client contact; contract negotiation and management; oversight of team members; schedule coordination; and development of products. Theresa will provide direction to all team members that will ensure an internally consistent, coherent document. She will also review all text, tables, and graphics before these materials are presented to the City as administrative review documents. Theresa will also provide input on scope, budget, and scheduling of the project, and quality assurance for all work undertaken. She will strategize and work with Matthew to craft the project description on which the environmental analysis will be based and will advise on CEQA procedural matters as well as application of the CEQA Guidelines to this project. Qualifications for Theresa and Matthew are provided below.

#### Theresa Wallace, AICP, Principal Project Role: Project Manager/Principal in Charge and QA/QC

Theresa Wallace is a seasoned planner and project manager with 18 years of experience in preparing a variety of environmental documents including CEQA Initial Studies/Mitigated Negative Declarations and Environmental Impact Reports; and NEPA technical studies, Environmental Assessments, and Environmental Impact Statements. Theresa’s experience encompasses a wide array of public- and private-sector projects, including a number of residential, commercial, office, institutional, and mixed-use projects; as well as public park master plans and facilities and bicycle/pedestrian paths. She is adept at managing multi-disciplinary teams and helping agencies navigate complex environmental review processes. She has managed the environmental review for a number of large-scale, high-profile projects throughout the Bay Area and is currently serving as Principal in Charge for LSA’s on-call CEQA contracts, including for the cities of Dublin, San Ramon, Concord, Berkeley, Milpitas, El Cerrito, and Hayward. Some of her relevant projects are:



- 111 Independence Drive Project EIR, City of Menlo Park
- Menlo Uptown Project EIR, City of Menlo Park
- Menlo Portal Project EIR, City of Menlo Park



- California State University Maritime Academy Master Plan EIR, California State University
- 1548 Maple Street Townhome Community Project EIR, City of Redwood City
- Children’s Hospital and Research Center Oakland Campus Master Plan EIR, City of Oakland
- Fifth and Mission (5M) Project, Forest City/City and County of San Francisco



**Matthew Wiswell, AICP, Environmental Planner**  
**Project Role: Assistant Project Manager and Planner**

Matthew Wiswell AICP, Planner, serves as both Project Manager and Assistant Project Manager and drafts the non-technical sections of environmental documents. He is a CEQA specialist with a solid understanding of planning principles that he applies to environmental analysis. Matthew both manages and contributes to a variety of planning and environmental documents for development projects, infrastructure improvements, school facility improvements, and City-sponsored plans and programs. He recently served as the

Assistant Project Manager for the 600 Addison Street Project for the City of Berkeley and represented the team at the Final IS/MND adoption hearing. He is also currently serving as the Project Manager for the Menlo Flats Project EIR for the City of Menlo Park and is the Assistant Project Manager for the 388 Vintage Park Drive EIR for the City of Foster City and the LAB Project Focused EIR for the City of Berkeley, both of which involve the redevelopment of underutilized commercial and industrial sites with life sciences uses. He also serves as the primary contact and Project Manager for LSA’s on-call contract with the cities of El Cerrito and Milpitas.

### Other Key Personnel

Our in-house technical expertise encompasses air quality, noise, greenhouse gas emissions, and cultural and historic resources. We have provided resumes for our in-house technical team in [Appendix A](#). Peer review tasks and preparation of technical inputs will be overseen by a Principal of the firm with expertise in the relevant discipline.



## Subconsultants

### Baseline Environmental Consulting



Baseline Environmental Consulting (Baseline) is a certified small business based in Emeryville and is a multi-disciplinary environmental consulting firm established in 1985. Baseline provides private- and public-sector clients with a range of services, including CEQA environmental impact assessment/compliance and hazardous materials management. Baseline brings over 30 years of experience conducting geology, hydrology, and hazards CEQA analyses. Its staff of geologists, hydrogeologists, engineers, and environmental scientists has extensive expertise and experience preparing technical sections for IS/MNDs and EIRs.

Baseline’s hazardous materials management practice includes the preparation of Phase I/II Environmental Site Assessments (ESAs). Baseline has experience conducting soil and groundwater contamination investigations and, as required, associated cleanup. Typically, Baseline uses a risk-based approach to achieve site closures from applicable regulatory agencies. It works extensively with public agencies in developing general guidelines for development of contaminated urban sites. [Baseline professionals have worked with LSA for more than 20 years to provide geology, hydrology, and hazards services for CEQA documentation. They have partnered with LSA on numerous projects throughout the Bay Area. The Baseline team will be led by Bruce Abelli-Amen, Principal/Senior Hydrogeologist and Cem Atabek, Environmental Engineer II.](#) Resumes for key Baseline staff are provided in [Appendix A](#).

### Parisi Transportation Consulting



Parisi Transportation Consulting is hired by cities and towns, counties, transportation authorities, state transportation departments, regional planning organizations and school districts. Parisi has extensive experience providing transportation planning and engineering services for jurisdictions throughout the San Francisco Bay Area. Parisi’s primary focus is on serving public sector clients, such as the City of San Rafael. In addition, Parisi provides transportation planning and traffic engineering services throughout the Bay Area, including within Marin County and in San Rafael. Recent San Rafael projects relying upon Parisi’s transportation planning and traffic engineering expertise range from peer reviews of major development projects, preparation of transportation sections for EIRs, assessments of systemic safety conditions, planning for Complete Streets, coordination with Caltrans for interchange improvements, and preparation of successful grant applications for transportation infrastructure. Some of Parisi’s recent work with the City of San Rafael includes the following: BioMarin and Whistlestop/Eden Housing Project EIR; Northgate Mall – Costco Transportation Impact Report; Kaiser Annex Project EIR; Manuel T. Freitas Interchange Area Planning, and the San Rafael High School Master Facilities Plan EIR. [The Parisi Team will be led by David Parisi, PE, TE, Transportation Planner and Engineer. Parisi and LSA have teamed on a number of projects throughout the Bay Area for many years.](#) Mr. Parisi’s resume is provided in [Appendix A](#).



## Our Capability: Environmental Documentation



LSA serves as a “one-stop” choice for documentation in compliance with CEQA. We are thoroughly familiar with the processes, procedures, and technical requirements of all aspects of the environmental review process. LSA has also prepared numerous documents to satisfy the requirements of specific regulatory agencies. This expertise includes coordination with local, State, federal, and other governmental agencies in preparing and processing environmental documents and technical studies, managing public participation programs, issuing necessary legal notices, and incorporating each document into the relevant planning process. LSA’s project managers employ innovative environmental review approaches steeped in an intimate understanding of CEQA, the State CEQA Guidelines, and CEQA case law to avoid redundant environmental review.

LSA has prepared thousands of EIRs, Supplemental EIRs, ISs, Environmental Assessments, Addendums, Negative Declarations (NDs), MNDs, and Environmental Impact Statements (EISs).

LSA, and the project management team for this assignment in particular, has successfully completed numerous environmental review documents under contract to lead agencies for a wide range of commercial, office, and residential redevelopment projects on underutilized sites in urban and suburban areas and on greenfield sites throughout the Bay Area and beyond.

Many of our planners are **certified by the American Institute of Certified Planners** and are active members of the American Planning Association and Association of Environmental Professionals. With respect to ongoing education, LSA staff maintains and supplements our knowledge, understanding, and technical expertise in the application of CEQA by regularly attending workshops on recent court outcomes and legislative amendments. Additionally, we regularly work with land use and CEQA attorneys who provide us with specific suggestions as to how the most recent case law should be interpreted and incorporated into our EIRs and other CEQA documents.

**LSA has four decades of experience in providing legally sound EIR documents and a full range of environmental planning and consulting services throughout California.**

### LSA’s Expertise with Environmental Documents Includes the Following:

- Environmental Impact Reports (EIRs)
- Initial Study/Mitigated Negative Declarations (IS/MNDs)
- Initial Studies (ISs)
- Categorical Exemptions (CEs)
- Mitigation Monitoring and Reporting Program (MMRP)
- Various environmental technical reports including air quality, noise, water quality, biology, and cultural resources

*LSA has a successful track record of preparing environmental documents that are technically sound and legally robust as well as innovative and solution oriented.*



### LSA’s Key Strengths:

- Senior Staff Involvement
- Communication and Responsiveness
- Objective and Impartial Analysis
- Experienced Public Outreach
- Commitment to Schedule and Cost Control
- Established Quality Assurance and Quality Control Procedures
- Client Satisfaction



## 5. Budget

For completion of the proposed scope of services within the timeline set forth in this proposal, we have provided a preliminary cost estimate in the form of a spreadsheet that details tasks by assigned personnel in [Appendix B](#).

The estimated cost of the LSA team’s labor and direct expenses to complete the environmental review documentation for the Northgate Mall Redevelopment Project is \$236,650. We have also identified a contingency amount of 10 percent of the total project cost (\$23,700), which would not be used without written authorization from the City. The contingency amount is intended to allow LSA to quickly address any changes in the scope of work without the need to amend the contract agreement, and may be used to supplement the technical analyses provided by the project sponsor. [With the contingency amount, the total contract would be \\$260,350.](#)

Please note that approximately 10 percent of the total contract cost is allocated to the assumed level of effort that will be required to prepare the Response to Comments Document and Final EIR (Task I).<sup>3</sup> Upon receipt of all comments received on the Draft EIR during the 45-day review period, the LSA team will assess the level of effort that will likely be necessary to complete the Final EIR and identify if any changes to the cost estimate will be necessary. However, we believe that the cost identified in this proposal appropriately considers the level of public interest in this project and will be adequate to cover this task.

As you review the proposal and compare the work scope with the line item budget, if you find that there are ways of economizing or believe that expansions are needed, we are more than willing to discuss potential modifications to both scope and budget.

This proposed budget is effective for 90 days from the date of this proposal.

The following tables contain LSA’s proposed team members’ hourly rates, as well as LSA’s Standard Billing Rates, including in-house direct costs.

**Table B: LSA Individual Hourly Billing Rates**

Key Staff Members	Individual Hourly Rates
Theresa Wallace, AICP, Principal, Environmental Planner	\$245
Matthew Wiswell, AICP, Assistant Project Manager, Environmental Planner	\$120
Amy Fisher, Principal/Air Quality, Climate Change and Noise Analyst	\$240
Cara Carlucci, Senior Planner, Air Quality/GHG Specialist	\$140
J.T Stephens, Associate/Senior Noise Specialist	\$185
Jordan Roberts, Noise Specialist	\$125

<sup>3</sup> Using a comparison of Draft EIR comment volumes and budgets for recent projects with substantial response to comments efforts, LSA assumes an average cost of approximately \$300 to respond to an individual comment; this takes into account the use of master responses and cross-referencing. The Response to Comments budget assumes we will receive approximately 100 individual comments on the Draft EIR.





Key Staff Members	Individual Hourly Rates
Lloyd Sample, Principal, Cultural Resources	\$225
Kerrie Collision, Associate, Cultural Resources Manager	\$135
Michael Hibma, Associate Cultural Resources Manager	\$130

**Table C: LSA Hourly Billing Rates by Classification Effective May 2021**

Job Classification							Hourly Rate Range <sup>1,2</sup>
Planning	Environmental	Transportation	Air/Noise	Cultural/Paleontological Resources	Biology	GIS	
Principal	Principal	Principal	Principal	Principal	Principal	Principal	\$175–390
Associate	Associate	Associate	Associate	Associate	Associate	Associate	\$125–245
Senior Planner	Senior Environmental Planner	Senior Transportation Planner/Engineer	Senior Air Quality/Noise Specialist	Senior Cultural Resources Manager/Paleontologist	Senior Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	Senior GIS Specialist	\$115–220
Planner	Environmental Planner	Transportation Planner/Engineer	Air Quality/Noise Specialist/Climate Change Specialist	Cultural Resources Manager/Archaeologist/Architectural Historian/Paleontologist	Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	GIS Specialist	\$85–150
Assistant Planner	Assistant Environmental Planner	Assistant Transportation Planner/Engineer	Air Quality/Noise Analyst	Cultural Resources Analyst	Assistant Biologist/Botanist/Wildlife Biologist/Ecologist/Soil Scientist/Herpetologist/Arborist	Assistant GIS Specialist	\$85–100
<b>Field Services</b>							
Senior Field Crew/Field Crew							\$80–100
<b>Office Services</b>							
Graphics							\$115–150
Marketing							\$75–125
Office Assistant							\$65–115
Project Assistant							\$70–145
Research Assistant/Intern							\$50–80
Word Processing/Technical Editing							\$95–125

1. The hourly rate for work involving actual expenses in court (e.g., giving depositions or similar expert testimony) will be billed at \$400 per hour regardless of job classifications.
2. Hourly rates are subject to review at least annually, on or about June 1 of each year, and may be adjusted to reflect changing labor costs at LSA's discretion at that time.



**Table D: LSA In-House Direct Costs Effective May 2021<sup>1</sup>**

Description	Unit Cost	Description	Unit Cost
Reproduction (8.5 x 11) B/W	\$0.07 per page	GPS Unit	\$75.00 per day
Reproduction (8.5 x 11) Color	\$0.40 per page	Total Station Surveying Instrument	\$50.00 per day
Reproduction (11 x 17) B/W	\$0.10 per page	Level (Laser or Optical)	\$25.00 per day
Reproduction (11 x 17) Color	\$0.75 per page	Laser Rangefinder	\$25.00 per day
CD Production	\$5.00 per CD	Sound Meter	\$75.00 per day
USB Flash Drive	\$5.00 per drive	Sound Meter with Velocity Transducer	\$85.00 per day
Plotting	\$3.75 per sq. ft.	Aerial Photo	Cost
Aerial Drone	\$200.00 per day	Boat Rental	\$125.00 per day
Mileage On-Road	Current federal rate	Water Quality Meter	\$25.00 per day
Mileage Off-Road	Current federal rate	Night Vision Goggles	\$50.00 per unit per night

<sup>1</sup> Direct costs shall be reimbursed at cost plus 10 percent.

### Work Progress Estimation and Billing Methodology

LSA has in-depth experience in conducting successful monthly project accountability over a long-term planning effort. LSA uses Deltek accounting software for both its project management and accounting functions. Deltek is a totally integrated project management and accounting software developed for the architecture, planning, and engineering industry that is auditable and secure, and provides our project managers with real-time access to project data and the ability to track hours and costs according to client specifications.

Invoices are prepared monthly and include a summary cover sheet and a detailed report with labor hours and costs by individual and direct expenses. The report is generated from weekly timesheets and bi-weekly or monthly expense reports entered into the Deltek system. Invoices can be prepared to client specifications, but generally show the total budget, previously billed, current fee, and remaining budget amounts by phase of work.



## Subconsultant Rates

### Baseline Environmental Consulting Rates

**Table E: Baseline Individual Hourly Billing Rates**

Key Staff Members	Individual Hourly Rates
Bruce Abelli-Amen, PG, CHg, Principal/Certified Hydrogeologist	\$225
Cem Atabek, Environmental Engineer III	\$180



STANDARD SCHEDULE OF FEES  
January 2021

**LABOR**

Principal/Technical Director .....	\$ 225.00/hour
Planning Associate .....	\$ 210.00/hour
Senior Field Geologist .....	\$ 170.00/hour
Environmental Engineer III .....	\$ 180.00/hour
Project Engineer .....	\$ 170.00/hour
Environmental Engineer II .....	\$ 170.00/hour
Environmental Engineer I .....	\$ 155.00/hour
Editing/Project Administration .....	\$ 130.00/hour
Graphics .....	\$ 125.00/hour
Word Processing .....	\$ 120.00/hour
Clerical .....	\$ 105.00/hour

**DIRECT COSTS**

Mileage .....	IRS rate
Subcontractors .....	Cost + 15%

**MATERIALS AND EQUIPMENT**

Aerial Drone Usage & Image Processing .....	\$ 100.00/day
Bailer .....	\$ 15.00 each
Bladder Membrane .....	\$ 10.00/each
Bladder Pump Controller (MP10) .....	\$ 75.00/day
Bladder Pump .....	\$ 50.00/day
EnCore Vials .....	\$ 12.50 each
Field Camera .....	\$ 15.00/day
Field Computer .....	\$ 25.00/day
Field Vehicle .....	\$ 65.00/day
GW Filters .....	\$ 15.50/each
Industrial Hygiene/Site Safety Equipment .....	\$ 40.00/day
Laser Leveler .....	\$ 50.00/day
Locking Well Plugs/Caps .....	\$ 40.00 each
Locks .....	\$ 20.00 each
Low Flow Sampling (bladder pump & controller/multi-parameter meter/field computer/water level meter)	\$ 255.00/day
Multi Parameter Meter .....	\$ 75.00/day
Noise Meter .....	\$ 120.00/day
Peristaltic Pump .....	\$ 50.00/day
Photoionization Detector (PID) .....	\$ 110.00/day
Poly Tubing .....	\$ 0.75/foot
Purge Sampling (peristaltic pump/ multi-parameter meter/field computer/water level meter)	\$ 180.00/day
Roto Hammer/Coring Machine .....	\$ 100.00/day
Rotometer .....	\$ 2.00/day
Soil Sample Containers .....	\$ 7.50 each
Soil Sample Tool, Hand Auger, Slide Hammer .....	\$ 60.00/day
Traffic Control (signs, cones, barricades) .....	\$ 25.00/day
Water Level Meter/Interface Probe .....	\$ 30.00/day
Water Level Pressure Transducer .....	\$ 35.00/day
Well Development Tools .....	\$ 40.00/day

Note: Rates subject to change without notice.



## Parisi Transportation Consulting Rates

**Table F: Parisi Individual Hourly Billing Rates**

Key Staff Members	Individual Hourly Rates
David Parisi, PE, TE, Transportation Planner and Engineer	\$290
Andrew Lee, PE, TE, Transportation Planner/Traffic Engineer/Civil Engineer	\$210
Patrick Golier, AICP, Transportation Planner/Managing Consultant	\$205
Lisette Parisi	\$145
Jennifer Shriber, MPH, Transportation Planner/Associate Consultant	\$135



### HOURLY SERVICE RATES FOR PROFESSIONAL SERVICES

January 1, 2021 – December 31, 2021

Principal Consultant	\$240.00 - \$295.00
Managing Consultant	\$195.00 - \$245.00
Senior Consultant	\$155.00 - \$200.00
Consultant	\$125.00 - \$165.00
Associate Consultant	\$100.00 - \$135.00
Technician	\$80.00 - \$110.00

**Notes:**

Hourly service rates are effective through December 31, 2021. Subsequent annual increases will generally be 5% or less.

Reimbursable charges include, but are not limited to transportation charges, reproduction services, shipping expenses, and subconsultant fees. Mileage charges will be charged at the prevailing IRS rate per mile.

Monthly invoices are due within 30 days from the date of the invoice. Interest of 1.0% per month will be charged on past due invoices.



## 6. Schedule

### LSA's Preliminary Schedule

LSA would begin work upon Notice to Proceed. The preliminary work schedule for preparation and completion of the EIR according to the proposed work program described in Section 3. Project Approach is shown on the following page in [Table G](#). Currently, this schedule anticipates that the Final EIR would be ready for certification in early 2022, assuming the project description and final technical inputs to be provided by the sponsor are provided within 2 months of authorization to proceed.

We expect that this schedule will be adjusted to meet the environmental review objectives of the City. As described above, the project schedule will be reviewed at the start-up meeting. Please note that LSA is ready and available to work with the City to adapt the schedule to fit ongoing priorities, holidays, and scheduling.

**Table G: Preliminary Schedule**

Milestone	Responsible Party	Weeks to Complete	Cumulative Week	Date
Notice to Proceed	City	--	--	October 4, 2021
Draft Project Description and Project Initiation Tasks	LSA	4	4	November 1, 2021
Review Draft Project Description/Provide Requested Inputs	City/Sponsor	2	6	November 15, 2021
Prepare and Publish NOP	LSA/City	2	6	November 15, 2021
<i>30-Day Scoping Period</i>	--	4	10	<i>December 14, 2021</i>
Complete Technical Study Peer Review**	LSA	6	8	November 29, 2021
Provide Final Technical Studies	Sponsor	4	12	December 27, 2021
Prepare Administrative Draft EIR	LSA	12	18	February 21, 2022
Review Administrative Draft EIR	City	3	21	March 14, 2022
Prepare Screencheck Draft EIR	LSA	3	24	April 4, 2022
Review Screencheck Draft EIR	City	2	26	April 18, 2022
Prepare and Publish Public Review EIR	LSA	1	27	April 25, 2022
<i>45-Day Public Review Period</i>	--	6	33	<i>June 9, 2022</i>
Prepare Administrative Draft RTC	LSA	4	37	July 7, 2022
Review Administrative Draft RTC	City	2	39	July 21, 2022
Prepare Screencheck Draft RTC and MMRP	LSA	1	40	July 28, 2022
Review Screencheck Draft RTC and MMRP	City	1	41	August 4, 2022
Prepare and Distribute Public Review Final EIR	LSA	1	42	August 11, 2022
EIR Certification	City	1.5	44	August 22, 2022

\* Some milestone dates may need to be adjusted to accommodate holidays

\*\* Review timeline begins when technical studies are provided, assumed to be within 2 weeks of NTP



## 7. Conflict of Interest Statement

We undertake our research, analysis, writing, and presentations with the aim of providing technically competent and scientifically objective work products. Our contribution to promoting the applicant's objectives is focused on preparing CEQA documents that are technically thorough and conducting a transparent and accessible public process. We believe that the best advocacy is a document that is impartial, above reproach, and legally/technically robust.

LSA strives to avoid any conflict of interest that would affect our existing contracts or interfere with the pursuit of a potential contract. Our project managers regularly query our accounting department and project managers throughout the firm to ensure that we do not have a contractual, professional, or personal relationship that would constitute a conflict of interest with an applicant or agency. LSA has no history with the project site or the project sponsor or their representatives and has no current contract with the project sponsor or their representatives.

## 8. Relevant Experience

LSA is currently undertaking or has successfully completed numerous environmental documents, including comprehensive and focused project- and program-level EIRs, supplemental and subsequent CEQA documents, IS/MNDs, technical reports, and planning documents for projects with characteristics comparable to the services that are required for this assignment. The following projects highlight our experience with redevelopment activities occurring within existing commercial, industrial, and institutional settings that in some cases consist of large multi-block sites or campus environments. The topics of land use compatibility, site circulation and access, natural resources, visual resources, noise, and historic resources were common areas of focus for most of the projects described below. Theresa Wallace served as the Project Manager for all of these projects and represented the LSA team at all internal meetings and public hearings.

As requested in the RFP, LSA has provided recent sample copies of similar EIRs prepared by our firm in the following weblink: [LSA Sample EIRs](#)

### 1. Focused EIRs for Residential and Office Mixed-Use Projects, City of Menlo Park (2019 – 2021)



The City of Menlo Park certified the ConnectMenlo Final EIR in 2016. The ConnectMenlo Final EIR provided a program-level analysis of the development potential envisioned for the entire city, including within the Bayfront Area, where the Facebook campus is located. As individual development projects are proposed, each project is subject to additional environmental review and the analysis tiers from the ConnectMenlo Final EIR, as appropriate. LSA recently prepared Focused EIRs for three residential and mixed-use projects within the Bayfront Area, which are described below. For each project, LSA prepared an Initial Study to identify the potential project-specific impacts that warrant additional analysis in the EIR. For each project, the Focused EIRs evaluated the following topics:

- Population and Housing
- Transportation and Circulation
- Air Quality
- Greenhouse Gas Emissions
- Noise





### 111 Independence Drive EIR

The proposed project includes development of an approximately 145,679-square-foot, eight-story multi-family apartment building with 105 dwelling units and associated improvements. The existing 15,000-square-foot single-story office building would be demolished as part of the proposed project.

The EIR evaluated project-specific impacts related to the topics described above and, on the basis of the technical evaluations, determined that all impacts of the project could be reduced to a less-than-significant level with implementation of project-specific mitigation measures and mitigation measures identified in the ConnectMenlo Final EIR. This is the first environmental document in Menlo Park that evaluated transportation impacts according to the Vehicle Miles Traveled (VMT) metric and applied the City's newly adopted Transportation Impact Analysis (TIA) Guidelines to the analysis. LSA worked closely with the City and the applicant team to identify a range of feasible project alternatives, which included the base level and maximum buildout potential of the project site. The Final EIR was certified in April 2021.

### Menlo Uptown EIR

The proposed project would result in redevelopment of the project site with a maximum of 441 multi-family rental units and 42 for-sale townhomes, totaling approximately 471,986 square feet of residential use and approximately 2,940 square feet of office space, as well as associated open space, circulation and parking, and infrastructure improvements. The project site is currently developed with two single-story commercial office buildings and a single-story industrial building totaling approximately 110,356 square feet. The Final EIR was certified in June 2021.



### Menlo Portal EIR

This project proposes the redevelopment of the project site with an approximately 326,581-gross-square-foot, seven-story multi-family apartment building with approximately 335 dwelling units and an approximately 34,868-gross-square-foot commercial office building, which would include approximately 1,600 gross square feet of child care space, as well as associated open space, circulation and parking, and infrastructure improvements. The site is currently developed with two single-story office buildings and one warehouse/industrial building with a small office component totaling approximately 64,832 square feet in size. The Final EIR was certified in July 2021.



## 2. 1548 Maple Street Townhome Community Project EIR, City of Redwood City (2016 – 2020)

The project applicant, Strada Development, proposed a townhome community on the waterfront that would create housing in an area rich in jobs but lacking in housing, and provide public recreation amenities via the Bay Trail, which would connect the downtown to the waterfront. The proposed project was comprised of 131 three-story units for sale, market-rate townhomes at a density of 17 units per acre, as well as associated open space, circulation and parking, infrastructure, and grading improvements. A variety of private and public open space opportunities would be included, along with 262 parking spaces.



The project site was located within the Inner Harbor area of the City, which is an approximately 99-acre area primarily developed with light industrial, office, marina-oriented, and institutional uses. LSA prepared an Initial Study and EIR for the proposed project; issues examined in the EIR included land use and planning; biological resources; cultural resources; transportation and circulation; air quality; noise; hazards and hazardous materials; hydrology and water quality; and utilities and service systems.

The EIR examined a project variant for circulation and access improvements. In 2020, LSA prepared an Addendum to the EIR to further evaluate refinements to the proposed site access and surrounding roadway configurations, which included a land swap agreement between Redwood City and San Mateo County and demolition of adjacent County-owned buildings. The Final EIR was certified in May 2018.

## 3. 5M Project EIR, City and County of San Francisco (2014 – 2016)



As San Francisco seeks new ways to capture the spirit of innovation and entrepreneurship that has transformed much of the region, private developers are proposing ways to translate this energy into the physical landscape. The 5M Project proposes to create a new mixed-use development in the City that integrates the arts, technology, transit-oriented housing and commercial space, historic structures, and active open space on a 4-acre site at the nexus of downtown San Francisco and the SOMA neighborhood.

The project, sponsored by Forest City, is one of the largest private development projects in San Francisco. After buildout, the project site would contain approximately 1.8 million square feet of new and existing building space, approximately 35,000 square feet of open space, and a reconfigured street system. In addition, the project would result in the rehabilitation and reuse of the iconic Chronicle Building (1924) and Dempster Printing Building (1907) and the establishment of a Special Use District to promote sound design and an active pedestrian environment.

The sheer scale, size, and complexity of the project warranted a strategic approach to the environmental review effort. LSA's work scope utilized a three-pronged approach to ensure a legally robust and on-schedule EIR: 1) close coordination with the transportation review team (Planning Department staff, Municipal Transportation Agency staff, and LSA's subconsultants) to ensure that that EIR technical

analyses could proceed at the earliest possible date; 2) careful consideration of the unique uses and activity patterns proposed as part of the project; and 3) emphasis on a multi-disciplinary review effort that allowed for an understanding of the interrelationships between disparate environmental topics. LSA allocated additional resources to certain EIR components and analyses expected to be subject to close scrutiny, including: definition of the project (in terms of a maximum building envelope and uses); effects of the proposed street closures/conversions on the pedestrian, bike, and motor vehicle circulation system; planning policy consistency (particularly in the context of the in-development Central Corridor Plan); changes to historic buildings and indirect impacts to nearby districts; and impacts to viewsheds and the urban design character of the area associated with a more intense development pattern. LSA worked closely with the City to create an environmental review document that helps readers understand the potential impacts of the project on many different scales – street, neighborhood, City, and region. The EIR was certified by the City and County of San Francisco Board of Supervisors in 2016.

In the first published decision in which the courts have applied the principals articulated by the California Supreme Court in the recent *Sierra Club v. County of Fresno* decision (commonly referred to as the *Friant Ranch* case) regarding the standard of review for the adequacy of an EIR, [certification of the 5M Final EIR was recently upheld by the trial and appeals courts](#), *South of Market Community Action Network v. City and County of San Francisco (Forest City California Residential Development, Inc., et al. Real Parties in Interest)* (2019) 33 Cal.App.5th 321. [Construction of the first phase of the project began in June 2019.](#)

#### 4. California State University Maritime Academy Master Plan EIR, CSU (2016 – 2018)

The California State University Maritime Academy (CSUMA) campus is located in Vallejo and encompasses approximately 88 acres along the Morro Cove waterfront at the mouth of the Carquinez Strait. The campus is characterized by varied hillside and shoreline topography with a diversity of built environment and natural resources. LSA has provided environmental consulting services to the Maritime Academy for over 20 years and was selected to prepare the EIR for the updated Master Plan in 2016.

The Master Plan covers all aspects of campus development over the next 15 years, including student enrollment growth, overall campus land use and design, building capacity and placement, circulation and infrastructure, and sustainability. Implementation of the Master Plan will also double existing enrollment on the campus, increasing the number of full time equivalent (FTE) students to 2,200. To accompany this growth in enrollment, over the planning horizon the Master Plan anticipates an increase of:



- 1) 225,000 square feet in net new building area;
- 2) 300 faculty/staff;
- 3) 900 new student housing beds; and
- 4) 784 new parking spaces.



LSA prepared a comprehensive EIR to address all aspects of Master Plan implementation. [The EIR also provides project-level analysis for the near-term Phase 1 projects, as well as program-level analysis to cover the remainder of the campus improvements up to the year 2032.](#)

LSA's engagement early on in the process of Master Plan development and coordination with the comprehensive consultant team was essential to ensure that community and environmental concerns were identified as early as possible and were adequately addressed in both the Master Plan and the EIR.

## 5. Children's Hospital and Research Center Oakland Campus Master Plan EIR (2012 – 2015)



Founded in 1912, Children's Hospital and Research Center Oakland (CHRCO), now known as the UCSF Benioff Children's Hospital – Oakland, is the only independent children's hospital in Northern California. Plans to retrofit, renovate, expand, and improve the approximately 11-acre campus entail a complex process, from design to environmental review to construction, due to its location between a freeway, elevated BART tracks, and a dense residential neighborhood.

To create new seismically compliant acute care facilities that meet the seismic safety requirements of Senate Bill 1953, the proposed project would demolish a total of 66,582 square feet of existing uses on the campus and construct a total of 399,200 square feet of new building area, for a total of 332,618 square feet of net new building area. The project would be constructed in two phases. As part of Phase 1, approximately 1,541 square feet of use would be demolished, 90,200 square feet would be constructed, and 95,550 square feet would be renovated. As part of Phase 2, approximately 65,041 square feet of use would be demolished, 309,000 square feet would be constructed, and 42,342 square feet would be renovated. Phase 2 would include the relocation of the existing helistop. Redevelopment throughout the campus would include alterations to historic structures.

[LSA worked with the CHRCO team and the City of Oakland Bureau of Planning staff to prepare a comprehensive EIR that clearly delineates the setting, impacts, and mitigation measures for implementation of Phase 1 and project build-out.](#) Topics that received full analysis in the EIR included: land use and planning; aesthetics and shadow; cultural and historic resources; transportation and circulation; air quality; greenhouse gas emissions; noise; geology, seismicity, and soils; hydrology and water quality; hazards and hazardous materials; and utilities.

LSA was under contract while the public outreach program was ongoing. LSA participated in two public scoping sessions; three public review Draft EIR hearings; and two certification hearings. During the 3-year course of the contract, LSA attended at least a dozen team meetings to review the entitlements and discuss issues of concern and also facilitated bi-weekly team conference calls.



## 9. References

We encourage you to contact our references regarding the quality of our work, management of budget and schedule, and attentiveness to project needs.

**Kyle T. Perata**  
**Principal Planner**  
City of Menlo Park  
701 Laurel Street  
Menlo Park, CA 94025  
T: (650) 330-6721  
E: [ktperata@menlopark.org](mailto:ktperata@menlopark.org)

**Shannon Allen**  
**Principal Planner**  
City of Berkeley  
Planning and Development Department  
1947 Center Street, Second Floor  
Berkeley, CA 94704  
T: (510) 981-7410  
E: [ShAllen@cityofberkeley.info](mailto:ShAllen@cityofberkeley.info)

**Lisa Costa Sanders,**  
**Former City of Redwood City Principal**  
**Planner; Currently owner of:**  
**Good City Company**  
1351 Laurel Street  
San Carlos, CA 94070  
T: (650) 333-0248  
E: [lsanders@goodcityco.com](mailto:lsanders@goodcityco.com)

**Scott B. Birkey,**  
**UCSF Benioff Children's Hospital - Oakland**  
**Representative**  
Cox, Castle & Nicholson LLP  
Planning and Development Department  
50 California Street, Suite 3200  
San Francisco, CA 94111  
T: (415) 262-5100  
E: [sbirkey@coxcastle.com](mailto:sbirkey@coxcastle.com)



## Appendix A: Resumes

## TERESA WALLACE, AICP

PRINCIPAL



### EXPERTISE

- CEQA/NEPA Project Management
- Environmental Planning and Impact Analysis
- Land Use Planning

### EDUCATION

B.A., Environmental Studies,  
University of California  
Santa Cruz, 2002

### PROFESSIONAL EXPERIENCE

Principal, LSA  
Point Richmond, California  
June 2005–Present

### PROFESSIONAL AFFILIATIONS

American Institute of Certified Planners (AICP)

American Planning Association (APA)

Association of Environmental Professionals (AEP)

San Francisco Planning and Urban Research Association (SPUR)

### PROFESSIONAL RESPONSIBILITIES

Ms. Wallace has 18 years of experience in managing and preparing a variety of environmental documents including CEQA initial studies/mitigated negative declarations and environmental impact reports and NEPA technical studies, environmental assessments, and environmental impact statements.

Ms. Wallace serves as both Principal in Charge and Project Manager for the environmental documentation of a diversity of public and private development and redevelopment projects, on both urban infill and greenfield sites. Current and recent projects include a number of residential, commercial, office, institutional, and mixed-use projects as well as public park master plans and facilities; roadway expansions and bridge construction; and bicycle and pedestrian paths and trails.

As Principal in Charge, Ms. Wallace oversees on-call environmental services contracts involving multiple assignments, as well as individual CEQA contracts. She establishes working relationships with local agency representatives; interfaces with clients and project teams; makes presentations at community meetings and public hearings; directs marketing efforts in the areas of environment and land use; and supervises junior staff. She is ultimately responsible for ensuring that LSA's products are completed to the highest quality standard and meet the requirements of the client. Her direction to environmental team members aims to ensure an internally consistent, coherent document that fulfills all CEQA requirements.

### PROJECT EXPERIENCE

At present, Ms. Wallace is serving as Principal in Charge of on-call environmental services contracts with the cities of Berkeley, Concord, Milpitas, El Cerrito, and Hayward, to name a few. The CEQA projects she is overseeing for these jurisdictions involve mixed-use, residential, office, and industrial uses.

She is currently the Principal/Project Manager for three Focused EIRs and Initial Studies for infill residential/commercial office projects for the City of Menlo Park, the 600 Addison Street Project MND for the City of Berkeley, and the 2 Davis Drive Office/R&D Project EIR for the City of Belmont. These projects include the redevelopment of underutilized blocks of industrial and commercial sites with a mix of residential, office, research and development and/or commercial uses.

Ms. Wallace has also managed or participated in the environmental review for public and private K-12 school projects, as well as those for colleges, and campus master plans for institutional uses. Ms. Wallace was continually involved with the California State University Maritime Academy from 2010 through 2018, processing CEQA projects under the 2002 Master Plan, and as the Project Manager for the 2016 Master Plan EIR.



## **THERESA WALLACE, AICP**

PRINCIPAL



### **PROJECT EXPERIENCE (CONTINUED)**

The following is a selected list of recent urban infill projects:

- *111 Independence Drive Project EIR* for the City of Menlo Park
- *Menlo Uptown Project EIR* for the City of Menlo Park
- *Menlo Portal Project EIR* for the City of Menlo Park
- *Menlo Flats Project EIR* for the City of Menlo Park
- *San Bruno Recreation and Aquatic Center Project EIR* for Group 4 Architecture/City of San Bruno
- *Children's Hospital and Research Center Oakland EIR* for the City of Oakland
- *California Maritime Academy Master Plan EIR* for the California State University
- *California Maritime Academy Police Building IS/MND* for the California State University
- *California Maritime Academy Physical Education and Pool Facility IS/MND* for the California State University
- *California Maritime Academy Master Plan EIR Addendum* for the Dining Center Replacement Project for the California State University
- *1200 Van Ness Project IS/MND* for Reuben, Junius, and Rose/City and County of San Francisco
- *Deer Valley Estates Project Focused EIR* for the City of Antioch
- *600 Addison Street Project IS/MND* for the City of Berkeley
- *1548 Maple Street Project EIR* for the City of Redwood City
- *1724 Sunnyhills Residential Project IS/MND* for the City of Milpitas
- *Clayton Road Townhomes Project Environmental Documentation* for the City of Concord
- *Pulte Homes Residential Project* for the City of Union City
- *Rocketship Redwood City Charter School IS/MND* for the City of Redwood City
- *College Park High School Athletic Facilities Improvements Project IS/MND* for the Mount Diablo Unified School District
- *2201 Dwight Way Project EIR* for the City of Berkeley
- *598 Brannan Street Initial Study and Focused EIR* for Tishman Speyer/City and County of San Francisco
- *500 Turk Focused EIR* for the Tenderloin Neighborhood Development Corporation/City and County of San Francisco
- *1601 Mariposa Street Mixed Use Project EIR* for Related California/City and County of San Francisco
- *Fifth and Mission (5M) Project EIR* for Forest City/City and County of San Francisco
- *Lakehouse Commons CEQA* for UrbanCore-Integral LLC
- *Downtown Family Development Project CEQA/NEPA Documentation* for the City of Mountain View





## MATTHEW WISWELL, AICP

ENVIRONMENTAL PLANNER



### EXPERTISE

- Environmental Planning and Impact Analysis
- Land Use Planning and Development

### EDUCATION

B.S., City & Regional Planning,  
Minor in Real Property  
Development, California  
Polytechnic State University,  
San Luis Obispo, 2016

### PROFESSIONAL EXPERIENCE

Environmental Planner, LSA  
Point Richmond, California,  
2016–Present

Environmental Intern, County  
of San Luis Obispo, Planning &  
Building Department, San Luis  
Obispo, California, December  
2015–June 2016

### PROFESSIONAL AFFILIATIONS

Association of Environmental  
Professionals (AEP)

American Planning  
Association (APA)

American Institute of Certified  
Planners (AICP)

### PROFESSIONAL RESPONSIBILITIES

Mr. Wiswell is a CEQA specialist with nearly 5 years of experience providing environmental planning and technical assistance for a variety of planning and environmental documents. Mr. Wiswell serves as an Environmental Planner and provides project management assistance for public and private development and redevelopment projects that include a wide array of residential, institutional, office, and industrial uses; school facility, parks, and trails improvements; and City-sponsored area plans and programs.

### PROJECT EXPERIENCE

#### Focused EIRs for Residential Mixed-Use Projects, 111 Independence Drive, Menlo Uptown, Menlo Portal Menlo Park, California

LSA is currently under contract to prepare Focused EIRs for four residential and mixed-use projects within the Bayfront Area. For each project, the Focused EIRs have evaluated the topics: population and housing; transportation and circulation; air quality; greenhouse gas emissions; and noise. Mr. Wiswell served as the Assistant Project Manager; he prepared the non-technical analyses for the Initial Study and Focused EIRs. He prepared the alternatives chapter and made presentations and answered questions at public hearings.

#### City of San Bruno Recreation and Aquatic Center Project EIR San Bruno, California

Mr. Wiswell assisted with the preparation of the Initial Study and the subsequent EIR for the San Bruno Veterans Memorial Recreation Center redevelopment project. On the basis of a preliminary Initial Study prepared by LSA, it was determined that a Focused EIR would be required to further evaluate the potentially significant impacts of the project associated with biological resources, cultural resources, transportation and circulation, air quality, noise, geology and soils, hazards and hazardous materials, and hydrology and water quality.

#### 1548 Maple Street Project EIR Redwood City, California

Mr. Wiswell assisted with the preparation of the EIR for the 1548 Maple Street Project in Redwood City. The proposed project would include 131 townhomes and an extension of the San Francisco Bay trail on approximately 8 acres along Redwood Creek. Mr. Wiswell prepared the land use and planning and utilities and service systems sections.

#### City of Antioch, Deer Valley Estates Project EIR Antioch, California

This project involves the construction of 121 new single-family homes and associated open space, roadway, and utility improvements. Mr. Wiswell served as the Project Manager and wrote the non-technical sections of the Initial Study and Focused EIR. He also developed and evaluated the potential impacts of the alternatives.



## **MATTHEW WISWELL, AICP**

ENVIRONMENTAL PLANNER



### **PROJECT EXPERIENCE (CONTINUED)**

#### **City of Berkeley, 600 Addison Street Project IS/MND Berkeley, California**

The 600 Addison Street Project involves redevelopment of an 8.4-acre site into an R&D campus. Mr. Wiswell served as the Assistant Project Manager and Environmental Planner for this project, assisting with the preparation of an Initial Study that analyzes potential impacts associated with the redevelopment of underutilized blocks of an industrial site with a mix of residential, office, and research and development and/or commercial uses.

#### **City of Concord, Clayton Road Townhomes Environmental Checklist Concord, California**

This project involves the preparation of an Infill Environmental Checklist pursuant to Section 15183.3 and Appendix M of the CEQA Guidelines. The proposed project consists of 70 residential townhouse units on 3.86 acres. Mr. Wiswell served as Project Manager, prepared the non-technical analysis, and attended and answered questions at public hearings.

#### **Pittsburg Making Waves Charter School Project EIR Pittsburg, California**

The Making Waves Foundation proposes a school campus and sports complex on two parcels in Pittsburg. LSA provided CEQA documentation under contract to the City of Pittsburg. Mr. Wiswell prepared a scope of work for a Focused EIR process and is drafting the Initial Study and all non-technical sections of the EIR.

#### **Richmond Making Waves Hilltop Sports Complex Project IS/MND Richmond, California**

The Making Waves Foundation seeks to provide their Richmond campus with recreational opportunities by constructing playing fields. LSA is providing CEQA analysis under contract to the City of Richmond. Mr. Wiswell conducted the analysis based on applicant-prepared reports and drafting the Initial Study.

#### **Fremont Unified School District Environmental Services Fremont, California**

LSA has been providing environmental services to the Fremont Unified School District since mid-2013. The Fremont Unified School District comprises 42 schools and educates 32,000 K–12 students. New facilities and renovations to older campuses are needed to accommodate a growing population. Mr. Wiswell drafted responses to the CEQA checklist for the Walters Junior High School Improvements Project and assisted in the preparation of the EIR.

#### **Marin City Center for Community Life IS Marin City, California**

Mr. Wiswell assisted in the preparation of the CEQA documentation for the redevelopment of the Marin City Center for Community Life, which will include upgraded and new facilities for the Marin City Community Services District. Mr. Wiswell assisted with the preparation of the Initial Study and associated project management.

#### **Burton and Highlands Parks EIR San Carlos, California**

Mr. Wiswell assisted in the preparation of the CEQA documentation for this park project in San Carlos. The proposed project involves the installation of new field lighting on currently unlit fields at both parks, and upgrading the existing lighting at the parks with LED lights. Mr. Wiswell assisted with the compilation of the administrative record and drafting the Response to Comments.



## AMY E. FISCHER

PRINCIPAL / AIR QUALITY, CLIMATE CHANGE AND NOISE ANALYST



### EXPERTISE

- CEQA/NEPA
- Air Quality Analysis
- GHG Emissions Analysis
- Climate Change Analysis
- Noise Analysis
- Transportation Planning
- Health Risk Assessment

### EDUCATION

B.S., Environmental Policy  
Analysis, Minor in Geography,  
University of Nevada, Reno,  
1998

### PROFESSIONAL EXPERIENCE

Principal, LSA  
Fresno, California  
July 2005–Present

### PROFESSIONAL CERTIFICATIONS

San Joaquin Valley Air  
Pollution Control District  
Regulation VIII – Certified  
Dust Control Plan Preparer,  
May 19, 2015

### PROFESSIONAL AFFILIATIONS

Association of Environmental  
Professionals (AEP) – Director,  
Central Valley Chapter, 2016–  
Present

AEP – VP of Programs, Central  
Valley Chapter, 2011–2015

American Planning  
Association (APA)

### PROFESSIONAL RESPONSIBILITIES

With 20 years of experience in environmental studies, Ms. Fischer has performed principal-level review or conducted over more than 200 CEQA/NEPA-related and/or stand-alone air quality and greenhouse gas (GHG) impact studies for community plans, development projects, and infrastructure improvements. She is experienced with the models and methods used to assess both air quality and GHG impacts. As the Director of LSA's Air Quality Services, she monitors State and federal standards, case law, and scientific research to make sure that LSA's analyses reflect the rapid changes in this evolving field. In keeping with LSA's commitment to senior-level management, as the Principal in Charge, Ms. Fischer maintains substantive involvement with projects as a means of ensuring high-quality products and balanced professional consultation. She works closely with Project Managers and clients, and provides input on and monitors the scope, budget, and scheduling of specific projects. Ms. Fischer is ultimately responsible for the quality of all project work, and reviews all in-house prepared text, tables, and graphics before these materials are presented to the client.

### PROJECT EXPERIENCE

#### CEQA/NEPA

Ms. Fischer serves as principal air quality, climate change, and noise analyst for CEQA/NEPA and planning documents. She has a comprehensive knowledge of the CEQA requirements for air quality districts throughout California. Her experience includes assessing both plan- and project-level air quality impacts ranging from criteria pollutant analysis to dispersion modeling and health risk assessments using the latest air quality modeling tools. She is skilled in air quality assessment models including the California Emissions Estimator Model (CalEEMod), Emission Factor models (EMFAC/OFFROAD), the Road Construction Estimator Model (RoadMod), and Line Dispersion Models (CALINE). She designs emission reduction strategies to reduce project-specific air quality impacts. Ms. Fischer has conducted the air quality, noise, and greenhouse gas analysis for research and development facility, senior care home, hospital, assisted living, residential, hotel, park, mixed-use, school, and college campus projects, some of which are listed below.

- *EIRs for Mixed-Use Projects: 111 Independence Drive, 141 Jefferson Drive, 115 Independence Drive*, City of Menlo Park
- *San Bruno Recreation and Aquatic Center Project EIR*, City of San Bruno
- *California Maritime Academy Master Plan EIR*, California State University
- *1548 Maple Street Townhome Community Project EIR*, Redwood City
- *600 Addison Street Project IS/MND*, City of Berkeley
- *Deer Valley Estates Project EIR*, City of Antioch
- *Pulte Homes Project IS/MND*, City of Union City
- *Concord Townhomes Environmental Checklist*, City of Concord
- *1724 Sunnyhills Court Project IS/MND*, City of Milpitas
- *Walters Jr. High School Improvements Project EIR*, Fremont Unified School District
- *College Park High School Athletic Field Noise Monitoring Assessment*, Mt. Diablo Unified School District



## AMY E. FISCHER

PRINCIPAL / AIR QUALITY, CLIMATE CHANGE AND NOISE ANALYST



### PROJECT EXPERIENCE (CONTINUED)

- *Clover School Modernization Project Categorical Exemption*, Tracy Unified School District
- *Dorris Eaton School Health Risk Assessment*, Dorris Eaton School in San Ramon
- *Jensen Lane Elementary School Project EIR*, Windsor Unified School District
- *Rocketship Charter School IS/MND*, City of Redwood City

Ms. Fischer recently provided principal-level review for the air quality analyses for the following projects:

- *Air Quality Impact Analysis Land Use and Urban Design Elements*, City of Long Beach
- *Kaiser Permanente Baldwin Park Medical Center Parking Structure Expansion and Medical Office Building MND*, Kaiser Permanente
- *Air Quality and Greenhouse Gas Analysis for the Operations Center and Site Consolidation Project*, Moulton Niguel Water District
- *West Alton Parcel Development DEIR Air Quality and GHG Emissions Technical Appendices Peer Review*

Ms. Fischer also contributed to the *Greenhouse Gas Emissions Reduction Strategy* for the City of Hope Campus Plan. In addition, she served as the primary author of the Air Quality, Greenhouse Gas, and Noise sections of the *San Francisco General Hospital Rebuild Project EIR*, as well as the *Children's Hospital and Research Center Oakland Campus Master Plan EIR*.

### GREENHOUSE GAS

Ms. Fischer prepares quantitative GHG analyses that evaluate the impacts of project-related GHG emissions and project impacts related to global climate change. The reports describe the existing setting and regulatory context, quantify impacts, and recommend mitigation measures, as appropriate.

Using CalEEMod (or other local model), Ms. Fischer performs a quantitative assessment of GHG emissions associated with all relevant sources related to the project, including construction activities, new vehicle trips, electricity consumption, water usage, and solid waste generation and disposal. Ms. Fischer recently conducted the GHG analysis for the *4660 Sierra College Boulevard Commercial Project, Rocklin*; the *Thompson and Dakota Residential Project, Clovis*; and the *Balfour Road Shoulder Widening Project, Contra Costa County*. Most recently, she provided the air quality and GHG analysis for a General Plan Amendment, including rezoning and annexation, for the City of Fresno.

### HEALTH RISK ASSESSMENT

The Air Toxics Hot Spots Information and Assessment Act of 1987 seeks to provide information to state and local agencies and to the general public on the extent of airborne emissions from stationary sources and the potential public health impacts of those emissions. Ms. Fischer prepares Health Risk Assessments (HRA) using the Guidance Manual (February 2015) developed by the California Office of Environmental Health Hazard Assessment (OEHHA). She is trained in the use of the Hot Spots Analysis and Reporting Program (HARP) model, developed by ARB, as a tool to implement the risk assessments as outlined in the Guidance Manual. Ms. Fischer has prepared HRAs for the following projects:

- *Riviera Avenue Residential Project Health Risk Assessment, Walnut Creek*, Resources for Community Development
- *211 Airport Boulevard/Pinefino Apartments Project Health Risk Assessment, South San Francisco*, Concord Design Group
- *Miramonte Sanitation Transfer Station Project Health Risk Assessment, Reedley*, Miramonte Sanitation
- *Redwood Hills Residential Project Health Risk Analysis, Oakland*, Affordable Housing Associates
- *1601 Mariposa Mixed-Use Project Air Quality Criteria Pollutant Analysis, San Francisco*, Related California
- *Fremont Gateways Health Risk Assessment, Fremont*, Tim Lewis Communities



## CARA CARLUCCI

SENIOR ENVIRONMENTAL PLANNER



### EXPERTISE

- CEQA Document Preparation  
Environmental Analysis
- Air Quality Analysis
- Greenhouse Gas Emission  
Analysis
- Noise Analysis
- Land Use Planning

### EDUCATION

B.S., City & Regional Planning,  
Minor in Real Property  
Development, California  
Polytechnic State University,  
San Luis Obispo, June 2015

### PROFESSIONAL EXPERIENCE

Senior Environmental Planner,  
LSA, Fresno, California  
June 2014–Present

### SPECIALIZED TRAINING

CEQA Case Law Update, 2016

Advanced CEQA Workshop,  
2016

CEQA Essentials Workshop,  
2015

### PROFESSIONAL AFFILIATIONS

Association of Environmental  
Professionals (AEP) –  
Secretary, Central Valley  
Chapter, 2016–Present

American Planning  
Association (APA)

### PROFESSIONAL RESPONSIBILITIES

Ms. Carlucci is a Senior Environmental Planner with more than 7 years of experience in air quality analysis and greenhouse gas emission analysis for CEQA documentation. At LSA, she provides project management and technical assistance on a variety of planning and environmental documents including environmental assessments, initial studies, and environmental impact reports. Ms. Carlucci has been involved in residential and commercial development projects, road improvement projects, and program-level plans. She has a strong foundation in land use planning and is well versed in addressing impacts to air quality, greenhouse gas emissions, and noise.

Ms. Carlucci is proficient with the use of the Federal Highway Administration Traffic Noise Prediction Model (FHWA RD-77-108) and is proficient in air quality models, including the California Emissions Estimator Model (CalEEMod) and the Roadway Emissions Estimator Model (RoadMod). Ms. Carlucci is also responsible for conducting field noise measurements with the Larson Davis SoundTrack LxT sound level meter in compliance with applicable standards.

### PROJECT EXPERIENCE

#### City of Menlo Park, 111 Independence Drive, EIR, Menlo Park, California

Ms. Carlucci prepared the Air Quality, Greenhouse Gas, and Noise sections of the EIR for the proposed project, which would result in the demolition of existing office space and redevelopment of the project site with an approximately 145,350-gross-square-foot (gsf), eight-story multifamily apartment building with approximately 105 dwelling units and an approximately 712-square-foot potential commercial space, as well as associated open space, circulation and parking, and infrastructure improvements.

#### California Maritime Academy Master Plan EIR for California State University, California Maritime Academy, Vallejo, California

The Master Plan will cover all aspects of campus development over the next 15 years, including student enrollment growth, overall campus land use and design, building capacity and placement, circulation and infrastructure, and sustainability. Ms. Carlucci assisted with the preparation of the Air Quality, Greenhouse Gas, and Noise sections of the EIR.

#### City of San Bruno Recreation and Aquatic Center Project EIR San Bruno, California

On the basis of a preliminary Initial Study prepared by LSA, it was determined that a Focused EIR would be required to further evaluate the potentially significant impacts of the project. Ms. Carlucci assisted with the preparation of the Air Quality, Greenhouse Gas, and Noise sections of the EIR.



## CARA CARLUCCI

SENIOR ENVIRONMENTAL PLANNER



### PROJECT EXPERIENCE (CONTINUED)

#### City of Berkeley, 600 Addison IS/MND, Berkeley, California

Ms. Carlucci prepared the Air Quality, Energy, Greenhouse Gas, and Noise sections of the IS/MND for the proposed project. The proposed project would develop a Research and Development (R&D) and Office Campus that would accommodate research, innovation, lab, and/or office uses.

#### City of Milpitas, 1724 Sunnyhills Court Project IS/MND, Milpitas, California

Ms. Carlucci prepared the Air Quality, Energy, Greenhouse Gas, and Noise sections of the IS/MND for the proposed project, which includes the demolition of an existing leasing/community building and the construction of 44 two- to three-story multifamily residential units, a new leasing building, and site improvements.

#### City of Antioch, Deer Valley Estates Project IS/MND, Antioch, California

Ms. Carlucci prepared the Air Quality, Energy, and Greenhouse Gas sections of the IS/MND for the proposed project. The proposed project would result in the construction of 121 new single-family homes on the project site and associated open space, roadway, and utility improvements.

#### City of Hanford, Hanford Place Project IS/MND Hanford, California

Ms. Carlucci, serving as the Project Manager, prepared both technical and non-technical sections of the IS/MND for the proposed project, which would develop a medical and mixed-use development and would construct 15 buildings consisting of medical outpatient clinic services, hotel and conference center, specialized education, retail, medical office, skilled nursing and assisted living, and multifamily residential uses, as well as a bio infiltration basin, associated open space, circulation and parking, and infrastructure improvements.

#### First Street Green Project Air Quality Impact Analysis and Noise Impact Analysis Los Altos, California

LSA prepared technical studies to evaluate the proposed development that would include an office building and a public plaza in downtown Los Altos. Ms. Carlucci assisted in the preparation of the air quality, greenhouse gas, and noise analyses.

### ADDITIONAL PROJECT EXPERIENCE

- *Menlo Uptown Project EIR* for the City of Menlo Park
- *Menlo Portal Project EIR* for the City of Menlo Park
- *Merced Mall Expansion Project IS/MND* for the City of Merced
- *Maintenance and Operational Facility Project CE* for the Fresno County Rural Transit Agency
- *500 Turk IS/MND* for the City and County of San Francisco
- *Fresno General Plan Update EIR* for the City of Fresno
- *Madera Village D Specific Plan EIR* for the City of Madera
- *Marsh Creek Trail IS/MND* for the East Bay Regional Park District
- *River View Villas Project MND* for the City of Porterville
- *San Jose Fire Training Center IS/MND* for the City of San Jose
- *1300 Columbus Project IS/MND* for the City and County of San Francisco
- *Villa/Minnewawa Avenue Widening Project IS/MND* for the City of Clovis
- *Cypress City Center Project EIR* for the City of Cypress
- *Tice Valley Park Lighting Project IS/MND* for the City of Walnut Creek
- *California High-Speed Rail Project Fresno to Bakersfield Locally Generated Alternative Section Air Quality and Global Climate Change Technical Report and EIR/EIS* for the California High-Speed Rail Authority



## JOHN T. STEPHENS

ASSOCIATE / NOISE RESOURCES



### EXPERTISE

- Noise and Vibration

### EDUCATION

B.S., Acoustical Engineering,  
with Minor in  
Communications, Purdue  
University, West Lafayette,  
Indiana, 2004

### SPECIALIZED TRAINING

- SoundPLAN
- FHWA TNM 2.5
- FHWA RCNM
- Insul
- AEDT
- Microsoft Office
- AutoCAD

### PROFESSIONAL AFFILIATIONS

Member, Institute of Noise  
Control Engineering (INCE)  
  
E.I.T. License No. ET30504764  
(2005)

### AWARDS/HONORS

Outstanding Senior of the  
Year Award, Interdisciplinary  
Engineering, 2004

### PROFESSIONAL RESPONSIBILITIES

Mr. Stephens is a Senior Acoustical Specialist and part of LSA’s environmental technical staff. He is primarily responsible for the preparation of noise studies for a variety of projects. Mr. Stephens is proficient in the use of the Federal Highway Administration (FHWA) Highway Traffic Noise Prediction Model (FHWA RD-77-108), the Traffic Noise Model (TNM) 2.5, the Roadway Construction Noise Model (RCNM), the Aviation Environmental Design Tool (AEDT), SoundPLAN Noise Prediction Software, and INSUL, a noise prediction software for building façades and partitions. Mr. Stephens is also responsible for performing noise monitoring surveys using a variety of Larson-Davis sound level meters.

### PROJECT EXPERIENCE

#### Diablo Motocross Ranch Facility Noise Assistance Contra Costa County, California

As part of the On-Call Environmental Services Contract with Contra Costa County, Mr. Stephens assisted County staff in reviewing previous analyses completed for the Diablo Motocross Ranch Facility as well as participating in conference calls and meetings to determine the next steps to address current noise impact issues to surrounding residences.

#### Richmond Wholesale Meat Operations Noise Analysis Richmond, California

Mr. Stephens prepared the Noise Impact Analysis for the Richmond Wholesale Meat Distribution Center located in Richmond. The technical noise analysis analyzed operational noise impacts to the nearby noise sensitive uses and provided mitigation measurements to reduce any significant noise impacts to comply with City noise standards.

#### 1900 Fourth Street Project EIR Berkeley, California

Mr. Stephens served as Noise Resources Specialist. The project proposed the demolition of an existing structure and redevelopment of the site with 135 residential units and 33,080 square feet of retail and restaurant space, as well as parking and open space. The site is located entirely within the boundary of the West Berkeley Shellmound, a historical resource under CEQA and a local City Landmark.

#### BART Hayward Maintenance Complex Phase 2 and Northern Mainline Connector Project Hayward, California

Mr. Stephens is preparing the Noise and Vibration Impact Assessment for the proposed BART Hayward Maintenance Complex (HMC) Phase 2 – Northern Mainline Connector Project. The Phase 2 project site consists of approximately 16 acres of undeveloped land in the northeast quadrant of the HMC property, on the east side of the mainline BART tracks north of the existing maintenance and engineering facility and rail storage yard. The northernmost 6 acres of the Phase 2 area would be developed as the site of the Northern Mainline Connector. The project includes the installation of traction power, train



**JOHN T. STEPHENS**  
ASSOCIATE / NOISE RESOURCES



## **PROJECT EXPERIENCE (CONTINUED)**

control, and communications systems, gap breaker stations, train control houses, train wash, cleaning platform, and various track work modifications. The Noise and Vibration Impact Assessment is being prepared to evaluate the existing noise conditions at sensitive receptors, the proposed construction and operations related noise and vibration impacts, and potential mitigation measures necessary for compliance with the Federal Transit Administration Manual. Additionally, LSA staff continues to meet with BART staff and the project team throughout the process to efficiently achieve desired outcomes.

### **City of Concord, Clayton Road Townhomes Environmental Checklist Concord, California**

Mr. Stephens prepared the technical noise and vibration analysis for the Clayton Road Townhomes Project in Concord. The proposed project consists of 70 residential townhouse units on 3.86 acres, located at 3512 Clayton Road between Roslyn Drive and Barbis Way.

### **City of Antioch, Deer Valley Estates Project EIR Antioch, California**

Mr. Stephens prepared the technical noise and vibration analysis for the Deer Valley Estates Project in Antioch. The project involves the construction of 121 single-family homes located north of the existing Kaiser Permanente Antioch Medical Center.

### **City of Richmond, 205 Cutting Boulevard Project Richmond, California**

Mr. Stephens served as Noise Resources Specialist. As part of LSA's on-call contract with the City of Richmond, LSA prepared supporting technical documents and a Categorical Exemption under Section 15332 of the CEQA Guidelines for the proposed Barnof Holdings Self-Storage Facility. LSA prepared technical analyses related to biological and cultural resources, traffic, air quality, and noise to support the findings that implementation of the proposed project would result in no potentially significant impacts. LSA also prepared a memorandum to support the Categorical Exemption, documenting how the proposed project met the conditions identified in Section 15332 of the CEQA Guidelines.

### **Weddington Street Residential Project IS/MND Los Angeles, California**

LSA prepared an IS/MND for the Weddington Street Residential Project in the Sherman Oaks area of Los Angeles. Mr. Stephens served as the Noise and Vibration Task Lead. The proposed project involves the demolition of an existing three-story apartment building constructed in 1966, with 169 units and on-site amenities including an existing swimming pool, tennis court, and basketball court. The proposed project would include the construction of five four-story condominium buildings consisting of a total of 270 residential condominiums and one level of subterranean parking. The proposed project would include two courtyards, totaling 32,266 square feet of shared on-site open space for residents. The IS/MND was circulated for public review in June 2016 and was approved by the City's Planning Commission in October 2016.

### **Baltimore Court Residential Project El Sobrante, California**

Mr. Stephens prepared the technical noise and vibration analysis for the Baltimore Court Residential Project in El Sobrante. The project involves the construction of 30 single-family homes located south of an existing shopping center and Interstate 80.





## JORDAN L. ROBERTS

NOISE SPECIALIST



### EXPERTISE

- Noise and Vibration Measurement and Monitoring
- Data Processing and Procedures
- Acoustical Review and Analysis
- Sound Propagation Modeling and Noise Contour Maps
- Noise Control Mitigation and Recommendations

### EDUCATION

B.A., Audio Arts and Acoustics, Columbia College Chicago, Illinois, 2008

### PROFESSIONAL EXPERIENCE

Noise Specialist, LSA, Point Richmond, California, January 2021–Present

### PROFESSIONAL AFFILIATIONS

Institute of Noise Control Engineering

Acoustical Society of America

Association of Environmental Professionals

### PROFESSIONAL RESPONSIBILITIES

Mr. Roberts is a Noise Specialist with more than 12 years of experience. He has worked on a wide variety of noise assessment projects and has an extensive background in project compliance with regulatory criteria and industry standards. As an acoustical consultant representing clients, he has conducted site inspections, presented at public hearings, and provided mitigation recommendations. He also has experience in architectural acoustics, entertainment sound enforcement, and mechanical noise control. His software proficiency includes noise prediction modeling programs SoundPLAN and CadnaA (Computer Aided Noise Abatement), which utilize practical applications of AutoCAD and GIS.

### PROJECT EXPERIENCE

#### City of Dublin, Inspiration Drive Memory Care and Assisted Living Facility Project Supplemental IS/MND Dublin, California

Mr. Roberts planned and conducted the noise monitoring survey as well as performed data analysis. He prepared a draft of the Noise Land Use Compatibility Assessment and the noise section of the Supplemental IS/MND for the proposed project to evaluate the potential environmental impacts associated with development of a 55-bed Memory Care Facility and a 90-bed Assisted Living Facility on two parcels adjacent to the Valley Christian Center.

#### Dublin San Ramon Services District, Redgwick Water Connection Tassajara Hills, Dublin, California

Mr. Roberts prepared a draft of the Construction Noise and Vibration Assessment for the noise section of the IS/MND. The assessment included noise and vibration calculations based on equipment and phasing expected with the project as well as location of nearest noise sensitive receptors to the project site. The project proposes to install approximately 1,110 linear feet of 8-inch-diameter high-density polyethylene pipeline to connect an existing 10-inch-diameter pipeline within an unpaved extension of Cydonia Court with an existing 8-inch-diameter pipeline within Delamar Drive in the Tassajara Hills Development in Dublin.

### EXPERIENCE PRIOR TO LSA

#### Noise Assessment and Compliance San Francisco, California

As a Senior Inspector for a municipal government entertainment commission, an entity which works with venues, festivals and events, and the community to mitigate the impacts of entertainment through mediation, conditioning, and outreach, Mr. Roberts performed a variety of tasks related to noise assessment. He evaluated and maintained enforcement division policies, and he developed sound measurement and data processing standard operating procedures and best practices. He scheduled and conducted noise measurements to set sound limits for permit holders to ensure compliance with governmental noise ordinances and the police code.



## JORDAN L. ROBERTS

NOISE SPECIALIST



### PROJECT EXPERIENCE (CONTINUED)

He presented recommendations to the commission at public hearings and determined appropriate recommended conditions, to be sent administratively to the planning department. He served as an educator and mediator among city agencies, permit holders, permit applicants, consultants, and the general public regarding enforcement actions, complaint response, mitigation, and acoustical analysis and tracking.

#### **Noise and Vibration Control, and Sound Propagation and Noise Contour Modeling Various Locations, California**

As a Senior Consultant for an acoustical consulting firm, Mr. Roberts worked on a wide variety of projects, including noise and vibration control of environmental and entertainment sources, architectural elements of buildings, heating, ventilation, and air conditioning systems, and mechanical systems. He conducted unique measurements and assessments, built and designed various sound propagation and noise contour models, and performed room acoustics analyses. He developed measurement protocol and new Place of Entertainment analysis for municipal government entertainment commission projects. He also inspected and monitored acoustical performance of building materials and in-field construction activities.

#### **Noise Studies and Hydroacoustic Monitoring Various Locations, California**

As a Staff Consultant for an acoustical consulting firm, Mr. Roberts worked on more than 200 environmental noise studies, including residential, commercial, industrial, transportation, and institutional projects. He wrote noise sections for general plan updates, EIRs, specific plans, CEQA assessments, and construction noise assessments, and he planned and conducted field measurements and noise exposure analyses. He also served as Hydroacoustic Monitor on more than 20 pile-driving construction projects, such as the San Francisco-Oakland Bay Bridge project, which required monitoring, calculating, analyzing, modeling, and reporting of underwater noise levels.

#### **Building Material Testing Procedures and Acoustical Modeling Software Calibration Illinois**

As an Acoustics Intern for a laboratory, Mr. Roberts worked on projects involving industry-standard testing procedures for building materials. He also was involved in the calibration of previously unreleased acoustical modeling software.

### SELECTED PUBLICATIONS

Roberts, Jordan. 2018. Downtown Living Is Exciting...But Can Be Too Noisy. *California Buildings News* Q1 2018:4.



## LLOYD SAMPLE

PRINCIPAL / ARCHAEOLOGICAL & PALEONTOLOGICAL RESOURCES



### EXPERTISE

- Paleontological and Archaeological Monitoring Coordinator
- Chief Safety Officer
- Developer/Construction Management Liaison

### PROFESSIONAL AFFILIATIONS

Society of Vertebrate Paleontology

### PROFESSIONAL RESPONSIBILITIES

Mr. Sample serves as LSA’s Principal in Charge of the LSA paleontological and archaeological group. He is the paleontological and archaeological monitoring coordinator, Chief Safety Officer, and liaison with developers/construction management. He directs paleontological and archaeological staff on multiple concurrent projects. Mr. Sample is also responsible for coordinating tasks including monitoring and directing fossil salvage operations before and during earth-disturbing activities. He the preparation and curation of paleontological resources as well. Mr. Sample is adept at designing and setting-up interpretive displays for clients.

### PROJECT EXPERIENCE

#### San Francisco Bay Trail: Lone Tree Point, Rodeo Contra Costa County, California

Mr. Sample is the Principal in Charge for archaeological and paleontological monitoring services for the Mitigation and Monitoring Reporting Program of the Lone Tree Point project. Earlier, In 2018 LSA prepared the IS/MND for this project and identified mitigation measures. The East Bay Regional Park District proposes to open approximately 2,750 feet (0.5 mile) of the San Francisco Bay Trail along the San Pablo Bay shoreline, north of the Lone Tree Point parking lot in the community of Rodeo in Contra Costa County. Project ground-disturbing activities within the vicinity of the precontact site P-07-000138/CA-CCO-258 and historic-period site LSA-BKF1702-01 were monitored. Site excavation requiring archaeological monitoring was conducted and reported to confirm project compliance with CULT-1a. Project ground-disturbing activities within the paleontologically sensitive geologic units Pinole Tuff and Neroly Formation that occur within the project site were also monitored, and a subsequent report for CULT-2 compliance confirmation was developed.

#### County of Orange Public Works, La Pata Avenue Gap Closure Project Orange County, California

During grading activities for the La Pata Avenue Gap Closure Project, Mr. Sample served as Monitoring Coordinator for Hill International, directing monitors’ duties when ground-disturbing activities occurred in sensitive sediments. This OC Public Works project took La Pata Avenue from Ortega Highway through to San Clemente. The most notable fossils recovered during the project are a Miocene walrus from the Capistrano Formation and the lower jaw of an extinct member of the baleen whale family from the 10-million-year-old Puente Formation. The recovery of fossil specimens was completed without delaying the project schedule. The paleontological discoveries were highlighted in the *Orange County Register* article “Digging for New Road Uncovers History: Fossils, Trash, and Pepsi Cans.”

#### Santa Clara Unified School District, Agnews East School Site Project Santa Clara Unified School District, California

Mr. Sample was the Principal in Charge. The Agnews campus was located at 3534, 3556, and 3588 Zanker Road in San Jose. Prior to and during construction, as needed, LSA provided paleontological resource awareness trainings for construction project personnel to discuss the regulations regarding paleontological resources, the types of paleontological resources that may be encountered during project development, and the procedures to follow in the event of a discovery. The training sessions were provided in English and Spanish, and LSA



## LLOYD SAMPLE

PRINCIPAL / ARCHAEOLOGICAL & PALEONTOLOGICAL RESOURCES



### PROJECT EXPERIENCE (CONTINUED)

prepared pamphlets summarizing this information in English and Spanish for distribution to project personnel. In addition, LSA was available on an on-call basis in the event of any fossil discoveries.

#### **Paleontological Monitoring for the Bakersfield City School District Projects Bakersfield, Kern County, California**

Mr. Sample was Principal in Charge of the coordination of paleontological monitoring during development of a proposed new elementary and intermediate school located within the Bakersfield City School District in Bakersfield. Paleontological monitoring was required during ground-disturbing construction activities. The project involved development of an elementary and intermediate school. The project area was in sensitive paleontological sediments that could contain significant, non-renewable fossil resources. Monitoring was required when construction activities were in previously undisturbed sediments. LSA prepared a report discussing how monitoring was conducted and the results of the monitoring efforts.

#### **Sage Hill School Newport Beach, California**

During grading activities for the Sage Hill School, Mr. Sample served as Monitoring Coordinator for the Sage Hill School Foundation, directing monitors' duties when ground-disturbing activities occurred in sensitive sediments. Sage Hill School is an independent high school in Newport Beach. Monitoring and acceptance of the final report were promptly completed.

#### **Long Beach City College Long Beach, California**

Mr. Sample is the Project Manager coordinating all tasks including monitoring on an on-call basis for construction projects on the Long Beach City College campus. A selection of projects monitored include the GG Building, the Front Quad, Building V, the Storm Water Storage System, and the Storm Water Runoff Compliance Project.

#### **Fossils in Your Backyard, Orange County Schools Orange County, California**

Mr. Sample provided paleontological/geological curriculum support and classroom visits for the "Fossils in Your Backyard" program. Transportation Corridor Agencies funded the program for 15 years that was observed by over 50,000 students in 4 years.

#### **Irvine Company, Planning Areas 1, 4, 5, 6, 8, 9, 17, 18, 27, 39, 40, and 50, Future School Sites Irvine, California**

As Project Manager and Monitoring Coordinator for archaeology and paleontology, Mr. Sample directs the monitors on a full-time basis when ground-disturbing activities occur in sensitive sediments for Irvine Company properties. Sensitive bedrock consisting of the Puente, Capistrano, Monterey, and Vaqueros Formations have been encountered during development of future school sites for the Irvine Unified School District and Crean Lutheran High School as well as home sites, and parks and fire stations. Various marine and terrestrial plant and animal remains, such as cetacean skulls (Odontoceti and Mysticeti) and associated postcranial material, have been recovered, identified in the field, and salvaged for future preparation and analysis. Invertebrates that were also collected included bivalves, gastropods, and sand dollars. Mr. Sample directs all involvement for cultural and paleontological resources for the Irvine Company and its subsidiaries as their sole source consultant.



## MICHAEL HIBMA, AICP

ASSOCIATE / ARCHITECTURAL HISTORIAN / HISTORIAN  
CERTIFIED PLANNER



### EXPERTISE

- Architectural History
- History
- California History

### EDUCATION

Certificate in Land Use and Environmental Planning, University of California, Davis Extension, 2012

M.A., History, California State University, Sacramento, 2007

B.A., History, Humboldt State University, Arcata, California, 2003

36 CFR 61 Qualified Historian and Qualified Architectural Historian; Oral Historian; Regional Historian; Historic Preservation; Preservation Planning

### PROFESSIONAL CERTIFICATIONS/REGISTRATIONS

Listed in the Directory of Professionals in Public History, California Council for the Promotion of History  
American Institute of Certified Planners (AICP #32009)

### PROFESSIONAL AFFILIATIONS

California Council for the Promotion of History;  
California Preservation Foundation

### PROFESSIONAL RESPONSIBILITIES

Mr. Hibma has over 14 years of experience in cultural resources management, including archival and historical research, architectural field surveys, architectural inventories, analysis, and reporting. Mr. Hibma conducts historical research and field studies; he authors cultural resource reports as well as Initial Studies, and EIR sections. He documents and evaluates historical built environmental cultural resources in accordance with the California Register of Historical Resources. Mr. Hibma also conducts studies to address Section 106 of the National Preservation Act, as well as compliance with State and local regulations.

Mr. Hibma holds an M.A. in History from California State University, Sacramento; meets the Secretary of the Interior's *Professional Qualifications Standards* as an architectural historian and historian (36 CFR Part 61); is certified by the American Institute of Certified Planners (AICP #32009); and is listed in the Directory of Professionals in Public History, maintained by the California Council for the Promotion of History.

Mr. Hibma spent 2 years as a Research Associate with the California Department of Transportation's Community and Cultural Studies Office located in the Headquarters Building in Sacramento. While there, Mr. Hibma assisted Caltrans staff with field surveys, background research, and technical editing. He has documented and evaluated hundreds of residential and commercial buildings, structures, and objects and has worked on cultural resource studies in the San Francisco Bay Area, Central Valley, Sierra Nevada, North and Central Coasts, and southern California.

### PROJECT EXPERIENCE

#### **San Francisco Department of Public Works and San Francisco General Hospital, San Francisco General Hospital Seismic Compliance, Hospital Replacement Program City and County of San Francisco, California**

Mr. Hibma served as Architectural Historian for this project and prepared a Historical Resources Evaluation (HRE) that identified the San Francisco General Hospital Historic District (District). The District was found eligible for listing in the National Register and California Register. Mr. Hibma assessed potential direct and indirect impacts to the District from three project alternatives and participated in the analysis of architectural variants. Results from the cultural resources analysis were included in an EIR and as part of the mitigation proposed to offset impacts, and were incorporated into a landscape rehabilitation plan for the District. The HRE and mitigation recommendations were approved by the Planning Department.

#### **Napa County Health and Human Services Campus Project Napa, Napa County, California**

Mr. Hibma served as Architectural Historian for this project and prepared a cultural resources technical study in support of an Environmental Impact Report (EIR). The project included phased construction of a new campus at



## **MICHAEL HIBMA, AICP**

ASSOCIATE / ARCHITECTURAL HISTORIAN / HISTORIAN  
CERTIFIED PLANNER



### **PROJECT EXPERIENCE (CONTINUED)**

2344 Old Sonoma Road in Napa that would provide additional administrative space and patient services capacity. Mr. Hibma conducted background research and a field survey to assess the potential project impacts on three c. 1910-1912 buildings and archaeological resources. Mr. Hibma determined that the three buildings and associated historic landscape elements on the existing campus constituted “historical resources” under CEQA and prepared feasible mitigations for inclusion in the EIR.

#### **City and County of San Francisco, 3333 California Street Project City and County of San Francisco, California**

Mr. Hibma served as Architectural Historian for this mixed-use project and prepared a Historical Resources Evaluation. From 1854 to 1946, the 10.25-acre project site was part of a cemetery. In 1953, the Fireman’s Fund Insurance Company (FFIC) purchased the site and constructed the existing campus and landscaping in phases between 1955 and 1966. In January 1985, the University of California Regents purchased the property. Today the site is known as the Laurel Heights Campus of the University of California, San Francisco (UCSF). Mr. Hibma conducted research and field surveys and concluded that the Midcentury Modern-designed corporate campus appeared eligible for inclusion in the California Register at the local level of significance. As an individual property under Criterion 1 as an urban adaptation of a typically suburban property type and under Criterion 3 for its uniform Midcentury Modern commercial architecture, the property is considered a “historical resource” for the purposes of CEQA and in accordance with the Planning Department’s Preservation Bulletin 16. The Planning Department accepted LSA’s findings.

#### **Santa Clara County, Alum Rock Park Resources Study Santa Clara County, California**

Mr. Hibma served as Architectural Historian for this project and prepared a historic resources study. Mr. Hibma evaluated a 720-acre regional park (established by the State Legislature in 1872 as a municipal park) within the boundaries of Alum Rock Park in Santa Clara County as a possible historic district. Mr. Hibma’s evaluation included archival research, field study, and extensive documentation of historic resources to identify potential interpretive and planning opportunities as well as ongoing maintenance operations. The study involved a National Register of Historic Places, California Register, and City of San José Historic Resources Inventory evaluation of the property.

#### **Santa Clara County Parks and Recreation, Martial Cottle Park Master Plan Project Unincorporated Santa Clara County, California**

Mr. Hibma served as Architectural Historian for this project and conducted a historical resources evaluation. Mr. Hibma conducted a study of significant historical resources to identify potential interpretive and planning opportunities as well as ongoing maintenance operations as part of the Martial Cottle Park Master Plan. The project would develop a historic former farm that spans over 300 acres in an unincorporated pocket of Santa Clara County surrounded by the City of San José and dates from the 1860s. Mr. Hibma conducted background research, a field survey, and an oral interview with the landowner. Mr. Hibma identified a historic farmstead adjacent to the Martial Cottle Park Master Plan area and assisted in preparing effective mitigation measures that would reduce potential impacts to cultural resources to a less-than-significant level.



## KERRIE COLLISON, RPA

ASSOCIATE / SENIOR ARCHAEOLOGIST



### EXPERTISE

- Cultural Resources Management
- Native American Consultation
- California Prehistory
- Lithic Analysis

### EDUCATION

M.A., Anthropology, California State University, Northridge, 2013

B.S., Social Sciences, California Polytechnic State University, San Luis Obispo, 2008

### PROFESSIONAL EXPERIENCE

Archaeologist, LSA, San Luis Obispo, California, November 2013–Present

### PROFESSIONAL CERTIFICATIONS/REGISTRATIONS

Register of Professional Archaeologists #28731436

Professionally Listed Archaeologist for the Counties of Orange and Riverside

### PROFESSIONAL AFFILIATIONS

Society for California Archaeology

Association of Environmental Professionals

### PROFESSIONAL RESPONSIBILITIES

Ms. Collison’s primary duties include preparing cultural resources reports for CEQA- and NEPA-level projects, conducting Native American outreach, assisting Lead Agencies with formal Native American consultation, and directing and participating in archaeological surveys and subsurface studies. She is skilled in lithic analysis and identifying the various stages of Native American stone tool production. Her field experience includes work in the California Central Coast, Solano County, Orange County, Riverside County, Ventura County, Mono County, Inyo County, the Tahoe region of the Sierra Nevada, and the Great Basin. Ms. Collison also has experience collaborating on eligibility reports for the National Register and preparing archaeological reports for Section 404 permit applications.

### PROJECT EXPERIENCE

#### Seacliff Senior Housing Project Huntington Beach, California

Ms. Collison was the Cultural Resources Lead on this project. She provided Assembly Bill 52 consultation assistance to the City of Huntington Beach and prepared the cultural resources study for this project. The cultural resources study included a record search, review of historic aerial photographs and maps, coordinating with the staff for a field survey of the project site, and development of recommendations for the project.

#### Davis Road Bridge Replacement and Road Widening Project Monterey County, California

As Lead Archaeologist for this project, Ms. Collison conducted a supplemental cultural resources study per Section 106. She assisted in developing the APE map, requested the archaeological record search, conducted the archaeological field survey, prepared the Archaeological Survey Report, and prepared the Historic Property Survey Report. The cultural study received Caltrans District 5 approval.

#### On-Call Environmental Services Northern, Coastal, and Southern California

Ms. Collison has been serving as Lead Archaeologist and Cultural Resources Task Manager for various projects throughout California under LSA’s retainer agreement with the Department of General Services (DGS). She has coordinated field staff, prepared archaeological technical memoranda with project recommendations, and assisted DGS staff with the tribal consultation process under Assembly Bill 52.

#### On-Call Environmental Services San Luis Obispo, California

Ms. Collison has acted as Lead Archaeologist for multiple projects under LSA’s on-call agreement with the City of San Luis Obispo. She has conducted archaeological monitoring during underground utility construction activities and prepared monitoring results reports. Ms. Collison has also prepared archaeological monitoring reports for upcoming underground utility construction projects.



**KERRIE COLLISON, RPA**  
ASSOCIATE / SENIOR ARCHAEOLOGIST



**PROJECT EXPERIENCE (CONTINUED)**

**Salvation Army Multifamily Affordable Housing Development Project  
Anaheim, California**

Ms. Collison served as Project Archaeologist for a City of Anaheim housing development project that proposed to use Department of Housing and Urban Development funds. In order to comply with Section 106, Ms. Collison completed the following tasks: developing an APE map; requesting a record search and conducting archival research; preparing a cultural resources study memorandum; assisting the City with Native American consultation with federally recognized tribes; and assisting the City with consultation with the California State Historic Preservation Officer (SHPO). The SHPO did not object to the cultural resources findings for the undertaking.

**SR-55 Improvement Project (I-405 to I-5)  
Orange County, California**

As the Cultural Resources Task Lead and Lead Archaeologist for the SR-55 Improvement Project, Ms. Collison prepared the Historic Property Survey Report (HPSR), prepared the Archaeological Survey Report (ASR), and assisted Caltrans with the Section 106 Native American consultation process. Due to tribal concerns regarding the project, Ms. Collison worked closely alongside the Caltrans archaeologist and conducted an archaeological sensitivity analysis as part of the ASR. The HPSR received Caltrans District 12 approval, and the project findings received SHPO concurrence.



## Bruce Abelli-Amen, PG, CHg



**Principal  
 Certified Hydrogeologist**



M.S., Environmental Systems,  
 Applied Geology, Humboldt  
 State University, 1988

B.A., Geological Sciences,  
 University of California, Santa  
 Barbara

40-hour OSHA training, 1985

Certified Hydrogeologist No.  
 96, 1995

Professional Geologist No.  
 5593, 1993

31 years of experience

Bruce Abelli-Amen, owner and Principal of Baseline, is a Certified Hydrogeologist, Professional Geologist, and a CEQA project manager. He also manages hazardous materials investigations. He has experience in all phases of CEQA and NEPA projects, including managing large multi-disciplinary teams of specialists in the preparation of Expanded Initial Studies, Mitigated Negative Declarations, and Environmental Impact Reports and Statements. He has managed CEQA projects for landfill decommissioning, new wastewater treatment plants, mining projects, mixed-use developments, and major water and sewer conveyance infrastructure projects.

Bruce has managed numerous on-call environmental services contracts for municipal agencies, including SF Public Works, SF Public Utilities Commission (SFPUC), Port of Oakland, Port of SF, Yolo County, City of Milpitas, Town of Windsor, and others. He also has experience with construction management and permitting, which provides useful insights into the development of feasible and practical bid specifications and mitigation measures for identified significant CEQA impacts. He is currently the project manager for preparation of the EIR for the SFPUC's Channel Tunnel project (a nearly \$1 billion sewer conveyance capital project).

He has extensive experience managing hazardous materials investigations and has designed and implemented groundwater aquifer tests and remediation systems for the cleanup of contaminated shallow groundwater aquifers. He has managed numerous UST investigations and is familiar with local, state, and federal regulatory requirements for such investigations. Bruce managed the removal of over one dozen USTs from San Francisco fire stations under a SF Public Works on-call contract. He has supervised soil excavation, bioremediation, and backfill operations.

What Clients Say:

*Bruce Abelli-Amen's performance for the Port of San Francisco is excellent. Bruce is client-focused, anticipates my project needs, and offers creative solutions if problems arise. The BASELINE team has consistently provided great service and most importantly, there are no surprises! I know that I will get a topnotch product. – Shannon Alford, Port of San Francisco*



## Bruce Abelli-Amen, PG, CHg



**Principal  
Certified Hydrogeologist**

### **Recent Projects**

- San Rafael High School, Master Facilities Long-Range Program EIR, Technical Project Manager
- St. Mary's College, Master Plan EIR, Technical Reviewer for air quality, noise, hydrology, and hazardous materials
- SFPUC Channel Tunnel EIR, Project Manager
- Foster City Levee Improvement Project EIR, Technical Project Manager
- New Irvington Tunnel EIR, Hetch Hetchy Water Conveyance System, SFPUC, EIR and Groundwater Project Manager
- ACEforward-Stockton to San Jose Phased Improvement Plan EIR, Principal-in-Charge and hydrology and hazardous materials technical reviewer
- City Place EIR, Santa Clara, Project Manager for geology, groundwater hydrology and water quality, and hazardous materials sections
- Apple Campus EIR, Cupertino, Project Manager for geology, hazards, and hydrology EIR sections

# Cem Atabek



## Environmental Engineer III



**B.S., Environmental Engineering, University of California, Berkeley, 2006**

**40-hour OSHA training**

**14 years of experience**

Cem Atabek is an Environmental Engineer with 14 years of environmental consulting experience. He has managed and worked on projects related to hazardous materials management, site characterization, development and implementation of remedial actions, and soil gas mitigation for city, county, port, commercial/industrial, and school district clients. He also has extensive experience in preparation of technical content for CEQA documents including Initial Studies/Mitigated Negative Declarations (IS/MNDs), and Environmental Impact Reports (EIRs). He has worked on CEQA documents for school districts, utility districts, remediation projects, transportation/rail projects, dredging projects, levee projects, landfills, biomedical facilities/campuses, and residential and mixed-use developments. His CEQA work has been heavily focused on the topics of hazards and hazardous materials, geology and soils, and hydrology and water quality.

He has conducted investigations and remediation activities on local brownfields and leaking underground storage tank sites in California, including media contaminated with petroleum hydrocarbons, solvents, metals, and manufactured gas plant wastes.

His work has included: performing Phase I Environmental Site Assessments (ESAs) in accordance with the ASTM guidelines; development and implementation of work plans for site investigations; development and implementation of work plans for remediation activities; coordinating and performing public notification and participation activities during the site investigation and remediation process; and preparation of completion reports to document the implementation of remedial actions.

He has designed and provided oversight for the installation of remedial surface caps to prevent exposure to impacted soils, and soil gas mitigation systems to prevent migration of soil gas to indoor air, including development and implementation of Operation & Maintenance Plans.

His work has also included soil and sediment characterization in support of wetlands restoration and dredging projects, development and implementation of quality assurance/quality control and data validation procedures for environmental sampling efforts, and performing human health risk assessments in accordance with Department of Toxic Substances Control (DTSC) guidelines.

Through his work, he has developed a thorough understanding of regulatory requirements and established working relationships with regulatory agency staff on the state and local levels. His technical background and experience provides useful insights into the development of feasible and practical mitigation measures for identified significant CEQA impacts.



# Cem Atabek



## Environmental Engineer III

### Recent Projects

- Contra Costa County Public Works Department, Phase I and II ESAs, 2101 Loveridge Road, Pittsburg, 2020
- Former General Electric Oakland Facility Redevelopment, EIR, 2019-2020
- Biomarin and Whistlestop/Eden Housing Project, EIR, San Rafael, 2019
- Former Potrero Power Plant, Offshore Sediment Remediation Project, IS/MND, 2016-2017
- Making Waves Academy, Charter School Campus, IS and EIR, Pittsburg, 2018
- Cal State Maritime Academy, Master Plan EIR, 2017
- 1548 Maple Street, Shorefront Development, EIR, Redwood City, 2017-2018
- Sherwin-Williams Site, Emeryville, Proposed Mixed-Use Development, EIR, 2015-2016
- Foster City Levee Improvements, EIR, 2016
- Emeryville Center of Community Life, Soil Gas Mitigation System Design and Removal Action Workplan, 2014
- Oakland Unified School District, La Escuelita Education Center, Phase I ESA, Investigation and Remediation, Project Manager, 2008-2014
- Altamont Corridor Express (*ACEforward and ACEextension*) Railroad Improvements and Expansion, EIRs, 2015-2018



## **DAVID PARISI, PE, TE TRANSPORTATION PLANNER AND ENGINEER**



David Parisi manages a variety of challenging transportation projects throughout the West Coast. Mr. Parisi's 35 years of experience include various aspects of transportation and environmental planning, and civil and traffic engineering. He spearheads multi-disciplinary transportation projects from inception through design and development. These projects include environmental assessments in accordance with NEPA and CEQA; highway, railway, and multi-modal corridor studies; area-wide traffic circulation studies; rail transit projects; roadway and interchange feasibility analyses; access planning for pedestrians, bicyclists and people with disabilities; localized traffic impact evaluations; and transportation system improvements.

Mr. Parisi, a 24-year Marin County resident, has extensive experience working with the City of San Rafael on major transportation projects, including Environmental Impact Reports. Some of his most recent projects are described below.

### **BIOMARIN AND WHISTLESTOP/EDEN HOUSING PROJECT EIR, SAN RAFAEL**

As a consultant to the City of San Rafael, Mr. Parisi peer-reviewed the transportation impact study for the BioMarin and Whistlestop/Eden Housing project and prepared the transportation and circulation section of the project's Environmental Impact Report. The project consists of two development phases for the downtown San Rafael block bounded by 2<sup>nd</sup> Street, Lindaro Street, 3<sup>rd</sup> Street and Brooks Street. The transportation analysis consisted of vehicle trip generation and distribution analyses, and traffic impact assessments including vehicle miles traveled. Mr. Parisi developed mitigation strategies and participated in Planning Commission and City Council hearings.

### **NORTHGATE MALL – COSTCO TRANSPORTATION IMPACT REPORT, SAN RAFAEL**

As a consultant to the City of San Rafael, Mr. Parisi developed a work program and peer-reviewed an initial transportation impact analysis for the proposed Northgate Costco Project, which included retail as well as fueling stations. Vehicle trip generation and distribution assumptions were reviewed, and analysis methodologies, study roadways and intersections were identified. Mr. Parisi coordinated with the consultant preparing the transportation impact report and with the City's Department of Public Works.

### **KAISER ANNEX PROJECT EIR, SAN RAFAEL**

As a consultant to the City of San Rafael, Parisi reviewed the Kaiser Permanente Annex Project (150,000 square feet) off Lucas Valley Road/Los Gamos Drive and prepared the transportation section of the project's EIR. Parisi identified opportunities to mitigate project impacts initially identified as significant and unavoidable. Parisi's review led to Kaiser adopting a travel demand management program that included employee shuttles between the SMART rail station and other Kaiser facilities, employee transit subsidies, and on-site bicycle facilities. Kaiser also committed to improving roadways. Parisi represented the City of San Rafael in meetings with the applicant, Marin County, Caltrans, and the City Planning Commission.



**DAVID PARISI, PE, TE  
TRANSPORTATION PLANNER AND ENGINEER**



**MANUEL T. FREITAS INTERCHANGE AREA PLANNING, SAN RAFAEL**

As a consultant to the Transportation Authority of Marin and to the City of San Rafael, Mr. Parisi is leading the evaluation and development of various multimodal transportation improvement options for the Manuel T. Freitas Parkway/Civic Center Drive interchange in Terra Linda. Assessments of existing infrastructure, traffic, transit, pedestrian, and bicycle conditions were performed, and near- and long- term strategies for enhancements to Freitas Parkway, Del Presidio Boulevard, and Northgate Drive are being developed. Mr. Parisi is closely coordinating with the City's Department of Public Works, TAM and Caltrans.

**SAN RAFAEL HIGH SCHOOL MASTER FACILITIES PLAN EIR, SAN RAFAEL**

Parisi prepared the transportation and circulation section of the San Rafael High School Master Plan Facilities Long-Range and Stadium Project Environmental Impact Report. The project proposed building demolitions, renovations, and new construction, as well as an expected enrollment increase of 200 students. Mr. Parisi was the firm's project manager and led the traffic and parking assessments. The traffic analysis reviewed 25 intersections and multiple roadways, as well as a vehicle miles traveled assessment. The parking analysis consisted of comprehensive parking supply and demand surveys. Mr. Parisi developed mitigation strategies and participated in Planning Commission and City Council hearings.



## Appendix B: Budget Spreadsheet

Northgate Mall Redevelopment Project EIR Cost Estimate

LABOR COSTS																	
	LSA													Baseline			Team Total
	Principal-in-Charge, Project Manager (Wallace)	Assistant Project Manager, Environmental Planner (Wiswell)	Principal, AQ/GHG/Noise (Fischer)	Senior Planner, Air Quality/GHG Specialist (Carlucci)	Associate/Senior Noise Specialist (Stephens)	Noise Specialist (Roberts)	Principal, Cultural Resources (Sample)	Associate, Cultural Resources Manager (Collison)	Associate, Cultural Resources Manager (Hibma)	GIS (Staff)	Document Management/Technical Editor (Staff)	Graphics and Production (Staff)	LSA Total	Principal, Senior Hydrogeologist (Abelli-Amen)	Environmental Engineer III (Atabek)	BASELINE Total	
Hourly Rate:	\$245	\$120	\$240	\$140	\$185	\$125	\$225	\$135	\$130	\$110	\$115	\$125		\$230	\$185		
<b>TASK 1 PROJECT INITIATION</b>																	
1.1 Start-Up Meeting and Site Visit	4	8											\$1,940			\$0	\$1,940
1.2 Data Gathering and Evaluation	2	10											\$1,690			\$0	\$1,690
1.3 Project Description	8	22								2	4	8	\$6,280			\$0	\$6,280
1.4 Notice of Preparation and Scoping Session	6	12									1	1	\$3,150			\$0	\$3,150
1.5 Work Program Refinement	4	2											\$1,220			\$0	\$1,220
<b>Subtotal for Task 1</b>	<b>24</b>	<b>54</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>5</b>	<b>9</b>	<b>\$14,280</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>\$14,280</b>
<b>TASK 2. TECHNICAL STUDY PEER REVIEW</b>																	
<b>Subtotal for Task 2</b>	<b>8</b>	<b>12</b>	<b>4</b>	<b>12</b>	<b>12</b>	<b>0</b>	<b>2</b>	<b>10</b>	<b>32</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>\$14,440</b>	<b>6</b>	<b>24</b>	<b>\$5,820</b>	<b>\$20,260</b>
<b>TASK 3. SETTING, IMPACTS, AND MITIGATION MEASURES</b>																	
3.1 Land Use and Planning	6	26									4	2	\$5,300			\$0	\$5,300
3.2 Population and Housing	4	18									4		\$3,600			\$0	\$3,600
3.3 Visual Resources	4	24									4	2	\$4,570			\$0	\$4,570
3.4 Cultural Resources	2	4					2	8	16		4		\$5,040			\$0	\$5,040
3.5 Tribal Cultural Resources		1					1	10		1	1		\$1,920			\$0	\$1,920
3.6 Geology and Soils	1	1									4		\$825	2	36	\$7,120	\$7,945
3.7 Hydrology and Water Quality	2	1									4		\$1,070	2	32	\$6,380	\$7,450
3.8 Hazards and Hazardous Materials	2	1									4		\$1,070	2	36	\$7,120	\$8,190
3.9 Transportation	8	18									12	4	\$6,000			\$0	\$6,000
3.10 Air Quality	2	1	6	32							4		\$6,990			\$0	\$6,990
3.11 Greenhouse Gas Emissions	2	1	6	32							4		\$6,990			\$0	\$6,990
3.12 Noise	2	1	2		6	28				2	2		\$6,150			\$0	\$6,150
3.13 Public Services and Recreation	4	32									4		\$5,280			\$0	\$5,280
3.14 Utilities and Service Systems	4	32									4		\$5,280			\$0	\$5,280
3.15 Energy	1	1	4	32							2		\$6,035			\$0	\$6,035
<b>Subtotal for Task 3</b>	<b>44</b>	<b>162</b>	<b>18</b>	<b>96</b>	<b>6</b>	<b>28</b>	<b>3</b>	<b>18</b>	<b>16</b>	<b>3</b>	<b>61</b>	<b>8</b>	<b>\$66,120</b>	<b>6</b>	<b>104</b>	<b>\$20,620</b>	<b>\$86,740</b>
<b>TASK 4. ALTERNATIVES</b>																	
<b>Subtotal for Task 4</b>	<b>12</b>	<b>32</b>	<b>4</b>	<b>6</b>	<b>4</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>8</b>	<b>4</b>	<b>\$11,490</b>	<b>0</b>	<b>6</b>	<b>\$1,110</b>	<b>\$12,600</b>
<b>TASK 5. CEQA-REQUIRED ASSESSMENT CONCLUSIONS</b>																	
<b>Subtotal for Task 5</b>	<b>1</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>\$1,080</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>\$1,080</b>
<b>TASK 6. DRAFT ENVIRONMENTAL IMPACT REPORT</b>																	
6.1 Administrative Draft EIR	12	16									8	4	\$6,280			\$0	\$6,280
6.2 Screencheck Draft EIR	16	20	2	4	2	4		1	2		16	4	\$10,965	1	8	\$1,710	\$12,675
6.3 Public Review Draft EIR	6	8									12	8	\$4,810		2	\$370	\$5,180
<b>Subtotal for Task 6</b>	<b>34</b>	<b>44</b>	<b>2</b>	<b>4</b>	<b>2</b>	<b>4</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>36</b>	<b>16</b>	<b>\$22,055</b>	<b>1</b>	<b>10</b>	<b>\$2,080</b>	<b>\$24,135</b>



Northgate Mall Redevelopment Project EIR Cost Estimate

LABOR COSTS																
	LSA												Baseline			Team Total
	Principal-in-Charge, Project Manager (Wallace)	Assistant Project Manager, Environmental Planner (Wiswell)	Principal, AQ/GHG/Noise (Fischer)	Senior Planner, Air Quality/GHG Specialist (Carlucci)	Associate/Senior Noise Specialist (Stephens)	Noise Specialist (Roberts)	Principal, Cultural Resources (Sample)	Associate, Cultural Resources Manager (Collison)	Associate, Cultural Resources Manager (Hibma)	GIS (Staff)	Document Management/Technical Editor (Staff)	Graphics and Production (Staff)	LSA Total	Principal, Senior Hydrogeologist (Abelli-Amen)	Environmental Engineer III (Atabek)	
Hourly Rate:	\$245	\$120	\$240	\$140	\$185	\$125	\$225	\$135	\$130	\$110	\$115	\$125		\$230	\$185	

TASK 7. FINAL ENVIRONMENTAL IMPACT REPORT																	
7.1 Administrative Draft RTC	18	40	6	4	6	4			2		16	8	\$15,920	2	10	\$2,310	\$18,230
7.2 Screencheck Draft RTC	16	18	1		1						8		\$7,425	1	4	\$970	\$8,395
7.3 Final RTC	6	8									4	4	\$3,390		2	\$370	\$3,760
7.4 Mitigation Monitoring and Reporting Program	2	8									4		\$1,910			\$0	\$1,910
7.5 Administrative Record		8											\$960			\$0	\$960
<b>Subtotal for Task 7</b>	<b>42</b>	<b>82</b>	<b>7</b>	<b>4</b>	<b>7</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>32</b>	<b>12</b>	<b>\$29,605</b>	<b>3</b>	<b>16</b>	<b>\$3,650</b>	<b>\$33,255</b>

TASK 8. PROJECT MANAGEMENT																	
<b>Subtotal for Task 8</b>	<b>24</b>	<b>32</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$9,720</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>\$9,720</b>

TASK 9. MEETINGS																	
<b>Subtotal for Task 9</b>	<b>28</b>	<b>36</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$12,140</b>	<b>0</b>	<b>4</b>	<b>\$740</b>	<b>\$12,880</b>

<b>TOTAL LABOR</b>	<b>217</b>	<b>460</b>	<b>39</b>	<b>122</b>	<b>31</b>	<b>42</b>	<b>5</b>	<b>29</b>	<b>52</b>	<b>7</b>	<b>143</b>	<b>49</b>	<b>\$180,930</b>	<b>16</b>	<b>164</b>	<b>\$34,020</b>	<b>\$214,950</b>
--------------------	------------	------------	-----------	------------	-----------	-----------	----------	-----------	-----------	----------	------------	-----------	------------------	-----------	------------	-----------------	------------------

DIRECT COSTS																	
1. Travel, Deliveries, Communication													\$500			\$100	\$600
2. Maps; Plans; Reports; Database Searches													\$250			\$0	\$250
3. Printing and Graphic Reproduction													\$850			\$0	\$850
4. Parisi - Peer Review of the TIA and EIR Technical Assistance													\$20,000			\$0	\$20,000
<b>TOTAL DIRECT COSTS</b>													<b>\$21,600</b>			<b>\$100</b>	<b>\$21,700</b>

TOTAL LSA TEAM BUDGET																
<b>TOTAL LSA TEAM BUDGET (WITHOUT CONTINGENCY)</b>																<b>\$236,650</b>

CONTINGENCY FUNDS																
<b>CONTINGENCY AT 10 PERCENT</b>																<b>\$23,700</b>

TOTAL LSA TEAM BUDGET WITH CONTINGENCY																
<b>TOTAL LSA TEAM BUDGET (WITH CONTINGENCY)</b>																<b>\$260,350</b>



**LSA**

[www.lsa.net](http://www.lsa.net)




**Agenda Item No: 5.d**  
**Meeting Date: November 1, 2021**

**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

**Department: Community Development**

**Prepared by: Leslie Mendez,**  
**Planning Manager**

**City Manager Approval:** \_\_\_\_\_ 

**TOPIC: AGREEMENT FOR PROJECT SPECIFIC AND ON-CALL PLANNING CONSULTING SERVICES**

**SUBJECT: RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES WITH MIG, INC. FOR PROJECT SPECIFIC AND ON-CALL CONTRACT PLANNING AND ENVIRONMENTAL CONSULTING SERVICES IN AN AMOUNT NOT TO EXCEED \$217,000**

**RECOMMENDATION:**  
Adopt the resolution (Attachment 1) authorizing the City Manager to execute a Professional Services Agreement with MIG, Inc. for project specific and on-call project and environmental consulting services.

**BACKGROUND:**  
On [November 2, 2020](#) the City Council approved a resolution authorizing the City Manager to execute a Professional Services Agreement with MIG, Inc. for on-call planning and environmental consultant services to assist in filling the short-term gap that had been created by the loss of two full-time planners. Although the Community Development Department (CDD) is on its way to being fully staffed, the construction industry remains active and Planning continues to experience a high volume of submittals for land use development projects and use permits. During calendar year 2021 to date, the Planning Division has received over 160 new land use entitlement applications. In addition to the myriad lower profile development applications, there are also numerous larger commercial (e.g., San Rafael Inn), residential (e.g., 88 Vivian Way), and mixed-use (Northgate Mall) development applications pending. Because of the complexity and amount of time involved in analyzing land use and environmental review applications, CDD continues to need assistance from land use and environmental consulting firms to provide guidance on the CEQA process and to prepare the necessary land use and environmental documents.

**ANALYSIS:**  
MIG, Inc. has consistently demonstrated that they have staff with the ability and flexibility to deliver high quality services as on-call land use and environmental planners, and the firm has been instrumental in moving development forward through the City's entitlement phase. As such, MIG, Inc. has been assigned

**FOR CITY CLERK ONLY**

**File No.:** \_\_\_\_\_  
**Council Meeting:** \_\_\_\_\_  
**Disposition:** \_\_\_\_\_

project management of two high profile development projects—[Northgate Mall Redevelopment Project](#) and the [Los Gamos Apartments Development](#)—and has stepped in as critical support in processing minor land use permits as well as environmental document preparation and review.

Staff is, therefore, seeking to extend the on-call planning and environmental consulting services from MIG, Inc. through June 2023, with a total contract amount not to exceed \$217,000. This will cover existing commitments to the work on the Los Gamos Apartments and Northgate Mall projects, past project management and staff training, as well as allow staff to request assistance from the firm as needed on a project-by-project basis. The CDD Director will review and approve each individual project scope of work and cost estimates, as they are needed. Copies of the Professional Services Agreement along with associated cost estimates are attached.

**FISCAL IMPACT:**

The total amount of the combined not-to-exceed agreements is \$217,000. Approximately half of this contract sum will be covered by the project applicant, and approximately half, if needed, is appropriated as part of the Fiscal Year 2021-22 budget for CDD (general fund).

**OPTIONS:**

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

1. Adopt the resolution as presented approving the Professional Services Agreement;
2. Adopt resolution with modifications to the Professional Services Agreement;
3. Direct staff to return with more information; or
4. Take no action.

**RECOMMENDED ACTION:**

Adopt the Resolution approving the Professional Services Agreement with MIG, Inc. for project specific and on-call planning and environmental consulting services.

**ATTACHMENTS:**

1. Resolution
2. Professional Services Agreement with:
  - a. Exhibit 1: Proposal for MIG Services: Approach/Scope of Work
  - b. Exhibit 2: Memo outlining MIG Proposal for Services Northgate Mall Redevelopment Project, May 2021

**RESOLUTION NO.**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES WITH MIG, INC. FOR PROJECT SPECIFIC AND ON-CALL CONTRACT PLANNING AND ENVIRONMENTAL CONSULTING SERVICES IN AN AMOUNT NOT TO EXCEED \$217,000**

(Term of Agreement: through June 30, 2023)

**WHEREAS**, the San Rafael Planning Division is committed to providing timely and effective planning services to the public; and

**WHEREAS**, due to a temporary staffing shortage, the City's Planning Division has a need for on-call professional planning and environmental services to supplement existing staffing through temporary assignment of projects on an as-needed on-call basis; and

**WHEREAS**, MIG, Inc. is a professional planning firm that has provided on-call planning services to the City in the past and has submitted a proposal to provide on-call contract planning services in a sum not to exceed \$217,000, which includes the option of using journey level planners as well as experienced contract planners that can be used on a project-by-project basis, as further detailed in the staff report for this resolution; and

**WHEREAS**, staff has determined that MIG, Inc. proposes a unique on-call approach to contract planning services which would provide the most qualified contract planner at the appropriate level, thus providing a cost-effective staffing solution; and

**WHEREAS**, MIG, Inc. has demonstrated through its statement of qualifications and prior work on other similar projects that it would be able to take on the duties required to assist the Planning Division staff;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of San Rafael does hereby approve and authorize the City Manager to execute, on behalf of the City of San Rafael, an Agreement for Professional Planning Services with MIG, Inc. in the form included with the staff report for this resolution, subject to approval as to form 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 City Council of said City held on Monday, the 1<sup>st</sup> day of November 2021, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

\_\_\_\_\_  
Lindsay Lara, City Clerk

**AGREEMENT FOR PROFESSIONAL SERVICES  
FOR CONTRACT PLANNING SERVICES TO FILL TEMPORARY VACANCY IN  
PLANNING DIVISION**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF SAN RAFAEL (hereinafter "**CITY**"), and MIG, INC. (hereinafter "**CONTRACTOR**").

**RECITALS**

**WHEREAS**, the San Rafael Planning Division ("Planning Division") is committed to providing timely and effective planning services to the public; and

**WHEREAS**, given the current workload of Planning Division staff, the **CITY** has determined that Planning Division is faced with a temporary gap in services and that on-call professional planning and environmental services are needed to supplement existing staffing through temporary assignment of projects on an as-needed on-call basis; and

**WHEREAS**, at the **CITY'S** request, **CONTRACTOR** has submitted a proposal to the **CITY**, to provide on-call contract planning services with the option of using journey level planners as well as experienced contract planners that can be used on a project by project basis. In addition, **CONTRACTOR** has submitted a proposal for work to be done for a specific project. Said proposals are attached to this Agreement marked "Exhibit 1" and "Exhibit 2" and incorporated herein by reference; and

**WHEREAS**, the **CITY** has determined that **CONTRACTOR** proposes a unique on-call approach to contract planning services which would provide the most qualified contract planner at the appropriate level thus providing a cost-effective solution; and

**WHEREAS**, **CONTRACTOR** has demonstrated through its statement of qualifications and prior work for other Cities, on other similar projects that it would be able to take on the responsibilities as a Contract Planner to fill the temporary vacancy for the **CITY**.

**AGREEMENT**

**NOW, THEREFORE**, the parties hereby agree as follows:

1. **PROJECT COORDINATION.**

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

B. **CONTRACTOR'S Project Director.** **CONTRACTOR** shall assign a single

PROJECT DIRECTOR to have overall responsibility for the progress and execution of this Agreement for **CONTRACTOR**. Scott Davidson is hereby designated as the PROJECT DIRECTOR for **CONTRACTOR**. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute PROJECT DIRECTOR, for any reason, the **CONTRACTOR** shall notify the **CITY** within ten (10) business days of the substitution.

2. DUTIES OF CONTRACTOR.

**CONTRACTOR** shall perform as-needed, contract planning services to fill a temporary vacancy in the Planning Division with the duties as described in Exhibit 1 and Exhibit 2 attached.

**CONTRACTOR** shall work up to an average of 12-20 hours/week, but actual hours worked each week shall be based on the number of hours needed to manage project workload or deadlines for that week as determined by the **CITY**.

3. DUTIES OF CITY.

**CITY** shall pay the compensation as provided in Paragraph 4 and shall provide **CONTRACTOR** with a work space and materials and information necessary for **CONTRACTOR** to perform the services required by this Agreement.

4. COMPENSATION.

**CONTRACTOR** shall perform duties and bill for services on a “time and material” basis, as work is needed by **CITY**, at the billing rates as presented in Exhibit 1 and the time estimate detail set forth in Exhibit 2 hereto, provided that total compensation paid to **CONTRACTOR** pursuant to this Agreement shall not exceed Two Hundred Seventeen Thousand Dollars (\$217,000).

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

5. TERM OF AGREEMENT.

The term of this Agreement shall commence on the date of this Agreement and shall terminate on June 30, 2023. Upon mutual agreement of the parties, and subject to the approval of the City Manager the term of this Agreement may be extended for an additional period of up to six (6) months.

6. TERMINATION.

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

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

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

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

7. OWNERSHIP OF DOCUMENTS.

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

8. INSPECTION AND AUDIT.

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

9. ASSIGNABILITY.

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

10. INSURANCE.

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

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

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

3. If any licensed professional performs any of the services required to be performed under this Agreement, a professional liability insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) aggregate, to cover any claims arising out of the CONTRACTOR's performance of services under this Agreement.



Where **CONTRACTOR** is a professional not required to have a professional license, **CITY** reserves the right to require **CONTRACTOR** to provide professional liability insurance pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

## 11. INDEMNIFICATION.

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

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

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

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

12. **NONDISCRIMINATION.**

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

13. **COMPLIANCE WITH ALL LAWS.**

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

14. **NO THIRD PARTY BENEFICIARIES.**

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

15. NOTICES.

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

TO **CITY**'s Project Manager: Leslie Mendez, Planning Manager  
City of San Rafael  
1400 Fifth Avenue  
San Rafael, CA 94901

TO **CONTRACTOR**'s Project Director: Scott Davidson,  
Director of Contract Planning Services  
800 Hearst Avenue  
Berkeley, CA 94710

16. INDEPENDENT CONTRACTOR.

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

17. ENTIRE AGREEMENT -- AMENDMENTS.

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

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

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

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

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

18. SET-OFF AGAINST DEBTS.

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

19. WAIVERS.

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

20. COSTS AND ATTORNEY'S FEES.

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

21. CITY BUSINESS LICENSE / OTHER TAXES.

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

22. SURVIVAL OF TERMS.

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

23. APPLICABLE LAW.

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

24. COUNTERPARTS AND ELECTRONIC SIGNATURE.

This Agreement may be executed by electronic signature and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one document.

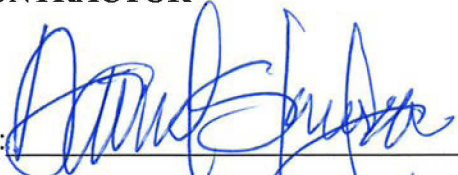
Counterpart signature pages may be delivered by telecopier, email or other means of electronic transmission.

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

**CITY OF SAN RAFAEL**

**CONTRACTOR**


\_\_\_\_\_  
JIM SCHUTZ, City Manager

By:   
Name: DANIEL S. ACOFANO  
Title: CEO / PRESIDENT

ATTEST:

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

\_\_\_\_\_  
LINDSAY LARA, City Clerk

By:   
Name: CHRISTINE J. BEYNON  
Title: CHIEF DEVELOPMENT OFFICER / VICE PRESIDENT

APPROVED AS TO FORM:

\_\_\_\_\_  
ROBERT F. EPSTEIN, City Attorney

## **Exhibit 1**

### **MIG, INC.**

#### **Approach/Scope of Work**

MIG will provide on-call and contract planning services that will be coordinated by Shawna Brekke-Read, the MIG Project Coordinator. Shawna would be supported by a team of three Project Associates and one Senior Planner who have between 1 and 30 years of experiencing working on a broad range of development and long-range projects.

To ensure MIG is assigning appropriate resources to match project needs, Shawna would work in conjunction with City staff to assign projects to individual planners and oversee their work. Unless otherwise directed by the City, MIG assumes City staff will provide project supervision and quality control for assigned projects. This proposal anticipates MIG contract planners will handle the full array of project review and entitlements. The following lists typical tasks that will be associated with our work:

- Analyze development applications for compliance with the General Plan, Zoning Ordinance, Subdivision Map Act, Design Review Criteria, and other applicable plans, policies, and regulations.
- Compile and analyze data on economic, social, environmental, and physical factors affecting land use and systemic or long-range tools that are available to address development implications.
- Successfully manage projects from submittal to decision in a manner that is consistent with the Permit Streamlining Act, CEQA timeline requirements, and other “shot clock” requirements for housing and telecommunication projects.
- Physical site planning to identify issues and explore alternatives for addressing issues based on a site visit(s).
- Collaborate and work with City staff, the applicant, property owners, community groups, engineers, architects, and stakeholders, to discuss and advise on project issues, explain procedures, and provide interpretations and recommendations.
- Maintain open communication with the designated City Planner, Community Development Department staff, other City departments, divisions or other jurisdictions, and the public.
- Write staff reports, resolutions, ordinances, and conditions of approval for presentation to decision-makers.
- Prepare for and make PowerPoint and oral presentations at public hearings and community meetings.
- Prepare CEQA determinations and/or work closely with on-call CEQA consultants to ensure compliance with CEQA.
- Coordinate condition and mitigation compliance throughout permit review and construction.

MIG will also provide other services as needed, including but not limited to the following:

- Facilitate processing development applications that are at-cost.
- Prepare environmental analyses.

**Availability**

Staff identified in this proposal will be available to support City needs for the next 6 - 12 months. In aggregate, we expect to be able to provide staffing support comparable to approximately 12 - 20 hours a week during this time frame.

**Budget**

MIG proposes to provide services on a time/materials (T/M) basis. If needed for individual projects, MIG can prepare a project specific staffing plan, scope and budget estimate for use by the City. Project costs will be based on the following:

Principal	\$210/hour
Project Coordinator	\$170/hour
Senior Planner	\$155/hour
Associate Planner	\$110/hour
Planner	\$90/hour
Administrative Support	\$85/hour

**Reimbursable Costs**

MIG is prepared to provide services at City offices using City equipment and facilities or at MIG offices. To the extent that tasks require MIG employees to produce documents, facilitate communication, or travel, the following costs would be reimbursed as indicated:

- Direct costs or project expenses such as photocopying (large quantity); plotting; and printing (B & W or color) are charged at cost plus 10%.
- The cost of communications including long-distance (excluding cell phones), fax, postage, courier, and other delivery costs are charged at cost, plus 10%.
- Excluding miles associated with commuting to and from San Rafael, the mileage charge for personal auto use will be the currently applicable mileage rate established by the Internal Revenue Service.





# memo berkeley

---

to **Alicia Giudice**  
from **Tricia Stevens, MIG**  
re **#ZC21-001 5800 Northgate Dr.**  
date **05/04/2021**

---

## Project Understanding

The City of San Rafael would like MIG to provide planning services for the redevelopment of Northgate Mall. MIG understands the project will include a comprehensive redevelopment of Northgate Mall to an open-air 'main street experience' surrounded by high-density multifamily housing within two (2) phases. Project proposes to reduce the existing commercial retail, from 775,677 sq. ft. to 246,677 sq. ft., and construct six (6), five (5)-story high-density multifamily residential buildings with a combined 1,356 living units. The project requests 24' height bonuses for the new residential buildings with a total height of 60' each. The project proposes to provide 5% affordable housing plus an additional unspecified affordable component (either additional low-income units, an increased number of moderate-income units, or an in-lieu fee). The project is located in the GC Zone and is designated GC in the General Plan, and is in a Priority Development Area (PDA).

The requested entitlement include:

- Rezone to the PD (Planned Development) Overlay Zone
- Master Use Permit
- Height Bonus
- Affordable Housing Plan
- Design Review Permit
- Tentative Map
- Development Agreement
- Certification of an EIR

The San Rafael General Plan 2020, the City's Municipal Code, and the draft 2040 General Plan authorize the proposed residential, commercial and retail mixed land use contemplated by the project. With the addition of housing to the project, the project directly advances General Plan policies aimed at revitalizing the Northgate Town Center area. It is anticipated that the project will be

evaluated against the 2040 General Plan as the project will likely not be deemed complete until after the adoption of the new General Plan.

Because of the size and scope of this project, and the inclusion of both market-rate and affordable housing, MIG will ensure that the requirements of the State Housing Accountability Act will be followed.

MIG recognizes that the design and mix of uses needs additional review in order to meet the City's objectives. MIG anticipates a robust early design review process involving qualified urban design professionals, the Design Review Board, the Planning Commission, and the community. In particular, we understand that the mix of commercial uses and the design of pedestrian amenities needs additional scrutiny.

Tricia Stevens, AICP, will serve as the overall project manager. Chris Beynon, AICP, will provide urban design and architectural expertise for the design review portion of the project. Both have extensive experience with housing developments. Chris' urban design expertise with mixed use, retail, and housing development is summarized in the attachment.

### Scope of Work

MIG will coordinate with City of San Rafael Staff to complete the following tasks:

**Task 1** – Application Processing/Initial Project Review: MIG will undertake the following as part of the application processing.

- Review the application and technical reports and documents to understand project scope and issues;
- Conduct field review to understand the project setting and context;
- Participate in meetings (in person and/or by phone) with the applicant and City Staff, to coordinate related to project needs and issues. This will include bi-monthly check-ins with the Development Coordinating Committee;
- Review and analyze re-submitted application materials to determine whether adequate information has been provided by the applicant and to understand project issues;
- Provide an initial analysis of General Plan and zoning consistency to determine areas of inconsistency at early project stages. This initial consistency analysis will be provided within two weeks of contract

approval. A complete consistency analysis will be provided within 60 days after the application is deemed complete.

- Coordinate with other agencies that have jurisdiction over the application;
- Coordinate with other City Departments as needed to address project needs; and
- Provide public information and coordinate with interested community members and groups.

*Task 1 Deliverables:*

- *Memorandum outlining initial project consistency with General Plan and zoning requirements.*
- *Completeness letter in compliance with the Permit Streamlining Act if necessary, after second submittal.*
- *Meeting minutes as needed*
- *Collateral materials (e.g. public notice, memos) if necessary*

**Task 2 – Early Design Review:** MIG proposes a robust early design review process to provide design direction to the applicant to ensure the project meets City objectives for a superior mixed-use center. ***Please see separate letter for a detailed description of this task.***

**Task 3 (Optional) -** Preparation of a Master Plan for the site and a more in-depth critique. This task would result in a comprehensive Master Plan to guide development over a 20-year period. This Master Plan would have chapters on Overall Vision, Design, Development Standards, Transportation, and Infrastructure. MIG would engage the services of sub-consultants on marketing/economics and transportation. MIG would rely on the applicant to provide architectural and landscaping plans, and renderings.

Deliverables

- Production of a Master Plan document for city review and adoption.

**Task 4 – Coordination on Environmental Analysis:** MIG will coordinate the preparation of an EIR, to be prepared by others.

- Coordinate with EIR preparers on EIR initiation. Review project description.
- Ongoing coordination with EIR preparers as EIR is underway;
- Review Admin Draft EIR on behalf of the City. Coordinate review by other City Departments;
- Review Responses to Comments to DEIR on behalf of the City.
- Ensure proposed mitigation measures are incorporated into project conditions of approval.

- This scope of work anticipates two-three meetings on EIR coordination.

**Task 4 Deliverables:**

- *Memorandum with comments on Admin Draft EIR.*

**Task 5 – Staff Report Preparation and Decision-Making:** Working from City templates, MIG will prepare analysis and recommendations by undertaking the following tasks.

- Draft a decision-making document for consideration by City Staff for Planning Commission and City Council hearings, including conditions of project approval. Based on feedback from Staff, MIG will complete final decision-making documents with conditions of approval for use by the City.
- Working from City templates for PowerPoint presentations for similar projects, MIG will prepare PowerPoint presentations for the project, and attend up to four public hearings to make presentations on the project.
- Support project completion by reviewing meeting minutes, drafting NODs and updating tracking information to document project close-out.

**Task 5 Deliverables:**

- *Draft decision document for Planning Commission Hearing (electronic submittal, in Word and PDF formats)*
- *Final decision document for Planning Commission Hearing (electronic submittal, in Word and PDF formats)*
- *Draft decision document for City Council Public Hearing (electronic submittal, in Word and PDF formats)*
- *Final decision document for City Council Public Hearing (electronic submittal, in Word and PDF formats)*
- *Draft and Final PowerPoint Presentations (electronic submittals)*

**Budget**

MIG will complete the above-noted scope of work for an estimated cost of \$83,448 as broken down by task in Table 1.

**Table 1: Budget Estimate**

<b>BUDGET ESTIMATE</b>	<b>Estimated MIG HOURS</b>	<b>ESTIMATED CONSULTANT COSTS</b>

<b>Administration</b>		
Project Initiation and Setup	7	\$1,120
Post Approval Processing (NOD, Resolutions, File Closure, Etc.)	6	\$960
Project Management (7%)	30	\$4,738
Administration Subtotal	43	\$6,818
<hr/>		
<b>Task 1 Application Processing/Initial Review</b>		
Review Application and Technical Reports	25	\$6,050
Interdepartment/Interagency coordination	15	\$2,400
Client Meetings	20	\$3,200
Consistency Review	25	\$4,000
Site Visit	8	\$1,280
Task 1 Subtotal	93	\$16,930
<hr/>		
<b>Task 2 Design Review</b>		
Vision and Goals Setting	25	\$6,325
Opportunities and Constraints Analysis	25	\$6,325
Design Parameters and Direction	25	\$6,325
Preparation of Staff Materials for DRB and PC workshop	25	\$6,325
Task 2 Subtotal	100	\$25,300
<hr/>		
<b>Task 3 (Optional)</b>		
Marketing/Economics Subconsultant		
Transportation Subconsultant		
Additonal design charrettes City and community		
Draft Master Plan		
Final Master Plan		
Task 4 Subtotal		TBD
<hr/>		
<b>Task 4 Coordination on EIR</b>	45	\$7,200
Task 4 Subtotal	45	\$7,200
<hr/>		
<b>Task 5 Staff Report Preparation and Decision-making</b>		
PC staff reports and meeting materials	90	\$14,400
City Council staff reports and meeting materials	50	\$8,000
Public Hearing Preparation, attendance, follow-up	30	\$4,800

Task 5 Subtotal	170	\$27,200.00
<b>Total</b>	<b>451</b>	<b>\$83,448</b>

Assumptions:

- MIG staff will visit the property and attend public hearings, all other meetings will occur by phone or zoom.
- Direct expenses, such as for any significant copying costs, will be billed at cost, and will be in addition to the above total; this would first be discussed with the City.
- Notice and agenda preparation and similar administrative tasks would be the responsibility of City
- MIG staff will attend a total of five Public Hearings.
- MIG staff will attend 4-5 client/applicant meetings.
- Assumes one round of review for each deliverable.
- Attendance at any additional meetings, changes to the project description, or expansion of this scope of work or level of analysis required would require additional fees.

## **Exhibit 1**

### **MIG, INC.**

#### **Approach/Scope of Work**

MIG will provide on-call and contract planning services that will be coordinated by Shawna Brekke-Read, the MIG Project Coordinator. Shawna would be supported by a team of three Project Associates and one Senior Planner who have between 1 and 30 years of experiencing working on a broad range of development and long-range projects.

To ensure MIG is assigning appropriate resources to match project needs, Shawna would work in conjunction with City staff to assign projects to individual planners and oversee their work. Unless otherwise directed by the City, MIG assumes City staff will provide project supervision and quality control for assigned projects. This proposal anticipates MIG contract planners will handle the full array of project review and entitlements. The following lists typical tasks that will be associated with our work:

- Analyze development applications for compliance with the General Plan, Zoning Ordinance, Subdivision Map Act, Design Review Criteria, and other applicable plans, policies, and regulations.
- Compile and analyze data on economic, social, environmental, and physical factors affecting land use and systemic or long-range tools that are available to address development implications.
- Successfully manage projects from submittal to decision in a manner that is consistent with the Permit Streamlining Act, CEQA timeline requirements, and other “shot clock” requirements for housing and telecommunication projects.
- Physical site planning to identify issues and explore alternatives for addressing issues based on a site visit(s).
- Collaborate and work with City staff, the applicant, property owners, community groups, engineers, architects, and stakeholders, to discuss and advise on project issues, explain procedures, and provide interpretations and recommendations.
- Maintain open communication with the designated City Planner, Community Development Department staff, other City departments, divisions or other jurisdictions, and the public.
- Write staff reports, resolutions, ordinances, and conditions of approval for presentation to decision-makers.
- Prepare for and make PowerPoint and oral presentations at public hearings and community meetings.
- Prepare CEQA determinations and/or work closely with on-call CEQA consultants to ensure compliance with CEQA.
- Coordinate condition and mitigation compliance throughout permit review and construction.

MIG will also provide other services as needed, including but not limited to the following:

- Facilitate processing development applications that are at-cost.
- Prepare environmental analyses.

## Availability

Staff identified in this proposal will be available to support City needs for the next 6 - 12 months. In aggregate, we expect to be able to provide staffing support comparable to approximately 12 - 20 hours a week during this time frame.

## Budget

MIG proposes to provide services on a time/materials (T/M) basis. If needed for individual projects, MIG can prepare a project specific staffing plan, scope and budget estimate for use by the City. Project costs will be based on the following:

Principal	\$210/hour
Project Coordinator	\$170/hour
Senior Planner	\$155/hour
Associate Planner	\$110/hour
Planner	\$90/hour
Administrative Support	\$85/hour

## Reimbursable Costs

MIG is prepared to provide services at City offices using City equipment and facilities or at MIG offices. To the extent that tasks require MIG employees to produce documents, facilitate communication, or travel, the following costs would be reimbursed as indicated:

- Direct costs or project expenses such as photocopying (large quantity); plotting; and printing (B & W or color) are charged at cost plus 10%.
- The cost of communications including long-distance (excluding cell phones), fax, postage, courier, and other delivery costs are charged at cost, plus 10%.
- Excluding miles associated with commuting to and from San Rafael, the mileage charge for personal auto use will be the currently applicable mileage rate established by the Internal Revenue Service.



# memo berkeley

---

to **Alicia Giudice**  
from **Tricia Stevens, MIG**  
re **#ZC21-001 5800 Northgate Dr.**  
date **05/04/2021**

---

## Project Understanding

The City of San Rafael would like MIG to provide planning services for the redevelopment of Northgate Mall. MIG understands the project will include a comprehensive redevelopment of Northgate Mall to an open-air 'main street experience' surrounded by high-density multifamily housing within two (2) phases. Project proposes to reduce the existing commercial retail, from 775,677 sq. ft. to 246,677 sq. ft., and construct six (6), five (5)-story high-density multifamily residential buildings with a combined 1,356 living units. The project requests 24' height bonuses for the new residential buildings with a total height of 60' each. The project proposes to provide 5% affordable housing plus an additional unspecified affordable component (either additional low-income units, an increased number of moderate-income units, or an in-lieu fee). The project is located in the GC Zone and is designated GC in the General Plan, and is in a Priority Development Area (PDA).

The requested entitlement include:

- Rezone to the PD (Planned Development) Overlay Zone
- Master Use Permit
- Height Bonus
- Affordable Housing Plan
- Design Review Permit
- Tentative Map
- Development Agreement
- Certification of an EIR

The San Rafael General Plan 2020, the City's Municipal Code, and the draft 2040 General Plan authorize the proposed residential, commercial and retail mixed land use contemplated by the project. With the addition of housing to the project, the project directly advances General Plan policies aimed at revitalizing the Northgate Town Center area. It is anticipated that the project will be

# EXHIBIT 2

evaluated against the 2040 General Plan as the project will likely not be deemed complete until after the adoption of the new General Plan.

Because of the size and scope of this project, and the inclusion of both market-rate and affordable housing, MIG will ensure that the requirements of the State Housing Accountability Act will be followed.

MIG recognizes that the design and mix of uses needs additional review in order to meet the City's objectives. MIG anticipates a robust early design review process involving qualified urban design professionals, the Design Review Board, the Planning Commission, and the community. In particular, we understand that the mix of commercial uses and the design of pedestrian amenities needs additional scrutiny.

Tricia Stevens, AICP, will serve as the overall project manager. Chris Beynon, AICP, will provide urban design and architectural expertise for the design review portion of the project. Both have extensive experience with housing developments. Chris' urban design expertise with mixed use, retail, and housing development is summarized in the attachment.

## Scope of Work

MIG will coordinate with City of San Rafael Staff to complete the following tasks:

**Task 1** – Application Processing/Initial Project Review: MIG will undertake the following as part of the application processing.

- Review the application and technical reports and documents to understand project scope and issues;
- Conduct field review to understand the project setting and context;
- Participate in meetings (in person and/or by phone) with the applicant and City Staff, to coordinate related to project needs and issues. This will include bi-monthly check-ins with the Development Coordinating Committee;
- Review and analyze re-submitted application materials to determine whether adequate information has been provided by the applicant and to understand project issues;
- Provide an initial analysis of General Plan and zoning consistency to determine areas of inconsistency at early project stages. This initial consistency analysis will be provided within two weeks of contract

# EXHIBIT 2

approval. A complete consistency analysis will be provided within 60 days after the application is deemed complete.

- Coordinate with other agencies that have jurisdiction over the application;
- Coordinate with other City Departments as needed to address project needs; and
- Provide public information and coordinate with interested community members and groups.

## *Task 1 Deliverables:*

- *Memorandum outlining initial project consistency with General Plan and zoning requirements.*
- *Completeness letter in compliance with the Permit Streamlining Act if necessary, after second submittal.*
- *Meeting minutes as needed*
- *Collateral materials (e.g. public notice, memos) if necessary*

**Task 2** – Early Design Review: MIG proposes a robust early design review process to provide design direction to the applicant to ensure the project meets City objectives for a superior mixed-use center. ***Please see separate letter for a detailed description of this task.***

**Task 3 (Optional)** - Preparation of a Master Plan for the site and a more in-depth critique. This task would result in a comprehensive Master Plan to guide development over a 20-year period. This Master Plan would have chapters on Overall Vision, Design, Development Standards, Transportation, and Infrastructure. MIG would engage the services of sub-consultants on marketing/economics and transportation. MIG would rely on the applicant to provide architectural and landscaping plans, and renderings.

## Deliverables

- Production of a Master Plan document for city review and adoption.

**Task 4** – Coordination on Environmental Analysis: MIG will coordinate the preparation of an EIR, to be prepared by others.

- Coordinate with EIR preparers on EIR initiation. Review project description.
- Ongoing coordination with EIR preparers as EIR is underway;
- Review Admin Draft EIR on behalf of the City. Coordinate review by other City Departments;
- Review Responses to Comments to DEIR on behalf of the City.
- Ensure proposed mitigation measures are incorporated into project conditions of approval.

# EXHIBIT 2

- This scope of work anticipates two-three meetings on EIR coordination.

## *Task 4 Deliverables:*

- *Memorandum with comments on Admin Draft EIR.*

**Task 5** – Staff Report Preparation and Decision-Making: Working from City templates, MIG will prepare analysis and recommendations by undertaking the following tasks.

- Draft a decision-making document for consideration by City Staff for Planning Commission and City Council hearings, including conditions of project approval. Based on feedback from Staff, MIG will complete final decision-making documents with conditions of approval for use by the City.
- Working from City templates for PowerPoint presentations for similar projects, MIG will prepare PowerPoint presentations for the project, and attend up to four public hearings to make presentations on the project.
- Support project completion by reviewing meeting minutes, drafting NODs and updating tracking information to document project close-out.

## *Task 5 Deliverables:*

- *Draft decision document for Planning Commission Hearing (electronic submittal, in Word and PDF formats)*
- *Final decision document for Planning Commission Hearing (electronic submittal, in Word and PDF formats)*
- *Draft decision document for City Council Public Hearing (electronic submittal, in Word and PDF formats)*
- *Final decision document for City Council Public Hearing (electronic submittal, in Word and PDF formats)*
- *Draft and Final PowerPoint Presentations (electronic submittals)*

## Budget

MIG will complete the above-noted scope of work for an estimated cost of \$83,448 as broken down by task in Table 1.

**Table 1: Budget Estimate**

	Estimated MIG HOURS	ESTIMATED CONSULTANT COSTS
<b>BUDGET ESTIMATE</b>		

# EXHIBIT 2

<b>Administration</b>		
Project Initiation and Setup	7	\$1,120
Post Approval Processing (NOD, Resolutions, File Closure, Etc.)	6	\$960
Project Management (7%)	30	\$4,738
Administration Subtotal	43	\$6,818
<hr/>		
<b>Task 1 Application Processing/Initial Review</b>		
Review Application and Technical Reports	25	\$6,050
Interdepartment/Interagency coordination	15	\$2,400
Client Meetings	20	\$3,200
Consistency Review	25	\$4,000
Site Visit	8	\$1,280
Task 1 Subtotal	93	\$16,930
<hr/>		
<b>Task 2 Design Review</b>		
Vision and Goals Setting	25	\$6,325
Opportunities and Constraints Analysis	25	\$6,325
Design Parameters and Direction	25	\$6,325
Preparation of Staff Materials for DRB and PC workshop	25	\$6,325
Task 2 Subtotal	100	\$25,300
<hr/>		
<b>Task 3 (Optional)</b>		
Marketing/Economics Subconsultant		
Transportation Subconsultant		
Additonal design charrettes City and community		
Draft Master Plan		
Final Master Plan		
Task 4 Subtotal		TBD
<hr/>		
<b>Task 4 Coordination on EIR</b>	45	\$7,200
Task 4 Subtotal	45	\$7,200
<hr/>		
<b>Task 5 Staff Report Preparation and Decision-making</b>		
PC staff reports and meeting materials	90	\$14,400
City Council staff reports and meeting materials	50	\$8,000
Public Hearing Preparation, attendance, follow-up	30	\$4,800

## EXHIBIT 2

---

Task 5 Subtotal	170	\$27,200.00
	<b>Total</b>	<b>451</b>
		<b>\$83,448</b>

---

---

### Assumptions:

- MIG staff will visit the property and attend public hearings, all other meetings will occur by phone or zoom.
- Direct expenses, such as for any significant copying costs, will be billed at cost, and will be in addition to the above total; this would first be discussed with the City.
- Notice and agenda preparation and similar administrative tasks would be the responsibility of City
- MIG staff will attend a total of five Public Hearings.
- MIG staff will attend 4-5 client/applicant meetings.
- Assumes one round of review for each deliverable.
- Attendance at any additional meetings, changes to the project description, or expansion of this scope of work or level of analysis required would require additional fees.



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Digital Service & Open Government

Prepared by: Jessica MacLeod, Director

City Manager Approval: \_\_\_\_\_

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

**TOPIC: INFORMATION TECHNOLOGY SERVICES AGREEMENT RENEWAL**

**SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GENERAL SERVICE AGREEMENT WITH ADDENDUM WITH XANTRION, INC., FOR INFORMATION TECHNOLOGY SERVICES FROM NOVEMBER 1, 2021 THROUGH OCTOBER 31, 2022 IN AN AMOUNT NOT TO EXCEED \$1,027,260**

**RECOMMENDATION:** Adopt a resolution authorizing the City Manager to execute a general service agreement with addendum with Xantrion, Inc., for information technology services from November 1, 2021 through October 31, 2022 in an amount not to exceed \$1,027,260.

**BACKGROUND:** In May 2019, the Department of Digital Service and Open Government published a Request for Proposals for a managed service provider to manage the City's information technology systems, and assembled an evaluation team with representatives from the Police, Fire, Library & Recreation, and Public Works departments. The City received 8 proposals. At the end of the evaluation process, Xantrion (from Oakland, CA) was selected as the preferred vendor to partner with the City by providing the following services:

- Technical support ("help desk")
- Network, server, and database administration
- Equipment purchasing
- User account management
- Data backup and recovery
- Network monitoring and security

The City entered into an agreement with Xantrion in October 2019, and in October last year, the City Council [approved the renewal of that one year agreement](#). Xantrion continued its second year of providing services on November 1, 2020. During this time, Xantrion has helped the City improve its security posture, streamlined day-to-day tech support, improved customer service, and

---

**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

**SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2**

standardized user management and purchasing. Some of the accomplishments from the past year include:

- Relocated the Police Department server infrastructure from City Hall to the Public Safety Center.
- Worked with the Police Department to get their DOJ application re-approved after their relocation to the Public Safety Center.
- Relocated Parking Services from 1033 C Street to City Hall.
- Implemented Azure AD Password Protection to improve security.
- Deployed the Uniflow cloud printing service for the Police Department.
- Deployed XMedius cloud faxing system and retired traditional analog fax lines.
- Migrated DNS to Azure AD for feature and security improvements.
- Rebuilt the legacy SCADA servers for Public Works and the Sanitation District to modern virtual servers to improve resiliency of the systems.
- Upgraded the FDIQS Web service modern OS to improve security.
- Retired legacy VDI library patron systems and replaced with new technology.
- Retired all Windows 2008 servers to improve security.
- Audited Office 365 and implemented data governance controls to improve security.
- Deployed Mobile Application Management for improved data protection.
- Upgraded 180 computers from end-of-life Windows 10 systems to supported versions of Windows 10.
- Completed an account cleanup project that disabled over 400 network accounts that had been orphaned to improve security.
- Deployed a guest Wi-Fi at all city facilities.
- Relocated the City's traffic management system, Centrac from Morphew to City Hall to improve resiliency and take advantage of the city's dark fiber.
- Replaced the End-of-Life physical equipment that runs over 70 servers at City Hall, Morphew, and the Public Safety Center. The new systems will provide a reliable and modern IT infrastructure for the next 7 years while also reducing the cost and complexity of the City's network.
- Worked on over 3,400 unique Service Desk tickets since November 1st.
- Proactively replaced 60 end of life computers since November 1st.

**ANALYSIS:** The cost of the November 1, 2020 – October 31, 2021 agreement with Xantrion was \$995,000. The cost structure was developed based on the number of devices, services, and data under management by the City at that time. The table below shows the total annual cost for Xantrion, including the cost for actual devices supported, and the discounted rate agreed upon which includes a ~3% CPI increase from the previous year.

	<b>2020-21 (Actual)</b>	<b>2021-22 (Price based on Pricing Model)</b>	<b>2021-22 (Discounted Price)</b>
<b>Annual Cost</b>	<b>\$994,948</b>	<b>\$ 1,116,216</b>	<b>\$1,027,260</b>

Based on our current pricing model, the cost of the agreement would increase by \$121,268 to \$1,116,216. However, staff and Xantrion worked together to bring the cost of the agreement to \$1,027,260.

The proposed renewal is for one year, beginning November 1, 2021 and ending October 31, 2022. The price for service with Xantrion remains competitive and their service level and customer satisfaction with City staff remains high.



**FISCAL IMPACT:** The total amount of the proposed new agreement is \$1,027,260 and the estimated cost from November 1, 2021 to June 30, 2022 is \$684,840, which funds were appropriated through the FY 2021-22 budget in the Technology Fund (fund no. 601). The remaining \$342,420 is planned for inclusion in the FY 2022-23 budget.

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

1. Accept report and adopt resolution.
2. Direct staff to return with more information.
3. Take no action.

**RECOMMENDED ACTION:** Adopt resolution.

**ATTACHMENTS:**

1. Resolution Authorizing the City Manager to Execute a General Service Agreement with Addendum with Xantrion, Inc., for Information Technology Services from November 1, 2021 Through October 31, 2022 in an Amount Not to Exceed \$1,027,260
2. Xantrion General Service Agreement and Addendum

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL AUTHORIZING THE CITY MANAGER TO EXECUTE A GENERAL SERVICE AGREEMENT WITH ADDENDUM WITH XANTRION, INC., FOR INFORMATION TECHNOLOGY SERVICES FROM NOVEMBER 1, 2021 THROUGH OCTOBER 31, 2022 IN AN AMOUNT NOT TO EXCEED \$1,027,260**

WHEREAS, the City of San Rafael requires on-going technical assistance with the administration and support of its technology systems in order to maintain their operational effectiveness and respond to departments' requests for services ("information technology services"); and

WHEREAS, Xantrion, Inc. ("Xantrion") is an experienced provider of managed information technology services and has successfully been providing such services to the City for the past two years; and Xantrion is willing to continue to provide information technology services to the City; and

WHEREAS, the City desires to enter into a renewed agreement with Xantrion to provide information technology services to the City for a one-year term beginning November 1, 2021 and ending October 31, 2022; and

WHEREAS, City funds in the amount of \$684,840 are budgeted and available for expenditure in the FY 2021-22 Department of Digital Service & Open Government's operating budget as follows: Technology Fund (\$684,840); and

WHEREAS, City funds in the amount of \$342,420 are planned for inclusion in the FY 2022- 23 Department of Digital Service & Open Government's budget request as follows: Technology Fund (\$342,420);

NOW, THEREFORE BE IT RESOLVED, that the City Council hereby authorizes the City Manager to execute a General Service Agreement with Addendum with Xantrion, Inc., for information technology services from November 1, 2021 through October 31, 2022 in an amount not to exceed \$1,027,260 in the form included with the Staff Report for the City Council's November 1, 2021 regular meeting, subject to final approval as to form 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 Monday, the 1<sup>st</sup> day of November 2021, by the following vote:

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

LINDSAY LARA, City Clerk

**GENERAL SERVICE AGREEMENT**

**XANTRION INC.**

**AND**

**CITY OF SAN RAFAEL**

## TABLE OF CONTENTS

1	Services .....	4
1.1	Statement of Work .....	4
1.2	Personnel .....	4
2	Terms of Payment.....	4
2.1	Services Fees; Equipment and Software Costs.....	4
2.2	Overdue Payments.....	5
2.3	Taxes .....	5
3	Term, Termination .....	5
3.1	Term.....	5
3.2	Termination for Convenience .....	5
3.3	Termination for Cause .....	5
3.4	Effect of Termination .....	6
3.5	Survival.....	6
4	Equipment, Software and Supplies.....	6
4.1	Equipment; Software; Supplies.....	6
4.2	Limited Warranty .....	7
5	Independent Contractor Status .....	7
6	Non-Solicitation .....	7
7	Unauthorized Access to Data or Use of the Services.....	7
8	No Warranties; Limitations of Liability; Indemnification.....	8
8.1	No Warranties.....	8
8.2	Limitation of Liability .....	8
8.3	Indemnification.....	8
9	Confidentiality.....	9
9.1	Definition .....	9
9.2	Confidentiality.....	9
9.3	Access to Systems .....	9
10	Compliance .....	10
10.1	Protection of Personally Identifiable Information .....	10
10.2	Compliance with Laws Applicable to Client .....	10
10.3	Compliance with Software Manufacturer’s Licensing and Allowed Usage Requirements.....	11
11	Security Incident Response.....	11
11.1	Obligations.....	11
11.2	Disclaimer .....	11
13	Other Insurance Provisions.....	12
14	Harassment Free Workplace; Nondiscrimination.....	13
15	Miscellaneous .....	13
15.1	Notices .....	13
15.2	Governing Law .....	13
15.3	Remedies .....	13
15.4	Dispute Resolution; Attorney’s Fees.....	13
15.5	Force Majeure.....	15

15.6 Headings ..... 15  
15.7 Severability ..... 15  
15.8 No Waiver ..... 15  
15.9 No Assignment..... 15  
15.10 City Business License / Other Taxes..... 16  
15.11 Entire Agreement; Modification ..... 16  
16 Counterparts ..... 17  
**Exhibit A** -Addendum To The General Service Agreement Information Technology Services 19

## GENERAL SERVICE AGREEMENT

This General Service Agreement, including any attachments referenced herein and made a part hereof (this “Agreement”), is entered into as of November 1, 2021 (the “Effective Date”), by and between Xantrion, Inc., a California corporation (“Xantrion”), with offices at 651 20th Street, First Floor, Oakland, CA 94612, and City of San Rafael with offices at 1400 Fifth Avenue, San Rafael, CA 94901 (“Client”).

## 1 Services

### 1.1 Statement of Work

Xantrion shall provide the services (the “Services”) as described in the Addendum To The General Service Agreement Information Technology Services of even date herewith, attached as Exhibit A hereto and incorporated herein by reference (“Addendum”). The Services shall be performed and delivered in a workmanlike manner in accordance with generally recognized industry standards for computer consultants performing similar services.

### 1.2 Personnel

Xantrion, acting as an independent contractor, shall engage employees, consultants, or subcontractors (“Xantrion Personnel”) to provide the Services specifically outlined in the Addendum, and Xantrion shall be fully and directly responsible for all Xantrion Personnel. Xantrion shall (i) provide competent and qualified personnel to perform the Services; (ii) ensure that it complies with all laws, regulations, ordinances and licensing requirements; (iii) ensure Xantrion Personnel performing any Services on Client’s premises comply with any applicable Client guidelines as provided to Xantrion from time to time, including, but not limited to, any data security policies; and (iv) determine the method, detail, and means of performing the Services under this Agreement.

## 2 Terms of Payment

### 2.1 Services Fees; Equipment and Software Costs

Unless otherwise agreed to in writing by the parties, payment for Services by Xantrion (“Service Fees”) rendered and any equipment, software, licenses, 3rd party services, hardware, parts and supplies (“Supplies”) shall be due within forty-five (45) days from the date of the applicable invoice provided by Xantrion to Client. If Xantrion does not receive payment within such forty-five (45) day-period, Xantrion shall have the option to suspend the Services without any liability until payment is received.

## 2.2 Overdue Payments

Interest shall accrue on any delinquent amounts owed by Client to Xantrion at the rate of 0.8333% per month. In the event of a good faith dispute related to the invoices submitted by Xantrion, Client shall notify Xantrion in writing setting forth the reasons of such dispute, and the parties shall cooperate to resolve such dispute.

## 2.3 Taxes

Client shall be responsible for any applicable sales or use taxes on any amounts payable by Client hereunder.

# 3 Term, Termination

## 3.1 Term

Unless sooner terminated, the term of this Agreement, and the applicable Services requested as set forth in the accompanying Addendum shall be for one (1) year commencing on the Effective Date ("Term") and shall continue during the Term unless this Agreement is otherwise terminated sooner in accordance with Section 3.2 or Section 3.3. During this Term, Xantrion shall not increase its fee rates over and above the rates charged on Services provided as of the Effective Date. New Services added during the Term may be charged at Xantrion's then-current rates. The termination of any Service shall not modify any Term of this Agreement. The termination of this Agreement shall immediately terminate any and all Services executed hereunder.

## 3.2 Termination for Convenience

Either party may terminate this Agreement or any applicable Service at any time without cause upon at least ninety (90) days' prior written notice to the other party. In the event that either party elects to terminate this Agreement pursuant to this Section 3.2, Xantrion agrees to provide sufficient efforts and cooperation to ensure an orderly and efficient transition of Services to Client or another service provider, whichever Client elects, at Xantrion's then-current time and materials rates.

## 3.3 Termination for Cause

Either party may terminate this Agreement or any applicable Service for Cause (as defined below) immediately upon written notice to the other party.

For purposes of this Agreement, "Cause" means: (i) Client's failure to pay any amount due within thirty (30) days of the applicable due date; (ii) a party's conviction of, or plea of nolo contendere to, any felony, or any other crime involving fraud, embezzlement, or act of moral turpitude; (iii) a party's unauthorized use or disclosure of any Confidential Information or other proprietary information of the other party or any other

party to whom the offending party owes an obligation of nondisclosure as a result of the parties' relationship; (iv) a material breach of this Agreement by a party which is incapable of cure, or with respect to a material breach capable of cure, is not cured within thirty (30) days after receipt of written notice from the affected party of such breach; (v) a dissolution or liquidation of any party, or any corporate action taken by any party for such purpose; (vi) any party's insolvency or admission of its inability to pay its debts generally as they become due; or (vii) any party's voluntary filing of a bankruptcy petition or general assignment for the benefit of creditors.

### **3.4 Effect of Termination**

Upon termination of this Agreement, Xantrion shall not be obligated to provide any further Services to Client and Xantrion shall have the right to remove any equipment or other Supplies belonging to Xantrion which has been installed or placed at Client's location for the performance of the Services hereunder. Client shall pay all outstanding invoices, as well as any invoices which may be submitted to Client following the date of termination for Services Fees or Supplies or costs incurred up to the date of termination, within ten (10) days of the date of termination or within thirty (30) days of the date of the invoice, whichever is later. Upon termination of this Agreement for any reason, each party shall (i) return to the other party or destroy all documents and tangible materials (and any copies) containing, reflecting, incorporating or based on the other party's Confidential Information, (ii) permanently erase all of the other party's Confidential Information from its computer systems, and (iii) if requested by the other party, provide written confirmation within ten (10) days of receiving such request that it has complied with the requirements of this section.

### **3.5 Survival.**

The terms of Sections 2, 3, 4, 5, 7, 8, 9, and 15 shall survive the termination of this Agreement.

## **4 Equipment, Software and Supplies**

### **4.1 Equipment; Software; Supplies**

Xantrion is not responsible for compatibility issues, project delays, or other problems with Supplies (i) provided by Client, (ii) purchased by Client through a third party, or (iii) manufactured by a third party and purchased by Client from Xantrion (collectively, "Third Party Products") except if expressly recommended by Xantrion.

Notwithstanding anything contained herein to the contrary, in the event Xantrion installs a Third Party Product and such Third Party Product fails within ninety (90) days of installation, Xantrion will provide the labor to re-install the product free of charge.



## 4.2 Limited Warranty

Xantrion represents and warrants to Client that the Supplies, processes, and procedures employed, used, and operated by Xantrion in providing the Services will be sufficient to provide the Services at the levels of reliability represented in the description and definition of the Services.

Third Party Products purchased through Xantrion are warrantied by their respective manufacturers and any applicable manufacturer's warranties will be passed through to the Client. Xantrion will only accept returns on such Third Party Products if they are defective and returned within thirty (30) days of Client's receipt of such Third Party Product.

## 5 Independent Contractor Status

Client and Xantrion acknowledge and agree that: (i) Xantrion is an independent Contractor, (ii) the parties are not engaged in a joint venture, partnership, employment, or fiduciary relationship; and (iii) neither party is authorized to act as agent or incur any obligation on behalf of the other.

## 6 Non-Solicitation

Client acknowledges that Xantrion will recruit and train personnel to provide Services for Client under this Agreement, and that this is a costly and time-consuming endeavor. Client therefore agrees not to directly, or indirectly through a third party, solicit, induce, recruit for employment, or attempt to solicit, induce, or recruit for employment, any Xantrion personnel who has performed Services for Client under this Agreement to provide the same or similar services. Client shall comply with this obligation during the term of this Agreement, and for a period of twelve (12) consecutive months after termination. Client shall be relieved of its obligations under this provision if Client first pays Xantrion the sum of the actual cost of retaining and training individual personnel. The Parties further agree that this amount shall be no less than \$60,000 per individual personnel, which Client agrees accurately reflects the minimum reasonable value of Xantrion's time and costs with respect to recruiting and training personnel to work for Client. Notwithstanding any other provisions in this Agreement, the parties retain all legal remedies, at law or equity, upon violation of this provision.

## 7 Unauthorized Access to Data or Use of the Services

Xantrion is not responsible to Client for unauthorized access to the electronic data of Client stored on Xantrion's servers ("Client Data") or the unauthorized use of the Services unless such unauthorized access or use results from Xantrion's failure to meet its obligations described in the Agreement. Client is responsible for the use of the Services by any employee or consultant of Client, other than Xantrion, any person to whom Client has given access to the Client Data, and any person who gains access to the Client Data or Services as a result of Client's failure to use reasonable security precautions, even if such use was not authorized by Client.

## 8 No Warranties; Limitations of Liability; Indemnification

### 8.1 No Warranties

EXCEPT AS PROVIDED IN SECTION 1.1 (SERVICES) AND SECTION 4.2 (LIMITED WARRANTY), XANTRION EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH REGARD TO THE SERVICES PROVIDED HEREUNDER, AND WITH REGARD TO ANY THIRD PARTY PRODUCTS, INCLUDING IN EACH CASE ANY WARRANTY OF NON-INFRINGEMENT, AND ANY AND ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ARISING FROM THE COURSE OF DEALING BETWEEN THE PARTIES OR USAGE OF TRADE. THESE DISCLAIMERS OF WARRANTY AND LIMITATIONS OF LIABILITY CONSTITUTE AN ESSENTIAL PART OF THIS AGREEMENT.

### 8.2 Limitation of Liability

IN NO EVENT WILL XANTRION, WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE, BE LIABLE FOR: (I) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (EVEN IF SUCH DAMAGES ARE FORESEEABLE, AND WHETHER OR NOT EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED WARRANTY.); OR (II) COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES, SUPPLIES, LOST PROFITS, LOSS OF DATA; OR (III) ANY DIRECT DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, TO THE EXTENT THAT THE AGGREGATE AMOUNT OF SUCH DAMAGES EXCEEDS THE AGGREGATE SERVICES FEES ACTUALLY PAID BY CLIENT HEREUNDER IN THE SIX (6) CALENDAR MONTHS BEFORE SUCH CLAIM AROSE; PROVIDED THAT SUCH LIMITATION OF LIABILITY SHALL NOT EXTEND TO DIRECT DAMAGES INCURRED AS A RESULT OF THE WILLFUL MISCONDUCT OF XANTRION OR ITS EMPLOYEES. THE PARTIES AGREE THAT THE LIMITATIONS IN THIS SECTION ARE INTEGRAL TO THE AMOUNT OF FEES CHARGED IN CONNECTION WITH THIS AGREEMENT AND THAT, WERE XANTRION TO ASSUME ANY FURTHER LIABILITY, SUCH FEES WOULD OF NECESSITY HAVE BEEN SUBSTANTIALLY HIGHER.

### 8.3 Indemnification

To the fullest extent permitted by law subject to the limitations set forth in this Agreement,, Xantrion shall indemnify and hold harmless, and defend the Client, its officers, agents, employees and volunteers (collectively, the "Client Indemnitees") from and against any and all suits, actions, legal proceedings, claims, demands, damages, losses and expenses which may be made by individuals or organizations, including, but not limited to attorneys' fees, expert fees and all other costs and fees of litigation (each a "Claim" and collectively the "Claims"), arising out of or resulting from the Xantrion's negligence or willful misconduct in the performance of the Services. The acceptance or approval of Xantrion's Services by Client or any of its directors, officers or employees shall not relieve or reduce Xantrion's indemnification obligations. However, to the extent that any Claim arises from, relates to, or is in connection with, the negligence or willful misconduct of the Client Indemnitees, or any of them, then Xantrion's indemnification obligation and liability hereunder for the Claim shall be reduced in proportion to the Client Indemnitees' total share of liability for the Claim as a result of the Client Indemnitees' negligence or willful misconduct.

## 9 Confidentiality

### 9.1 Definition

The term “Confidential Information” as used in this Agreement shall mean any information disclosed, directly or indirectly, by a party (the “Discloser”) to the other party (the “Recipient”) that may reasonably be considered proprietary or confidential including, without limitation, the Discloser’s operational and business methods and practices, economic and financial information, know-how, recommendations, instructional methods, Client Data (as defined below), software and information systems, technical processes, products, product designs, machinery, research and development, intellectual property, and any material embodiments thereof.

Notwithstanding the foregoing, the term “Confidential Information” shall not include any information that (i) is or becomes generally available to the public other than as a result of the Recipient’s breach of this agreement; (ii) is or becomes available to the Recipient on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (iii) was in Recipient’s possession prior to the Discloser’s disclosure hereunder; or (iv) was or is independently developed by Recipient without using any Confidential Information.

### 9.2 Confidentiality

The Recipient agrees to (i) take reasonable measures to protect and safeguard the confidentiality of, and avoid disclosure and unauthorized use of, the Discloser’s Confidential Information with at least the same degree of care as the Recipient would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (ii) not use the Discloser’s Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (iii) not disclose any such Confidential Information to any person or entity, except as required to assist the Recipient to exercise its rights or perform its obligations under this Agreement.

Disclosure of Confidential Information is not prohibited if such disclosure is compelled pursuant to a legal proceeding or is otherwise prescribed by law. If the Recipient receives a request to disclose any Confidential Information pursuant to the order or requirement of a court, administrative agency, or other governmental body, the Recipient, prior to disclosing any Confidential Information, and, except as may be prohibited by law, will notify the Discloser of such requirements to afford the Discloser the opportunity to seek a protective order or other remedy.

### 9.3 Access to Systems

Xantrion representatives and contractors, shall only access Client systems and data as is necessary to perform the Services agreed to. Client understands that Xantrion representatives may share access with other vendors

to the limited extent required to perform the Services. Notwithstanding the foregoing, when access to criminal justice data or systems is necessary to perform the Services, Xantrion agrees that its designated representatives will comply with Client's requirements for access to such systems and information, including but not limited to fingerprinting and a satisfactory background check, as a precondition to being granted access to those systems or data.

## 10 Compliance

None of the Services or underlying information or technology may be downloaded, exported, or re-exported into any country to which the United States has embargoed goods, or to any individual or entity that has been denied export privileges by the U.S. Treasury Department or the U.S. Department of Commerce. By using the Services, Client is agreeing to the foregoing and Client is representing and warranting that Client is not a national resident of, or located in or under the control of, any country subject to such export controls.

### 10.1 Protection of Personally Identifiable Information

The parties agree to use commercially reasonable security precautions to protect Personally Identifiable Information, "PII", (as hereafter defined) transmitted to or from, or stored at, Xantrion's data centers. Client must comply with the laws applicable to Client's use of the Services and with Xantrion's policies and procedures, as may be amended. Client agrees to cooperate with Xantrion's reasonable investigation of Service outages, security problems, and any suspected breach. For purposes of this Agreement, "PII" means (i) any information that identifies an individual, such as name, social security number or other government issued number, date of birth, address, telephone number, biometric data, mother's maiden name, or other personally identifiable information; (ii) any "non-public personal information" as that term is defined in the Gramm-Leach-Bliley Act found at 15 USC Subchapter 1, § 6809(4), and (iii) any "protected health information" as defined in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

The parties agree to comply with the applicable provisions of HIPAA, the requirements of any regulations promulgated thereunder including, without limitation, the federal privacy regulations as contained in 45 CFR Parts 160 and 164 (the "Federal Privacy Standards"), the Electronic Transaction Standards (45 CFR Parts 160 and 162) the Security Standards (45 CFR Parts 160, 162 and 164), and the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), Public Law 111-05 and regulations promulgated thereafter.

The parties further agree to comply with the applicable provisions of the PROTECT Our Children Act contained in 42 USC 13032 and 18 USC 2258A .

### 10.2 Compliance with Laws Applicable to Client

As it pertains to Client's Confidential Information and/or Data stored or managed by Xantrion, Xantrion will comply with any and all confidentiality, security, privacy and or compliance requirements, rules and/or regulations imposed on Client by local, state or federal authorities, agencies, regulatory agreements and or laws

to the extent Client has provided to Xantrion in writing the specific requirements to satisfy said confidentiality, security, privacy and or compliance requirements, rules and/or regulations.

### 10.3 Compliance with Software Manufacturer’s Licensing and Allowed Usage Requirements

Client acknowledges its obligation to comply with all provisions of software manufacturer’s licensing and allowed usage requirements. Client agrees to honor the provisions of the “[Microsoft Cloud Agreement](#)” incorporated herein by reference.

## 11 Security Incident Response

### 11.1 Obligations

Xantrion acknowledges its obligation to support Clients in the event of a Security Incident. Services we will perform and the basis on which they will be billed are described in the Addendum – Services.

### 11.2 Disclaimer

Xantrion does not represent that any service will prevent a security incident. Nor do we represent that we have legal expertise or expertise in forensic investigations. Clients are advised to consider purchasing cyber-liability policies to protect against the risk of a security incident. In the event of an incident, Client is advised to contact their own legal counsel to determine their obligations to report an incident, and to notify their insurance carrier of a potential claim and to permit the insurance company or its designated agents to conduct any investigation.

## 12 INSURANCE

During the term of this Agreement, Xantrion shall, at its own expense, maintain and carry insurance with financially sound and reputable insurers, in full force and effect that includes, but is not limited to:

Insurance Type	Description of Liability covered	Aggregate Limit
Cyber Liability, Privacy/Network Security, Cyber Crime & Cyber Deception Endorsement	Data breach of our systems or a Client system for which we are liable Including forensic costs, notification costs, credit or identity protection, extortion, regulatory action, fines and penalties. and business interruption.	\$10 mm
Third Party Crime	Third Party Crime	\$250 K

Commercial General Liability	Bodily injury, personal injury and property damage caused by the business' operations, products, or injury that occurs on the business' premises.	\$2 mm
Errors and Omissions Liability	Claims made by Clients for failure to provide products or services, inadequate work or negligent actions.	\$10 mm
Workers Compensation	On the job injury	\$1 mm
Employment Practices Liability	Claims made by employees alleging discrimination (based on sex, race, age or disability, for example), wrongful termination, harassment and other employment-related issues, this also extends to Third Party – Clients, Vendors, etc.	\$1 mm

### 13 Other Insurance Provisions

13.1 Except for professional liability insurance or worker's compensation insurance, the insurance policies shall be specifically endorsed to include Client, its officers, agents, employees, and volunteers, as additional insureds under the policies.

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

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

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

13.5 Xantrion's worker's compensation insurance shall be specifically endorsed to waive any right of subrogation against Client.

13.6 Xantrion shall cooperate with Client in providing Client with copies of all insurance provisions or endorsements required by this Agreement.

## 14 Harassment Free Workplace; Nondiscrimination

Xantrion and Client mutually commit to observing the highest standards of conduct in maintaining an environment that is free of discrimination, including harassment of any kind and on the basis of a legally protected status. Accordingly, Xantrion and Client will not tolerate any form of harassment against anyone, including employees, vendors, independent contractors, or guests. Xantrion and Client understand and acknowledge their legal obligation both, not to engage in, and to report any unwelcome conduct, whether verbal, physical, sexual, or visual, and that is based upon a person's protected status. Xantrion and Client shall not discriminate, in any way, against any person on the basis of age, sex, race, color, religion, ancestry, national origin or disability in connection with or related to the performance of their duties and obligations under this Agreement.

## 15 Miscellaneous

### 15.1 Notices

All notices under this Agreement shall be sent to a party at the respective address indicated in the introductory paragraph hereof, or to such other address as such party shall have notified the other in writing. All such notices so addressed shall be deemed duly given (a) upon delivery, if delivered by courier or by hand (against receipt); or (b) three days after posting, if sent by certified or registered mail, return receipt requested.

### 15.2 Governing Law

This Agreement shall be construed and controlled by the laws of the State of California, without reference to conflicts of law principles. To the extent that any lawsuit is permitted under this Agreement, the parties hereby expressly consent to the personal and exclusive jurisdiction and venue of the state and federal courts located in Marin County, California.

### 15.3 Remedies

The parties agrees that remedies at law for a breach or threatened breach of any of the provisions of this Agreement, including any disclosure or use of the Confidential Information, may be inadequate and, in recognition of this fact, in addition to all other remedies available at law, the parties will be entitled to seek specific performance or injunctive relief to enforce the terms of this Agreement.

### 15.4 Dispute Resolution; Attorney's Fees

Xantrion and Client agree to each use its best efforts to mutually resolve any claim, controversy, liability or dispute arises between the parties relating to or in connection in any way with this Agreement or its interpretation, validity or enforcement (collectively, "Disputes" or, in the singular, "Dispute").

Failing that, and unless otherwise agreed by the parties in writing, such dispute shall be adjudicated by final, binding arbitration under the auspices, and in accordance with then-applicable commercial arbitration rules and procedures, of JAMS, Inc. ("JAMS") at JAMS' San Francisco offices. The arbitrator shall be mutually-agreed upon by the parties to the arbitration. If the parties cannot agree upon an arbitrator within ten (10) business days after the filing of any demand for arbitration or statement of claims with JAMS (or, if a party is asked to participate in the joint selection of an arbitrator, but is unresponsive or otherwise does not do so within the foregoing time period), then JAMS shall select as arbitrator a retired judge having at least ten (10) years' experience in industry-related disputes pursuant to its normal procedure for selecting an arbitrator when parties cannot agree upon an arbitrator.

The parties to the Dispute shall share equally in the costs of arbitration. If any party to the Dispute fails or refuses to pay its portion of JAMS arbitration-related administration fees or arbitrator's fees in a timely manner, the other party to the Dispute may, at its election, pay such fees and proceed with the arbitration without the participation of the party who fails or refuses to pay its share of such fees, and any final arbitration award shall require the non-paying party to reimburse the paying party for such fees and costs.

The arbitrator shall have the power to award only such damages, remedies, or relief that would be available in a court otherwise having jurisdiction of the matter, but no other damages, remedies or relief. The arbitrator shall render all rulings and make all adjudications based solely upon the law governing the claims, counterclaims and defenses pleaded and shall not invoke any basis (including, without limitation, notions of "just cause") other than such controlling law. The arbitrator shall have the authority to issue an award that provides for both legal and equitable relief, as applicable, including, without limitation, an order for issuance of a temporary or preliminary injunction. Notwithstanding the foregoing, the parties may avail themselves in the court of the rights and remedies provided by Section 1281.8 of the California Code of Civil Procedure. In any arbitration proceeding commenced under this section, the merits hearing (i.e., trial) shall begin by no later than ninety (90) calendar days after the filing of any demand for arbitration or statement of claim with JAMS. The arbitrator shall prepare a written statement of decision and award within five (5) business days following the conclusion of the arbitration merits hearing. Judgment on the decision, award or other order of the arbitrator may be confirmed and entered by the court.

The decision of the arbitrator shall be final and conclusive, and the parties hereby waive the right to trial de novo or appeal, excepting only for the purpose of confirming the arbitrator's decision, award or other order and entering judgment thereupon, for which purpose the court shall have sole and exclusive jurisdiction. Such confirmation and entry of judgment may be obtained by ex parte application. Additionally, any petition to compel arbitration and any other legal proceeding seeking to enforce or avoid arbitration under this Agreement shall be filed and litigated exclusively in the court.

The prevailing party in any arbitration of a Dispute shall be entitled to recover from the other party or parties the reasonable attorneys' fees and costs (including all costs of collection and recovery of any monies adjudicated to be due), experts' fees and costs, arbitration administrative fees, court filing and other fees, and arbitrator's fees that the prevailing party actually incurs in connection with that proceeding and any related-action or proceeding in the court; however, the parties agree that, in the event a party to the Dispute is adjudicated to be



a prevailing party, that party shall seek to recover attorneys' fees under this section for the services performed only by two (2) attorneys from the same law firm retained by that party. In the event this provision is adjudicated to be unenforceable or the parties to the Dispute jointly elect to seek an adjudication of their dispute in a judicial forum, the foregoing fees and costs recovery provision shall apply with equal force to that judicial adjudication of the Dispute.

### **15.5 Force Majeure**

Neither party shall be deemed to have defaulted or breached hereunder, nor shall it hold the other party responsible for any cessation, interruption or delay in the performance of its obligations hereunder due to earthquake, flood, fire, storm, natural disaster, act of God, war, terrorism, hostile or warlike action including cyber or armed attacks in times of peace or war by a government or sovereign power, labor strike, lockout, boycott, or other similar events beyond the reasonable control of such party (collectively, "Force Majeure"), provided that the party relying upon this provision: (i) gives prompt written notice thereof, and (b) takes all steps reasonably necessary to mitigate the effects of the Force Majeure event.

### **15.6 Headings**

Headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

### **15.7 Severability**

If any provision in this Agreement is found or held to be invalid or unenforceable by a court of competent jurisdiction, then (i) the validity of other provisions of this Agreement shall not be affected or impaired thereby, and (ii) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

### **15.8 No Waiver**

A waiver of a breach or default under this Agreement shall not be a waiver of any other breach or default. Failure of either party to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition unless accompanied by a dear written statement that such term or condition is waived.

### **15.9 No Assignment**

Client shall not assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld, except in the event of a merger, acquisition, or sale of substantially all of Client's assets. Subject to the foregoing, this Agreement shall inure to the benefit of the parties' permitted successors and assigns.

#### **15.10 City Business License / Other Taxes.**

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


#### **15.11 Entire Agreement; Modification**

This Agreement, and any attachments hereto, contains the entire understanding of the parties with respect to the matters contained herein. This Agreement shall supersede any prior understanding or agreement, written or oral between the parties. In the event of any conflict between the terms hereunder and any attachment, these terms shall govern unless such attachment expressly states that the terms and conditions of the attachment shall control. There are no promises, covenants or undertaking other than those expressly set forth herein, and any other terms and conditions are rejected regardless of content, timing or method of communication. Any deviations from or additions to the terms of this Agreement must be in writing and will not be valid unless confirmed in writing by duly authorized officers of Xantrion and Client.

## 16 Counterparts

This Agreement may be executed in counterparts, and each counterpart shall have the same force and effect as an original and shall constitute an effective, binding agreement on the part of each of the undersigned. This Agreement may be executed and delivered by facsimile transmission, by electronic mail in “.pdf,” or any electronic signature complying with the U.S. federal ESIGN Act of 2000 (e.g., www.docusign.com).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

Signed:		_____
Printed:	Anne Bisagno	_____
Title:	President	_____
Company	Xantrion, Inc.	_____
Date:	November 1, 2021	_____

### CITY OF SAN RAFAEL

By: \_\_\_\_\_  
JIM SCHUTZ, City Manager

ATTEST:

\_\_\_\_\_  
LINDSAY LARA, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
ROBERT F. EPSTEIN, City Attorney

EXHIBIT A

Addendum To The General Service Agreement Information Technology Services

**ADDENDUM TO THE GENERAL SERVICE AGREEMENT  
INFORMATION TECHNOLOGY SERVICES**

## TABLE OF CONTENTS

1	Summary Service Scope and Costs.....	4
2	CORE IT .....	5
2.1	Description of Services.....	5
2.2	Systems Administration .....	5
2.3	Endpoint Support .....	6
2.4	“Virtual Chief Information Officer” (vCIO) and Strategic Planning Services .....	6
2.5	Limitations and Client Obligations .....	6
3	Systems Monitoring .....	8
3.1	Description of Services.....	8
3.2	Monitoring systems .....	8
3.3	Monitoring hours .....	9
3.4	Monitoring scope .....	9
3.5	Patch Management.....	10
3.6	Thresholds & Monitoring Criteria .....	10
3.7	Endpoint anti-virus and anti-malware management.....	10
3.8	Client notification of monitoring alerts.....	10
3.9	Alert remediation.....	10
3.10	Limitations and client obligations .....	11
4	Managed Backups .....	12
4.1	Description of Services.....	12
4.2	Recovery Point Objective .....	12
4.3	Recovery Time Objective .....	12
4.4	Standby Server Hosting.....	12
4.5	System requirements.....	13
4.6	Effect of Termination .....	13
4.7	Estimating data backup costs.....	13
4.8	Limitations and client obligations .....	14
5	Managed Security Essentials.....	15
5.1	Description of Services.....	15
5.2	List of Services.....	15
5.3	Security Incident Response .....	15
5.4	Limitations and Client Obligations .....	18
6	Managed Security.....	19
6.1	Description of Services.....	19
6.2	List of Services.....	19
6.3	Limitations and client obligations .....	21
7	Hosting .....	21
7.1	Description of Services.....	21
7.2	Data location .....	21
7.3	Service Level Agreement.....	21
7.4	Effect of Termination .....	21

8 Limitations applicable to all services..... 22

    8.1 Support for End Users not covered by a CORE IT agreement..... 22

    8.2 Policy Authoring, Audit, and Questionnaire Support..... 22

9 Authorized Contacts..... 22

10 Phone and Email Support hours of operation..... 22

    10.1 Phone Answer ..... 22

    10.2 E-mail processing ..... 22

11 Rates for Services Outside of Scope..... 23

12 Travel Expenses ..... 23

13 Service Level Agreement ..... 24

    13.1 Response Time ..... 24

    13.2 Service Level Credits ..... 24

15 Monthly Costs and Service Detail..... 25

16 Counterparts ..... 26

## 1 Summary Service Scope and Costs

Service Name	Description	Included Services
Core IT	Comprehensive IT support for your staff, Systems Administration, Remediation, Management and Maintenance.	✓
Systems Monitoring	IT infrastructure monitoring designed to detect non-functioning systems or services, in addition to conditions which may lead to instability or down time.	✓
Managed Backups	Backup of systems and data to protect against loss. Includes “Best Effort” disaster recovery for data stored in our repository.	✓
Managed Security Essentials	Fundamental security provisions and practices recommended for every organization	✓
Managed Security	A comprehensive security offering designed to meet the needs of organizations subject to regulatory oversight and compliance requirements, or with a strong need to protect sensitive data.	Consider for Future Implementation
Hosting	“Private Cloud” services designed to host critical business systems in highly-available redundant secure Datacenters, with locations in Denver and Salt Lake City.	Consider for Future Implementation
TOTAL	Monthly Recurring Costs (Section 15)	\$85,605



## 2 CORE IT

### 2.1 Description of Services

CORE IT is a comprehensive offering that includes technology support, administration, design, remediation, and maintenance, designed to provide the Client with:

- A secure and stable Information Technology environment with exceptional up time.
- A high level of employee technology support satisfaction.
- A competitive advantage.
- The lowest sustainable total cost of ownership.

CORE IT is provided at a fixed monthly cost and includes unlimited desktop and systems support.

### 2.2 Systems Administration

- User & Resource Management
  - Employee Onboarding and Termination
  - Hardware and Business Resource provisioning
  - Identity management and access control
- Server, Network Infrastructure, and Endpoint Management
  - Deployment, Administration, Troubleshooting, and Remediation
  - Purchasing & Warranty Management
  - Replacement of systems “In Kind,” at end of life
  - Data Backup System management
- Application Management – Cloud or Server-Based
  - Deployment, Upgrades, Troubleshooting, & Remediation
  - License & Subscription Management
  - Vendor Coordination
- Cloud-Based Voice over IP Systems
  - Administration, including Moves, Adds, and Changes.
- Internet Connectivity
  - Vendor Management
  - Troubleshooting & Remediation
- Mobile Devices & Tablets
  - Business Email connectivity
  - Office 365 apps
  - Other business apps (e.g., iTrakIT, iRIMS, iAnnotate)

## 2.3 Endpoint Support

- Unlimited remote support services are provided to your staff, 24 x 7 x 365.
- On-site support, as required.

## 2.4 “Virtual Chief Information Officer” (vCIO) and Strategic Planning Services

The client will be assigned a Xantrion “vCIO,” whose core objective is to develop and maintain a business technology strategy that meets the business requirements and fosters growth.

Detailed Services include:

- Technology and Security Strategy and Advisement
- Quarterly Business Review meetings
- Business Continuity and Disaster Recovery Strategy
- Cyber Security Risk Assessment and Mitigation Strategy
- Budget Projections and Cost Management
- Service Delivery Oversight
  - Client Satisfaction Oversight & Reporting
  - Identification and Resolution of trends or systemic issues
  - Support Escalation
- Account Management, including agreement maintenance & resolution of billing matters
- Project Coordination and Management
- Incident Response Coordination

## 2.5 Limitations and Client Obligations

### 2.5.1 Services provided on a Time and Materials basis

- Physical relocation of Staff systems.

Ex: An employee wishes to move from one office location to another

- Support for custom software solutions, developed specifically for your firm, and not supported by a major vendor

Ex: Custom scripts, FileMaker Pro, and Access Databases are considered custom software solutions

- Office Moves and Rebuilds
- Business system or Infrastructure Projects that are being driven by new functionality or features

Ex: Cloud migrations, ERP, CRM, Accounting, or other Line of Business Application Implementation, Cloud VoIP phone migrations

- Audio/Visual Systems Setup

Ex: Deployment of a new videoconferencing solution, or assisting client guests with connectivity to projectors or displays

#### 2.5.2 Warranties & Valid Support Agreements are Required

Except as otherwise agreed, supported equipment, including, but not limited to: servers, shared storage, firewalls, switches, wireless access points, desktop and laptops, must carry a valid warranty and support agreement for these devices to remain with Xantrion's support scope. All line of business applications must include a valid support agreement, and the appropriate licensing to ensure compliance.

#### 2.5.3 Spare Equipment

We suggest maintaining spare staff systems to expedite setup and deployment in the event of an unexpected new hire or hardware failure. There is no additional monthly cost associated with the maintenance of spare endpoint systems.

#### 2.5.4 Disaster Recovery

Recovery from outages caused by theft of systems or environmental events such as earthquakes, floods, fire or sprinkler system activation will be performed on a time and materials basis.

Clients wishing to reduce the risk of a disaster are encouraged to use cloud services or consider re-locating their systems to our secure data centers, as described in Section 7. For clients who maintain servers on-premise, we also offer Standby Server Hosting, described in Section 4.4, to reduce the time and cost associated with recovering from a disaster.

#### 2.5.5 E-Discovery, Forensic and Breach Investigations

Clients are advised that services provided as part of a CORE IT agreement are not designed to capture information required to support a forensic investigation. See also the limitations described in Section 5.3.5.

#### 2.5.6 Abuse / Sabotage

Notwithstanding other provisions, recovery from deliberate damage / sabotage to systems or data, either on-premise or in cloud, will be performed in accordance with the Time and Materials provisions of this agreement.

### 2.5.7 Support for Endpoints not Covered by this Agreement

Support for systems not covered by this agreement is limited to the configuration and troubleshooting of secure remote access to business systems.

Ex: Business email connectivity or Secure Remote Desktop.

Xantrion will not provide hardware support for these systems out of scope; any operating system-level or networking support required to establish secure remote connectivity to business resources will be provided on a Time & Materials basis.

### 2.5.8 Web Content Development

Xantrion does not manage web site content development or administration. We are happy to provide vendor recommendations for this purpose.

## 3 Systems Monitoring

### 3.1 Description of Services

Xantrion's Monitoring services are designed to improve the overall availability, stability, and performance of the Client's critical business systems.

Xantrion monitors key operating characteristics of the Client's designated systems and cloud solutions, in order to detect and address early signs of potential system instability or failure, and to quickly identify and remediate the points of failure, in the event that a system or service outage occurs. Xantrion maintains a history of operating data which can be used as a benchmark for "normal" operations and to aid in the troubleshooting process.

Note that while network breaches may be detected as a result of consequential anomalies in network operations, this service is not designed to provide intrusion detection or prevention and should not be relied upon for these purposes.

### 3.2 Monitoring systems

Xantrion's central monitoring systems are located in secure datacenters. Data is gathered from client operating environments, using a combination of probes and agents installed directly on servers and endpoints. Data is also gathered from additional sources external to the client environment to provide a comprehensive overview of system status. Examples of external monitoring include: round-trip email flow, RDS host availability, and Office 365 status.

### 3.3 Monitoring hours

Automated monitoring occurs 24 x 7 x 365. Engineers observe and remediate issues “live,” from 6 AM to 7 PM PST, Monday through Friday. On request, Xantrion can establish a limited number of alerts which will trigger a notification to our live After-Hours answering service. The answering service will then contact an available engineer off-hours, alerting them to the issue raised by the system.

### 3.4 Monitoring scope

The scope of Monitored Systems is dependent upon several factors, including client-specific requirements, capabilities of the monitoring services, and limitations of the systems being monitored. We recognize that client monitoring requirements are constantly changing as new systems are released and cloud services evolve. Our centralized monitoring systems are similarly evolving in terms of capacity and capabilities. Please discuss any specific monitoring needs with your vCIO, so that they may determine whether or not they can be met.

The list below provides a sample of services & systems we will attempt to monitor:

<ul style="list-style-type: none"> <li>On Premises Systems</li> <li>Server hardware health</li> <li>Remote Server Management systems (DRAC / iLO)</li> <li>System resource utilization</li> <li>Disk utilization and I/O</li> <li>Warranty status</li> <li>Service availability</li> <li>Application level monitoring</li> <li>Active Directory</li> <li>SQL</li> <li>Exchange</li> <li>Internet Information Services</li> <li>UPS systems availability and battery health</li> <li>Networking devices</li> <li>System Resource Utilization</li> <li>Traffic Throughput</li> </ul>	<ul style="list-style-type: none"> <li>Shared Storage</li> <li>RAID and Disk health</li> <li>LUN utilization</li> <li>SaaS, Websites &amp; External Services</li> <li>Availability of Services</li> <li>Response times</li> <li>TLS/SSL certificate validity</li> <li>DNS resolution</li> <li>Expected page verification</li> <li>Synthetic email route trip testing</li> <li>Security Monitoring</li> <li>Antivirus health</li> <li>Windows patching health</li> <li>Privileged access groups changes</li> <li>Common account names monitoring</li> <li>Outboard firewall port blocking</li> <li>SFP monitoring</li> </ul>
--	---

### 3.5 Patch Management

Xantrion will manage patch deployment to systems, including servers, infrastructure devices, and endpoints, using our patch management solution.

Xantrion conducts a literature review of all critical and security operating system updates as they are released by Microsoft. Prior to general release, deployment is tested on Xantrion's systems and on systems that clients have asked to be included within our patching test group. Xantrion will identify and withhold any patches that are deemed problematic.

Approved patches are deployed monthly to workstations and laptop endpoints, and quarterly to servers.

3<sup>rd</sup>-party Application patching is provided for a select list of supported applications.

### 3.6 Thresholds & Monitoring Criteria

Xantrion leverages a set of alerting conditions and thresholds within the central monitoring solution that have been developed and tuned, through a combination of manufacturer's Best Practice recommendations, in addition to real-world conditions. These thresholds are designed with the stability, uptime and health of your systems in mind, and should not be customized.

### 3.7 Endpoint anti-virus and anti-malware management

Xantrion will manage the licenses, automated deployment, troubleshooting, and administration associated with the anti-virus and anti-malware solution, for all clients with a Core IT agreement, and for clients who have elected to bundle this offering with systems monitoring.

### 3.8 Client notification of monitoring alerts

If requested, Xantrion will copy any recipients that you designate on automated alert notifications. For urgent and impactful issues, an Engineer will attempt to reach you by phone. For all other issues, we will reach out via e-mail.

### 3.9 Alert remediation

Xantrion Engineers will attempt to contact Client for authorization before performing any remediation work outside of the standard Core IT agreement. If we are unable to contact you, we will use our best judgement in determining whether or to proceed without authorization. Examples of situations where we may act if we are unable to reach you could include:

- The affected system is covered under a CORE IT contract and therefore remediation work is included.
- E-mail system is completely down.
- Internet connectivity outage.
- Remediation of issues that are determined to be the direct result of managed patching.

### 3.10 Limitations and client obligations

The provisions listed in this section apply only to clients whose systems are not covered under a CORE IT agreement, or those with a “Monitoring-Only” Agreement.

#### 3.10.1 Identification of Systems to be monitored

You will provide us with a list of systems and/or cloud services that you want us to monitor. For hardware systems on-premise, we require the following information:

- Device name
- IP address
- Hardware information (type, model, serial number)
- Administrative Login Credentials
- Physical location

#### 3.10.2 Changes to monitoring

Requests to add or remove systems or devices from the monitored scope should be sent in writing to [support@xantrion.com](mailto:support@xantrion.com).

#### 3.10.3 Advance notification of systems maintenance

We ask that you notify us in advance of planned maintenance that will impact services and system uptime, so that we can suspend monitoring and avoid “false alarms.”

#### 3.10.4 Remediation of issues resulting from patching

Client acknowledges that Xantrion’s strategy for repairing an unstable system after patching may be, at our discretion, restoring from backup. Systems not covered by a CORE IT or Managed Backup agreement will be repaired on a time and materials basis.

## 4 Managed Backups

### 4.1 Description of Services

Xantrion will work with the Client to design a managed backup strategy that meets the business' Disaster Recovery and Data Retention requirements.

Services will include:

- Automated monitoring to ensure backups are completing successfully.
- Engineer review of backup-related alerts during the business day.
- Data retention as required by the Client (e.g. 30 days, 1 year, 7 years)
- Quarterly auditing of the backup selection lists and file restore testing.
- Annual test restores of a database or server critical to business operations.
- Remediation of any issues related to the managed backup solution.
- Restoration of files and servers as requested, subject to the limitations described in Sections 4.3 and 4.4
- Encryption of backup data "in transit" and "at rest" when replicating to Xantrion datacenters.
- Optional "cloud-to-cloud" backups for supported cloud services: e.g. Office 365
- An optional on-premises "backup appliance."

### 4.2 Recovery Point Objective

Servers are backed up nightly, by default.

### 4.3 Recovery Time Objective

Data recovery requests will be handled in a timely manner, with restore times being subject to a number of factors (ex: internet bandwidth, etc.) File recovery, dependent upon data size, can generally be performed immediately upon notification. Recovery of an entire server may take 24 hours or longer.

### 4.4 Standby Server Hosting

For clients storing backups in our datacenter, Xantrion maintains spare hosting capacity to allow for recovery in the event of a local disaster impacting client systems (ie: theft, earthquake, fire, flood)

- This operation can take 24 to 72 hours and is subject to the availability of resources.
- This agreement includes the cost of 1 month of hosting in our datacenters, should long-term failover be required.
- Xantrion has a client concentration in the San Francisco Bay Area. Resource availability is \*not\* sufficient to permit the immediate recovery of all clients in the event of a regional disaster.



- Xantrion offers secure server hosting (described in Section 7) for clients who wish to ensure business continuity in the event of local disaster.

#### 4.5 System requirements

- Client systems must be compatible with Veeam, the backup software on which our platform is built.
- Client internet services must be sufficient to permit the nightly replication of critical business systems.
  - As a conservative rule of thumb, assume at a minimum that data will change 5% per day and that 5 GB of data can be moved off-site per day for every 1 Mb/s of available internet upload bandwidth capacity.

#### 4.6 Effect of Termination

- Upon termination of the service agreement, unless otherwise requested, Xantrion will delete all copies of your data from our datacenter infrastructure.
- In the event of termination, requests to export backup archives (ie: removable storage media) will be fulfilled on a time and materials basis.

#### 4.7 Estimating data backup costs

The client’s estimated monthly recurring costs associated with managed backups, calculated on a per-GB basis, are listed in Section 15.

The amount of data being held in aggregate by our hosted infrastructure is dependent upon several factors, including:

- The amount of data being protected
- Daily data change rate
- The degree to which original data can be compressed and deduplicated in the backups
- Retention periods

The table below provides a guideline to estimate the total amount of data you will store in our hosted backup infrastructure, based on the amount of data on your servers that we protect and your retention period.

Your actual costs may vary from these.

Retention period	GB of compressed data in the backups per GB of original data being protected		Off-site Storage Schema
	Typical case	High case	

30 days	1 : 1	2 : 1	Daily incremental backups for the first 30 days + 1 Full backup
90 days	2 : 1	3 : 1	Daily incremental backups for the first 30 days + 3 x Monthly full backups
1 year	5 : 1	8 : 1	Daily incremental backups for the first 30 days + 3 x Monthly full backups 3 x Quarterly full backups 1 x Annual full Backup
7 Years	8 : 1	10 : 1	Daily incremental backups for the first 30 days + 3 x Monthly full backups 3 x Quarterly full backups 7 x Annual full backups

Example:

- Data stored on your systems: 1,000 GB
- Retention Period: 1 Year
- Estimated Data stored on our systems: 5,000 to 8,000 GB
- Cost per Stored GB Given in Section 15
- Total Monthly Cost Actual Data stored \* Cost per stored GB

#### 4.8 Limitations and client obligations

Clients must define data retention requirements and notify us of any changes to these requirements. Clients with systems not covered by a CORE IT agreement must identify which systems should be included in the scope of the backups.

Searches of electronic data, restoration of historical data for the purpose of legal investigations will be performed under the time and materials provisions of this agreement.

It is not feasible to ensure the backup of laptop and desktop systems with a high degree of confidence. Backups of laptop and desktop endpoints, if requested, are performed on a “Best Effort” basis. As a Best Practice, all sensitive data should be stored on server hardware or in a secure cloud environment.

## 5 Managed Security Essentials

### 5.1 Description of Services

Xantrion's Managed Security Essentials service helps clients achieve an enhanced cybersecurity posture and implement appropriate defensive safeguards to address common cybersecurity threats.

### 5.2 List of Services

The following services are included in Managed Security Essentials:

#### 5.2.1 Security Awareness Training

End users may subscribe to Xantrion's standard security awareness training program. This program will consist of periodic email security testing and optional online video-based training.

#### 5.2.2 Multi-Factor Authentication

Xantrion will supply and manage an approved multi-factor authentication system.

#### 5.2.3 Mobile Application Management

Xantrion will supply and manage an approved mobile application management system.

#### 5.2.4 Advanced Internet Filtering

Xantrion will deploy advanced internet filtering technology to laptops, extending internet filtering to these devices when they are outside the corporate network. Internet filtering includes the detection of malware and blocking of malicious domains.

### 5.3 Security Incident Response

#### 5.3.1 Overview

Xantrion will assist our clients in responding to Security Incidents affecting their information systems within the limitations of existing agreements. Client Security Incidents are handled according to Xantrion's pre-defined Security Incident Response Policy.

Please see Section 6.3 regarding limitations on services provided pursuant to this provision.

#### 5.3.2 Definitions

**Security Event:** Any observable change or occurrence in a system. Certain correlated events may become Security Alerts through automated analysis.

**Security Alert:** Notifications that a certain event or series of events have occurred. Alerts can be generated from automated systems or received in the form of user request to our service desk. Security Alerts may be escalated to become Security Incidents.

**Security Incident:** A single or series of security events that, as assessed by Xantrion, have a significant likelihood of threatening information security and impacting business operations.

**Containment:** Containment of a Security Incident are tasks performed by incident responders to limit the scope and impact of an ongoing Security Incident.

**Recovery:** Recovery from a Security Incident is the process of returning impacted systems to normal operation and removing artifacts of the incident from the system. (For example; removing malware and recovering data from backup). Recovery steps may include remediation of security vulnerabilities to prevent future incidents.

### 5.3.3 Classification and Prioritization

Xantrion classifies Security Alerts into 4 categories:

Category	Description
Insufficient Information	Xantrion does not have the required information to properly classify this alert. Additional information is required from the client to continue processing this alert.
Harmful	The alert is identified as an attack or attempted attack that may result in damage or unauthorized access to information systems. The cause of the alert has rendered the Client's infrastructure vulnerable or compromised. Harmful alerts are escalated as Security Incidents.
Harmless	The alert is identified as a known attack, attempted known attack or reconnaissance effort. The client's systems are not considered vulnerable or compromised.
False Positive	The alert may be falsely triggered, is informational, or has been determined to be benign.

Xantrion prioritizes Security Incidents, based on their functional, informational, and recoverability impact:

Priority	Description
High	The incident impacts critical business functions. Represents a high likelihood of impacting information availability or confidentiality or requires a significant recovery effort.
Medium	The incident impacts multiple users. Represents a medium likelihood of impacting information availability or confidentiality. Recoverability effort is expected to be less than 24 hours.
Low	The incident is limited in scope and does not significantly impact business operations. There is a low likelihood of impacting information availability or confidentiality the recovery effort is minimal.

#### 5.3.4 Detection

Security Incidents are declared solely by Xantrion based a variety of sources including automated analysis and reports from end users. Xantrion will assess incoming Security Alerts to determine if a Security Incident is occurring or has occurred.

#### 5.3.5 Notification

Xantrion will notify our clients within 24 hours after a High or Medium priority Security Incident has been declared within the environment.

#### 5.3.6 Containment and recovery

For systems covered by CORE IT, Xantrion will perform all reasonable tasks to contain a Security Incident and once contained, recover systems to normal operation.

#### 5.3.7 Post-Incident activity

An Incident Report will be produced by Xantrion for all High and Medium priority Security Incidents. The report will be limited to Xantrion’s involvement in the incident including: a summary of the incident, timeline of events, impact analysis, containment and recovery steps, root-cause analysis, and any additional recommended actions.

## 5.4 Limitations and Client Obligations

### 5.4.1 Disclaimer of Warranty

Information security and compliance is a wide-ranging discipline which requires the involvement from all parts of a business. Xantrion's expertise and this service are limited specifically to the technical cybersecurity aspects of a comprehensive information security program. It is important to understand that subscribing to this service alone does not guarantee compliance with any law or regulation nor guarantee the absolute security of your systems.

### 5.4.2 Data Security Responsibility

Client acknowledges and agrees that Xantrion does not provide legal services or warrant that the services or products provided or obtained on client's behalf will ensure client's compliance with any law, including but not limited to any law relating to safety, security or privacy.

### 5.4.3 Missing information

Client is responsible for providing missing information for alerts classified as "Insufficient Information". If client fails to supply such information Xantrion may send a reminder or close the alert.

### 5.4.4 Incident Response

It is the responsibility of the client to direct Xantrion's response to an incident according to their own policies and procedures, especially if evidence must be preserved, or a forensic investigation is expected. Clients are advised to maintain their own incident response plan including their own reporting requirements.

The primary goal of Xantrion's incident response service is to contain and recover from Security Incidents. Client is aware that Xantrion may take immediate action without notification to contain and recover from a detected incident. Certain containment and recovery actions may hinder future forensic investigations.

Xantrion's capabilities to assist with containment and recovery are limited for systems not covered by a CORE IT agreement. Containment of, and recovery from Security Incidents for these systems will be performed in coordination with the client on a best effort, time and materials basis.

### 5.4.5 Investigations

Clients are advised that services provided under Managed Security Essentials are not designed to capture information required to support a forensic investigation.

Investigation including root cause analysis, preservation of evidence, attempts to determine if information was accessed or exfiltrated by unauthorized actors, or to identify unauthorized actors will be performed on a best efforts, time and materials basis.

## 6 Managed Security

### 6.1 Description of Services

Xantrion's Managed Security service delivers a multi-layered cybersecurity solution tailored for small and medium businesses. The service is designed to aid clients in meeting regulatory compliance requirements and operating a secure computing environment.

Managed Security requires a Systems Monitoring agreement for all covered systems.

### 6.2 List of Services

The following services are included as part of the full Managed Security offering.

#### 6.2.1 Cybersecurity Roadmap

Xantrion will provide access to our internally developed cybersecurity standards based on industry leading control frameworks. A gap analysis will be performed, at least annually, between our developed standards and current state including recommendations for improving the client's security posture.

#### 6.2.2 Automated Security Analysis and Alert Management

Automated analysis will be performed on logs, system configurations, and other data points using metrics developed by Xantrion and its partners. Alerts will be triggered on specific pre-defined conditions and will generate a support ticket to be handled by Xantrion's Network Operations Center (NOC) or Service Desk.

#### 6.2.3 Customized Security Awareness Training

Xantrion will customize a security awareness training program using the included training platform including phishing email exercises and video-based training.

#### 6.2.4 Log Aggregation and Management

Xantrion will install a system to collect specific security logs from capable servers and network security devices. These logs will be stored for 30 days in a resilient and secure hosted location. Xantrion will provide and install necessary log collectors and configure supported systems to send logs. At the end of the retention period, log data will be permanently deleted on a first-in-first-out

(FIFO) basis. If this agreement is terminated for any reason, Xantrion will be relieved of its obligation to store client's log data. Retention beyond 30 days is available at additional cost.

#### 6.2.5 Vulnerability Scanning and Management

Xantrion will scan Client's internal and internet facing hosts on a quarterly basis for devices covered by this agreement. The scan data will be used to identify known vulnerabilities and results summarized and delivered to client for review.

For systems covered by a CORE IT agreement, critical vulnerabilities will be scheduled for remediation. For systems not covered by a CORE IT agreement remediation can be performed on a time and materials basis.

#### 6.2.6 Sensitive Data Discovery

Xantrion will scan client's network annually, or more often as mutually agreed, to discover locations where sensitive data, such as Personally Identifiable Information (PII), is stored. Results will be summarized and delivered to client for review.

#### 6.2.7 Account Authentication Analytics

Xantrion will manage an approved authentication analytics system. The system is designed to detect abnormal account behavior which may indicate compromise.

#### 6.2.8 Identity Access Management

Xantrion will manage an approved identity management system used to provide single-sign on capabilities between the client's identity provider and other systems.

#### 6.2.9 Self-Assessment Support

Xantrion will provide support If client initiates or is requested to perform a self-assessment or complete a security questionnaire by a regulating agency, or partner. Included support is limited to responding to pre-formed questionnaires.

#### 6.2.10 Quarterly Reporting

On a quarterly basis Xantrion will deliver a report describing the performance of services included in this agreement.

#### 6.2.11 Annual Security Review

Xantrion will meet with the client on an annual basis to review their cybersecurity program. Topics for review during this meeting can include:



- Security Incidents
- Existing cybersecurity policies
- Latest security reports
- Exceptions to standards or recommendations

### 6.3 Limitations and client obligations

The following services can be performed according to the time and materials provisions of the General Service Agreement.

- New functionality added to existing systems, including new single-sign-on integrations.
- Vendor Assessments

## 7 Hosting

### 7.1 Description of Services

Xantrion will host your systems on Xantrion-owned assets, configured to provide a fault-tolerant operating environment for your critical systems.

### 7.2 Data location

Data is stored in secure DataCenter locations in the continental United States.

### 7.3 Service Level Agreement

See Section 13.2 of this document.

### 7.4 Effect of Termination

Unless otherwise agreed upon, all client data will be deleted from our hosting environment upon termination of this service.

Prior to termination, in order to ensure continuity of service, at no cost, we will make server images and / or data available to Client or Client's new service provider for migration to their systems.

We can perform a migration from our service to an alternate provider or provide copies of images on portable media on a time and materials basis.

## 8 Limitations applicable to all services

### 8.1 Support for End Users not covered by a CORE IT agreement

Support requests for end users not covered by a CORE IT agreement must be escalated to us by the client's internal IT team. Xantrion cannot take support requests directly from end users, themselves.

### 8.2 Policy Authoring, Audit, and Questionnaire Support

Assistance with the creation of Client's internal compliance and security policies, responses to third party audit requests for a detailed description of client's cybersecurity, business continuity and / or disaster recovery practices will be provided on a time and materials basis. E.G. regulatory examinations, ISO certification, SSAE audits, investor, insurance, or other due diligence requests.

## 9 Authorized Contacts

The Client will provide Xantrion with a list of individuals, including e-mail addresses and mobile phone numbers, who are authorized to approve access control requests, as defined in the "Support FAQs for Liaisons" document.

## 10 Phone and Email Support hours of operation

Our phones are answered live 24 x 7 x 365. Details of coverage as follows:

### 10.1 Phone Answer

- Phones are answered live by our Client Service Representatives from 6:00 AM to 7:00 PM PST, Monday through Friday, excluding normal holidays. Our CSRs will make every effort to connect you to an Engineer who can assist you immediately.
- If all Engineers are busy when you call, we can arrange for a scheduled call-back
- Calls received outside of the defined business hours will be taken by a third-party answering service who will then patch the call to an On-Call Engineer, for resolution.

### 10.2 E-mail processing

- For non-urgent issues and change requests, email [support@xantrion.com](mailto:support@xantrion.com)
- Expect a response within 1 business day
- Do not e-mail if you need help immediately; please call

- E-mail requests are monitored during business hours, 9AM to 5PM PST weekdays, excluding holidays. Messages received after hours are converted into a ticket that is assigned to an Engineer at the start of the next business day

## 11 Rates for Services Outside of Scope

	Base Hourly rate
C Level	\$245/hr.
Engineer IV	\$210/hr
Engineer III	\$180/hr.
Engineer II	\$150/hr.
Engineer I	\$120/hr.

- Business hours are 6:00 AM to 7:00 PM PST (M-F,) excluding traditional holidays.
- Work outside of business hours, or scheduled less than 1 day in advance, is charged at 1.5 times the applicable base hourly rate.
- Work is charged in fifteen (15) minute increments.
- The minimum site visit charge is four (4) hours of service.

## 12 Travel Expenses

- There is no charge for travel within our normal service area, defined as the 9 counties that make up the “Bay Area.”
- Client will be notified in advance of any travel or work outside of the Bay Area that will incur added costs.
- Travel Expenses associated with work outside of the Bay Area (including transportation, hotel stays, per diem food expenses) will be billed to the client at cost.
- Time associated with travel outside of the Bay Area will be billed at ½ of the applicable Base Hourly Rate.

## 13 Service Level Agreement

### 13.1 Response Time

#### 13.1.1 Business-Critical issues

- For “business-critical” issues, or those that prevent a group of individuals from doing their work, Xantrion will make every effort to respond immediately. Your vCIO, if available, or a Xantrion manager, will coordinate the appropriate resources on the Xantrion side and provide you with a summary of impacted systems, a remediation plan and regular updates on progress.
- Xantrion will work the issue continuously until resolved, engaging Sr-level Engineering resources, subject matter experts, and vendors, as required.

#### 13.1.2 Non-Urgent Issues and Change Requests

- For non-urgent issues and change requests, email [support@xantrion.com](mailto:support@xantrion.com)
- Expect a response within 1 business day
- E-mail requests are monitored during business hours, 9AM to 5PM PST weekdays, excluding holidays. Messages received after hours are converted into a ticket that is assigned to an Engineer at the start of the next business day

### 13.2 Service Level Credits

For each thirty (30) minutes of downtime from the time we are notified (excluding scheduled maintenance,) Xantrion will issue a credit of five percent (5%) of the total Hosted Services, Systems Monitoring or Managed Backup Fees due to Xantrion for the month in which such Critical event occurred, not to exceed the total Hosted Services, Systems Monitoring or Data Backup Fees for such month.

Client is not entitled to a credit for downtime or outages resulting from circumstances beyond our control including, but not limited to, ransomware, denial of service attacks, virus attacks, or hacking attempts.

## 14 Client-Specific Provisions

None.

## 15 Costs and Service Detail

Type	Qty	Each	Total
Desktop	277	\$110.00	\$30,470
Laptop	74	\$130.00	\$9,620
Pc's used as Thin Clients	13	\$35.00	\$455
Police MDT Laptops	21	\$135.00	\$2,835
Windows Server	70	\$160.00	\$11,200
Firewalls and Routers	28	\$200.00	\$5,600
Switches	68	\$45.00	\$3,060
Managed Security Essentials	405	\$35.00	\$14,175
ESX hosts	9	\$180.00	\$1,620
SAN	3	\$100.00	\$300
WAPs	87	\$10.00	\$870
Backups TBs	54	\$100.00	\$5,400
<b>Monthly Total</b>			<b>\$85,605</b>
<b>Annual Total</b>			<b>\$1,027,260</b>

The price and equipment counts will stay constant through the first year unless there are significant changes to the environment; significant defined as 10% or more of the monthly cost.

## 16 Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written below.



Printed: Anne Bisagno

Title: President

Company Xantrion, Inc.

Date: November 1, 2021

### CITY OF SAN RAFAEL

By: \_\_\_\_\_  
JIM SCHUTZ, City Manager

ATTEST:

\_\_\_\_\_  
LINDSAY LARA, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
ROBERT F. EPSTEIN, City Attorney



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Fire

Prepared by: Darin White,  
Fire Chief

City Manager Approval: \_\_\_\_\_

**TOPIC: AGREEMENT TO PARTICIPATE IN EMERGENCY MEDICAL SERVICE/AMBULANCE TRANSPORT SERVICE COST RECOVERY PROGRAM**

**SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT TO ALLOW THE SAN RAFAEL FIRE DEPARTMENT TO PARTICIPATE IN AN INTERGOVERNMENTAL TRANSFER WITH THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (DHCS) IN ORDER TO INCREASE THE DEPARTMENT'S REIMBURSEMENT FOR EMERGENCY MEDICAL SERVICE AMBULANCE TRANSPORT SERVICES FOR THE SERVICE PERIOD OF JANUARY 1, 2021 THROUGH DECEMBER 31, 2021.**

**RECOMMENDATION:**

Adopt a resolution authorizing the City Manager to execute an agreement to allow the City of San Rafael Fire Department to participate in a Medi-Cal Intergovernmental Transfer (IGT) program with the California Department of Health Care Services (DHCS) to receive ambulance service reimbursement for the service period of January 1, 2021 through December 31, 2021.

**EXECUTIVE SUMMARY:**

The proposed agreement for participation in a Medi-Cal Intergovernmental Transfer (IGT) for the service periods of January 1, 2021 through December 31, 2021 represents the eighth year of the City's participation in the IGT Program. This program assists the City in recovering costs associated with the provision of Emergency Medical Services (EMS) to individuals who are covered by Medi-Cal. Participation in the IGT program provides an important opportunity for the City to collect ambulance transport fees that would not otherwise be available. Currently, the Medi-Cal program reimburses far less than the actual cost to provide the service.

**BACKGROUND:**

Since 2006, DHCS has offered public healthcare providers the opportunity to participate in a program that increases reimbursement for services provided to Medi-Cal Managed Care plan members. The DHCS program, called a voluntary rate range Intergovernmental Transfer (IGT) program (Welfare and Institutions Code §§14164, 14301.4), provides a way for Medi-Cal Managed Care Health Plan providers to gain access to federal matching funds for Medi-Cal reimbursements. In 2015, this program was expanded to include public Emergency Medical Services (EMS) providers like the San Rafael Fire

---

FOR CITY CLERK ONLY

**Council Meeting:**

**Disposition:**

Department, who provide health care/ambulance services to Medi-Cal managed care enrollees, to make these EMS providers eligible to receive increased reimbursements from Medi-Cal Managed Care Health Plan providers.

Under the IGT program, counties and other governmental entities in the State may elect to transfer funds to the State in support of the Medi-Cal program. These funds are used as a match for federal funds, which are eventually returned to the EMS providers through their respective Medi-Cal Managed Care Health Plan providers. In Marin County, the Medi-Cal Managed Care Health Plan provider is called Partnership HealthPlan of California (PHC). PHC has agreed to participate in the IGT program along with its regional partners: San Rafael Fire Department, Marin County Health and Human Services, MarinHealth Medical Center, Novato Fire Protection District, and Southern Marin Fire District.

**ANALYSIS:**

**Overview of IGT Program:** The IGT program requires the transfer of eligible local dollars from the City to DHCS. DHCS, in turn, uses transferred funds from local governments to increase monthly capitation rates it previously paid Medi-Cal Managed Care Health Plan providers in the prior fiscal year, thus allowing DHCS to receive additional federal funding from the Centers for Medicare and Medicaid Services (CMS) for payment to the Medi-Cal Managed Care Health Plan providers. The Medi-Cal Managed Care Health Plan providers then pay most of their IGT-funded rate increases to the local governments that transferred the funds. Ultimately, each local government participant receives back the funding it provided to participate in the program, plus the federal match in return.

In Fall 2020, PHC notified the San Rafael Fire Department that a non-binding letter of interest must be submitted in order for the City to participate in the program for the service period of January 1, 2021 through December 31, 2021. For the first time, the agreement will cover a calendar year, having transitioned from a fiscal year basis for administration of the program.

The San Rafael Fire Department submitted the non-binding letter of interest and has been working with both DHCS and PHC in developing the necessary agreement for participation. In September 2021, DHCS provided the San Rafael Fire Department with an estimated transfer amount and timeline for the rate range program. DHCS is requesting signatures by December 24, 2021.

**State DHCS Rate Increase Contract:** Based on the participating agencies' signed contracts to transfer funds to DHCS, the State will contact PHC to increase its per-member, per-month capitation rates. The Plan's rate will be increased to the highest actuarially-sound rate.

**Transfer from the Department to the State:** Once the CMS has approved the entire IGT transaction, and the Plan rate contracts have been signed by DHCS and the Medi-Cal Managed Care Health Plans throughout the State, DHCS will submit a request to participating agencies to transfer funds to the State. With the City Council's approval, the Fire Department will transfer an estimated \$274,644 to DHCS. Additionally, the Department will make a separate estimated payment of \$54,929 (20%) to DHCS as authorized in Welfare and Institutions Code Section 14301.4, to cover the administrative costs (assessment fee) of operating the IGT program for the service period of January 1, 2021 through December 31, 2021. If the State is unable to use all of the transferred funds to increase Plan rates, it will return any used funds and the associated 20% administrative fee.

**Payment to the Fire Department:** Federal matching funds received by the Fire Department will be used to promote the well-being of PHC beneficiaries by maintaining or improving the current service levels of the paramedic program. Although the actual total is unknown at this time, the Department expects to net several hundred thousand dollars for the service period of January 1, 2021 through



December 31, 2021. For the Fiscal Year 2019-2020, San Rafael received a check for \$774,339, an amount that is comprised of the original contributions and the federal matched funds. When the 20% pre-paid administrative fee is considered, the resulting net revenue received by the Fire Department was \$458,222 for FY 2019-20. The Department expects a similar amount of net revenue as a result of the agreement for the 2021 calendar year.

The rate range IGT will be implemented through execution of separate contracts with the DHCS and with PHC. These documents spell out the obligations of each entity in regard to the transfer of local government funds, the use of funds by DHCS, the payment of funds to PHC, and the treatment of payments by PHC. Before any funds are transferred, all the contracts must be signed by the participating agencies and the plan rate increases must be approved by the federal government. The specific contract documents need to be returned to DHCS by December 24, 2021. On September 27, 2021, the Fire Department received an agreement from DHCS for the City Manager's signature; this is included as Attachment 2. Staff is recommending that the City Manager be given the authority to sign the agreement as well as any related documents in the form approved by the City Attorney.

**FISCAL IMPACT:**

The IGT will support the Emergency Medical Services Fund in recovering a greater portion of its transport costs.

Attachment 3 provides approximate transfer amounts based on information provided to the Fire Department by PHC, the County's Medi-Cal Managed Health Care Plan provider. A summary of the amount the City expects to transfer to DHCS and receive back through participation in this program is outlined below.

<b>Time Period</b>	<b>Funding Source</b>	<b>Transfer Amount to DHCS</b>	<b>Admin Fee to DHCS</b>	<b>Estimated Funds Returned to City of SR by PHC</b>	<b>Estimated Net New Funds</b>
2021 Calendar Year	Fund 210	\$274,644	\$54,929	\$807,454	\$477,881

The proposed funds to be transferred to the State will be allocated from the Department's Emergency Medical Services Fund and are expected to be transferred in the third or fourth quarter of 2022. The funds will return to the Fire Department as enhanced Medi-Cal payments approximately six to eight weeks later.

**OPTIONS:**

1. Adopt the resolution as presented.
2. Direct staff to return with more information.
3. Take no action.

**RECOMMENDED ACTION:**

Adopt a resolution authorizing the City Manager to execute an agreement to allow the City of San Rafael Fire Department to participate in a Medi-Cal Intergovernmental Transfer (IGT) program with the California Department of Health Care Services to receive ambulance service reimbursement for the service period of January 1, 2021 through December 31, 2021.

**ATTACHMENTS:**

1. Resolution
2. IGT Agreement for 2021 Calendar Year with San Rafael Fire Department Allocation Estimates

**RESOLUTION NO.**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT TO ALLOW THE SAN RAFAEL FIRE DEPARTMENT TO PARTICIPATE IN AN INTERGOVERNMENTAL TRANSFER WITH THE CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (DHCS) IN ORDER TO INCREASE THE DEPARTMENT'S REIMBURSEMENT FOR EMERGENCY MEDICAL SERVICE AMBULANCE TRANSPORT SERVICES FOR THE SERVICE PERIOD OF JANUARY 1, 2021 THROUGH DECEMBER 31, 2021.**

**WHEREAS**, the City of San Rafael, through its Fire Department, regularly provides emergency ambulance transport to persons who are Medi-Cal patients enrolled in managed care plans; and

**WHEREAS**, the City participates in various governmental programs that provide reimbursement of costs incurred in providing such emergency services to Medi-Cal patients; and

**WHEREAS**, pursuant to the authority of Welfare & Institutions Code sections 14164 and 14301.4, since 2006 the California Department of Health Care Services (DHCS) has been offering a voluntary rate range Intergovernmental Transfer Program to allow healthcare providers such as the City of San Rafael Fire Department to access federal matching funds for reimbursement through their Medi-Cal Managed Care Health Plan Providers; and

**WHEREAS**, the City may pursue an Intergovernmental Transfer to DHCS through its Medi-Cal Managed Care Health Plan Provider, Partnership Health Plan of California (PHC); and

**WHEREAS**, by participating in the Intergovernmental Transfer Program, the City will receive reimbursements for a larger proportion of its actual costs for providing emergency ambulance transport to Medi-Cal patients enrolled in managed care plans; and

**WHEREAS**, under the Intergovernmental Transfer Program, the funds shall be transferred in accordance with a mutually agreed-upon schedule between the City of San Rafael and DHCS;

**NOW, THEREFORE, BE IT RESOLVED**, by the San Rafael City Council as follows:

1. The San Rafael Fire Department is hereby authorized to participate in an Intergovernmental Transfer (IGT) with the California Department of Health Care Services (DHCS) in order to increase the Department's reimbursement for EMS ambulance transport services provided to Partnership Health Plan of California (PHC) members for the service period of January 1, 2021 through December 31, 2021.
2. The City Manager is authorized to execute the required Intergovernmental Agreement Regarding Transfer of Public Funds with the DHCS included in the staff report for this resolution, subject to final approval as to form by the City Attorney.
3. The City Council hereby authorizes the transfer of funds to DHCS pursuant to such agreement, in an amount approved by the City Manager and in accordance with a mutually agreed upon schedule, to be used solely as a portion of the non-federal share of actuarially-sound Medi-Cal managed care capitation rate increases for the Partnership Health Care period of January 1, 2021 through December 31, 2021.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on Monday, the 1<sup>st</sup> day of November 2021, by the following vote, to wit:

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

LINDSAY LARA, City Clerk

**INTERGOVERNMENTAL AGREEMENT REGARDING  
TRANSFER OF PUBLIC FUNDS**

This Agreement is entered into between the CALIFORNIA DEPARTMENT OF HEALTH CARE SERVICES (“DHCS”) and the CITY OF SAN RAFAEL FIRE DEPARTMENT (“GOVERNMENTAL FUNDING ENTITY”) with respect to the matters set forth below.

The parties agree as follows:

**AGREEMENT**

1. Transfer of Public Funds

1.1 The GOVERNMENTAL FUNDING ENTITY agrees to make a transfer of funds to DHCS pursuant to sections 14164 and 14301.4 of the Welfare and Institutions Code. The amount transferred shall be based on the sum of the applicable rate category per member per month (“PMPM”) contribution increments multiplied by member months, as reflected in Exhibit 1. The GOVERNMENTAL FUNDING ENTITY agrees to initially transfer amounts that are calculated using the Estimated Member Months in Exhibit 1, which will be reconciled to actual enrollment for the service period of January 1, 2021 through December 31, 2021 in accordance with Sub-Section 1.3 of this Agreement. The funds transferred shall be used as described in Sub-Section 2.2 of this Agreement. The funds shall be transferred in accordance with the terms and conditions, including schedule and amount, established by DHCS.

1.2 The GOVERNMENTAL FUNDING ENTITY shall certify that the funds transferred qualify for Federal Financial Participation pursuant to 42 C.F.R. part 433, subpart B, and are not derived from impermissible sources such as recycled Medicaid payments, Federal

money excluded from use as State match, impermissible taxes, and non-bona fide provider-related donations. Impermissible sources do not include patient care or other revenue received from programs such as Medicare or Medicaid to the extent that the program revenue is not obligated to the State as the source of funding.

1.3 DHCS shall reconcile the “Estimated Member Months,” in Exhibit 1, to actual enrollment in HEALTH PLAN(S) for the service period of January 1, 2021 through December 31, 2021 using actual enrollment figures taken from DHCS records. Enrollment reconciliation will occur on an ongoing basis as updated enrollment figures become available. Actual enrollment figures will be considered final two years after December 31, 2021. If reconciliation results in an increase to the total amount necessary to fund the nonfederal share of the payments described in Sub-Section 2.2, the GOVERNMENTAL FUNDING ENTITY agrees to transfer any additional funds necessary to cover the difference. If reconciliation results in a decrease to the total amount necessary to fund the nonfederal share of the payments described in Sub-Section 2.2, DHCS agrees to return the unexpended funds to the GOVERNMENTAL FUNDING ENTITY. If DHCS and the GOVERNMENTAL FUNDING ENTITY mutually agree, amounts due to or owed by the GOVERNMENTAL FUNDING ENTITY may be offset against future transfers.

2. Acceptance and Use of Transferred Funds

2.1 DHCS shall exercise its authority under section 14164 of the Welfare and Institutions Code to accept funds transferred by the GOVERNMENTAL FUNDING ENTITY pursuant to this Agreement as IGTs, to use for the purpose set forth in Sub-Section 2.2.

2.2 The funds transferred by the GOVERNMENTAL FUNDING ENTITY pursuant to Section 1 and Exhibit 1 of this Agreement shall be used to fund the non-federal share

of Medi-Cal Managed Care actuarially sound capitation rates described in section 14301.4(b)(4) of the Welfare and Institutions Code as reflected in the contribution PMPM and rate categories reflected in Exhibit 1. The funds transferred shall be paid, together with the related Federal Financial Participation, by DHCS to HEALTH PLAN(S) as part of HEALTH PLAN(S)' capitation rates for the service period of January 1, 2021 through December 31, 2021, in accordance with section 14301.4 of the Welfare and Institutions Code.

2.3 DHCS shall seek Federal Financial Participation for the capitation rates specified in Sub-Section 2.2 to the full extent permitted by federal law.

2.4 The parties acknowledge that DHCS will obtain any necessary approvals from the Centers for Medicare and Medicaid Services.

2.5 DHCS shall not direct HEALTH PLAN(S)' expenditure of the payments received pursuant to Sub-Section 2.2.

3. Assessment Fee

3.1 DHCS shall exercise its authority under section 14301.4 of the Welfare and Institutions Code to assess a 20 percent fee related to the amounts transferred pursuant to Section 1 of this Agreement, except as provided in Sub-Section 3.2. GOVERNMENTAL FUNDING ENTITY agrees to pay the full amount of that assessment in addition to the funds transferred pursuant to Section 1 of this Agreement.

3.2 The 20-percent assessment fee shall not be applied to any portion of funds transferred pursuant to Section 1 that are exempt in accordance with sections 14301.4(d) or 14301.5(b)(4) of the Welfare and Institutions Code. DHCS shall have sole discretion to determine the amount of the funds transferred pursuant to Section 1 that will not be subject to a

20 percent fee. DHCS has determined that \$0.00 of the transfer amounts will not be assessed a 20 percent fee, subject to Sub-Section 3.3.

3.3 The 20-percent assessment fee pursuant to this Agreement is non-refundable and shall be wired to DHCS separately from, and simultaneous to, the transfer amounts made under Section 1 of this Agreement. If, at the time of the reconciliation performed pursuant to Sub-Section 1.3 of this Agreement, there is a change in the amount transferred that is subject to the 20-percent assessment in accordance with Sub-Section 3.1, then a proportional adjustment to the assessment fee will be made.

4. Amendments

4.1 No amendment or modification to this Agreement shall be binding on either party unless made in writing and executed by both parties.

4.2 The parties shall negotiate in good faith to amend this Agreement as necessary and appropriate to implement the requirements set forth in Section 2 of this Agreement.

5. Notices. Any and all notices required, permitted or desired to be given hereunder by one party to the other shall be in writing and shall be delivered to the other party personally or by United States First Class, Certified or Registered mail with postage prepaid, addressed to the other party at the address set forth below:

To the GOVERNMENTAL FUNDING ENTITY:

Darin White, Fire Chief  
City of San Rafael  
Fire Department  
1375 Fifth Avenue  
San Rafael, CA 94901  
[Darin.White@cityofsanrafael.org](mailto:Darin.White@cityofsanrafael.org)

With copies to:

Van Bach, Accounting Supervisor  
City of San Rafael  
Finance Department  
1400 Fifth Avenue  
San Rafael, CA 94901  
[Van.Bach@cityofsanrafael.org](mailto:Van.Bach@cityofsanrafael.org)

And

Jeff Ingram  
Director, FP&A  
Partnership HealthPlan of California  
4665 Business Center Drive  
Fairfield, CA 94534  
[jingram@partnershiphp.org](mailto:jingram@partnershiphp.org)

To DHCS:

Vivian Beeck  
California Department of Health Care Services  
Capitated Rates Development Division  
1501 Capitol Ave., MS 4413  
Sacramento, CA 95814  
[Vivian.Beeck@dhcs.ca.gov](mailto:Vivian.Beeck@dhcs.ca.gov)

6. Other Provisions

6.1 This Agreement contains the entire Agreement between the parties with respect to the Medi-Cal payments described in Sub-Section 2.2 of this Agreement that are funded by the GOVERNMENTAL FUNDING ENTITY, and supersedes any previous or contemporaneous oral or written proposals, statements, discussions, negotiations or other agreements between the GOVERNMENTAL FUNDING ENTITY and DHCS relating to the subject matter of this Agreement. This Agreement is not, however, intended to be the sole agreement between the parties on matters relating to the funding and administration of the Medi-



Cal program. This Agreement shall not modify the terms of any other agreement, existing or entered into in the future, between the parties.

6.2 The non-enforcement or other waiver of any provision of this Agreement shall not be construed as a continuing waiver or as a waiver of any other provision of this Agreement.

6.3 Sections 2 and 3 of this Agreement shall survive the expiration or termination of this Agreement.

6.4 Nothing in this Agreement is intended to confer any rights or remedies on any third party, including, without limitation, any provider(s) or groups of providers, or any right to medical services for any individual(s) or groups of individuals. Accordingly, there shall be no third party beneficiary of this Agreement.

6.5 Time is of the essence in this Agreement.

6.6 Each party hereby represents that the person(s) executing this Agreement on its behalf is duly authorized to do so.

7. State Authority. Except as expressly provided herein, nothing in this Agreement shall be construed to limit, restrict, or modify the DHCS' powers, authorities, and duties under Federal and State law and regulations.

8. Approval. This Agreement is of no force and effect until signed by the parties.

9. Term. This Agreement shall be effective as of January 1, 2021 and shall expire as of June 30, 2024 unless terminated earlier by mutual agreement of the parties.

**SIGNATURES**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, on the date of the last signature below.

THE CITY OF SAN RAFAEL FIRE DEPARTMENT:

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

Jim Schutz, City Manager, City of San Rafael

THE STATE OF CALIFORNIA, DEPARTMENT OF HEALTH CARE SERVICES:

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

Rafael Davtian, Division Chief, Capitated Rates Development Division

Exhibit 1

<b>Health Plan:</b>	<b>Partnership Health Plan of California</b>		
<b>Rating Region:</b>	<b>All Rating Regions</b>		
<b>Service Period</b>	<b>1/2021 - 12/2021</b>		
		Estimated Member	Estimated
Rate Category	Contribution PMPM	Months*	Contribution (Non-Federal Share)
Child - non MCHIP	\$ 0.02	1,835,590	\$ 36,712
Child - MCHIP	\$ 0.01	817,276	\$ 8,173
Adult - non MCHIP	\$ 0.06	1,045,291	\$ 62,717
Adult - MCHIP	\$ 0.04	28,224	\$ 1,129
ACA Optional Expansion	\$ 0.01	2,202,804	\$ 22,028
SPD	\$ 0.16	490,034	\$ 78,405
SPD/Full-Dual	\$ 0.03	836,710	\$ 25,101
LTC	\$ 0.70	1,763	\$ 1,234
LTC/Full-Dual	\$ 0.44	37,393	\$ 16,453
OBRA	\$ 0.09	1,738	\$ 156
WCM	\$ 0.27	83,465	\$ 22,536
Estimated Total		7,380,288	\$ 274,644

\* Note that Estimated Member Months are subject to variation, and the actual total Contribution (Non-Federal Share) may differ from the amount listed here.

Agenda Item 6.a

**City of San Rafael**  
In Recognition of  
**UNITED AGAINST HATE WEEK 2021**  
**AND**  
**SUPPORT FOR NOT IN OUR TOWN**

WHEREAS, the United States is a nation of immigrants, whose strength comes from its diversity; and

WHEREAS, it has become all too common to see, hear, and witness racist, xenophobic, anti-Semitic, sexist, homophobic, Islamophobic, and other hateful acts in this country; and

WHEREAS, the Constitution enshrines equality on all individuals regardless of race, gender, orientation, religion, or political views; and

WHEREAS, the City of San Rafael is committed to addressing equality and inclusivity in housing, criminal justice, health care, employment, education, and all other aspects of our community; and

WHEREAS, education, compassion, and cooperation are vital to understanding and embracing differences between people; and

WHEREAS, we seek to join other communities across the country in bridging divisions and strengthening our communities; and

WHEREAS, the City of San Rafael wishes to go further and support Not In Our Town, a leading anti-hate organization that serves hundreds of schools and communities across the country who stand against all forms of prejudice and works to build bridges to foster inclusion and equity; and

WHEREAS, together, our community can stand united against hate not just this week, but every day.

NOW, THEREFORE, I, Kate Colin, Mayor of San Rafael, do hereby proclaim November 14 through November 20, 2021 as United Against Hate Week in the City of San Rafael and pledge the City's full support of the San Rafael chapter of Not in Our Town.



A handwritten signature in blue ink, appearing to read "Kate", is written over a horizontal line.

Kate Colin  
Mayor



**Agenda Item No: 7.a**  
**Meeting Date: November 1, 2021**

**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

**Department: Community Development**

**Prepared by: Ali Giudice, Director**  
**Jacob Noonan, Housing Manager**

**City Manager Approval:** \_\_\_\_\_ 

**TOPIC: NOTICE OF FUNDING AVAILABILITY FOR AFFORDABLE HOUSING**

**SUBJECT: INFORMATIONAL REPORT ON THE STATUS AND SCOPE OF CITY OF SAN RAFAEL NOTICE OF FUNDING AVAILABILITY**

**EXECUTIVE SUMMARY:**

The City Council will receive information on the upcoming release of a notice of funding availability to expend up to two and a half million dollars for affordable housing from the Affordable Housing Trust Fund.

**RECOMMENDATION:**

Receive and accept the report.

**BACKGROUND:**

The City of San Rafael is committed to creating and maintaining housing affordable to the workforce and to lower and moderate-income residents, families and seniors. To support the efforts of affordable housing developers, the City maintains an Affordable Housing Trust Fund and periodically issues notices of funding available. Presently, the fund balance is \$4,388,147 and staff are preparing a notice of funding availability inviting qualified affordable housing sponsors to submit requests for funding.

**ANALYSIS:**

On November 5, 2021, the Community Development Department plans to announce a notice of funding availability (NOFA) of two and a half million dollars (\$2,500,000) for construction or preservation of affordable rental housing for seniors, families, and individuals and families with special needs including individuals and families who formerly experienced homelessness.

Funding will be awarded through a competitive process. Qualified responses may be awarded in full or in part and funding may be awarded to one or more projects depending on the number of responses received and on how each response addresses the City’s affordable housing goals. Responses shall be evaluated and recommendations for awarding funding will be made using the selection criteria included in the NOFA. Any award of funding is approved by the San Rafael City Council.

---

**FOR CITY CLERK ONLY**

**File No.:** \_\_\_\_\_

**Council Meeting:** \_\_\_\_\_

**Disposition:** \_\_\_\_\_

**Goals for the NOFA**

Successful responses will meet the affordable housing goals provided in the [County of Marin Consolidated Plan](#) and the [City of San Rafael Housing Element](#). The Housing Element provides the affordable housing goals of the City of San Rafael, while the consolidated plan is a five-year strategic plan for federal funding programs including the Community Development Block Grant (CDBG) program and the HOME Investment Partnerships program (HOME). Both sets of goals are included in the NOFA to assure responses awarded will also be competitive for an award of the City’s share of CDBG and HOME funds, which are administered by the County.

**Affordable Housing Trust Fund Guidelines**

In addition to the goals, responses must meet the guidelines provided in the attached San Rafael City Council [Resolution No. 14760](#), *Guidelines for the Administration of the Affordable Housing Trust Fund* (“Guidelines”).

**Proposed Timeline**

The Community Development Department anticipates announcing the NOFA, evaluating responses, and forwarding funding recommendations to the City Council following this schedule:

Announcement:	On or After November 5, 2021
Responses Due:	November 29, 2021 (5:00PM)
Evaluation:	November 30 – December 10, 2021
Developer Team Interview(s):	December 13 – December 17, 2021
Notice of Pending Award(s):	Late December
Award(s) Approved by the City Council:	Late January, Early February, 2022

**Requirements for Consideration**

Qualified responses must demonstrate the following minimum qualifications.

Eligible projects:

- Acquisition/Rehabilitation including conversion of market rate housing or adaptive reuse of buildings to affordable housing.
- New Construction including the residential portions of mixed-use and live/work projects meeting the affordability requirements of the Guidelines.

Eligible Applicants:

- Non-profit organizations, qualified under Section 501(c)(3) of the Internal Revenue Code.
- For-profit developers working in partnership with a 501(c)(3) nonprofit organization.

Eligible Activities:

- Land or property acquisition.
- Predevelopment activities (architecture, engineering/soil analysis, environmental, financial).
- Construction (site preparation and construction).
- Conversion of existing housing, or non-residential buildings, to deed-restricted affordable housing.
- Any other activity determined by the city that helps address affordable housing goals and priorities as established by the City Council.

Developer Team Minimum Requirement

- Expertise and experience of the developer team designing and constructing successful affordable housing projects either locally or within similar communities in the Bay Area.

Project Minimum Requirements

- Meet all requirements provided in the Guidelines.
- Include at a minimum 20% permanent supportive housing.
- Demonstrate site control or ability to achieve site control, including but not limited to a purchase sale agreement, executed deed or contract of sale, or letter from a public agency or other entity agreeing to convey property and including the terms and conditions of such a transfer.
- Return on city investment based on population need and number of units created through creative use of design, materials and construction techniques, and financing.
- Reasonable per unit city subsidy evaluated by need of the target population, project type and cost effectiveness (cost per person, externalities, reserves, leveraging).

Additional consideration

- Project “shovel-readiness” in the form of approved entitlements and building permits and awarded state and federal funding.

Affordable housing created through the NOFA will count toward meeting the City’s goals for new housing development and the Regional Housing Needs Allocation.

**COMMUNITY OUTREACH:**

The NOFA will be announced on the City’s website and notices will be provided to local and regional affordable housing owners and developers.

**FISCAL IMPACT:**

Fund expenditure is not requested at this time. After responses to the NOFA have been received and evaluated by staff a funding recommendation will be provided for City Council approval. At that time, funds from the Affordable Housing Trust Fund will be requested. As of October 19, 2021, the Affordable Housing Trust fund balance was \$4,388,147, which is sufficient to support this Notice of Funding Availability.

**OPTIONS:**

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

1. Staff’s recommended action, which is to receive and accept the report
2. Direct staff to provide additional information or requirements or otherwise adjust the NOFA

**RECOMMENDED ACTION:**

Receive and file the report on the Notice of Funding Availability for Affordable Housing.

**ATTACHMENT:**

San Rafael City Council Resolution No. 14760, *Guidelines for the Administration of the Affordable Housing Trust Fund* (“Guidelines”)

**RESOLUTION NO. 14760**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL ADOPTING “GUIDELINES FOR THE ADMINISTRATION OF THE AFFORDABLE HOUSING TRUST FUND”**

**WHEREAS**, Section 14.16.030.J of the San Rafael Municipal Code establishes the creation of a segregated housing in-lieu fee account to be funded by housing in-lieu fees to be used solely to increase and expand the supply of housing affordable to very low-, low- and moderate-income households; and

**WHEREAS**, the City of San Rafael maintains Fund 243 - the Affordable Housing In-Lieu Fee Fund with on-going dedicated funding from housing in-lieu fees; and

**WHEREAS**, this Affordable Housing In-Lieu Fee Fund is the City’s Housing Trust Fund, exclusively dedicated to the production and protection of affordable housing units in the City of San Rafael; and

**WHEREAS**, the San Rafael City Council finds it necessary to establish guidelines which establish priorities, criteria, and administrative processes for distribution of Housing Trust Fund monies and project selection;

**NOW, THEREFORE BE IT RESOLVED**, that the City Council of the City of San Rafael hereby adopts the following “Guidelines for the Administration of the Affordable Housing Trust Fund”:

**SECTION 1 PURPOSE AND INTENT**

The City’s Affordable Housing Trust Fund, or Housing Trust Fund, was created to increase the stock of permanently affordable housing units in the City of San Rafael. The Housing Trust Fund provides a local funding source for financial and technical assistance to help affordable housing developers produce and preserve affordable housing. These guidelines are intended to provide direction as well as flexibility for staff in making recommendations for Program funding.

**SECTION 2 APPLICABILITY**

The provisions of this Program shall apply to all real property in the San Rafael city limits including a single-family dwelling or unit in a multifamily or multipurpose dwelling, a unit in a condominium or cooperative housing project, or a unit in a structure that is being used for residential uses whether or not the residential use is a conforming use permitted under the San Rafael Municipal Code, which is hired, rented, or leased to a household within the meaning of California Civil Code Section 1940.

**SECTION 2 DEFINITIONS**

- A. “Affordable Rent” means a housing unit that satisfies at least one of the following criteria:
  - 1) If the unit is being rented to Low-Income, Very Low-Income or Extremely Low-Income Households



- 2) If the unit is being sold, it is offered at an “affordable housing cost”, as defined in Health & Safety Code Section 50052.5
  - 3) If the unit is being rented to Moderate-Income households, it is available at a gross rent, including a utility allowance, that does not exceed 30 percent of the applicable income eligibility level, and complies with the definition of Moderate-Income in these guidelines
- B. “Applicant” means one of the following:
- 1) Non-profit organizations, qualified under Section 501(c)(3) of Title 26 of the Internal Revenue Code (“501(c)(3) nonprofit organization”)
  - 2) Public agencies
  - 3) For-profit developers working in partnership with a 501(c)(3) nonprofit organization
  - 4) Any other application that helps to address program goals and priorities of increasing affordable housing as reflected by ordinances and resolutions established by the City Council
- C. “Area Median Income” means the most recent applicable Marin County median family income published by the California Department of Housing and Community Development, available at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-incomelimits.shtml>
- D. “Department” means the Community Development Department.
- E. “Development Team” means the Developer, Architect, Financing Partners, General Contractor, and Construction Management personnel associated with an eligible project.
- F. “Director” means the Community Development Department Director.
- G. “Eligible Activity” means any of the following:
- 1) Seed/Catalyst funds for very early costs to initiate or expedite eligible project development (such as feasibility analysis or community planning)
  - 2) Land or property acquisition for new development
  - 3) Predevelopment (architecture, engineering/soils, environmental reports, financial consultants, etc.)
  - 4) Construction (site preparation, construction, materials)
  - 5) Rehabilitation activities to renovate existing rental units
  - 6) Conversion of market rate housing, or non-residential buildings, to deed restricted affordable housing
  - 7) Any other activity that helps to address program goals and priorities of increasing affordable housing as reflected by ordinances and resolutions established by the City Council
- H. “Eligible Project” means a project which includes, but is not limited to:
- 1) Rental housing projects that meet the affordability requirements of these guidelines including Permanent Supportive Housing. The affordability of all

units assisted by Program Funds shall be income and rent restricted for not less than 55 years;

- 2) Single-room occupancy (“SRO”) projects;
  - 3) Emergency Shelters;
  - 4) Supportive and transitional housing;
  - 5) The residential portions of mixed-use and live/work projects that meet the affordability requirements of these guidelines;
  - 6) Conversion of market-rate housing to affordable, or of non-residential buildings to affordable housing;
  - 7) Single-family or multi-family homeownership projects that meet affordability guidelines; and
  - 8) Any other activity that helps to address Program goals and priorities of increasing affordable housing as reflected by ordinances and resolutions established by the City Council.
- I. “Emergency Shelter” means the same as in Code of Federal Regulations Title 24, Section 576.2, as amended from time to time.
- J. “Extremely Low-Income” has the meaning set forth in Health & Safety Code Section 50106. Grantees shall utilize income limits issued by the California Department of Housing and Community Development at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-incomelimits.shtml>
- K. “Grantee” means an entity that has received an award of Program Funds.
- L. “Homeownership Project” or “Units Within a Homeownership Project” means an Eligible Project that uses Program Funds to assist in the acquisition, construction or rehabilitation of owner-occupied housing units in which the homeowner has an ownership interest sufficient to comply with Health & Safety Code Section 50843.5(d)(3), including the construction, repair, reconstruction or rehabilitation of Accessory Dwelling Units or Junior Accessory Dwelling Units.
- M. “Low-Income Households” has the meaning set forth in Health & Safety Code Section 50079.5 for “Lower income households”. Grantees shall utilize income limits issued by the California Department of Housing and Community Development at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-incomelimits.shtml>
- N. “Management Team” means the Property Owner, Property Management, Financial Partners, and/or Service Providers associated with an eligible project.
- O. “Moderate-Income Persons and Families Households” has the meaning set forth in Health & Safety Code Section 50093. Grantees shall utilize income limits issued by the California Department of Housing and Community Development at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-incomelimits.shtml>
- P. “NOFA” means a Notice of Funding Availability issued by the Department to announce the availability of Program Funds, the terms and conditions of awards, and requirements for the submittal of applications.

- Q. “Permanent Supportive Housing” has the same meaning as “supportive housing” in Health & Safety Code Section 50675.14: housing, with no limit on the length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing residents in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Permanent Supportive Housing may include associated facilities if used to provide services to housing residents. Permanent supportive housing does not include “health facility” as defined by Health & Safety Code Section 1250, or any “alcoholism or drug abuse recovery or treatment facility” as defined by Health & Safety Code Section 11834.02, or “community care facility” as defined in Health & Safety Code Section 1502, or “Mental health rehabilitation centers” as defined in Section 5675 of the Welfare and Institutions Code, or other residential treatment programs.
- R. “Program” means the administration of the Affordable Housing Trust Fund, as implemented in these Guidelines.
- S. “Program Application” means an application in a form prescribed by the Program.
- T. “Program Funds” means the funds provided by the Affordable Housing Trust Fund pursuant to these Guidelines
- U. “Public Agency” means
- V. “Single Room Occupancy or SRO project” means
- W. “Transitional Housing” means the same as in Code of Federal Regulations Title 24, Section 578.3.
- X. “Very Low-Income” has the meaning set forth in Health & Safety Code Section 50105. Grantees shall utilize income limits issued by the California Department of Housing and Community Development for Very Low-Income households for each county at the following link: <http://www.hcd.ca.gov/grants-funding/income-limits/state-and-federal-incomelimits.shtml>

### **SECTION 3 ORGANIZATION & OVERSIGHT**

The Housing Trust Fund will be governed by the San Rafael City Council. The City Council will provide oversight to the Housing Trust Fund and will review all loans and grants for approval or denial. This review process will take place through the regular agenda of the City Council. Minutes will be recorded at all meetings and maintained by City staff. The Department will process all applications and make funding recommendations to the City Council.

### **SECTION 4 APPLICATION PROCESS**

Applicants with eligible projects seeking Program funding for an eligible activity may apply via one of two application processes:

- A. NOFA Application Process. When necessary, the Program may issue a NOFA announcing availability of Program Funds, the terms and conditions of awards, and requirements for the submittal of applications. Program Funds made available through the NOFA may not be greater than the balance of the Affordable Housing Trust Fund.

Rolling Application Process. During periods without an issued NOFA by the Program, Applicants with eligible projects seeking Program funding for an eligible activity may submit a Program Application. Applicants must contact Program staff by phone or e-mail prior to Program Application submittal. Completed Program Applications must be submitted to the Director. Once a Program Application is received by the Director. Program staff will make a recommendation to the San Rafael City Council to approve or reject the funding request.

Under both processes, Program staff reserve the right to determine the reasonableness of all costs and fees associated with a project, including developer fees.

## **SECTION 5 EVALUATION CRITERIA**

All funding applications will be evaluated using the following criteria:

- A. Community Benefit. Eligible projects must provide a tangible and cost-effective benefit to the community as well as the intended beneficiaries.
- B. Development Team's Capacity. Eligible projects must show Development Team experience and capacity (skills, experience, resources) to achieve the proposed activity.
- C. Management Team's Capacity. Eligible projects must show organizational experience and capacity (skills, experience, resources) to achieve the proposed activity, including the organization's financial health. The organization may not have any unresolved financial audit findings. Applications should include applicant monitoring and reporting record, previous project experience and property management experience.
- D. Readiness to Proceed. Where applicable, the City will prefer eligible projects which can show a combination of the following:
  - i. site control;
  - ii. third party capital needs assessment completed within past 12 months;
  - iii. scope of work identifying critical repairs;
  - iv. expected planning and zoning approval within 90 days of funding approval;
  - v. construction/acquisition start (within 12 months of application);
  - vi. construction cost estimate;
  - vii. substantial amount of other financial resources committed; and
  - viii. relocation and/or replacement housing plan and budget identified
- E. Leverage and Collaboration. The City encourages applicants to seek other financing and in-kind contributions to match City investment. Other things being equal, applications with greater matching sources will receive more favorable consideration. The City prefers not to be the sole source of funding for a project or program.
- F. Per Unit Subsidy (PUS). Recognizing the cost per residential unit will vary per project due to a variety of factors, there is no specific PUS. Reasonable PUS includes evaluation of the target population, project type and cost effectiveness (cost per person, externalities, reserves, leveraging).

**SECTION 6 FUNDING TERMS**

Program Funds will generally be available in the form of a loan or a grant. Loan length and terms will vary by project to meet the needs of the project, availability of financing, financing method, development configuration and organizational capacity of the applicant, as determined by staff and the City Council.

**SECTION 7 REPORTING REQUIREMENTS**

Grantees must notify Program staff in writing of all major changes, financial or otherwise, relating to an application for financial assistance or an approved project.

Depending on the size and type of loan or grant requested, the following may be required: a written breakdown of expenditures funded with Housing Trust Fund proceeds; receipts, invoices and cancelled checks; annual reports certifying ongoing affordability; annual reports on project demographics and affirmative marketing plans; annual written reports describing any changes in the project development, operations, or management; and/or audited annual financial statements.

**BE IT FURTHER RESOLVED** that any and all amendments to the “Guidelines for the Administration of the Affordable Housing Trust Fund” herein, as deemed necessary from time-to-time, shall be adopted by resolution of the City Council.

I, LINDSAY LARA, City Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the City Council held on the 21<sup>st</sup> day of January 2020 by the following vote to wit:

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

**NOES: Councilmembers: None**

**ABSENT: Councilmembers: McCullough**

  
**LINDSAY LARA, City Clerk**



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Human Resources

Prepared by: Sylvia Gonzalez-Shelton,  
Human Resources Operations Manager

City Manager Approval: \_\_\_\_\_

**TOPIC: APPROVAL OF THE MEMORANDUM OF UNDERSTANDING WITH SEIU LOCAL 1021 CHILD CARE**

**SUBJECT: RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING PERTAINING TO COMPENSATION AND WORKING CONDITIONS FOR SEIU LOCAL 1021 CHILD CARE (NOVEMBER 1, 2021 THROUGH OCTOBER 31, 2024)**

**RECOMMENDATION:** Adopt Resolution

**BACKGROUND:**

SEIU Local 1021 Child Care represents 36.40 full-time equivalent (FTE) positions in the Child Care division. The most recent Memorandum of Understanding ("MOU") will expire on October 31, 2021. Over the past few months, representatives of the City and SEIU have met in good faith and worked diligently to negotiate the terms of a successor MOU. The City and SEIU Local 1021 Child Care reached a tentative agreement on October 1, 2021, for a three-year successor MOU and SEIU Local 1021 Child Care membership subsequently ratified the tentative agreement.

**ANALYSIS:**

The following are the highlights that reflect the terms and significant economic items included in the agreement between the City and SEIU. In addition to the economic items, some operational items were also addressed in the final agreement, all of which can be found in the attached successor MOU.

1. **Term of the Agreement:** November 1, 2021 through October 31, 2024
2. **Salary Increase:** The salary schedule included in the attached successor MOU authorizes the proposed new salary for each position.
  - a. Year 1: A 3% base wage increase for the bargaining group, effective November 1, 2021
  - b. Year 2: A 3% base wage increase for the bargaining group, effective November 1, 2022
  - c. Year 3: A 3% base wage increase for the bargaining group, effective November 1, 2023
3. **Full Flex Cafeteria Plan:** Employees will receive the value of a 0.5% base wage increase towards an increase in the monthly Flex Dollar Allowance tiers as noted below:

---

**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

The monthly flex dollar allowance effective the first paycheck in December 2021 shall be:  
 For employee only: \$ 804.36  
 For employee and one dependent: \$1,176.68  
 For employee and two or more dependents: \$1,264.24

The monthly flex dollar allowance effective the first paycheck in December 2022 shall be:  
 For employee only: \$ 804.36  
 For employee and one dependent: \$1,226.68  
 For employee and two or more dependents: \$1,364.24

The monthly flex dollar allowance effective the first paycheck in December 2023 shall be:  
 For employee only: \$ 804.36  
 For employee and one dependent: \$1,276.68  
 For employee and two or more dependents: \$1,464.24

**4. Non-Economic Items:** In addition to items discussed above, agreement was reached on other proposals, which reflect minor changes to existing provisions with no additional cost. The attached MOU includes all the changes agreed to by the parties.

**FISCAL IMPACT:**

The current total annual salary and benefit cost to the City for the 36.40 FTE employees of SEIU Local 1021 Child Care is \$2,531,184. The additional ongoing incremental cost of the successor MOU beyond the FY 21/22 budget is:

	<b><u>Incremental</u></b> <b><u>FY 2021-22</u></b>	<b><u>Incremental</u></b> <b><u>FY 2022-23</u></b>	<b><u>Incremental</u></b> <b><u>FY 2023-24</u></b>
<b>Wages:</b>			
Base Salary	\$ 46,247	\$ 47,634	\$ 49,063
Health Increase:	\$ 14,997	\$ 7,200	\$ 7,200
<b>Other costs:</b>			
Pension*	\$ 20,117	\$ 20,721	\$ 21,343
Taxes (Medicare, W/C)	<u>\$ 1,496</u>	<u>\$ 1,541</u>	<u>\$ 1,588</u>
<b>Total Incremental Cost:</b>	<b>\$ 82,857</b>	<b>\$ 77,096</b>	<b>\$ 79,194</b>

*\*This incremental pension cost results only from the negotiated wage increase and does not include the cost of associated MCERA rate changes. The terms and conditions of the pension benefit plan remain unchanged.*

While the incremental cost is \$82,857 for fiscal year 2021-2022, \$77,096 for fiscal year 2022-2023, and \$79,194 for fiscal year 2023-24, the increases are compounding and therefore the projected wages and other costs total \$481,975 for the three-year term. The increase in compensation included in this resolution is in line with the City’s current budget projections.

**OPTIONS:**

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

- Staff’s recommendation to adopt the resolution.
- Adopt resolution with modifications.
- Direct staff to return with more information.
- Take no action.

**RECOMMENDED ACTION:**

Staff recommends that the City Council adopt the resolution to approve the Memorandum of Understanding between the City of San Rafael and SEIU Local 1021 Child Care pertaining to compensation and working conditions (November 1, 2021 through October 31, 2024).

**ATTACHMENTS:**

1. Resolution with attached MOU between City of San Rafael and SEIU Local 1021 Child Care for November 1, 2021 to October 31, 2024 (and all attachments).



**RESOLUTION NO.**

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING A  
MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SAN RAFAEL  
AND SEIU LOCAL 1021 CHILD CARE (SEIU) PERTAINING TO COMPENSATION AND  
WORKING CONDITIONS (NOVEMBER 1, 2021 THROUGH OCTOBER 31, 2024)**

**WHEREAS**, the SEIU Local 1021 (SEIU) Child Care labor agreement with the City expires on October 31, 2021 after a 2-year term; and

**WHEREAS**, the City of San Rafael and representatives of SEIU Child Care have met and conferred in good faith with regard to wages, hours and working conditions in accordance with the provisions of the Meyers-Milias-Brown Act; and

**WHEREAS**, a Memorandum of Understanding (“MOU”) pertaining to the three-year period from November 1, 2021 through October 31, 2024 has been ratified by SEIU Child Care members;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES RESOLVE, DETERMINE AND ORDER AS FOLLOWS:**

Section 1: From and after the date of adoption of this Resolution, the City of San Rafael and SEIU Local 1021 Child Care (SEIU) shall utilize the MOU for the period beginning November 1, 2021, attached hereto, as the official document of reference respecting compensation and working conditions for employees represented by SEIU Child Care.

Section 2: The schedules describing classes of positions and salary ranges are attached to said MOU and, together with the MOU itself, are hereby adopted and shall be attached hereto and incorporated in full.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of San Rafael, held on Monday, the 1<sup>st</sup> of November 2021, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

---

Lindsay Lara, City Clerk

**MEMORANDUM OF UNDERSTANDING**

*between*

**CITY OF SAN RAFAEL**

*and*

**SEIU Local 1021 – Child Care Unit**

***November 1, 2021 through October 31, 2024***

# TABLE OF CONTENTS

<b>1</b>	<b>GENERAL PROVISIONS</b> .....	1
1.1	INTRODUCTION .....	1
1.1.1	Scope of Agreement.....	1
1.1.2	Term of MOU.....	1
1.2	RECOGNITION .....	1
1.2.1	Bargaining Unit.....	1
1.2.2	Classification Specification.....	1
1.2.3	Notice to Employees.....	1
1.2.4	Orientation Letters New Employees .....	1
1.3	NON-DISCRIMINATION .....	2
1.3.1	In General .....	2
1.3.2	Union Discrimination.....	2
1.4	INSPECTION OF MEMORANDUM OF UNDERSTANDING .....	2
1.5	EXISTING LAWS, REGULATIONS & POLICIES .....	2
1.6	STRIKES & LOCKOUTS.....	2
1.7	SEVERABILITY .....	2
1.8	PREVAILING RIGHTS.....	3
1.9	FULL UNDERSTANDING, MODIFICATION, WAIVER.....	3
1.9.1	Understanding.....	3
1.9.2	Waiver & Modification.....	3
<b>2</b>	<b>MMBA</b> .....	3
2.1	UNION RIGHTS.....	3
2.1.1	Union Stewards Designation.....	3
2.1.2	Bulletin Boards .....	3
2.2	DUES DEDUCTION .....	3
2.2.1	Collection of Dues.....	3
2.2.2	Dues Collection during Separation from Employment .....	4
2.3	MANAGEMENT RIGHTS.....	4
2.4	COMMENCEMENT OF NEGOTIATIONS.....	5
<b>3</b>	<b>COMPENSATION</b> .....	6
3.1	GENERAL WAGE INCREASE.....	6
3.2	STEP INCREASES .....	6
3.3	MERIT INCREASES.....	6
3.4	SPECIFIED WAGE ADJUSTMENTS / DIFFERENTIALS .....	6
3.4.1	Split Shift Pay Differential .....	6
3.5	ADDITIONAL PAY .....	6
3.5.1	Educational Reimbursement.....	6
3.5.2	Bilingual Pay.....	7
<b>4</b>	<b>BENEFITS</b> .....	7
4.1	EMPLOYEE BENEFITS COMMITTEE .....	7
4.2	HEALTH & WELFARE .....	7
4.2.1	Full Flex Cafeteria Plan.....	7
4.2.2	Life Insurance.....	8
4.2.3	Long Term Disability Policy.....	9
4.2.4	Retirees Health Insurance.....	9
4.2.5	Pro Rata Benefit Rules.....	9
4.2.6	Health and Dependent Care Spending Accounts .....	10
4.2.7	Health Insurance Providers .....	10
4.3	DENTAL PLAN .....	10
4.4	VISION PLAN.....	10
4.5	RETIREMENT CONTRIBUTION.....	11
4.5.1	Eligibility .....	11

4.5.2	City Paid Employee Retirement (City Paid Member Contribution)	11
4.5.3	Retirement Plans	11
4.5.4	Member Cost of Living Rates	11
<b>4.6</b>	<b>DEFERRED COMPENSATION PLAN</b>	<b>11</b>
<b>4.7</b>	<b>STATE DISABILITY INSURANCE (SDI)</b>	<b>12</b>
<b>5</b>	<b>LEAVES</b>	<b>12</b>
<b>5.1</b>	<b>SICK LEAVE</b>	<b>12</b>
5.1.1	Eligibility	12
5.1.2	Sick Leave Accrual	13
5.1.3	Use of Sick Leave	13
5.1.4	Advance of Sick Leave	13
5.1.5	Service Credit for Sick Leave	13
5.1.6	Compensation for Unused Portion	13
<b>5.2</b>	<b>VACATION LEAVE</b>	<b>13</b>
5.2.1	Eligibility	13
5.2.2	Rate of Accrual	14
5.2.3	Administration of Vacation Leave	14
5.2.4	Vacation Cash-In	15
<b>5.3</b>	<b>HOLIDAYS</b>	<b>15</b>
5.3.1	Paid Holidays	15
<b>5.4</b>	<b>OTHER LEAVE</b>	<b>15</b>
5.4.1	Bereavement Leave	15
5.4.2	Jury Duty	16
5.4.3	Military Leave	16
5.4.4	Leave of Absence Without Pay	16
5.4.5	Industrial Injury Leave	16
5.4.6	Family Medical Leave	17
5.4.7	Catastrophic Leave	17
5.4.8	Emergency/Smoke Leave	17
<b>6</b>	<b>TERMS &amp; CONDITIONS OF EMPLOYMENT</b>	<b>17</b>
<b>6.1</b>	<b>HOURS OF WORK</b>	<b>17</b>
<b>6.2</b>	<b>STAFF DEVELOPMENT / TRAINING DAYS</b>	<b>17</b>
<b>6.3</b>	<b>OVERTIME</b>	<b>17</b>
<b>6.4</b>	<b>COMPENSATORY TIME POLICY</b>	<b>18</b>
6.4.1	Accrual Limit	18
6.4.2	Overtime Rate	18
6.4.3	Use & Carry Over	18
<b>6.5</b>	<b>PROBATION</b>	<b>18</b>
<b>6.6</b>	<b>TEMPORARY PROMOTIONS</b>	<b>18</b>
<b>6.7</b>	<b>PERSONNEL RULES &amp; REGULATIONS</b>	<b>18</b>
6.7.1	Harassment Policy	18
6.7.2	Drug & Alcohol Policy	18
<b>6.8</b>	<b>MISCELLANEOUS</b>	<b>19</b>
6.8.1	CPR / First Aid Training	19
6.8.2	Gratuities / Solicitation of Contributions	19
6.8.3	Labor / Management Meetings	19
6.8.4	Child Care Division Employee Program Discount	19
<b>7</b>	<b>PROCEDURES</b>	<b>19</b>
<b>7.1</b>	<b>DISCIPLINARY ACTION</b>	<b>19</b>
7.1.1	Right to Discipline & Discharge	19
7.1.2	Preliminary Notice	20
7.1.3	Disciplinary Action and Appeal	20
<b>7.2</b>	<b>GRIEVANCE PROCEDURE</b>	<b>20</b>
7.2.1	Definition	20
7.2.2	Procedure	21

7.2.3	<i>Arbitration</i> .....	21
7.2.4	<i>General Provisions</i> .....	22
<b>7.3</b>	<b>VOLUNTARY TIME OFF (VTO)</b> .....	22
<b>7.4</b>	<b>REDUCTION IN FORCE</b> .....	22
7.4.1	<i>Authority</i> .....	22
7.4.2	<i>Notice</i> .....	22
7.4.3	<i>Order of Layoff</i> .....	23
7.4.4	<i>Seniority</i> .....	23
7.4.5	<i>Bumping Rights</i> .....	23
7.4.6	<i>Transfer Rights</i> .....	23
<b>7.5</b>	<b>RE-EMPLOYMENT</b> .....	23
7.5.1	<i>General Guidelines</i> .....	23
7.5.2	<i>Right to Re-Employment</i> .....	23
7.5.3	<i>Time Limits</i> .....	24
7.5.4	<i>Availability</i> .....	24
7.5.5	<i>Probationary Status</i> .....	24
7.5.6	<i>Restoration of Benefits</i> .....	24
<b>8</b>	<b>REOPENER RELATED TO REORGANIZATION OF CITY'S CHILDCARE PROGRAM</b> .....	24

**LIST OF EXHIBITS**

Exhibit A            Salary Schedule for November 1, 2021 – October 31, 2024

# MEMORANDUM OF UNDERSTANDING

between the

CITY OF SAN RAFAEL and

SEIU LOCAL 1021 – CHILD CARE

This Memorandum of Understanding is entered into pursuant to the provisions of Section 3500, et seq. of the Government Code of the State of California.

The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employees in said representation unit, and have freely exchanged information, opinions and proposals and have reached agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding shall be presented to the City Council of the City of San Rafael as the joint recommendation of the undersigned parties for salary and employee benefit adjustments for the period commencing November 1, 2021 and ending October 31, 2024.

## **1 GENERAL PROVISIONS**

### **1.1 INTRODUCTION**

#### *1.1.1 Scope of Agreement*

The salaries, hours, fringe benefits and working conditions set forth have been mutually agreed upon by the designated bargaining representatives of the City of San Rafael (herein-after called “CITY”) and the Service Employees International Union (SEIU) Local 1021 (herein-after called “UNION”) and shall apply to all employees of the City working in the classifications and bargaining unit set forth herein.

#### *1.1.2 Term of MOU*

This agreement shall be in effect from November 1, 2021 through October 31, 2024.

### **1.2 RECOGNITION**

#### *1.2.1 Bargaining Unit*

The City hereby recognizes the Union as bargaining representative for the purpose of establishing salaries, hours, fringe benefits and working conditions for all employees within the Child Care Bargaining Unit (see Exhibit A attached)

#### *1.2.2 Classification Specification*

The City and the Union agree that the classification specifications developed as a part of this meet and confer process, and dated January 1988, accurately describe the job classes covered by this Memorandum of Understanding.

#### *1.2.3 Notice to Employees*

Whenever a person is hired in any of the job classifications set forth herein, the City shall notify such person that the Union is the recognized bargaining representative for employees in that classification.

#### *1.2.4 Orientation Letters New Employees*

The City shall make available up to 30 minutes, at a mutually agreeable time, during the initial thirty (30) days of employment for new employee orientation by the Union. The City and the Union intent that time (i.e., up to 30 minutes) will occur at employee orientation whenever possible. The City shall

approve at least one hour of release time to the Union's designee to travel to and meet with the new employee(s). The City will provide the Union at least ten (10) days' advanced notice of all employee orientations conducted by the City unless a shorter time is required due to an urgent need critical to the City's operations and that urgent need was not reasonably foreseeable. The City shall provide the Union with the employee name, job title, department, work location, work, home and personal cell phone numbers, home address and personal email address on file with the City for all employees within the bargaining unit every 120 days and a report listing this same information within 30 days of the date of hire for any newly hired unit employees.

### **1.3 NON-DISCRIMINATION**

#### **1.3.1 *In General***

The parties to this contract agree that they shall not, in any manner, discriminate against any person whatsoever because of race, color, age, religion, ancestry, national origin, sex, sexual orientation, perceived sexual orientation, gender, gender expression, gender identity, marital status, medical condition (cancer-related or gender characteristics), genetic information (including family medical history) or physical or mental disability. Any employee alleging such discrimination should use the internal administrative process explained in the City of San Rafael's Policy Against Harassment, Discrimination and Retaliation to redress the situation. Such employees shall be entitled to Union representation but are not entitled to seek redress using the grievance procedure of this MOU.

#### **1.3.2 *Union Discrimination***

No member, official, or representative of the Union shall, in any way suffer any type of discrimination in connection with continued employment, promotion, or otherwise by virtue of membership in or representation of the Union.

### **1.4 INSPECTION OF MEMORANDUM OF UNDERSTANDING**

Both the City and the Union agree to keep duplicate originals of this Memorandum on file in a readily accessible location available for inspection by any employee or member of the public upon request.

### **1.5 EXISTING LAWS, REGULATIONS & POLICIES**

This agreement is subject to all applicable laws of the State of California, ordinances, regulations, and policies of the City of San Rafael.

### **1.6 STRIKES & LOCKOUTS**

During the term of this Memorandum, the City agrees that it will not lock out employees, and the Union agrees that it will not agree to, encourage or approve any strike or slowdown growing out of any dispute relating to the terms of this Agreement. The Union will take whatever lawful steps are necessary to prevent any interruption of work in violation of this Agreement, recognizing with the City that all matters of controversy within the scope of this Agreement shall be settled by established procedures set forth in the City's charter, ordinances, and regulations, and may be amended from time to time.

### **1.7 SEVERABILITY**

If any article, paragraph or section of this Memorandum shall be held to be invalid by operation of law, or by any tribunal of competent jurisdiction, or if compliance with or any enforcement of any provision hereof be restrained by such tribunal, the remainder of this Memorandum shall not be affected thereby, and the parties shall, if possible, enter into meet-and-confer sessions for the sole purpose of arriving at a mutually satisfactory replacement for such article, paragraph or section.

## **1.8 PREVAILING RIGHTS**

All matters within the scope of meeting and conferring which have previously been adopted through rules, regulation, ordinance or resolution, which are not specifically superseded by this Memorandum of Understanding, shall remain in full force and effect throughout the term of this Agreement.

## **1.9 FULL UNDERSTANDING, MODIFICATION, WAIVER**

### *1.9.1 Understanding*

The parties jointly represent to the City Council that this Memorandum of Understanding set forth the full and entire understanding of the parties regarding the matters set forth herein.

### *1.9.2 Waiver & Modification*

Except as specifically otherwise provided herein, it is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right and agrees that the other shall not be required to meet and confer with respect to any subject or matter covered herein, nor as to wages or fringe benefits during the period of the term of this Memorandum.

The foregoing shall not preclude the parties hereto from meeting and conferring at any time during the term of this Agreement with respect to any subject matter within the scope of meeting and conferring by mutual agreement.

## **2 MMBA**

### **2.1 UNION RIGHTS**

#### *2.1.1 Union Stewards Designation*

The Union shall, by written notice to the City Manager, designate certain members as Employee Representatives. Employee Representatives shall be permitted reasonable time for Union activities including grievance representation. In all cases, the Representative shall secure permission from the Representative's supervisor before leaving a work assignment. Such permission shall not be unreasonably withheld.

Employee Representatives for salary discussions shall be in accordance with Meyers-Milias-Brown (MMB) Act.

#### *2.1.2 Bulletin Boards*

Authorized representatives of the Union shall be allowed to post Union notices on specified bulletin boards maintained on City premises.

### **2.2 DUES DEDUCTION**

#### *2.2.1 Collection of Dues*

(a) The City agrees, upon written consent of the employee involved, to deduct voluntary Union dues, COPE, or other Union sponsored programs selected by members, as established by the Union, from the salaries of its members. Dues and other voluntary contributions will be for a specified amount and will be made based on the information provided by the Union of employees in the Child Care Unit certified by the Union as having affirmatively authorized dues and other voluntary union deductions. The authorization of dues and other voluntary deductions will be made by the City based on the information provided by the Union.

(b) Voluntary deductions for dues, COPE, or other Union-sponsored programs shall start the pay period after the City receives written notification of the authorization from the Union. The sums to be withheld shall be remitted by the City, without delay, along with a list of employees and their respective



dues and voluntary deductions. The Union bears responsibility for allocating dues and voluntary deductions.

(c) Requests to authorize voluntary dues/other deduction(s), the specific amount of each such deduction(s), or requests to change status or amount of such deductions, shall be directed to the Union rather than the City. The City shall rely on the Union's explanation in a written certified list, submitted by a representative of the Union who has authority to bind the Union regarding whether an authorization/change in deduction(s) has been requested by the employee.

(d) The City shall not request the Union to provide a copy of any member employee's authorization unless a dispute arises about the existence or terms of the authorization. To the extent required by the Government Code, or otherwise required by law, the City will rely on the information provided by the Union in processing dues deductions for Union employees. The Union is responsible for providing the City with timely information regarding changes to member employees' dues deductions.

(e) Dues deductions, once initiated, will continue until the employee's authorization is revoked in writing by the employee. An employee may only revoke a dues deduction authorization by delivering to the Union a written notice of revocation to the Union. The authorization or cancellation of dues and other deductions will be made by the City based on the information provided by the Union.

(f) The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues or service fees check-off authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status for only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Union dues.

(g) The Union will indemnify, defend, and hold harmless the City, its officials, representatives, and agents from and against any liability arising from any claims, demands, or other action relating to the City's compliance with this Section 2.2.1.

(h) The Union alone may grieve the City's failure to timely transmit the appropriate amount of voluntary union deductions. However, any other dispute regarding this section of the MOU is not subject to the grievance procedures contained in this MOU between the parties, including whether the employee authorized the deduction, the amount of the deduction, or whether the employee tried to revoke the authorization.

### *2.2.2 Dues Collection during Separation from Employment*

The provisions specified above (Section 2.2.1.) shall not apply during periods of separation from the representation Unit by any such employee but shall reapply to such employee commencing with the next full pay period following the return of the employee to the representation Unit. The term separation includes transfer out of the Unit, layoff, and leave without pay absences with a duration of more than five (5) working days.

## **2.3 MANAGEMENT RIGHTS**

The City reserves, retains, and is vested with, solely and excessively, all rights of management which have not been expressly abridged by specific provision of this Memorandum of Understanding or by law to manage the City, as such rights existed prior to the execution of this Memorandum of Understanding. The sole and exclusive rights of management, as they are not abridged by this Agreement or by law, shall include, but not be limited to, the following rights:

1. To manage the City generally and to determine the issues of policy;
2. To determine the existence of facts which are the basis of the management decision;

3. To determine the necessity of any organization or any service or activity conducted by the City and expand or diminish services;
4. To determine the nature, manner, means, technology and extent of services to be provided to the public;
5. Methods of financing;
6. Types of equipment or technology to be used;
7. To determine and/or change the facilities, methods, technology, means and size of the work force by which the City operations are to be conducted;
8. To determine and change the number of locations, re-locations and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right (after effect bargaining) to contract for or subcontract any work or operation of the City;
9. To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish and change work schedules and assignments;
10. To relieve employees from duties for lack of work or other legitimate reasons;
11. To discharge, suspend, demote or otherwise discipline employees for proper cause in accordance with the provisions and procedures set forth in City Personnel Rules and Regulations and this MOU;
12. To determine job classifications and to reclassify employees;
13. To hire, transfer, promote and demote employees in accordance with this Memorandum of Understanding and the City's Rules and Regulations;
14. To determine policies, procedures and standards for selection, training and promotion of employees;
15. To establish and modify employee and organizational performance and productivity standards and programs including but not limited to, quality and quantity standards; and to require compliance therewith;
16. To maintain order and efficiency in its facilities and operations;
17. To establish and promulgate and/or modify rules and regulations to maintain order and safety in the City which are not in contravention with this Agreement;
18. To take any and all necessary action to carry out the mission of the City in emergencies.

The City and the Union agree and understand that if, in the exercise of any of the rights set forth above, the effect of said exercise of rights by the City impacts an area within the scope of representation as set forth in the Meyers/Milias/Brown Act, case law interpreting said acts, and/or Federal law, the City shall have the duty to meet and confer with the Union regarding the impact of its decision/exercise of rights.

#### **2.4 COMMENCEMENT OF NEGOTIATIONS**

It is mutually agreed to begin the Meet and Confer process no later than three (3) months before the expiration date of this MOU, regarding the terms and conditions applicable to successor MOUs. The process will be initiated by the Union through the submittal of potential meeting dates.

### **3 COMPENSATION**

#### **3.1 GENERAL WAGE INCREASE**

Effective the first full pay period in November 2021, the City will provide a 1.6% general salary increase plus a 1.4% equity increase to all bargaining unit classifications (a total of 3% increase).

Effective the first full pay period in November 2022, the City will provide a 1.6% general salary increase plus a 1.4% equity increase to all bargaining unit classifications (a total of 3% increase).

Effective the first full pay period in November 2023, the City will provide a 1.6% general salary increase plus a 1.4% equity increase to all bargaining unit classifications (a total of 3% increase).

#### **3.2 STEP INCREASES**

Except as provided below, when considering a step increase for Child Care Program employees, he/she must have at least one year of satisfactory service and have worked a minimum of 700 hours during the preceding year and receive a positive evaluation from his/her supervisor. If said employee does not qualify for a step increase after each year of service, he/she will be considered for that increase upon the completion of the minimum 700-hour requirement.

Employees are eligible to advance to Step E on their anniversary date after having spent at least two years at Step D.

#### **3.3 MERIT INCREASES**

Employees at the maximum step of their salary range may be granted a merit performance award of five percent (5%) above and beyond their salary range. A merit performance award may be effective for up to one (1) year. A merit performance award may be withdrawn and is not a disciplinary action and is not appealable.

#### **3.4 SPECIFIED WAGE ADJUSTMENTS / DIFFERENTIALS**

##### *3.4.1 Split Shift Pay Differential*

Child Care workers covered by this MOU who have a two-hour or more break in shifts during the same day will receive a .5 hour premium pay for that day.

#### **3.5 ADDITIONAL PAY**

##### *3.5.1 Educational Reimbursement*

An Educational Reimbursement Program is available to employees for courses that are: job related, assist the employee in meeting State licensing requirements and/or prepare the employee for career advancement in the child care field.

The reimbursement may not exceed 75% for the cost of the course, up to \$300 per fiscal year maximum. The Educational Reimbursement Program also includes an additional reimbursement of up to \$60 per fiscal year for professional membership dues for work-related organizations for employees.

To be eligible to receive reimbursement under this program the employee must:

- a. submit a written request and receive prior approval from the Recreation Supervisor for the Child Care Program;
- b. be regularly scheduled to work 20 hours or more per week;
- c. have completed initial probation before reimbursement is received; and
- d. satisfactorily complete the course.

### 3.5.2 *Bilingual Pay*

Employees in this unit may receive bilingual pay for full fluency in a foreign language and their use of this skill to provide services for the City. Full fluency is defined as a skill level that will allow the employee to fully assist a member of the public who does not speak English by translating for, conversing with, and/or reading or writing written material.

An employee can petition their Department Director for this bilingual pay incentive. The Department Director will review and make a recommendation to the Human Resources Director and City Manager. If approved, the employee will receive an additional \$150 per month above their base salary. Part-time employees will be pro-rated for this incentive based on their full-time equivalency (FTE).

Approval of bilingual pay incentive by the City Manager Includes:

1. Certification by a recognized school of the appropriate skill level and/or demonstrated ability of the proficiency level on the job; and
2. Department Director's recommendation and statement that bilingual skill of the employee can be of value to the Department and to the employee in the completion of their regular work assignments.

The bilingual pay incentive shall be reviewed annually and as long as the employee demonstrates (by work experience or re-testing, as determined by the City of San Rafael), the full fluency skill level, and as long as the Department Director indicates the value of this skill to the Department and the employee in completion of their regular work assignments.

Removal of this bilingual pay incentive would be considered a non-disciplinary action; however, removal of bilingual pay is appealable to the Human Resources Director. The determination of the Human Resources Director is not subject to any appeal/grievance procedure.

## **4 BENEFITS**

### **4.1 EMPLOYEE BENEFITS COMMITTEE**

Both parties agree to continue to utilize the Employee Benefits Committee for ongoing review of benefit programs, cost containment and cost savings options. The Committee shall be made up of representatives of SEIU, SEIU-Child Care, Western Council of Engineers (WCE), PEU Local 1 - Confidential, Police, Police Mid-Management, Fire, Fire Chief Officers, Mid-Management and Management employees.

### **4.2 HEALTH & WELFARE**

#### *4.2.1 Full Flex Cafeteria Plan*

Effective January 1, 2010, the City implemented a full flex cafeteria plan (known as the Flexible Benefits Plan) for active employees, in accordance with IRS Code Section 125. Active employees participating in the City's full flex cafeteria plan shall receive a monthly flex dollar allowance to purchase benefits under the full flex cafeteria plan.

The monthly flex dollar allowance effective December 15, 2021 is:

For employee only:	\$ 804.36
For employee and one dependent:	\$ 1,176.68
For employee and two or more dependents:	\$ 1,264.24

The monthly flex dollar allowance effective December 15, 2022 is:

For employee only:	\$ 804.36
For employee and one dependent:	\$ 1,226.68
For employee and two or more dependents:	\$ 1,364.24

The monthly flex dollar allowance effective December 15, 2023 is:

For employee only:	\$ 804.36
For employee and one dependent:	\$ 1,276.68
For employee and two or more dependents:	\$ 1,464.24

*NOTE: For part time employee flex dollar allowances, see Section 4.2.5.*

Flex dollar allowances shall increase on the December 15th paycheck of each year up to a maximum of three percent (3%) on an annual basis, based on but not to exceed the Kaiser Bay Area premium rate increase for the upcoming calendar year.

The City shall contribute to the cost of medical coverage for each eligible employee and his/her dependents, an amount not to exceed the California Public Employees' Medical and Hospital Care Act (PEMHCA) contribution, as determined by CalPERS on an annual basis. This portion of the monthly flex dollar allowance is identified as the City's contribution towards PEMHCA. The balance of the monthly flex dollar allowance (after the PEMHCA minimum contribution) may be used in accordance with the terms of the cafeteria plan to purchase health insurance coverage or may be converted to taxable income.

**Conditional Opt-Out Payment:** An employee may elect to waive the City's health insurance coverage and receive \$300 in monthly Opt-Out payment in accordance with the terms of the cafeteria plan and Affordable Care Act, if the employee complies with the following conditions:

- 1) The employee certifies that the employee and all individuals in the employee's tax family for whom coverage is waived, have alternative Minimum Essential Coverage as defined by the Patient Protection and Affordable Care Act through a provider other than a federal marketplace, a state exchange, or an individual policy.
- 2) During the City's annual open enrollment period, the employee must complete an annual written attestation confirming that the employee and the other members of the employee's tax family are enrolled in alternative Minimum Essential Coverage. The employee agrees to notify the City no later than 30 days if the employee or other member(s) of the employee's tax family lose coverage under the alternative Minimum Essential Coverage Plan.
- 3) The employee understands that the City is legally required to immediately stop conditional opt-out payments if the City learns that the employee and/or members of the employee's family do not have the alternative Minimal Essential Coverage.

The City reserves the right to modify at any time, the amount an employee is eligible to receive under this paragraph, if required by IRS Cafeteria Plan regulations.

#### *4.2.2 Life Insurance*

Effective January 1, 2010, the City shall be responsible for paying premiums for a life insurance and Accidental Death and Dismemberment (AD&D) policy for each employee. The life and AD&D policy shall provide a \$5,000 life insurance and a \$5,000 AD&D benefit. The City shall also make available a voluntary life insurance program at employee expense.

#### 4.2.3 *Long Term Disability Policy*

Effective January 1, 2010, the City shall be responsible for paying premiums for a Long-Term Disability Policy for each employee that satisfies the eligibility provisions of the long-term disability policy. The Long-Term Disability policy shall provide for salary replacement of 66.67% of an individual's salary up to a maximum disability benefit of \$1,000 per month.

#### 4.2.4 *Retirees Health Insurance*

Employees represented by the Union who retire from the Marin County Employees' Retirement Association (MCERA) within 120 days of leaving their City of San Rafael position (and who comply with the appropriate retirement provisions under the MCERA laws and regulations) are eligible to continue in the City's retiree group health insurance program offered through PEMHCA. The City's contribution towards retiree coverage shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis.

##### **a. Longevity Payment for Employees hired on or before January 1, 2010**

The City shall make a monthly longevity payment into a Retiree Healthcare Reimbursement Trust (Retiree HRA Trust) on behalf of employees hired before January 1, 2010 and who retire from the City of San Rafael as described in this Section. The City's monthly contribution to the Retiree HRA trust shall not exceed \$543 per month. The City's contribution towards a retiree's Retiree HRA Trust account shall continue for the lifetime of the retiree and retiree's spouse, in accordance with PEMHCA eligibility provisions for coverage.

##### **b. Employees hired on or after January 1, 2010** and who meet the eligibility requirements for retiree health insurance are eligible to continue in the City's group health insurance program. The City's maximum contribution towards retiree coverage under this subsection, 3.1.5 B, shall be the PEMHCA minimum contribution as determined by CalPERS on an annual basis. The City shall not be responsible for making any contributions towards the cost of coverage of the retiree's spouse, registered domestic partner, or dependents upon the employee's retirement from the City in excess of the PEMHCA minimum contribution as required by CalPERS.

The City shall additionally make available a retiree health care trust to enable these employees hired on or after January 1, 2010 to prefund retiree health care premiums while employed by the City. The retiree health care trust shall be funded by annual conversion of 50 hours of sick time in service on July 1 of each year, provided an employee has a remaining balance of 125 hours of sick leave after the conversion.

#### 4.2.5 *Pro Rata Benefit Rules*

Employees covered by this Agreement who work less than full time but more than twenty (20) hours per week on a regular basis shall be eligible to receive: a) pro-rated leave benefits; b) a pro-rated share of the monthly dollar contribution made by the city to be used for enrollment in city offered group health, life, and long term disability insurance plans which the employee may be eligible for based upon the regular hours the employee works, and c) pro-rated share shall be equivalent to the part time employee position's ratio of hours worked to full time equivalency.

For those part time employees hired prior to January 1, 2010, the flex dollar allowance shall be pro-rated based off of \$909 per month. For those electing "Employee Only" coverage, the maximum benefit for these part time employees shall be \$650 per month.

#### 4.2.6 *Health and Dependent Care Spending Accounts*

City will offer Flexible Spending Accounts as part of its Section 125 Plan for as long as such a plan is desired by the Union and available under the IRS Code. The Flexible Spending Accounts offered by the City include:

- a. Healthcare Spending Account: Out-of-pocket medical expenses that qualify under the IRS Code, up to the IRS Code limit. Employees are responsible to pay the monthly administrative fee and any increase established by the third-party administrator.
- b. Dependent Care Spending Accounts: Dependent care expenses that qualify under the IRS Code, up to the IRS Code limit. Employees are responsible to pay the monthly administrative fee and any increase established by the third-party administrator.
- c. Premium Only Plan: Employee's share of medical insurance premiums shall be deducted from employee's pay with pre-tax dollars as long as such deduction is allowable under the applicable IRS Code.

City shall establish annual enrollment period and each employee must re-enroll annually for either plan noted in a. and/or b. City shall have the authority to implement changes to the 125 Programs to comply with changes in applicable IRS laws without having to go through the meet and confer process.

#### 4.2.7 *Health Insurance Providers*

The City shall have the option, after meeting and consulting with representatives of the Union Stewards' Council, of either contracting with the Public Employees Retirement System (PERS) Health Benefits Division for health insurance or contracting directly with some or all of the providers of health insurance under the PERS program; provided, however, contracting directly with the providers shall not cause any material reduction in insurance benefits from those benefits available under the PERS program.

### **4.3 DENTAL PLAN**

The City will provide a dental insurance program for all full-time and part-time, permanent employees regularly scheduled to work a minimum of 20 hours per week.

All employees enrolled in the dental insurance program will be enrolled in the subgroup that provides \$1,500 maximum benefit for one Dental Expense Period for all covered dental expenses, for all eligible enrollees, except for Orthodontic Treatment which has an aggregate maximum benefit (lifetime) of \$1,000 and is limited to eligible dependent children. The City will pay the full cost of the monthly dental insurance premium for full-time employees, including those with a 35-hour full-time position. For the eligible part-time, permanent employees enrolling in the City's group dental insurance program, the City will pay the first \$70 per month of the actual premium rate for the eligible part-time, permanent employees and the enrolled employee will be responsible through payroll deduction for the balance of the monthly premium. In the event of an increase in the dental insurance premium, the City payment of eligible part-time, permanent employees shall be increased to maintain the same dollar differential between full-time and part-time. The plan shall cover enrollment for eligible employees and their eligible dependents. Refer to the dental insurance policy booklet for eligibility requirements and specific coverage and other benefit limitations.

### **4.4 VISION PLAN**

The City will provide vision care benefits for employee only coverage. Employees may enroll qualified family members and pay the premium costs for such enrollment.

## **4.5 RETIREMENT CONTRIBUTION**

### **4.5.1 Eligibility**

All employees whose full-time equivalency (FTE) is  $\frac{3}{4}$  of a full-time equivalent in their classification shall be eligible members of the Marin County Retirement Association. Employee rates shall be set according to MCERA policy. All other employees (except those noted above) shall be enrolled in the Public Agency Retirement System (PARS) as long as that remains an approved alternative to Social Security.

### **4.5.2 City Paid Employee Retirement (City Paid Member Contribution)**

Bargaining unit, members shall pay the full share of the employee's contribution to the Marin County Retirement System. The employee's share of their contribution shall be paid by the employee through automatic payroll deductions. In accordance with the Marin County Employees Retirement Association (MCERA) and City administrative requirements, all unit employees will pay an additional contribution of one percent (1%) of pensionable compensation toward the normal cost of pension provided by MCERA, in addition to the current employee contribution towards pension as determined by MCERA.

The City of San Rafael acknowledges that under its current practice, the employees' share of their retirement contribution is deducted with pre-tax dollars. This practice will continue until changed through the Meet and Confer process or until IRS regulations change.

### **4.5.3 Retirement Plans**

On January 1, 2007, the City shall provide the Marin County Employee Retirement Association 2.7% at 55-retirement program to all eligible miscellaneous members, as defined under the 1937 Act Government Code Section 31676, subject to Marin County Employee Retirement Association procedures and regulations and applicable 1937 Act laws that govern such plans. This is based on an employee's single highest year of compensation.

Employees hired on or after January 1, 2012, will receive an MCERA retirement benefit at the formula 2% at 55, calculated based on the average of their highest three years of compensation, in accordance with MCERA regulations. The annual pension adjustment shall be a maximum of 2% COLA. Minimum retirement age is 55.

Employees hired by the City on or after January 1, 2013 who are defined as "new members" of MCERA in accordance with the Public Employees' Pension Reform Act (PEPRA) of 2013, shall be enrolled in the MCERA 2% @ 62 plan for Miscellaneous members. The employee is responsible for paying the employee contribution of half of the total normal cost of the plan, as defined by MCERA, through a payroll deduction. Final compensation will be based upon the highest annual average compensation earnable during the thirty-six (36) consecutive months of employment immediately preceding the effective date of his or her retirement or some other period designated by the retiring employee. (Sections 4.5.3, 4.5.4, 4.5.5)

### **4.5.4 Member Cost of Living Rates**

Effective January 1, 2007, bargaining unit members who are eligible to participate in the Marin County Employee Retirement Association will pay their full share of members' cost of living rates as allowed under Articles 6 and 6.8 of the 1937 Retirement Act. Contribution rates include both the basic and COLA portions (50% of COLA is charged to members as defined in the 1937 Act).

## **4.6 DEFERRED COMPENSATION PLAN**

Child Care Unit employees who are contracted to work 35 hours or more each week are eligible to participate in the City's Deferred Compensation Plan.



## **4.7 STATE DISABILITY INSURANCE (SDI)**

Employees will have the full premium cost for SDI coverage automatically deducted from their paycheck and no City contribution will be made toward participation in the plan.

It is incumbent upon the employee to keep the City advised of their medical status, within HIPAA guidelines, and eligibility for SDI. With this notification, SDI benefits, as determined by the State, shall be integrated with accrued sick and vacation leave in the following manner:

- a. Employee notifies supervisor of disability and need for time off. At the same time employee files for SDI through the State Office.
- b. Supervisor verifies from leave records the employee's accrual balances and projects whether or not employee would, under normal circumstances, be placed in a leave without pay status during the time off period.
- c. Personnel Action Report (PAR) is completed by the supervisor to document request and approval of extended leave.
- d. Human Resources Department, on receipt of the PAR, contacts employee and supervisor to discuss availability of coordination of SDI with leave benefits.
- e. Employee's time off is recorded as sick leave and then, if necessary, vacation leave on time cards submitted by the supervisor to the Payroll Office.
- f. Upon receipt of the SDI payments, the employee must endorse the payments over to the City of San Rafael to receive credit for leave taken.
- g. Based upon the employee's hourly rate of pay, the Payroll Office computes how much used sick and/or vacation leave time the employee will be credited and credits the employee with those hours. NOTE: The employee may not be credited more than they accrued at or during the time of the disability.
- h. The Human Resources Department, after notification from Payroll, notifies the employee when they have used all accrued sick and/or vacation time and when leave without pay status (LWOP) begins. Once the employee is on LWOP, they would keep any SDI payments received and would be fully responsible for the monthly health, dental and life insurance premiums (except during qualifying FMLA/CFRA leave) if they choose to remain in the group plans.

## **5 LEAVES**

### **5.1 SICK LEAVE**

#### **5.1.1 Eligibility**

Sick leave with pay shall be granted to each eligible employee. Sick leave shall not be considered a privilege which an employee may use at employee's discretion but shall be allowed only in case of necessity and actual sickness or disability. The employee is required to notify employee's immediate supervisor or Department Director according to department rules and regulations at the beginning of his/her daily duties. Every employee who is absent from his/her daily duties for two (2) or more consecutive days may be requested by the supervisor to provide a physician's certificate. The inability or refusal by said employee to furnish the requested information, as herein required, shall constitute good and sufficient cause for disciplinary action, including dismissal.

### 5.1.2 *Sick Leave Accrual*

Eligible employees shall earn sick leave credits at the rate of one (1) working day per month commencing with the date of employment (based on the daily hours an eligible employee has contracted to work).

### 5.1.3 *Use of Sick Leave*

An employee may use accrued sick leave during their probationary period. An employee eligible for sick leave with pay shall be granted such leave for the following reasons:

1. Personal illness or illness within the immediate family including but not limited to the employee's spouse, registered domestic partner, sibling, unmarried children, including adopted child, stepchild, grandchild or recognized natural child who lives with the employee in a regular parent-child relationship, parent, including in-laws, and grandparents), or for any physical incapacity resulting from causes beyond the employee's control; or
2. Enforced quarantine of the employee in accordance with community health regulations; or
3. Medical appointments that cannot be scheduled during non-working hours.

### 5.1.4 *Advance of Sick Leave*

Whenever circumstances require, and with the approval of the City Manager, sick leave may be taken in advance of accrual up to a maximum determined by the City Manager, provided that any employee separated from the service who has been granted sick leave that is unaccrued at the time of such separation shall reimburse the City of all salary paid in connection with such unaccrued leave.

### 5.1.5 *Service Credit for Sick Leave*

Employees retiring from city service, within 120 days of leaving their position (excludes deferred retirements), and who will be receiving an ongoing retirement annuity from the Marin County Employees' Retirement System can receive service credit for retirement purposes only, for all hours of accrued, unused sick leave (exclusive of any sick leave hours they are eligible to receive and which they elect to receive in the form of compensation for at the time of retirement pursuant to Section 5.1.6 Compensation for Unused Portion.

Employees hired on or after October 31, 2009 are not eligible to receive employment service credit of any accrued, unused sick leave for retirement purposes.

### 5.1.6 *Compensation for Unused Portion*

Upon termination of employment by retirement (must retire within 120 days of leaving their City position, i.e., age and service eligible for retirement. Minimum 50 years old and 10 years of continuous service) or death, an eligible employee who leaves the City service in good standing shall receive compensation for all accumulated unused sick leave based upon the rate of three percent (3%) for each year of service, to a maximum of fifty percent (50%). The maximum accrual for payoff purposes is 150 days (based on employee's contracted work hours per day.

See Section 5.1.5 above for service credit eligibility for unused portion of sick leave.

## **5.2 VACATION LEAVE**

### 5.2.1 *Eligibility*

Annual vacation with pay shall be granted to eligible employees. Vacation accrual shall be prorated for those employees working less than full time. Vacation leave does not accrue to those working in the Child Care Temporary class. Vacation benefits may be taken as accrued and provided in Section

5.2.2. below. Probationary employees may take accrued vacation if authorized by the Department Director and approved by the City Manager.

**5.2.2 Rate of Accrual**

Vacation benefits shall accrue during the probationary period. However, use of accrued benefits shall not be allowed until the successful completion of the probationary period, unless specifically authorized by the Department Director and City Manager. Eligible employees shall commence to accrue vacation at the following rate for continuous service: Each service year on the chart begins in the first working day and ends on the last day of the service year.

<b>SERVICE YEAR</b>	<b>ANNUAL ACCRUAL</b>
1	10 days
2	10 days
3	10 days
4	15 days
5	15.75 days
6	16.50 days
7	17.25 days
8	18.00 days
9	18.75 days
10	19.50 days
11	20.00 days
12	21.00 days
13	22.00 days
14	23.00 days
15	24.00 days
16 plus	25.00 days

*Note: Vacation accrual rates shall be based on the daily hours an employee has contracted to work. If the employee's work day is six (6) hours, the employee will accrue ten (10) six-hour vacation days.*

**5.2.3 Administration of Vacation Leave**

The City Manager, upon the recommendation of the Department Director, may advance vacation credits to any permanent regular and permanent part-time employee. The time at which an employee may use his accrued vacation leave and the amount to be taken at any one time shall be determined by the employee's Department Director with particular regard for the needs of the City but also, insofar as possible, considering the wishes of the employee.

In the event that one or more City holidays fall within an annual vacation leave, such holidays shall not be charged as vacation leave and the vacation leave shall be extended accordingly.

Employees who resign from City service shall be paid in a lump sum for all accrued vacation leave earned prior to the effective date of termination.

The vacation accrual cap for all employees accruing vacation shall be 250 hours.

5.2.4 *Vacation Cash-In*

An employee who has taken at least ten (10) days of vacation in the preceding twelve (12) months may request, in May or November in any fiscal year, that accrued vacation, not to exceed seven (7) days, be converted to cash payments and the request may be granted at the discretion of the City Manager. Employees cannot cash in more than seven (7) days of vacation in any one twelve (12) month period.

**5.3 HOLIDAYS**

5.3.1 *Paid Holidays*

Employees shall be granted the following holidays:

January 1 <sup>st</sup>	New Year's Day
The third Monday in January	Martin Luther King Jr. Day
The third Monday in February	Washington's Birthday
March 31 <sup>st</sup>	Cesar Chavez Day
The last Monday in May	Memorial Day
July 4 <sup>th</sup>	Independence Day
The first Monday in September	Labor Day
November 11 <sup>th</sup>	Veteran's Day
The fourth Thursday in November	Thanksgiving Day
The fourth Friday in November	Day after Thanksgiving
December 25 <sup>th</sup>	Christmas Day

At the discretion of the Recreation Supervisor for the Child Care Program, the celebrated City holidays, noted above, will be coordinated with the public schools served by the Child Care Centers and/or those holidays falling on a Saturday or Sunday will be observed on either the Friday before or the Monday after pursuant to the City's annual holiday schedule. Part-time employees will be paid for holidays on a pro-rated basis.

5.3.2 *Floating Holidays*

In addition to the designated holidays, employees in this Unit receive two (2) floating holidays. One floating holiday will be provided in November and one floating holiday will be provided in May each year. Floating holidays not used by the end of the calendar year will be added to an employee's vacation balance in the first full pay period of each January. Part-time employees will be paid for holidays on a pro-rated basis.

**5.4 OTHER LEAVE**

5.4.1 *Bereavement Leave*

In the event of the death of an employee's spouse, child, parent, brother, sister, registered domestic partner, grandchild, grandparent, in-laws, relative who lives or has lived in the home of the employee to such an extent that the relative was considered a member of the immediate family and/or another individual who has a legal familial relationship to the employee and resided in the employee's household, up to three (3) days within the State and up to five (5) days out-of-state may be granted for bereavement leave.

In those cases where the death involves an individual who had such a relationship with the employee, as defined above, the employee shall sign a simple affidavit describing the relationship and submit this to the Department Director as part of the request for bereavement leave.

#### 5.4.2 *Jury Duty*

Employees required to report to jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided that the employee provides advance notice to the Appointing Authority and remits to the City all per diem service fees except mileage or subsistence allowance within thirty days from the termination of such duty.

#### 5.4.3 *Military Leave*

Military leave shall be granted in accordance with the State of California Military and Veteran's Code as amended from time to time. All employees entitled to military leave shall give the appointing authority and the Department Director an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

#### 5.4.4 *Leave of Absence Without Pay*

Leave of absence without pay may be granted by the City Manager upon the written request of the employee and the recommendation of the Child Care Recreation Supervisor. Accrued vacation leave and if applicable, accrued sick leave, must be exhausted prior to the granting of leave without pay.

#### 5.4.5 *Industrial Injury Leave*

For benefits under Workers' Compensation, an employee should report any on the job injury to his/her supervisor as soon as possible, preferably within twenty-four (24) hours. The Human Resources Department coordinates benefits for Workers' Compensation claims. For further information, see the City's Workers' Compensation policy located on the Intranet (<https://intranet.cityofsanrafael.org>).

Employees of the City who have suffered any disability arising out of and in the course of their employment as defined by the Worker's Compensation Insurance and Safety Act of the State of California, are entitled to all benefits allowed them by the Worker's Compensation Insurance and Safety Act of the State of California.

Temporary disability payments (TD) are made to all employees (full and part-time) when a physician reports an employee is unable to perform their job duties due to an industrial injury and the City cannot accommodate the restrictions mandated by their physician. TD is set by State law and is approximately two-thirds of full salary with state-mandated minimums and maximums. For full-time, regular employees, however, the City augments TD payments with salary continuation, as follows:

Compensation leave payments shall not exceed the employee's regular full pay for the first three (3) calendar months and three-fourths (3/4) of the regular full pay for the following six (6) calendar months.

#### **Sick Leave Usage Post Industrial Injury/Illness:**

The following rule applies to employees who have an accepted industrial injury/illness: Available accrued sick leave cannot be used for more than 60 calendar days after one of the following has been determined:

- The employee has reached maximum medical improvement and/or has been determined "permanent and stationary."
- The employee has been determined to be unable to return to their usual and customary occupation, with or without reasonable accommodation.

Given the above has occurred, next steps would include:

- The interactive process; attempt to locate other appropriate employment within the City

- If none available, proceed with termination process, including disability retirement application and/or Skelly process, if appropriate.

#### 5.4.6 *Family Medical Leave*

Union members agree to adhere to the provisions of the City's Family Medical Leave Policy which is available on the City's Intranet Website.

#### 5.4.7 *Catastrophic Leave*

Catastrophic Leave shall be in accordance with City Catastrophic Leave Policy which is available on the City's Intranet website.

#### 5.4.8 *Emergency/Smoke Leave*

In the event that an emergency is declared that impacts the City Child Care facilities or operations and results in the closure of any facilities, employees in this bargaining unit may be required to report to a worksite other than their regularly scheduled worksite to assist in emergency duties or to a non-impacted child care worksite for childcare duties at the discretion of the City.

If employees are not assigned to a non-impacted worksite or assigned to assist in emergency duties, they shall be granted leave up to 10 days in any calendar year and compensated for their regularly scheduled work day with no adverse effect to the employee.

This provision applies to Federal, State, County, or City declared emergencies or other non-declared circumstances that result in the closure of District schools.

The above section also applies if an employee is unable to work because the employee has been ordered to evacuate their permanent residence due to natural disaster or other government-declared emergency.

## **6 TERMS & CONDITIONS OF EMPLOYMENT**

### **6.1 HOURS OF WORK**

The work week for Child Care Center Directors shall be 37.5 hours per week and 35.0 hours per week for Child Care Instructors I and II.

Within the hours of operation, changes in the days or hours of the regular work schedule of an employee shall be posted at least seven (7) days in advance. No advance notice to employees by the City of schedule changes will be required when changes occur as a result of work-related emergencies, i.e., multiple sicknesses, disabilities or injuries; or staff shortage occurring less than seven days in advance or due to unplanned changes in school operations or schedules beyond the control of the City.

### **6.2 STAFF DEVELOPMENT / TRAINING DAYS**

Effective July 1, 1995, four (4) days of staff development/preparation will be provided per fiscal year. The scheduling of these days during the fiscal year will be accomplished through the recommendation of the Child Care Center Directors and approval of the Recreation Supervisor for the Child Care Program.

### **6.3 OVERTIME**

Overtime shall mean actual time worked beyond the standard scheduled workday or work week used for full-time employees as defined per job classification. A work or duty week shall be defined as seven (7) consecutive calendar days, beginning 0001 hours Sunday through 2400 hours Saturday.

Overtime is compensable to the nearest half-hour and must have prior authorization and approval of the Department Director.

## **6.4 COMPENSATORY TIME POLICY**

With the Department Director's approval, compensatory time, in lieu of overtime pay, may be taken subject to the following rules:

### **6.4.1 *Accrual Limit***

Upon accrual of time, five (5) days or forty (40) hours of compensatory time, employees shall be paid overtime at a rate of time and one-half of their base salary rate for hours worked and may not accrue additional compensatory time.

### **6.4.2 *Overtime Rate***

Employees who work overtime must be paid at the rate of time and one-half or may accrue compensatory time at a rate of time and one-half subject to the limitations in 6.4.1. Employees who elect compensatory time must take the time off, preferably within the quarter during which it was earned.

### **6.4.3 *Use & Carry Over***

All compensatory time earned during the fiscal year must be used by June 30<sup>th</sup> of that year with one exception. Upon the recommendation of the supervisor and approval of the Department Director, employees may carry over up to forty (40) hours of compensatory time provided it is taken within the following quarter (7-1 to 9-30).

## **6.5 PROBATION**

All employees hired on or after January 16, 1986, shall be required to serve a probationary period of one (1) year.

An employee who is appointed to a higher job classification shall serve a one-year promotional probationary period. If released from promotional probation, the employee will return to the previous job classification held before their promotion.

## **6.6 TEMPORARY PROMOTIONS**

Employees assigned to work out of class and perform the work of a Child Care Center Director for a period of three consecutive days or longer, will be compensated at an hourly rate of five percent (5%) greater than the employee's current rate, or at the lowest step of the Child Care Center Director's salary range, whichever is greater. The increase shall be retroactive to include the first day.

## **6.7 PERSONNEL RULES & REGULATIONS**

### **6.7.1 *Harassment Policy***

It is the City's intent and purpose to provide all officials, employees, applicants, and contractors with an environment that is free from any form of harassment, discrimination or retaliation. Employees shall refer to the City Policy against Harassment, Discrimination and Retaliation which is available on the City's Intranet website.

### **6.7.2 *Drug & Alcohol Policy***

The employees covered by this bargaining agreement agree to abide, as a condition of employment, by the terms of the City's Drug Free Work Place Policy which is available with the City's policies and on the City's Intranet website.

## **6.8 MISCELLANEOUS**

### **6.8.1 CPR / First Aid Training**

An annual program for cardiopulmonary resuscitation (CPR) and First Aid certification will be provided for persons working as Child Care Directors and Instructors II.

### **6.8.2 Gratuities / Solicitation of Contributions**

No employee shall receive, request, solicit, or demand gratuities from any citizen or company for services provided by the City. Such action shall be considered grounds for disciplinary action up to and including dismissal.

### **6.8.3 Labor / Management Meetings**

During the term of the Agreement, the City and the Union agree that consultation meetings may contribute to improved employer-employee relations. Issues relating to the cost of living in Marin County, job classes within the City and promotional opportunities may serve as a basis for initial agenda items to be discussed.

The committee shall be comprised of three (3) representatives from the Child Care Unit and three (3) from City Management as well as the Union staff and the Human Resources Director. The parties agree that committee members may change depending on the subject matter.

Meetings may be requested by either party. The party requesting the meeting shall submit a proposed agenda and the receiving party shall acknowledge and confirm the date, time and location of the requested meeting. It is intended that the subject matter will not include issues subject to Grievance Procedures outlined in this MOU and this language is not intended to create a re-opener clause in this MOU.

### **6.8.4 Child Care Division Employee Program Discount**

All Child Care Division staff with children enrolled in any City of San Rafael Child Care Division program will receive a 50% discount on program fees based on their level of enrollment. All policies regarding admission and attendance in the Child Care Program will continue to apply to Child Care staff in accordance with the Child Care Division Parent Handbook and Child Care Staff Handbook.

## **7 PROCEDURES**

### **7.1 DISCIPLINARY ACTION**

#### **7.1.1 Right to Discipline & Discharge**

Upon completion of the designated probationary period, an employee shall be designated as a non-probationary employee and the City shall have the right to discharge or discipline any such employee for dishonesty, insubordination, drunkenness, incompetence, negligence, failure to perform work as required or to observe the Department's safety rules and regulations or for engaging during the term of this Memorandum of Understanding, in strikes, individual or group slowdowns or work stoppages, or for violating or ordering the violation of the Memorandum of Understanding. The City shall use progressive disciplinary steps (i.e., reprimand, suspension, demotion, discharge) unless the violation is such as to justify termination. Disciplinary action shall mean discharge/dismissal, demotion, reduction in salary, and suspension resulting in loss of pay.

In addition, the City may discipline or discharge an employee for the following: Fraud in securing appointment; negligence of duty; violation of safety rules; unacceptable attendance record including tardiness, overstaying lunch or break periods; possession, distribution or under the influence of alcoholic beverages, non-prescription or unauthorized narcotics or dangerous drugs during working hours; inability, unwillingness, refusal or failure to perform work as assigned, required or directed;



unauthorized soliciting on City property or time; conviction of a felony or conviction of a misdemeanor involving moral turpitude; unacceptable behavior toward (mistreatment or discourteousness to) the general public or fellow employees or officers of the City; falsifying employment application materials, time reports, records, or payroll documents or other City records; misuse of City property; violation of any of the provisions of these working rules and regulations or departmental rules and regulations; disorderly conduct, participation in fights, horseplay or brawls; dishonesty or theft; establishment of a pattern of violations of any City policy or rules and regulations over an extended period of time in which a specific incident in and of itself would not warrant disciplinary action, however, the cumulative effect would warrant such action; failure to perform an acceptable level of work quality and quantity; insubordination; other acts inimical to the public service; inability or refusal to provide medical statement on cause of illness or disability.

### 7.1.2 *Preliminary Notice*

A non-probationary employee shall receive a preliminary written notice from the Recreation Supervisor for the Child Care Program of any proposed disciplinary action that involves the loss of pay. The notice must contain a specific statement of charges or grounds upon which the proposed disciplinary action is based and the date the disciplinary action will be effective.

Any known written materials, reports or documents upon which the disciplinary action is based must be attached to the notice.

Upon receipt of the notice, the non-probationary employee shall have five (5) days to appeal the matter in writing in Step 2 of the Grievance Procedure. If a written appeal is filed, no disciplinary action shall be imposed until the Department Director has conducted a hearing with the employee and employee's representative present and has heard the response of the employee. If no written appeal is filed within five (5) days, the employee shall be deemed to have waived his/her right to proceed to Step 4 of the Grievance Procedure.

### 7.1.3 *Disciplinary Action and Appeal*

After hearing the response of the employee, the Department Director may order that the proposed disciplinary action or modification thereof be imposed. The decision of the Department Director shall be final and binding for suspensions of five (5) days or less. For suspensions of more than five (5) days, demotions, reduction in pay, and terminations, thereafter, the employee shall notify the City within ten (10) days to appeal the matter to Step 4 (Arbitration) of the Grievance Procedure. The matter shall then proceed in accordance with the Grievance Procedure.

## 7.2 GRIEVANCE PROCEDURE

### 7.2.1 *Definition*

1. **Grievance** is a dispute, which involves the interpretation or application of any provision of this Memorandum of Understanding. All ordinances, resolutions, rules and regulations, which are not specifically covered by the provisions of this Memorandum shall not be subject to the Grievance Procedure.
2. **Day** shall mean any that the City Office is open for business, excluding Saturdays, Sundays and the holidays recognized by the City.
3. **Grievant** may be an individual employee or a group of employees or the Union on the behalf of a group of employees or the Union on its own behalf on matters involving the City and Union relationship.
4. **Time limits** begin with the day following the event causing the grievance or the day following receipt of a grievance decision.

### 7.2.2 Procedure

#### **Step 1**

Within seven (7) days of when the grievant knew or should have known of the act or omission causing the grievance, the grievant shall present either in writing or verbally a clear and concise statement of the grievance to the immediate supervisor.

Within five (5) days thereafter, the immediate supervisor shall investigate and respond to the allegations of the grievant.

#### **Step 2**

If the grievant is not satisfied with the resolution at Step 1, the grievant must reduce the grievance to writing and present it to the Department Director within five (5) days.

The written grievance shall contain a statement of facts about the nature of the grievance and shall identify the specific provisions of this Memorandum of Understanding alleged to be violated, applicable times, places and names of those involved, the remedy or relief requested, and shall be signed by the grievant.

The Department Director shall confer with the grievant and within ten (10) days respond to the allegations in writing.

#### **Step 3**

If the grievant is not satisfied with the resolution at Step 2, the grievant shall within five (5) days appeal the matter to the City Manager.

The City Manager shall investigate the matter, conduct a hearing if the City Manager deems it appropriate and within ten (10) days, thereafter, respond to the allegations in writing.

#### **Step 4**

If the grievance remains unresolved after Step 3, the Union may, by written notice to the City Human Resources Department within ten (10) days after the receipt of the response in Step 3, notify the City that the Union wishes to appeal the grievance to final and binding arbitration. The parties shall attempt to agree upon an arbitrator. If no agreement is reached, they shall request a list from the State Conciliation Service of nine (9) names.

Each party shall then alternately strike a name until only one (1) name remains, said person to be the arbitrator. The order of striking shall be determined by the flip of a coin.

### 7.2.3 Arbitration

The arbitrator shall be empowered to conduct a hearing and to hear and receive evidence presented by the parties. The hearing shall be informal and need not be conducted according to technical rules of evidence. Repetitious evidence may be excluded and oral evidence shall be taken only under oath. The arbitrator shall determine what evidence is relevant and pertinent, as well as any procedural matters, and he/she may call, recall and examine witnesses, as he/she deems proper.

The burden of proof shall be upon the Union in grievance matters and upon the City in disciplinary/discharge matters.

After the conclusion of any hearing and the submission of any post hearing evidence or briefs agreed upon by the parties, the arbitrator shall render a written decision which shall be final and binding upon the City, the Union and any employee(s) involved in the grievance or disciplinary matter.

The arbitrator shall not be empowered to add to, subtract from, or in any way modify or alter any provision of this Memorandum of Understanding. The arbitrator shall only determine whether a

grievance exists in the manner alleged by the grievant, and what the proper remedy, if any, shall be, or in the case of disciplinary/discharge matter whether the City allegations are accurate and the appropriateness of the disciplinary penalty.

The fees and expenses of the arbitrator shall be shared equally by the Union and the City. All other expenses shall be borne by the party incurring them. The cost of the services of court reporter shall be borne by the requesting party unless there is a mutual agreement to share the cost or unless the arbitrator so requests. Then the costs will be shared equally.

#### **7.2.4 General Provisions**

1. Employees who participate in the Grievance Procedure, by filing a grievance or acting as a witness on the behalf of either party shall be free from discrimination by either the Union or the City.
2. A grievant has the right to be represented at each stage of the procedure, to cross examine witnesses, and have access to all information regarding the basis of the grievance upon which the City relies in making its determinations.
3. If the City management fails to respond within the specified time limits, the grievance shall, at the request of the Union, automatically be moved to the next step of the procedure. If the Union or a grievant fails to process or appeal a grievance within the specified time limits, the matter shall be deemed settled. The parties may by mutual agreement waive the steps in the procedure.
4. If a hearing is held during work hours of employee witnesses, such employees shall be released from duties without loss of pay or benefits to appear at the hearing. Witnesses requested by the parties shall be compelled to attend said hearings.
5. The Human Resources Department shall act as the central repository for all grievances.
6. Time limits contained herein may be extended by mutual agreement of the parties. Absence for bona fide reasons by a grievant, the Union Executive Secretary or any management official involved in responding to the grievance shall automatically extend the time limits by the same number of days of absence.

### **7.3 VOLUNTARY TIME OFF (VTO)**

An employee may request voluntary time off without pay, in lieu of using accrued vacation and/or sick leave, for a minimum of one full workday and not to exceed ten (10) working days in any calendar year. The needs of the City, specifically the Child Care Division will need to be considered prior to approving a request for VTO.

### **7.4 REDUCTION IN FORCE**

#### **7.4.1 Authority**

The Appointing Authority may lay off, without prejudice, any employee covered by this MOU because of lack of work or funds, or organizational alterations, or for reasons of economy or organizational efficiency.

#### **7.4.2 Notice**

Employees covered by this MOU designated for layoff or demotion shall be notified in writing at least fifteen (15) calendar days prior to the anticipated date of termination or demotion. The employee organization shall also be notified.

#### 7.4.3 *Order of Layoff*

Layoffs and/or reductions in force shall be made by classification, consistent with the licensing requirements of the California Department of Social Services. A classification is defined as a position or number of positions having the same title, job description and salary. Extra hire employees shall be laid off before permanent employees in the affected classification. In effecting the preceding order, a part-time permanent employee with more seniority can displace a full-time permanent employee.

#### 7.4.4 *Seniority*

If two or more employees within a classification have achieved permanent status, such employees will be laid off or reduced on the following basis:

- a. Seniority within the affected classification will be determinative. Such seniority shall include time served in higher classification(s). The computation of seniority for part-time employees will be credited on a pro-rata basis to full-time service. Time spent on a City Manager approved leave of absence without pay does not count toward seniority.
- b. If the seniority of two or more employees in the affected classification or higher classifications(s) is equal, departmental seniority shall be determinative.
- c. If all of the above factors are equal, the date regular status in City service is achieved shall be determinative.
- d. If all of the above are equal, date of certification for appointment shall be determinative.

#### 7.4.5 *Bumping Rights*

An employee designated to be laid off may bump into a class at the same salary level, for which he or she meets the minimum qualifications or into the next lower classification in which such employee has previously held regular status. An employee who is bumped shall be laid off in the same manner as an employee whose position is abolished.

#### 7.4.6 *Transfer Rights*

The Human Resources Director will make every effort to transfer an employee who is to be affected by a reduction in force to another vacant position for which such employee may qualify. The length of eligibility for such transfer will be the period of notification as provided in Section 7.4.2, but no longer than the effective date of such layoff or reduction.

### **7.5 RE-EMPLOYMENT**

#### 7.5.1 *General Guidelines*

Individuals who have been laid off or demoted shall be offered re-appointment to the same classification in which they held status in the order of seniority in the classification. Individuals demoted in lieu of reduction in force shall be offered restoration to the highest class in which they held status and in which there is a vacancy prior to the appointment of individuals who have been laid off.

#### 7.5.2 *Right to Re-Employment*

Each person who has been laid off or demoted in lieu of a layoff from a position the person held, shall, in writing, be offered re-appointment in the same classification should a vacancy occur in the classification within two years after the layoff or demotion. Prior to being re-employed, the employee must pass a physical exam administered by a City appointed physician and must pass the background check administered by the City.

### 7.5.3 *Time Limits*

Should the person not accept the re-appointment within seven (7) calendar days after the date of the offer, or should the person decline or be unable to begin work within two weeks after the date of acceptance of the offer, the person shall be considered unavailable for employment, shall forfeit the right to re-employment and be removed from the re-employment list.

### 7.5.4 *Availability*

Whenever a person is unavailable for re-employment, the next senior person who is eligible on the re-employment list shall be offered re-employment.

### 7.5.5 *Probationary Status*

Employees re-appointed under the provisions above will not be required to complete a new probationary period if they had previously held permanent status in the classification. Employees who had not completed their probationary period shall serve the remainder of the probationary period upon re-appointment.

### 7.5.6 *Restoration of Benefits*

Employees restored to previously held positions shall be deemed to have returned from a leave of absence for the purpose of all rights and benefits legally permissible. Time not on the payroll will not count as time worked for the purposes of seniority accrual.

## **8 REOPENER RELATED TO REORGANIZATION OF CITY'S CHILDCARE PROGRAM**

The City anticipates it may need to restructure the Childcare program in order to modify the service delivery model to make the program more sustainable, reduce vacancies and ensure competitive compensation. In the event that the Miller Creek School District implements full-day kindergarten classes, or the City is not able to fill its current budgeted staffing levels, the City would like to explore additional options to modify the service delivery model. In anticipation of this, the Parties agree to work collaboratively over the term of this agreement on plans to reorganize before final decisions are made and subsequently, to meet and confer to the extent required by the MMBA upon the request of the City regarding any plan to reorganize the Childcare program during the term of this MOU, and that this reorganization may include the following:

- 1) Modification of bargaining unit employees' work schedules and the number of hours bargaining unit employees work under Section 6.1 of the MOU
- 2) Utilizing part-time Instructors and Directors
- 3) Fixed Term Instructors
- 4) Classification study of the current classifications

The City agrees it will provide at least 90 days' notice to the Union of its reorganization plans and will provide the Union the right to meet and confer with the City. This section does not waive the Parties' obligations pursuant to the MMBA to negotiate in good faith regarding negotiable subjects.

**SEIU Local 1021 – Child Care:**

---

**Joel Evans-Fudem**  
**SEIU 1021 Field Representative**

---

**Patricia Cerutti-Saylors, Child Care Director**

---

**Gabriela Farias, Child Care Director**

---

**Jocelyn Hallroan, Child Care Director**

---

**Andrea Zanetti, SEIU 1021 Regional Director**

---

**David Canham, SEIU 1021 Executive Director**

---

**DATE**

**CITY OF SAN RAFAEL:**

---

**Tim Davis, Lead Negotiator**  
**Burke Williams Sorensen**

---

**Sylvia Gonzalez-Shelton, HR Operations Manager**

---

**DATE**

**SEIU Local 1021 - Child Care Unit**  
**SALARY SCHEDULE**  
Effective November 1, 2021

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director	\$ 4,244	\$ 4,456	\$ 4,679	\$ 4,913	\$ 5,159
9350	Instructor II	\$ 3,046	\$ 3,198	\$ 3,358	\$ 3,526	\$ 3,702
9351	Instructor I	\$ 2,373	\$ 2,491	\$ 2,616	\$ 2,747	\$ 2,884

*\*Employees are eligible to advance to Step E after at least 2 years at Step D in the current job class*

**HOURLY RATES:**

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director (37.5 hrs/week)	\$ 26.1167	\$ 27.4225	\$ 28.7936	\$ 30.2333	\$ 31.7450
9350	Instructor II (35 hrs/week)	\$ 20.0834	\$ 21.0876	\$ 22.1420	\$ 23.2491	\$ 24.4115
9351	Instructor I (35 hrs/week)	\$ 15.6451	\$ 16.4274	\$ 17.2487	\$ 18.1112	\$ 19.0167

**SEIU Local 1021 - Child Care Unit**  
**SALARY SCHEDULE**  
Effective November 1, 2022

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director	\$ 4,371	\$ 4,590	\$ 4,819	\$ 5,060	\$ 5,313
9350	Instructor II	\$ 3,137	\$ 3,294	\$ 3,459	\$ 3,632	\$ 3,813
9351	Instructor I	\$ 2,444	\$ 2,566	\$ 2,695	\$ 2,829	\$ 2,971

*\*Employees are eligible to advance to Step E after at least 2 years at Step D in the current job class*

**HOURLY RATES:**

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director (37.5 hrs/week)	\$ 26.9002	\$ 28.2452	\$ 29.6574	\$ 31.1403	\$ 32.6973
9350	Instructor II (35 hrs/week)	\$ 20.6859	\$ 21.7202	\$ 22.8062	\$ 23.9465	\$ 25.1438
9351	Instructor I (35 hrs/week)	\$ 16.1145	\$ 16.9202	\$ 17.7662	\$ 18.6545	\$ 19.5872



**SEIU Local 1021 - Child Care Unit**  
**SALARY SCHEDULE**  
Effective November 1, 2023

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director	\$ 4,502	\$ 4,728	\$ 4,964	\$ 5,212	\$ 5,473
9350	Instructor II	\$ 3,231	\$ 3,393	\$ 3,563	\$ 3,741	\$ 3,928
9351	Instructor I	\$ 2,517	\$ 2,643	\$ 2,775	\$ 2,914	\$ 3,060

*\*Employees are eligible to advance to Step E after at least 2 years at Step D in the current job class*

**HOURLY RATES:**

Grade	Position	A	B	C	D (2 yr step)	E*
9352	Director (37.5 hrs/week)	\$ 27.7072	\$ 29.0925	\$ 30.5472	\$ 32.0745	\$ 33.6783
9350	Instructor II (35 hrs/week)	\$ 21.3065	\$ 22.3718	\$ 23.4904	\$ 24.6649	\$ 25.8982
9351	Instructor I (35 hrs/week)	\$ 16.5979	\$ 17.4278	\$ 18.2992	\$ 19.2142	\$ 20.1749