



AGENDA

SAN RAFAEL CITY COUNCIL – MONDAY, FEBRUARY 7, 2022

REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2022-02-07>

Watch on YouTube: www.youtube.com/cityofsanrafael

Listen by phone: (669) 900-9128

ID: 817-3692-0337#

One Tap Mobile: US: +16699009128,,81736920337#

CORONAVIRUS (COVID-19) ADVISORY NOTICE

In response to Assembly Bill 361, the City of San Rafael is offering teleconference without complying with the procedural requirements of Government Code section 54953(b)(3). This meeting will be held virtually using Zoom and is being streamed to YouTube at 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.
- 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 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

1. None.

CLOSED SESSION

2. Closed Session: None

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 Tuesday, January 18, 2022 (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. **Fire Station 54 & 55 - Inspection of Record Services**

Resolution Authorizing the City Manager to Execute a Professional Services Agreement with 4LEAF, Inc. for Inspection of Record Services Related to Phase 2 Essential Facilities Projects - Fire Station 54 and 55 In the Amount of \$126,100 (PW)

Recommended Action - Adopt Resolution

d. **FY 2021-22 Vehicle Replacement**

Resolution Authorizing the City Manager to Purchase Five (5) Patrol Cars for the Police Department and Two (2) Parking Enforcement Vehicles for the Parking Services Department in a Total Amount Not to Exceed \$476,805 (PW)

Recommended Action - Adopt Resolution

e. **PG&E Easement Required for Fire Station 54**

Resolution Authorizing the City Manager to Execute a Grant of Easement Deed for Public Utility Purposes to Pacific Gas and Electric Company for the City's Fire Station 54 Project (PW)

Recommended Action - Adopt Resolution

f. **Americans with Disabilities Act (ADA) Improvements at Albert Park Ball Field**

Resolution Awarding and Authorizing the City Manager to Execute a Construction Agreement for Installation of a Prefabricated Restroom Building and Access Ramp at Albert Park Ball Field, City Project No. 11372, to McNabb Construction Inc. in the Amount of \$184,884, and Authorizing Contingency Funds in the Amount of \$20,116, For a Total Appropriated Amount of \$205,000 (PW)

Recommended Action - Adopt Resolution

g. **Francisco Boulevard East Resurfacing Project**

Accept Completion of the Francisco Boulevard East Resurfacing Project (City Project No. 11389), and Authorize the City Clerk to File the Notice of Completion (PW)

Recommended Action - Accept Completion and authorize City Clerk to file Notice of Completion

h. Temporary Street Closure to Support Voces Del Canal

Resolution Authorizing Alto Street Closure on February 26, 2022 to Support Voces Del Canal to Host an Outdoor Photography Exhibit (PW)

Recommended Action - Adopt Resolution

SPECIAL PRESENTATIONS

6. Special Presentations:

- a. Presentation of Proclamation Supporting Black History Month (HR)

PUBLIC HEARINGS

7. Public Hearings:

- a. **The Neighborhood at Los Gamos, a Proposed Mixed-Use Project Consisting of Residential and Commercial Land Uses on the Property at the Southerly Terminus of Los Gamos Drive North of Oleander Drive; Christopher Hart, Applicant and Property Owner**
Adopt Resolutions and Pass Ordinance to Print Related to The Neighborhood at Los Gamos Proposed Mixed-Use Project (CD)

- i. Resolution Adopting an Initial Study/Mitigated Negative Declaration and Approving a Mitigation Monitoring and Reporting Program (IS20-004);
Recommended Action - Adopt Resolution
- ii. Resolution Approving a General Plan Amendment (GPA 20-001) from Hillside Resource Residential to Neighborhood Commercial Mixed Use;
Recommended Action - Adopt Resolution
- iii. Ordinance Approving a Zone Change (ZC 20-002) from Planned District - Hillside Development Overlay District (PD-H) and Residential - Hillside Development Overlay District (R2A-H) to Planned Development District (PD); And
Recommended Action - Pass Ordinance to print
- iv. Resolution Approving Environmental and Design Review (ED-20-058) and a Vesting Tentative Parcel Map (TS20-002)
Recommended Action - Adopt Resolution

OTHER AGENDA ITEMS:

8. Other Agenda Items:

a. Third Street Rehabilitation Project

Adopt Resolutions Related to the Third Street Rehabilitation Project, City Project No. 11315 (PW)

- i. Resolution Awarding and Authorizing the City Manager to Execute the Construction Agreement for Third Street Rehabilitation Project to Ghilotti Bros, Inc., in the Amount of \$18,248,707.54 and Authorizing Contingency Funds in the Amount of \$2,551,292.46 for a Total Appropriated Amount of \$20,800,000;
Recommended Action - Adopt Resolution
- ii. Resolution Approving and Authorizing the City Manager to Execute an Amendment to the Professional Services Agreement with CSW/Stuber-Stroeh Engineering Group, Inc.

for Engineering Construction Support Services Associated with Third Street Rehabilitation Project, in the Amount of \$117,000 for a New Total Professional Services Agreement of \$1,042,782;

Recommended Action - Adopt Resolution

- iii. Resolution Approving and Authorizing the City Manager to Execute a Reimbursement Agreement with the San Rafael Sanitation District for Bid Schedule B of the Construction Contract, Construction Management, and Material Testing Services for the Third Street Rehabilitation Project; And

Recommended Action - Adopt Resolution

- iv. Resolution Approving and Authorizing the City Manager to Execute a Reimbursement Agreement with the Marin Municipal Water District for Bid Schedule C of the Construction Contract and Construction Management for the Third Street Rehabilitation Project

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 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 – TUESDAY, JANUARY 18, 2022

REGULAR MEETING AT 7:00 P.M.

Watch on Webinar: <https://tinyurl.com/cc-2022-01-18>

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Present: Mayor Kate
Vice Mayor Kertz
Councilmember Bushey
Councilmember Hill
Councilmember Llorens Gulati (joined at 7:03 p.m.)

Absent: None

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

OPEN SESSION

1. None.

CLOSED SESSION

2. Closed Session: - None.

Mayor Kate called the meeting to order at 7:02 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. She joined the meeting at 7:03 p.m.

Mayor Kate provided opening remarks, which included a land acknowledgment, gratitude to City staff and honoring Martin Luther King Jr.

City Clerk Lindsay Lara announced the process for Spanish interpretation tonight. She informed the community that the meeting would be 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

- Lori, addressed the City Council regarding the Third Street Improvements item at the May 3, 2021 Council Meeting.
- Eva Chrysanthe, addressed the City Council regarding Martin Luther King and services at the Service Support Area.

CITY MANAGER'S REPORT:

3. City Manager's Report:

City Manager Jim Schutz announced:

- COVID-19 and Omicron Update
- Update on in-person meetings

Mayor Kate invited public comment.

Speaker: Eva Chrysanthe

COUNCILMEMBER REPORTS:

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

4. Councilmember Reports:

- Councilmember Kertz reported on Marin Wildfire Prevention Authority, Point-in-Time Count and Alert Marin.
- Councilmember Bushey reported on Central Marin Sanitation Agency, water resources and library issues.
- Councilmember Hill reported on the Southern Heights Bridge opening and a MCCMC Water Committee meeting.
- Councilmember Llorens Gulati reported on COVID and the retirement of Natu Tuatagaloa, San Rafael Board of Education.
- Mayor Kate reported on Marin Transit and 580/101 Ad Hoc meetings.

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

CONSENT CALENDAR:

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

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

5. Consent Calendar Items:

a. **Approval of Minutes**

Approve Minutes of City Council / Successor Agency Regular Meeting of Monday, December 20, 2022 (CC)

Approved 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)**
Resolution 15017 - 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
- c. Vacancies on San Rafael Boards and Commissions Announcement of Vacancies on the Cannabis Industry Tax Oversight Committee and the Fire Commission (CC)**
Received and filed
- d. Pickleweed Advisory Committee Appointment Approve Appointment of Miguel Hau-Gutierrez to the Pickleweed Advisory Committee as a Youth Member to the End of December 2024 (CC)**
Approved appointment
- e. Residential Building Resale (RBR) Report Resolution Adopting an Extension of Temporary Measures for Administering the Residential Building Record Program ("RBR Program") Set Forth in San Rafael Municipal Code Title 12 (Building Regulations), Chapter 12.36 (Report of Residential Building Record) During the High Demand Real Estate Market and COVID-19 Pandemic (CD)**
Resolution 15018 - Resolution Adopting an Extension of Temporary Measures for Administering the Residential Building Record Program ("RBR Program") Set Forth in San Rafael Municipal Code Title 12 (Building Regulations), Chapter 12.36 (Report of Residential Building Record) During the High Demand Real Estate Market and COVID-19 Pandemic
- f. City Quarterly Investment Report Acceptance of City of San Rafael Quarterly Investment Report for the Quarter Ending December 31, 2021 (Fin)**
Accepted report
- g. Fire Mid-Management Personnel Changes Resolution Approving the Reclassification of One Fire Department Battalion Chief Position to a Deputy Fire Chief and Add a Deputy Director of Emergency Management Position (HR)**
Resolution 15019 - Resolution Approving the Reclassification of One Fire Department Battalion Chief Position to a Deputy Fire Chief and Add a Deputy Director of Emergency Management Position
- h. Revised Salary and Benefit Plan for Temporary Employees Resolution Rescinding Resolution 14268 and Adopting a Revised Temporary, Seasonal, Retiree, and Fixed-Term Employees Salary and Benefit Plan and Salary Schedule (HR)**
Resolution 15020 - Resolution Rescinding Resolution 14268 and Adopting a Revised Temporary, Seasonal, Retiree, and Fixed-Term Employees Salary and Benefit Plan and Salary Schedule
- i. California State Preschool Program Continued Funding Application**

Resolution Authorizing the Senior Recreation Supervisor-Child Care to Submit an Application to the California Department of Education for a Grant to Provide Child Care and Development Services for Fiscal Year 2022-2023, and if Granted, to Sign all Necessary Grant Documents (LR)

Resolution 15021 - Resolution Authorizing the Senior Recreation Supervisor-Child Care to Submit an Application to the California Department of Education for a Grant to Provide Child Care and Development Services for Fiscal Year 2022-2023, and if Granted, to Sign all Necessary Grant Documents

- j. **Albert Park Fencing and Netting**
Albert Park Fencing and Netting Project, City Project No. 11372 Bid Rejection (PW)
Rejected bid and directed staff to develop design alternatives

- k. **Caltrans Local Procedures**
Resolution Adopting Chapter 10 of the Caltrans Local Assistance Procedures Manual Entitled "Consultant Selection", as well as All Future Updates, as the Process by which the City Procures Architectural and Engineering Consultant Services Related to Federal and State Funded Transportation Projects (PW)
Resolution 15022 - Resolution Adopting Chapter 10 of the Caltrans Local Assistance Procedures Manual Entitled "Consultant Selection", as well as All Future Updates, as the Process by which the City Procures Architectural and Engineering Consultant Services Related to Federal and State Funded Transportation Projects

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

PUBLIC HEARING AT 7:30 PM:

6. Public Hearing:

- a. [2021-2022 City Council Redistricting Process](#)
Second Public Hearing on Existing Council District Lines and Possible Changes (CA)

City Attorney Robert Epstein introduced Marguerite Leon, Legal Counsel from Nielsen Merksamer. She and Kristen Parks, National Demographics Corporation presented the Staff Report.

Mayor Kate invited public comment.

Speaker: Eva Chrysanthe

Staff responded to public comment.

Councilmembers provided comments.

Councilmember Bushey moved and Councilmember Llorens Gulati seconded to accept the report.

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

Accepted report

OTHER AGENDA ITEMS:

7. Other Agenda Items:

a. **San Quentin Pump Station**

Informational Report regarding the San Quentin Pump Station Reconstruction Project and Funding (PW)

Bill Guerin, Public Works Director introduced April Miller, Assistant Public Works Director who presented the Staff Report.

Staff responded to questions from Councilmembers.

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

Staff responded to public comment.

Councilmember Kertz moved and Councilmember Hill seconded to accept the report.

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

Accepted report

SAN RAFAEL SUCCESSOR AGENCY:

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

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

1. Consent Calendar:

a. **Recognized Obligation Payment Schedule (ROPS) for Fiscal Year 2022-23
Acceptance of ROPS Report and Authorization to Submit to the Marin County Successor
Agency Oversight Board and the State Department of Finance (Fin)**

Accepted report

b. **Successor Agency Quarterly Investment Report
Acceptance of Successor Agency Quarterly Investment Report for the Quarter Ending
December 31, 2021 (Fin)**

Accepted report

AYES: Members: Bushey, Hill, Kertz, Llorens Gulati & Chair Kate
NOES: Members: None
ABSENT: Members: None

ADJOURNMENT:

Mayor Kate adjourned the meeting at 8:36 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2022

KATE COLIN, Mayor

DRAFT



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 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

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

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

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 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 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.

ATTACHMENTS:

1. Resolution

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 7th day of February 2022, by the following vote, to wit:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

Lindsay Lara, City Clerk



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

**Prepared by: Bill Guerin,
Director of Public Works**

City Manager Approval: 

File No.: 06.01.245

TOPIC: FIRE STATION 54 & 55 – INSPECTION OF RECORD SERVICES

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH 4LEAF, INC. FOR INSPECTION OF RECORD SERVICES RELATED TO PHASE 2 ESSENTIAL FACILITIES PROJECTS - FIRE STATION 54 AND 55 IN THE AMOUNT OF \$126,100

RECOMMENDATION: Adopt a resolution approving and authorizing the City Manager to execute the professional services agreement with 4LEAF, Inc. (“4LEAF”) to provide Inspection of Record Services for Fire Station 54 and 55 Project, in an amount not to exceed \$126,100.

BACKGROUND:

On November 5, 2013, Measure E passed extending the existing one-half percent local sales tax and increasing the rate by one-quarter percent to provide funding that can be used to preserve essential city services. The City has since used those resources to plan, design, construct and manage two new stand-alone fire stations, 52 and 57, and a new Public Safety Center (PSC) that incorporates Fire Station 51. These three projects are collectively referred to as “Phase 1” of the City’s Essential Facilities Program. They have all been successfully completed, occupied and are operational. The Essential Facilities program also includes the design, construction, and management of Fire Stations 54 and 55 referred to as “Phase 2”.

On October 18, 2021, the City Council adopted Resolution No. 14988 awarding the construction contract for the Fire Station 54 and 55 Project to Wickman Development and Construction.

ANALYSIS:

Essential Facilities require that various inspection tasks be performed to ensure that the buildings comply with Code and that they remain available during and after seismic, or other, destructive events occur.

An “Inspector of Record” is required to ensure overall quality of the work and to ensure that the project is constructed according to plans and specifications.

On November 1, 2021, Public Works solicited statements of qualifications for Inspection of Record services. The City did not receive any proposal for Inspection of Record Services.

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

On December 6, 2021, a second request for qualifications was sent out to seven firms. Again, no proposals were received.

Staff solicited proposals individually and on December 17, 2021, 4LEAF submitted a statement of qualifications and confirmed having the necessary staffing capacity to service the Fire Station 54 and 54 inspection of record needs. 4LEAF's submission was evaluated by City staff based on criteria specified in the request for qualifications. These criteria included expertise in the work to be performed, prior experience with similar projects, qualified personnel, response times, and references. Staff determined that 4LEAF met the necessary qualifications to provide the necessary services for the project.

4LEAF submitted a proposal to perform these services for a not-to-exceed amount of \$126,100 (Attachment 3). Staff recommends authorizing the City Manager to execute the agreement with 4LEAF for Inspection of Record services in the form attached as Attachment 2 to this report, subject to final approval as to form by the City Attorney.

FISCAL IMPACT: These funds will be appropriated from the portion of Measure E revenues allocated to public safety facilities construction and improvements.

OPTIONS:

1. Adopt a resolution authorizing the City Manager to execute a professional services agreement with 4LEAF, Inc. related to the provision of Inspection of Record services concerning Fire Stations 54 and 55, in the amount not to exceed \$126,100.
2. Do not adopt the resolution and provide direction to staff.

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute the professional services agreement with 4LEAF.

ATTACHMENTS:

1. Resolution Authorizing the City Manager to Execute a Professional Services Agreement with 4LEAF for Inspection of Record Related to Phase 2 Essential Facilities Projects - Fire Station 54 and 55, in the Amount of \$126,100.
2. Professional Services Agreement with 4LEAF for Inspection of Record for the Fire Stations 54 and 55 Renovation Project
3. Proposal – Exhibit “A” to Professional Services Agreement.

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH 4LEAF, INC. FOR INSPECTION OF RECORD SERVICES RELATED TO PHASE 2 ESSENTIAL FACILITIES PROJECTS - FIRE STATION 54 AND 55 IN THE AMOUNT OF \$126,100

WHEREAS, in November 2013, the local voters passed Measure E extending the existing one-half percent local sales tax and increasing the rate by one-quarter percent to provide funding to preserve essential city services. This tax supplanted the former, one-half cent transactions and use tax (Measure S), effective April 1, 2014; and

WHEREAS, the City has since used those resources to plan, design, construct and manage two new stand-alone fire stations, 52 and 57, and a new Public Safety Center (PSC) that incorporates Fire Station 51. These three projects, collectively referred to as "Phase 1" of the City's Essential Facilities Program, have successfully been completed and occupied; and

WHEREAS, the Essential Facilities program also includes the design, construction and management of Fire Stations 54 and 55 referred to as "Phase 2"; and

WHEREAS, the City successfully bid the Fire Station 54 and 55 Project and has awarded the construction contract to the lowest responsible bidder; and

WHEREAS, Essential Facilities require that various inspection tasks be performed to ensure that the buildings are in compliance with Code and that they remain available during and after seismic and other destructive events occur; and

WHEREAS, on November 1, 2021, Public Works solicited statements of qualifications Inspection of Record Services and did not receive any responses; and

WHEREAS, on December 6, 2021, Public Works solicited statements of qualifications a second time, from seven firms; and

WHEREAS, on December 17, 2021, a statement from 4LEAF, Inc. was received and evaluated by City staff based on the criteria specified in the request for qualifications; and these criteria included expertise in the work to be performed, prior experience with similar projects, qualified personnel, response times, and references; and

WHEREAS, 4LEAF, Inc. has been selected as the most qualified firm to provide the necessary services for the Project;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Rafael as follows:

1. The City Manager is hereby authorized to execute a Professional Services Agreement with 4LEAF, Inc. in the form included with the staff report for this resolution, subject to final approval as to form by the City Attorney, for necessary inspection of record services in the amount of \$126,100.
2. Funds totaling \$126,100 will be appropriated for City Project No. 11394 and 11395 from the Essential Facilities Capital Projects Fund (#420).

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 7th day of February 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk

AGREEMENT FOR PROFESSIONAL SERVICES

FOR FIRE STATION 54 & 55 INSPECTION OF RECORD SERVICES

This Agreement is made and entered into this ____ day of _____, 20__, by and between the CITY OF SAN RAFAEL (hereinafter "**CITY**"), and 4LEAF, INC., a corporation authorized to do business in California (hereinafter "**CONSULTANT**").

RECITALS

WHEREAS, the **CITY** requires Inspector of Record services for Fire Stations 54 and 55; and

WHEREAS, the **CONSULTANT** has agreed to render such services.

AGREEMENT

NOW, THEREFORE, the parties hereby agree as follows:

1. **PROJECT COORDINATION.**

A. **CITY'S Project Manager.** Fabiola Guillen-Urfer 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**. Nicoleta Leontiades 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 services as outlined in **CONSULTANT**'s proposal, dated January 13, 2022, (based on City Request for Proposals for Inspector of Record Services dated December 3, 2021 incorporated herein by reference) marked as Exhibit A, attached hereto and incorporated herein.

3. **DUTIES OF CITY.**

CITY shall pay the compensation as provided in Paragraph 4, and perform the duties as follows outlined in Exhibit A.

4. COMPENSATION.

For the full performance of the services described herein by **CONSULTANT**, **CITY** shall pay **CONSULTANT** on an hourly rate basis for services rendered in accordance with the rates shown in Exhibit A, for a total not-to-exceed amount of \$126,100.

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

5. TERM OF AGREEMENT.

The term of this Agreement shall be for 18 months commencing upon date of execution of this agreement. 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 one year.

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

C. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this

Agreement, and shall survive the termination or completion of this Agreement for the full period of time allowed by law.

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:	Fabiola Guillen-Urfer City of San Rafael 111 Morphew Street San Rafael, CA 94901
------------------------------------	---

TO CONSULTANT 's Project Director:	Craig Tole 4LEAF 2126 Rheem Drive Pleasanton, CA 94588
---	---

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.

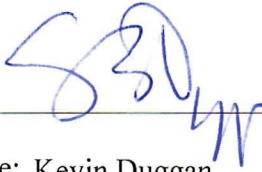
This Agreement may be executed by electronic signature and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one document. Counterpart signature pages may be delivered by telecopier, email or other means of electronic transmission.

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

CITY OF SAN RAFAEL

CONSULTANT : 4LEAF, Inc.

JIM SCHUTZ, City Manager

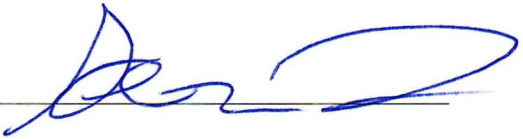
By:  _____
Name: Kevin Duggan
Title: President / Secretary

ATTEST:

LINDSAY LARA, City Clerk

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

APPROVED AS TO FORM:

By:  _____
Name: Gene Barry
Title: Vice-President

ROBERT F. EPSTEIN, City Attorney



City of San Rafael
Public Works Department
ATTN: Fabiola Guillen-Urfer
1400 Fifth Avenue
San Rafael, CA 94901

January 13, 2022

RE: Cost Proposal to Provide Inspector of Record Services - Fire Stations 54 & 55.

Dear Ms. Guillen-Urfer,

4LEAF, Inc. (4LEAF) is pleased that the City of San Rafael (City) has preliminarily chosen us to provide Inspector of Record services for Fire Stations 54 and 55. We have 20+ years of experience performing the requested services and have served approximately 300 public and private clients. We believe we are a strong choice for the following reasons:

Qualified Team

4LEAF proposes Nick Henderson, CBO as the Inspector of Record to perform services for this project. Nick is a highly experienced ICC Certified Building Official with over 40 years of industry experience. He has extensive knowledge of municipal, building, electrical, mechanical, plumbing, zoning, fire, sanitation, and related California Title 24 and Title 25 codes. Nick recently completed the \$400 Million Great Wolf Lodge in Manteca, CA as the Inspector of Record. This project took more than two years and Nick worked closely with Turner construction and City representatives to ensure code compliance in a timely fashion.

Option 2

4LEAF also proposes Michael Williams as an Inspector of Record option. Michael is selected to be the On-site IOR in 2023 for the \$1.5 Billion Munger Student Housing project for UCSB. Michael will manage the prefabrication inspections produced in Woodland which includes the majority of the construction built prior to transportation to the University site in Santa Barbara. Michael will coordinate with the on-site team to make sure the construction is in conformance with the plans and specifications as well as the California Building Code for this 11-story structure.

Leadership

The contract with the City of San Rafael will be managed by Craig Tole. Craig has 16 years of project management experience and will dedicate his time and resources to fulfilling the project needs communicated by the City. Craig will also manage the document control aspects of the Agreement to ensure the City has detailed reports of daily activity.

Budget

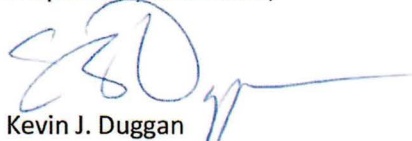
We propose a **NTE fee of \$126,100** for the work required to complete Fire Stations 54 and 55 over the course of 12 months. Our hourly rates are included in a separate Fee Schedule, which reflect any and all anticipated fees. We understand that the final contract price might be negotiated.

Contact

Project Manager	President	4LEAF Headquarters
Craig Tole Office: (925) 462-5959 Mobile: (925) 580-4055 Email: CTole@4leafinc.com	Kevin J. Duggan Office: (925) 462-5959 Mobile: (925) 250-7602 Email: KDuggan@4leafinc.com	2126 Rheem Drive Pleasanton, CA 94588 Office: (925) 462-5959 Website: 4LEAFINC.COM

As requested by the City, we have included a NTE Task Order Proposal in addition to this Cover Letter. Should you have any questions, please do not hesitate to contact us.

Respectfully submitted,



Kevin J. Duggan
President



Craig Tole
Project Manager

**4LEAF, INC.**ENGINEERING . CONSTRUCTION MANAGEMENT
PLAN CHECK . BUILDING INSPECTION . PLANNING**Task Order: Inspector of Record for Fire Stations 54 & 55**

Date: 01/12/22
 4LEAF Job #: P4711
 4LEAF Principal: Craig Tole
 Project(s): **Inspector of Record for City of San Rafael Fire Stations 54 & 55**
 Contract #: TBD
 Task Order #: TBD

ITEM: I	ESTIMATED HOURS	UNIT PRICE	ESTIMATED TOTAL
Inspector of Record for Fire Stations 54 & 55			
Inspector of Record - Nick Henderson, CBO	832	\$140	\$116,480
Project Management - Craig Tole/Traci Caton	52	\$185	\$9,620
Preliminary Sub-Total of Services provided by 4LEAF			\$126,100
Preliminary Estimated Fees			\$126,100
Project Management Mark-up N/A			\$0
Total Preliminary Estimated Fees			\$126,100

Estimate is seeking a task order contract for Fire Stations 54 & 55. 4LEAF will utilize the appropriate rate from the scopes proposed.

Estimate is based on City's request for an IOR 16 hours a week for 52 weeks, with 1 hour of PM services per week.

Services include Inspector of Record for the City's Fire Stations 54 and 55. 4LEAF will provide PM oversight with reporting functions.

This is a straight time estimate. 4LEAF will bill on a time and materials basis Per the Terms and Conditions of 4LEAF's Fee Schedule.

Should overtime be required by client, 4LEAF will bill 1.5x the hourly rate for Overtime work, upon request. Staff subject to change with approval from client.



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

**Prepared by: Bill Guerin,
Director of Public Works**

City Manager Approval: _____

TOPIC: FY 2021-22 VEHICLE REPLACEMENT

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE FIVE (5) PATROL CARS FOR THE POLICE DEPARTMENT AND TWO (2) PARKING ENFORCEMENT VEHICLES FOR THE PARKING SERVICES DEPARTMENT IN A TOTAL AMOUNT NOT TO EXCEED \$476,805

RECOMMENDATION:

Adopt the resolution authorizing the City Manager to purchase five (5) patrol cars for the Police Department and two (2) parking enforcement vehicles for the Parking Services department in a total amount not to exceed \$476,805.

BACKGROUND:

Police Department Marked Replacement Overview

This fiscal year (2021/2022) San Rafael Police Department (SRPD) has requested the replacement of five Ford Utility Interceptor Marked Patrol Cars. This follows the purchase/replacement of six patrol cars in FY 2020-21 and three in FY 2019-20. The total marked patrol car fleet consists of 19 vehicles. With the replacement of the five requested vehicles, approximately 70% of the marked patrol car fleet will be within two years old with only five vehicles needing replacement in FY 2022-23. This would also bring the marked fleet to approximately 70% hybrid power. Please note that the six new patrol cars purchased in FY 2020-21 have yet to be placed into service due to supply chain shortages of upfitting equipment. It is possible we will see these supply shortages into 2022 and placing vehicle and equipment orders as soon as possible will ensure the new patrol vehicles are in service before the older vehicles go beyond their service life.

ANALYSIS:

Figure 1 lists the vehicles PD has requested to be replaced. It is important to note that the mileages may be between 10,000 to 20,000 miles higher when replaced with a new vehicle due to the lead time. The City's Fleet Policy and Procedures document places a 5-year amortization schedule on marked patrol cars. This repays the vehicle replacement fund over five years the full cost of the vehicle plus an inflation

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

factor. Though not intended to be used a strict replacement schedule, this 5-year timeline has coincided with the vehicles recommended service life. Each vehicle has or will exceed this recommended 5-year schedule at the time of replacement.

Figure 1. Vehicles to Be Replaced

Vehicle Number	Model Year	Current Mileage	Miles Driven in FY 20/21	Years in Service
242	2017	93,590	15,063	5
223	2015	101,215	6,661	7
232	2015	100,919	5,360	7
222	2015	85,888	5,079	7
238	2017	108,072	20,405	5

Figure 2 shows the fiscal year 20/21 fuel and maintenance costs for each vehicle as well as a total operating cost per mile. The bottom row shows the average of the five vehicles.

Figure 2. Vehicle Operating Cost Data

Vehicle Number	Miles Driven in FY 20/21	Fuel Costs (\$3.08/gal average)	Maintenance Costs	Total Operating Cost Per Mile
242	15,063	\$7,477	\$4,484	\$0.79
223	6,661	\$2,062	\$2,575	\$0.69
232	5,360	\$2,250	\$4,189	\$1.20
222	5,079	\$1,043	\$5,960	\$1.37
238	20,405	\$7,210	\$5,540	\$0.62
Average	10,513	\$4,009	\$4,549	\$0.81

Figures 3, 4, and 5 compare the five vehicles in Figure 2 with two of the 2020 hybrid patrol cars that are currently in service. These charts are based on FY 20/21 miles and costs. As the charts will show, the new hybrid patrol cars save the city on average, \$1,820/year in fuel costs per vehicle and reduce carbon dioxide emissions by 11,076 lbs./year per vehicle. Maintenance costs and downtime are also drastically reduced due to increased reliability of newer vehicles and new car warranties that pay for some maintenance costs. This reduces the cost per mile to operate by approximately 60%.

Figure 3. Cost Per Mile Comparison (in service vehicles)

Vehicle (FY 20/21)	Average Miles Driven (FY 20/21)	Average Fuel Costs (FY 20/21- \$3.08/gal average)	Average Maintenance Costs (FY 20/21)	Average Operation Cost Per Mile (FY 20/21)
Average of Vehicles Listed in Figures 1&2 (5)	10,513	\$4,009	\$4,549	\$0.81

In-Service 2020 Hybrid Patrol Cars (2)	19,364	\$4,715.89	\$1,892.93	\$0.34
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Figure 4 – MPG Comparison (in service vehicle)

Vehicle	Average Gal. Fuel Used (FY 20/21)	Average Miles Driven (FY 20/21)	Average Mile per Gallon
2020 Hybrid (2)	1,531	19,364	12.64
Non-Hybrid (5)	1,349	10,513	7.79
MPG Increase			4.62

Figure 5 – Emissions and Fuel Costs reduction (in service vehicles)

Yearly Emissions Reduced Per Vehicle (12k miles/year average)	11,076 lbs. of Carbon Dioxide
Yearly Fuel Costs Saved Per Vehicle (12k miles/year average @ \$3.08/Gal)	\$1,820

Parking Services Enforcement Vehicle Replacement

This fiscal year (FY 2021-22), Parking Services has requested two of their parking enforcement vehicles be replaced due to ongoing mechanical problems associated with their age. The current Parking Services fleet consists of 10 vehicles with four of those vehicles being a specialized three wheeled, single seat enforcement buggy. These are chosen for their small size, tight turning radius and ability to access the outside of both sides of the vehicle. Currently, Parking Services has one EV parking buggy (2015) and two gas powered buggies (2007) in service.

The two gas powered buggies will be replaced by EV versions the City has purchased and used in the past. The buggy comes with a one-year manufacturer’s warranty.

Figure 6 – Parking Buggy Data (in service vehicles)

Vehicle	Miles Driven (FY 20/21)	Fuel Cost (FY 20/21- \$3.08/gal average)	Maintenance Cost (FY 20/21)	Cost per Mile (FY 20/21)
#215-15 GO4 EV (2015)	8,700	\$0.00	\$1,372	\$0.15
#215 GO4 Gas (2007)	20,582	\$1,147	\$2,571	\$0.18
#216 GO4 Gas (2007)	21,007	\$730	\$1,775	\$0.11

Figure 6 above, shows the FY 2020-21 operating cost data of the enforcement buggy fleet. As shown above the cost per mile to operate between the EV buggy and gas-powered buggy is inconsistent due to

the large difference in miles driven by the two. If we use the projected mileage the new replacement EVs will be driven per fiscal year, the cost per mile to operate drops significantly. Figure 7 below, represents this.

Figure 7 – Replacement EV Projections

Vehicle	Miles Drive (per year)	Fuel Cost (Per year)	Maintenance Cost (Per year)	Cost per Mile (Per year)
New EV Buggy	20,000	\$0.00	\$1,400.00	\$0.07

The change to EV buggies from gas powered would also eliminate approximately 600 gallons of gasoline being used per year by the two buggies, equivalent to a 11,415 lbs. reduction of Carbon Dioxide emissions.

FISCAL IMPACT:

The five vehicles requested will be replaced with the 2022 Ford Police Utility Interceptor Hybrid. The City currently has three of these hybrid patrol cars in service with six additional cars in the process of being placed into service. The data in the sections above show the increases in efficiency and reduced costs to operate the City has seen with the hybrid patrol cars.

The total replacement cost for the five police vehicles is \$375,862. A contingency amount is included for any unforeseen costs. The vehicles will be purchased from the California Department of General Services vehicle purchasing contract.

The total replacement costs for the two Parking Services EV buggies totals \$100,943. A contingency amount is included for unforeseen costs. The buggies will be purchased from the Sourcewell cooperative purchasing agreement, assuring the City is receiving the lowest cost per vehicle possible.

There are sufficient funds available in the Vehicle Replacement Fund (#600) for the proposed vehicle purchases. The purchase of five Ford Hybrid Patrol Vehicles and two Parking Services Enforcement Vehicles totals to \$476,805.

All City departments pay into the Vehicle Replacement Fund each year as an internal service charge. The amount they pay is based on the number and dollar value of vehicles/equipment the Department utilizes and amortized over the anticipated useful life.

OPTIONS:

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

1. Approve the resolution authorizing the City Manager to purchase five patrol cars for the Police Department and two parking enforcement vehicles for the Parking Services department in a total amount not to exceed \$476,805.
2. Direct the Department of Public Works to modify the proposed order of seven vehicles to be purchased.
3. Direct the Department of Public Works to withhold the purchase of the seven vehicles.

RECOMMENDED ACTION:

Adopt Resolution and authorize the City Manager to purchase the proposed five patrol cars for the Police Department and two parking enforcement vehicles.

ATTACHMENTS:

1. Resolution
2. Fleet Management Policy and Procedures

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
AUTHORIZING THE CITY MANAGER TO PURCHASE FIVE (5) PATROL CARS FOR
THE POLICE DEPARTMENT AND TWO (2) PARKING ENFORCEMENT VEHICLES
FOR THE PARKING SERVICES DEPARTMENT IN A TOTAL AMOUNT NOT TO
EXCEED \$476,805**

WHEREAS, San Rafael's various departments operate a fleet of 204 street-legal vehicles and the Department of Public Works maintains 66 heavy equipment vehicles; and

WHEREAS, the management and replacement of the City's fleet of vehicles and equipment is governed by the guidelines set forth in San Rafael's Fleet Management Policies and Procedures document issued September 6, 2012; and

WHEREAS, the Police Department and Parking Services Department have requested replacement of five patrol cars and two parking enforcement vehicles for the respective departments; and

WHEREAS, the City has the ability to competitively procure the equipment needed to fit the departments' and community's needs; and

WHEREAS, \$476,805 shall be appropriated in the Vehicle Replacement Fund (#600) to support this purchase; and

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of San Rafael authorizes the City Manager to execute the purchase of five patrol cars for the Police Department and two parking enforcement vehicles for the Parking Services department, in accordance with the guidelines set forth in San Rafael's Fleet Management Policies and Procedures, issued on September 6, 2012, in a total amount not to exceed \$476,805.

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 7th day of February 2022 by the following vote, to wit:

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

LINDSAY LARA, City Clerk



CITY OF SAN RAFAEL POLICIES AND PROCEDURES

Policy No.	
Subject:	Fleet Management Policy
Resolution No.	
Issue Date:	September 6, 2012
Revision Date:	
Prepared By	Richard Landis
Approved By:	<i>Nancy Marshall</i>

FLEET MANAGEMENT POLICY AND PROCEDURES

PURPOSE: The City of San Rafael establishes this policy to govern the management of the City's vehicle fleet.

SCOPE: The acquisition, outfitting and replacement of all City vehicles.

DEFINITIONS: "City vehicle" shall include all automobiles, trucks, motorcycles, or any other equipment registered with the Department of Motor Vehicles and owned, leased, or rented by the City. "Fleet Manager" shall be the Director of Public Works or his/her designee.

POLICY:

General Provisions

Fleet Manager

The role of the Fleet Manager is to advise the City Manager and City Council on matters relating to the City's vehicle fleet. The Fleet Manager shall communicate with all department directors regarding vehicle needs and submit timely reports to the City Manager. The Fleet Manager is committed to the following principles:

1. The size and nature of the City's fleet is governed primarily by need and function, i.e., the number of vehicles should be no greater than what is necessary to provide public services in an efficient manner. Each vehicle within the fleet should be minimally specified to fulfill its intended function, providing operators with a comfortable and modestly-appointed vehicle with which to deliver services in a cost-effective manner.
2. Vehicles should be selected with a strong preference for fuel efficiency and hybrid and alternative fuel technology. The City will strive to reduce the negative impact of its fleet upon the environment by reducing greenhouse gas emissions.
3. Vehicles with the lowest long-term maintenance and repair costs and occupant safety are preferable.

Department Budgeting for Additional Vehicle Acquisition

Before a department determines the need to add a vehicle to its inventory, it shall first check with the Fleet Manager and the Finance Department to determine whether an existing vehicle is available elsewhere in the fleet that may meet the department's needs. If none is available, the requesting

department shall submit a vehicle addition request to the Fleet Manager with the following information:

- The purpose for which the vehicle is needed
- The type of vehicle requested and the total estimated purchase price
- The estimated total cost of any special auxiliary equipment or equipment packages above what might be considered standard equipment. The cost of adding a new vehicle to the fleet shall be paid by the requesting department. Internal service charges to that department's budget shall be established at the time of vehicle purchase to ensure adequate future funding for the vehicle's eventual replacement.

Vehicle Acquisition

All departments shall submit vehicle purchase requests to the Fleet Manager. The Fleet Manager will consider requests, consult with the Finance Department to ensure that there are sufficient funds for the new vehicle request, and review vehicle specifications for conformance with the provisions and intent of the Fleet Policies and Procedures. All vehicle purchases shall be administered by the Fleet Manager and shall comply with bidding procedures, when applicable, to ensure competitive pricing. Invoices for new vehicle purchases and equipment installation shall be administered by the Fleet Manager with pre-approved departmental account codes established to meet the invoice totals.

Vehicle Replacement Funding

Funding for vehicle acquisition and supplemental equipment shall be established through monthly internal service charges to the department operating the vehicle, over the projected useable life of that vehicle. An annual inflation factor is applied to the department's internal service charge to account for anticipated increases in future vehicle costs.

Vehicle Replacement Schedule

City vehicles are eligible for replacement on the basis of the following established useable life recommendations:

Vehicle Description	Useable Life
Sedans, SUV's, vans, light and medium duty trucks (up to 8,600 gross vehicle weight)	10 years
Heavy duty trucks (over 8,600 gross vehicle weight)	15 years
Police patrol/traffic vehicles	5 years
Police unmarked vehicles	8 years
Police motorcycles	4 years
Parking enforcement buggies	5 years
Fire command vehicles	7 years
Fire pumper engines	15 years
Fire ladder trucks	20 years
Ambulances	5 years

Off-road maintenance and construction equipment shall be replaced when economically or operationally justified. When a vehicle in this group approaches the end of its anticipated life cycle, a cost/benefit analysis shall be performed to justify vehicle replacement.

These useable life standards are for vehicle replacement financial estimating purposes only. When a vehicle reaches the end of its established useable life and the department operating the vehicle requests replacement, each vehicle shall be assessed by the Fleet Manager and Vehicle Maintenance Division to determine if replacement is justified, given general vehicle condition, mileage, maintenance and repair history, safety considerations, etc. Extension of the useable life of any vehicle shall be at the discretion of the Fleet Manager and the requesting department. Likewise, a department may request a vehicle replacement prior to the end of its established useable life. The Fleet Manager shall review all such requests in consultation with the Finance Department and Vehicle Maintenance Division. Requests for early replacement shall be accompanied by a thorough justification, including objective criteria supporting the request. The cost of early replacement, if any, shall be borne by the requesting department.

If a department determines that an assigned vehicle is no longer needed, the vehicle shall be returned to the Vehicle Maintenance Division for re-allocation within the fleet or disposition as surplus.

Disposition of Surplus Vehicles

All vehicles accepted by the Vehicle Maintenance Division for replacement or permanent elimination from the fleet shall be consigned to public auction with the City's designated auction service. Departments shall deliver vehicles being replaced to the Vehicle Maintenance Division prior to accepting the new replacement vehicle.

Maintenance and Repair of Vehicles

Preventive and Routine Maintenance and Repairs

The Vehicle Maintenance Division shall notify departments of upcoming scheduled maintenance for vehicles operated by that department and will schedule the date and anticipated duration of the scheduled maintenance. If possible, the department operating the vehicle shall deliver it to the Vehicle Maintenance Division. If necessary, Vehicle Maintenance will pick up the vehicle at its customary parking location and return it when scheduled maintenance is complete.

Unscheduled Repairs

In the event a vehicle requires immediate or unscheduled repair during normal work hours, operators should call the Vehicle Maintenance Division (458-5345), or take the vehicle to the Public Works facility at 111 Morphew Street for assessment. If the vehicle cannot be operated or is unsafe to operate, the driver should call the Vehicle Maintenance Division for road service, towing, or advice. After normal working hours, vehicle operators should call the non-emergency Police Department dispatch number (485-3000) for towing or road assistance. Vehicle operators must notify their supervisors, as well as the Fleet Maintenance Division, in the event of a vehicle failure.

Reimbursement for Personal Expense for City Vehicle Repair

Certain emergencies may occur during non-working hours that can be easily remedied at a service station (for example, a flat tire or radiator hose). Department Directors whose employees routinely work outside of normal working hours shall develop appropriate policies governing the authority of vehicle operators to affect emergency repairs during non-working hours with the intended goal of delivering uninterrupted public service. These departmental policies shall be forwarded to the Fleet Manager for reference.



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

**Prepared by: Bill Guerin
Director of Public Works**

City Manager Approval: _____

TOPIC: PG&E EASEMENT REQUIRED FOR FIRE STATION 54

SUBJECT: RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT OF EASEMENT DEED FOR PUBLIC UTILITY PURPOSES TO PACIFIC GAS AND ELECTRIC COMPANY FOR THE CITY'S FIRE STATION 54 PROJECT

RECOMMENDATION:

Staff recommends that the City Council adopt the resolution authorizing execution of a Grant of Easement for public utilities purposes to Pacific Gas and Electric Company (PG&E).

BACKGROUND:

[Fire Station 54](#) is located at 46 Castro Avenue (APN 009-191-06) in the Canal neighborhood. [On October 18, 2021](#), the City Council authorized the City Manager to execute an agreement for the reconstruction of Fire Station 54 as part of the [Essential Facilities plan](#) funded by Measure E. This Fire Station 54 reconstruction project requires an upgrade to its electricity service. To accomplish this, PG&E is requesting an easement deed providing them with access for maintenance, as well as, electricity and gas purposes.

ANALYSIS:

The easement is approximately 148 square feet and is located on the corner of 46 Castro Avenue. This easement deed will grant PG&E access to the utility facilities at this location. This deed will not allow PG&E to build anything on the easement, however, it does give them the ability to cut down trees and vegetation and use facilities and associated equipment for public utility purposes. Grant of this easement will not impact the City's use of the property.

FISCAL IMPACT:

There is no fiscal impact associated with this easement deed.

ACTION REQUIRED:

Staff recommends that the City adopt the resolution authorizing the City Manager to execute of a grant of easement deed for public utility purposes to Pacific Gas and Electric Company for the City's Fire Station 54 project.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

ATTACHMENTS:

1. Resolution
2. Exhibit A to Resolution: Easement Deed from City of San Rafael to PG&E

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A GRANT OF EASEMENT DEED FOR PUBLIC UTILITY PURPOSES TO PACIFIC GAS AND ELECTRIC COMPANY FOR THE CITY'S FIRE STATION 54 PROJECT

WHEREAS, in November 2013, the local voters passed Measure E extending the existing one-half percent local sales tax and increasing the rate by one-quarter percent to provide funding to preserve essential city services. This tax supplanted the former, one-half cent transactions and use tax (Measure S), effective April 1, 2014; and

WHEREAS, the City has since used those resources to plan, design, construct and manage two new stand-alone fire stations, 52 and 57, and a new Public Safety Center (PSC) that incorporates Fire Station 51. These three projects, collectively referred to as "Phase 1" of the City's Essential Facilities Program, have successfully been completed and occupied; and

WHEREAS, the Essential Facilities program also includes the design, construction and management of Fire Stations 54 and 55 referred to as "Phase 2"; and

WHEREAS, the City successfully bid the Fire Station 54 and 55 Project and has awarded the construction contract to the lowest responsible bidder; and

WHEREAS, this City's Fire Station 54 reconstruction project requires an upgrade to its electricity service; and

WHEREAS, to facilitate an upgrade of the electrical service, Pacific Gas and Electric Company (PG&E) is requesting an easement deed providing them with access for maintenance, as well as, electricity and gas purposes, as described in the Easement Deed attached hereto as Exhibit A and incorporated herein by reference; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Rafael the City Manager is hereby authorized to execute the Easement Deed attached as Exhibit A, for public utilities to PG&E for the City's Fire Station 54 project.

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 7th day of February 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk

RECORDING REQUESTED BY AND RETURN TO:

PACIFIC GAS AND ELECTRIC COMPANY
245 Market Street, N10A, Room 1015
P.O. Box 770000
San Francisco, California 94177

Location: City/Uninc _____
Recording Fee \$ _____
Document Transfer Tax \$ _____

- This is a conveyance where the consideration and Value is less than \$100.00 (R&T 11911).
- Computed on Full Value of Property Conveyed, or
- Computed on Full Value Less Liens & Encumbrances Remaining at Time of Sale
- Exempt from the fee per GC 27388.1 (a) (2); This document is subject to Documentary Transfer Tax

(SPACE ABOVE FOR RECORDER'S USE ONLY)

Signature of declarant or agent determining tax

LD# 2401-06-10123

EASEMENT DEED

PM# 35250161

THE CITY OF SAN RAFAEL, a municipal corporation,

hereinafter called Grantor, hereby grants to PACIFIC GAS AND ELECTRIC COMPANY, a California corporation, hereinafter called Grantee, the right from time to time to excavate for, construct, reconstruct, replace (of initial or any other size), remove, maintain, inspect, and use facilities and associated equipment for public utility purposes, including, but not limited to electric, gas, and communication facilities, together with a right of way therefor, on, over, and under the easement area as hereinafter set forth, and also ingress thereto and egress therefrom, over and across the lands of Grantor situated in the City of San Rafael, County of Marin, State of California, described as follows:

(APN 009-191-06)

The parcel of land described in the deed from Kerner-Bellam Realty Company to The City of San Rafael dated October 10, 1963 and recorded in Book 1738 of Official Records at page 326, Marin County Records.

The easement area is described as follows:

The parcel of land described in Exhibit "A" and shown on Exhibit "B" attached hereto and made a part hereof.

Grantor further grants to Grantee the right, from time to time, to trim or to cut down, without Grantee paying compensation, any and all trees and brush now or hereafter within said easement area, and shall have the further right, from time to time, to trim and cut down trees and brush along each side of said easement area which now or hereafter in the opinion of Grantee may interfere with or be a hazard to the facilities installed hereunder, or as Grantee deems necessary to comply with applicable state or federal regulations.

Grantor also grants to Grantee the right to use such portion of said lands contiguous to said easement area as may be reasonably necessary in connection with the excavation, construction, reconstruction, replacement, removal, maintenance and inspection of said facilities.

Grantor hereby covenants and agrees not to place or construct, nor allow a third party to place or construct, any building or other structure, or store flammable substances, or drill or operate any well, or construct any reservoir or other obstruction within said easement area, or diminish or substantially add to the ground level within said easement area, or construct any fences that will interfere with the maintenance and operation of said facilities.

Grantor further grants to Grantee the right to apportion to another public utility (as defined in Section 216 of the California Public Utilities Code) the right to excavate for, construct, reconstruct, replace, remove, maintain, inspect, and use the communications facilities within said easement area including ingress thereto and egress therefrom.

Grantor acknowledges that they have read the "Grant of Easement Disclosure Statement", Exhibit "C", attached hereto and made a part hereof.

This document may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land.

Dated: _____, _____.

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: _____

Title: _____

ATTEST:

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

LINDSAY LARA, City Clerk

By: _____

APPROVED AS TO FORM:

Name: _____

Title: _____

ROBERT F. EPSTEIN, City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____, before me, _____ Notary Public,
Insert name
personally appeared _____

_____ ,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

(Seal)

CAPACITY CLAIMED BY SIGNER

- Individual(s) signing for oneself/themselves
- Corporate Officer(s) of the above named corporation(s)
- Trustee(s) of the above named Trust(s)
- Partner(s) of the above named Partnership(s)
- Attorney(s)-in-Fact of the above named Principal(s)
- Other _____

Rev: 11/22/2021
Date: 10/28/2021
Project: 1910192.50

EXHIBIT "A"
LEGAL DESCRIPTION
APN: 009-191-06

ALL THAT CERTAIN REAL PROPERTY SITUATE IN THE CITY OF SAN RAFAEL, COUNTY OF MARIN, STATE OF CALIFORNIA, BEING AN EASEMENT OVER A PORTION OF THE LANDS OF THE CITY OF SAN RAFAEL AS DESCRIBED IN CORPORATION GRANT DEED, RECORDED IN BOOK 1738 OF OFFICIAL RECORDS AT PAGE 326, MARIN COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWED:

COMMENCING AT THE SOUTHWESTERLY CORNER OF LOT 5 AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF BELLAM SUBDIVISION NO.1, SAN RAFAEL, CALIFORNIA", FILED MARCH 05, 1965 IN VOLUME 13 OF MAPS, PAGE 03, MARIN COUNTY RECORDS, WHICH BEARS SOUTH 69°32'00" EAST, A DISTANCE OF 22.50 FEET FROM FOUND STREET MONUMENT AS SET PER SAID MAP; THENCE ALONG THE WESTERLY LINE OF SAID LOT 5, NORTH 20°28'00" EAST, A DISTANCE OF 133.19 FEET TO THE SOUTHWESTERLY CORNER OF SAID LANDS AND **THE POINT OF BEGINNING**;

THENCE ALONG THE WESTERLY LINE OF SAID LANDS, NORTH 20°28'00" EAST, A DISTANCE OF 10.10 FEET;

THENCE LEAVING SAID WESTERLY LINE OF SAID LANDS, SOUTH 77°45'00" EAST, A DISTANCE OF 14.06 FEET;

THENCE, SOUTH 12°15'00" WEST, A DISTANCE OF 10.00 FEET TO THE SOUTHERLY LINE OF SAID LANDS;

THENCE ALONG SAID SOUTHERLY LINE, NORTH 77°45'00" WEST, A DISTANCE OF 15.50 FEET TO THE WESTERLY LINE OF SAID LANDS AND **THE POINT OF BEGINNING**.

SAID PG&E EASEMENT CONTAINING 148 SQUARE FEET MORE OR LESS.

SEE EXHIBIT "B" ATTACHED HERETO AND MADE PART HEREOF.

THE BASIS OF BEARINGS FOR THIS DESCRIPTION IS NORTH 20°28'00" EAST BETWEEN TWO FOUND STREET MONUMENTS ON CASTRO AVENUE AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF BELLAM SUBDIVISION NO.1, SAN RAFAEL, CALIFORNIA", FILED MARCH 05, 1965 IN VOLUME 13 OF MAPS, PAGE 03, MARIN COUNTY RECORDS.

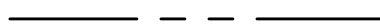

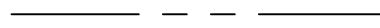
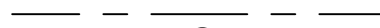

SITE FALLS WITHIN TOWNSHIP 1 NORTH, RANGE 6 WEST, SECTION 2, MOUNT DIABLO MERIDIAN.

PREPARED BY:
CSW/STUBER-STROEH ENGINEERING, INC.

JOSH WOELBING, PLS 9387



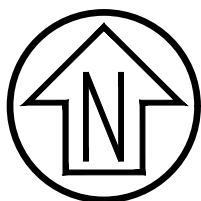
LEGEND

-  BOUNDARY
-  PROPOSED PG&E EASEMENT
-  BOUNDARY OFFSITE
-  CENTERLINE OF RIGHT OF WAY
-  FOUND MONUMENT PER 13 RM 3
- POB** POINT OF BEGINNING
- POC** POINT OF COMMENCEMENT



SITE FALLS WITHIN TOWNSHIP 1 NORTH, RANGE 6 WEST, SECTION 2, MOUNT DIABLO MERIDIAN.

THE BASIS OF BEARINGS IS NORTH 20°28'00" EAST BETWEEN TWO FOUND STREET MONUMENTS ON CASTRO AVENUE AS SHOWN ON THAT CERTAIN MAP ENTITLED "MAP OF BELLAM SUBDIVISION NO.1", FILED IN VOLUME 13 OF MAPS, PAGE 3, MARIN COUNTY RECORDS.

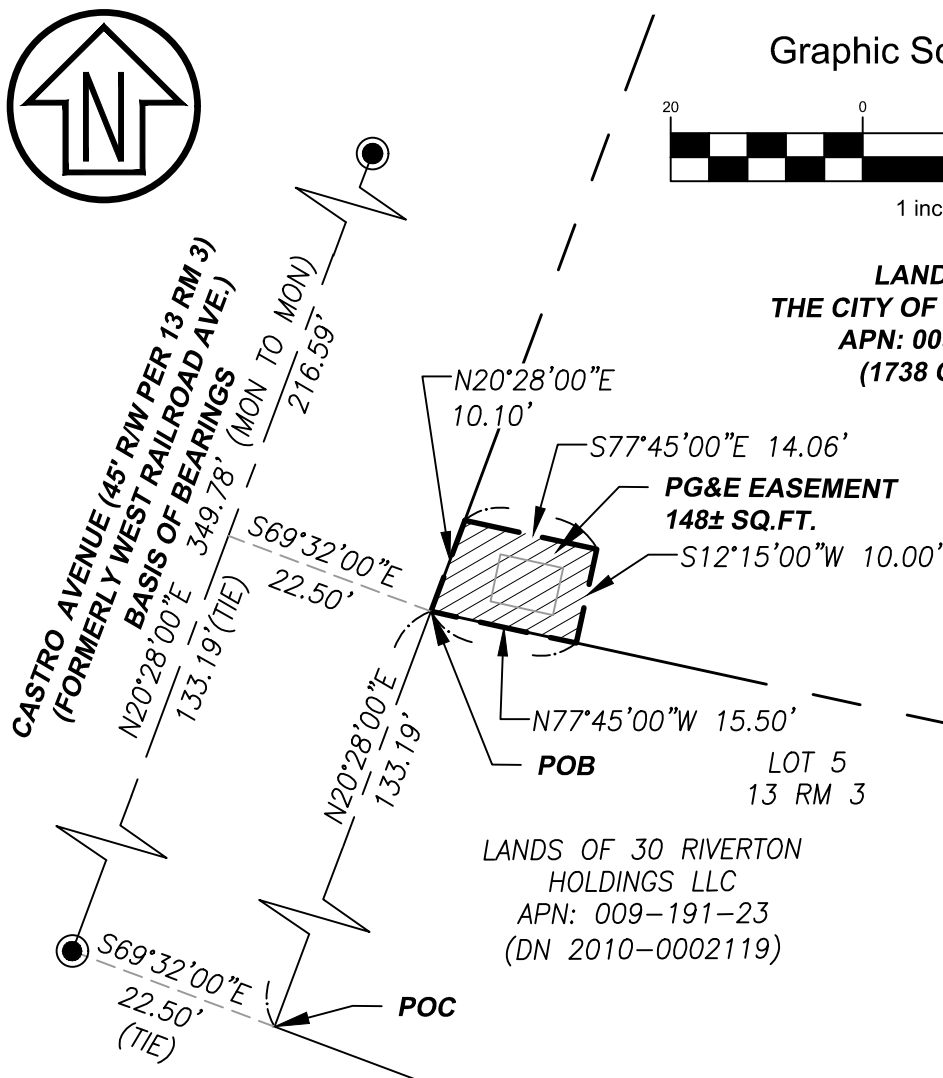


Graphic Scale (in feet)



1 inch = 20 ft.

**LANDS OF
THE CITY OF SAN RAFAEL**
APN: 009-191-06
(1738 OR 326)



CSW | ST2

CSW/Stuber-Stroeh Engineering Group, Inc.

Civil & Structural Engineers | Surveying & Mapping | Environmental Planning
Land Planning | Construction Management

45 Leveroni Court
Novato, CA 94949

tel: 415.883.9850
fax: 415.883.9835

<http://www.cswst2.com>

©2021

Rev. 11/22/2021

Date: 10/27/2021

Job No. 1910192.50

Scale: 1" = 20'

EXHIBIT "B"
PG&E EASEMENT
PLAT TO ACCOMPANY LEGAL DESCRIPTION
SAN RAFAEL MARIN COUNTY CALIFORNIA

Pacific Gas and Electric Company



EXHIBIT “C”

GRANT OF EASEMENT DISCLOSURE STATEMENT

This Disclosure Statement will assist you in evaluating the request for granting an easement to Pacific Gas and Electric Company (PG&E) to accommodate a utility service extension to PG&E’s applicant. **Please read this disclosure carefully before signing the Grant of Easement.**

- You are under no obligation or threat of condemnation by PG&E to grant this easement.
- The granting of this easement is an accommodation to PG&E’s applicant requesting the extension of PG&E utility facilities to the applicant’s property or project. Because this easement is an accommodation for a service extension to a single customer or group of customers, PG&E is not authorized to purchase any such easement.
- By granting this easement to PG&E, the easement area may be used to serve additional customers in the area and **may be used to install additional utility facilities.** Installation of any proposed facilities outside of this easement area will require an additional easement.
- Removal and/or pruning of trees or other vegetation on your property may be necessary for the installation of PG&E facilities. You have the option of having PG&E’s contractors perform this work on your property, if available, or granting permission to PG&E’s applicant or the applicant’s contractor to perform this work. Additionally, in order to comply with California fire laws and safety orders, PG&E or its contractors will periodically perform vegetation maintenance activities on your property as provided for in this grant of easement in order to maintain proper clearances from energized electric lines or other facilities.
- The description of the easement location where PG&E utility facilities are to be installed across your property must be satisfactory to you.
- The California Public Utilities Commission has authorized PG&E’s applicant to perform the installation of certain utility facilities for utility service. In addition to granting this easement to PG&E, your consent may be requested by the applicant, or applicant’s contractor, to work on your property. Upon completion of the applicant’s installation, the utility facilities will be inspected by PG&E. When the facility installation is determined to be acceptable the facilities will be conveyed to PG&E by its applicant.

By signing the Grant of Easement, you are acknowledging that you have read this disclosure and understand that you are voluntarily granting the easement to PG&E. Please return the signed and notarized Grant of Easement with this Disclosure Statement attached to PG&E. The duplicate copy of the Grant of Easement and this Disclosure Statement is for your records.

Utility Distribution Easement (02/2020)

Attach to LD: 2401-06-10123

Area, Region or Location: 7

Land Service Office: Santa Rosa

Line of Business: Electric Distribution (43)

Business Doc Type: Easements

MTRSQ: 24.01.06.02.33

FERC License Number: N/A

PG&E Drawing Number: N/A

Plat No.: TT3313

LD of Affected Documents: N/A

LD of Cross Referenced Documents: N/A

Type of interest: Utility Easement (86), Electric Underground Easements (4)

SBE Parcel: N/A

% Being Quitclaimed: N/A

Order or PM: 35250161

JCN: N/A

County: Marin

Utility Notice Number: N/A

851 Approval Application No: N/A ;Decision: N/A

Prepared By: AEBJ

Checked By: DAK8 DK

Approved By:

Revised by:

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SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

**Prepared by: Bill Guerin,
Director of Public Works**

City Manager Approval: _____

File No.: 06.01.247

TOPIC: AMERICANS WITH DISABILITIES ACT (ADA) IMPROVEMENTS AT ALBERT PARK BALL FIELD

SUBJECT: RESOLUTION AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT FOR INSTALLATION OF A PREFABRICATED RESTROOM BUILDING AND ACCESS RAMP AT ALBERT PARK BALLFIELD, CITY PROJECT NO. 11372, TO MCNABB CONSTRUCTION INC. IN THE AMOUNT OF \$184,884, AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$20,116, FOR A TOTAL APPROPRIATED AMOUNT OF \$205,000

RECOMMENDATION: Adopt the resolution awarding and authorizing the City Manager to execute a construction agreement with McNabb Construction Inc. for Americans with Disabilities Act (ADA) restroom site work and access ramp installation at Albert Park in the amount of \$184,884 and authorizing contingency funds in the amount of \$20,116, for a total appropriated amount of \$205,000.

BACKGROUND: The Albert Park Athletic Field and Stadium, located between Andersen Drive, Albert Park Lane, and Lindaro Street, has been in place since 1950. The ballfield is used by local school sports teams and by the semi-professional Pacifics baseball team. The stadium lacks accessible features and does not accommodate persons with disabilities. The ballpark is lacking an ADA Accessible ramp for patrons to access the bleachers and does not have fully accessible restrooms for users of all abilities. Therefore, Staff recommends that the Council award a construction project to McNabb Construction Inc. for the installation of a prefabricated ADA restroom building and accessible ramp to provide access to the bleacher seating at the stadium so that users of all abilities have equal access to this City owned facility. The project consists of the installation of a new prefabricated restroom, installation of utilities, flatwork, ADA ramp, and other miscellaneous site features to comply with ADA requirements.

In January, 2021, the City Manager previously authorized staff to enter into a contract with BKF Engineers to design the ADA improvements. BKF, with approval of City staff, determined that a prefabricated bathroom with four separate stalls was the most cost-effective way to provide accessible restroom facilities at Albert Park. The prefabricated facility was purchased under a separate agreement. This project will construct the underlying concrete slab and utilities

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

required to place the building on its foundation. The restroom will be delivered and lowered into place. The project will also erect an aluminum accessibility ramp to the bleachers.

On January 11, 2022, the project was advertised in accordance with San Rafael's Municipal Code.

ANALYSIS: On January 26, 2022, the following bids were received and read aloud:

<u>NAME OF BIDDER</u>	<u>AMOUNT</u>
McNabb Construction Inc.	\$184,884
Sposeto Engineering Inc.	\$249,155

The construction bids have been reviewed by Public Works staff and the low bid from McNabb Construction Inc. in the amount of \$184,884 was found to be both responsive and responsible. City staff recommends awarding the construction contract to McNabb Construction Inc. for the amount bid, and also recommends the City Council authorize a construction contingency of approximately ten percent in an amount of \$20,116, for a total authorized amount of \$205,000.

FISCAL IMPACT: Staff proposes to fund construction of this project utilizing \$205,000 from the Building Maintenance Fund #603. The project was included in the City's Capital Improvement Program.

OPTIONS:

1. Adopt the resolution as presented.
2. Do not award the contract and direct staff to rebid the project. If this option is chosen, rebidding will delay construction by approximately two months.
3. Do not award the contract and provide direction to staff.

RECOMMENDED ACTION: Adopt the resolution awarding and authorizing the City Manager to execute a construction agreement with McNabb Construction Inc. for ADA restroom site work and access ramp installation at Albert Park Athletic Field and Stadium in the amount of \$184,884 and authorizing contingency funds in the amount of \$20,116, for a total appropriated amount of \$205,000.

ATTACHMENTS:

1. Resolution awarding the construction agreement to McNabb Construction Inc.

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT FOR THE ALBERT PARK PREFABRICATED ADA RESTROOM BUILDING INSTALLATION PROJECT, CITY PROJECT NO. 11372, TO MCNABB CONSTRUCTION INC. IN THE AMOUNT OF \$184,884, AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$20,116, FOR A TOTAL APPROPRIATED AMOUNT OF \$205,000

WHEREAS, on the 11th day of January 2022, pursuant to due and legal notice published in the manner provided by law, inviting sealed bids or proposals for the work hereinafter mentioned, as more fully appears from the Affidavit of Publication thereof on file in the office of the City Clerk of the City of San Rafael, California, the City Clerk of said City did publicly open, examine, and declare all sealed bids or proposals for doing the following work in said City, to wit:

“ALBERT PARK PREFABRICATED ADA RESTROOM BUILDING INSTALLATION PROJECT,”

City Project No. 11372

in accordance with the plans and specifications therefore on file in the office of the Department of Public Works; and

WHEREAS, the bid of \$184,884 from McNabb Construction Inc. at the unit prices stated in its bid, was and is the lowest and best bid for said work and said bidder is the lowest responsible bidder; and

WHEREAS, staff has recommended that the project budget include a contingency amount of \$20,116;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES as follows:

1. The plans and specifications for the “Albert Park Prefabricated ADA Restroom Project”, City Project No. 11372 on file in the Department of Public Works, are hereby approved.
2. The City Manager is authorized and directed to execute a contract with McNabb Construction Inc. for the bid amount, subject to final approval as

to form by the City Attorney, and to return the bidder's bond upon the execution of the contract.

3. Funds for project totaling \$205,000, which includes the construction award amount and contingency, will be appropriated for City Project No. 11389, using \$205,000 in Gas Tax funds (Fund #206).
4. The Director of Public Works is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

I, **Lindsay Lara**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on Monday, the 7th day of February 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

File No.: 06.01.247



SAN RAFAEL CITY COUNCIL AGENDA REPORT	
Department: Public Works	
Prepared by: Bill Guerin, Director of Public Works	City Manager Approval:

TOPIC: FRANCISCO BOULEVARD EAST RESURFACING PROJECT

SUBJECT: ACCEPT COMPLETION OF THE FRANCISCO BOULEVARD EAST RESURFACING PROJECT (CITY PROJECT NO. 11389), AND AUTHORIZE THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

RECOMMENDATION: Accept completion of the Francisco Boulevard East Resurfacing Project and authorize the City Clerk to file the Notice of Completion.

BACKGROUND: Francisco Boulevard East is one of the busiest arterials in the City, used as a primary connector for several neighborhoods to downtown San Rafael, San Rafael High School, and other highly frequented destinations including Highway 101 and Interstate 580.

The City undertook a resurfacing project providing a smooth surface on which vehicles can travel.

The project was advertised in accordance with San Rafael’s Municipal Code on August 19, 2021, and sealed bids were publicly opened and read aloud September 9, 2021. On [September 20, 2021](#), the City Council adopted a resolution authorizing the City Manager to enter into an agreement with the low bidder, Ghilotti Construction Company, Inc. in the amount of \$1,136,140 and approving a construction contingency of \$173,860 for a total appropriation in an amount of \$1,310,000. City staff desire the City Council to accept the project.

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

FISCAL IMPACT: No fiscal impact is associated with this report.

RECOMMENDED ACTION: Accept completion of the Francisco Boulevard East Resurfacing Project and authorize the City Clerk to file the Notice of Completion.

- ATTACHMENTS:**
1. Notice of Completion

FOR CITY CLERK ONLY

Council Meeting:
Disposition:

Recording Requested By:
The City of San Rafael

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

EXEMPT FROM RECORDING FEES PER
GOVERNMENT CODE §§ 6103, 27383

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

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

NOTICE IS HEREBY GIVEN THAT:

1. The undersigned is the agent of the owner of the Project described below.
2. Owner's full name is the City of San Rafael ("City")
3. City's address is 1400 5th Ave, San Rafael, CA 94901
4. The nature of City's interest in the Project is:
 Fee Ownership Lessee Other Public Right of Way Easement
5. Construction work on the Project performed on City's behalf is generally described as follows: The resurfacing of the roadway full width grinding, resurfacing, utility iron adjustments, signing, and striping.
6. The name of the original Contractor for the Project is: Ghilotti Construction Company, Inc.
7. The Project was accepted as complete on: December 16, 2021.
8. The Project is located at: Francisco Boulevard East between Vivian Street and Grand Avenue.

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

Date and Place

Signature

Bill Guerin, Director of Public Works

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



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works Department

Prepared by: Bill Guerin, Director
Department of Public Works

City Manager Approval: _____

TOPIC: TEMPORARY STREET CLOSURE TO SUPPORT VOCES DEL CANAL

SUBJECT: RESOLUTION AUTHORIZING ALTO STREET CLOSURE ON FEBRUARY 26, 2022 TO SUPPORT VOCES DEL CANAL TO HOST AN OUTDOOR PHOTOGRAPHY EXHIBIT

RECOMMENDATION: Adopt the Resolution authorizing street closure of Alto Street on Saturday, February 26, 2022 to support Voces del Canal’s intent to host an outdoor photography exhibit.

BACKGROUND:

Residents in the Canal area of San Rafael have expressed interest in enhancing the street lighting and identifying other safety improvements in their neighborhood. Voces del Canal has partnered with Dominican University to identify and document commonly used walking routes in the neighborhood with the goal of making recommendations to enhance the routes to improve public lighting, pedestrian safety and control vehicle speeds.

Voces del Canal has requested that the City allow the closure of a portion of Alto Street, a one block street next to the Canal Alliance offices, from Larkspur Street to mid-block, on Saturday, February 26, 2022 to host a photography exhibit showcasing ideas for improvements from residents and others. The event is scheduled to occur between the hours of 11 am and 5 pm so the street would need to close from 9 am till 6 pm that day. The partial street closure will allow people to exhibit and view the ideas safely, in the open air during this time of the COVID-19 pandemic. Other businesses on this short street support this effort and can access their properties from the Belvedere Street end of Alto Street during the event.

ANALYSIS:

Temporary road closures require that the City Council adopt a resolution finding that the closing is necessary for the safety and protection of persons using the road during the closing, per Vehicle Code section 21101(e) which states:

*“(e) Temporarily closing a portion of any street for celebrations, parades, local special events, and other purposes when, in the opinion of local authorities having jurisdiction or a public officer or employee that the local authority designates **by resolution**, the closing is necessary for the*

FOR CITY CLERK ONLY

Council Meeting:

Disposition: Resolution

safety and protection of persons who are to use that portion of the street during the temporary closing.”

Department of Public Works staff will support the street closure by providing closure signage and traffic control support. The Police Department and Fire Department may provide ancillary support as well.

STREET TO BE CLOSED:

Alto Street from its intersection with Larkspur Street to mid-block at approximately the entrance to the Johnson and Daly Moving Company warehouse entrance, on Saturday, February 26, 2022 between the hours of 9 am and 6 pm. Public walk-up access to businesses will be maintained during event hours.

COMMUNITY OUTREACH:

Voces del Canal will advertise the event and ensure that the public is aware and invited to participate.

FISCAL IMPACT:

The City will provide in-kind services, such as “no parking” signage and traffic control support and advice. Any cost associated with this support will be minimal.

OPTIONS:

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

1. Adopt resolution.
2. Adopt resolution with modifications.
3. Direct staff to return with more information.
4. Take no action.

RECOMMENDED ACTION:

Adopt the resolution.

ATTACHMENTS:

1. Resolution authorizing street closure of Alto Street on Saturday, February 26, 2022 to support Voces del Canal’s intent to host an outdoor photography exhibit

RESOLUTION NO.

**RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AUTHORIZING
ALTO STREET CLOSURE ON FEBRUARY 26, 2022 TO SUPPORT
VOCES DEL CANAL TO HOST AN OUTDOOR PHOTOGRAPHY EXHIBIT**

WHEREAS, residents in the Canal area of San Rafael have expressed interest in enhancing the street lighting and identifying other safety improvements in their neighborhood; and

WHEREAS, Voces del Canal has partnered with Dominican University to identify and document commonly used walking routes in the neighborhood with the goal of making recommendations to enhance the routes to improve public lighting, pedestrian safety and control vehicle speeds: and

WHEREAS, Voces del Canal has requested that the City allow the closure of a portion of Alto Street, a one block street next to the Canal Alliance offices, from Larkspur Street to mid-block, on Saturday, February 26, 2022 to host a photography exhibit showcasing ideas for improvements from residents and others; and

WHEREAS, after reviewing the request, City staff has determined and recommended that, in the interest of the safety and welfare of pedestrian and auto traffic, that Alto Street should be temporarily closed to through traffic on Saturday February 26, 2022 from 9 am to 6 pm to accommodate the event:

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL HEREBY RESOLVES AS
FOLLOWS:**

1. That all of the above findings are true and correct.
2. That, pursuant to the authority of Vehicle Code section 21101(e), for the safety and protection of persons, both pedestrians and vehicle drivers, the City Council hereby authorizes the temporary closure of Alto Street for the date and time described above.

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 7th day of February 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

Lindsay Lara, City Clerk

**PROCLAMATION OF THE CITY COUNCIL OF THE CITY OF SAN
RAFAEL PROCLAIMING THE MONTH-LONG CELEBRATION OF
BLACK HISTORY MONTH IN FEBRUARY**

- WHEREAS,** In 1976, as part of the nation’s bicentennial, Black History Week was expanded and became established as Black History Month, and Americans of all walks of life have come together since then during the month of February to honor the too-often neglected accomplishments of Black Americans in every area of endeavor throughout our history; and
- WHEREAS,** Black culture is American culture, and Black stories are essential to the ongoing story of America and it is essential that we take time to celebrate the immeasurable contributions of Black Americans and honor the legacies and achievements of generations past and continue to address and work towards reversing injustices of the past; and
- WHEREAS,** The Black History Month theme for 2022 focuses on the importance of Black Health and Wellness. This theme acknowledges the legacy of not only Black scholars and medical practitioners in Western medicine, but also other ways of knowing (e.g., birthworkers, doulas, midwives, naturopaths, herbalists, etc.) throughout the African Diaspora; and
- WHEREAS,** The 2022 theme considers activities, rituals and initiatives that Black communities have done to be well. Black Health and Wellness not only includes one’s physical body, but also emotional and mental health; and
- WHEREAS,** The City of San Rafael Library & Recreation Department provides resources and programming specifically to educate the community on important topics such as anti-racism and equity, such as:
<https://srpubliclibrary.org/research/resources-on-anti-racism-and-equity/>;
and
- WHEREAS,** The City Council of the City of San Rafael, takes great pleasure in recognizing Black History Month, and urges all residents of San Rafael to join in celebrating the accomplishments of African Americans in the medical field and beyond, and encourages the people of San Rafael to support and advocate for the health and wellness of our African American community.

NOW, THEREFORE, The City Council of the City of San Rafael Hereby Proclaims the month of February 2022 as Black History Month and recognizes the many accomplishments African Americans have historically achieved and the many ongoing contributions they make to our society and our local community across Marin County and San Rafael.



Kate Colin
Mayor



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: **COMMUNITY DEVELOPMENT**

Prepared by: **Alicia Giudice**
Community Development Director

City Manager Approval: _____

TOPIC: THE NEIGHBORHOOD AT LOS GAMOS, A PROPOSED MIXED-USE PROJECT CONSISTING OF RESIDENTIAL AND COMMERCIAL LAND USES ON THE PROPERTY AT THE SOUTHERLY TERMINUS OF LOS GAMOS DRIVE NORTH OF OLEANDER DRIVE; CHRISTOPHER HART, APPLICANT AND PROPERTY OWNER.

SUBJECT: ACTIONS TO ALLOW THE CONSTRUCTION OF THE NEIGHBORHOOD AT LOS GAMOS WITH 192 MULTI-FAMILY RESIDENTIAL UNITS; AN APPROXIMATELY 5,600-SQUARE-FOOT GROCERY STORE; A 5,000-SQUARE-FOOT COMMUNITY CENTER; AND 225 AT-GRADE AND SEMI-SUBTERRANEAN PARKING SPACES ON A 10.24 ACRE SITE LOCATED ON LOS GAMOS DRIVE NORTH OF OLEANDER DRIVE (APNS: 165-220-06 AND 165-220-07), INCLUDING APPROVAL OF:

- A. RESOLUTION ADOPTING AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND APPROVING A MITIGATION MONITORING AND REPORTING PROGRAM (IS20-004);**
- B. RESOLUTION APPROVING A GENERAL PLAN AMENDMENT (GPA 20-001) FROM HILLSIDE RESOURCE RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL MIXED USE;**
- C. ORDINANCE APPROVING A ZONE CHANGE (ZC 20-002) FROM PLANNED DISTRICT – HILLSIDE DEVELOPMENT OVERLAY DISTRICT (PD-H) AND RESIDENTIAL – HILLSIDE DEVELOPMENT OVERLAY DISTRICT (R2A-H) TO PLANNED DEVELOPMENT DISTRICT (PD); AND**
- D. RESOLUTION APPROVING ENVIRONMENTAL AND DESIGN REVIEW (ED 20-058) AND A VESTING TENTATIVE PARCEL MAP (TS20-002).**

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

EXECUTIVE SUMMARY:

The proposed mixed-use project includes 192 residences, 225 parking spaces, a 5,574 square-foot grocery store, and a 5,003 square-foot community center. The project is subject to Environmental and Design Review by the Planning Commission because it proposes a Major Physical Improvement (with three or more dwelling units) as defined in SRMC Section 14.25.040(A). The project proposes to provide 20 of the 192 dwelling units as affordable at the Low Income level, in compliance with San Rafael Municipal Code (SRMC) Section 14.16.030. Since the project commits to provide 10% of low income units on site, the project qualifies for State Density Bonus.

With the application of State Density Bonus waivers and concessions, the project is consistent with the development standards of the Zoning Ordinance and General Plan.

The project has been reviewed and recommended for approval by the Design Review Board and Planning Commission. Staff believes the Findings required to approve the project can be made and that all environmental impacts from the project can be mitigated to a less-than-significant level.

RECOMMENDATION:

Staff recommends that the City Council take the following actions:

1. Adopt the attached Resolution (Attachment 1) Adopting the Initial Study/Mitigated Negative Declaration (IS20-004) and Approving the Mitigation Monitoring and Reporting Program (MMRP);
2. Adopt the attached Resolution (Attachment 2) Approving the General Plan Amendment (GPA 20-001) to change the designation of the property from Hillside Resource Residential (HRR) to Neighborhood Commercial Mixed Use (NCMU);
3. Introduce and pass to print the Ordinance (Attachment 3) Approving the Rezoning (ZC 20-002) of the property from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD); and
4. Adopt the attached Resolution (Attachment 4) Conditionally Approving the Environmental and Design Review Permit (ED 20-058) and Vesting Tentative Parcel Map (TS20-002).

BACKGROUND:

In 2019, the applicant submitted a Conceptual Design Review for review and comment by staff and the Planning Commission. At a hearing on [January 14, 2020](#), the Planning Commission reviewed the project and individual commissioners offered comments regarding:

- Revised zoning to allow more intensity seems appropriate;
- Multi-family housing, with a grocery store serving the residents, seems reasonable;
- Affordable housing should be part of the proposal;
- Landscaping and recreational amenities need to be carefully designed;
- Plans should include photo-simulations to get a better sense of what the project will look like;
- Environmental impacts need to be carefully considered.

On December 14, 2020, the applicant team filed formal application to the city for Consideration. The project was deemed complete on June 10, 2021.

The applicant conducted a virtual neighborhood meeting on the project on September 30, 2021, from 6 to 8 p.m. on Zoom. City staff did not attend the meeting. According to the applicant, a few people participated and provided generally positive comments about the project.

At the public hearing of [October 5, 2021](#), the Design Review Board reviewed the project, plans and attachments, and staff report. Following discussion, the Board unanimously recommended approval of the project subject to the following conditions:

- Mitigate the appearance of building height with darker color palette consistent with Hillside Design Guidelines and horizontal elements to break of visual appearance of massing
- Trees should be not planted in a uniform row but clustered with more natural spacing to the extent practicable for available planting area
- Mitigate impact the 10' – 16' tall retaining walls with step backs or other applications such as texture/colors/materials/or vegetation
- The project should return to the Board upon submitting for building permits to review consensus items.

All these items have been incorporated into the conditions of approval for the project.

At the public hearing of [December 14, 2021](#), the Planning Commission recommended approval of the project with comments about the amount of parking proposed, the number of solar panels to be installed, the amount and type of electric vehicle charging to be installed in parking areas, ways the project could encourage residents to use alternative modes of transportation rather than automobiles, the dispersal of affordable housing, and about the grocery store use.

PROJECT DESCRIPTION:

The project proposes a General Plan Amendment to change the Land Use designation from Hillside Resource Residential to Neighborhood Commercial Mixed Use. A Zone Change is proposed from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD). The General Plan Amendment and Zoning Change would allow mixed use development of the type proposed with residences, commercial uses including a grocery store, a leasing office and the community room.

In addition, a Vesting Tentative Parcel Map is proposed to combine the two existing parcels. The project is subject to Environmental and Design Review because the project proposes a Major Physical Improvement (with three or more dwelling units) as defined in SRMC 14.16.030.

Use: As constructed, the project proposes multifamily residential use; a small grocery store; a community center and the leasing office; parking, landscaping, private and common open space; and physical improvements including a circular driveway and retaining walls necessary to support the project. As part of the Planned Development regulations (Exhibit B to Attachment 3), the permitted uses on the site are those listed in the Neighborhood Commercial zone, plus the leasing office and community center. This ensures that any change of use of the commercial component will not require a zone change as long as the new use is among the list of Neighborhood Commercial uses.

The residential component includes 192 dwelling units ranging in size from 496-square-foot studios to 1,153-square-foot three-bedroom units. There would be 36 studios, 48 one-bedroom units, 90 two-bedroom units, and 18 three-bedroom units. The two-bedroom units would be offered in three floor plans; the one and three-bedroom units would each have one floor plan. Each unit would have a private balcony or deck ranging from 72 square feet for the studios to 143 square feet for the three-bedroom units. The proposed 5,574-square-foot grocery store would be located on the ground floor of a two-story building that would also contain the 5,003 square-foot community center and leasing office of approximately 900 square feet. There is also a common outdoor recreation space on the roof of the community center including a children's play area and a pergola providing a shaded seating area. The total amount of common open space including the rooftop recreational area and a series of terraces south of the building, would total approximately 10,000 square feet. South of the new buildings is the South Park area, over an

acre of the hillside that would include a combination of undisturbed hillside and improved recreational areas.

Affordability: The project would comply with the City's affordable housing requirement by providing 10% of the units as affordable - a total of twenty (20) below market rate or BMR units. The project will provide all the apartments to persons of low-income earning 50-80% of the area wide median income. By providing 10% of units to Low-Income the project also qualifies for State Density Bonus

Density: The project includes a total of 192 dwelling units. The proposed Neighborhood Commercial Mixed Use designation allows a density of 8.7 to 24.2 dwelling units per acre; or between 89 to 247 dwelling units on the 10.24-acre parcel. The proposed density is 18.75 dwelling units per acre so the project is consistent with the allowed density range under the San Rafael General Plan 2040. State Density Bonuses for affordable housing are allowed if the project qualifies and requests a state density bonus. The applicant has chosen to employ State Density Bonus Law but is not requesting bonus units (i.e. to exceed the maximum number of units permitted for this site.) Based on the commitment to include 10% of Low Income units on site, the project is entitled to one Concession and an unlimited number of Waivers to development standards that would physically preclude the construction of the project. The applicant has proposed the PD zoning with a density of 18.75 dwelling units per acre.

Site Plan: The property totals 10.24 acres, or 446,054 square feet. Approximately 5.07 acres of the site would be improved with buildings, roads, and landscaping. Landscaping in the developed area would total approximately 1.29 acres. Another 0.19 acres of the site would be improved with bio-treatment areas to manage stormwater before it enters the storm drain network. South of the development area is the South Park area which is over an acre and includes both natural and improved open space. The improved area totals approximately 0.34 acres and includes children play structures, benches, paths, and a bridge to access the area from the new buildings. Approximately 4.83 acres of the site would remain as unimproved open space including areas west and upslope from the buildings as well as within the South Park area. A total of 50 percent of the site would remain as natural open space as defined in the City's Hillside Design Guidelines. At-grade, above and adjacent to the grocery store/community center building would be a public plaza (the "Village Commons") of almost 10,000 square feet that includes seating, a water feature, a children's play area and other recreational amenities.

Access to the site would be via a private driveway from Los Gamos Drive. The driveway would connect to a large loop internal driveway. Buildings 1 and 2 would have 36 parking spaces for the 36 apartments in each building. Buildings 3, 4 and 5 would have 33 parking spaces for the 40 apartments in each building. 213 parking spaces are proposed for the residences, and twelve parking spaces would serve the two-story grocery store and community center beneath that building, for a total of 225 spaces. The residential parking includes 171 covered spaces and 42 at-grade spaces. The project qualifies for the reduced parking standards of State Density Bonus Law (Government Code Section 65915(p)), which also requires the City to grant a waiver to parking requirements when needed to accommodate a housing project. A maximum of 246 parking spaces may be required for the 192 units, based on unit size, resulting in a deficit of 33 spaces for the residences. The City commercial parking standards require 42 spaces, giving a 30-space commercial parking deficit. As part of the density bonus application, the applicant has requested that a parking reduction be granted as a concession under State Density Bonus Law (Gov. Code Section 65915) for a total of 63 spaces.

The apartment buildings range from three to four stories tall above semi-subterranean parking; total height varies from 47 to 58 feet in height above the natural grade. The allowed maximum height is 30 feet (2040 General Plan, Figure 3-3). The height increase is a requested permissible waiver under State Density Bonus Law. As shown on the building elevations (page A105 of the plans), the peaks of the proposed buildings are all below the ridgeline behind and west of the site.

Landscaping would be planted around the proposed buildings, the surface parking areas and along the loop drive system. Trash would be stored in the parking garages. On collection days, bins would be moved to short-term at-grade pads adjacent to the buildings, then put away after collection. A storage enclosure would be provided for each apartment in half of the building level above the parking area.

Views of the site from neighboring properties are shown on pages A801 and A802 of the plans. Some of the neighboring structures are also shown on A802.

Architecture: The buildings are designed in a Contemporary style. Walls would be a combination of stucco, lap siding and painted concrete. Trim would be painted wood. Colors are earth-tones in complementary shades. Large areas of each of the walls of the residential buildings incorporate windows, introducing considerable light into the units. The buildings use horizontal and vertical articulation to break up the mass. The rooflines also vary and utilize gables to increase visual interest. The roofs would be a combination of composition shingle on the pitched roofs and rolled roofing on the flat area. Solar panels are proposed for each of the buildings.

Perspective drawings of the proposed project are shown on pages L1.02, L1.05, L1.07, and L1.08 of the plans. Building renderings are shown on pages A301 and A302. Building elevations are shown on pages A105, A202, A205, and A209. Building and site sections are shown on pages A106, A203, A206, and A208.

Landscaping: The existing hillside has a large number of trees, primarily oaks, concentrated for the most part south of the proposed development area. Almost half of the site (4.83 acres) would remain undisturbed. Of the 285 existing trees identified on the site, 55 are proposed for removal including 51 oaks, 1 Bay Laurel, 2 Stone Pines and 1 Australian Blackwood. A total of 210 trees are proposed to be planted including Cathedral Live Oaks, Coast Live Oaks, California Black Oaks, Scrub Oaks, Brisbane Box, Olive specimens and Crepe Myrtle. The plans include an extensive landscape palette (see plans L3.01-L3.03) and relies on a variety of low-water using trees, shrubs and groundcovers. The overall landscape plan is depicted on pages L1.03 and L1.04 of the plans.

Grading/Drainage: Grading would occur to create the 5.07-acre development site, the off-site access road (on the easement owned by the applicant) to Los Gamos Drive, and, to a more limited extent, in the 0.34 acre improved open space area south of the proposed buildings. Grading is necessary to create the access to the site, the internal driveway system, building pads, and the landscaped areas, walls and paths near the buildings. Grading in the 0.34 acre improved open space area is proposed to create a walking path and pads for play structures and exercise equipment. Grading is depicted on the engineering plans, sheets C1, C2, C3 and C4.

A total of 88,000 cubic yards of dirt is proposed to be moved: 71,000 cubic yards of cut and 17,000 cubic yards of fill. A total of 54,000 cubic yards of dirt is proposed to be removed from the site. It is estimated by the City's Public Works Department that this would require 2,500 to 3,500 truck trips.

A number of retaining walls are proposed. Walls behind the apartment buildings are a maximum height of eight feet tall. Walls behind the buildings are unlikely to be seen from offsite since the walls are shorter than the buildings.

Other retaining walls are located near the buildings to support landscape planters and pedestrian paths. A number of retaining walls up to eight feet tall are proposed to support the internal driveway system. Retaining walls up to 5 feet tall are also proposed on both the north and south sides of the entry driveway. Retaining walls up to 16 feet tall are used to create two terraces south of the grocery store/community center building. These terraces would provide informal recreational amenities with a lawn at the upper level, seating areas with trellis covers and water features on the middle level, and seating with a fire-pit

on the lowest levels. Each of these areas would also be landscaped with trees and shrubs as would the areas below and between the two lowest walls.

All retaining walls other than those behind the buildings would be concrete block construction with a stucco finish. Vines would trail over the top of the walls and trees and shrubs would be planted below them to create an effective screen.

The Mitigated Negative Declaration includes the following description of stormwater management on the project:

The project design, prepared by Tarnoff Engineering Corporation, includes stormwater management utilizing bioretention areas which would result in peak stormwater flow rates from the site maintained in the proposed condition. The bioretention areas have been designed to account for enough storage volume to attenuate peak flows on and from the site. As such, the proposed project would not result in flooding on- or off-site.

It is required by Marin County and the City of San Rafael that the proposed development would not increase the discharged storm drain peak flow and volume. Because the site is currently vacant, development of the site with the proposed project would require attenuating the flow and volume of storm drain run-off discharged from the site. The Tarnoff Hydrology study prepared in April 2021 includes calculations for bioretention basins, infiltration planters and underground storage designed to eliminate impacts to water quality and quantity downstream. Construction level plans would be required to satisfy the City of San Rafael Urban Runoff Pollution Prevention Ordinance to ensure that no new net run-off or pollutants from stormwater runoff would result from the proposed project. Furthermore, the project would be required to satisfy BMPs and LID to minimize impacts from construction activities. For these reasons, the impact would be considered less than significant, and no mitigation would be required.

Mitigation Measures HYDRO-1 and HYDRO-2 include various steps to ensure that drainage is managed effectively and avoids off-site impacts. In addition, Mitigation Measure GEO-3 requires the preparation of a detailed drainage plan to address drainage and erosion control issues.

A more complete project description can be viewed in the [December 14, 2021](#) Staff Report to the Planning Commission.

ANALYSIS:

A complete analysis of the project's consistency with the applicable plans, regulations and policies can be found in the [December 14, 2021](#) Staff Report to the Planning Commission.

General Plan 2040 Consistency:

The project has been reviewed for consistency with the San Rafael General Plan 2040 (Exhibit B to Attachment 2). The General Plan land use designation proposed for the property (Neighborhood Commercial Mixed Use) allows residential-commercial mixed use development at the intensity proposed. The project also furthers the goal of providing additional housing. There are numerous policies and programs that are pertinent to the site and the project. The General Plan contains many competing policies that need to be weighed and considered. Consistency with a General Plan is determined by reviewing and weighing the goals and polices of all elements of the San Rafael General Plan 2040. Staff has evaluated the project and found it to be consistent or consistent with conditions for the applicable San Rafael General Plan 2040 Policies and Programs, including the following Elements: Land Use, Housing, Community Design and Preservation, Conservation and Climate Change, Parks, Recreation and Open Space, Safety and Resilience, Noise, Mobility, Community Services and Infrastructure, and Equity Diversity and Inclusion. On balance, the proposed residential development would be consistent with the pertinent policies and programs of the General Plan 2040.

Zoning Ordinance Consistency:

The proposed land use is consistent with the proposed Neighborhood Commercial Mixed Use (NCMU) designation in the Land Use Element of the General Plan and the proposed Planned Development (PD) zoning. As noted in the Property Facts and Project Description of the [December 14, 2021](#) Staff Report to the Planning Commission, the project complies with the allowed residential density, commercial FAR, and required lot size. With the approval of the requested Waiver and Concession as provided by State Density Bonus law, the project is consistent with all zoning standards.

Subdivision Ordinance Consistency:

An application has been submitted for a Vesting Tentative Parcel Map. The applicant proposes to combine the existing parcels and adjust the boundaries. Since the proposal involves four or fewer properties and is a Vesting Tentative Parcel Map, it is considered a Minor Subdivision (SRMC Sec. 15.03) and is processed under that section. The benefit to the developer to apply for a Vesting Tentative Parcel Map is that the “approval or conditional approval of a vesting tentative map shall confer a vested right to proceed with development in substantial compliance with the city of San Rafael ordinances, policies and standards adopted and in place on the date the vesting tentative map application has been deemed complete, as described in Section 66474.2 of the Subdivision Map Act” (SRMC Sec. 15.03.030(a)).

The site would be adequately served by various utilities as required by SRMC Sec. 15.06.020. The project is consistent with the standards found in SRMC Sec. 15.06.030 for minimum lot size, lot dimension and depth. No new public or private streets are proposed. Although the site does not have frontage on a public street, access to Los Gamos, via an easement owned by the applicant, is allowed as part of the proposed Planned Development district as provided by SRMC Sec. 15.06.040. The project will conform to the grading and fire protection standards listed in SRMC Secs. 15.06.110 and .120. Utilities will be undergrounded as provided by SRMC. The site is consistent with the standards of the Subdivision Ordinance.

California Environmental Quality Act (CEQA):

The project is subject to environmental review. An Initial Study (IS) was completed for the project, which resulted in preparation of a Mitigated Negative Declaration (MND). The Initial Study/Mitigated Negative Declaration (IS/MND) document has been prepared in consultation with local, and state responsible and trustee agencies and in accordance with Section 15063 of the CEQA Guidelines. Furthermore, the IS/MND will serve as the environmental compliance document required under CEQA for any subsequent phases of the project and for permits/approvals required by a responsible agency. The MND was circulated for a 30-day public review period commencing on November 2, 2021 and concluding on November 30, 2021.

The IS/MND concluded that the proposed project would result in potentially significant impacts in Aesthetics, Air Quality, Biological Resources, Cultural and Tribal Cultural Resources, Geology and Soils, and Hydrology and Water Quality. The project impacts would be mitigated to a less-than-significant level through implementation of recommended mitigation measures or through compliance with existing Municipal Code requirements or City standards. Recommended measures are summarized in the Mitigation Monitoring and Reporting Plan (MMRP) (Attachment 1 Exhibit A).

The City received comments on the MND before the December 14, 2021 Planning Commission hearing. The letter from the California Department of Fish and Wildlife (CDFW) expressed a number of concerns and asked for additional mitigation measures to address potential impacts to the drainageway crossed by the proposed bridge, the removal of mature trees, and potential impacts to burrowing owls, the American badger, roosting bats and special status plants. Mitigation measures addressing these issues have been added to the MMRP and [Final MND](#). The [Response to Comments](#) and the letter from CDFW are provided as an exhibit to the resolution adopting the MND (Attachment 1 Exhibit B).

The resolution adopting the Mitigated Negative Declaration and approving the Mitigation Monitoring and Reporting Program is included as Attachment 1. All mitigation measures prescribed by the IS/MND and the Response to Comments have also been incorporated as conditions of approval of the project entitlements in the Resolution conditionally approving the Design Review Permit and Vesting Tentative Parcel Map (Attachment 3).

COMMUNITY OUTREACH:

Notice of all public hearings on the project, for the Design Review Board and Planning Commission (15-day review), the Initial Study/Mitigated Negative Declaration (CEQA) public comment period (30-day review) and the City Council hearing (15-day review) were conducted in accordance with public review period and noticing requirements contained in the Zoning Ordinance. All notices of public meeting or hearing were mailed to all property owners and occupants within a 300-foot radius of the subject site and the Mont Marin/San Rafael Park Neighborhood Association, and all other interested parties, at least 15 days prior to each meeting or hearing. In addition, notice of each meeting/hearing was posted on the subject site at least 15 days prior to the date of each meeting or hearing.

In general, comments received from the public expressed concern about the potential impacts to the adjacent commercial office building, wildlife, traffic and climate change; availability of water during a drought; increasing crime rates; and the cumulative effect related to other residential projects approved nearby. Conditions of approval have been added to address potential traffic impacts to the existing office building. Numerous trees will be planted between the project and the office building, helping to reduce the visual impact of the project. Mitigation measures will ensure that any potential impacts to protected species are reduced to a less-than-significant level. Responsible public agencies have stated that, as conditioned, the project can be adequately supplied with water. As to the comment on climate, the MND documented that the project would have less-than-significant impacts on greenhouse gases, which in combination with water supply, is the closest relevant response. As to the comment on increasing crime rates, the Police Department has reviewed the proposal and has not objected. In addition, the MND determined that the project would not pose a risk to public safety or impact levels of service. All public comments received by staff on the project are included as Attachment 5.

CHANGES SINCE PLANNING COMMISSION REVIEW:

In response to discussion at the Planning Commission hearing on December 14, 2021, the applicant agreed to revised conditions of approval. Condition 48 stipulates that at least 10% of the parking spaces will have electric vehicle chargers and that electrical raceways shall be installed in all parking areas to facilitate future installation of additional charging stations. Condition 49 requires the applicant to install the maximum amount of rooftop solar arrays as is reasonably feasible. Condition 50 requires the applicant to evenly distribute the affordable units throughout the project and show the locations on a plan. Condition 51 requires the applicant to implement transportation demand management measures to reduce the reliance on single-occupant vehicles. The measures include unbundled parking (where rental of the dwelling units and the parking spaces are under separate agreements and separate costs); an onsite vehicle rideshare program; a designated onsite employee to provide transit and ridesharing information to residents; and a designated bike parking area including infrastructure for charging electric bikes.

The applicant provided a revised description of the PD development standards (Exhibit B to Attachment 3) that defines the allowed uses in the project as those described in the Planning Commission staff report, those shown on the plans, and “any other use permitted as a matter of right in the Neighborhood Commercial zoning district pursuant to SRMC Section 14.05.020.” This allows the residences, the grocery store, the community center, and the leasing office. By referencing the allowed uses in the Neighborhood Commercial zone, the project can change between a limited set of uses without requiring a zone change each time there is a change of use.

FISCAL IMPACT:

The costs associated with processing the planning applications for this project are borne by the applicant and are subject to 100% cost recovery of staff time, and therefore would have no direct fiscal impact on the City budget. The project would generate 78 am and 102 pm net new peak hour vehicle trips, which would be subject to the payment of a Traffic Mitigation Fee of \$764,280 (180 trips x \$4,246/new peak hour traffic trip) to assist in funding needed off-site transportation improvements. All utility connections (sewer, water, gas/electric) will be constructed at the cost of the property owner. Further, all public improvements along the site frontages will be constructed at the cost of the property owner.

OPTIONS:

The City Council has the following options:

1. Approve the applications to the City Council as presented (*staff recommendation*).
2. Approve the applications with certain modifications, changes or additional conditions of approval
3. Continue the hearing to allow the applicant to address any of the Council's comments or concerns
4. Deny the project and direct staff to return with a revised Resolutions.

RECOMMENDED ACTION:

Staff recommends that the City Council:

1. Adopt a Resolution adopting the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Attachment 1);
2. Adopt a Resolution approving a General Plan Amendment (Attachment 2);
3. Pass an Ordinance to print approving the Rezoning from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD) (Attachment 3); and
4. Adopt a Resolution Conditionally Approving the Environmental and Design Review Permit and Vesting Tentative Parcel Map applications for the project (Attachment 4).

ATTACHMENTS:

1. Resolution Adopting a Mitigated Negative Declaration and Approving the Mitigation Monitoring and Reporting Program
2. Resolution Approving a General Plan Amendment
3. Ordinance Adopting a Planned Development (PD) Rezoning
4. Resolution Conditionally Approving the Environmental and Design Review Permit and Vesting Tentative Parcel Map applications
5. Public comments
6. Public Hearing Notice

RESOLUTION NO.

RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL ADOPTING AN INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND APPROVING THE MITIGATION MONITORING AND REPORTING PROGRAM FOR A GENERAL PLAN AMENDMENT (GPA 20-001), ZONE CHANGE (ZC 20-002), VESTING TENTATIVE PARCEL MAP, AND ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED 20-058), FOR THE CONSTRUCTION OF A MIXED-USE PROJECT CONSISTING OF 192 RESIDENTIAL APARTMENT UNITS, A 5,600 SQUARE-FOOT MARKET, A 5,000 SQUARE FOOT COMMUNITY CENTER, AND 225 AT-GRADE AND SEMI-SUBTERRANEAN PARKING SPACES, ON A 10.24 ACRE SITE LOCATED AT THE SOUTHERLY TERMINUS OF LOS GAMOS DRIVE NORTH OF OLEANDER DRIVE

**(THE NEIGHBORHOOD AT LOS GAMOS)
(APNS: 165-220-06 AND 165-220-07)**

WHEREAS, on December 22, 2020, Christopher Hart, applicant, submitted applications for a General Plan Amendment (GPA 20-001) from Hillside Resource Residential to Neighborhood Commercial Mixed Use; Zone Change (ZC 20-002) from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD); Vesting Tentative Parcel Map to combine and adjust the boundaries of the existing parcels; and Environmental and Design Review (ED 20-058) for a mixed-use project with 192 multi-family residential units; an approximately 5,600-square-foot market; a 5,000-square-foot community center; and 225 at-grade and semi-subterranean parking spaces; on a 10.24 acre site located at the southerly terminus of Los Gamos Drive north of Oleander Drive; and

WHEREAS, on September 30, 2021, the applicant held a Neighborhood Meeting via zoom which was duly noticed to the residents and property owners within 300’ of the project site and notice of the meeting was also posted on the site; and

WHEREAS, on October 5, 2021, the project was considered by the Design Review Board (DRB) which recommended approval of the project subject to conditions to reconsider a darker color palette for the walls of the structures, to try to provide a more natural and less formal arrangement of the proposed trees on the project, to mitigate the impact of the tall retaining walls in the Village Commons, and for the project to come back for final review of the design details by the DRB when building permits were submitted; and

WHEREAS, as required by the California Environmental Quality Act (CEQA) Guidelines, staff determined that the applications for a general plan amendment, zone change, vesting tentative parcel map, and environmental and design review permits, are a ‘project,’ making it subject to environmental review. Pursuant to CEQA Guidelines Section 15063, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared to determine the potential environmental impacts of the project. The IS/MND is supported by several technical studies including air quality, noise, geotechnical and traffic); and

WHEREAS, as demonstrated in the preparation of the Initial Study/Mitigated Negative Declaration (IS/MND), all potentially significant effects on the environment identified in the IS/MND can be mitigated to less-than-significant levels with implementation of the recommended mitigation measures, including impacts to Aesthetics, Air Quality, Biological Resources, Cultural and Tribal Cultural Resources, Geology and Soils, and Hydrology and Water Quality. Therefore, consistent with CEQA Guidelines Section 15070, the Initial Study supports and recommends adoption of a Mitigated Negative Declaration; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) was prepared which outlines the procedures/steps and requirements

for implementing all mitigation measures identified in the Initial Study/Mitigated Negative Declaration. The MMRP is attached hereto as Attachment A and incorporated by reference; and

WHEREAS, the subject site was posted with a public notice regarding the Mitigated Negative Declaration prepared for this project and notices were published in a local newspaper of general circulation in the area and mailed to surrounding property owners within 300 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups in conformance with the CEQA Guidelines Section 15072; and

WHEREAS, copies of the IS/MND were submitted to the State Office of Planning and Research (OPR) and made available for a 30-day review period by pertinent agencies and interested members of the public, commencing on November 2, 2021 and concluding on November 30, 2021; and

WHEREAS, the City has evaluated the comments received by public agencies, utilities, organizations, special interest groups and persons who have reviewed the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, including the letter received from the California Department of Fish and Wildlife, commenting on the adequacy of the Initial Study/Mitigated Negative Declaration and recommending additional mitigation measures and conditions of approval. Staff has added these mitigation measures to the revised MMRP and MND and the proposed conditions to the project conditions; and

WHEREAS, on December 14, 2021, the Planning Commission held a duly-noticed public hearing on the proposed project, the IS/MND and MMRP, and the applications for General Plan Amendment, Zone Change, Vesting Tentative Parcel Map, and Environmental Design Review Permits, for the mixed-use project at the terminus of Los Gamos Drive, accepting all oral and written public testimony and the written report of the Department of Community Development. On a vote of 5-0-2 (Commissioners Mercado and Previtali absent), the Planning Commission adopted Resolution 21-10, recommending that the City Council adopt the IS/MND and approve a Mitigation Monitoring and Reporting Program; and

WHEREAS, on February 7, 2022, the City Council held a duly-noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

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

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael does hereby adopt the Mitigated Negative Declaration and approves the Mitigation Monitoring and Reporting Program as presented in Attachment A based on the findings that:

- a) The City exercised its independent judgment in evaluating the Mitigated Negative Declaration which has been considered in conjunction with the comments received during the public review period and at the Planning Commission hearing. Based on this review, the City Council finds and determines that: 1) there is no substantial evidence that the project will have a significant impact on the environment; and 2) project mitigation measures have been incorporated into the project which will reduce the potential impacts to less-than-significant levels.
- b) A Mitigation Monitoring and Reporting Program has been prepared for adoption to ensure implementation of, and compliance with, all conditions required to mitigate any impact to a less-than-significant level. All mitigation measures have also been included as conditions of the project's approval by separate Resolution.

I, Lindsay Lara, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the San Rafael City Council held on Monday, the 7th day of February 2022, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Exhibit A: Mitigation Monitoring and Reporting Program
Exhibit B: Response to Comments

Exhibit A

MITIGATION MONITORING AND REPORTING PROGRAM
Los Gamos Apartments

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
I. AESTHETICS					
<p>I(d). Mitigation Measure AES-1: Prior to the Building Permit final inspection, the project applicant shall submit to the satisfaction of the Community Development Department Director, a post-installation photometric lighting study showing that the lighting on site complies with the approved lighting levels per ED18-100 and the requirements of SRMC 14.16.227. The project applicant shall also demonstrate to the Building Division that outdoor lighting fixtures meet the requirements of the California Energy Code (known as Part 6, Title 24 of the California Code of Regulations)</p>	<p>Require as a condition of approval</p>	<p>Planning Division Building Division</p>	<p>Incorporate as condition of project approval Planning Division verifies appropriate plan/study obtained prior to issuance of building permit</p>	<p>Deny project Deny issuance of building permit or halt work in reliance of the permit if the lighting study does not demonstrate compliance</p>	
III. AIR QUALITY					
<p>III (b). Mitigation Measure AQ-1: Include basic measures to control dust and exhaust during construction. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. The contractor shall implement the following best management practices that are required of all projects:</p> <ol style="list-style-type: none"> All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. 	<p>Require as a condition of approval Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Planning Division Building Division</p>	<p>Incorporate as condition of project approval Building Division verifies appropriate approvals obtained prior to issuance of building permit If construction activity is found out of compliance, Project sponsor halts work immediately</p>	<p>Deny project Deny issuance of building permit Stop Work Order or revocation of permit</p>	

MITIGATION MONITORING AND REPORTING PROGRAM
Los Gamos Apartments

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<ol style="list-style-type: none"> 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered. 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. 4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph). 5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. 6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. 7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. 8. Post a publicly visible sign with the telephone number and person to contact at the City of San Rafael Building Division regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. 	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
<p>III(b). Mitigation Measure AQ-1a: All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum,</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	

MITIGATION MONITORING AND REPORTING PROGRAM
Los Gamos Apartments

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>meet U.S. EPA particulate matter emissions standards for Tier 2 engines with CARB-certified Level 3 Diesel Particulate Filters or equivalent.</p> <ul style="list-style-type: none"> • The use of equipment meeting U.S. EPA Tier 4 standards for particulate matter would also meet this requirement. • Use of equipment that includes alternatively-fueled equipment (i.e., non-diesel) would meet this requirement. • Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts to less-than-significant levels. 	<p>Project sponsor provides equipment list prior to issuance of building permits</p>	<p>Public Works Department / Building Division</p>	<p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p> <p>If construction activity is found out of compliance, Project sponsor halts work immediately</p>	<p>Deny issuance of building permit</p> <p>Stop Work Order or revocation of permit</p>	
<p>III(c) Mitigation Measure AQ-2: Include high-efficiency particulate filtration systems in residential ventilation systems. The project shall include the following measures to minimize long-term increased cancer risk and annual PM2.5 exposure for new project occupants:</p> <ol style="list-style-type: none"> 1. Install air filtration in residential dwellings. Air filtration devices shall be rated MERV 13 or higher. To ensure adequate health protection to sensitive receptors (i.e., residents), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be filtered, as described above. 2. As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HV AC) air filtration system shall be required. 3. Ensure that the use agreement and other property documents: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, 	<p>Require as a condition of approval</p> <p>Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Planning Division</p> <p>Building Division</p>	<p>Incorporate as condition of project approval</p> <p>Building Division verifies appropriate approvals obtained prior to issuance of building permit</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	

MITIGATION MONITORING AND REPORTING PROGRAM
Los Gamos Apartments

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>(2) include assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.</p>					

IV. BIOLOGICAL RESOURCES

<p>IV(a). Mitigation Measure BIO-1a: The project sponsor shall conduct pre-construction surveys prior to initiation of any construction activities, including the following:</p>	<p>Require as a condition of approval</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval. Project applicant conducts pre-construction survey before permit issuance.</p>	<p>Deny project</p>
<ul style="list-style-type: none"> Rare Plant Survey. Prior to initiation of construction, a qualified botanist will survey for this species during their blooming season (April through November) to ensure these plants are not impacted. If individual plants are located within the development footprint, the qualified botanist will transplant individual plants to an area with the habitat requirements for this species in an area that will remain undisturbed within the Project Area. 	<p>Project sponsor designates qualified professional prior to start of construction and obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Planning / Building Division</p>	<p>Planning / Building Division verifies survey conducted prior to issuance of building permit</p>	<p>Deny issuance of building permit</p>
			<p>If biological resources are discovered during construction, Project</p>	<p>Stop Work Order or revocation of permit</p>

MITIGATION MONITORING AND REPORTING PROGRAM
Los Gamos Apartments

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<ul style="list-style-type: none"> Special-Status Plant Survey and Avoidance. A qualified botanist shall conduct surveys during the appropriate blooming period for all special-status plants that have the potential to occur on or adjacent to the Project area prior to the start of ground-disturbing activities and prepare a report documenting survey findings. Habitat adjacent to the Project area should be surveyed if the Project may have indirect impacts off-site as a result of changes to hydrological conditions or other indirect impacts. More than one year of surveys may be necessary. Surveys and reporting shall be conducted following <i>Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities</i>. Surveys shall be submitted to CDFW for review and written acceptance. If special-status plants are found during surveys, the Project shall be re-designed to avoid impacts to special-status plants. If impacts to any special-status plants cannot be avoided completely during construction, the Project shall provide mitigation including on-site restoration, off-site habitat preservation, or another method accepted in writing by CDFW. The qualified botanist shall be knowledgeable about plant taxonomy, familiar with plants of the region, and have experience conducting botanical field surveys according to vetted protocols. 	<p>Require as a condition of approval</p> <p>Project sponsor designates qualified professional prior to start of construction and obtains approvals from appropriate agencies prior to issuance of building permits</p>	<p>Planning Division</p>	<p>sponsor stops work immediately</p>		
<ul style="list-style-type: none"> Tree Removal and Migratory Bird Protection. Tree and shrub removal will be conducted between September 1 and February 14, outside of nesting bird season, to the extent possible. Tree removal between February 15 and August 31 will require a 	<p>Require as a condition of approval.</p>	<p>Planning Division</p>			

MITIGATION MONITORING AND REPORTING PROGRAM
Los Gamos Apartments

Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>nesting bird survey by a qualified biologist no more than 7 days prior to work occurring.</p>	<p>Require as a condition of approval.</p>	<p>Planning Division</p>			
<ul style="list-style-type: none"> Active Bird Nest. If at any time of the year an active bird nest is observed within or near work sites, work within 50 feet of the observed nest shall cease, care shall be taken not to disturb the nest, and the work supervisor shall contact designated biologist for guidance on how to proceed. A no-work buffer will be implemented by the biologist as appropriate to protect the nest until the young have fledged. 	<p>Require as a condition of approval.</p>	<p>Planning Division</p>			
<ul style="list-style-type: none"> Bat Tree Habitat Assessment and Surveys. Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark, and suitable canopy for foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked and tree trimming or removal shall not proceed unless the following occurs: a) in trees with suitable habitat, presence of bats is presumed, or documented during the surveys described below, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats. 	<p>Require as a condition of approval.</p>	<p>Planning Division</p>			

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>Two-step tree removal shall be conducted over two consecutive days, as follows:</p> <ul style="list-style-type: none"> the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only; limbs with cavities, crevices or deep bark fissures shall be avoided; and the second day the entire tree shall be removed. 					
<p>IV(a). Mitigation Measure BIO-1b: Burrowing Owl Habitat Assessment, Surveys, and Avoidance. Prior to Project activities, a habitat assessment shall be performed following Appendix C: Habitat Assessment and Reporting Details of the CDFW Staff Report on Burrowing Owl Mitigation4(CDFW 2012 Staff Report). The habitat assessment shall extend at least 492 feet (150 meters) from the Project site boundary or more where direct or indirect effects could potentially extend offsite (up to 500 meters or 1,640 feet) and include burrows and burrow surrogates. If the habitat assessment identifies potentially suitable burrowing owl habitat, then a qualified biologist shall conduct surveys following the CDFW 2012 Staff Report survey methodology. Surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted commensurate with the type of disturbance anticipated, as outlined in the CDFW 2012 Staff Report, and include burrow surrogates such as culverts, piles of concrete or rubble, and other non-natural features, in addition to burrows and mounds. Time lapses between surveys or Project activities</p>	<p>Require as a condition of approval.</p> <p>Prior to the issuance of building permits, project sponsor designates qualified professional prior to start of construction and conduct assessments and surveys.</p> <p>Final survey to be conducted within 24 hours of ground disturbance.</p> <p>Prior to issuance of building permits, project sponsor designates qualified professional prior to start of construction to coordinate with CDFW to find</p>	<p>Planning Division</p> <p>Planning / Building Division</p>	<p>Incorporate as condition of project approval.</p> <p>Prior to issuance of building permit, qualified professional coordinates with CDFW to find appropriate off-site burrow locations.</p> <p>Prior to issuance of building permit, Planning / Building Division verifies permanent preservation of off-site burrow locations is satisfactory to CDFW.</p>	<p>Deny issuance of building permit</p> <p>Stop work if final survey discovers burrowing owls.</p>	

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>shall trigger subsequent surveys, as determined by a qualified biologist, including but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report and any passive relocation plan for non-nesting owls shall be subject to CDFW review.</p> <p>Burrowing Owl Wintering Habitat Mitigation. If the Project would impact an occupied burrow (where a non-nesting wintering owl would be evicted as described above), the following habitat mitigation shall be implemented prior to Project construction:</p> <ul style="list-style-type: none"> Impacts to each burrow site shall be mitigated by permanent preservation of two occupied burrow sites with appropriate foraging habitat within Marin County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity. <p>The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.</p>	<p>appropriate off-site burrow locations.</p>		<p>Incorporate as condition of project approval. Qualified professional conducts pre-construction survey before permit issuance.</p> <p>Planning / Building Division verifies survey conducted prior to issuance of building permit</p>		
<p>IV(a); Mitigation Measure BIO-1c: American Badger Preconstruction Wildlife Survey. Within one week prior to initiation of construction, a qualified biologist will survey the Project Area for potential American badger burrows. If potentially occupied burrows are detected, an avoidance</p>	<p>Require as a condition of approval.</p> <p>Prior to the issuance of building permits, project sponsor designates qualified professional to conduct assessment and surveys and</p>	<p>Planning Division</p> <p>Planning / Building Division</p>	<p>Incorporate as condition of project approval. Qualified professional conducts assessments</p>	<p>Deny issuance of building permit</p>	<p>Stop work if final survey discovers</p>

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>buffer will be approved by CDFW, and established to protect the burrow from construction impacts. If a sufficient buffer cannot be established, the biologist will prepare a relocation plan to be approved by CDFW and implemented prior to initiation of construction. If construction is suspended for more than 1 week or is initiated in an area more than 2500 feet from active construction, a new survey will be performed prior to re-starting work or starting work in new areas.</p>	<p>to prior to start of construction.</p> <p>Require as a condition of approval.</p> <p>Prior to issuance of building permits, project sponsor designates qualified professional prior to start of construction to coordinate with CDFW to find appropriate off-site burrow locations.</p>		<p>and surveys as outlined in the mitigation measure and provides copy of results to Planning Division.</p> <p>Planning / Building Division verifies assessments and surveys conducted prior to issuance of building permit.</p> <p>Planning / Building Division verifies final survey was conducted within 24 hours of ground disturbance..</p>	<p>suitable habitat trees.</p> <p>Deny issuance of building permit</p>	

V. CULTURAL RESOURCES

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>V(b). Mitigation Measure CULT-1: Protect Archaeological Resources Identified during Construction: The project sponsor shall ensure that construction crews stop all work within 100 feet of the discovery until a qualified archaeologist can assess the previously unrecorded discovery and provide recommendations. Resources could include subsurface historic features such as artifact-filled privies, wells, and refuse pits, and artifact deposits, along with concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile and dart points), midden (culturally derived darkened soil containing heat-affected rock, artifacts, animal bones, and/or shellfish remains), and/or groundstone implements (such as mortars and pestles).</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
	Project sponsor designates qualified professional pursuant to NAHC requirements and obtains approvals from appropriate agencies prior to issuance of building permits	Planning /Building Division	Project sponsor to halt work immediately upon discovery of unknown resources	Halt building permit	
<p>V(c). Mitigation Measure CULT-2: Protect Human Remains Identified During Construction: The Project proponent shall treat any human remains and associated or unassociated funerary objects discovered during soil-disturbing activities according to applicable State laws. Such treatment includes work stoppage and immediate notification of the Marin County Coroner and qualified archaeologist, and in the event that the Coroner’s determination that the human remains are Native American, notification of NAHC according to the requirements in PRC Section 5097.98. NAHC would appoint a Most Likely Descendant (“MLD”). A qualified archaeologist, Project proponent, County of Marin, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5[d]). The</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
	Project sponsor designates qualified professional pursuant to NAHC requirements and obtains approvals from appropriate agencies prior to issuance of building permits	Planning /Building Division	Project sponsor to halt work immediately upon discovery of unknown resources	Halt building permit	

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship, and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters.			Project sponsor to halt work immediately upon discovery of cultural resources	Stop Work Order or revocation of permit	

VII. GEOLOGY AND SOILS

<p>VII(a)(ii). Mitigation Measure GEO -1: Prior to a grading or building permit submittal, the project sponsor shall prepare a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer. Minimum recommendations include design of new structures in accordance with the provisions of the 2019 California Building Code or subsequent codes in effect when final design occurs. Final project design shall be consistent with the recommended seismic design coefficients and spectral accelerations are presented in the findings presented in Section 5.1 of the December 7, 2020 MPEG report.</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
	Project sponsor prepare a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer	Public Works Department	Public Works Department / Building Division verifies appropriate design-level report prior to issuance of building permit	Deny issuance of building permit	
<p>VII(a)(iv). Mitigation Measure GEO-2: Supplemental exploration with exploratory trenches and geology site inspection/mapping further upslope shall be performed to better evaluate the potential for instability. Most of the suspected areas of instability within the site will be removed as part of the planned excavation and building construction. Undeveloped areas of instability within the project site should be over-excavated, subsurface drainage installed, and backfilled with engineered fill. Global stability of the site should be checked as part of building wall design. Debris catchment structure or deflection wall/berm may be needed upslope of the planned buildings if debris flow paths cross planned structures. Final project design shall be consistent</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
	Project sponsor prepare a design-level drainage system design prepared by a qualified and licensed civil engineer and submit the report to the City Engineer	Public Works Department	Public Works Department/ Building Division verifies appropriate design-level report prior to issuance of building permit	Deny issuance of building permit	

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>with the recommended findings presented in Chapter 5 of the December 7, 2020 MPEG report.</p>					
<p>VII(b). Mitigation Measure GEO-3: Prior to a grading or building permit submittal, the project sponsor shall prepare a site drainage system prepared by a qualified and licensed civil engineer and submit the report to the City Engineer. Planned improvements or structures on shallow foundations should be setback from the unimproved drainage channel. The recommended setback distance is a 3:1 inclination from the channel bed or 10 feet from top of bank, whichever is greater. The site drainage system shall be designed to collect surface water from the maximum credible rainfall event and discharging it into an established storm drainage system. The project Civil Engineer is responsible for designing the site drainage system.</p>	<p>Require as a condition of approval</p> <p>Project sponsor prepare a design-level drainage system design prepared by a qualified and licensed civil engineer and submit the report to the City Engineer</p>	<p>Planning Division</p> <p>Public Works Department</p>	<p>Incorporate as condition of project approval</p> <p>Public Works Department/ Building Division verifies appropriate design-level report prior to issuance of building permit</p>	<p>Deny project</p> <p>Deny issuance of building permit</p>	
<p>In addition, an erosion control plan shall be developed prior to construction per the current guidelines of the California Stormwater Quality Association’s Best Management Practice Handbook. Additionally, regular monitoring of the upslope areas shall be performed, particularly during and following periods of heavy rainfall. Regular maintenance of upslope areas should also be performed and should include maintaining vegetative cover on slopes, clearing debris from the v-ditches and drain inlets, and promptly repairing any erosion or shallow instabilities that occur. Final project design shall be consistent with the recommended findings presented in Chapter 5 of the December 7, 2020 MPEG report.</p>					

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>VII(d). Mitigation Measure GEO-4: Soils subgrades and fills shall be moisture conditioned above the optimum moisture content during site grading and maintained at this moisture content until imported aggregate base and/or surface flatwork is completed. Retaining structures shall be designed with a soil creep load where walls retain sloping ground. Foundations shall be designed to account for some expansive soil movement. Final project design shall be consistent with the recommended findings presented in Chapter 5 of the December 7, 2020 MPEG report.</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
	Project sponsor obtains approvals from appropriate agencies prior to issuance of building permits	Public Works Department/Building Division	Public Works Department/ Building Division verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of building permit	
<p>VII(f). Mitigation Measure GEO-5: Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a “qualified paleontologist” shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.</p> <p>If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring,</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
	Project sponsor shall designate qualified paleontologist, consult with agencies as appropriate prior to issuance of building permits	Building Division	Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted. Planning / Building Division contacted and appropriate agencies alerted to discoveries	Halt building permit	

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.</p> <p>The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:</p> <p>“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of</p>					

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”					

X. HYDROLOGY AND WATER QUALITY

<p>X(a). Mitigation Measure HYDRO-1: Prior to issuing a grading or building permit, the project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and/or Erosion and Sediment Control Plan (ESCP) in accordance with the requirements of the statewide Construction General Permit and the City of San Rafael Department of Public Works. The SWPPP shall be prepared by a Qualified SWPPP Developer (QSD). The SWPPP shall include the minimum Best Management Practices (BMPs) required for the identified risk level. The SWPPP shall be designed to address the following objectives:</p>	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
<ol style="list-style-type: none"> 1) All pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity are controlled; 2) Where not otherwise required to be under a Regional Water Quality Control Board permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated; 3) Site BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity. The erosion and sediment control plan shall include the rationale used for selecting BMPs including supporting soil loss calculations, as necessary; 4) Stabilization BMPs installed to reduce or eliminate pollutants after construction are completed. 	Project sponsor submits SWPP/ESCP to San Rafael Department of Public Works prior to issuance of building permits	Public Works Department	Public Works Department verifies appropriate approvals obtained prior to issuance of building permit	Deny issuance of building permit	

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
<p>5) BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Stormwater Quality Handbook Construction Site BMPs Manual.</p>					
<p>X(a). Mitigation Measure HYDRO-2: Prior to a certificate of occupancy, the Project applicant shall verify that operational stormwater quality control measures that comply with the requirements of the current Phase II Small MS4 Permit have been implemented. Responsibilities include, but are not limited to:</p>	<p>Require as a condition of approval</p>	<p>Planning Division</p>	<p>Incorporate as condition of project approval</p>	<p>Deny project</p>	
<p>1) Designing BMPs into Project features and operations to reduce potential impacts to surface water quality and to manage changes in the timing and quantity of runoff associated with operation of the project. These features shall be included in the design-level drainage plan and final development drawings.</p> <p>2) The proposed project shall incorporate site design measures and Low Impact Development design standards, including minimizing disturbed areas and impervious surfaces, infiltration, harvesting, evapotranspiration, and/or bio-treatment of stormwater runoff.</p> <p>3) The Project applicant shall establish an Operation and Maintenance Plan. This plan shall specify a regular inspection schedule of stormwater treatment facilities in accordance with the requirements of the Phase II Small MS4 Permit.</p> <p>4) Funding for long-term maintenance of all BMPs shall be specified.</p>	<p>Project sponsor submits Phase II Small MS4 Permit to San Rafael Department of Public Works prior to issuance of certificate of occupancy</p>	<p>Public Works Department</p>	<p>Public Works Department verifies appropriate approvals obtained prior to issuance of certificate of occupancy</p>	<p>Deny issuance of certificate of occupancy</p>	

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Mitigation Measure	Implementation Procedure	Monitoring Responsibility	Monitoring / Reporting Action & Schedule	Non-Compliance Sanction/Activity	Monitoring Compliance Record (Name/Date)
XVIII. TRIBAL CULTURAL RESOURCES					
XVIII(a). Mitigation Measure TRIBAL-1: Implementation of the unanticipated discovery measures outlined in Section V(b) and (d) above, address the potential discovery of previously unknown resources within the project area. If significant tribal cultural resources are identified onsite, all work would stop immediately within 50 feet of the resource(s) and the project applicant would comply with all relevant State and City policies and procedures prescribed under PRC Section 21074.	Require as a condition of approval	Planning Division	Incorporate as condition of project approval	Deny project	
	Project sponsor designates qualified professional pursuant to NAHC requirements and obtains approvals from appropriate agencies prior to issuance of building permits	Planning /Building Division	Project sponsor to halt work immediately upon discovery of unknown resources	Stop Work Order or revocation of permit	
			Planning / Building Division verifies appropriate professionals/approvals obtained prior to issuance of building permit		

Exhibit B



MEMORANDUM

DATE: December 7, 2021

TO: Planning Commission

FROM: Sean Kennings, LAK Associates, LLC.

SUBJECT: Response to California Department of Fish and Wildlife Comments on Los Gamos Apartments project Initial Study and Mitigated Negative Declaration (IS/MND)

The City of San Rafael Planning Division received the attached letter from the California Department of Fish and Wildlife (CDFW) regarding the Los Gamos Apartments (LGA) project IS/MND. A numbering system has been established to address specific questions in the letter. Each of the comments in the letter has been assigned a number and responses are provided below. Staff has communicated with the CDFW staff person, Amanda Culpepper, and has confirmed the responses accordingly. Although the requested changes represent new information related to the project, it has been determined that the update does not present a material change in the baseline information, nor result in new findings that changes the impact significance criteria. As a result, pursuant to the California Environmental Quality Act (CEQA) Guidelines 15073.5(c), the ISMND has been revised with updated Mitigation Measures to reflect the suggested language by CDFW.

CDFW Comment Letter, Amanda Culpepper, November 24, 2021

Response to Comment 1 – Lake or Streambed Alteration Notification: The comment suggests that the LGA project requires compliance with the California Fish and Game Code section 1600 et seq. to reduce potential impacts to an on-site ephemeral stream during construction of the pedestrian bridge crossing. Although the project does not propose improvements within the drainageway, the project should be evaluated by CDFW prior to building permit review and approval. A condition of approval has been developed requiring the applicant to submit for an LSA Notification to CDFW pursuant to Fish and Game Code section 1602 prior to Project construction for Project activities that may substantially alter the bed, bank, or channel of the ephemeral stream, including installation of a new bridge.

Response to Comment 2 – Environmental Setting and Related Impact Shortcoming Riparian Habitat, Sensitive Natural Community, and Tree Removal: The comment suggests that the LGA project will be impacting riparian and oak woodland habitats.

Additionally, the comment request information regarding tree removal in riparian areas. As discussed in the biological site assessment provided with the application, there are no riparian areas on site, and therefore, no tree removals in riparian zones. The comment also provides recommended replanting requirements to offset loss of tree removals. As discussed in the ISMND, the project is proposed to remove the minimal number of native trees, and the landscaping plan proposes to replace some of these removed trees. The City of San Rafael does not have an adopted tree preservation policy or ordinance, however, tree removal and replacement is evaluated through the City's Environmental and Design Review Permit Review Criteria (SRMC Section 14.25.050.G). The proposed project includes removal of 55 existing mature landscape trees on site but includes 210 replacement trees throughout the project site (approximately a 3.85:1 ratio). A condition of approval could be included to require larger size replacement trees, however, staff believes more trees should not be replanted on site due to concerns about defensible space for fire and fuel management. In addition, a condition of approval should be added to require a landscape plan revision prior to building permit submittal so that the south park pedestrian path avoids mature oak trees where practical.

Response to Comment 3 – Burrowing Owl: The comment suggests that the LGA project will be impacting burrowing owl habitat. As discussed in the biological site assessment provided with the application, burrowing owls are usually found on flat, open grasslands or fields and are not expected on steeper, sloped sites. No burrowing owls nor nest or burrows were observed during the site reconnaissance. Furthermore, the example cited in the CDFW letter occurred north of the project site (north of St. Vincent's) in an open field. However, IS/MND and the MMRP have been modified to include new mitigation requiring a pre-construction survey review for burrowing owl.

Response to Comment 4 – American Badger: The comment suggests that the LGA project will be impacting American badger habitat, an animal considered a special status species (SSC). The applicant has provided an addendum memorandum from GANDA/Kleinfelder (attached) explaining that although American badger suitable habitat occurs on the project site, no badgers or badger dens were observed during the site reconnaissance. However, GANDA included a new avoidance and minimization measure is recommended that includes further pre-construction surveys to rule out any occurrences. The IS/MND and the MMRP have been modified to include new mitigation requiring a pre-construction survey to review for American badger.

Response to Comment 5 – Roosting Bats: The comment suggests that the LGA project ISMND did not clearly evaluate the impacts to roosting bat habitat. The comment also suggests that tree removal associated with the project could lead to injury or death of bats, including pallid bat and western red bat, a potentially significant impact. As discussed in the biological site assessment provided with the application, no pallid bat roosts were observed within the study area, however the likelihood for occurrence on site is considered low. However, the IS/MND and the MMRP have been modified to include new mitigation similar to the language defined by CDFW.

Response to Comment 6 – Mitigation Measures and Related Impact Shortcoming -

Special-Status Plants: The comment request additional specificity for special status plant species as part of the pre-construction surveys. Specifically, CDFW is requesting that the project sponsor perform floristic botanical surveys and provide further information regarding success criteria for transplanted plant individuals. The IS/MND and the MMRP have been modified to include new language for the existing biological mitigation measure requiring a pre-construction survey to review for special status plants.

Response to Comment 7 – General Comments: The comment is encouraging using native trees and shrubs to benefit native nesting birds and other wildlife in the landscaping plan.

Typical conditions of approval require projects to incorporate native vegetation as part of the landscaping plan.

Response to Comments 8 – Environmental Data: The comment is requesting that staff report of any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). Staff will incorporate a condition of approval that requires information to be uploaded to the CNDDDB database as indicated by CDFW.

Attachments:

1. California Department of Fish and Wildlife letter, dated November 24, 2021
2. American badger memorandum, GANDA/Kleinfelder, December 8, 2021



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
(707) 428-2002
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



ATTACHMENT 1

November 24, 2021

Ms. Leslie Mendez
City of San Rafael
1400 5th Avenue, 3rd Floor
San Rafael, CA 94901
Leslie.Mendez@cityofsanrafael.org

Subject: Los Gamos Apartments Development Project, Mitigated Negative Declaration, SCH No. 2021110004, City of San Rafael, Marin County

Dear Ms. Mendez:

The California Department of Fish and Wildlife (CDFW) received a Notice of Intent to Adopt a Mitigated Negative Declaration (MND) from the City of San Rafael (City) for the Los Gamos Apartments Development Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.¹

CDFW is submitting comments on the MND to inform the City, as the Lead Agency, of potentially significant impacts to biological resources associated with the Project.

CDFW ROLE

CDFW is a **Trustee Agency** with responsibility under CEQA pursuant to CEQA Guidelines section 15386 for commenting on projects that could impact fish, plant, and wildlife resources. CDFW is also considered a **Responsible Agency** if a project would require discretionary approval, such as permits issued under the California Endangered Species Act (CESA) or Native Plant Protection Act, the Lake and Streambed Alteration (LSA) Program, or other provisions of the Fish and Game Code that afford protection to the state's fish and wildlife trust resources.

PROJECT DESCRIPTION SUMMARY

Proponent: Colin Russell Architects

Objective: The Project would develop a 10.24-acre lot into 192 multifamily residential units, a neighborhood market, a community center, and a walking trail. Primary Project activities include grading, excavation, trenching, building construction, concrete pouring, tree-removal, bridge installation, and landscaping.

¹ CEQA is codified in the California Public Resources Code in Section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

Ms. Leslie Mendez
City of San Rafael
November 24, 2021
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Location: The Project is located at Los Gamos Drive approximately 0.5 miles south of the intersection of Los Gamos Drive and Lucas Valley Road, in the City of San Rafael, County of Marin. The approximate centroid of the Project is Latitude 38.01509°N, Longitude 122.54327°W and the Assessor's Parcel Numbers are 165-220-06 and 165-220-07.

Timeframe: The MND does not specify a timeframe.

ENVIRONMENTAL SETTING

The Project covers approximately 10.24 acres of undeveloped land consisting of annual and perennial grassland, coyote brush (*Baccharis pilularis*) scrub, coast live oak (*Quercus agrifolia*) woodland, and valley oak (*Q. lobata*) woodland. CDFW considers valley oak woodland a sensitive natural community (CDFW 2021). The Project is adjacent to U.S. Highway 101 and commercial development to the east, and City of San Rafael Open Space to the west. Two ephemeral streams are present in the Project area. Special-status species with the potential to occur in or near the Project area include, but are not limited to, burrowing owl (*Athene cunicularia*), California Species of Special Concern (SSC); pallid bat (*Antrozous pallidus*), SSC; western red bat (*Lasiurus blossevillii*), SSC; American badger (*Taxidea taxus*), SSC; congested-headed hayfield tarplant (*Hemizonia congesta* ssp. *congesta*), California Rare Plant Rank (CRPR) 1B.2²; and white-tailed kite (*Elanus leucurus*), a Fully Protected species.

REGULATORY REQUIREMENTS

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for project activities affecting lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank including associated riparian or wetland resources; or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, washes, watercourses with a subsurface flow, and floodplains are subject to notification requirements. **The MND identifies that the Project will install a pedestrian bridge over an ephemeral stream (MND pages 18 and 47, and Figure 8). Project activities that would substantially alter the bed, bank, or channel, or the riparian habitat, of this ephemeral stream would require LSA Notification, see further recommendations below.** In this case, CDFW would consider the CEQA document for the Project and

² CRPR 1B plants are considered rare, threatened, or endangered in California and elsewhere. Further information on CRPR is available in CDFW's *Special Vascular Plants, Bryophytes, and Lichens List* available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109383&inline> and on the California Native Plant Society webpage <https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>.

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may issue an LSA Agreement. CDFW may not execute the final LSA Agreement until it has complied with CEQA as a Responsible Agency.

Raptors and Other Nesting Birds

CDFW also has jurisdiction over actions that may result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include sections 3503 (regarding unlawful take, possession or needless destruction of the nests or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act.

Fully Protected Species

Fully Protected species, such as white-tailed kite, may not be taken or possessed at any time (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the City in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

Lake or Streambed Alteration Notification

As noted above, the Project would install a new bridge over an ephemeral stream (MND pages 18 and 47, and Figure 8). To comply with California Fish and Game Code section 1600 et seq. and reduce impacts to less-than-significant, CDFW recommends the following mitigation measure.

Mitigation Measure BIO-2: Notification of Lake or Streambed Alteration

For Project activities that may substantially alter the bed, bank, or channel of the ephemeral stream, including installation of a new bridge, an LSA Notification shall be submitted to CDFW pursuant to Fish and Game Code section 1602 prior to Project construction. If CDFW determines that an LSA Agreement is warranted, the Project shall comply with all required measures in the LSA Agreement, including but not limited to requirements to mitigate impacts to the ephemeral stream and riparian habitat. Permanent impacts to riparian habitat shall be mitigated by restoration of riparian habitat at a 3:1 mitigation to impact ratio based on acreage and linear distance as close to the project site as possible and within the same watershed. Temporary impacts shall be restored on-site in the same year as the impact.

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Environmental Setting and Related Impact Shortcoming

Riparian Habitat, Sensitive Natural Community, and Tree Removal

The MND identifies that the Project is located within riparian and oak woodland habitat, including valley oak woodland (MND page 48). A fine scale vegetation mapping project in Marin County also classifies portions of the Project site as valley oak woodland (One Tam 2019). The valley oak woodland alliance is state rarity ranked S3, which CDFW considers a sensitive natural community (CDFW 2021). Sensitive natural communities are endemic communities that have limited distribution and are often vulnerable to project impacts (CDFW 2018). Only remnant patches of valley oak woodland remain in California (CIWTG).

The Project would remove approximately 55 trees from the Project area, some which may be from riparian habitat and a sensitive natural community (MND page 48). CDFW recommends that the MND clarify how many trees would be removed from riparian habitat and a sensitive natural community. Additionally, it appears that the Project may impact riparian habitat on and adjacent to the ephemeral streams. While the MND identifies a 25-foot buffer will be implemented from the top-of-bank of the ephemeral streams (MND page 47), the bridge installation would shade existing vegetation and increase human presence and disturbance at the stream, even if the abutments are 25 feet away from the top-of-bank.

The MND identifies that 210 replacement trees will be planted throughout the site and requires no further mitigation for tree removal, impacts to riparian areas, or impacts to the sensitive natural community (MND page 48). CDFW typically recommends replacement planting commensurate with the diameter at breast height (DBH) of the tree removed. Large DBH trees can take decades or longer to grow; therefore, removing large trees causes a temporal habitat loss that cannot be immediately offset. Planting a greater number of trees recovers lost canopy cover more quickly and increases the probability that one of the trees planted will reach the diameter of the removed tree. In addition, mature tree removal removes important food resources such as acorns from the area and removes habitat for a variety of tree nesting birds and tree roosting bats. Human activity and removal of habitat has contributed to the loss of a significant proportion of the total number of birds in the United States and Canada since the 1970s (Rosenburg et al. 2019). Based on the above, the loss of trees, sensitive natural community, and riparian habitat, is a potentially significant impact. To reduce impacts to less-than-significant, CDFW recommends including the following mitigation measure.

Mitigation Measure BIO-3: Tree Replacement and Monitoring

Any trees removed or impacted as a result of the Project shall be replaced pursuant to the below ratios. To ensure a successful planting effort, all plantings shall be monitored

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and maintained as necessary for a minimum of five years. Oak trees, other trees, and all other plantings shall each have a minimum of 80% survival at the end of the minimum monitoring. If the planting survival is not meeting this goal, then the Project shall implement replacement planting, additional watering, invasive exotic eradication, or any other practice, to achieve these requirements. Replacement plants shall be monitored with the same survival requirements for five years after planting.

Native oak tree replacement ratios:

- 3:1 replacement for trees 5 to 8 inches DBH
- 5:1 replacement for trees greater than 8 inches to 16 inches DBH
- 10:1 replacement for trees greater than 16 inches DBH, which are considered old-growth oaks

Replacement oaks shall come from nursery stock grown from locally sourced acorns, or from acorns gathered locally, preferably from the same watershed in which they are planted. The trees should be able to survive the last two years of a minimum five-year monitoring period without irrigation.

Other tree species replacement ratios:

- 1:1 replacement for non-native trees
- 3:1 replacement for native trees 4 to 6 inches DBH
- 6:1 replacement for native trees greater than 6 inches DBH

Burrowing Owl

The Project is within the winter range³ of burrowing owl, an SSC, and the grassland within and in the vicinity of the Project may provide suitable wintering and foraging habitat. There is a documented occurrence of burrowing owl approximately 1.7 miles northeast of the Project site according to the California Natural Diversity Database (CNDDDB). In addition, the California Wildlife Habitat Relationships Predicted Habitat Suitability for the grassland portions of the site is High Suitability for burrowing owls. The MND does not address burrowing owl or identify methods to avoid potential impacts to burrowing owls.

The Project could result in burrowing owl burrow abandonment, injury or mortality of adults, or loss of wintering owls. Burrowing owls are an SSC due to population decline

³ CDFW maintains range maps and life history accounts for all terrestrial species in California. The burrowing owl range map is available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=1872&inline=1>

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and breeding range retraction. Based on the above, the Project may potentially significantly impact burrowing owls. To reduce impacts to less-than-significant CDFW recommends the following mitigation measures.

Mitigation Measure BIO-4A: Burrowing Owl Habitat Assessment, Surveys, and Avoidance

Prior to Project activities, a habitat assessment shall be performed following Appendix C: Habitat Assessment and Reporting Details of the CDFW *Staff Report on Burrowing Owl Mitigation*⁴ (CDFW 2012 Staff Report). The habitat assessment shall extend at least 492 feet (150 meters) from the Project site boundary or more where direct or indirect effects could potentially extend offsite (up to 500 meters or 1,640 feet) and include burrows and burrow surrogates. If the habitat assessment identifies potentially suitable burrowing owl habitat, then a qualified biologist shall conduct surveys following the CDFW 2012 Staff Report survey methodology. Surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted commensurate with the type of disturbance anticipated, as outlined in the CDFW 2012 Staff Report, and include burrow surrogates such as culverts, piles of concrete or rubble, and other non-natural features, in addition to burrows and mounds. Time lapses between surveys or Project activities shall trigger subsequent surveys, as determined by a qualified biologist, including but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report and any passive relocation plan for non-nesting owls shall be subject to CDFW review.

Please be advised that CDFW does not consider exclusion of burrowing owls (i.e., passive removal of an owl from its burrow or other shelter) as a “take” avoidance, minimization, or mitigation measure for the reasons outlined below. Therefore, to mitigate the impacts of potentially evicting burrowing owls to less-than-significant, Mitigation Measure BIO-3B outlined below should require habitat compensation with the acreage amount identified in any eviction plan. The long-term demographic consequences of exclusion techniques have not been thoroughly evaluated, and the survival rate of excluded owls is unknown. Burrowing owls are dependent on burrows at all times of the year for survival or reproduction; therefore, eviction from nesting, roosting, overwintering, and satellite burrows or other sheltering features may lead to indirect impacts or “take” which is prohibited under Fish and Game Code section 3503.5. All possible avoidance and minimization measures should be considered before temporary or permanent exclusion and closure of burrows is implemented to avoid “take.”

⁴ CDFW, then Department of Fish and Game, 2012.
<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=83843&inline>

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Mitigation Measure BIO-4B: Burrowing Owl Wintering Habitat Mitigation

If the Project would impact an occupied burrow (where a non-nesting wintering owl would be evicted as described above), the following habitat mitigation shall be implemented prior to Project construction:

Impacts to each burrow site shall be mitigated by permanent preservation of two occupied burrow sites with appropriate foraging habitat within Marin County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity.

The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.

American Badger

The Project is within the range⁵ of the American badger, an SSC. The Project is located within grassland habitat that may be suitable for American badger. Badgers range throughout most of California and can dig burrows in a single day; therefore, the species may occupy the Project site and adjacent habitat prior to Project construction (Ministry of Environment Ecosystems 2007 as cited in Brehme et al. 2015). Additionally, the California Wildlife Habitat Relationships Predicted Habitat Suitability for the grassland portions of the site is High Suitability. An unprocessed CNDDDB occurrence of a roadkill badger is approximately 4.2 miles north of the Project on Highway 101. This information confirms the species has occurred in the vicinity of the Project site and could use it and adjacent habitat.

The Project may result in injury or mortality to adult or young badgers, or burrow abandonment. Therefore, project impacts to American badger would be potentially significant.

To reduce impacts to less-than-significant, CDFW recommends that the MND: (1) further analyze the potential for American badger to occur on and adjacent to the Project site, and (2) include mitigation measures to ensure impacts are reduced to less-than-significant. These measures may include a qualified biologist surveying for the species including adjacent habitat prior to construction, avoiding occupied burrows including a sufficient buffer approved by CDFW, and preparing and implementing a CDFW-approved relocation plan if badgers are found on or adjacent to the Project site.

⁵ The American badger range map is available at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=2598&inline=1>

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Roosting Bats

The MND identifies that the Project area may provide habitat for sensitive bats such as pallid bat and western red bat (MND page 46). The trees in the Project area, some of which are proposed for removal, may provide suitable roosting habitat for bats. Tree removal associated with the Project could lead to injury or death of bats, including pallid bat and western red bat, a potentially significant impact. To reduce impacts to less-than-significant, CDFW recommends including the following mitigation measure.

Mitigation Measure BIO-5: Bat Tree Habitat Assessment and Surveys

Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark, and suitable canopy for foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked and tree trimming or removal shall not proceed unless the following occurs: a) in trees with suitable habitat, presence of bats is presumed, or documented during the surveys described below, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats.

Two-step tree removal shall be conducted over two consecutive days, as follows: 1) the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only; limbs with cavities, crevices or deep bark fissures shall be avoided; and 2) the second day the entire tree shall be removed.

Mitigation Measures and Related Impact Shortcoming

Special-Status Plants

The MND identifies that the Project may provide habitat for congested-headed hayfield tarplant, CRPR 1B.2 (MND page 46). The MND includes in mitigation measure BIO-1 a requirement for a rare plant survey for this species. Botanical field surveys should be floristic in nature, meaning that every plant taxon that occurs in the Project area is identified to the taxonomic level necessary to determine rarity and listing status. Focused surveys that are limited to habitats known to support special-status plants or that are restricted to lists of likely potential special-status plants are not considered floristic in nature and are not adequate to identify all plants in a project area to the level necessary to determine if they are special-status plants. In addition, mitigation measure BIO-1 identifies that if special-status plants are identified within the Project area, they will be

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transplanted to appropriate nearby areas. Without floristic botanical surveys and further information regarding success criteria for transplanted individuals, the Project would not accurately identify and reduce potential impacts to less-than-significant. To reduce impacts to less-than-significant, CDFW recommends replacing the existing rare plant survey language in mitigation measure BIO-1 with the following mitigation measure.

Mitigation Measure BIO-6: Special-Status Plant Survey and Avoidance

A qualified botanist shall conduct surveys during the appropriate blooming period for all special-status plants that have the potential to occur on or adjacent to the Project area prior to the start of ground-disturbing activities and prepare a report documenting survey findings. Habitat adjacent to the Project area should be surveyed if the Project may have indirect impacts off-site as a result of changes to hydrological conditions or other indirect impacts. More than one year of surveys may be necessary. Surveys and reporting shall be conducted following *Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities*⁶. Surveys shall be submitted to CDFW for review and written acceptance. If special-status plants are found during surveys, the Project shall be re-designed to avoid impacts to special-status plants. If impacts to any special-status plants cannot be avoided completely during construction, the Project shall provide mitigation including on-site restoration, off-site habitat preservation, or another method accepted in writing by CDFW. The qualified botanist shall be knowledgeable about plant taxonomy, familiar with plants of the region, and have experience conducting botanical field surveys according to vetted protocols.

Please be advised that an LSA Agreement obtained for this Project would likely require the above recommended mitigation measures, as applicable.

GENERAL COMMENTS

In addition to the above recommendations, CDFW encourages landscaping using native trees and shrubs to benefit native nesting birds and other wildlife. As noted above, the removal of habitat for birds from human activities has contributed to the loss of a significant proportion of birds in the United States and Canada since the 1970s (Rosenburg et al. 2019). Planting native trees and shrubs is an opportunity to improve conditions for birds⁷.

⁶ Department of Fish and Wildlife, 2018. <https://www.wildlife.ca.gov/Conservation/Survey-Protocols#377281280-plants>

⁷ For native species recommendations and planting tips, review the Sonoma County Master Gardener document *Gardening Success with California Native Plants*: http://www.marinrcd.org/wp/wp-content/uploads/2015/02/Gardening-Success-with-CA-Natives_UCCE_Sonoma.pdf

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CDFW notes that the MND refers to a Biological Technical Report (MND page 45). CDFW recommends that this report be included as an appendix to the MND so that species information and determinations of presence or absence may be thoroughly reviewed by the public and CDFW.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations (Pub. Resources Code, § 21003, subd. (e)). Accordingly, please report any special-status species and natural communities detected during Project surveys to the CNDDDB. The CNDDDB field survey form, online field survey form, and contact information for CNDDDB staff can be found at the following link: <https://wildlife.ca.gov/data/CNDDDB/submitting-data>.

FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required for the underlying Project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089).

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the City in identifying and mitigating Project impacts on biological resources.

Questions regarding this letter or further coordination should be directed to Ms. Amanda Culpepper, Environmental Scientist, at (707) 428-2075 or Amanda.Culpepper@wildlife.ca.gov, or Ms. Melanie Day, Senior Environmental Scientist (Supervisory), at Melanie.Day@wildlife.ca.gov.

Sincerely,

DocuSigned by:

692D021D81CA4F7...
Stephanie Fong
Acting Regional Manager
Bay Delta Region

ec: Office of Planning and Research, State Clearinghouse (SCH No. 2021110004)
Sean Kennings, LAK Associates, sean@lakassociates.com

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Nicole Fairley, San Francisco Bay Regional Water Quality Control Board,
nicole.fairley@waterboards.ca.gov

REFERENCES

- Brehme, C.S.; Hathaway, S.A.; Booth, R.; Smith, B.H.; and Fisher, R.N. 2015. Research of American Badgers in Western San Diego County, 2014. Data Summary prepared for California Department of Fish and Wildlife and the San Diego Association of Governments. 24pp. (42pp. with Appendix).
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December 7, 2021
Kleinfelder Project No.: 20211976.001A

Mr. Chris Hart
County Strategic Fund I, LLC
1899 Northgate Drive Ste 301
San Rafael, CA 94903

SUBJECT: The Neighborhood at Los Gamos Development Project Biological Technical Report Addendum for Potential for American Badger

Dear Mr. Hart:

I reviewed the feedback from the California Department of Fish and Wildlife (CDFW) to the City of San Rafael regarding your proposed project for the Neighborhood at Los Gamos Development Project (Project). CDFW has requested that American badger be included for consideration for the Project.

American badger (*Taxidea taxus*), a Species of Special Concern, has potential to occur within the Project area. There is suitable grassland habitat in the project area, which is adjacent to grassland habitat to the west. No badgers or potential burrows were observed during the site visit August 20, 2019, and there were no CNDDDB records within two miles, however as CDFW has cited in their letter from November 2021, a roadkill specimen was collected 4.2 miles north of the Project Area which confirms presence in the region. Therefore, following Avoidance and Minimization Measure is added to the Project:

Measure 4a: Preconstruction Wildlife Survey. Within one week prior to initiation of construction, a qualified biologist will survey the Project Area for potential American badger burrows. If potentially occupied burrows are detected, an avoidance buffer will be approved by CDFW, and established to protect the burrow from construction impacts. If a sufficient buffer cannot be established, the biologist will prepare a relocation plan to be approved by CDFW and implemented prior to initiation of construction. If construction is suspended for more than 1 week or is initiated in an area more than 2500 feet from active construction, a new survey will be performed prior to re-starting work or starting work in new areas.

Please append this letter to *The Neighborhood at Los Gamos Development Project Biological Technical Report*, prepared by Kleinfelder in January 2021.

Sincerely,

Sumudu Welaratna, Principal Professional
KLEINFELDER
cc: File

RESOLUTION NO.

RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL ADOPTING AN AMENDMENT (GPA 20-001) TO THE SAN RAFAEL GENERAL PLAN 2040 LAND USE ELEMENT FIGURE 3-1 LAND USE MAP TO CHANGE THE DESIGNATION FROM HILLSIDE RESOURCE RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL MIXED USE FOR THE 10.24 ACRE SITE LOCATED AT THE SOUTHERLY TERMINUS OF LOS GAMOS DRIVE NORTH OF OLEANDER DRIVE

**(THE NEIGHBORHOOD AT LOS GAMOS)
(APNS: 165-220-06 AND 165-220-07)**

WHEREAS, on August 2, 2021, the City of San Rafael adopted the San Rafael General Plan 2040 and certified the supporting Final Environmental Impact Report for the plan; and

WHEREAS, on December 22, 2020, Christopher Hart, applicant, submitted applications for a General Plan Amendment (GPA 20-001) from Hillside Resource Residential to Neighborhood Commercial Mixed Use; Zone Change (ZC 20-002) from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD); Vesting Tentative Parcel Map to combine and adjust the boundaries of the existing parcels; and Environmental and Design Review (ED 20-058) for a mixed-use project with 192 multi-family residential units, an approximately 5,600-square-foot market, a 5,000-square-foot community center, and 225 at-grade and semi-subterranean parking spaces; on a 10.24 acre site located at the southerly terminus of Los Gamos Drive north of Oleander Drive; and

WHEREAS, on April 16, 2021, in accord with California Government Code Section 65352.3(a), specifically, the directive of Senate Bill 18 (SB 18), the Community Development Department staff sent an offer for tribal consultation to the representatives of the Federated Indians of the Graton Rancheria (Federated Indians). Tribal consultation is required for all projects that propose an amendment to the local General Plan. The purpose of the tribal consultation is to consult with the local tribe representatives on potential impacts to Native American places, features and objects described in Sections 5097.9 and 5097.993 of the California Public Resources Code. The prescribed 90-day period was observed for the Federated Indians to respond to the offer, but the City received no response; and

WHEREAS, as required by the California Environmental Quality Act (CEQA) Guidelines, staff determined that the applications for a general plan amendment, zone change, vesting tentative parcel map, and environmental and design review permits, are a 'project,' making it subject to environmental review. Pursuant to CEQA Guidelines Section 15063, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared to determine the potential environmental impacts of the project. The IS/MND is supported by several technical studies including air quality, noise, geotechnical and traffic; and

WHEREAS, the IS/MND assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2040 to change the existing Hillside Resource Residential (HRR) land use designation of the property to Neighborhood Commercial Mixed Use (NCMU) land use designation. The IS/MND finds that the proposed amendment to the General Plan will not result in significant unmitigable impacts; and

WHEREAS, as demonstrated in the preparation of the IS/MND, all potentially significant effects on the environment identified in the IS/MND can be mitigated to less-than-significant levels with implementation of the recommended mitigation measures, including impacts to aesthetics, air quality, biologic resources, cultural and tribal resources, geology and soils, and hydrology and water quality consistent with CEQA Guidelines; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to ensure implementation of, and compliance with, all conditions required to mitigate any environmental impact to a level of less than significant. All the identified mitigation measures have also been included as conditions of project approval; and

WHEREAS, the project, including the Notice of Availability of the IS/MND, along with the planning applications, was publicly noticed 30 days in advance of the Planning Commission hearing, through the following means: 1) the subject site was posted; 2) publishing a legal ad in the Marin Independent Journal, a local newspaper of general circulation in the area, on November 1, 2021; and 3) notices were mailed to surrounding property owners within 300 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups in conformance with the CEQA Guidelines; and

WHEREAS, on December 14, 2021, following a public hearing and deliberation on the project, the Planning Commission voted 5-0-2 (Commissioners Mercado and Previtali absent) to adopt Planning Commission Resolution 21-11 recommending that the City Council approve General Plan Amendment application GPA 20-001 amending the Land Use Map in General Plan 2040, and recommending approval of a Mitigation Monitoring and Reporting Program (“MMRP”) for the project; and

WHEREAS, on February 7, 2022, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, on February 7, 2022, by adoption of separate resolution, the City Council adopted the IS/MND and approved an MMRP for the project; and

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

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of San Rafael does hereby approve General Plan Amendment GPA 20-001, amending the San Rafael General Plan 2040 Land Use Map Figure 3-1 as follows:

Modify Figure 3-1 in the General Plan 2040 Land Use Element to change the existing Hillside Resource Residential (HRR) land use designation to Neighborhood Commercial Mixed Use (NCMU) for the 10.24 acre property located at the southerly terminus of Los Gamos Drive (APNs 165-220-06 and 165-220-07). The proposed modified General Plan Figure 3-1 is shown as **Exhibit A**.

BE IT FURTHER RESOLVED, that the amendment is based on and supported by the following findings:

1. The public interest would be served by the adoption of the proposed amendment to Land Use Element Figure 3-1, which would change the existing Hillside Resource Residential (HRR) land use designation to Neighborhood Commercial Mixed Use (NCMU) for the project site in that this action would be consistent with and implement San Rafael General Plan 2040 as documented in the General Plan Consistency Analysis included herein by reference as **Exhibit B**.
2. This action would provide the opportunity for a mixed-use project, including residential uses, that would be compatible with the adjacent residential and commercial uses.

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 7th day of February 2022, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Exhibit A: General Plan 2040 Figure 3-1 – Land Use Map

Exhibit B: General Plan Consistency Analysis

Exhibit A
General Plan 2040 Figure 3-1 – Land Use Map

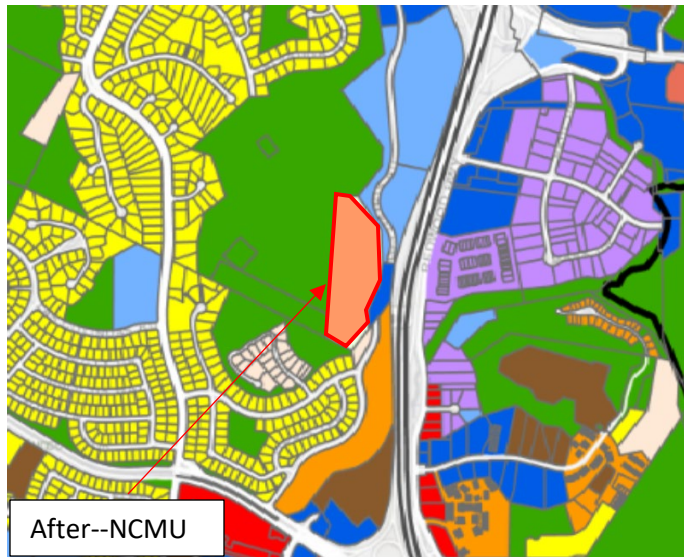
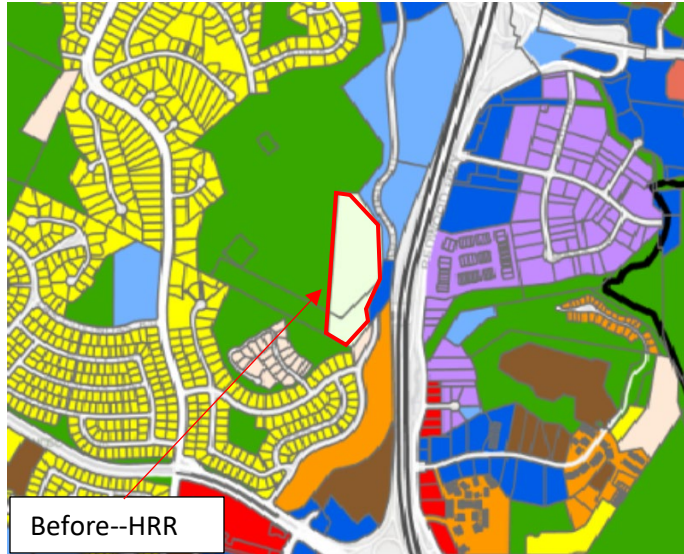


Exhibit B

TABLE ANALYZING PROJECT CONSISTENCY WITH SAN RAFAEL GENERAL PLAN 2040

LAND USE ELEMENT	
<p>LU-1.2: Development Timing. For health, safety, and general welfare reasons, new development should only occur when adequate infrastructure is available, consistent with the following findings:</p> <ul style="list-style-type: none"> a) The project is consistent with adopted Vehicle Miles Traveled (VMT) standards, as well as the requirements for Level of Service (LOS) specified in the Mobility Element. b) Planned circulation improvements necessary to meet City standards for the project have funding commitments and completed environmental review. c) Water, sanitary sewer, storm sewer, and other infrastructure improvements needed to serve the proposed development have been evaluated and confirmed to be in place or to be available to serve the development by the time it is constructed. d) The project has incorporated design and construction measures to adequately mitigate exposure to hazards, including flooding, sea level rise, and wildfire. 	<p><i>Consistent with Conditions</i></p> <p>The project proposes development on a vacant site. The quasi-governmental agencies that would provide water and sewer service to the site have reviewed the proposed project and determined that there is adequate capacity to service the new project. Marin Municipal Water District (MMWD) has indicated that a pipeline extension is required to serve the site. This requirement has been added to the conditions of approval. Las Gallinas Valley Sanitation District (LGVSD) has determined that they can serve the project subject to several conditions which have been added to the conditions of approval.</p> <p>The City Traffic Engineer has reviewed the project and the Traffic Impact Study prepared by W-Trans. The City Traffic Engineer concurs that this project would generate 78 additional a.m. and 102 additional p.m. peak hour vehicular trips. The City Traffic Engineer concurs with the conclusion made in the Traffic Impact Study that the project would have a less-than-significant impact for LOS levels at the studied intersections and below the VMT significance thresholds. The project is conditioned on the payment of traffic mitigation fees based on the 180 total new a.m./p.m. peak hour vehicle trips that would be generated by the project.</p> <p>The analysis in the Mitigated Negative Declaration (MND) determined that the project was not subject to flood hazard. The project incorporates a Vegetation Management Plan and a fuel break buffer around the proposed development to reduce risk of uncontrolled wildfire spread. In addition, the project would be constructed pursuant to City of San Rafael development standards for new construction, including installation of fire sprinklers and fire-retardant building materials. Since the project is 30 to 200 feet above sea level, it is not expected to be subject to sea level rise.</p>
<p>LU-1.8: Density of Residential Development. Use the density ranges in the Land Use Element to determine the number of housing units allowed on properties within the Planning Area. The following provisions apply:</p> <ul style="list-style-type: none"> a) The density “range” includes a maximum and minimum. A given General Plan designation may have multiple corresponding zoning districts, including at least one district in which the maximum density may 	<p><i>Consistent</i></p> <p>The project proposes to construct 192 dwelling units on the 10.24 acre site, for a density of 18.75 units per acre; therefore, it would not exceed the maximum density allowed in the Neighborhood Commercial Mixed Use Land Use category where up to 24.2 units per acre are allowed.</p> <p>The applicant has proposed that 10% of the units be affordable at the Low Income Level. As an affordable housing project, the project is eligible for a Density Bonus under State law. The</p>

<p>be achieved. Other zoning districts may have maximum densities that are less than the maximum indicated by the General Plan.</p> <p>b) Calculation of allowable units shall be rounded to the nearest whole number. Where the number is less than 0.5, it shall be rounded down. Where the number is 0.5 or greater, it may be rounded up.</p> <p>c) The number of units permitted on a given parcel may be affected by site resources and constraints, potentially hazardous conditions, climate-related factors (sea level rise, fire hazards, etc.), traffic and access (including wildfire evacuation constraints), the adequacy of infrastructure, City design policies, and prevailing densities in adjacent areas.</p> <p>d) The maximum net density shown on the General Plan excludes density bonuses that may be provided for affordable housing or other community benefits, in accordance with State law and local policies.</p>	<p>applicant has applied for a density bonus of 0, in that no increase in the number of units is proposed, but the application is accompanied by a request for a Waiver of the height limit of 30' and a Concession to allow 12 reduced parking for the project. Both the Waiver and the Concession are allowed pursuant to State Density Bonus Law.</p>
<p>LU-1.9: Clustering. Allow clustering of development as a way to conserve environmentally sensitive or hazardous portions of a site (such as unstable slopes or flood plains) and enhance wildlife corridors. In such instances, the density calculation shall be made based on the area of the entire site (minus streets and easements), with the resulting number of units transferred to the less sensitive areas. The result would be a denser housing product on a portion of the site, with the balance conserved as open space.</p>	<p><i>Consistent</i></p> <p>The project clusters the structures on the site in a way that minimizes the grading and preserves more of the existing vegetation including a majority of the mature trees. It also allows to the use of the South Park area, just over an acre in size, as a significant recreational amenity on the property. This area will include both natural open space and improvements including paths and children's play structures.</p>
<p>LU-1.10: Intensity of Non-Residential Development. Use the Floor Area Ratio limits on Figure 3-2 to determine the square footage of building space allowed on properties with non-residential General Plan designations. The following provisions apply:</p> <p>a) As with density, FAR is calculated on a "net" basis, and is based on the area of each parcel excluding streets and easements.</p> <p>b) The maximum FAR stated by the General Plan is not guaranteed. The square footage permitted on a given</p>	<p><i>Consistent</i></p> <p>The project proposes a commercial use that conforms to the maximum FAR of 0.01.</p>

<p>parcel may be affected by site resources and constraints, potentially hazardous conditions, climate-related factors (sea level rise, fire hazards, etc.), traffic and access (including wildfire evacuation constraints), the adequacy of infrastructure, and City design policies.</p> <p>c) The maximum FARs shown in Figure 3-2 exclude any residential development on the property. In the event that residential uses or mixed use projects are proposed on these sites, the maximum area is the sum of the FAR allowance plus the residential density allowance for the property. This Clause does not apply to Downtown San Rafael, which is regulated by the Downtown Precise Plan.</p>	
<p>LU-1.15: Planned Development Zoning. Encourage the use of Planned Development (PD) zoning for development on parcels greater than five acres when the application of traditional zoning standards would make it more difficult to achieve General Plan goals. The PD zoning designation allows flexible design standards that are more responsive to site conditions as well as the transfer of allowable General Plan and zoning density between contiguous sites under common ownership.</p>	<p><i>Consistent</i> The project proposes Planned Development zoning on a site larger than 5 acres.</p>
<p>LU-1.17: Building Heights. Use General Plan Figures 3-3 and 3-4 as the basis for determining “baseline” maximum building heights in San Rafael. Maximum heights should continue to be codified through zoning and any applicable Specific Plans or Precise Plans. In addition, the following specific provisions related to building heights shall apply:</p> <p>a) Height of buildings existing or approved as of January 1, 1987 shall be considered as conforming to zoning standards.</p> <p>b) Hotels outside of the Downtown Precise Plan boundary have a 54-foot height limit. Within Downtown, the height provisions of the Downtown Precise Plan apply (see Figure 3-4).</p> <p>c) As provided for by Policy LU-1.18, “baseline” building heights are subject to height bonuses where specific</p>	<p><i>Consistent with Waiver per State Density Bonus Law</i> Although the project would exceed the maximum building height of 30 feet allowed for this area of San Rafael, the project has applied for a Density Bonus and a waiver from the height limit as permitted under State Density Bonus law, so the General Plan standard has been superseded by State law.</p>

<p>community benefits are provided, where a Variance or zoning exception is granted, or where a Transfer of Development Rights (TDR) is being implemented.</p> <p>d) Heights may be increased by up to six (6) feet above the baseline building heights as necessary to mitigate the exposure of properties to sea level rise and other flooding hazards (e.g., raising the first floor of habitable floor space above anticipated tidal flood elevations).</p>	
<p>LU-2.2: Mixed Use Development. Encourage mixed-use development (combining housing and commercial uses) in Downtown San Rafael and on commercially designated properties elsewhere in the city. Mixed-use development should enhance its surroundings and be compatible with adjacent properties.</p>	<p><i>Consistent</i> The project is a mixed-use development with both residences and commercial uses.</p>
<p>LU-3.3: Housing Mix. Encourage a diverse mix of housing choices in terms of affordability, unit type, and size, including opportunities for both renters and owners.</p>	<p><i>Consistent</i> The project proposes apartments, including 10% of the units affordable at the Low Income level.</p>
<p>COMMUNITY DESIGN AND PRESERVATION ELEMENT</p>	
<p>CDP-1.3: Hillside Protection. Protect the visual integrity and character of San Rafael’s hillsides and ridgelines. Where hillside construction is permitted, structures should be designed to provide slope and foundation stability, erosion control, and adequate emergency access, drainage and parking. Hillside buildings should be sited to protect the natural landscape, avoid excessive tree loss, and preserve scenic vistas from public vantage points.</p>	<p><i>Consistent with Conditions</i> The project has been designed according to the Hillside Design Guidelines by utilizing clustering, the use of setbacks for the walls of the structures, the use of tuck-under parking, and the use of materials and colors that help the buildings blend into the appearance of the hillside. The project has been reviewed by the Design Review Board. Recommendations from the Board for project design improvements have been incorporated into the conditions of approval.</p>
<p>CDP-4.2: Public Involvement in Design Review. Provide for public involvement in design review through effective noticing, adequate comment timelines, and clear project review opportunities, while still achieving development streamlining objectives.</p>	<p><i>Consistent</i> The project has been reviewed by the Design Review Board and found, as conditioned, to be consistent with the applicable design policies of the General Plan and the City’s Multi-family Design Guidelines. All public hearings have been, or will be, properly noticed as required by the Zoning Ordinance. In addition, the project applicant conducted a neighborhood outreach meeting on September 30, 2021, that was attended by members of the public.</p>

<p>CDP-4.5: Higher Density Design. Encourage high-quality architecture and landscape design in new higher-density housing and mixed-use projects. Such projects should be designed to be compatible with nearby buildings and respect the character-defining features of the surrounding neighborhood or district.</p>	<p><i>Consistent with Conditions</i> This mixed-use project has been reviewed by the Design Review Board and found, as conditioned, to be consistent with the applicable design policies of the General Plan and the City’s Multi-family Design Guidelines and utilizes high-quality architecture and landscape design.</p>
<p>CDP-4.6: Open Space in Multi-Family Housing. Require private outdoor areas such as decks and patios, as well as common open space areas, in new multi-family development and mixed use housing. Common open space may include recreation facilities, gathering places, and site amenities such as picnic and play areas.</p>	<p><i>Consistent</i> The project provides both private open space for each unit and large common open space areas, including the South Park area of approximately 1 acre and the Commons area, approximately 10,000 square feet of recreational area above and beside the market/community center that includes seating, a water feature, a children’s play area and other recreational amenities. Each of the common areas are easily accessible to the residents.</p>
<p>CDP-4.7: Larger-Scale Buildings. Design larger scale buildings to reduce their perceived mass. Encourage the incorporation of architectural elements such as towers, arcades, courtyards, and awnings to create visual interest, provide protection from the elements, and enhance orientation.</p>	<p><i>Consistent with Conditions</i> The project is broken into five apartment buildings and one dual-use building, reducing the mass of each building. The buildings use articulation of building form, and are set into the hill such that the perceived mass is reduced. The proposed materials and colors will also help reduce the perceived mass of the buildings. As mentioned, the Design Review Board recommended approval of the project with recommendations for design improvements which have been incorporated into the conditions of approval.</p>
<p>CDP-4.9: Parking and Driveways. Encourage parking and circulation design that supports pedestrian movement and ensures the safety of all travelers, including locating parking to the side or rear of buildings, limiting driveway cuts and widths, and minimizing large expanses of pavement. Parking should be screened from the street by landscaping and should provide easy access to building entrances.</p>	<p><i>Consistent</i> The parking areas are completely screened from off-site views because they are either tucked under the buildings or they are blocked from view by the proposed buildings and landscaping. A system of sidewalks connects the buildings to each other and to the common open space areas, promoting pedestrian access throughout the site. The project has a relatively small amount of surface parking with only 42 spaces not located beneath the buildings. The location of the majority of the parking beneath the buildings gives easy access to the buildings.</p>
<p>CDP-4.10: Landscape Design. Encourage—and where appropriate require—privately owned and maintained landscaping that conserves water, contributes to neighborhood quality, complements building forms and materials, improves stormwater management and drainage, and enhances the streetscape. Natural elements such as plants should be an integral part of site development and should enhance the built environment while supporting water conservation goals.</p>	<p><i>Consistent with Conditions</i> The project has an extensive landscape palette that relies on low-water using plants, including many California natives, creating an attractive and sustainable plan. Of the 285 existing trees on the property, 55 will be removed; the majority of the existing mature trees are preserved. An additional 210 trees, including oak species, will be planted on the property. As mentioned, the Design Review Board reviewed the project design, including the landscaping plans, and recommended approval of the project with recommendations for design improvements which have been incorporated into the conditions of approval.</p>

<p>CDP-4.11: Lighting. Encourage lighting for safety and security while preventing excessive light spillover and glare. Lighting should complement building and landscape design.</p>	<p><i>Consistent with Conditions</i></p> <p>The project design includes a total of 26 new light poles, from 14-16 feet tall, along the internal driveway system, 86 small light bollards mostly concentrated in the area of the market/community center, and 24 other small light fixtures in various locations. A photometric plan was submitted and reviewed by the Design Review Board and recommended for approval. Proposed lighting will have to meet the standards of SRMC Section 14.16.227, Light and Glare. In addition, Mitigation Measure AES-1 requires the project to conduct a post-installation lighting study showing that the lighting on the site complies with the plan and the requirements of the Municipal Code. As conditioned, the project will have adequate lighting without spillover onto adjacent properties or natural areas.</p>
<p>CONSERVATION AND CLIMATE CHANGE ELEMENT</p>	
<p>C-1.6: Creek Protection. Protect and conserve creeks as an important part of San Rafael’s identity, natural environment, and green infrastructure. Except for specific access points approved per Policy C-1.7 (Public Access to Creeks), development-free setbacks shall be required along perennial and intermittent creeks (as shown on www.marinmaps.org) to help maintain their function and habitat value. Appropriate erosion control and habitat restoration measures are encouraged within the setbacks, and roadway crossings are permitted.</p>	<p><i>Consistent</i></p> <p>There is an existing drainageway crossing west to east near the middle of the site. The new buildings have been sited north of the drainageway. A bridge is proposed to span the drainageway to provide pedestrian access from the new apartments to the South Park recreational and open space area south of the new buildings. The bridge is designed to preserve the existing drainageway by providing a 25’ setback of all structures, including bridge footings, from the top of the drainage on either side.</p>
<p>C-1.10: Hillside Preservation. Encourage preservation of hillsides, ridgelines, and other open areas that serve as habitat and erosion protection as well as visual backdrops to urban areas.</p>	<p><i>Consistent</i></p> <p>The project is located below the ridgeline west of the site and utilizes clustering to minimize the amount of grading and impacts to existing vegetation. The majority of the existing trees on the site would be preserved.</p>
<p>C-1.12: Native or Sensitive Habitats. Protect habitats that are sensitive, rare, declining, unique, or represent a valuable biological resource. Potential impacts to such habitats should be minimized through compliance with applicable laws and regulations, including biological resource surveys, reduction of noise and light impacts, restricted use of toxic pesticides, pollution and trash control, and similar measures.</p>	<p><i>Consistent with Mitigation</i></p> <p>As documented in the Mitigated Negative Declaration, Section IV Biological Resources, “no federal or state listed (plant) species were observed or are expected to occur” on the site; one rare plant has “moderate potential to occur”; 16 of 17 “special status wildlife species were considered to have no potential to occur” and the other species had “low potential to occur”; and because the site has many mature trees, there is potential to impact nesting birds. Mitigation Measure BIO-1 is included in the Mitigated Negative Declaration and the conditions of approval and will ensure that rare or protected plants and nesting birds are not impacted by site development.</p>
<p>C-1.13: Special Status Species. Conserve and protect special status plants and animals, including those listed by State or federal agencies as threatened and/or</p>	<p><i>Consistent with Mitigation</i></p> <p>See discussion in C-1.12 above.</p>

<p>endangered, those considered to be candidate species for listing by state and federal agencies, and other species that have been assigned special status by the California Native Plant Society and the California Fish and Game Code. Avoidance of impacts, accompanied by habitat restoration, is the preferred approach to conservation, but mitigation measures may be considered when avoidance is not possible.</p>	
<p>C-1.15: Landscaping with Appropriate Naturalized Plant Species. Encourage landscaping with native and compatible non-native plant species that are appropriate for the dry summer climate of the Bay Area, with an emphasis on species determined to be drought-resistant. Diversity of plant species is a priority for habitat resilience.</p>	<p><i>Consistent</i> The proposed landscape plant species were reviewed by the Design Review Board to ensure appropriate species were proposed.</p>
<p>C-1.16: Urban Forestry. Protect, maintain, and expand San Rafael’s tree canopy. Trees create shade, reduce energy costs, absorb runoff, support wildlife, create natural beauty, and absorb carbon, making them an essential and valued part of the city’s landscape and strategy to address global climate change. Tree planting and preservation should be coordinated with programs to reduce fire hazards, reduce greenhouse gas emissions, expand solar opportunities, and ensure public safety, resulting in a community that is both green and fire-safe.</p>	<p><i>Consistent</i> Of the 285 existing mature trees on the property, 230 will be preserved and another 210 trees will be planted. Many of the existing trees are oak species and oaks are also proposed as part of the new landscape plan.</p>
<p>C-2.2: Land Use Compatibility and Building Standards. Consider air quality conditions and the potential for adverse health impacts when making land use and development decisions. Buffering, landscaping, setback standards, filters, insulation and sealing, home HVAC measures, and similar measures should be used to minimize future health hazards.</p>	<p><i>Consistent with Mitigation</i> As described in the Mitigated Negative Declaration, Section III Air Quality, Air Quality impacts during temporary construction and grading activities required by the project would result in less-than-significant impacts with mitigation measures. In addition, the project would result in less-than-significant impacts with mitigation measures to minimize long-term increased cancer risk to new project occupants from exposure to small particulate matter (PM2.5). The required Air Quality mitigation measures (AQ-1, AQ-2), which include requirements for enhanced air filtration systems in the project and methods to reduce dust creation during construction, are included in the Mitigated Negative Declaration and the conditions of approval.</p>
<p>C-2.4: Particulate Matter Pollution Reduction. Promote the reduction of particulate matter from roads, parking lots, construction sites, agricultural lands, wildfires, and other sources.</p>	<p><i>Consistent with Mitigation</i> Mitigation Measure AQ-1 includes dust-control techniques to control dust and exhaust during construction.</p>

<p>C-3.1: Water Quality Standards. Continue to comply with local, state and federal water quality standards.</p>	<p><i>Consistent with Mitigation</i> As described in the Mitigated Negative Declaration, Section X, Hydrology and Water Quality, Mitigation Measure HYDRO-1 requires the applicant to prepare a Storm Water Pollution Prevention Plan (SWPPP) and implement stormwater control measures such as Low Impact Development (LID) and Best Management Practices (BMP's) per the City's Manual of Stormwater Pollution Control Standards for New Development and Redevelopment. In addition, Mitigation Measure HYDRO-1 requires the project "applicant to verify that operational stormwater quality control measures...have been implemented." These measures will ensure that less-than-significant impacts to water quality will occur.</p>
<p>C-3.2: Reduce Pollution from Urban Runoff. Require Best Management Practices (BMPs) to reduce pollutants discharged to storm drains and waterways. Typical BMPs include reducing impervious surface coverage, requiring site plans that minimize grading and disturbance of creeks and natural drainage patterns, and using vegetation and bioswales to absorb and filter runoff.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 above.</p>
<p>C-3.3: Low Impact Development. Encourage construction and design methods that retain stormwater on-site and reduce runoff to storm drains and creeks.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 above. In addition, as described in the Mitigated Negative Declaration, Section X, Hydrology and Water Quality, the project includes stormwater management features such as bioretention areas which have been designed to account for enough storage volume to attenuate peak flows on and from the site. These features and the implementation of Mitigation Measures HYDRO-1 and HYDRO-2 ensure that the project would not result in on- or off-site flooding.</p>
<p>C-3.9: Water-Efficient Landscaping. Encourage—and where appropriate require—the use of vegetation and water-efficient landscaping that is naturalized to the San Francisco Bay region and compatible with water conservation, fire prevention and climate resilience goals.</p>	<p><i>Consistent</i> The proposed landscape plan was reviewed by the Design Review Board to ensure that the landscaping incorporated appropriate water-efficient features.</p>
<p>C-4.1: Renewable Energy. Support increased use of renewable energy and remove obstacles to its use.</p>	<p><i>Consistent</i> The project proposes the installation of photovoltaic panels on the roofs of the apartment buildings to reduce the use of non-renewable energy sources.</p>
<p>C-4.2: Energy Conservation. Support construction methods, building materials, and home improvements that improve energy efficiency in existing and new construction</p>	<p><i>Consistent</i> The project will comply with the most recently adopted California Building Code (CBC) CalGreen and Title-24 Energy regulations.</p>
<p>C-4.5: Resource Efficiency in Site Development. Encourage site planning and development practices that</p>	<p><i>Consistent</i></p>

reduce energy demand and incorporate resource- and energy-efficient infrastructure.	The mixed-use nature of the project is more energy efficient than tradition development patterns. The inclusion of a grocery store encourages residents to walk to the store. The project also incorporates rooftop solar panels.
PARKS, RECREATION AND OPEN SPACE ELEMENT	
PROS-1.13: Recreational Facilities in Development Projects. Encourage, and where appropriate require, the construction of on-site recreational facilities in multi-family, mixed use, and office projects to supplement the facilities available in City parks.	<i>Consistent</i> The project includes substantial recreational amenities such as: 1) the South Park area of nearly an acre with both natural open space and improvements including children’s play structures; 2) the Village Commons area totaling approximately 10,000 square feet with both children’s play areas and passive recreational features for adults; and 3) the 5,003 square-foot community room above the grocery store.
PROS-3.5: Private Open Space. Ensure the long-term stewardship of privately-owned open space in a manner that conserves natural resource and aesthetic values, sustains wildlife, and reduces hazards to life and property. Opportunities to better integrate common open space in private development with public open space space (via trails, etc.) should be encouraged.	<i>Consistent</i> The project design preserves almost half the site (4.83 acres) as undisturbed open space. The majority of the existing trees will be preserved. The South Park area includes a substantial proportion of natural hillside made accessible with pedestrian paths.
SAFETY AND RESILIENCE ELEMENT	
S-1.2: Location of Future Development. Permit development only in those areas where potential danger to the health, safety, and welfare of the community can be adequately mitigated. Land uses and densities should take environmental hazards such as earthquakes, flooding, slope stability, sea level rise, and wildfires into consideration.	<i>Consistent with Mitigation</i> As documented in the Mitigated Negative Declaration Section VII, Geology and Soils, reports from Miller Pacific Engineering Group (MPEG) and Salem Howes Associates Inc. evaluated the potential for project impacts related to geologic hazards. The reports determined that no active faults crossed the site and that the site was in an area with low liquefaction potential. Since the site is in an area potentially subject to strong ground shaking during an earthquake, Mitigation Measure GEO-1 requires the preparation of a design-level geotechnical investigation. To address the potential for landslide impacts and soil instability, Mitigation Measure GEO-2 requires the preparation of a final geotechnical report. With the implementation of these Mitigation Measures, potential impacts related to earthquakes and slope stability will be reduced to less-than-significant levels. See LU-1.2 for a discussion of flood, sea level rise and wildfire hazards.
S-2.1: Seismic Safety of New Buildings. Design and construct all new buildings to resist stresses produced by earthquakes. The minimum level of seismic design shall be in accordance with the most recently adopted building code as required by State law.	<i>Consistent with Mitigation</i> See S-1.2 above.

<p>S-2.2: Minimize the Potential Effects of Landslides. Development proposed in areas with existing or potential landslides (as identified by a Certified Engineering Geologist, Registered Geotechnical Engineer, or the LHMP) shall not be endangered by, or contribute to, hazardous conditions on the site or adjoining properties. Landslide mitigation should consider multiple options in order to reduce potential secondary impacts (loss of vegetation, site grading, traffic, visual). The City will only approve new development in areas of identified landslide hazard if the hazard can be appropriately mitigated, including erosion control and replacement of vegetation.</p>	<p><i>Consistent with Mitigation</i> See S-1.2 above.</p>
<p>S-2.5: Erosion Control. Require appropriate control measures in areas susceptible to erosion, in conjunction with proposed development. Erosion control measures should incorporate best management practices (BMPs) and should be coordinated with requirements for on-site water retention, water quality improvements, and runoff control.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 and C-3.3 above. In addition to the mitigation measures mentioned, Mitigation Measure GEO-3 requires the preparation of a site drainage system that includes setbacks from the drainageway. This is also described in C-1.6 above. Mitigation Measure GEO-3 also requires the preparation of an erosion control plan per the current guidelines of the California Stormwater Quality Association’s Best Management Practice Handbook.</p>
<p>S-3.8: Storm Drainage Improvements. Require new development to mitigate potential increases in runoff through a combination of measures, including improvement of local storm drainage facilities. Other measures, such as the use of porous pavement, bioswales, and “green infrastructure” should be encouraged.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 and C-3.3 above.</p>
<p>S-4.3: New Development in Fire Hazard Areas. Design new development to minimize fire hazards. Densities, land uses, and site plans should reflect the level of wildfire risk and evacuation capacity at a given location.</p>	<p><i>Consistent with Conditions</i> The project incorporates a Vegetation Management Plan and a fuel break buffer around the proposed development to reduce risk of uncontrolled wildfire spread. In addition, the project would be constructed pursuant to City of San Rafael development standards for new construction, including installation of fire sprinklers and fire-retardant building materials. The project has been reviewed by the Fire Department and found to be in conformance with fire prevention standards and would not pose a risk to public safety or impact levels of service.</p>
<p>NOISE ELEMENT</p>	
<p>N-1.1: Land Use Compatibility Standards for Noise. Protect people from excessive noise by applying noise standards in land use decisions. The Land Use</p>	<p><i>Consistent with Conditions</i> As documented in the Mitigated Negative Declaration Section XIII, Noise, the acoustical report prepared by Illingworth and Rodkin determined that the project would not generate new noise</p>

<p>Compatibility standards in Table 9-2 are adopted by reference as part of this General Plan and shall be applied in the determination of appropriate land uses in different ambient noise environments.</p>	<p>that would create significant impacts to existing residents. Modern construction techniques, including the use of forced-air mechanical ventilation, and adherence to the standards of the Building Code will ensure that the project complies with noise levels found in the General Plan and the Municipal Code.</p>
<p>N-1.2: Maintaining Acceptable Noise Levels. Use the following performance standards to maintain an acceptable noise environment in San Rafael:</p> <ul style="list-style-type: none"> (a) New development shall not increase noise levels by more than 3 dB Ldn in a residential area, or by more than 5 dB Ldn in a non-residential area. (b) New development shall not cause noise levels to increase above the “normally acceptable” levels shown in Table 9-2. (c) For larger projects, the noise levels in (a) and (b) should include any noise that would be generated by additional traffic associated with the new development. (d) Projects that exceed the thresholds above may be permitted if an acoustical study determines that there are mitigating circumstances (such as higher existing noise levels) and nearby uses will not be adversely affected. 	<p><i>Consistent with Conditions</i> As documented in the Mitigated Negative Declaration Section XIII, Noise, the project would not generate new noise that would create significant impacts to existing residents. In addition, construction best management practices recommended by the report from Illingworth and Rodkin have been included in the conditions of approval and will ensure that noise generated during construction will generate less-than-significant impacts.</p>
<p>N-1.3: Reducing Noise Through Planning and Design. Use a range of design, construction, site planning, and operational measures to reduce potential noise impacts.</p>	<p><i>Consistent with Conditions</i> See N-1.2 above.</p>
<p>N-1.5: Mixed Use. Mitigate the potential for noise-related conflicts in mixed use development combining residential and nonresidential uses.</p>	<p><i>Consistent</i> The proposed grocery store is a compatible land use with the residences and is not expected to be a source of significant noise.</p>
<p>N-1.9: Maintaining Peace and Quiet. Minimize noise conflicts resulting from everyday activities such as construction, sirens, yard equipment, business operations, night-time sporting events, and domestic activities.</p>	<p><i>Consistent with Conditions</i> See N-1.2 above.</p>
MOBILITY ELEMENT	
<p>M-2.5: Traffic Level of Service. Maintain traffic Level of Service (LOS) standards that ensure an efficient roadway network and provide a consistent basis for evaluating the</p>	<p><i>Consistent</i> As documented in the Mitigated Negative Declaration Section XVII Transportation, the project would not exceed the acceptable level of service standards (LOS), LOS D or better, for nearby</p>

<p>transportation effects of proposed development projects on local roadways. These standards shall generally be based on the performance of signalized intersections during the AM and PM peak hours. Arterial LOS standards may be used in lieu of (or in addition to) intersection LOS standards in cases where intersection spacing and road design characteristics make arterial LOS a more reliable and effective tool for predicting future impacts.</p>	<p>intersections. "Upon the addition of project-generated traffic to Existing volumes, all intersections are expected to continue operating acceptably. Under the anticipated Future volumes, all four study intersections are expected to operate acceptably at LOS D or better during both peak hours and would be expected to continue doing so upon the addition of project generated traffic. This is considered a less than significant impact."</p>
<p>M-2.6: Traffic Mitigation Fees. Collect impact fees for new development based on the expected number of trips a project will generate. Fees should be used to implement transportation improvements as directed by City Council resolution.</p>	<p><i>Consistent with Conditions</i> The project is required to pay traffic mitigation fees totaling \$764,280 (\$4,246 x 180) for the 78 net new peak AM and 102 net new peak PM trips.</p>
<p>M-2.8: Emergency Access. Identify alternate ingress and egress routes (and modes of travel) for areas with the potential to be cut off during a flood, earthquake, wildfire, or similar disaster.</p>	<p><i>Consistent</i> The project has been reviewed by the Fire and Police Departments and they have determined that the project would maintain adequate access for emergency services.</p>
<p>M-3.2: Using VMT in Environmental Review. Require an analysis of projected Vehicle Miles Traveled (VMT) as part of the environmental review process for projects with the potential to significantly increase VMT. As appropriate, this shall include transportation projects and land use/policy plans as well as proposed development projects.</p>	<p><i>Consistent</i> As documented in the Mitigated Negative Declaration, Section XVII Transportation, "the project's proposed density and provision of onsite affordable housing would reduce its per capita VMT by 12 percent, thereby resulting in a project-specific rate of 8.4 VMT per capita. This is below the applied VMT significance threshold of 11.3 VMT per capita. Accordingly, the residential component of the project as proposed would be expected to result in a less-than-significant VMT impact." "The project also includes an on-site 5,000 square-foot market available to the public and 5,000 square-foot community center. Based on guidance from the OPR Technical Advisory, local-serving retail such as this can generally be presumed to have a less-than-significant impact on VMT. This presumption is readily validated by the fact that customers of the market and community center will include on-site residents who would not generate VMT when patronizing the market, as well as residents and employees in surrounding areas that would otherwise need to travel a longer distance, mostly by vehicle, to visit a competing retail use. The market and community center would therefore be expected to result in a less-than-significant VMT impact."</p>
<p>M-6.1: Encouraging Walking and Cycling. Wherever feasible, encourage walking and cycling as the travel mode of choice for short trips, such as trips to school, parks, transit stops, and neighborhood services. Safe, walkable neighborhoods with pleasant, attractive streets,</p>	<p><i>Consistent</i> The mixed-use character of the project encourages residents to walk to the proposed grocery store. The Village Commons and South Park recreational areas are easily accessible to pedestrians. The project is located close to a major highway and is within walking distance of nearby transit stops.</p>

bike lanes, public stairways, paths, and sidewalks should be part of San Rafael's identity.	
COMMUNITY SERVICES AND INFRASTRUCTURE ELEMENT	
CSI-4.2: Adequacy of City Infrastructure and Services. As part of the development review process, require applicants to demonstrate that their projects can be adequately served by the City's infrastructure. All new infrastructure shall be planned and designed to meet the engineering and safety standards of the City as well as various local service and utility providers.	<i>Consistent</i> See LU-1.2 above. The appropriate utility agencies have reviewed the project and determined that the property can be adequately served with appropriate system upgrades, which have been incorporated into the conditions of approval.
EQUITY DIVERSITY AND INCLUSION ELEMENT	
EDI-2.1: Neighborhood Design for Active Living. Improve the design of San Rafael's neighborhoods to promote physical activity for all residents, including opportunities for safe walking and cycling, and walkable access to goods and services.	<i>Consistent</i> The mixed-use character of the project promotes pedestrian access to the grocery store and the many recreational features of the project including the South Park area and the Village Commons.
EDI-2.2: Safe Space for Physical Activity. Provide safe physical spaces for children and families to play and be physically active in all neighborhoods, particularly in the Canal area and other neighborhoods where many homes lack outdoor living space.	<i>Consistent</i> The recreational features of the site are located well-away from public roads. The Village Commons is near the internal driveway but speeds will be low on that system. Final design features will include elements to separate children's play areas from the driveway system. The South Park area is separated from the internal driveway but easily accessible by residents.
EDI-3.2: Affordable Housing Development. Encourage the development of affordable rental housing to meet the needs of all San Rafael households.	<i>Consistent</i> See H-18 below.
HOUSING ELEMENT	
H-2: Design That Fits into the Neighborhood Context. Recognize that construction of new housing and improvements on existing properties can add to the appearance and value of the neighborhood if they fit into the established character of the area. Design new housing, remodels, and additions to be compatible to the surrounding neighborhood. Incorporate transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Respect	<i>Consistent with Conditions</i> Residential development is allowed on the site per the proposed Neighborhood Commercial Mixed-Use Land Use designation. The project is on a vacant hillside parcel adjacent to single-family development to the south and west. Commercial development to the north and east includes a YMCA gymnasium and a Kaiser Health facility. Hwy 101 is just east of the site. The Design Review Board recommended approval of the project design with recommendations for design improvements which have been incorporated into the conditions of approval.

existing landforms and minimize effects on adjacent properties.	
<p>H-3: Public Information and Participation. Provide information on housing programs and related issues. Require and support public participation in the formulation and review of the City’s housing policy, including encouraging neighborhood involvement in development review. Work with community groups to advocate programs that will increase affordable housing supply and opportunities. Ensure appropriate and adequate involvement so that the design of new housing will strengthen the character and integrity of the neighborhood.</p>	<p><i>Consistent</i> See response in CDP-4.2 above.</p>
<p>H-14: Adequate Sites. Maintain an adequate supply of land designated for all types of residential development to meet the housing needs of all economic segments in San Rafael. Within this total, the City shall also maintain a sufficient supply of land for multifamily housing to meet the quantified housing need of very low, low, and moderate income housing units. Encourage development of residential uses in commercial areas where the vitality of the area will not be adversely affected and the site or area will be enhanced by linking workers to jobs, and by providing shared use of the site or area.</p>	<p><i>Consistent</i> This is a mixed-use project that provides 192 units of housing on an in-fill site. It will help accommodate the projected need for 1,007 additional housing units in the City by the year 2023 (Regional Housing Needs Allocation, Page 62 of the Housing Element). A total of 20 of the units will be affordable at the Low Income Level. These would contribute to the City’s need for 148 low-income housing units by the year 2023.</p>
<p>H-18: Inclusionary Housing Requirements. The City of San Rafael first adopted inclusionary requirements in the 1980’s. The City requires residential projects to provide a percentage of affordable units on site and/or pay in-lieu of fees for the development of affordable units in another location. The City’s program requires the units remain affordable for the longest feasible time, or at least 55 years. The City’s primary intent is the construction of units on-site. The units should be of a similar mix and type to that of the development as a whole, and dispersed throughout the development. If this is not practical or not permitted by law, the City will consider other alternatives of equal value, such as in-lieu fees, construction of units off-site, donation of a portion of the property for future</p>	<p><i>Consistent</i> The project will provide 20 units affordable at the Low Income Level, consistent with the standards of the recently-adopted amendments to SRMC Section 14.16.030.</p>

non-profit housing development, etc. Allow for flexibility in providing affordable units as long as the intent of this policy is met	
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ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL APPROVING A PLANNED DEVELOPMENT REZONING FROM PLANNED DISTRICT – HILLSIDE DEVELOPMENT OVERLAY DISTRICT (PD-H) AND RESIDENTIAL – HILLSIDE DEVELOPMENT OVERLAY DISTRICT (R2A-H) TO PLANNED DEVELOPMENT DISTRICT (PD), FOR THE CONSTRUCTION OF A MIXED-USE PROJECT CONSISTING OF 192 RESIDENTIAL APARTMENT UNITS, A 5,600 SQUARE-FOOT MARKET, A 5,000 SQUARE FOOT COMMUNITY CENTER, AND 225 AT-GRADE AND SEMI-SUBTERRANEAN PARKING SPACES FOR THE 10.24 ACRE SITE LOCATED AT THE SOUTHERLY TERMINUS OF LOS GAMOS DRIVE NORTH OF OLEANDER DRIVE

**(THE NEIGHBORHOOD AT LOS GAMOS)
(APNS: 165-220-06 AND 165-220-07)**

WHEREAS, on December 22, 2020, the applicants submitted applications for a General Plan Amendment (GPA 20-001) from Hillside Resource Residential to Neighborhood Commercial Mixed Use; Zone Change (ZC 20-002) from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD); Vesting Tentative Parcel Map to combine and adjust the boundaries of the existing parcels; and Environmental and Design Review (ED 20-058) for a mixed-use project with 192 multi-family residential units, an approximately 5,600-square-foot market, a 5,000-square-foot community center, and 225 at-grade and semi-subterranean parking spaces; on a 10.24 acre site located at the southerly terminus of Los Gamos Drive north of Oleander Drive; and

WHEREAS, the current zoning for the site does not allow the type of mixed-use development proposed and does not contain appropriate land use limitations and development standards, as required by Section 14.07.060 of Title 14 of the San Rafael Municipal Code (Zoning Ordinance); and

WHEREAS, the proposed PD District land use and development regulations for the property are presented in Exhibit B. The PD proposes to:

- a) Create a new PD Zoning District for the property;
- b) Establish permitted land uses in the PD district; and
- c) Establish development standards appropriate for the district.

WHEREAS, as required by the California Environmental Quality Act (CEQA) Guidelines, staff determined that the applications for a general plan amendment, zone change, vesting tentative parcel map, and environmental and design review permits, are a 'project,' making it subject to environmental review. Pursuant to CEQA Guidelines Section 15063, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared to determine the potential environmental impacts of the project. The IS/MND is supported by several technical studies including air quality, noise, geotechnical and traffic; and

WHEREAS, the IS/MND assesses the environmental impacts of the proposed amendment to San Rafael General Plan 2040 to change the existing Hillside Resource Residential (HRR) land use designation of the property to Neighborhood Commercial Mixed Use (NCMU) land use designation. The IS/MND finds that the proposed amendment to the General Plan will not result in significant unmitigable impacts; and

WHEREAS, as demonstrated in the preparation of the IS/MND, all potentially significant effects on the environment identified in the IS/MND can be mitigated to less-than-significant levels with implementation of the recommended mitigation measures, including impacts to aesthetics, air quality, biologic resources, cultural and tribal resources, geology and soils, and hydrology and water quality consistent with CEQA Guidelines; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to ensure implementation of, and compliance with, all conditions required to mitigate any environmental impact to a level of less than significant. All the identified mitigation measures have also been included as conditions of project approval; and

WHEREAS, the project, including the Notice of Availability of the IS/MND, along with the planning applications, was publicly noticed 30 days in advance of the Planning Commission hearing, through the following means: 1) the subject site was posted; 2) publishing a legal ad in the Marin Independent Journal, a local newspaper of general circulation in the area, on November 1, 2021; and 3) notices were mailed to surrounding property owners within 300 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups in conformance with the CEQA Guidelines; and

WHEREAS, on October 5, 2021, the project was considered by the Design Review Board (DRB) which recommended approval of the project subject to conditions to reconsider a darker color palette for the walls of the structures, to try to provide a more natural and less formal arrangement of the proposed trees on the project, to mitigate the impact of the tall retaining walls in the Village Commons, and for the project to come back for final review of the design details by the DRB when building permits were submitted; and

WHEREAS, the applicant has agreed to all the recommended changes and they have been incorporated into the conditions of approval for the project; and

WHEREAS, on December 14, 2021, following a public hearing and deliberation on the project, the Planning Commission voted 5-0-2 (Commissioners Mercado and Previtali absent) and adopted Planning Commission Resolutions 21-10, 21-11 and 21-12 recommending that the City Council 1) adopt a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project; 2) approve Zone Change application ZC 20-002; c) conditionally approve the Vesting Tentative Parcel Map; and d) conditionally approve Environmental and Design Review application 20-058; and

WHEREAS, on February 7, 2022, the City Council held a duly noticed public hearing on the proposed project, accepting and considering all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, on February 7, 2022, by adoption of separate resolution, the City Council adopted the IS/MND and approved an MMRP for the project; and

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

WHEREAS, as required by San Rafael Municipal Code Sections 14.07.090 and 14.27.060, the City Council makes the following findings in support of an ordinance to rezone the property from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD), as shown on the map contained in **Exhibit A** and further described in **Exhibit C**, and to establish a new PD District as outlined in **Exhibit B** (The Neighborhood at Los Gamos):

1. The Development Plan is consistent in principle with the San Rafael General Plan 2040 and other applicable City plans or policies in that the project includes appropriate development standards, and is subject to an Environmental and Design Review Permit implementing the intent of Chapter 14.25 (Environmental and Design Review Permit) of the San Rafael Zoning Ordinance (Title 14 of the San Rafael Municipal Code), Subdivision Ordinance (Title 15 of San Rafael Municipal Code), and the applicable General Plan land use policies, as described

in the General Plan Consistency Analysis included herein by reference as **Exhibit D**.

2. The applicant proposes to add 192 units of new residential development, including 20 below market rate (BMR) units, which will help serve to accommodate the projected need for 1,007 additional housing units in the City by the year 2023. The 4 and 5-story mixed-use development creates a reasonable transition between the existing residential properties south and west of the site and the commercial properties southeast, northeast and across the 101 Freeway to the east. Further, the development plan has been reviewed and recommended for approval by the Design Review Board.
3. The local utility agencies have reviewed the plans and confirmed that the proposed development can be served by public facilities such as sewer, water, refuse services and other infrastructure resources that currently serve the existing development adjacent to the site.
4. The applicant has accepted the City's direction to use the Neighborhood Commercial Mixed Use (NCMU) property development standards for the new PD zoning, as this General Plan Land Use designation most closely approximates the proposed property development standards. The proposed new development has been designed to comply with the applicable NCMU property development standards, with the exception of the Waiver requested for height and the Concession for commercial parking as provided by State Density Bonus Law, and the proposed project is not requesting any other deviations (Variances) from land use regulations.
5. The auto, bicycle and pedestrian traffic systems presented on the Development Plan are adequately designed for circulation needs and public safety in that: a) the Development Plan proposes sidewalks throughout the development for pedestrian access; b) emergency vehicle ingress and egress from the development would be provided through the existing portion of Los Gamos Drive that provides access to the site; and c) the access and site layout have been reviewed by the appropriate City departments and have been found to be adequate by the City of San Rafael Fire and Police Departments.
6. The public health, safety and welfare are served by the adoption of the proposed PD District, in that the project as proposed and conditioned: a) would implement housing and environmental goals and policies adopted for this site in the San Rafael General Plan 2040; b) would conform to City standards for safety; c) as proposed, and conditioned, it would be consistent with the recommended mitigation measures presented in the Initial Study/Mitigated Negative Declaration prepared for this project; and d) would address potential project impacts to Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, and Tribal Cultural Resources the inclusion of conditions of approval, including the Mitigation Monitoring and Reporting Program, and Environmental and Design Review Permit.

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

DIVISION 1.

The Zoning Map of the City of San Rafael, California, adopted by reference by Section 14.01.020 of the San Rafael Municipal Code is amended by reclassifying the following real property from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD) – Ordinance No. _____. Said property so reclassified is located at the southerly terminus of Los Gamos Drive, San Rafael, as shown on County Assessor's

Parcel No's: 165-220-06 AND 165-220-07, as shown on the map attached as Exhibit "A" and described in Exhibit "C", which are incorporated by reference.

DIVISION 2.

Any development of this property shall be subject to the conditions outlined in Exhibit "B", *The Neighborhood at Los Gamos – Planned Development District*, which is attached hereto and made a part hereof.

DIVISION 3.

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

DIVISION 4.

A summary of this ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

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

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

KATE COLIN, Mayor

ATTEST:

LINDSAY LARA, City Clerk

The foregoing Ordinance No. ____ was introduced at a Regular Meeting of the City Council of the City of San Rafael, held on the 7th day of February 2022 and ordered passed to print by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

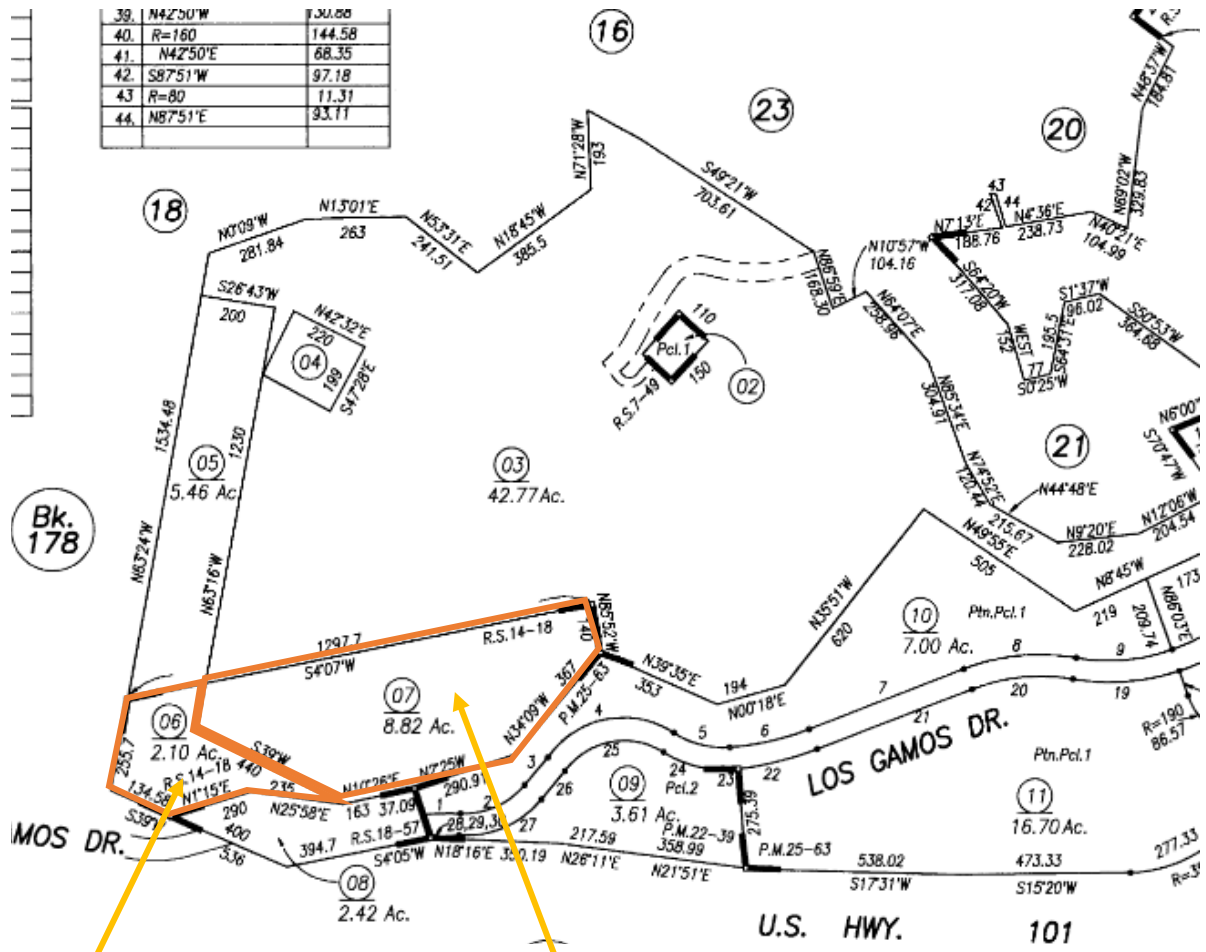
and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 22nd day of February 2022.

LINDSAY LARA, City Clerk

- Exhibit A: Zone Change Map
- Exhibit B: Planned Development District Standards
- Exhibit C: Legal Property Description
- Exhibit D: General Plan Consistency Analysis

Exhibit A

REZONING MAP



APN 165-220-006

APN 165-220-007

PD Rezoning to create a new PD for these two properties for The Neighborhood at Los Gamos (near the southerly terminus of Los Gamos Drive)

EXHIBIT B

THE NEIGHBORHOOD AT LOS GAMOS – PLANNED DEVELOPMENT DISTRICT

1. PURPOSE OF PLANNED DEVELOPMENT DISTRICT

The purpose of the Planned Development District for the mixed-use project known as The Neighborhood at Los Gamos is to regulate the development on the 10.24 acre site.

2. LAND USE REGULATIONS

- a) This PD permits the following site characteristics:
 - 192 residences;
 - a 5,574 square-foot market;
 - a 5,003 square foot community center;
 - 225 parking spaces;
 - the South Park recreational and open space area;
 - The Commons recreational and open space area; and
 - landscaping, roadways, recreational features and other improvements.
- b) Land uses permitted on the property shall be those described in the staff report dated February 7, 2022, and shown on the plans considered by the City Council on that date or any other use permitted as a matter of right in the Neighborhood Commercial zoning district pursuant to San Rafael Municipal Code (SRMC) Section 14.05.020. Any other land uses will require application and review as a zoning amendment as provided by SRMC Section 14.07.150.
- c) Private Usable Open Space: Balconies provided for the units shall remain open and not be enclosed or otherwise screened with mesh or other materials.
- d) All site improvements shall be installed as shown on the approved plans.

3. DEVELOPMENT STANDARDS

The Planned Development shall be developed in conformance with the approved development plans, associated drawings and reports submitted with the Planned Development as listed in Exhibit 6 to the Planning Commission staff report dated December 14, 2021. Deviations from those plans that are deemed minor or incidental by the Planning Director may be processed administratively.

Exhibit C

LEGAL DESCRIPTION

The land referred to is situated in the County of Marin, City of San Rafael, State of California, and is described as follows:

PARCEL ONE:

BEGINNING at the most Southern corner of that certain parcel of land described in the Deed to Trans Western Title Company, a California corporation, recorded January 31, 1984 in Book 1775 of Official Records at Page 442; thence from said point of beginning, along the Western line of said Trans Western Title Parcel, North 01° 15' 00" East 290.00 feet, North 25°58' 00" East 235.00 feet, North 10° 26' 00" East 183.00 feet and North 02° 25' 00" West 37.085 feet to the Southwestern corner of Parcel One, as described in the Deed of Jack H. Bennett, recorded March 14, 1967 in Book 2114 of Official Records at Page 392; thence along the general Western line of said Parcel One North 2° 25' 00" West 290.915 feet, and North 34° 09' 00" West 387.00 feet; thence leaving said Western line North 85° 52' 37" West 140.00 feet; thence South 4° 07' 23" West 1298 feet more or less to a point in the boundary described in an agreement recorded March 1, 1951 in Book 681 of Official Records at Page 76; thence along said boundary South 63° 16' 30" East 256 feet more or less to an angle point therein which bears South 39° 03' 00" West from the point of beginning; thence continuing along said boundary line North 39° 03' 00 " East 135.00 feet, more or less, to the point of beginning.

PARCEL TWO:

AN EASEMENT for vehicular and pedestrian access and public utility services, including sewer service described as follows:

BEGINNING at the Southwesterly corner of the land shown on that certain record of survey entitled, "Los Gamos Drive Extension", recorded in Book 6 at Page 8 of Official Surveys, Marin County Official Records, said point also being the intersection of the lines on said survey shown as South 87° 35' West 143.09 feet and North 2° 25' West 328.00 feet; thence from said point of beginning along the following courses and distances; South 2° 25' 00 " East 37.09 feet, thence South 10° 26' 00" West 2.99 feet, thence North 87° 35' 00" East 119.04 feet, thence North 4° 07' 23" East 40.26 feet, thence South 87° 35' 00" West 122.96 feet to the point of beginning.

APN: 165-220-06 and 165-220-07.

Exhibit B

TABLE ANALYZING PROJECT CONSISTENCY WITH SAN RAFAEL GENERAL PLAN 2040

LAND USE ELEMENT	
<p>LU-1.2: Development Timing. For health, safety, and general welfare reasons, new development should only occur when adequate infrastructure is available, consistent with the following findings:</p> <ul style="list-style-type: none"> a) The project is consistent with adopted Vehicle Miles Traveled (VMT) standards, as well as the requirements for Level of Service (LOS) specified in the Mobility Element. b) Planned circulation improvements necessary to meet City standards for the project have funding commitments and completed environmental review. c) Water, sanitary sewer, storm sewer, and other infrastructure improvements needed to serve the proposed development have been evaluated and confirmed to be in place or to be available to serve the development by the time it is constructed. d) The project has incorporated design and construction measures to adequately mitigate exposure to hazards, including flooding, sea level rise, and wildfire. 	<p><i>Consistent with Conditions</i></p> <p>The project proposes development on a vacant site. The quasi-governmental agencies that would provide water and sewer service to the site have reviewed the proposed project and determined that there is adequate capacity to service the new project. Marin Municipal Water District (MMWD) has indicated that a pipeline extension is required to serve the site. This requirement has been added to the conditions of approval. Las Gallinas Valley Sanitation District (LGVSD) has determined that they can serve the project subject to several conditions which have been added to the conditions of approval.</p> <p>The City Traffic Engineer has reviewed the project and the Traffic Impact Study prepared by W-Trans. The City Traffic Engineer concurs that this project would generate 78 additional a.m. and 102 additional p.m. peak hour vehicular trips. The City Traffic Engineer concurs with the conclusion made in the Traffic Impact Study that the project would have a less-than-significant impact for LOS levels at the studied intersections and below the VMT significance thresholds. The project is conditioned on the payment of traffic mitigation fees based on the 180 total new a.m./p.m. peak hour vehicle trips that would be generated by the project.</p> <p>The analysis in the Mitigated Negative Declaration (MND) determined that the project was not subject to flood hazard. The project incorporates a Vegetation Management Plan and a fuel break buffer around the proposed development to reduce risk of uncontrolled wildfire spread. In addition, the project would be constructed pursuant to City of San Rafael development standards for new construction, including installation of fire sprinklers and fire-retardant building materials. Since the project is 30 to 200 feet above sea level, it is not expected to be subject to sea level rise.</p>
<p>LU-1.8: Density of Residential Development. Use the density ranges in the Land Use Element to determine the number of housing units allowed on properties within the Planning Area. The following provisions apply:</p> <ul style="list-style-type: none"> a) The density “range” includes a maximum and minimum. A given General Plan designation may have multiple corresponding zoning districts, including at least one district in which the maximum density may 	<p><i>Consistent</i></p> <p>The project proposes to construct 192 dwelling units on the 10.24 acre site, for a density of 18.75 units per acre; therefore, it would not exceed the maximum density allowed in the Neighborhood Commercial Mixed Use Land Use category where up to 24.2 units per acre are allowed.</p> <p>The applicant has proposed that 10% of the units be affordable at the Low Income Level. As an affordable housing project, the project is eligible for a Density Bonus under State law. The</p>

<p>be achieved. Other zoning districts may have maximum densities that are less than the maximum indicated by the General Plan.</p> <p>b) Calculation of allowable units shall be rounded to the nearest whole number. Where the number is less than 0.5, it shall be rounded down. Where the number is 0.5 or greater, it may be rounded up.</p> <p>c) The number of units permitted on a given parcel may be affected by site resources and constraints, potentially hazardous conditions, climate-related factors (sea level rise, fire hazards, etc.), traffic and access (including wildfire evacuation constraints), the adequacy of infrastructure, City design policies, and prevailing densities in adjacent areas.</p> <p>d) The maximum net density shown on the General Plan excludes density bonuses that may be provided for affordable housing or other community benefits, in accordance with State law and local policies.</p>	<p>applicant has applied for a density bonus of 0, in that no increase in the number of units is proposed, but the application is accompanied by a request for a Waiver of the height limit of 30' and a Concession to allow reduced parking for the project. Both the Waiver and the Concession are allowed pursuant to State Density Bonus Law.</p>
<p>LU-1.9: Clustering. Allow clustering of development as a way to conserve environmentally sensitive or hazardous portions of a site (such as unstable slopes or flood plains) and enhance wildlife corridors. In such instances, the density calculation shall be made based on the area of the entire site (minus streets and easements), with the resulting number of units transferred to the less sensitive areas. The result would be a denser housing product on a portion of the site, with the balance conserved as open space.</p>	<p><i>Consistent</i></p> <p>The project clusters the structures on the site in a way that minimizes the grading and preserves more of the existing vegetation including a majority of the mature trees. It also allows to the use of the South Park area, just over an acre in size, as a significant recreational amenity on the property. This area will include both natural open space and improvements including paths and children's play structures.</p>
<p>LU-1.10: Intensity of Non-Residential Development. Use the Floor Area Ratio limits on Figure 3-2 to determine the square footage of building space allowed on properties with non-residential General Plan designations. The following provisions apply:</p> <p>a) As with density, FAR is calculated on a "net" basis, and is based on the area of each parcel excluding streets and easements.</p> <p>b) The maximum FAR stated by the General Plan is not guaranteed. The square footage permitted on a given</p>	<p><i>Consistent</i></p> <p>The project proposes a commercial use that conforms to the maximum FAR of 0.01.</p>

<p>parcel may be affected by site resources and constraints, potentially hazardous conditions, climate-related factors (sea level rise, fire hazards, etc.), traffic and access (including wildfire evacuation constraints), the adequacy of infrastructure, and City design policies.</p> <p>c) The maximum FARs shown in Figure 3-2 exclude any residential development on the property. In the event that residential uses or mixed use projects are proposed on these sites, the maximum area is the sum of the FAR allowance plus the residential density allowance for the property. This Clause does not apply to Downtown San Rafael, which is regulated by the Downtown Precise Plan.</p>	
<p>LU-1.15: Planned Development Zoning. Encourage the use of Planned Development (PD) zoning for development on parcels greater than five acres when the application of traditional zoning standards would make it more difficult to achieve General Plan goals. The PD zoning designation allows flexible design standards that are more responsive to site conditions as well as the transfer of allowable General Plan and zoning density between contiguous sites under common ownership.</p>	<p><i>Consistent</i> The project proposes Planned Development zoning on a site larger than 5 acres.</p>
<p>LU-1.17: Building Heights. Use General Plan Figures 3-3 and 3-4 as the basis for determining “baseline” maximum building heights in San Rafael. Maximum heights should continue to be codified through zoning and any applicable Specific Plans or Precise Plans. In addition, the following specific provisions related to building heights shall apply:</p> <p>a) Height of buildings existing or approved as of January 1, 1987 shall be considered as conforming to zoning standards.</p> <p>b) Hotels outside of the Downtown Precise Plan boundary have a 54-foot height limit. Within Downtown, the height provisions of the Downtown Precise Plan apply (see Figure 3-4).</p> <p>c) As provided for by Policy LU-1.18, “baseline” building heights are subject to height bonuses where specific</p>	<p><i>Consistent with Waiver per State Density Bonus Law</i> Although the project would exceed the maximum building height of 30 feet allowed for this area of San Rafael, the project has applied for a Density Bonus and a waiver from the height limit as permitted under State Density Bonus law, so the General Plan standard has been superseded by State law.</p>

<p>community benefits are provided, where a Variance or zoning exception is granted, or where a Transfer of Development Rights (TDR) is being implemented.</p> <p>d) Heights may be increased by up to six (6) feet above the baseline building heights as necessary to mitigate the exposure of properties to sea level rise and other flooding hazards (e.g., raising the first floor of habitable floor space above anticipated tidal flood elevations).</p>	
<p>LU-2.2: Mixed Use Development. Encourage mixed-use development (combining housing and commercial uses) in Downtown San Rafael and on commercially designated properties elsewhere in the city. Mixed-use development should enhance its surroundings and be compatible with adjacent properties.</p>	<p><i>Consistent</i> The project is a mixed-use development with both residences and commercial uses.</p>
<p>LU-3.3: Housing Mix. Encourage a diverse mix of housing choices in terms of affordability, unit type, and size, including opportunities for both renters and owners.</p>	<p><i>Consistent</i> The project proposes apartments, including 10% of the units affordable at the Low Income level.</p>
<p>COMMUNITY DESIGN AND PRESERVATION ELEMENT</p>	
<p>CDP-1.3: Hillside Protection. Protect the visual integrity and character of San Rafael’s hillsides and ridgelines. Where hillside construction is permitted, structures should be designed to provide slope and foundation stability, erosion control, and adequate emergency access, drainage and parking. Hillside buildings should be sited to protect the natural landscape, avoid excessive tree loss, and preserve scenic vistas from public vantage points.</p>	<p><i>Consistent with Conditions</i> The project has been designed according to the Hillside Design Guidelines by utilizing clustering, the use of setbacks for the walls of the structures, the use of tuck-under parking, and the use of materials and colors that help the buildings blend into the appearance of the hillside. The project has been reviewed by the Design Review Board. Recommendations from the Board for project design improvements have been incorporated into the conditions of approval.</p>
<p>CDP-4.2: Public Involvement in Design Review. Provide for public involvement in design review through effective noticing, adequate comment timelines, and clear project review opportunities, while still achieving development streamlining objectives.</p>	<p><i>Consistent</i> The project has been reviewed by the Design Review Board and found, as conditioned, to be consistent with the applicable design policies of the General Plan and the City’s Multi-family Design Guidelines. All public hearings have been, or will be, properly noticed as required by the Zoning Ordinance. In addition, the project applicant conducted a neighborhood outreach meeting on September 30, 2021, that was attended by members of the public.</p>

<p>CDP-4.5: Higher Density Design. Encourage high-quality architecture and landscape design in new higher-density housing and mixed-use projects. Such projects should be designed to be compatible with nearby buildings and respect the character-defining features of the surrounding neighborhood or district.</p>	<p><i>Consistent with Conditions</i> This mixed-use project has been reviewed by the Design Review Board and found, as conditioned, to be consistent with the applicable design policies of the General Plan and the City’s Multi-family Design Guidelines and utilizes high-quality architecture and landscape design.</p>
<p>CDP-4.6: Open Space in Multi-Family Housing. Require private outdoor areas such as decks and patios, as well as common open space areas, in new multi-family development and mixed use housing. Common open space may include recreation facilities, gathering places, and site amenities such as picnic and play areas.</p>	<p><i>Consistent</i> The project provides both private open space for each unit and large common open space areas, including the South Park area of approximately 1 acre and the Commons area, approximately 10,000 square feet of recreational area above and beside the market/community center that includes seating, a water feature, a children’s play area and other recreational amenities. Each of the common areas are easily accessible to the residents.</p>
<p>CDP-4.7: Larger-Scale Buildings. Design larger scale buildings to reduce their perceived mass. Encourage the incorporation of architectural elements such as towers, arcades, courtyards, and awnings to create visual interest, provide protection from the elements, and enhance orientation.</p>	<p><i>Consistent with Conditions</i> The project is broken into five apartment buildings and one dual-use building, reducing the mass of each building. The buildings use articulation of building form, and are set into the hill such that the perceived mass is reduced. The proposed materials and colors will also help reduce the perceived mass of the buildings. As mentioned, the Design Review Board recommended approval of the project with recommendations for design improvements which have been incorporated into the conditions of approval.</p>
<p>CDP-4.9: Parking and Driveways. Encourage parking and circulation design that supports pedestrian movement and ensures the safety of all travelers, including locating parking to the side or rear of buildings, limiting driveway cuts and widths, and minimizing large expanses of pavement. Parking should be screened from the street by landscaping and should provide easy access to building entrances.</p>	<p><i>Consistent</i> The parking areas are completely screened from off-site views because they are either tucked under the buildings or they are blocked from view by the proposed buildings and landscaping. A system of sidewalks connects the buildings to each other and to the common open space areas, promoting pedestrian access throughout the site. The project has a relatively small amount of surface parking with only 42 spaces not located beneath the buildings. The location of the majority of the parking beneath the buildings gives easy access to the buildings.</p>
<p>CDP-4.10: Landscape Design. Encourage—and where appropriate require—privately owned and maintained landscaping that conserves water, contributes to neighborhood quality, complements building forms and materials, improves stormwater management and drainage, and enhances the streetscape. Natural elements such as plants should be an integral part of site development and should enhance the built environment while supporting water conservation goals.</p>	<p><i>Consistent with Conditions</i> The project has an extensive landscape palette that relies on low-water using plants, including many California natives, creating an attractive and sustainable plan. Of the 285 existing trees on the property, 55 will be removed; the majority of the existing mature trees are preserved. An additional 210 trees, including oak species, will be planted on the property. As mentioned, the Design Review Board reviewed the project design, including the landscaping plans, and recommended approval of the project with recommendations for design improvements which have been incorporated into the conditions of approval.</p>

<p>CDP-4.11: Lighting. Encourage lighting for safety and security while preventing excessive light spillover and glare. Lighting should complement building and landscape design.</p>	<p><i>Consistent with Conditions</i></p> <p>The project design includes a total of 26 new light poles, from 14-16 feet tall, along the internal driveway system, 86 small light bollards mostly concentrated in the area of the market/community center, and 24 other small light fixtures in various locations. A photometric plan was submitted and reviewed by the Design Review Board and recommended for approval. Proposed lighting will have to meet the standards of SRMC Section 14.16.227, Light and Glare. In addition, Mitigation Measure AES-1 requires the project to conduct a post-installation lighting study showing that the lighting on the site complies with the plan and the requirements of the Municipal Code. As conditioned, the project will have adequate lighting without spillover onto adjacent properties or natural areas.</p>
<p>CONSERVATION AND CLIMATE CHANGE ELEMENT</p>	
<p>C-1.6: Creek Protection. Protect and conserve creeks as an important part of San Rafael’s identity, natural environment, and green infrastructure. Except for specific access points approved per Policy C-1.7 (Public Access to Creeks), development-free setbacks shall be required along perennial and intermittent creeks (as shown on www.marinmaps.org) to help maintain their function and habitat value. Appropriate erosion control and habitat restoration measures are encouraged within the setbacks, and roadway crossings are permitted.</p>	<p><i>Consistent</i></p> <p>There is an existing drainageway crossing west to east near the middle of the site. The new buildings have been sited north of the drainageway. A bridge is proposed to span the drainageway to provide pedestrian access from the new apartments to the South Park recreational and open space area south of the new buildings. The bridge is designed to preserve the existing drainageway by providing a 25’ setback of all structures, including bridge footings, from the top of the drainage on either side.</p>
<p>C-1.10: Hillside Preservation. Encourage preservation of hillsides, ridgelines, and other open areas that serve as habitat and erosion protection as well as visual backdrops to urban areas.</p>	<p><i>Consistent</i></p> <p>The project is located below the ridgeline west of the site and utilizes clustering to minimize the amount of grading and impacts to existing vegetation. The majority of the existing trees on the site would be preserved.</p>
<p>C-1.12: Native or Sensitive Habitats. Protect habitats that are sensitive, rare, declining, unique, or represent a valuable biological resource. Potential impacts to such habitats should be minimized through compliance with applicable laws and regulations, including biological resource surveys, reduction of noise and light impacts, restricted use of toxic pesticides, pollution and trash control, and similar measures.</p>	<p><i>Consistent with Mitigation</i></p> <p>As documented in the Mitigated Negative Declaration, Section IV Biological Resources, “no federal or state listed (plant) species were observed or are expected to occur” on the site; one rare plant has “moderate potential to occur”; 16 of 17 “special status wildlife species were considered to have no potential to occur” and the other species had “low potential to occur”; and because the site has many mature trees, there is potential to impact nesting birds. Mitigation Measure BIO-1 is included in the Mitigated Negative Declaration and the conditions of approval and will ensure that rare or protected plants and nesting birds are not impacted by site development.</p>
<p>C-1.13: Special Status Species. Conserve and protect special status plants and animals, including those listed by State or federal agencies as threatened and/or</p>	<p><i>Consistent with Mitigation</i></p> <p>See discussion in C-1.12 above.</p>

<p>endangered, those considered to be candidate species for listing by state and federal agencies, and other species that have been assigned special status by the California Native Plant Society and the California Fish and Game Code. Avoidance of impacts, accompanied by habitat restoration, is the preferred approach to conservation, but mitigation measures may be considered when avoidance is not possible.</p>	
<p>C-1.15: Landscaping with Appropriate Naturalized Plant Species. Encourage landscaping with native and compatible non-native plant species that are appropriate for the dry summer climate of the Bay Area, with an emphasis on species determined to be drought-resistant. Diversity of plant species is a priority for habitat resilience.</p>	<p><i>Consistent</i> The proposed landscape plant species were reviewed by the Design Review Board to ensure appropriate species were proposed.</p>
<p>C-1.16: Urban Forestry. Protect, maintain, and expand San Rafael’s tree canopy. Trees create shade, reduce energy costs, absorb runoff, support wildlife, create natural beauty, and absorb carbon, making them an essential and valued part of the city’s landscape and strategy to address global climate change. Tree planting and preservation should be coordinated with programs to reduce fire hazards, reduce greenhouse gas emissions, expand solar opportunities, and ensure public safety, resulting in a community that is both green and fire-safe.</p>	<p><i>Consistent</i> Of the 285 existing mature trees on the property, 230 will be preserved and another 210 trees will be planted. Many of the existing trees are oak species and oaks are also proposed as part of the new landscape plan.</p>
<p>C-2.2: Land Use Compatibility and Building Standards. Consider air quality conditions and the potential for adverse health impacts when making land use and development decisions. Buffering, landscaping, setback standards, filters, insulation and sealing, home HVAC measures, and similar measures should be used to minimize future health hazards.</p>	<p><i>Consistent with Mitigation</i> As described in the Mitigated Negative Declaration, Section III Air Quality, Air Quality impacts during temporary construction and grading activities required by the project would result in less-than-significant impacts with mitigation measures. In addition, the project would result in less-than-significant impacts with mitigation measures to minimize long-term increased cancer risk to new project occupants from exposure to small particulate matter (PM2.5). The required Air Quality mitigation measures (AQ-1, AQ-2), which include requirements for enhanced air filtration systems in the project and methods to reduce dust creation during construction, are included in the Mitigated Negative Declaration and the conditions of approval.</p>
<p>C-2.4: Particulate Matter Pollution Reduction. Promote the reduction of particulate matter from roads, parking lots, construction sites, agricultural lands, wildfires, and other sources.</p>	<p><i>Consistent with Mitigation</i> Mitigation Measure AQ-1 includes dust-control techniques to control dust and exhaust during construction.</p>

<p>C-3.1: Water Quality Standards. Continue to comply with local, state and federal water quality standards.</p>	<p><i>Consistent with Mitigation</i> As described in the Mitigated Negative Declaration, Section X, Hydrology and Water Quality, Mitigation Measure HYDRO-1 requires the applicant to prepare a Storm Water Pollution Prevention Plan (SWPPP) and implement stormwater control measures such as Low Impact Development (LID) and Best Management Practices (BMP's) per the City's Manual of Stormwater Pollution Control Standards for New Development and Redevelopment. In addition, Mitigation Measure HYDRO-1 requires the project "applicant to verify that operational stormwater quality control measures...have been implemented." These measures will ensure that less-than-significant impacts to water quality will occur.</p>
<p>C-3.2: Reduce Pollution from Urban Runoff. Require Best Management Practices (BMPs) to reduce pollutants discharged to storm drains and waterways. Typical BMPs include reducing impervious surface coverage, requiring site plans that minimize grading and disturbance of creeks and natural drainage patterns, and using vegetation and bioswales to absorb and filter runoff.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 above.</p>
<p>C-3.3: Low Impact Development. Encourage construction and design methods that retain stormwater on-site and reduce runoff to storm drains and creeks.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 above. In addition, as described in the Mitigated Negative Declaration, Section X, Hydrology and Water Quality, the project includes stormwater management features such as bioretention areas which have been designed to account for enough storage volume to attenuate peak flows on and from the site. These features and the implementation of Mitigation Measures HYDRO-1 and HYDRO-2 ensure that the project would not result in on- or off-site flooding.</p>
<p>C-3.9: Water-Efficient Landscaping. Encourage—and where appropriate require—the use of vegetation and water-efficient landscaping that is naturalized to the San Francisco Bay region and compatible with water conservation, fire prevention and climate resilience goals.</p>	<p><i>Consistent</i> The proposed landscape plan was reviewed by the Design Review Board to ensure that the landscaping incorporated appropriate water-efficient features.</p>
<p>C-4.1: Renewable Energy. Support increased use of renewable energy and remove obstacles to its use.</p>	<p><i>Consistent</i> The project proposes the installation of photovoltaic panels on the roofs of the apartment buildings to reduce the use of non-renewable energy sources.</p>
<p>C-4.2: Energy Conservation. Support construction methods, building materials, and home improvements that improve energy efficiency in existing and new construction</p>	<p><i>Consistent</i> The project will comply with the most recently adopted California Building Code (CBC) CalGreen and Title-24 Energy regulations.</p>
<p>C-4.5: Resource Efficiency in Site Development. Encourage site planning and development practices that</p>	<p><i>Consistent</i></p>

reduce energy demand and incorporate resource- and energy-efficient infrastructure.	The mixed-use nature of the project is more energy efficient than tradition development patterns. The inclusion of a grocery store encourages residents to walk to the store. The project also incorporates rooftop solar panels.
PARKS, RECREATION AND OPEN SPACE ELEMENT	
PROS-1.13: Recreational Facilities in Development Projects. Encourage, and where appropriate require, the construction of on-site recreational facilities in multi-family, mixed use, and office projects to supplement the facilities available in City parks.	<i>Consistent</i> The project includes substantial recreational amenities such as: 1) the South Park area of nearly an acre with both natural open space and improvements including children’s play structures; 2) the Village Commons area totaling approximately 10,000 square feet with both children’s play areas and passive recreational features for adults; and 3) the 5,003 square-foot community room above the grocery store.
PROS-3.5: Private Open Space. Ensure the long-term stewardship of privately-owned open space in a manner that conserves natural resource and aesthetic values, sustains wildlife, and reduces hazards to life and property. Opportunities to better integrate common open space in private development with public open space space (via trails, etc.) should be encouraged.	<i>Consistent</i> The project design preserves almost half the site (4.83 acres) as undisturbed open space. The majority of the existing trees will be preserved. The South Park area includes a substantial proportion of natural hillside made accessible with pedestrian paths.
SAFETY AND RESILIENCE ELEMENT	
S-1.2: Location of Future Development. Permit development only in those areas where potential danger to the health, safety, and welfare of the community can be adequately mitigated. Land uses and densities should take environmental hazards such as earthquakes, flooding, slope stability, sea level rise, and wildfires into consideration.	<i>Consistent with Mitigation</i> As documented in the Mitigated Negative Declaration Section VII, Geology and Soils, reports from Miller Pacific Engineering Group (MPEG) and Salem Howes Associates Inc. evaluated the potential for project impacts related to geologic hazards. The reports determined that no active faults crossed the site and that the site was in an area with low liquefaction potential. Since the site is in an area potentially subject to strong ground shaking during an earthquake, Mitigation Measure GEO-1 requires the preparation of a design-level geotechnical investigation. To address the potential for landslide impacts and soil instability, Mitigation Measure GEO-2 requires the preparation of a final geotechnical report. With the implementation of these Mitigation Measures, potential impacts related to earthquakes and slope stability will be reduced to less-than-significant levels. See LU-1.2 for a discussion of flood, sea level rise and wildfire hazards.
S-2.1: Seismic Safety of New Buildings. Design and construct all new buildings to resist stresses produced by earthquakes. The minimum level of seismic design shall be in accordance with the most recently adopted building code as required by State law.	<i>Consistent with Mitigation</i> See S-1.2 above.

<p>S-2.2: Minimize the Potential Effects of Landslides. Development proposed in areas with existing or potential landslides (as identified by a Certified Engineering Geologist, Registered Geotechnical Engineer, or the LHMP) shall not be endangered by, or contribute to, hazardous conditions on the site or adjoining properties. Landslide mitigation should consider multiple options in order to reduce potential secondary impacts (loss of vegetation, site grading, traffic, visual). The City will only approve new development in areas of identified landslide hazard if the hazard can be appropriately mitigated, including erosion control and replacement of vegetation.</p>	<p><i>Consistent with Mitigation</i> See S-1.2 above.</p>
<p>S-2.5: Erosion Control. Require appropriate control measures in areas susceptible to erosion, in conjunction with proposed development. Erosion control measures should incorporate best management practices (BMPs) and should be coordinated with requirements for on-site water retention, water quality improvements, and runoff control.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 and C-3.3 above. In addition to the mitigation measures mentioned, Mitigation Measure GEO-3 requires the preparation of a site drainage system that includes setbacks from the drainageway. This is also described in C-1.6 above. Mitigation Measure GEO-3 also requires the preparation of an erosion control plan per the current guidelines of the California Stormwater Quality Association’s Best Management Practice Handbook.</p>
<p>S-3.8: Storm Drainage Improvements. Require new development to mitigate potential increases in runoff through a combination of measures, including improvement of local storm drainage facilities. Other measures, such as the use of porous pavement, bioswales, and “green infrastructure” should be encouraged.</p>	<p><i>Consistent with Mitigation</i> See C-3.1 and C-3.3 above.</p>
<p>S-4.3: New Development in Fire Hazard Areas. Design new development to minimize fire hazards. Densities, land uses, and site plans should reflect the level of wildfire risk and evacuation capacity at a given location.</p>	<p><i>Consistent with Conditions</i> The project incorporates a Vegetation Management Plan and a fuel break buffer around the proposed development to reduce risk of uncontrolled wildfire spread. In addition, the project would be constructed pursuant to City of San Rafael development standards for new construction, including installation of fire sprinklers and fire-retardant building materials. The project has been reviewed by the Fire Department and found to be in conformance with fire prevention standards and would not pose a risk to public safety or impact levels of service.</p>
<p>NOISE ELEMENT</p>	
<p>N-1.1: Land Use Compatibility Standards for Noise. Protect people from excessive noise by applying noise standards in land use decisions. The Land Use</p>	<p><i>Consistent with Conditions</i> As documented in the Mitigated Negative Declaration Section XIII, Noise, the acoustical report prepared by Illingworth and Rodkin determined that the project would not generate new noise</p>

<p>Compatibility standards in Table 9-2 are adopted by reference as part of this General Plan and shall be applied in the determination of appropriate land uses in different ambient noise environments.</p>	<p>that would create significant impacts to existing residents. Modern construction techniques, including the use of forced-air mechanical ventilation, and adherence to the standards of the Building Code will ensure that the project complies with noise levels found in the General Plan and the Municipal Code.</p>
<p>N-1.2: Maintaining Acceptable Noise Levels. Use the following performance standards to maintain an acceptable noise environment in San Rafael:</p> <ul style="list-style-type: none"> (a) New development shall not increase noise levels by more than 3 dB Ldn in a residential area, or by more than 5 dB Ldn in a non-residential area. (b) New development shall not cause noise levels to increase above the “normally acceptable” levels shown in Table 9-2. (c) For larger projects, the noise levels in (a) and (b) should include any noise that would be generated by additional traffic associated with the new development. (d) Projects that exceed the thresholds above may be permitted if an acoustical study determines that there are mitigating circumstances (such as higher existing noise levels) and nearby uses will not be adversely affected. 	<p><i>Consistent with Conditions</i> As documented in the Mitigated Negative Declaration Section XIII, Noise, the project would not generate new noise that would create significant impacts to existing residents. In addition, construction best management practices recommended by the report from Illingworth and Rodkin have been included in the conditions of approval and will ensure that noise generated during construction will generate less-than-significant impacts.</p>
<p>N-1.3: Reducing Noise Through Planning and Design. Use a range of design, construction, site planning, and operational measures to reduce potential noise impacts.</p>	<p><i>Consistent with Conditions</i> See N-1.2 above.</p>
<p>N-1.5: Mixed Use. Mitigate the potential for noise-related conflicts in mixed use development combining residential and nonresidential uses.</p>	<p><i>Consistent</i> The proposed grocery store is a compatible land use with the residences and is not expected to be a source of significant noise.</p>
<p>N-1.9: Maintaining Peace and Quiet. Minimize noise conflicts resulting from everyday activities such as construction, sirens, yard equipment, business operations, night-time sporting events, and domestic activities.</p>	<p><i>Consistent with Conditions</i> See N-1.2 above.</p>
MOBILITY ELEMENT	
<p>M-2.5: Traffic Level of Service. Maintain traffic Level of Service (LOS) standards that ensure an efficient roadway network and provide a consistent basis for evaluating the</p>	<p><i>Consistent</i> As documented in the Mitigated Negative Declaration Section XVII Transportation, the project would not exceed the acceptable level of service standards (LOS), LOS D or better, for nearby</p>

<p>transportation effects of proposed development projects on local roadways. These standards shall generally be based on the performance of signalized intersections during the AM and PM peak hours. Arterial LOS standards may be used in lieu of (or in addition to) intersection LOS standards in cases where intersection spacing and road design characteristics make arterial LOS a more reliable and effective tool for predicting future impacts.</p>	<p>intersections. "Upon the addition of project-generated traffic to Existing volumes, all intersections are expected to continue operating acceptably. Under the anticipated Future volumes, all four study intersections are expected to operate acceptably at LOS D or better during both peak hours and would be expected to continue doing so upon the addition of project generated traffic. This is considered a less than significant impact."</p>
<p>M-2.6: Traffic Mitigation Fees. Collect impact fees for new development based on the expected number of trips a project will generate. Fees should be used to implement transportation improvements as directed by City Council resolution.</p>	<p><i>Consistent with Conditions</i> The project is required to pay traffic mitigation fees totaling \$764,280 (\$4,246 x 180) for the 78 net new peak AM and 102 net new peak PM trips.</p>
<p>M-2.8: Emergency Access. Identify alternate ingress and egress routes (and modes of travel) for areas with the potential to be cut off during a flood, earthquake, wildfire, or similar disaster.</p>	<p><i>Consistent</i> The project has been reviewed by the Fire and Police Departments and they have determined that the project would maintain adequate access for emergency services.</p>
<p>M-3.2: Using VMT in Environmental Review. Require an analysis of projected Vehicle Miles Traveled (VMT) as part of the environmental review process for projects with the potential to significantly increase VMT. As appropriate, this shall include transportation projects and land use/policy plans as well as proposed development projects.</p>	<p><i>Consistent</i> As documented in the Mitigated Negative Declaration, Section XVII Transportation, "the project's proposed density and provision of onsite affordable housing would reduce its per capita VMT by 12 percent, thereby resulting in a project-specific rate of 8.4 VMT per capita. This is below the applied VMT significance threshold of 11.3 VMT per capita. Accordingly, the residential component of the project as proposed would be expected to result in a less-than-significant VMT impact." "The project also includes an on-site 5,000 square-foot market available to the public and 5,000 square-foot community center. Based on guidance from the OPR Technical Advisory, local-serving retail such as this can generally be presumed to have a less-than-significant impact on VMT. This presumption is readily validated by the fact that customers of the market and community center will include on-site residents who would not generate VMT when patronizing the market, as well as residents and employees in surrounding areas that would otherwise need to travel a longer distance, mostly by vehicle, to visit a competing retail use. The market and community center would therefore be expected to result in a less-than-significant VMT impact."</p>
<p>M-6.1: Encouraging Walking and Cycling. Wherever feasible, encourage walking and cycling as the travel mode of choice for short trips, such as trips to school, parks, transit stops, and neighborhood services. Safe, walkable neighborhoods with pleasant, attractive streets,</p>	<p><i>Consistent</i> The mixed-use character of the project encourages residents to walk to the proposed grocery store. The Village Commons and South Park recreational areas are easily accessible to pedestrians. The project is located close to a major highway and is within walking distance of nearby transit stops.</p>

bike lanes, public stairways, paths, and sidewalks should be part of San Rafael's identity.	
COMMUNITY SERVICES AND INFRASTRUCTURE ELEMENT	
CSI-4.2: Adequacy of City Infrastructure and Services. As part of the development review process, require applicants to demonstrate that their projects can be adequately served by the City's infrastructure. All new infrastructure shall be planned and designed to meet the engineering and safety standards of the City as well as various local service and utility providers.	<i>Consistent</i> See LU-1.2 above. The appropriate utility agencies have reviewed the project and determined that the property can be adequately served with appropriate system upgrades, which have been incorporated into the conditions of approval.
EQUITY DIVERSITY AND INCLUSION ELEMENT	
EDI-2.1: Neighborhood Design for Active Living. Improve the design of San Rafael's neighborhoods to promote physical activity for all residents, including opportunities for safe walking and cycling, and walkable access to goods and services.	<i>Consistent</i> The mixed-use character of the project promotes pedestrian access to the grocery store and the many recreational features of the project including the South Park area and the Village Commons.
EDI-2.2: Safe Space for Physical Activity. Provide safe physical spaces for children and families to play and be physically active in all neighborhoods, particularly in the Canal area and other neighborhoods where many homes lack outdoor living space.	<i>Consistent</i> The recreational features of the site are located well-away from public roads. The Village Commons is near the internal driveway but speeds will be low on that system. Final design features will include elements to separate children's play areas from the driveway system. The South Park area is separated from the internal driveway but easily accessible by residents.
EDI-3.2: Affordable Housing Development. Encourage the development of affordable rental housing to meet the needs of all San Rafael households.	<i>Consistent</i> See H-18 below.
HOUSING ELEMENT	
H-2: Design That Fits into the Neighborhood Context. Recognize that construction of new housing and improvements on existing properties can add to the appearance and value of the neighborhood if they fit into the established character of the area. Design new housing, remodels, and additions to be compatible to the surrounding neighborhood. Incorporate transitions in height and setbacks from adjacent properties to respect adjacent development character and privacy. Respect	<i>Consistent with Conditions</i> Residential development is allowed on the site per the proposed Neighborhood Commercial Mixed-Use Land Use designation. The project is on a vacant hillside parcel adjacent to single-family development to the south and west. Commercial development to the north and east includes a YMCA gymnasium and a Kaiser Health facility. Hwy 101 is just east of the site. The Design Review Board recommended approval of the project design with recommendations for design improvements which have been incorporated into the conditions of approval.

existing landforms and minimize effects on adjacent properties.	
<p>H-3: Public Information and Participation. Provide information on housing programs and related issues. Require and support public participation in the formulation and review of the City’s housing policy, including encouraging neighborhood involvement in development review. Work with community groups to advocate programs that will increase affordable housing supply and opportunities. Ensure appropriate and adequate involvement so that the design of new housing will strengthen the character and integrity of the neighborhood.</p>	<p><i>Consistent</i> See response in CDP-4.2 above.</p>
<p>H-14: Adequate Sites. Maintain an adequate supply of land designated for all types of residential development to meet the housing needs of all economic segments in San Rafael. Within this total, the City shall also maintain a sufficient supply of land for multifamily housing to meet the quantified housing need of very low, low, and moderate income housing units. Encourage development of residential uses in commercial areas where the vitality of the area will not be adversely affected and the site or area will be enhanced by linking workers to jobs, and by providing shared use of the site or area.</p>	<p><i>Consistent</i> This is a mixed-use project that provides 192 units of housing on an in-fill site. It will help accommodate the projected need for 1,007 additional housing units in the City by the year 2023 (Regional Housing Needs Allocation, Page 62 of the Housing Element). A total of 20 of the units will be affordable at the Low Income Level. These would contribute to the City’s need for 148 low-income housing units by the year 2023.</p>
<p>H-18: Inclusionary Housing Requirements. The City of San Rafael first adopted inclusionary requirements in the 1980’s. The City requires residential projects to provide a percentage of affordable units on site and/or pay in-lieu of fees for the development of affordable units in another location. The City’s program requires the units remain affordable for the longest feasible time, or at least 55 years. The City’s primary intent is the construction of units on-site. The units should be of a similar mix and type to that of the development as a whole, and dispersed throughout the development. If this is not practical or not permitted by law, the City will consider other alternatives of equal value, such as in-lieu fees, construction of units off-site, donation of a portion of the property for future</p>	<p><i>Consistent</i> The project will provide 20 units affordable at the Low Income Level, consistent with the standards of the recently-adopted amendments to SRMC Section 14.16.030.</p>

non-profit housing development, etc. Allow for flexibility in providing affordable units as long as the intent of this policy is met	
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RESOLUTION NO.

RESOLUTION OF THE CITY OF SAN RAFAEL CITY COUNCIL CONDITIONALLY APPROVING A VESTING TENTATIVE PARCEL MAP AND ENVIRONMENTAL AND DESIGN REVIEW PERMIT (ED 20-058) FOR THE CONSTRUCTION OF A MIXED-USE PROJECT CONSISTING OF 192 RESIDENTIAL APARTMENT UNITS, A 5,600 SQUARE-FOOT MARKET, A 5,000 SQUARE FOOT COMMUNITY CENTER, AND 225 AT-GRADE AND SEMI-SUBTERRANEAN PARKING SPACES FOR THE 10.24 ACRE SITE LOCATED AT THE SOUTHERLY TERMINUS OF LOS GAMOS DRIVE NORTH OF OLEANDER DRIVE

**(THE NEIGHBORHOOD AT LOS GAMOS)
(APNS: 165-220-06 AND 165-220-07)**

WHEREAS, on December 22, 2020, the applicants submitted applications for a General Plan Amendment (GPA 20-001) from Hillside Resource Residential to Neighborhood Commercial Mixed Use; Zone Change (ZC 20-002) from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD); Vesting Tentative Parcel Map to combine and adjust the boundaries of the existing parcels; and Environmental and Design Review (ED 20-058) for a mixed-use project with 192 multi-family residential units; an approximately 5,600-square-foot market; a 5,000-square-foot community center; and 225 at-grade and semi-subterranean parking spaces; on a 10.24 acre site located at the southerly terminus of Los Gamos Drive north of Oleander Drive; and

WHEREAS, the current zoning for the site does not allow the type of mixed-use development proposed and does not contain appropriate land use limitations and development standards, as required by Section 14.07.060 of the Zoning Ordinance; and

WHEREAS, as required by the California Environmental Quality Act (CEQA) Guidelines, staff determined that the applications for a general plan amendment, zone change, vesting tentative parcel map, and environmental and design review permits, are a ‘project,’ making it subject to environmental review. Pursuant to CEQA Guidelines Section 15063, an Initial Study/Mitigated Negative Declaration (IS/MND) was prepared to determine the potential environmental impacts of the project. The IS/MND is supported by several technical studies including air quality, noise, geotechnical and traffic); and

WHEREAS, as demonstrated in the preparation of the Initial Study/Mitigated Negative Declaration (IS/MND), all potentially significant effects on the environment identified in the IS/MND can be mitigated to less-than-significant levels with implementation of the recommended mitigation measures, including impacts to aesthetics, air quality, biologic resources, cultural and tribal resources, geology and soils, and hydrology and water quality consistent with CEQA Guidelines; and

WHEREAS, consistent with the requirements of the CEQA Guidelines, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to ensure implementation of, and compliance with, all conditions required to mitigate any environmental impact to a level of less than significant. All the identified mitigation measures have also been included as conditions of project approval; and

WHEREAS, on September 30, 2021, the applicant held a Neighborhood Meeting via zoom which was duly noticed to the residents and property owners within 300’ of the project site and notice of the meeting was also posted on the site; and

WHEREAS, on October 5, 2021, the project was considered by the Design Review Board (DRB) which recommended approval of the project subject to conditions to reconsider a darker color palette for the walls of the structures, to try to provide a more natural and less formal arrangement of the proposed trees on the project, to mitigate the impact of the tall retaining walls in the Village Commons, and for the

project to come back for final review of the design details by the DRB when building permits were submitted; and

WHEREAS, the applicant has agreed to all the recommended changes and they have been incorporated into the conditions of approval for the project; and

WHEREAS, the project, including the Notice of Availability of the IS/MND, along with the planning applications, was publicly noticed 30 days in advance of the Planning Commission hearing, through the following means: 1) the subject site was posted; 2) publishing a legal ad in the Marin Independent Journal, a local newspaper of general circulation in the area, on November 1, 2021; and 3) notices were mailed to surrounding property owners within 300 feet, pertinent agencies (including responsible and trustee agencies), organizations and special interest groups in conformance with the CEQA Guidelines; and

WHEREAS, on December 14, 2021, the Planning Commission held a duly-noticed public hearing on the proposed project to consider the IS/MND and MMRP, General Plan Amendment, Zone Change, Vesting Tentative Parcel Map, and Environmental Design Review Permits, accepting all oral and written public testimony and the written report of the Department of Community Development; and

WHEREAS, on December 14, 2021, following a public hearing and deliberation on the project, the Planning Commission voted 5-0 (Commissioners Previtali and Mercado absent) to recommend approval of the Environmental and Design Review Permit (ED 20-058) and the Vesting Tentative Parcel Map applications to the City Council, subject to conditions of approval; and

WHEREAS, on December 14, 2021, by adoption of separate resolutions, the Planning Commission recommended adoption of the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project, the General Plan Amendment (GPA 20-001), and the PD Rezoning (ZC20-002) to allow for the proposed development as presented on the plans, with appropriate development regulations and land use limitations for the residential use; and

WHEREAS, on February 7, 2022, by adoption of a separate resolution, the City Council adopted a Mitigated Negative Declaration and approved a Mitigation Monitoring; and

WHEREAS, on February 7, 2022, the San Rafael City Council held a duly noticed public hearing to consider the General Plan Amendment (GPA 20-001), PD Rezoning (ZC20-002), Environmental and Design Review Permit (ED20- 058), and Vesting Tentative Parcel Map and accepted and considered all oral and written public testimony and the written report of Planning staff; and

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

NOW THEREFORE BE IT RESOLVED that the City Council of the City of San Rafael does hereby approve the Environmental and Design Review Permit (ED20-058) and Vesting Tentative Parcel Map based on the findings in Exhibit A and conditions of approval in Exhibit B, incorporated herein by reference.

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 7th day of February 2022, by the following vote to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

Exhibit A
Exhibit B

Findings
Conditions of Approval

Exhibit A

Environmental and Design Review Permit Findings (ED 20-058)

In accordance with San Rafael Municipal Code (SRMC) Section 14.25.090, Findings, the following findings are required for approval of an Environmental and Design Review Permit:

1. The proposed mixed-use project as conditioned is consistent in principle with the San Rafael General Plan 2040 and other applicable City plans or policies in that the development plans for The Neighborhood at Los Gamos includes appropriate development standards, and is subject to an Environmental and Design Review Permit, implementing the intent of Chapters 22 (Use Permit) and 25 (Environmental and Design Review Permit) of the San Rafael Zoning Ordinance, Subdivision Ordinance (Title 15 of San Rafael Municipal Code). A detailed discussion of the Project's consistency with the applicable General Plan policies is provided in the General Plan Consistency Analysis matrix in Exhibit B to Attachment 2 (Resolution recommending approval of the General Plan Amendment and Zone Change).
2. The project design, as proposed and conditioned, is consistent with the objectives and criteria of the Zoning Ordinance, and the purposes of Chapter 25 (Environmental and Design Review) in that:
 - a) The development presents a competent design that has been thoughtfully studied and presented to the Design Review Board, both as a conceptual design and then as a formal application design. The applicant has agreed to modify the proposed building design and landscaping as recommended by the Board and these changes have been incorporated into the conditions of approval. The proposed new development has been designed to comply with the applicable NCMU property development standards, with the exception of the Waiver requested for height and the Concession for parking as provided by State Density Bonus Law, and the proposed project is not requesting any other deviations (Variances) from land use regulations. The project has also been reviewed by local residents during a formal Neighborhood Meeting (including a 15-day notice sent to property owners and tenants within 300 feet of the project site).
 - b) The site plan respects site features and constraints by avoiding the existing drainage paths on the property and by preserving the majority of the mature trees. The South Park area of the project, just over an acre, located south of the proposed buildings, maintains much of the existing vegetation to create an outdoor recreation area for the use of the project residents. Of the 285 existing trees, 205 of the existing oaks will be preserved and 210 new trees, including oak species, will be planted on the property.
 - c) The materials and colors that have been included in the proposed architecture are consistent with the context of the surrounding area. The buildings are designed in a Contemporary style. Walls would be a combination of stucco, lap siding and painted concrete. Trim would be painted wood. Colors are earth-tones in complementary shades. As recommended by the Design Review Board, the applicant has agreed to alter the colors of the buildings to make the colors more compatible with the surrounding natural setting. Large areas of each of the walls of the residential buildings incorporate windows, introducing considerable light into the units. The residential buildings use horizontal and vertical articulation to break up the mass.

The project as conditioned will utilize colors and materials that will effectively blend the proposed building with the predominant colors of the surrounding natural setting.

- d) The proposed site plan incorporates design features to ensure that stormwater runoff will be appropriately managed to avoid off-site impacts. In addition, Mitigation Measure HYDRO-1 requires that the project applicant prepare a Stormwater Pollution Prevention Plan (SWPPP) and/or Erosion and Sediment Control Plan (ESCP) in accordance with the requirements of the statewide Construction General Permit and the City of San Rafael Department of Public Works. The SWPPP shall include the minimum Best Management Practices (BMPs) required for the identified risk level. This mitigation measure and the project design will ensure that any potential impacts related to stormwater runoff are reduced to a less-than-significant level.
3. The project design with conditions minimizes adverse environmental impacts in that:
 - a) The project would not cause the level of service at nearby intersections to exceed the standards of the General Plan.
 - b) Potential environmental impacts have been addressed through the preparation of an Initial Study and Mitigated Negative Declaration (IS/MND) consistent with the requirements of the California Environmental Quality Act (CEQA). The IS/MND concluded that the proposed project would result in potentially significant impacts in Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hydrology and Water Quality, and Tribal Resources. Any potential impacts would be mitigated to a less-than-significant level through implementation of recommended mitigations listed in the Mitigation Monitoring and Reporting Program of the IS/MND.
 4. The project design, as proposed and as conditioned, will not be detrimental to the public health, safety or welfare, nor materially injurious to properties or improvements in the vicinity in that:
 - a) The environmental impacts associated with the development of the project have been assessed and the project impacts can be mitigated to less-than-significant levels with the implementation of specific mitigation measures as discussed in Environmental and Design Review Permit Finding #3 above.
 - b) The project design would be an appropriate transitional use in an area which has both commercial and single-family development. The project would preserve the majority of the natural environment of the site. The South Park area will include both natural areas, a pedestrian walkway, and children's recreational play area. Furthermore, the project's siting, scale and mass has been designed to minimize visual impacts on adjacent properties, and the new lighting is within the 1-foot candle (Fc) limit along the property line.
 - c) The site is subject to a condition of approval requiring a 90-day lighting review to adjust lighting levels and reduce glare as needed to eliminate spillover glare onto adjacent properties.

Vesting Tentative Parcel Map Findings

5. The proposed map is consistent with the San Rafael General Plan and any applicable, adopted specific plan or neighborhood plan as noted in Environmental and Design Review

Permit Finding, #1 above. The purpose of the map is to allow the creation of a mixed-use development consisting of 192 residential apartment units; 225 parking spaces; a 5,574 square-foot market; and a 5,003 square-foot community center.

6. The design or improvement of the subdivision is consistent with the San Rafael General Plan and any pertinent, adopted specific plan or neighborhood plan in that:
 - a) the subdivision would create 192 units on the 10.24-acre parcel, which is in keeping with the allowable density (8.7 to 24.2 units/acre or 89-247 units) per the Neighborhood Commercial Mixed Use Land Use Designation, which encourages a mixed-use development in this location; and
 - b) the City has balanced the regional and local housing needs against the public service needs of its residents, as well as available fiscal and environmental resources, and concludes that adequate public services are available to the site based on existing service providers that have reviewed the project and indicated that subject to conditions of approval, the system has the capacity to provide service.
7. The property subject to subdivision is physically suitable for the density of development that is proposed in that:
 - a) the proposed subdivision would create 192 apartment units on site, which is below the maximum density allowable per General Plan 2040 (247 units);
 - b) the project parking does not meet the minimum requirement for the residences based on unit size established by State Density Bonus Law or the minimum requirement for the commercial as set by zoning; however, the applicant has applied for a Concession for reduced parking as provided by State Density Bonus Law;
 - c) ample, code compliant private and common usable open space is provided for the project.
8. The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat in that:
 - a) the site is an in-fill site that has been designated in the General Plan as Neighborhood Commercial Mixed Use with an allowed residential a density of 8.7-24.2 units per acres; and
 - b) An Initial Study/Mitigated Negative Declaration has been prepared and appropriate mitigation measures identified in the Mitigation Monitoring and Reporting Program to reduce any identified potential impacts to less-than-significant levels.
9. The design of the subdivision or the type of the proposed improvements is not likely to cause serious health problems in that:
 - a) it is a mixed-use project that will be an appropriate transitional use between the single-family residences to the south and west and the commercial uses to the east;
 - b) the proposed project would be built in accordance with the latest Building and Fire codes to ensure the health and safety of future residents and adjacent neighbors;
 - c) the City's Public Works Department and Las Gallinas Valley Sanitation District have reviewed the drainage and proposed sewer connections for the project site and deemed the project design to be in keeping with City standards, subject to conditions of approval; and

- d) as conditioned, the proposed subdivision would not result in impacts to water quality or impacts to environmental resources in that an erosion control plan is required as a condition of project approval, which must be implemented before any grading or construction commences on the site.
10. The design of the subdivision or the type of proposed improvements will not conflict with existing, identified easements on site.
11. The design of the subdivision or the type of proposed improvements are consistent with the standards for Hillside Lots as described in SRMC Section 15.07 in that:
- a) the project will consist of one, 10.24 acre lot, which is larger than the 2.5 acre minimum;
 - b) the project employs development clustering;
 - c) the project is subject to an Environmental and Design Review Permit (ED 20-058) and findings in support of that application are listed above;
 - d) the use of clustering minimizes grading, visual impacts, minimizes the removal of natural vegetation, and maximizes preservation of existing trees;
 - e) the project is not located on a highly visible hillside nor on a ridgeline;
 - f) the proposed development preserves the hillside as a visual backdrop;
 - g) steep slopes and more hazardous, unstable portions of the site have been avoided;
 - h) development plans, and the conditions of approval, will require the preparation of detailed geotechnical reports to ensure that development of the site can mitigate any geotechnical constraints that might be discovered;
 - i) the buildings were reviewed by the Design Review Board and, as conditioned, were found to achieve necessary hillside design quality;
 - j) the development of the site preserves the existing drainage paths on the site and the majority of the existing vegetation; and
 - k) no new streets are proposed; access will be via a looped driveway system that, following review by Public Works, Fire and Building and Safety has been found to provide appropriate access.
12. The design of the subdivision or the type of proposed improvements are consistent with the standards as described in SRMC Section 15.06 in that:
- a) the project proposes one lot rather than individual for-sale lots;
 - b) no streets are proposed;
 - c) sidewalks, walkways and lighting conform to the standards of the Code;
 - d) the proposed grading and drainage design has been reviewed by the Department of Public Works and Las Gallinas Valley Sanitary District and found, as conditioned, to provide proper grading, drainage and erosion control;
 - e) the project will be constructed in compliance with the current Building and Fire Codes which will ensure that appropriate fire protection measures and construction techniques will be employed; and

f) all utilities will be undergrounded.

Exhibit B

***ENVIRONMENTAL AND DESIGN REVIEW (ED 20-058)
CONDITIONS OF APPROVAL***

General Conditions

1. The proposed project shall be constructed in substantial conformance with the project plans as presented for approval at the City Council public hearing of February 7, 2022. These plans shall be the same as required for issuance of building, grading and other City permits. Minor modifications or revisions to the project plans shall be subject to review and approval by the Community Development Department, Planning Division. Modifications deemed not minor by the Community Development Director shall require review and approval by the original decision making body.
2. Approved colors for the project structures shall be as shown on the approved plans or as modified by these conditions of approval. Any future modification to colors shall be subject to review and approval by the Community Development Department, Planning Division. Modifications deemed not minor by the Community Development Director shall require review and approval by the Design Review Board.
3. Applicant shall remit payment of the State Fish and Game fees in order for staff to file a Notice of Determination with the County Clerk within 5 days of project approval. The current fee amounts are \$2,210 (current fee as of 2021) payable to the State Fish and Game and \$50.00 payable to the Marin County Clerk and are subject to increase on January 1st of each year.
4. The project Mitigation Monitoring and Reporting Program (MMRP) of the Mitigated Negative Declaration is incorporated into these conditions of approval by reference. Mitigation Measures are also listed below in these conditions of approval. Applicant and property owner shall comply with all terms and conditions of the MMRP. A deposit for Mitigation Monitoring shall be paid as required by these conditions.
5. Property owner and applicant agree to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities ("indemnities"), the purpose of which is to attack, set aside, void or annul the approval of this application or the certification of any environmental document which accompanies it. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the indemnities, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the indemnities.
6. In the event that any claim, action or proceeding as described above is brought, the City shall promptly notify the Property owner and applicant of any such claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action, or proceeding. In the event applicant/property owner is required to defend the City in connection with any said claim, action or proceeding, the City shall retain the right to; 1) approve the counsel to so defend the City; 2) approve all significant decisions concerning the manner in which the defense is conducted; and 3) approve any and all settlements, which approval shall not be unreasonably withheld. Nothing herein shall prohibit the City

from participating in the defense of any claim, action or proceeding, provided that if the City chooses to have counsel of its own to defend any claim, action or proceeding where Property owner and applicant already has retained counsel to defend the City in such matters, the fees and the expenses of the counsel selected by the City shall be paid by the City.

7. As a condition of this application, applicant/property owner agree to be responsible for the payment of all City Attorney expenses and costs, both for City staff attorneys and outside attorney consultants retained by the City, associated with the reviewing, process and implementing of the land use approval and related conditions of such approval. City Attorney expenses shall be based on the rates established from time to time by the City Finance Director to cover staff attorney salaries, benefits, and overhead, plus the actual fees and expenses of any attorney consultants retained by the City. Applicant shall reimburse City for City Attorney expenses and costs within 30 days following billing of same by the City.
8. All site improvements, including but not limited to, site lighting, fencing, landscape islands and paving, striping shall be maintained in good, undamaged condition at all times. Any damaged improvements shall be replaced in a timely manner.
9. The Project site shall be kept free of litter and garbage. Any trash, junk or damaged materials that are accumulated on the site shall be removed and disposed of in a timely manner.
10. All new landscaping shall be irrigated with an automatic drip system and maintained in a healthy and thriving condition, free of weeds and debris, at all times. Any dying or dead landscaping shall be replaced in a timely fashion.
11. All public streets and sidewalks and on-site streets which are privately owned that are impacted by the grading and construction operation for the Project shall be kept clean and free of debris at all times. The general contractor shall sweep the nearest street and sidewalk adjacent to the site on a daily basis unless conditions require greater frequency of sweeping.
12. This Environmental and Design Review Permit shall run with the land and shall remain valid regardless of any change of ownership of the Project site, subject to these conditions, provided that a building/grading permit is issued, and construction commenced, or a time extension request is submitted to the City's Community Development Department, Planning Division, within three (3) years of the City Council approval. Failure to obtain a building permit and grading permit and construction or grading activities commenced, or failure to obtain a time extension within the three-year period will result in the expiration of this Environmental and Design Review Permit.
13. This Environmental and Design Review Permit (ED 20-058) approving the Project shall ran concurrently with the approved Vesting Tentative Parcel Map. If either entitlement expires, this Environmental and Design Review Permit approving the Project, as depicted on Project plans, shall also expire and become invalid.
14. A copy of the Conditions of Approval for ED 20-058 shall be included as a plan sheet with the building permit plan submittal.

15. Bicycle parking shall be provided in compliance with San Rafael Municipal Code Section 14.18.090. This requires bicycle spaces provided on site at a minimum of 5% of total vehicle parking, including a minimum of one two bike capacity rack for short term bicycle parking. Final plans shall include a design detail for proposed bicycle parking spaces, proposed number and location subject to final review and approval by the Community Development Department and Traffic Engineer.
16. Property Owner/applicant shall be responsible for all costs associated with mitigation monitoring and shall remit an initial deposit in the amount of \$6,540.00 for mitigation monitoring and condition compliance. Staff shall bill time against this deposit amount during Project review and implementation of the Project and monitoring of Project conditions, to assure compliance with conditions and mitigation measures has been achieved.
17. All mechanical equipment (i.e. air conditioning units, meters and transformers) and appurtenances not entirely enclosed within the structure (on side of building or roof) shall be screened from public view. The method used to accomplish the screening shall be indicated on the building plans and approved by the Planning Division.
18. Any outstanding Planning Division application processing fees shall be paid.
19. A construction logistics plan shall be submitted demonstrating how construction conditions shall be met. The plan must be approved by the Public Works Department and Community Development Director and shall include the conditions of approval and mitigation measures that are applicable to the construction of the Project.
20. The project shall be subject to the affordable housing requirements prescribed in Section 14.16.030 of the San Rafael Zoning Ordinance and is therefore required to provide twenty (20) of the 192 apartment units as affordable. Prior to the issuance of a building permit or recordation of the final map, whichever occurs first, a Below Market Rate (BMR) agreement for the twenty (20) affordable units shall be approved by the City Council and recorded on the property. The location of the BMR units shall be identified on the project plans and the final location shall be subject to review and approval of the City as part of the City's consideration of the BMR agreement. Please contact the Marin Housing Authority to commence the agreement process.
21. Protective barrier fencing shall be installed during construction to protect existing trees that are to remain on site, as per the approved landscape plan. Plans showing the fencing, signage and barrier details shall be included on Project plans, The fencing shall be a minimum four-foot orange mesh protected by hay bales and signage designed to avoid intrusion by construction workers and equipment.

Project Mitigation Measures

Aesthetics

22. Mitigation Measure AES-1: Prior to the Building Permit final inspection, the project applicant shall submit to the satisfaction of the Community Development Department Director, a post-installation photometric lighting study showing that the lighting on site complies with the approved lighting levels per ED 20-058 and the requirements of SRMC 14.16.227. The project applicant shall also demonstrate to the Building Division that outdoor lighting fixtures meet the requirements of the California Energy Code (known as Part 6, Title 24 of the California Code of Regulations).

Air Quality

23. Mitigation Measure AQ-1: Include basic measures to control dust and exhaust during construction. During any construction period ground disturbance, the applicant shall ensure that the project contractor implement measures to control dust and exhaust. Implementation of the measures recommended by BAAQMD and listed below would reduce the air quality impacts associated with grading and new construction to a less-than-significant level. The contractor shall implement the following best management practices that are required of all projects:
- a) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - b) All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - c) All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - d) All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
 - e) All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f) Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - g) All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - h) Post a publicly visible sign with the telephone number and person to contact at the City of San Rafael Building Division regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
24. Mitigation Measure AQ-1a: All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 2 engines with CARB-certified Level 3 Diesel Particulate Filters or equivalent.
- a) The use of equipment meeting U.S. EPA Tier 4 standards for particulate matter would also meet this requirement.
 - b) Use of equipment that includes alternatively-fueled equipment (i.e., non-diesel) would meet this requirement.
 - c) Other measures may be the use of added exhaust devices, or a combination of measures, provided that these measures are approved by the City and demonstrated to reduce community risk impacts to less-than-significant levels.
25. Mitigation Measure AQ-2: Include high-efficiency particulate filtration systems in residential ventilation systems. The project shall include the following measures to minimize long-term increased cancer risk and annual PM2.5 exposure for new project occupants:

- a) Install air filtration in residential dwellings. Air filtration devices shall be rated MERV 13 or higher. To ensure adequate health protection to sensitive receptors (i.e., residents), this ventilation system, whether mechanical or passive, all fresh air circulated into the dwelling units shall be filtered, as described above.
- b) As part of implementing this measure, an ongoing maintenance plan for the buildings' heating, ventilation, and air conditioning (HV AC) air filtration system shall be required.
- c) Ensure that the use agreement and other property documents: (1) require cleaning, maintenance, and monitoring of the affected buildings for air flow leaks, (2) include assurance that new owners or tenants are provided information on the ventilation system, and (3) include provisions that fees associated with owning or leasing a unit(s) in the building include funds for cleaning, maintenance, monitoring, and replacements of the filters, as needed.

Biological Resources

26. Mitigation Measure BIO-1a: The project sponsor shall conduct pre-construction surveys prior to initiation of any construction activities, including the following:

- a) Rare Plant Survey. Prior to initiation of construction, a qualified botanist will survey for this species during their blooming season (April through November) to ensure these plants are not impacted. If individual plants are located within the development footprint, the qualified botanist will transplant individual plants to an area with the habitat requirements for this species in an area that will remain undisturbed within the Project Area.
- b) Special-Status Plant Survey and Avoidance. A qualified botanist shall conduct surveys during the appropriate blooming period for all special-status plants that have the potential to occur on or adjacent to the Project area prior to the start of ground-disturbing activities and prepare a report documenting survey findings. Habitat adjacent to the Project area should be surveyed if the Project may have indirect impacts off-site as a result of changes to hydrological conditions or other indirect impacts. More than one year of surveys may be necessary. Surveys and reporting shall be conducted following Protocols for Surveying and Evaluating Impacts to Special-Status Native Plant Populations and Sensitive Natural Communities. Surveys shall be submitted to CDFW for review and written acceptance. If special-status plants are found during surveys, the Project shall be re-designed to avoid impacts to special-status plants. If impacts to any special-status plants cannot be avoided completely during construction, the Project shall provide mitigation including on-site restoration, off-site habitat preservation, or another method accepted in writing by CDFW. The qualified botanist shall be knowledgeable about plant taxonomy, familiar with plants of the region, and have experience conducting botanical field surveys according to vetted protocols.
- c) Tree Removal and Migratory Bird Protection. Tree and shrub removal will be conducted between September 1 and February 14, outside of nesting bird season, to the extent possible. Tree removal between February 15 and August 31 will require a nesting bird survey by a qualified biologist no more than 7 days prior to work occurring.
- d) Active Bird Nest. If at any time of the year an active bird nest is observed within or near work sites, work within 50 feet of the observed nest shall cease, care shall be taken not to disturb the nest, and the work supervisor shall contact designated biologist for guidance on how to proceed. A no-work buffer will be implemented by the biologist as appropriate to protect the nest until the young have fledged.

- e) Bat Tree Habitat Assessment and Surveys. Prior to any tree removal, a qualified biologist shall conduct a habitat assessment for bats. The habitat assessment shall be conducted a minimum of 30 to 90 days prior to tree removal and shall include a visual inspection of potential roosting features (e.g., cavities, crevices in wood and bark, exfoliating bark, and suitable canopy for foliage roosting species). If suitable habitat trees are found, they shall be flagged or otherwise clearly marked and tree trimming or removal shall not proceed unless the following occurs: a) in trees with suitable habitat, presence of bats is presumed, or documented during the surveys described below, and removal using the two-step removal process detailed below occurs only during seasonal periods of bat activity, from approximately March 1 through April 15 and September 1 through October 15, or b) after a qualified biologist conducts night emergence surveys or completes visual examination of roost features that establish absence of roosting bats.

Two-step tree removal shall be conducted over two consecutive days, as follows:

- i. the first day (in the afternoon), under the direct supervision and instruction by a qualified biologist with experience conducting two-step tree removal, limbs and branches shall be removed by a tree cutter using chainsaws only; limbs with cavities, crevices or deep bark fissures shall be avoided; and
- ii. the second day the entire tree shall be removed

27. Mitigation Measure BIO-1b: Burrowing Owl Habitat Assessment, Surveys, and Avoidance. Prior to Project activities, a habitat assessment shall be performed following Appendix C: Habitat Assessment and Reporting Details of the CDFW Staff Report on Burrowing Owl Mitigation (CDFW 2012 Staff Report). The habitat assessment shall extend at least 492 feet (150 meters) from the Project site boundary or more where direct or indirect effects could potentially extend offsite (up to 500 meters or 1,640 feet) and include burrows and burrow surrogates. If the habitat assessment identifies potentially suitable burrowing owl habitat, then a qualified biologist shall conduct surveys following the CDFW 2012 Staff Report survey methodology. Surveys shall encompass the Project site and a sufficient buffer zone to detect owls nearby that may be impacted commensurate with the type of disturbance anticipated, as outlined in the CDFW 2012 Staff Report, and include burrow surrogates such as culverts, piles of concrete or rubble, and other non-natural features, in addition to burrows and mounds. Time lapses between surveys or Project activities shall trigger subsequent surveys, as determined by a qualified biologist, including but not limited to a final survey within 24 hours prior to ground disturbance. The qualified biologist shall have a minimum of two years of experience implementing the CDFW 2012 Staff Report survey methodology resulting in detections. Detected burrowing owls shall be avoided pursuant to the buffer zone prescribed in the CDFW 2012 Staff Report and any passive relocation plan for non-nesting owls shall be subject to CDFW review.

Burrowing Owl Wintering Habitat Mitigation. If the Project would impact an occupied burrow (where a non-nesting wintering owl would be evicted as described above), the following habitat mitigation shall be implemented prior to Project construction:

- a) Impacts to each burrow site shall be mitigated by permanent preservation of two occupied burrow sites with appropriate foraging habitat within Marin County, unless otherwise approved by CDFW, through a conservation easement and implementing and funding a long-term management plan in perpetuity.
- b) The Project may implement alternative methods for preserving habitat with written acceptance from CDFW.

28. Mitigation Measure BIO-1c: American Badger Preconstruction Wildlife Survey. Within one week prior to initiation of construction, a qualified biologist will survey the Project Area for potential American badger burrows. If potentially occupied burrows are detected, an avoidance buffer will be approved by CDFW, and established to protect the burrow from construction impacts. If a sufficient buffer cannot be established, the biologist will prepare a relocation plan to be approved by CDFW and implemented prior to initiation of construction. If construction is suspended for more than 1 week or is initiated in an area more than 2500 feet from active construction, a new survey will be performed prior to re-starting work or starting work in new areas.

Cultural Resources

29. Mitigation Measure CULT-1: Protect Archaeological Resources Identified during Construction: The project sponsor shall ensure that construction crews stop all work within 100 feet of the discovery until a qualified archaeologist can assess the previously unrecorded discovery and provide recommendations. Resources could include subsurface historic features such as artifact-filled privies, wells, and refuse pits, and artifact deposits, along with concentrations of adobe, stone, or concrete walls or foundations, and concentrations of ceramic, glass, or metal materials. Native American archaeological materials could include obsidian and chert flaked stone tools (such as projectile and dart points), midden (culturally derived darkened soil containing heat-affected rock, artifacts, animal bones, and/or shellfish remains), and/or groundstone implements (such as mortars and pestles).
30. Mitigation Measure CULT-2: Protect Human Remains Identified During Construction: The Project proponent shall treat any human remains and associated or unassociated funerary objects discovered during soil-disturbing activities according to applicable State laws. Such treatment includes work stoppage and immediate notification of the Marin County Coroner and qualified archaeologist, and in the event that the Coroner's determination that the human remains are Native American, notification of NAHC according to the requirements in PRC Section 5097.98. NAHC would appoint a Most Likely Descendant ("MLD"). A qualified archaeologist, Project proponent, County of Marin, and MLD shall make all reasonable efforts to develop an agreement for the treatment, with appropriate dignity, of any human remains and associated or unassociated funerary objects (CEQA Guidelines Section 15064.5[d]). The agreement would take into consideration the appropriate excavation, removal, recordation, analysis, custodianship and final disposition of the human remains and associated or unassociated funerary objects. The PRC allows 48 hours to reach agreement on these matters.

Geology and Soils

31. Mitigation Measure GEO -1: Prior to a grading or building permit submittal, the project sponsor shall prepare a design-level geotechnical investigation prepared by a qualified and licensed geotechnical engineer and submit the report to the City Engineer. Minimum recommendations include design of new structures in accordance with the provisions of the 2019 California Building Code or subsequent codes in effect when final design occurs. Final project design shall be consistent with the recommended seismic design coefficients and spectral accelerations are presented in the findings presented in Section 5.1 of the December 7, 2020 MPEG report.
32. Mitigation Measure GEO-2: Supplemental exploration with exploratory trenches and geology site inspection/mapping further upslope shall be performed to better evaluate the potential for instability. Most of the suspected areas of instability within the site will be

removed as part of the planned excavation and building construction. Undeveloped areas of instability within the project site should be over-excavated, subsurface drainage installed, and backfilled with engineered fill. Global stability of the site should be checked as part of building wall design. Debris catchment structure or deflection wall/berm may be needed upslope of the planned buildings if debris flow paths cross planned structures. Final project design shall be consistent with the recommended findings presented in Chapter 5 of the December 7, 2020 MPEG report.

33. Mitigation Measure GEO-3: Prior to a grading or building permit submittal, the project sponsor shall prepare a site drainage system prepared by a qualified and licensed civil engineer and submit the report to the City Engineer. Planned improvements or structures on shallow foundations should be setback from the unimproved drainage channel. The recommended setback distance is a 3:1 inclination from the channel bed or 10 feet from top of bank, whichever is greater. The site drainage system shall be designed to collect surface water from the maximum credible rainfall event and discharging it into an established storm drainage system. The project Civil Engineer is responsible for designing the site drainage system.

In addition, an erosion control plan shall be developed prior to construction per the current guidelines of the California Stormwater Quality Association's Best Management Practice Handbook. Additionally, regular monitoring of the upslope areas shall be performed, particularly during and following periods of heavy rainfall. Regular maintenance of upslope areas should also be performed and should include maintaining vegetative cover on slopes, clearing debris from the v-ditches and drain inlets, and promptly repairing any erosion or shallow instabilities that occur. Final project design shall be consistent with the recommended findings presented in Chapter 5 of the December 7, 2020 MPEG report.

34. Mitigation Measure GEO-4: Soils subgrades and fills shall be moisture conditioned above the optimum moisture content during site grading and maintained at this moisture content until imported aggregate base and/or surface flatwork is completed. Retaining structures shall be designed with a soil creep load where walls retain sloping ground. Foundations shall be designed to account for some expansive soil movement. Final project design shall be consistent with the recommended findings presented in Chapter 5 of the December 7, 2020 MPEG report.

35. Mitigation Measure GEO-5: Should paleontological resources be encountered during project subsurface construction activities located in previously undisturbed soil and bedrock, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. For purposes of this mitigation, a "qualified paleontologist" shall be an individual with the following qualifications: 1) a graduate degree in paleontology or geology and/or a person with a demonstrated publication record in peer-reviewed paleontological journals; 2) at least two years of professional experience related to paleontology; 3) proficiency in recognizing fossils in the field and determining their significance; 4) expertise in local geology, stratigraphy, and biostratigraphy; and 5) experience collecting vertebrate fossils in the field.

If the paleontological resources are found to be significant and project activities cannot avoid them, measures shall be implemented to ensure that the project does not cause a substantial adverse change in the significance of the paleontological resource. Measures may include monitoring, recording the fossil locality, data recovery and analysis, a final report, and accessioning the fossil material and technical report to a paleontological

repository. Upon completion of the assessment, a report documenting methods, findings, and recommendations shall be prepared and submitted to the City for review. If paleontological materials are recovered, this report also shall be submitted to a paleontological repository such as the University of California Museum of Paleontology, along with significant paleontological materials. Public educational outreach may also be appropriate.

The project applicants shall inform its contractor(s) of the sensitivity of the project site for paleontological resources and shall verify that the following directive has been included in the appropriate contract specification documents:

“The subsurface of the construction site may contain fossils. If fossils are encountered during project subsurface construction, all ground-disturbing activities within 25 feet shall be halted and a qualified paleontologist contacted to assess the situation, consult with agencies as appropriate, and make recommendations for the treatment of the discovery. Project personnel shall not collect or move any paleontological materials. Fossils can include plants and animals, and such trace fossil evidence of past life as tracks or plant imprints. Marine sediments may contain invertebrate fossils such as snails, clam and oyster shells, sponges, and protozoa; and vertebrate fossils such as fish, whale, and sea lion bones. Vertebrate land mammals may include bones of mammoth, camel, saber tooth cat, horse, and bison. Contractor acknowledges and understands that excavation or removal of paleontological material is prohibited by law and constitutes a misdemeanor under California Public Resources Code, Section 5097.5.”

Hydrology and Water Quality

36. Mitigation Measure HYDRO-1: Prior to issuing a grading or building permit, the project applicant shall prepare a Stormwater Pollution Prevention Plan (SWPPP) and/or Erosion and Sediment Control Plan (ESCP) in accordance with the requirements of the statewide Construction General Permit and the City of San Rafael Department of Public Works. The SWPPP shall be prepared by a Qualified SWPPP Developer (QSD). The SWPPP shall include the minimum Best Management Practices (BMPs) required for the identified risk level. The SWPPP shall be designed to address the following objectives:
- a) All pollutants and their sources, including sources of sediment associated with construction, construction site erosion, and all other activities associated with construction activity are controlled;
 - b) Where not otherwise required to be under a Regional Water Quality Control Board permit, all non-stormwater discharges are identified and either eliminated, controlled, or treated;
 - c) Site BMPs are effective and result in the reduction or elimination of pollutants in stormwater discharges and authorized non-stormwater discharges from construction activity. The erosion and sediment control plan shall include the rationale used for selecting BMPs including supporting soil loss calculations, as necessary;
 - d) Stabilization BMPs installed to reduce or eliminate pollutants after construction are completed;
 - e) BMP implementation shall be consistent with the BMP requirements in the most recent version of the California Stormwater Quality Association Stormwater Best Management Handbook-Construction or the Caltrans Stormwater Quality Handbook Construction Site BMPs Manual.

37. Mitigation Measure HYDRO-2: Prior to a certificate of occupancy, the Project applicant shall verify that operational stormwater quality control measures that comply with the requirements of the current Phase II Small MS4 Permit have been implemented. Responsibilities include, but are not limited to:
- a) Designing BMPs into Project features and operations to reduce potential impacts to surface water quality and to manage changes in the timing and quantity of runoff associated with operation of the project. These features shall be included in the design-level drainage plan and final development drawings.
 - b) The proposed project shall incorporate site design measures and Low Impact Development design standards, including minimizing disturbed areas and impervious surfaces, infiltration, harvesting, evapotranspiration, and/or bio-treatment of stormwater runoff.
 - c) The Project applicant shall establish an Operation and Maintenance Plan. This plan shall specify a regular inspection schedule of stormwater treatment facilities in accordance with the requirements of the Phase II Small MS4 Permit.
 - d) Funding for long-term maintenance of all BMPs shall be specified.

Tribal Cultural Resources

38. Mitigation Measure TRIBAL-1: Implementation of the unanticipated discovery measures outlined in Section V(b) and (d) above, address the potential discovery of previously unknown resources within the project area. If significant tribal cultural resources are identified onsite, all work would stop immediately within 50 feet of the resource(s) and the project applicant would comply with all relevant State and City policies and procedures prescribed under PRC Section 21074.

Community Development Department—Planning Division

39. Final landscape and irrigation plans for the Project shall comply with the provisions of Marin Municipal Water District's (MMWD) most recent water conservation ordinance. Construction plans submitted for issuance of building/grading permit shall be pre-approved by MMWD and stamped as approved by MMWD or include a letter from MMWD approving the final landscape and irrigation plans. Modifications to the final landscape and irrigation plans, as required by MMWD, shall be subject to review and approval of the Community Development Department, Planning Division.
40. Prior to issuance of building permits, the applicant shall consult with Planning Division staff on a revised landscaping plan that minimizes the loss of mature oak trees in the South Park portion of the project. This may be accomplished by changing the design of the pedestrian paths, the bridge, and/or any recreational features proposed to be installed. The revised plan shall show locations of oak trees to be retained and those to be removed including their diameter at breast height. The revised plan shall also include the use of native vegetation. The final plan shall be subject to the review and approval of the Planning Division.
41. Prior to the issuance of building permits, the applicant shall submit a Lake or Streambed (LSA) Notification to the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 1602 for Project activities that may substantially alter the bed, bank, or channel of the ephemeral stream, including installation of a new bridge. If CDFW determines that an LSA Agreement is warranted, the project shall comply with all

required measures in the LSA Agreement, including but not limited to requirements for ephemeral stream and riparian habitat impacts

42. Landscaping along driveways shall be regularly trimmed to clear vegetation below a height of seven feet to ensure that adequate sight lines will be maintained.
43. Prior to the issuance of building permits, a sign program shall be submitted for the project for review by the Design Review Board and Planning Commission.
44. Prior to the issuance of building permits, the plans shall be revised to address the following comments from the Design Review Board:
 - a) Mitigate the appearance of building height with darker color palette consistent with Hillside Design Guidelines and horizontal elements to break up visual appearance of massing.
 - b) Trees should be not planted in a uniform row but clustered with more natural spacing to the extent practicable for available planting area.
 - c) Mitigate impacts of the 10' – 16' tall retaining walls with step backs or other methods such as texture/colors/materials/or vegetation.

The revised plans shall be returned to the Design Review Board for a final review.

45. The following standard construction best management practices shall be implemented to reduce construction noise levels at sensitive receptors in the site vicinity:
 - a) Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment or construction occurring in close proximity to adjacent land uses. Temporary noise barrier fences would provide a 5 dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receiver and if the barrier is constructed in a manner that eliminates any cracks or gaps.
 - b) Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
 - c) Unnecessary idling of internal combustion engines should be strictly prohibited.
 - d) Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.
 - e) Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
 - f) Control noise from construction workers' radios to a point where they are not audible at properties bordering the project site.
 - g) The contractor shall prepare a detailed construction plan identifying the schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent land uses so that construction activities can be scheduled to minimize noise disturbance.

- h) Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.
- 46. The applicant shall contact the Planning Division to request a final inspection, prior to the issuance of the final building permit. The final inspection shall require a minimum of 48-hours advance notice. All landscaping and irrigation shall be installed prior to the occupancy of the building or the property owner shall post a bond in the amount of the estimated landscaping/ irrigation cost with the City of San Rafael. In the event that a bond is posted, all areas proposed for landscaping must be covered with bark or a substitute material approved by the Planning Division prior to occupancy. The landscape architect shall certify in writing and submit to the Planning Division, and call for inspection, that the landscaping has been installed in accordance with all aspects of the approved landscape plans, that the irrigation has been installed and been tested for timing and function, and all plants including street trees are healthy. Any dying or dead landscaping shall be replaced.
 - 47. All exterior lighting shall be shielded down. Following the issuance of a certificate of occupancy, all exterior lighting shall be subject to a 90-day lighting level review by the Police Department and Planning Division to ensure compatibility with the surrounding area.
 - 48. The applicant shall install electric vehicle charging stations on at least 10% of the Project parking spaces. Furthermore, the applicant shall install electrical raceways in all building parking areas to facilitate future installation of additional electric vehicle charging stations.
 - 49. The applicant shall install the maximum amount of rooftop solar arrays as is reasonably feasible for the Project.
 - 50. The applicant shall evenly distribute the Project's affordable units as shown on the exhibit entitled "Neighborhood at Los Gamos Affordable Unit Distribution Plan," subject to Community Development Director approval.
 - 51. The applicant shall institute the following transportation demand management measures consisting of:
 - a) Unbundled parking (i.e. rental of the Project units and the Project parking spaces shall be under separate agreements and separate costs.)
 - b) An onsite vehicle rideshare program.
 - c) A designated on-site employee to provide transit and ridesharing information to residents.
 - d) A designated bike parking area including infrastructure for the charging of electric bikes.

Building Division

52. The design and construction shall comply with the latest code year at time of building permit application for the California Building Code (CBC), California Plumbing Code (CPC), California Electrical Code (CEC), California Mechanical Code CCMC), California Fire Code (CFC), California Energy Code, California Green Building Standards Code and City of San Rafael Ordinances and Amendments.
53. A building permit is required for the proposed work. Applications shall be accompanied by complete sets of construction drawings to include:
 - e) Architectural plans
 - f) Structural plans
 - g) Electrical plans
 - h) Plumbing plans
 - i) Mechanical plans
 - j) Site/civil plans (clearly identifying grade plane and height of the building)
 - k) Structural Calculations
 - l) Truss Calculations
 - m) Soils reports
 - n) Green Building documentation
 - o) Title-24 energy documentation
54. The occupancy classification, construction type and square footage of each building shall be specified on the plans. In mixed occupancies, each portion of the building shall be individually classified.
55. The occupancy classification, construction type and square footage of each building shall be specified on the plans in addition to justification calculations for the allowable area of each building. Site/civil plans prepared by a California licensed surveyor or engineer clearly showing topography, identifying grade plane and height of the building.
56. This building contains several different occupancy types. Individual occupancies are categorized with different levels of hazard and may need to be separated from other occupancy types for safety reasons. Under mixed-occupancy conditions the project architect has available several design methodologies (accessory occupancies, nonseparated occupancies, and separated occupancies) to address the mixed-occupancy concerns.
57. Building height and story must comply with CBC Section 504. On the plan justify the proposed building area and height.
58. Building areas are limited by CBC Table 506.2. On plan justify the proposed building area.
59. The maximum area of unprotected and protected openings permitted in the exterior wall in any story of a building shall not exceed the percentages specified in CBC Table 705.8 "Maximum Area of Exterior Wall Openings Based on Fire Separation Distance and Degree

of Opening Protection.” To calculate the maximum area of exterior wall openings you must provide the building setback distance from the property lines and then justify the percentage of proposed wall openings and include whether the opening is unprotected or protected.

60. Townhouses more than three stories above grade in height must comply with the CBC. CBC Table 705.8 allows:
 - a) 15% exterior wall openings (in any story) in sprinklered buildings where the openings are 3’ to less than 5’ from the property line or buildings on the same property.
 - b) 25% exterior wall openings (in any story) in sprinklered buildings where the openings are 5’ to less than 10’ from the property line or buildings on the same property.
 - c) 45% exterior wall openings (in any story) in sprinklered buildings where the openings are 10’ to less than 15’ from the property line or buildings on the same property.
61. Walls separating the purposed occupancies are required to be a minimum of 1-hour construction. You may provide justification per CBC 508 that the mixed occupancy types do not need to be separated by fire resistive construction because they comply with CBC 508.2 Accessory Occupancies or CBC 508.3 Nonseparated Occupancies.
62. Buildings located 4 or more stories above grade plane, one stairwell must extend to the roof, unless the roof slope exceeds an angle of 4 vertical to 12 horizontal CBC 1011.12.
63. Each building must have address identification placed in a position that is plainly legible and visible from the street or road fronting the property. Numbers painted on the curb do not satisfy this requirement. In new construction and substantial remodels, the address must be internally or externally illuminated and remain illuminated at all hours of darkness. Numbers must be a minimum 4 inches in height with ½ inch stroke for residential occupancies and a minimum 6 inches in height with ½ inch stroke for commercial applications. The address must be contrasting in color to their background SMC 12.12.20.
64. If proposed fencing exceeds 6’ in height, a building permit is required.
65. Bollards must be placed in the garage to protect mechanical equipment, water heater, and washer dryer from vehicular damage when located in the path of a vehicle.
66. School fees will be required for the project. Calculations are done by the San Rafael City Schools, and those fees are paid directly to them prior to issuance of the building permit.
67. If on-site streets are privately owned, certain on-site improvements such as retaining walls, street light standards, and private sewer system will require plan review and permits from the Building Division.
68. Regarding any grading or site remediation, soils export, import and placement; provide a detailed soils report prepared by a qualified engineer to address these procedures. The report should address the import and placement and compaction of soils at future building pad locations and should be based on an assumed foundation design. This information should be provided to Building Division and Department of Public Works for review and comments prior to any such activities taking place.

A grading permit may be required for the above-mentioned work.

69. Prior to building permit issuance for the construction of each building, geotechnical and civil pad certifications are to be submitted. 19. Property lines shown through proposed buildings must be eliminated by consolidation or buildings must be relocated, redesigned to fall within property line boundaries.
70. Based on the distance to the property line (and/or adjacent buildings on the same parcel), the building elements shall have a fire resistive rating not less than that specified in CBC Table 601 and exterior walls shall have a fire resistive rating not less than that specified in CBC Table 602.
71. Cornices, eaves overhangs, exterior balconies and similar projections extending beyond the floor area shall conform to the requirements of CBC 705.2. Projections shall not extend beyond the distance determined by the following two methods, whichever results in the lesser projection:
 - a) A point one-third the distance from the exterior face of the wall to the lot line where protected openings or a combination of protected openings and unprotected openings are required in the exterior wall.
 - b) A point one-half the distance from the exterior face of the wall to the lot line where all openings in the exterior wall are permitted to be unprotected or the building is equipped throughout with an automatic sprinkler system.
 - c) More than 12 inches into areas where openings are prohibited.
72. Ventilation area required, the minimum openable area to the outdoors is 4 percent of the floor area being ventilated CBC 1203.5.1 or mechanical ventilation in accordance with the California Mechanical Code.
73. Natural light, the minimum net glazed area shall not be less than 8 percent of the floor area of the room served CBC 1205.2 or shall provide artificial light in accordance with CBC 1205.3.
74. Walls separating purposed tenant space from existing neighboring tenant spaces must be a minimum of 1-hour construction.
75. All site signage as well as wall signs require a separate permit and application (excluding address numbering).
76. You must apply for a new address for this building from the Building Division.
77. Monument sign(s) located at the driveway entrance(s) shall have address numbers posted prominently on the monument sign.
78. In the parking garage, mechanical ventilation will be required capable of exhausting a minimum of .75 cubic feet per minute per square foot of gross floor area CMC Table 4-4.
79. In the parking structure, in areas where motor vehicles are stored, floor surfaces shall be of noncombustible, nonabsorbent materials. Floors shall drain to an approved oil separator or trap discharging to sewers in accordance with the Plumbing Code and SWIPP.

80. Each building shall be provided with sanitary facilities per CPC Sec 412 and Table 4-1 (including provisions for persons with disabilities). Separate facilities shall be required for each sex.
81. In accordance with California Plumbing Code section 422.2, separate toilet facilities shall be provided for each sex. Except: 1) residential installations. 2) In occupancies with a total occupant load of 10 or less, including customers and employees, one toilet facility designed for use by no more than one person at a time, shall be permitted for use by both sexes. 3) In business and mercantile occupancies with a total occupant load of 50 or less, including customers and employees, one toilet facility designed for use by no more than one person at a time, shall be permitted for use by both sexes.
82. Facilities in mercantile and business occupancies, toilet facility requirements for customers and employees shall be permitted to be met with a single set of restrooms accessible to both groups. The required number of fixtures shall be the greater of the required number for employees or the required number for customers. Fixtures for customer use shall be permitted to be met by providing a centrally located toilet facility within a distance not to exceed 500 feet. In stores with a floor area of 1,500 square feet or less the requirement to provide facilities for employees shall be permitted to be met by providing a centrally located toilet facility within distance not to exceed 300 feet.
83. Minimum elevator car size (interior dimension) 60" wide by 30" deep with an entrance opening of at least 60" or a car size of 42" wide by 48" deep with an entrance opening of 36" or a car size of 60" wide by 36" deep with an entrance opening of at least 36".
84. All buildings with one or more elevators shall be provided with not less than one medical emergency service elevator. The medical emergency service elevator shall accommodate the loading and transport of an ambulance gurney or stretcher. The elevator car size shall have a minimum clear distance between walls and door excluding return panels not less than 80 inches by 54 inches and a minimum distance from wall to return panel not less than 51 inches with a 42-inch side slide door.
85. Adequate utility easements must be provided for all services to include water, sanitary sewer, storm drain piping, as well as gas, electric and telephone.
86. The proposed facility shall be designed to provide access to the physically disabled. For existing buildings and facilities when alterations, structural repairs or additions are made, accessibility improvements for persons with disabilities shall be required unless CASP report states compliant.
87. Improvements shall be made, but are not limited to, the following accessible features:
 - a) Path of travel from public transportation point of arrival
 - b) Routes of travel between buildings
 - c) Accessible parking
 - d) Ramps
 - e) Primary entrances
 - f) Sanitary facilities (restrooms)
 - g) Drinking fountains & Public telephones (when provided)

- h) Accessible features per specific occupancy requirements
 - i) Accessible special features, i.e., ATM's point of sale machines, etc.
88. The site development of items such as common sidewalks, parking areas, stairs, ramps, common facilities, etc. are subject to compliance with the accessibility. Pedestrian access provisions should provide a minimum 48" wide unobstructed paved surface to and along all accessible routes. Items such as signs, meter pedestals, light standards, trash receptacles, etc., shall not encroach on this 4' minimum width. Also, note that sidewalk slopes and side slopes shall not exceed published minimums. The civil, grading and landscape plans shall address these requirements to the extent possible.
 89. The parking garage ceiling height shall have a minimum vertical clearance of 8' 2" where required for accessible parking.
 90. Multistory apartment or condominium on the ground floor in buildings with no elevator at least 10 percent but no less than one of the multistory dwellings in apartment buildings with three or more and condos with four or more dwellings shall comply with the following:
 - a) The primary entry to the dwelling unit shall be on an accessible route unless exempted by site impracticality tests in CBC Section 1150A.
 - b) At least one powder room or bathroom shall be located on the primary entry level, served by an accessible route.
 - c) All rooms or spaces located on the primary entry level shall be served by an accessible route. Rooms and spaces located on the primary entry level and subject to this chapter may include but are not limited to kitchens, powder rooms, bathrooms, living rooms, bedrooms or hallways.
 91. Multifamily dwelling and apartment accessible parking spaces shall be provided at a minimum rate of 2 percent of the covered multifamily dwelling units. At least one space of each type of parking facility shall be made accessible even if the total number exceeds 2 percent.
 92. When parking is provided for multifamily dwellings and is not assigned to a resident or a group of residents, at least 5 percent of the parking spaces shall be accessible and provide access to grade-level entrances of multi-family dwellings and facilities (e.g. swimming pools, club houses, recreation areas and laundry rooms) that serve the dwellings. Accessible parking spaces shall be located on the shortest accessible route to an accessible building, or dwelling unit entrance.
 93. Public accommodation disabled parking spaces must be provided according to the following table and must be uniformly distributed throughout the site.

Total Number of Parking Spaces Provided	Minimum Required Number of H/C Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4

101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	Two percent of total
1,001 and over	Twenty, plus one for each 100 or fraction thereof over 1,001

94. At least one disabled parking space must be van accessible; 9-foot wide parking space and 8-foot wide off- load area. Additionally, one in every eight required handicap spaces must be van accessible.
95. All new construction, additions or remodels must comply with the Wood-Burning Appliance Ordinance. New wood burning fireplaces and non-EPA certified wood stoves are prohibited. Non-EPA Phase II-certified wood stoves must be removed in remodels and additions which exceed 50% of the existing floor area and include the room the stove is located in.
96. This new building is in a Wildland-Urban Interface Area. The building materials, systems and/or assemblies used in the exterior design and construction must comply with CBC Chapter 7A.
97. This new building is in a Wildland-Urban Interface Area. Buildings shall have all under floor areas enclosed to the grade with exterior walls in accordance with CBC section 704A.3. Exception: The complete enclosure of under floor areas may be omitted where the underside of all exposed floors, exposed structural columns, beams and supporting walls are protected as required with exterior ignition-resistant material construction or be heavy timber.
98. The project includes a new deck in a Wildland-Urban Interface Area. Where any portion of the new deck, stair, landing, porch, or balconies, is within 10 feet of the primary structure, compliance with one of the following methods is required:
- a) Decking surface - shall be constructed of ignition-resistant material.
 - b) Decking surface - shall be constructed with heavy timber, exterior fire-retardant-treated wood or approved non-combustible materials.
 - c) Decking surface - shall pass the performance requirements of SFM 12-7A-4, Part A, 12-7A-4.7.5.1 only with a net heat release rate of 25kW/sq-ft for a 40-minute observation period and:
 - i. Decking surface material shall pass the accelerated weathering test and be identified as exterior type.
 - ii. The exterior wall covering to which it the deck is attached and within 10 feet of the deck shall be constructed of approved noncombustible or ignition resistant material. Exception: Walls are not required to comply with this subsection if the decking surface material conforms to ASTM E-84 Class B flame spread.
99. This new building/deck is in a Wildland-Urban Interface Area. The underside of cantilevered and overhanging appendages and floor projections shall maintain the

ignition-resistant integrity of exterior walls (CBC 7A.3), or the projection shall be enclosed to the grade.

100. Pools must be protected by a barrier that restricts access from adjacent properties and the street and an enclosure that isolates the pool from access to the home. Details of the barrier and enclosure must be included on the plan.
101. In-ground grease separator(s) will be required outside the building perimeter to handle wastewater from the restaurants and food court area.
102. Review and approval by the Marin County Health Department may be required prior to submittal for building permit plan review.

Department of Public Works

103. A design-level geotechnical report shall be submitted for review prior to issuance of a building or grading permit. Supplemental subsurface exploration and site inspection/mapping shall be performed as appropriate. The project geotechnical engineer shall review the grading and building permit construction documents and provide plan review letter(s) prior to issuance of a building or grading permit. (Mitigation Measure GEO-1, GEO-2, and GEO-4)
104. A design-level drainage system shall be prepared and submitted to DPW for review prior to issuance of a building permit. The drainage system shall be developed in consideration with the findings of the geotechnical report. (Mitigation Measure GEO-3)
105. Frontage Improvements on or near the Los Gamos Drive Right-Of-Way (ROW) shall include the following:
 - a) Pavement restoration per a final paving plan reviewed and approved by the DPW. The final limit of paving scope will be determined at the end of the project based on actual site conditions.

Please note, paving shall be kept in good repair at all times during site improvements and construction to the satisfaction of the DPW. Interim repaving during construction may be requested by the DPW.
 - b) Access to the development should meet ADA requirements.
106. Prior to issuance of a building permit, provide a maneuvering exhibit with the appropriate fire apparatus and emergency vehicles using Autoturn or equivalent to demonstrate access to the satisfaction of the Fire Prevention Bureau.
107. Provide a sight distance exhibit demonstrating vehicles entering and exiting the main entrance to the development have adequate visibility.
108. A stop sign controlling outbound traffic from the site shall be installed near the bottom of the entrance ramp, with final location to the satisfaction of the DPW.
109. Prior to issuance of a building permit, a final striping and signage plan for the development shall be submitted to DPW for review.

110. A grading permit is required from DPW prior to commencement of grading and construction work.
111. A construction management plan shall be provided for review and approval by the City prior to issuance of building permit or grading permit.
 - a) All materials and equipment shall be staged on-site, unless otherwise approved.
 - b) The construction management plan shall include the traffic control plan to address on-site and off-site construction traffic.
 - c) A screened security fence approved by the City shall be placed and maintained around the perimeter of the project and removed immediately following construction work.
 - d) Proposed construction phasing and approximate timeline.
 - e) Mass grading shall occur between April 15 through October 15, unless otherwise approved in writing by the DPW.
 - f) Encroachment into creek setbacks during construction shall not be permitted without prior approval from DPW and any other agency having jurisdiction.
112. The project proposes 71,000 cubic yards (cy) of cut, 17,000 cy of fill, and 54,000 cy of export. Truck routes and staging shall be reviewed and approved by the City prior to issuance of grading permit.
113. A copy of the SWPPP and WDID number shall be submitted to DPW prior to issuance of a grading permit.
114. This project includes more than 5,000 square feet of total impervious area replacement and creation and therefore is considered a regulated project. The following documents are required to be provided in accordance with Marin County Stormwater Pollution Prevention Program (MCSTOPPP) and the Bay Area Stormwater Management Agencies Association (BASMAA) requirements:
 - a) Stormwater Control Plan.

A written document to accompany the plan set used primarily for municipal review to verify compliance with stormwater treatment requirements. (Needed to obtain a grading or building permit.)
 - b) Stormwater Facilities Operations and Maintenance (O&M) plan.

A written document and exhibit outlining facilities on-site and maintenance activities and responsibilities for property owners. (Provide prior to occupancy)
 - c) Operations and Maintenance Agreement.

A formal agreement between the property owner and the city that shall be recorded with the property deed. (Provide prior to occupancy)
115. All public streets and sidewalks that are impacted by the grading and construction operation for the project shall be kept clean and free of debris at all times.
116. The building manager of the office at 1401 Los Gamos Drive shall be notified at least 24 hours in advance of any partial closure of Los Gamos Drive during construction.

117. Prior to commencing work within the right-of-way, the applicant shall obtain an encroachment permit from the City of San Rafael Department of Public Works.
118. The proposed Entry Drive and Loop Drive roadways will be “private streets” per San Rafael Municipal Code (SRMC) Chapter 15.06.
119. Prior to the issuance of a building permit, the applicant shall pay a traffic mitigation fee for net new AM and PM trips. The current rate is \$4,246 per trip. The traffic impact fee is calculated as \$764,280 (\$4,246 x 180) for the 78 net new peak AM and 102 net new peak PM trips (total of 180 net new peak-hour trips). This is based on the latest Addendum to the Traffic Impact Study by W-Trans dated October 7, 2021.
120. A construction vehicle impact fee shall be required at the time of building permit issuance, which is calculated at 1% of the valuation, with the first \$10,000 of valuation exempt.

Fire Department

121. The design and construction of all site alterations shall comply with the 2019 California Fire Code, current NFPA Standards, and all applicable City of San Rafael Ordinances and Amendments.
122. Deferred Submittals for the following fire protection systems shall be submitted to the Fire Prevention Bureau for approval and permitting prior to installation of the systems:
 - a) Fire Sprinkler plans (Deferred Submittal to the Fire Prevention Bureau).
 - b) Fire Standpipe plans (Deferred Submittal to the Fire Prevention Bureau) if applicable.
 - c) Fire Underground plans (Deferred Submittal to the Fire Prevention Bureau) if applicable.
 - d) Fire Alarm plans (Deferred Submittal to the Fire Prevention Bureau).
123. The fire apparatus access roadway must conform to all provisions in CFC Section 503 and Appendix D. A Fire Apparatus and Operations Plan shall be prepared for this project and shall show the following:
 - a) Designated fire apparatus access roads and fire lanes including red curbing, FIRE LANE stenciling and signage that is approved by the San Rafael Parking Services Division.
 - b) Fire Department aerial access provisions.
 - c) Fire hydrant locations and appliance type (Clow model 960).
 - d) Fire Department Connections (FDC).
 - e) Double detector check valve locations.
 - f) Premises identification. Illuminated address numbers, dimensions and location.
 - g) Recessed Knox Box locations
 - h) Fire Alarm annunciator panel locations.
 - i) Fire extinguisher locations. Note type and cabinet height.
 - j) Marked utility shut off locations.

k) NFPA 704 placards.

l) Provide a note on the plan, as follows: The designated fire apparatus access roads and fire hydrants shall be installed and approved by the Fire Prevention Bureau prior construction of the building.

The approved plan to be part of final plan set. Additional fire department access provisions are provided below.

124. A Knox Box is required at the primary point of first response to the building in order to access utility rooms, rec or meeting rooms and other secured spaces. A recessed mounted Knox Box # 3200 Series is required for new buildings; surface mount for all others. the Knox Box shall be clearly visible upon approach to the main entrance from the fire lane. Note the Knox Box must be installed from 72" to 78" above finish grade; show the location on the plans. <https://www.knoxbox.com/commercial-knoxboxes/>.
125. A Knox key switch is required for driveway or access road automatic gates. <https://www.knoxbox.com/gate-keys-and-padlocks/> (if applicable).
126. On site fire hydrants will be required. Residential model: Clow 950. Commercial Model: Clow 960. The Prevention Bureau will identify the locations.
- a) When a building is fully sprinklered all portions of the exterior building perimeter must be located within 250-feet of an approved fire apparatus access road.
 - b) The minimum width of the fire apparatus access road is 20-feet.
 - c) The minimum inside turning radius for a fire apparatus access road is 28 feet.
 - d) The fire apparatus access road serving this building is more than 150-feet in length; provide an approved turn-around. Contact the Fire Prevention Bureau for specific details.
127. If a building is over 30 feet in height, an aerial fire apparatus access roadway is required parallel to one entire side of the building.
- a) The Aerial apparatus access roadway shall be located within a minimum 15 feet and a maximum of 30 feet from the building.
 - b) The minimum unobstructed width for an aerial fire apparatus access road is 26-feet.
 - c) Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway, or between the roadway and the building.
128. Fire lanes must be designated; painted red with contrasting white lettering stating, "No Parking Fire Lane" A sign shall be posted in accordance with the CFC Section 503.3 and to the satisfaction and approval of the San Rafael Parking Services Division.
129. Hazardous Materials Placards shall be installed in accordance with NFPA 704 (if applicable).
130. Provide address numbers plainly visible from the street or road fronting the property. Numbers painted on the curb do not qualify as meeting this requirement. Numbers shall contrast with the background and shall be Arabic numbers or letters. Numbers shall be internally or externally illuminated in all new construction or substantial remodels. Number sizes are as follows: For residential – 4" tall with ½" stroke. For commercial – 6" tall with

½" stroke. Larger sizes might be required by the fire code official or in multiple locations for buildings served by two or more roads.

131. This property is in a Wildland-Urban Interface (WUI) area. Provide a written Vegetation Management Plan (VMP) submitted to the San Rafael Fire Department. This VMP must be completed and verified prior to final approval. Refer to City of San Rafael Ordinance 1856 that may be viewed at <https://www.cityofsanrafael.org/vmp-san-rafael-fd/> or you may contact the Fire Department at (415) 485-3304 to schedule a time to meet with a vegetation management inspector. Requirement of continued compliance with the approved VMP must be placed within CC&R's. The approved VMP must be added to the final approved plan set.

Contact the Marin Municipal Water District (MMWD) to make arrangements for the water supply serving the fire protection system.

Las Gallinas Valley Sanitary District

132. Trash Enclosures – Install permanent roofing and drainage system to prevent runoff from entering the sanitary sewer collection system.
133. Sheet C5 – The plans show a 6" SS lateral on paved surface identified as an easement for vehicle access, sewer service, and other public utilities in the Vesting Tentative Parcel Map. See District Ordinance Title 2, Chapter 1, Article VI for detailed requirements if this is a public sewer extension request.
134. The Utility Plan is preliminary and lacks detailed sanitary sewer information such as manhole depths, pipe slopes, plan and profile, etc. Submit complete design/construction plan set for review when available.
135. Submit design/construction plans to LGVSD for review when available. Plans must show including but not limited to the following: a table showing existing and proposed plumbing fixture count, existing and proposed floor plans showing location of plumbing fixtures, location of backwater prevention devices, sanitary sewer, cleanouts, manholes, and other relevant sanitary sewer details or information that may be applicable. Sanitary sewer design must comply with LGVSD standard specifications.
136. Private sewer main located in the Loop Drive shall be 8" HDPE SDR 17. The proposed 6" SS is not acceptable. The sewer lateral from each building shall not be less than 6".
137. Replace tie-in manhole with new manhole per District standard details.
138. Upsize all existing 6" SS downstream of MH N032.23 to a minimum 8" or as determined by the capacity analysis.
139. Use LGVSD Standard Details for sanitary facilities such as manholes, manhole connection, sewer laterals, cleanout, trench backfill, etc., as applicable. Do not use Marin County Sanitary Districts Standard Details for LGVSD sanitary sewer.
140. For sewer mains outside of the proposed street right-of-way, if any, the sanitary sewer easement must be at least 10-ft wide and shall have no permanent structures within the easement area. Applicant shall provide adequate vehicle access to all sanitary manholes on the sewer main for District maintenance activities. At the minimum, the area needs to

be paved and accessible with a 39-foot long truck. The vehicle path shall provide adequate safety and access to District maintenance vehicles. Use design criteria per typical private road standards, such as minimum roadway width, max grade, max cross slope, with proper turnaround/hammerhead when appropriate, etc.

141. Sewer Flow Calculations

a) The sanitary sewer system for the proposed 192 multifamily residential units, neighborhood market, and community center connects into the existing 6" SS at MH N032.23, which discharges into Northgate Industrial Park Pump Station. All sewer flow calculations and capacity analysis shall be performed by a registered Professional Engineer.

- i. Perform capacity analysis of the Northgate Industrial Park Pump Station and force main.
- ii. Northgate Industrial Park discharges into a Smith Ranch Pump Station.
- iii. The development would likely require an upgrade of both pump stations and force mains.

b) **District Preference:** As an alternate, the 6" private sewer may be connected to MH T021.05, which discharges into John Duckett Pump Station. This pump station has a higher pumping and force main capacity than Northgate Industrial Park Pump Station.

- i. This requires capacity analysis for downstream sanitary sewer from MH T021.05 to John Duckett Pump Station.
- ii. There exist potential capacity limitations downstream MH T021.05.

1. See Exhibit A attached to comments dated 9/3/2021. Basin map K10, trunk sewer segment MH T000.11 to T000.00 (purple cloud, blue pipes) of the Terra Linda Trunk Sewer likely to be impacted by this alternative. The pipe segment with known capacity deficiency is MH T000.11 to T000.09 (red cloud).

2. See Exhibit B attached to comments dated 9/3/2021. Page B-1 of the Sewer System Management Plan (SSMP) Capacity Assessment for the corresponding capacity analysis of the sanitary sewers potentially impacted by this alternative. As shown on page B-1, the capacity deficiency is about 0.45 MGD.

a. Applicant shall perform a hydraulic grade line analysis to determine if the existing sewer system can accommodate the additional flow from the proposed development.

b. Based on the manhole rim and invert elevations shown, Applicant shall demonstrate that the proposed project will not cause sanitary sewer overflows along the trunk sewer (purple cloud, blue pipes), more particularly along the segment with known capacity deficiency. Assume a minimum manhole freeboard of 18" in the analysis.

3. If deemed necessary, flow monitoring may be required in order to perform a more detailed hydraulic modeling.

4. A full version of the SSMP is available in the following link: <https://www.dropbox.com/s/au0g8x23l8unlgh/SSMP%20Capacity%20Assessment%20by%20Nute%202008.pdf?dl=0> .

5. In addition, Applicant shall perform similar analysis for sewer pipe segment T021.05 to MH T000.11. Applicant shall field verify rodding inlet and manhole depths and pipe diameters in order to perform the analysis. At a minimum, the existing 6" SS from T021.05 to MH T000.11 downstream of the tie-in point shall be upsized to 8" HDPE SDR 17. All rodding inlets shall be replaced with manholes.
 6. This requires capacity analysis of the John Duckett Pump Station and force main.
 - c) Applicant shall be responsible for any capacity upgrades of existing sanitary sewer facilities that may be required for this project.
 - d) In lieu of the Applicant providing the hydraulic analysis outlined in Items 2a and 2b above, the Applicant may request the District to hire a third-party consultant perform the analysis at the Applicant's expense.
142. Applicant shall be responsible for the preparation of the following documents for review and approval by the District:
 - a) Final sewer plans and specifications related to the Project.
 - b) Flow calculations. Flow monitoring may also be required if deemed necessary.
 - c) Hydraulic modeling and analysis of impacted sanitary sewer facilities.
 - d) New sewer easements.
 - e) Other documents deemed necessary by the District during the plan review process.
 143. Article IX, Section 921 of the District Ordinance requires that all costs and expenses incident to the installation and connection of any sewer or other work for which a Permit has been issued shall be borne by the Applicant.
 144. Article VII of the District Ordinance requires all sewer work to be inspected by the District. The District will hire a third-party inspector for this project. The Applicant shall coordinate inspection with the District inspector prior to installation of any sewer facilities and reimburse the District all inspection costs.
 145. The Las Gallinas Valley Sanitary District discourages individual sewer pumps. The District will require a recordable non-responsibility covenant should a pump be required.
 146. The District strongly discourages the construction of "back yard sewers" because of the difficulties in maintenance. Every effort should be made to construct sewers in public or private streets. Every manhole must be accessible via an unobstructed ten (10) foot wide easement from the nearest paved public roadway and subject to District review and approval.
 147. The use of recycled water and dual plumbing where appropriate are strongly encouraged.
 148. The District is not incurring any liability of any nature, including but not limited to mandate, damages, or injunctive relief. The District is making no representation to the Applicant nor waiving any rights it has under any applicable State or Federal law. In the event there is any court-imposed moratorium on the District, a connection to the District collection

system may not occur. In the event any government agency imposes a moratorium on the District, a connection to the District system may not occur.

149. Applicant shall reimburse the District for all plan review, field verification before and after construction, and inspection fees accrued associated with this project.
150. These are preliminary comments on PROJECT REFERRAL / TRANSMITTAL / SUBMITTAL RECEIVED ON 8/10/2021. Final approval in the form of a Will Serve Letter will not be granted until the District Board acts favorably on your Application of Allocation.
151. Note: Based on Miscellaneous Fee Schedule effective on July 1, 2021 preliminary cost estimates are:
 - a) For new buildings, structures, and developments:
 - i. \$6,666 per Equivalent Sewer Unit;
 - ii. Actual fees will be adjusted according to specific conditions and ENR adjustments outlined in the Ordinance.
 - b) For existing buildings, structures, and developments:
 - i. \$333 per Plumbing Fixture Unit (PFU);
 - ii. Credit may be given to existing plumbing fixtures;
 - iii. Actual fees will be adjusted according to specific conditions and ENR adjustments outlined in the Ordinance.
 - c) Connection fee will be assessed based on the Capital Facilities Charge per Equivalent Sewer Unit at the time of Will Serve Letter issuance.
152. Applicant must complete and submit Application for Allocation of Capacity to LGVSD along with application fee of \$500. Application is available at <http://www.lgvsd.org/wp-content/uploads/APPL-ALLOCATION-fillable.pdf>. (Not applicable if Applicant has already submitted an application.)
153. Applicant is required to obtain a sewer permit from LGVSD for any sewer lateral work. The permit application is available at <http://www.lgvsd.org/wp-content/uploads/NEW-LATERAL-PERMIT-FORM-2018-updatedFillable.pdf>. Submit the permit application to the District office and call 24 hours in advance of backfill for lateral inspections.
154. For more information about District Ordinance and permitting process, please visit <http://www.lgvsd.org/>. District Standard Details/Specifications are available upon request.
155. Applicant shall submit plans electronically to LGVSD for review.

Marin Water

156. The applicant must enter a pipeline extension agreement for the installation of pipeline to serve the project.

Pacific Gas & Electric—Gas Facilities

157. An engineering deposit may be required to review plans for a project depending on the size, scope, and location of the project and as it relates to any rearrangement or new installation of PG&E facilities.
158. Any proposed uses within the PG&E fee strip and/or easement, may include a California Public Utility Commission (CPUC) Section 851 filing. This requires the CPUC to render approval for a conveyance of rights for specific uses on PG&E's fee strip or easement. PG&E will advise if the necessity to incorporate a CPUC Section 851 filing is required.
159. There could be gas transmission pipelines in this area which would be considered critical facilities for PG&E and a high priority subsurface installation under California law. Care must be taken to ensure safety and accessibility. So, please ensure that if PG&E approves work near gas transmission pipelines it is done in adherence with the below stipulations. Additionally, the following link provides additional information regarding legal requirements under California excavation laws: <https://www.usanorth811.org/images/pdfs/CA-LAW-2018.pdf>
160. Standby Inspection: A PG&E Gas Transmission Standby Inspector must be present during any demolition or construction activity that comes within 10 feet of the gas pipeline. This includes all grading, trenching, substructure depth verifications (potholes), asphalt or concrete demolition/removal, removal of trees, signs, light poles, etc. This inspection can be coordinated through the Underground Service Alert (USA) service at 811. A minimum notice of 48 hours is required. Ensure the USA markings and notifications are maintained throughout the duration of your work.
161. Access: At any time, PG&E may need to access, excavate, and perform work on the gas pipeline. Any construction equipment, materials, or spoils may need to be removed upon notice. Any temporary construction fencing installed within PG&E's easement would also need to be capable of being removed at any time upon notice. Any plans to cut temporary slopes exceeding a 1:4 grade within 10 feet of a gas transmission pipeline need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.
162. Wheel Loads: To prevent damage to the buried gas pipeline, there are weight limits that must be enforced whenever any equipment gets within 10 feet of traversing the pipe.

Ensure a list of the axle weights of all equipment being used is available for PG&E's Standby Inspector. To confirm the depth of cover, the pipeline may need to be potholed by hand in a few areas.

Due to the complex variability of tracked equipment, vibratory compaction equipment, and cranes, PG&E must evaluate those items on a case-by-case basis prior to use over the gas pipeline (provide a list of any proposed equipment of this type noting model numbers and specific attachments).

No equipment may be set up over the gas pipeline while operating. Ensure crane outriggers are at least 10 feet from the centerline of the gas pipeline. Transport trucks must not be parked over the gas pipeline while being loaded or unloaded.
163. Grading: PG&E requires a minimum of 36 inches of cover over gas pipelines (or existing grade if less) and a maximum of 7 feet of cover at all locations. The graded surface cannot exceed a cross slope of 1:4.

164. Excavating: Any digging within 2 feet of a gas pipeline must be dug by hand. Note that while the minimum clearance is only 12 inches, any excavation work within 24 inches of the edge of a pipeline must be done with hand tools. So to avoid having to dig a trench entirely with hand tools, the edge of the trench must be over 24 inches away. (Doing the math for a 24 inch wide trench being dug along a 36 inch pipeline, the centerline of the trench would need to be at least 54 inches [$24/2 + 24 + 36/2 = 54$] away, or be entirely dug by hand.)

Water jetting to assist vacuum excavating must be limited to 1000 psig and directed at a 40° angle to the pipe. All pile driving must be kept a minimum of 3 feet away.

Any plans to expose and support a PG&E gas transmission pipeline across an open excavation need to be approved by PG&E Pipeline Services in writing PRIOR to performing the work.

165. Boring/Trenchless Installations: PG&E Pipeline Services must review and approve all plans to bore across or parallel to (within 10 feet) a gas transmission pipeline. There are stringent criteria to pothole the gas transmission facility at regular intervals for all parallel bore installations.

For bore paths that cross gas transmission pipelines perpendicularly, the pipeline must be potholed a minimum of 2 feet in the horizontal direction of the bore path and a minimum of 12 inches in the vertical direction from the bottom of the pipe with minimum clearances measured from the edge of the pipe in both directions. Standby personnel must watch the locator trace (and every ream pass) the path of the bore as it approaches the pipeline and visually monitor the pothole (with the exposed transmission pipe) as the bore traverses the pipeline to ensure adequate clearance with the pipeline. The pothole width must account for the inaccuracy of the locating equipment.

166. Substructures: All utility crossings of a gas pipeline should be made as close to perpendicular as feasible (90° +/- 15°). All utility lines crossing the gas pipeline must have a minimum of 12 inches of separation from the gas pipeline. Parallel utilities, pole bases, water line 'kicker blocks', storm drain inlets, water meters, valves, back pressure devices or other utility substructures are not allowed in the PG&E gas pipeline easement.

If previously retired PG&E facilities are in conflict with proposed substructures, PG&E must verify they are safe prior to removal. This includes verification testing of the contents of the facilities, as well as environmental testing of the coating and internal surfaces. Timelines for PG&E completion of this verification will vary depending on the type and location of facilities in conflict.

167. Structures: No structures are to be built within the PG&E gas pipeline easement. This includes buildings, retaining walls, fences, decks, patios, carports, septic tanks, storage sheds, tanks, loading ramps, or any structure that could limit PG&E's ability to access its facilities.

168. Fencing: Permanent fencing is not allowed within PG&E easements except for perpendicular crossings which must include a 16 foot wide gate for vehicular access. Gates will be secured with PG&E corporation locks.

169. Landscaping: Landscaping must be designed to allow PG&E to access the pipeline for maintenance and not interfere with pipeline coatings or other cathodic protection systems. No trees, shrubs, brush, vines, and other vegetation may be planted within the easement

area. Only those plants, ground covers, grasses, flowers, and low-growing plants that grow unsupported to a maximum of four feet (4') in height at maturity may be planted within the easement area.

170. Cathodic Protection: PG&E pipelines are protected from corrosion with an “Impressed Current” cathodic protection system. Any proposed facilities, such as metal conduit, pipes, service lines, ground rods, anodes, wires, etc. that might affect the pipeline cathodic protection system must be reviewed and approved by PG&E Corrosion Engineering.
171. Pipeline Marker Signs: PG&E needs to maintain pipeline marker signs for gas transmission pipelines in order to ensure public awareness of the presence of the pipelines. With prior written approval from PG&E Pipeline Services, an existing PG&E pipeline marker sign that is in direct conflict with proposed developments may be temporarily relocated to accommodate construction work. The pipeline marker must be moved back once construction is complete.
172. PG&E is also the provider of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E’s facilities must be reviewed and approved by PG&E to ensure that no impact occurs which may endanger the safe operation of its facilities.

Pacific Gas & Electric—Electric Facilities

173. It is PG&E’s policy to permit certain uses on a case by case basis within its electric transmission fee strip(s) and/or easement(s) provided such uses and manner in which they are exercised, will not interfere with PG&E’s rights or endanger its facilities. Some examples/restrictions are as follows:
 - a) Buildings and Other Structures: No buildings or other structures including the foot print and eave of any buildings, swimming pools, wells or similar structures will be permitted within fee strip(s) and/or easement(s) areas. PG&E’s transmission easement shall be designated on subdivision/parcel maps as “RESTRICTED USE AREA – NO BUILDING.”
 - b) Grading: Cuts, trenches or excavations may not be made within 25 feet of our towers. Developers must submit grading plans and site development plans (including geotechnical reports if applicable), signed and dated, for PG&E’s review. PG&E engineers must review grade changes in the vicinity of our towers. No fills will be allowed which would impair ground-to-conductor clearances. Towers shall not be left on mounds without adequate road access to base of tower or structure.
 - c) Fences: Walls, fences, and other structures must be installed at locations that do not affect the safe operation of PG&E’s facilities. Heavy equipment access to our facilities must be maintained at all times. Metal fences are to be grounded to PG&E specifications. No wall, fence or other like structure is to be installed within 10 feet of tower footings and unrestricted access must be maintained from a tower structure to the nearest street. Walls, fences and other structures proposed along or within the fee strip(s) and/or easement(s) will require PG&E review; submit plans to PG&E Centralized Review Team for review and comment.
 - d) Landscaping: Vegetation may be allowed; subject to review of plans. On overhead electric transmission fee strip(s) and/or easement(s), trees and shrubs are limited to those varieties that do not exceed 15 feet in height at maturity. PG&E must have

access to its facilities at all times, including access by heavy equipment. No planting is to occur within the footprint of the tower legs. Greenbelts are encouraged.

- e) Reservoirs, Sumps, Drainage Basins, and Ponds: Prohibited within PG&E's fee strip(s) and/or easement(s) for electric transmission lines.
- f) Automobile Parking: Short term parking of movable passenger vehicles and light trucks (pickups, vans, etc.) is allowed. The lighting within these parking areas will need to be reviewed by PG&E; approval will be on a case by case basis. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications. Blocked-up vehicles are not allowed. Carports, canopies, or awnings are not allowed.
- g) Storage of Flammable, Explosive or Corrosive Materials: There shall be no storage of fuel or combustibles and no fueling of vehicles within PG&E's easement. No trash bins or incinerators are allowed.
- h) Streets and Roads: Access to facilities must be maintained at all times. Street lights may be allowed in the fee strip(s) and/or easement(s) but in all cases must be reviewed by PG&E for proper clearance. Roads and utilities should cross the transmission easement as nearly at right angles as possible. Road intersections will not be allowed within the transmission easement.
- i) Pipelines: Pipelines may be allowed provided crossings are held to a minimum and to be as nearly perpendicular as possible. Pipelines within 25 feet of PG&E structures require review by PG&E. Sprinklers systems may be allowed; subject to review. Leach fields and septic tanks are not allowed. Construction plans must be submitted to PG&E for review and approval prior to the commencement of any construction.
- j) Signs: Signs are not allowed except in rare cases subject to individual review by PG&E.
- k) Recreation Areas: Playgrounds, parks, tennis courts, basketball courts, barbecue and light trucks (pickups, vans, etc.) may be allowed; subject to review of plans. Heavy equipment access to PG&E facilities is to be maintained at all times. Parking is to clear PG&E structures by at least 10 feet. Protection of PG&E facilities from vehicular traffic is to be provided at developer's expense AND to PG&E specifications.
- l) Construction Activity: Since construction activity will take place near PG&E's overhead electric lines, please be advised it is the contractor's responsibility to be aware of, and observe the minimum clearances for both workers and equipment operating near high voltage electric lines set out in the High-Voltage Electrical Safety Orders of the California Division of Industrial Safety (<https://www.dir.ca.gov/Title8/sb5g2.html>), as well as any other safety regulations. Contractors shall comply with California Public Utilities Commission General Order 95 (http://www.cpuc.ca.gov/gos/GO95/go_95_startup_page.html) and all other safety rules. No construction may occur within 25 feet of PG&E's towers. All excavation activities may only commence after 811 protocols has been followed.
- m) Contractor shall ensure the protection of PG&E's towers and poles from vehicular damage by (installing protective barriers) Plans for protection barriers must be approved by PG&E prior to construction.

174. PG&E is also the owner of distribution facilities throughout many of the areas within the state of California. Therefore, any plans that impact PG&E's facilities must be reviewed

and approved by PG&E to ensure that no impact occurs that may endanger the safe and reliable operation of its facilities.

**VESTING TENTATIVE PARCEL MAP
CONDITIONS OF APPROVAL**

Community Development Department—Planning Division

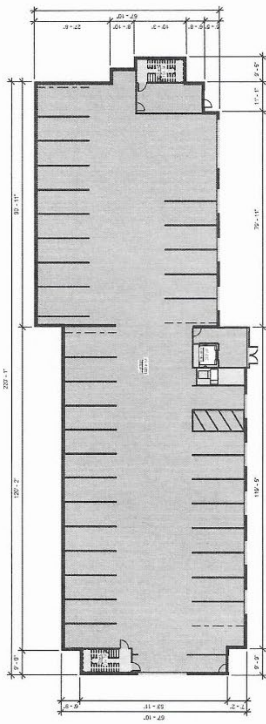
175. The Vesting Tentative Parcel Map shall be valid for a period of three (3) years from the date of Council approval and shall become null and void unless a Final Vesting Parcel Map has been recorded or a time extension is granted.
176. Prior to issuance of building permits or prior to the recordation of a Final Vesting Parcel Map, whichever occurs first, the developer shall pay to the City in lieu parkland dedication fees for 192 new units in accordance with the provisions of City Council Ordinance No. 1558.

Department of Public Works

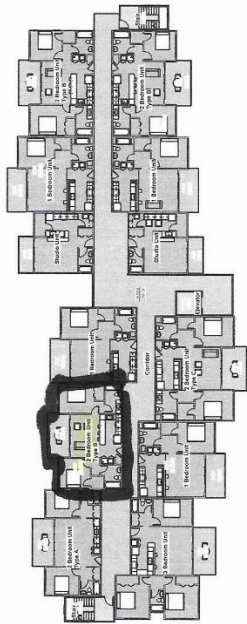
177. A Final Map shall be required to be filed and approved by the Department of Public Works.
178. Should the applicant elect to record the final map prior to completion of the subdivision improvements, a subdivision improvement agreement shall be required. As part of this agreement bonds shall be required based on the engineer's estimate. The current fees for the subdivision:
 - a) \$2,615.00 Improvement Plan Check
 - b) \$3,285.00 minimum, (or actual cost if greater) for Pinal Map Plan Check,
 - c) \$1,464.00 Subdivision Improvement Inspection Fees.
179. Prior to occupancy, the Parcel Map shall be recorded with the Marin County Recorder's Office.

Exhibit—The Neighborhood at Los Gamos Affordable Unit Distribution Plan

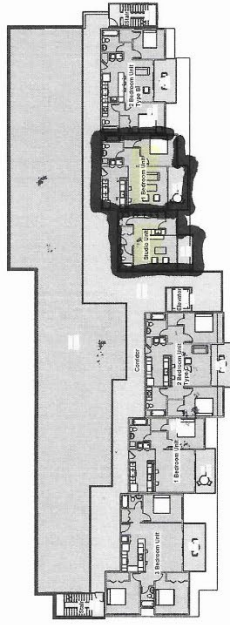
Studio = 1 1 bedroom = 2 2 bedroom = 1 3 bedroom = 1



1 Level 0
1/16" = 1'-0"



5 Level 3
1/16" = 1'-0"



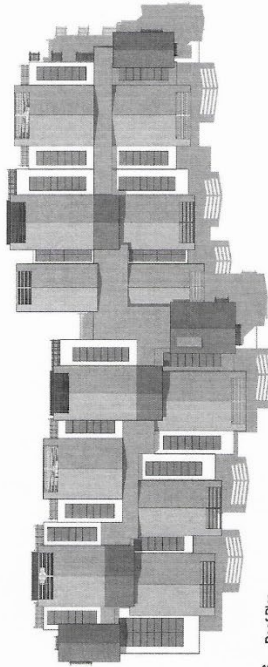
2 Level 1
1/16" = 1'-0"



4 Level 4
1/16" = 1'-0"



3 Level 2
1/16" = 1'-0"



6 Roof Plan
1/16" = 1'-0"

The Neighborhood at Los Gamos - Building Type A
Floor Plans - Building Type A

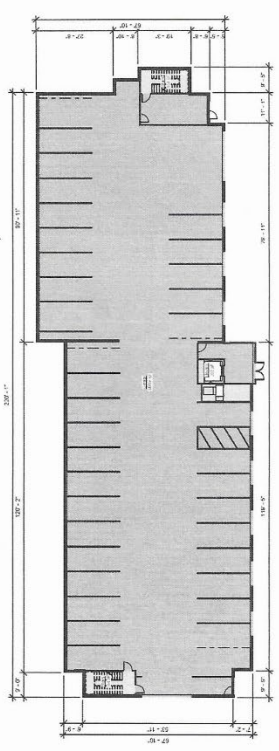


A201

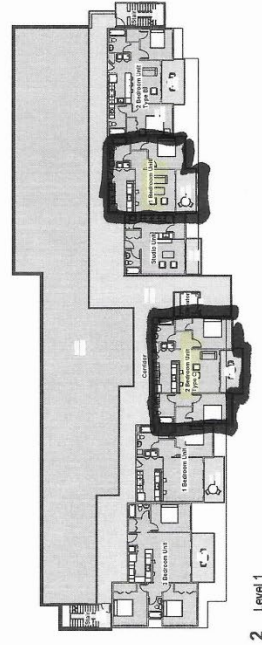
Project Number: 218025
 Date: PC Submittal 11/1/20
 Drawn by: Author
 Checked by: Checker
 Scale: 1/16" = 1'-0"

Building 1

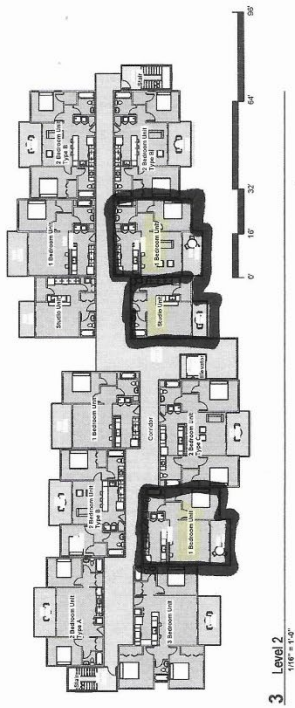
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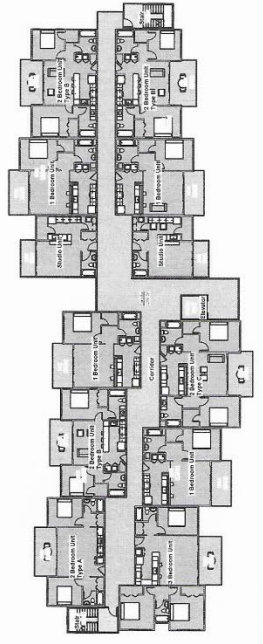
1 Level 0
1/16" = 1'-0"



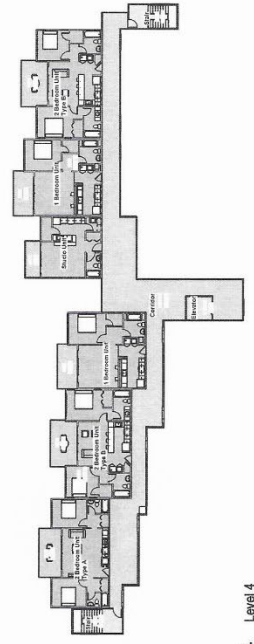
2 Level 1
1/16" = 1'-0"



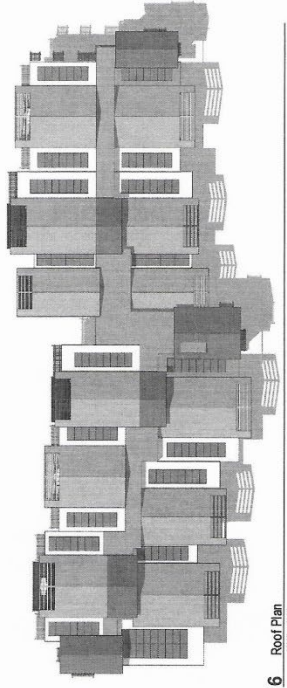
3 Level 2
1/16" = 1'-0"



5 Level 3
1/16" = 1'-0"



4 Level 4
1/16" = 1'-0"



6 Roof Plan
1/16" = 1'-0"

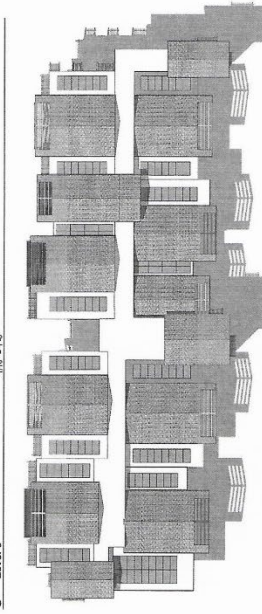
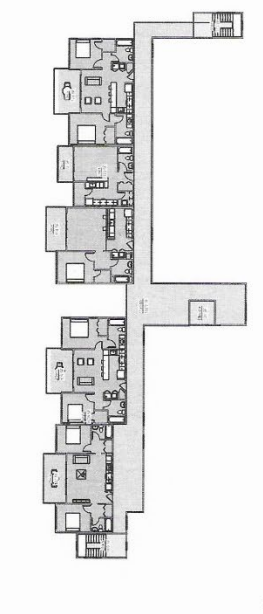
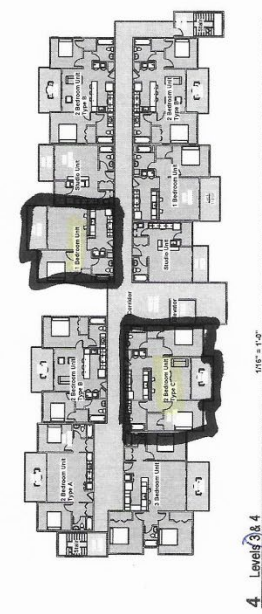
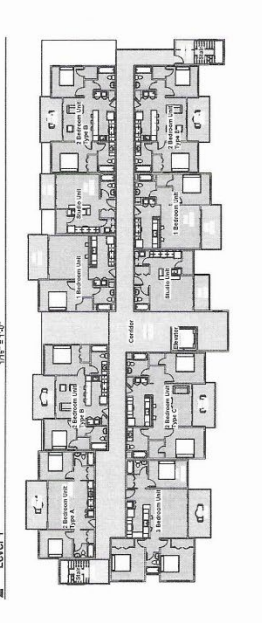
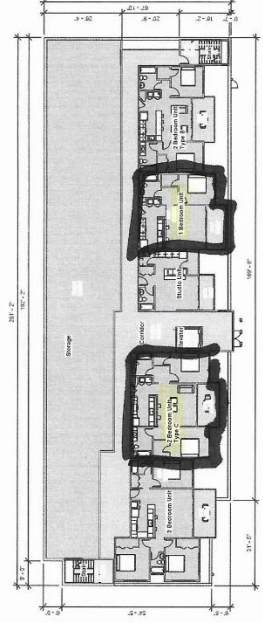
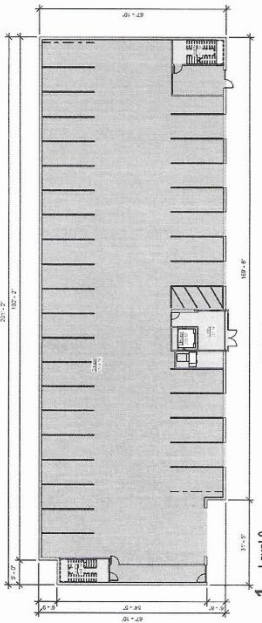


A201
Project Number: 218025
Date: PC Submitted 11/1/20
Drawn by: Author
Checked by: Checker
Scale: 1/16" = 1'-0"

The Neighborhood at Los Gatos - Building Type A
Floor Plans - Building Type A

Building 2

Studio = \emptyset 1 bedroom = 2 2 bedroom = 2 3 bedroom = \emptyset



Russell
ARCHITECTS

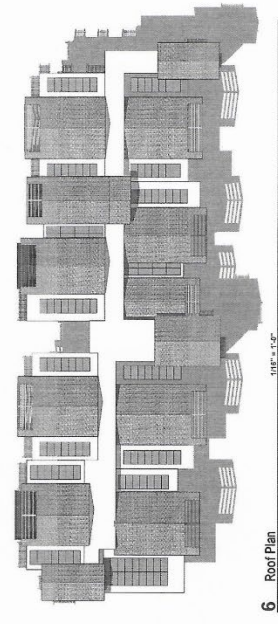
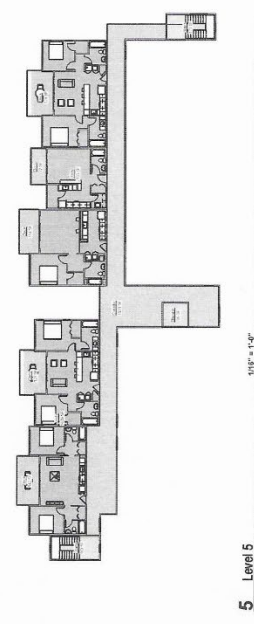
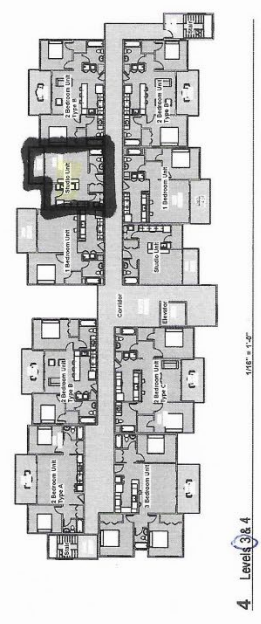
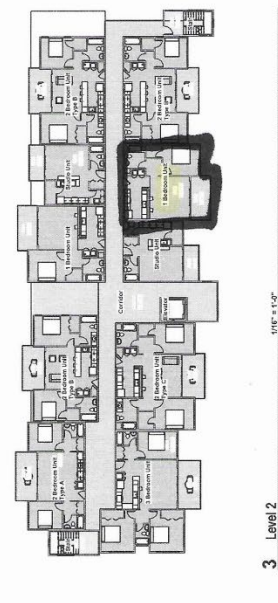
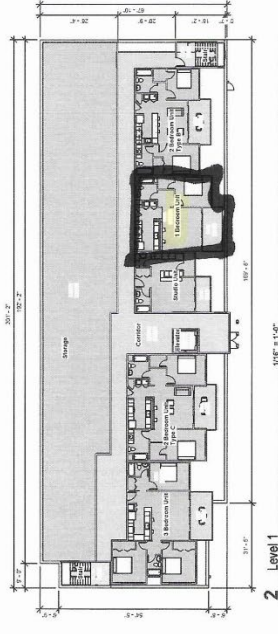
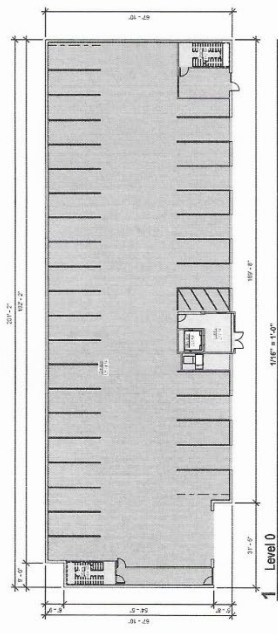
A204

Project Number: 218025
Date: PC Submittal 11/7/20
Drawn by: Author
Checked by: Checker
Scale: 1/16" = 1'-0"

The Neighborhood at Los Gamos - Building Type B
Floor Plans - Building Type B

Building 3

Studio = 1 1 bedroom = 2 2 bedroom = 0 3 bedroom = 0



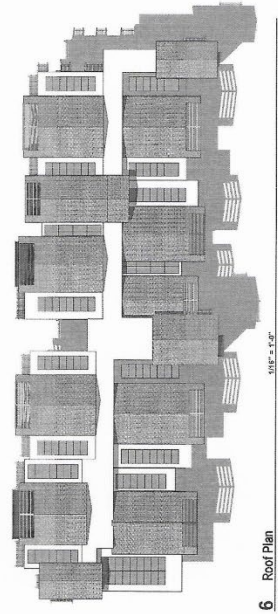
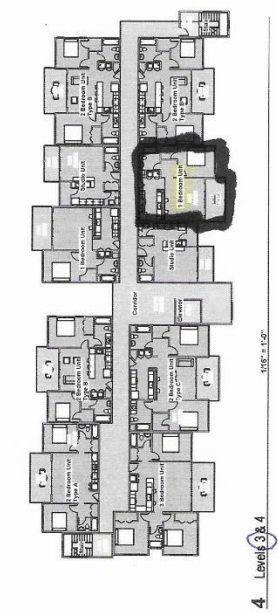
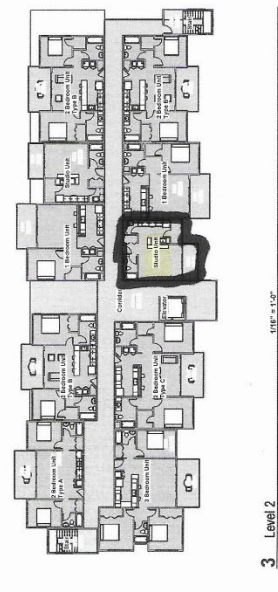
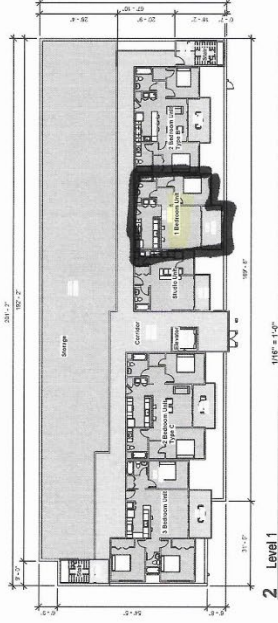
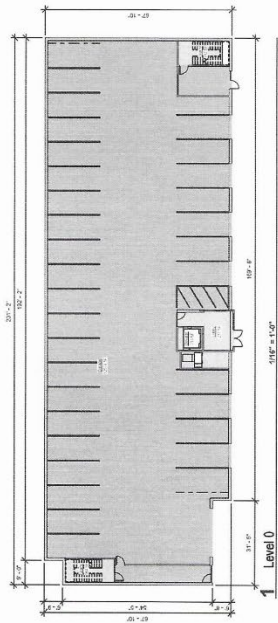
A204

Project Number: 218025
 Date: PC Submittal 11/1/20
 Drawn by: Author
 Checked by: Checker
 Scale: 1/16" = 1'-0"

The Neighborhood at Los Gatos - Building Type B
 Floor Plans - Building Type B

Building 4

Studio = 1 1 bedroom = 2 2 bedroom = 0 3 bedroom = 0



Russell
ARCHITECTS

A204

Project Number: 218025
Date: PC Submittal 11/1/20
Drawn by: Author
Checked by: Checker
Scale: 1/16" = 1'-0"

The Neighborhood at Los Gatos - Building Type B
Floor Plans - Building Type B

Building 5

Attachment 5
Public Correspondence

October 14, 2021

Re: Project Name: The Neighborhood at Los Gamos
Project Number: GPA20-001/ZC20-002/ED20-058

Dear Mr. Hamilton,
San Rafael City Planner:

My name is Donna Whitney, I am the Building Manager and I represent the owner of 1401 Los Gamos Drive, San Rafael, CA. I attended the Neighborhood Meeting for Project Name: The Neighborhood at Los Gamos, Project Number GPA20-001/zc20-002/ED20-58 on September 30, 2021.

The building at 1401 Los Gamos will be substantially impacted, in multiple ways, during this project. Our main priority is the safety and integrity of the building and grounds and keeping to a minimum the disruption to our tenants and their clients. The apartment complex will be hovering 30 feet away from our back deck.

The building at 1401 Los Gamos will experience the full impact of construction: noise, dirt, and road disturbance etc. during a possibly 2-year construction of the proposed complex.

We are not protesting this project, per se, but want to express our concerns on the following items.

1. Road Construction: At the start and during the construction of the roads and the buildings for this apartment complex, there cannot be any road closures in the area proceeding and after 1401 Los Gamos Drive, and NO access into our parking lot, at any time.

The proposed road access into the complex from Los Gamos Drive is right at the top of our uphill driveway.

Suggested Action 1: The building at 1401 Los Gamos will be provided with 72 hours' notice, to the building manager, of a "Partial Closure" but we must have full access into our parking lot at all times.

Suggested Action 2: The 3 poles for emergency vehicle only drive through located at the south end of the parking lot of 1401 Los Gamos Drive which have controlled locks maintained by the San Rafael Fire Department could be removed to open onto Los Gamos Road during severe road disturbance. This would give the tenants of 1401 Los Gamos Drive an access out of the parking lot and therefore avoid trapping people in their own parking lot.

2. Red Stop Sign: The main entrance and exit from the apartment complex onto Los Gamos Drive is at the exact top of 1401 Los Gamos Drive, an uphill driveway. There will be the possibility for heavy traffic from almost 400 cars entering or exiting the apartment complex and possibly not stopping when entering onto Los Gamos Drive.

Suggested Action 1: A Red Stop Sign at the exit side of their driveway onto 1401 Los Gamos should be installed. To avoid any major actions, we strongly suggest that the enforcement of this traffic solution should be prioritized at onset.

3. Erosion: 55 trees are slated to be removed for this proposed complex. The ground is going to be very unstable. We assume the project managers will be following the strictest rules and regulations to avoid destabilization of the ground from erosion and slides. Our building is directly below. Our land, and landscaping is directly below. We ask that our property be protected as one of the appealing factors of our building is the nature around it.

Suggested Action 1: In order to protect 1401 Los Gamos from erosion or slides that can cause damage to our hillside, we would humbly request a letter from the City of San Rafael to the owners of the "the neighborhood" that informs them that they are liable for any damage.

4. Planting of Trees: Per the proposed drawing, there will be a line of trees at mature size circling the driveway of the complex. As we all know, they will not initially plant mature trees of that size. Most likely, they are sapling tree sizes which will take 8 to 10 years to grow into mature trees. The roadway will be only 30 feet from our back decks. Our concern is privacy (a physical and natural barrier) from their roadway to mitigate noise and dirt, and to deter people from walking into our building.

They stated they are purchasing 36 box trees which will grow faster than the 64 box trees. Could we have an explanation of this.

Suggested Action 1: Purchasing healthy, more mature trees for the area directly behind the building at 1401 Los Gamos.

Suggested Action 2: There should be a fence at their cost and maintenance until the trees mature at the area of our two decks on the west side of the 1401 Los Gamos Building.

Suggested Action 3: The purchase of larger, mature trees for the areas where we have two back decks or the entire backside of the 1401 building.

5. Wildlife: All the tenants in the building enjoy the wildlife that comes to visit our building all year round. There are flocks of turkeys, a herd of deer, bucks with full racks, mother deer with her 2 to 3 fawns, adolescent deer, occasionally coyotes and feral cats who have been living under the building for over 10 years. With the open glass staircase our tenants can watch the wildlife walking by with ease as they are unharmed.

These animals come and rest under the 1401 Los Gamos building all year, all day, 7 days a week. There can be from 2 to 8 deer resting at a given time. The deer have learned there is a cross breeze that occurs for cooling under the building, and they are safe and won't be harmed sitting there. They travel behind the building, across the parking lot and down into the ravine creek that runs between Hwy 101 and our east part of the parking lot for water.

At the neighborhood meeting, they stated there was not a deer community in this area. We beg to differ. We might suggest another survey, if needed.

Suggested Action 1: Second thoughts? The apartment complex will unequivocally disrupt the wildlife community on Los Gamos Drive.

After your review of my concerns, how will you notify the Building Manager at 1401 Los Gamos Building our concerns will be implemented?

I would like to be included to any meeting regarding this project. Again, and with emphasis, we are the building which and the people who will be most directly impacted by this project.

Sincerely,

Donna Whitney
Building Manager of 1401 Los Gamos Drive San Rafael, CA



Jeff Hamilton <jhamilton@migcom.com>

The Neighborhood at Los Gamos

Travis L. [REDACTED]
To: jhamilton@migcom.com

Mon, Dec 6, 2021 at 11:20 AM

Dear Mr. Hamilton,
I am writing to you regarding "The Neighborhood at Los Gamos" Planning Commission hearing scheduled for Tuesday, December 14th. As a longtime resident of this community, I'd like to express my concern and opposition to this project. This is the fourth such high occupancy proposal within a mile of each other, in a region being devastated by drought, energy shortages, and pollution.

There is currently development already underway on the Tallus Preserve on Lucas Valley Rd and 350 Merrydale, with further approvals granted for Northgate Walk and the Northgate Town Square. That's thousands of new residences with many times that number of new citizens moving into a community already under duress with the current population. Lack of water, abundance of traffic, and increasing crime rates are just a few of the reasons our community does not need additional housing.

With the ongoing climate crisis and drought, I would expect there to be a hiatus on any new developments. If new housing is truly as critical as it's being made out to be, perhaps converting some of the existing vacant commercial space would be a better solution.

At a time when all existing residents are being asked to conserve water and electricity it makes no sense to compound that problem with more consumers. I strongly oppose any new building developments until we can adequately address the already limited resources our region suffers from. Please consider alternative solutions to your proposed 192 residences.

Sincerely,
Travis

12/7/21, 2:52 PM

MIG, Inc. Mail - Los Gamos Apartments



Jeff Hamilton <jhamilton@migcom.com>

Los Gamos Apartments

Jeff Bialik [REDACTED]
To: jhamilton@migcom.com

Tue, Dec 7, 2021 at 1:52 PM

To San Rafael City Council, Planning Commission, and Planning Staff

I am writing in support of the proposed construction of 192 apartments on Los Gamos Road.

The project is well designed, smartly engineered for the site, and sorely needed in a community with very few affordable housing options.

I am a 26 year resident of San Rafael Park and live up the hill from the project on Salvador Way. In the entire time my family has lived in this neighborhood, I can recall the construction of only two or three new houses, all single family homes.

The market price escalation of the homes in our neighborhood makes them financially out of reach for the younger singles, couples, and families we rely on to teach our children, care for our parents, tend our gardens, craft our lattes, and add vibrancy and diversity to our community. The decisions we have made over the years to decline or downsize new housing development has created a housing crisis and pushed our essential workers into longer and longer commute times.

With the new apartments on Los Gamos, we have an opportunity to say yes to a piece of the solution.

I urge the Commission and the Council to approve this project.

Thank you.

Sincerely,

Jeff Bialik
[REDACTED]
[San Rafael, CA 94903](#)

[Marin](#) Organizing Committee
Marin Interfaith Council
Housing Crisis Action Marin

Sent from my iPhone



December 8, 2021

BOARD

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Betsy Cutler
Linda M. Jackson
Paul Jensen
Shiraz Kaderali
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Michele Rodriguez
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Colin Russell
Mary Kay Sweeney
Joanne Webster
Joe Walsh
Steve Willis
Sallyanne Wilson
Tom Wilson

Lisel Blash,
Housing Specialist

P.O. Box 9633
San Rafael CA 94912
www.MarinMEHC.org
MarinMEHC@gmail.com

City of San Rafael Planning Commission
1400 Fifth Avenue
San Rafael, CA 94901

Chair Samudzi and Commissioners:

The Marin Environmental Housing Collaborative (MEHC) is a consortium of advocates building support for projects and policies that advance affordable housing as well as environmental integrity and social justice. We are writing to support of the Neighborhood at Los Gamos apartment project. This project will provide 192 badly needed rental homes, including 20 affordable units. These apartments are needed to support the local workforce, to shorten commute trips, and to help meet San Rafael's RHNA obligations in the next housing element cycle. This project demonstrates that increased height and density, in the right location and coupled with good design, promote housing equity and environmental sustainability.

As you know, the housing need in San Rafael is urgent. County-wide, the median household income for renters is \$75,953, and the average rent for a two-bedroom is \$2,797. This requires a household income of \$111,880 to meet the recommended 30% cap on their income for rent, so most Marin tenants have struggle to meet their other basic needs – food, childcare, and health services. The over-payment problem is due in part to the overall shortage of rental housing generally, and the lack of affordable rentals in particular, which is why the State of California significantly increased the number of homes Bay Area communities must plan for over the next eight years. The Los Gamos project, alone, would satisfy 6% of San Rafael's RHNA requirement.

The height and density limits established under the current zoning would restrict development for this site to no more than five single family homes on the entire ten-acre site. This low density would likely result in disturbance to the entire property. The proposed General Plan amendment and rezoning would avoid this waste by boosting the housing opportunity, at the same time minimizing site disturbance by allowing the higher permitted density to be concentrated on the lower and least sensitive portion of the site.

The design will create a sense of community for the surrounding area as well as the project site. The sensitive "stepped" configuration of the buildings and the grading plan, along with the landscaping will transition into open hillside above the property. The attractive residential design and the included park and open spaces, the market, and the community center will create a neighborhood. The market will serve the employees in the nearby office buildings as well as the new residents, thereby helping the project blend with the surrounding area and strengthening the sense of community.

Tax deductible donations made payable to MEHC will be administered by EAH Housing, a 501(c)(3) nonprofit housing corporation. EAH generously acts as our fiscal sponsor, without charge.

The overall design meshes well with the adjacent office and commercial structures on Los Gamos.

The project, due to its location at the end of Los Gamos, will not require extension of any roadways or other infrastructure such as water or sewer. The project will not add infrastructure that will induce growth in adjacent areas and will not route traffic through other neighborhoods.

We strongly urge that you recommend approval for the Neighborhood at Los proposal. This is an environmentally sustainable project that will help address our urgent housing needs.

As a final thought, we recommend that the existing closure at the southern end of this portion of Los Gamos be made permanent.

Sincerely,

A handwritten signature in blue ink, appearing to read "Robert J. Pendoley".

Robert Pendoley,
Board Chair

12/10/21, 12:51 PM

MIG, Inc. Mail - Email of Support for " The Neighborhood at Los Gamos"



Jeff Hamilton <jhamilton@migcom.com>

Email of Support for " The Neighborhood at Los Gamos"

Brendon Kraham

Fri, Dec 10, 2021 at 8:45 AM

To: city.clerk@cityofsanrafael.org, JHamilton@migcom.com

I'm writing in support of the proposed development ([Los Gamos](#)) being discussed at the Planning Commission Hearing on 12/14/21 at 7pm.

Having read through the materials, it's evident that:

- The project will create much needed housing units during an unprecedented housing crisis in San Rafael and Marin County.
- Furthermore, it will produce 20 low-income units
- Seems like an ideal location for housing – next to jobs, transit, and amenities.
- And great thought has been put into sensitive design. Eg. water conservation elements, solar integration, and sustainable materials and landscaping.

All that so say, encourage you and the commission to support this project.

12/10/21, 12:53 PM

MIG, Inc. Mail - The Neighborhood at Los Gamos



Jeff Hamilton <jhamilton@migcom.com>

The Neighborhood at Los Gamos

Stacy Hart <stacy@sfindmarinhomes.com>

Fri, Dec 10, 2021 at 11:30 AM

To: "JHamilton@migcom.com" <JHamilton@migcom.com>, "city.clerk@cityofsanrafael.org" <city.clerk@cityofsanrafael.org>

To the attention of the San Rafael Planning Commission:

I am writing in support of the development called The Neighborhood at Los Gamos. I have known the developer, Chris Hart (no relation to me) for quite some time and have been privy to some of his recent developments. Not only are they beautifully and thoughtfully designed, but as a local realtor, I have an intimate understanding for need of the type of housing he is proposing. It's a perfect location for multifamily housing, along the 101 Corridor and tucked well under the ridge line. It's beautifully designed and focused on the advancing environmental building applications.

A couple of key points below are of the utmost importance:

- The project will create 192 new housing units during an unprecedented housing crisis in the City of San Rafael and Marin County
- The Neighborhood at Los Gamos will produce 20 low-income units for our workforce
- The 10-acre site is located along the Highway 101 corridor, which is the ideal location for housing – next to jobs, transit, and amenities
- The project is sensitively designed with forward-thinking water conservation elements, solar integration, and sustainable materials and landscaping

The 192 Units and 20 Low Income Units add to the much needed supply of housing and does so while balancing the development on the site, while leaving 50%+ of the site undeveloped. I strongly support this development and encourage the Planning Commission to unanimously approve The Neighborhood at Los Gamos.

Thank you!

Best Regards,

Stacy

Stacy Hart

Broker Associate / Global Luxury Specialist
Coldwell Banker Realty
511 Sir Francis Drake Blvd.
Greenbrae, CA 94904
415-244-8785 | stacy@SFandMarinHomes.com

Lic. # 01382692

12/13/21, 1:12 PM

MIG, Inc. Mail - The Neighborhood at Los Gamos project



Jeff Hamilton <jhamilton@migcom.com>

The Neighborhood at Los Gamos project

Evelyn Haupt

Mon, Dec 13, 2021 at 10:13 AM

To: JHamilton@migcom.com, city.clerk@cityofsanrafael.org

We are writing to you to encourage approval of the Neighborhood at Los Gamos project.

Ideally located near transportation, employment and amenities, Los Gamos will help to alleviate the housing crisis in Marin County and specifically in San Rafael.

With 192 new apartments and including 20 low-income units, this plan has been carefully designed to consider water conservation and solar integration as well as including sustainable materials.

The landscape design is attractive while unimposing to public view.

We hope that you will give your complete acceptance to the plan.

Ken and Evelyn Haupt

12/14/21, 6:22 PM

MIG, Inc. Mail - Las Gamos Project



Jeff Hamilton <jhamilton@migcom.com>

Las Gamos Project

Paul DeMartini [REDACTED]
To: JHamilton@migcom.com, city.clerk@cityofsanrafael.org

Tue, Dec 14, 2021 at 4:40 PM

Jeff,

I am writing to you in my support of the Las Gamos project. I have lived across the street from Chris Hart and have seen first hand how important the city of San Rafael is to him and his family. Not only will this project help with the housing crisis, both market rate and affordable but I am confident that this project will add to the day to day life of people living in San Rafael. I applaud Chris for making sustainable materials, water conserving choices and the use of solar a forefront in the design process. I know first hand how important that is to him. With all that plus the landscaping add additional housing this will be a big plus for the city. Chris a second generation San Rafael resident and is making a conscious choice to stay in the city and make it better for the next generations to come.

Thank you
Paul DeMartini

12/14/21, 6:23 PM

MIG, Inc. Mail - Los Gamos Project



Jeff Hamilton <jhamilton@migcom.com>

Los Gamos Project

Paul DeMartini [REDACTED]
To: JHamilton@migcom.com, city.clerk@cityofsanrafael.org

Tue, Dec 14, 2021 at 4:02 PM

Dear Jeff

In reference to the above proposed property in the neighborhood of Los Gamos, as a current resident/home owner and business owner of Marin for the past 15 years I would like to voice my support as it relates to this development.

With the predicted 180 plus units including some low income units at a time of a housing crisis in Marin County in particular San Rafael this proposal can only bring benefits to our community. The development will bring employment during construction time, along with employees for the many vacant positions within our community that has suffered greatly since the pandemic. Not only will it create jobs locally it is position at a location for residents to commute being close to transit, schools and other local amenities.

With sustainable materials, landscaping, design and with water and solar integrations in mind it can only benefit our community and bring employment outcomes, a great community in a beautiful surrounding.

Christopher Downs
Owner
Christopher Salon|Home
Tiburon and Mill Valley



HOUSING CRISIS ACTION

...To Create, Build, and Preserve Much-Needed Housing in Marin County
housingcrisisaction@gmail.com | housingcrisisaction.org

COALITION MEMBERS

Coalition for a Livable Marin
Community Land Trust Association of Marin
Homeward Bound of Marin
League of Women Voters of Marin
Legal Aid of Marin
Marin County Young Democrats
Marin Environmental Housing Collaborative
Marin Kids
Michael Barber Architects
North Bay Leadership Council
San Geronimo Affordable Housing Association
San Rafael Chamber of Commerce
Sustainable Marin
Sustainable San Rafael
United Educators Association for Affordable Housing

December 1, 2021

Subject: The Neighborhood at Los Gamos

Dear San Rafael City Council and Planning Commission,

On behalf of Housing Crisis Action, a robust network of 800+ Marin County housing advocates and 17 organizations, we ask for your support of the Neighborhood at Los Gamos project to develop vacant land into 192 places for people to call home.

The Hart Family has worked diligently to create a community-informed and community-centered plan for missing middle housing that is affordable by design and includes 20 units designated for Below-Market-Rate. The missing middle is folks like our baristas, nurses, teachers, coaches, and first responders. The Neighborhood is their future home.

The project includes a new neighborhood market, new trails, an emphasis on outdoor amenities, improved access to open space, and an environmentally conscious and innovative design. The area is walkable, transit-oriented, and close to jobs and services. The project has minimal impact on existing neighbors. The construction of the project will generate significant revenue and taxes for the City and create jobs. Overall, this is a unique opportunity we must pursue. The Neighborhood will help the City meet RHNA goals and meet the immediate housing needs of the people living and working here.

As a group of business leaders, city planners, union workers, environmental advocates, public servants, and educators, living and working in Marin, we recognize the urgent need for multi-family residential housing. We respectfully ask you to approve the design review and support this rare opportunity to create 192 homes that will sustain a more livable, inclusive, and thriving Marin.

Sincerely,

The Housing Crisis Action Steering Committee

Cynthia Murray	<i>CEO, North Bay Leadership Council</i>
Jeff Bialik	<i>Marin Organizing Committee</i>
Diana Conti	<i>Trustee, College of Marin</i>
Linda M. Jackson	<i>Program Director, Aging Action Initiative</i>
Larry Kennings	<i>Board member, Marin Environmental Housing Collaborative</i>
Ethan Strull	<i>Marin Housing Activist</i>
Joanne Webster	<i>President and CEO, San Rafael Chamber of Commerce</i>

12/20/21, 2:14 PM

MIG, Inc. Mail - November 4 hearing about workforce housing development on Las Gamos won't come up



Jeff Hamilton <jhamilton@migcom.com>

November 4 hearing about workforce housing development on Las Gamos won't come up

Ms Angela Gott [REDACTED]
To: "jhamilton@migcom.com" <jhamilton@migcom.com>

Mon, Dec 20, 2021 at 7:49 AM

Project Status Los Gamos Apartments

[Agenda for the December 14, 2021, Planning Commission meeting](#)

Updated November 4, 2021-

A public hearing by the Planning Commission is scheduled for December 14, 2021, at 7 p.m. This is a virtual hearing.

The hearing will be streamed live to YouTube This is not showing up at www.youtube.com/sanrafael. Interested members can follow the instructions on how to participate online.

I could not find this hearing on YouTube this morning when I went to YouTube.

It says that it is not there--

Please send me the proper YouTube address or link so I can watch the hearing.

Los Gamos Apartments

This is the first I have heard of this project.

I am interested to know what the rents will be for the studios to be built.

I could not find anything online about what the rents will be and if they will be for extremely low income, very low income, low income, and moderate and what the earning amounts will be.

I know an 86 year old still working 100 hours a month in physical labor because his social security and whatever else he has is not enough to cover both the mortgage of a mobile home and the lot space rent in the mobile home park. Another way the tenants are gouged is that the utilities are not in their names but they have to pay utilities fees to the RV Lot owner --

Individually they would be eligible for CARE, MMWD, etc. discounts based on their low income and this way they have to pay whatever the RV Park management asks.

He is up on ladders, driving a forklift, having to lift heavy propane tanks to put on the back of the forklift, having to reset timers on the security again on ladder for daylight savings-- manual changes to each timer at each alarm in 3 two-story buildings, changing all the florescent lights in the ceilings, etc. Oh and wrestling a heavy filled dumpster to the curb for pick up every week too-- He's 86-- I want him to be able to get into one of those studios.

<https://mail.google.com/mail/u/1/?ik=0730b8b9bb&view=pt&search=all&permmsgid=msg-f%3A1719680761457724805&siml=msg-f%3A1719680761...> 1

We have all these seniors falling into homelessness and they are singles and there is not enough studios in Marin for them to move into-- not enough was built -- planned for when the boomers born 1946-1964 got into their senior years.

10,000 a day began to turn 65 nationally every single day in the USA starting in 2010 and so we need housing to be built for seniors-- we are desperate for senior low income housing in Marin, Marin County has the highest percentage of seniors of all 58 CA Counties-- they are falling into homelessness because of the sky high rents.

So please send me what the rent rates for the studios will be set at and how soon he can get on a wait list to get one of those studios so he can finally "retire" and relax. He is a Veteran-- born in 1936-- and ordinarily would be eligible for a VA loan but because the mobile homes do not come with the land-- he could not get the VA loan but a conventional higher interest loan to buy the mobile home with.

He bought the mobile home about 2 years ago and that lot space rental keeps going up ad up so to have both a mortgage and the space rent-- So many Marin seniors are in this fix--

So this would be a good plan B so he could get into a studio and finally rest--

Thank you

Angela Gott [REDACTED] Senior, age 70, interested in low income housing for Marin's seniors -- the boomer generation-- to prevent homelessness in old age

December 20, 2021

To: Jeff Hamilton
Contract Planner

From: Donna Whitney
Building Manager for 1401 Los Gamos Drive San Rafael

Mr. Hamilton,

I would like to submit some concerns on behalf of the owner and myself, as manager, regarding the project known as “The Neighborhood” on Los Gamos Drive.

After attending the meeting by the Planning Department of the City of San Rafael on Tuesday, December 14th the owner and I are feeling somewhat discouraged in regard to how the City of San Rafael will be protecting our 1401 Los Gamos Drive building and our tenants. Specifically, we have not been given any assurances, or consideration thereof, of how the construction of this project and the resulting impact of the project will be anything but detrimental to traffic flow, parking, and ease of transportation for our end of the road.

With the project only having 225 parking spaces, plus the 12 at the market (only after hours), there will be a total of 237 parking spaces for a minimum of 384 additional cars using Los Gamos Drive. I realize the parking spaces meet California guideline estimates, but what recourse do I have to protect my parking lot area at 1401 Los Gamos against the additional 147 cars who will need parking? Even if the tenants do not use their cars and work from home, where will their cars be parked all day and all night? The street is one answer, and we fear the other answer will be the parking lot right in front of the 1401 Los Gamos building. This causes a major issue for my tenants and their visitors to the building.

We would like to be provided with an exact map of the 1401 Los Gamos property, showing property lines and a clear delineation of the easement that was granted years ago for access to the property where the new project is proposed. By our reckoning, the “driveway” is located directly across from marked parking for our building on our property.

Will there be traffic flow measures? A stop sign? Our concern is with cars exiting the property. Even before that there will be enormous amounts of construction equipment coming and going through and exiting at that intersection. You may well imagine our concern. The intersection of the driveway and Los Gamos Drive is at the top of a crest. Who will look to their right upon exiting onto a road that essentially is a dead end?

We are not advocates for this project, nor for any project that proceeds without due consideration to existing buildings and businesses. We fear an impact in front of our building, and behind it. The planting of mature trees at our rear-facing property line may “hide” the looming buildings, unfortunately there is no camouflage for the problems of traffic flow, during construction and afterwards, for a project this large.

We sincerely request a response from the Planning Commissioner and the City Counsel of San Rafael. Could there be a consideration of a possible plan for a smaller project?

Thank you Kindly,

Denise Filakosky, Owner and
Donna Whitney, Building Manager

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

You are invited to view and participate online for the City Council hearing on the following project:

- DATE/TIME/PLACE:** **Monday, February 7, 2022 at 7:00 P.M.**
COVID-19 ADVISORY NOTICE: Consistent with Executive Orders No.-25-20 and No. N-29-20, the San Rafael City Council hearing of February 7, 2022 WILL NOT be physically open to the public and the meeting will be streamed live to YouTube at <http://www.youtube.com/cityofsanrafael>. Instructions on how to participate online, will be available on the YouTube channel. You will also be able to comment through a conference call during the meeting (number will be provided on agenda)
- PROJECT:** **The Neighborhood at Los Gamos** – General Plan Amendment GPA 20-001 (from Hillside Resource Residential to Neighborhood Commercial Mixed Use); Zone Change ZC 20-002 (from Planned District – Hillside Development Overlay District (PD-H) and Residential – Hillside Development Overlay District (R2a-H) to Planned Development District (PD); Vesting Tentative Parcel Map (to combine and adjust the boundaries of the existing parcels); and Environmental and Design Review ED 20-058; for a mixed-use project with 192 multifamily residential units; a 5,574 square foot market; a 5,003 square foot community center; and 225 at-grade and semi-subterranean parking spaces; on a 10.24 acre site located on Los Gamos Road north of Oleander Drive; on APN 165-220-06 and 165-220-07; Christopher Hart, Applicant and Property Owner; Mont Marin/San Rafael Park Neighborhood. SCH #2021110004
As required by State law (California Environmental Quality Act) this project is subject to a review of potential environmental impacts. An assessment of potential impacts (Initial Study) has been completed. The Initial Study concludes that the project has the potential to result in significant environmental effects. However, the Initial Study finds that the potentially-significant impacts can be reduced or eliminated by requiring and implementing recommended measures. The Initial Study recommends the adoption of a Mitigated Negative Declaration, which includes the recommended mitigation measures. The Initial Study/Mitigated Negative Declaration is available for review at the Community Development Department (address below) and online at https://www.cityofsanrafael.org/los_gamos_apartments/. Pursuant to the provisions of the California Environmental Quality Act Guidelines, the Initial Study/Mitigated Negative Declaration was made available for public review from Tuesday, November 2, 2021 to Tuesday, November 30, 2021.
- WHAT WILL HAPPEN:** You may comment on the project on line or via conference call. The City Council will consider all public testimony and decide whether to approve or deny the project applications.
- IF YOU CANNOT ATTEND:** You may send a letter to Lindsay Lara, City Clerk, City of San Rafael, 1400 5th Ave, San Rafael, CA 94901 or via email Lindsay.Lara@cityofsanrafael.org.
- FOR MORE INFORMATION:** Contact Sean Kennings, **Contract Planner** at Sean@lakassociates.com. Please note that City offices are currently opened limited walk-in hours, every Tuesday and Thursday from 8:30 a.m. to 12:30 p.m., and by appointment. You may contact the planner for more information. You may also view the staff report after 5:00 p.m. on the Friday before the meeting at <http://www.cityofsanrafael.org/meetings>. You can review project materials on the City’s website at https://www.cityofsanrafael.org/los_gamos_apartments/

SAN RAFAEL CITY COUNCIL

/s/ Alicia Guidice
Alicia Guidice
COMMUNITY DEVELOPMENT DIRECTOR

(Please publish in the Marin Independent Journal on or before [Saturday, January 22, 2022.](#))



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

Prepared by: Bill Guerin,
Director of Public Works

City Manager Approval: 

TOPIC: THIRD STREET REHABILITATION PROJECT

SUBJECT: ADOPT RESOLUTIONS RELATED TO THE THIRD STREET REHABILITATION PROJECT, CITY PROJECT NO. 11315

1. RESOLUTION AWARDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION AGREEMENT FOR THIRD STREET REHABILITATION PROJECT TO GHILOTTI BROS. INC., IN THE AMOUNT OF \$18,248,707.54, AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$2,551,292.46 FOR A TOTAL APPROPRIATED AMOUNT OF \$20,800,000.
2. RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH CSW/STUBER-STROEH ENGINEERING GROUP, INC. FOR ENGINEERING CONSTRUCTION SUPPORT SERVICES ASSOCIATED WITH THIRD STREET REHABILITATION PROJECT, IN THE AMOUNT OF \$117,000 FOR NEW TOTAL PROFESSIONAL SERVICES AGREEMENT OF \$1,042,782.
3. RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A REIMBURSEMENT AGREEMENT WITH THE SAN RAFAEL SANITATION DISTRICT FOR BID SCHEDULE B OF THE CONSTRUCTION CONTRACT, CONSTRUCTION MANAGEMENT, AND MATERIAL TESTING SERVICES FOR THE THIRD STREET REHABILITATION PROJECT.
4. RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A REIMBURSEMENT AGREEMENT WITH THE MARIN MUNICIPAL WATER DISTRICT FOR BID SCHEDULE C OF THE CONSTRUCTION CONTRACT AND CONSTRUCTION MANAGEMENT FOR THE THIRD STREET REHABILITATION PROJECT.

RECOMMENDATION: Staff recommends that the City Council:

1. Adopt a resolution awarding and authorizing the City Manager to execute the Construction Agreement for the Third Street Rehabilitation Project to Ghilotti Bros. Inc. (GBI), in the Amount of \$18,248,707.54 and authorizing contingency funds in the amount of \$2,551,292.46 for a total appropriated amount of \$20,800,000.
2. Adopt a resolution approving and authorizing the City Manager to execute an amendment to the professional services agreement with CSW/Stuber-Stroeh

FOR CITY CLERK ONLY

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

Engineering Group, Inc. (CSW), for engineering construction support services associated with the Third Street Rehabilitation Project, in the amount of \$117,000 for a new total professional services agreement of \$1,042,782.

3. Adopt a resolution approving and authorizing the City Manager to execute a reimbursement agreement with the San Rafael Sanitation District for Bid Schedule B of the construction contract, construction management, and material testing services for the Third Street Rehabilitation Project.
4. Adopt a resolution approving and authorizing the City Manager to execute a reimbursement agreement with the Marin Municipal Water District for Bid Schedule C of the construction contract and construction management of the Third Street Rehabilitation Project.

BACKGROUND:

The Transportation Authority of Marin (TAM) established the Measure A Expenditure Plan (Plan) in 2004. In June 2021 TAM renewed the funding under TAM Measure AA. Both Measure A and Measure AA are voter-approved sales taxes, providing funds for major roadway projects in Marin County. Measure A and AA projects were prioritized based on roadway condition, traffic volumes, transit frequency, and existing bicycle and pedestrian access. Approximately \$12.9 million in Measure A and AA funds has been allocated from TAM for design and construction of the Third Street Rehabilitation project. The construction funding was authorized by the TAM Board of Commissioners on May 27, 2021, after the City Council adopted a resolution on [May 3, 2021](#) accepting the Third Street Rehabilitation project and directing staff to request funding. Staff has identified other local funding sources to provide the balance of funding needed for this project (see Fiscal Impact below).

The overall project scope represents a multi-year collaborative effort between the City of San Rafael, San Rafael Sanitation District (SRSD), and Marin Municipal Water District (MMWD) to make improvements to Third Street from Union Street to Miracle Mile. The project consists of pavement rehabilitation, pedestrian and bicycle safety improvements, curb ramp and intersection improvements, utility infrastructure updates, intersection lighting and traffic signal upgrades, addition of trees, and reconfiguring the roadway between West Street and Shaver Street to allow room for an eight-foot-wide Class IV cycle track on the south side of Second Street with a dedicated sidewalk for pedestrians. The two utility districts agreed to collaborate with the City of San Rafael in order to benefit from the economies of scale of the larger project and to minimize the construction duration and subsequent impact to the traveling public from this significant improvement to one of San Rafael's most heavily used traffic corridors. The project will also anticipate the conversion of B Street to two-way traffic by making improvements to the Third Street and B Street intersection to accommodate two-way traffic flow. Changes to B Street to convert it to two-way traffic will be constructed through a separate contract or as a change-order to the Third Street Rehabilitation Project if sufficient contingency remains available.

In addition to this project, San Rafael will soon advertise a separate project, the Third Street Safety Project, which is funded by the Highway Safety Improvement Program (HSIP) administered by Caltrans, Gas Tax, and Traffic Mitigation funds. The Safety Project will make additional improvements to several intersections near the freeway and Transit Center. Together, these two major projects will fully improve Third Street from Union Street to the east, to the intersection of Fourth and Second Streets to the west. Staff anticipates bringing the Safety Project to Council in Spring 2022 and the construction work will overlap with the Rehabilitation Project. The combined projects will occur over the next year and a half. The work will maintain two lanes of traffic during commute hours for the duration of the project with significant portions of the work occurring at night to minimize impacts to travelers through San Rafael.

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 3

On November 24, 2021, the project was advertised in accordance with San Rafael's Municipal Code.

ANALYSIS: On January 10, 2022, the following bids were received and read aloud:

<u>NAME OF BIDDER</u>	<u>BASIS OF AWARD BID AMOUNT</u>
Ghilotti Bros., Inc.	\$18,248,707.54
Ghilotti Construction Company, Inc.	\$19,125,364.00
Argonaut Constructors	\$19,149,212.50
Bauman Landscape and Construction, Inc.	\$20,897,991.00
Thompson Builders Corporation	\$24,416,744.50

The construction bids have been reviewed by City staff and the low bid from Ghilotti Bros., Inc. (GBI) in the amount of \$18,248,707.54 was found to be both responsive and responsible. City staff recommends awarding the construction contract to GBI for the bid amount and recommends the City Council authorize a construction contingency of approximately twelve percent in an amount of \$2,551,292.46 for a total authorized amount of \$20,800,000.

Although the Third Street Rehabilitation Project is a multiagency venture between the City, MMWD, and SRSD, the City is the lead agency and with the assistance of Coastland Engineering (Coastland) will run the construction management of the project. The bid package was split up into separate bid schedules to define each agency's scope of work. MMWD and SRSD will reimburse the City for the cost of constructing their specific Bid Schedule and the shared cost of Coastland's construction management and inspection services. Coastland's contract was approved by the City Council on June 21, 2021 in an amount not to exceed \$1,168,300 using TAM Measure A and AA funds. Table 1 summarizes the Joint Project construction expenses.

Table 1: Construction Expense Summary

Project Element	Expense Amount
Roadway Project Bid Schedule A (San Rafael)	*\$13,000,000
SRSD Pipeline Project Bid Schedule B (SRSD)	*\$4,400,000
MMWD Pipeline Project Bid Schedule C (MMWD)	*\$3,400,000
Construction Support PSA Amendment CSW	\$117,000
Total recommended to be appropriated	\$20,917,000

*Include contingency

Additional Construction costs previously appropriated:

Construction Management **\$1,168,300

** Includes Material Testing for City & SRSD project components only

In November 2019 the City retained CSW for engineering design and environmental clearance services for an amount not to exceed \$925,782. Now that the project has moved into construction, staff recommends the City Council approve the proposed contract amendment for CSW for engineering construction support, including monument preservation, and culvert repair support. The proposed amendment to the professional services agreement will increase the agreement by \$117,000 increasing the total not-to-exceed amount under the agreement to \$1,042,782.

PUBLIC OUTREACH: Public Works has engaged the community and key stakeholders over the last four years to receive feedback as summarized below:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 4

- July 2017: Technical Working Group Meeting
- October 2017: Community Working Group Meeting
- November 2017: Community Meeting #1 - Feasibility Study
- February 2018: Community and Technical Working Group Meeting
- March 2018: Community Meeting #2 - Feasibility Study
- June 3, 2019: Feasibility Study Report Presentation at City Council
- July 15, 2020: Technical Working Group Meeting
- August 5, 2020: City's Bicycle and Pedestrian Advisory Committee (BPAC)
- August 23, 2020: Community Working Group Meeting
- September 23, 2020: Community Meeting #3
- October 8, 2020: Economic Development Subcommittee Meeting
- October 21, 2020: Association of Neighborhoods Meeting
- November 2, 2020: City Council Informational Report
- December 2, 2020: City's Bicycle and Pedestrian Advisory Committee (BPAC)
- February 3, 2021: City's Bicycle and Pedestrian Advisory Committee (BPAC)
- March 24, 2021: Community Meeting #4
- May 3, 2021: City Council Presentation
- May 10, 2021: Presentation to TAM Executive Committee

In addition to these meetings, Public Works has maintained an updated project website and met with residents and business owners virtually and onsite to discuss key issues.

FISCAL IMPACT: Funding for the project includes revenues from several different sources. The original project sponsor was TAM, who allocated \$12,954,106 to the Roadway Project under Measure A and AA. To date \$2,468,300 of the TAM allocation has been expended for the feasibility study, environmental clearance, final design, and Coastland's construction management, inspection, and material testing contract. The remaining \$10,485,806 will contribute to the construction phase of the Roadway Project.

The agreement with SRSD details their commitment to reimburse the City for all costs associated with the SRSD Pipeline Project, including the low bid contractors Bid Schedule B in the amount of \$3,871,760 and any associated change orders (\$528,240 in contingency). Table 1 shows the total Bid Schedule B with contingency that is used in the Table 2 funding summary. The agreement also includes a provision for reimbursement of costs related to construction management in the amount of \$199,000, material testing associated with the pipeline work, and pavement restoration in the amount of \$180,700. Coastland will separately track the material testing associated with the SRSD pipeline project and SRSD will pay the actual cost for material testing for Bid Schedule B.

The agreement with MMWD details their commitment to reimburse the City for all costs associated with the MMWD Pipeline Project, including the low bid contractor's Bid Schedule C in the amount of \$3,025,275 and any associated change orders (\$374,725 in contingency). Table 1 shows the total Bid Schedule C with contingency that is used in the Table 2 funding summary. The agreement also includes a provision for reimbursement of costs related to construction management in the amount of \$155,757 and pavement restoration in the amount of \$159,570. MMWD will perform their own material testing for the MMWD pipeline project.

Staff proposes to fund the remaining construction cost with a combination of Gas Tax Fund #206 Road Maintenance and Rehabilitation Account (RMRA), Traffic Mitigation Fund #246, and City Technology Fund. Table 2 below summarizes the Joint Project's construction funding sources and staff recommended appropriations for this project.

Table 2: Construction Funding Summary

Funding Source	Funding Amount
Transportation Authority of Marin (Measure A and AA)	\$10,485,806
San Rafael Sanitation District	\$4,779,700
Marin Municipal Water District	\$3,715,328
Gas Tax Fund #206- RMRA	\$1,524,166
Traffic Mitigation Fund #246	\$290,000
Technology Fund	\$122,000
Total	\$20,917,000

From Table 2, Staff specifically proposes to fund the amendment to the professional services agreement for CSW in the amount of \$117,000 with TAM Measure A and AA funding.

OPTIONS: The scope of the project, including the San Rafael Sanitary District and Marin Municipal Water District work are all to be constructed under a single construction contract. Therefore the City Council may adopt the four resolutions relating to this matter as follows:

1. Adopt a resolution awarding and authorizing the City Manager to execute the Construction Agreement for the Third Street Rehabilitation Project to Ghilotti Bros. Inc., in the Amount of \$18,248,707.54 and authorizing contingency funds in the amount of \$2,551,292.46 for a total appropriated amount of \$20,800,000.
2. Adopt a resolution approving and authorizing the City Manager to execute an amendment to the professional services agreement with CSW/Stuber-Stroeh Engineering Group, Inc., for construction support services associated with the Third Street Rehabilitation Project, in the amount of \$117,000 for a new total professional services agreement of \$1,042,782.
3. Adopt a resolution approving and authorizing the City Manager to execute a reimbursement agreement with the San Rafael Sanitation District for Bid Schedule B of the construction contract, construction management, and material testing services of the Third Street Rehabilitation Project.
4. Adopt a resolution approving and authorizing the City Manager to execute a reimbursement agreement with the Marin Municipal Water District for Bid Schedule C of the construction contract and construction management of the Third Street Rehabilitation Project.

Or,

5. Do not adopt the resolutions and provide further direction to staff.

RECOMMENDED ACTION: Adopt the resolutions.

ATTACHMENT:

1. Resolution awarding the construction agreement to Ghilotti Bros. Inc.
2. Resolution approving amendment to the professional services agreement with CSW/Stuber-Stroeh Engineering Group, Inc.
3. Amendment to the Professional Services Agreement with CSW/Stuber-Stroeh Engineering Group, Inc for Professional Services for the Third Street Rehabilitation Project, and corresponding Exhibit A (revised scope of work)
4. Resolution approving the reimbursement agreement with the San Rafael Sanitation District for the contract and construction management of the Third Street Rehabilitation Project.
5. Reimbursement agreement executed between the City and San Rafael Sanitation

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 6

District.

6. Resolution approving the reimbursement agreement with the Marin Municipal Water District for the contract and construction management of the Third Street Rehabilitation Project.
7. Reimbursement agreement executed between the City and Marin Municipal Water District.
8. Correspondence

RESOLUTION NO.

RESOLUTION OF THE SAN RAFAEL CITY COUNCIL AWARDDING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONSTRUCTION AGREEMENT FOR THE THIRD STREET REHABILITATION PROJECT TO GHILOTTI BROS. INC., IN THE AMOUNT OF \$18,248,707.54, AND AUTHORIZING CONTINGENCY FUNDS IN THE AMOUNT OF \$2,551,292.46 FOR A TOTAL APPROPRIATED AMOUNT OF \$20,800,000.

WHEREAS, the City desires to implement safety improvements along the Third Street corridor from Union Street to Miracle Mile; and

WHEREAS, the Transportation Authority of Marin (TAM) allocated Measure A and AA funding to the City for the Third Street Rehabilitation Project; and

WHEREAS, on the 10th day of January 2022, pursuant to due and legal notice published in the manner provided by law, inviting sealed bids or proposals for the work hereinafter mentioned, as more fully appears from the Affidavit of Publication thereof on file in the office of the City Clerk of the City of San Rafael, California, the City Clerk of said City did publicly open, examine, and declare all sealed bids or proposals for doing the following work in said City, to wit:

“Third Street Rehabilitation Project”

City Project No. 11315

in accordance with the plans and specifications therefore on file in the office of the Department of Public Works; and

WHEREAS, the bid of \$18,248,707.54 from Ghilotti Bros. Inc., at the unit prices stated in its bid, was and is the lowest bid for said work and said bidder is the lowest responsible bidder; and

WHEREAS, staff has recommended an additional 12% of the bid price for a contingency in the amount of \$2,551,292.46;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES as follows:

1. The plans and specifications for the “Third Street Rehabilitation Project”, City Project No. 11315 on file in the Department of Public Works, are hereby approved.

2. The bid of Ghilotti Bros., Inc. is hereby accepted at the unit prices stated in its bid, and the contract for said work and improvements is hereby awarded to Ghilotti Bros., Inc., at the stated unit prices.

3. The City Manager is authorized and directed to execute a contract with Ghilotti Bros. Inc., for the bid amount, subject to final approval as to form by the City Attorney, and to return the bidder's bond upon the execution of the contract.

4. Funds totaling \$20,800,000, which includes the construction award amount and contingency, will be appropriated for City Project No. 11315, as follows: \$10,485,806 from Transportation Authority of Marin(TAM) Measures A and AA funding; \$4,779,700 from San Rafael Sanitation District reimbursement agreement; \$3,715,328 from Marin Municipal Water District reimbursement agreement; \$1,524,166 from City's Gas Tax Fund #206; \$290,000 from City's Traffic Mitigation Fund #246; and \$122,000 from the Technology Fund.

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

I, **Lindsay Lara**, Clerk of the City of San Rafael, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the City Council of said City held on Monday, the 7th of February 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

File No.: 16.01.283

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST
AMENDMENT TO THE AGREEMENT WITH CSW/STUBER-STROEH ENGINEERING
GROUP, INC. FOR ADDITIONAL CONSTRUCTION SUPPORT SERVICES, IN AN
ADDITIONAL CONTRACT AMOUNT NOT TO EXCEED \$117,000**

WHEREAS, pursuant to City Council Resolution No. 14744, the City of San Rafael and CSW/Stuber-Stroeh Engineering Group, Inc. entered into a Professional Services Agreement dated November 18, 2019 for engineering design and environmental clearance services associated with the Third Street Rehabilitation Project in the amount not to exceed \$925,782 (the "Agreement"); and

WHEREAS, the City requires additional construction support services from CSW/Stuber-Stroeh Engineering Group, Inc. to cover the engineering and design construction support needed during the construction phase of the project; and

WHEREAS, staff received a proposal from CSW/Stuber-Stroeh Engineering Group, Inc. for the additional required services in a total amount not to exceed \$117,000; and

WHEREAS, staff has reviewed their proposal and found it to be complete and within industry standards; and

WHEREAS, \$117,000 will be appropriated from the Transportation Authority of Marin Measure A and AA for major roadways;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL

RESOLVES as follows:

1. The Council hereby approves and authorizes the City Manager to execute a First Amendment to the Professional Services Agreement with CSW/Stuber-Stroeh Engineering Group, Inc. for additional construction support services in connection with the associated with the Third Street Rehabilitation Project, in the amount of \$117,000 and a revised total contract value not to exceed \$1,042,782, in the form

included with the staff report supporting this resolution, subject to final approval as to form by the City Attorney.

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

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City on Monday, the 7th day of February 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**FIRST AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH
CSW/STUBER-STROEH ENGINEERING GROUP, INC. FOR
PROFESSIONAL SERVICES FOR THE
THIRD STREET REHABILITATION PROJECT**

THIS FIRST AMENDMENT to the Professional Services Agreement by and between the **CITY OF SAN RAFAEL** (hereinafter “**CITY**”), and **CSW/STUBER-STROEH ENGINEERING GROUP, INC.**, (hereinafter “**CONSULTANT**”), is made and entered into as of the _____ day of _____, 2022.

RECITALS

WHEREAS, pursuant to City Council Resolution No.14744, the **CITY** and **CONSULTANT** entered into a Professional Services Agreement dated November 18, 2019 for engineering design and environmental clearance services associated with the **CITY’S** Third Street Rehabilitation project, for an amount not to exceed \$925,782 (the “Agreement”); and

WHEREAS, the **CITY** requires construction support, monument preservation, and culvert repair support services from the **CONSULTANT** during the construction phase, and the **CONSULTANT** is willing to provide such services. These additional services will result in a First Amendment for an amount not to exceed of \$117,000 and increases the total not to exceed under the Agreement to \$1,042,782,

AMENDMENT TO AGREEMENT

NOW, THEREFORE, the parties hereby agree to amend the Agreement as follows:

1. Section 2 of the Agreement, entitled “DUTIES OF CONTRACTOR” is hereby amended to include the additional services set forth in **CONSULTANT’S** proposal entitled “Additional Construction Support Services” dated January 18, 2022, attached to this First Amendment as Exhibit “A” and incorporated herein by reference.
2. Section 4 of the Agreement, entitled “COMPENSATION” is hereby amended to include additional compensation payable to **CONSULTANT** for the services described in Exhibit “A” to this First Amendment, on a time and

materials basis in accordance with the "Additional Construction Support Services" included in Exhibit "A", in a not-to-exceed amount of \$117,000, and to change the total not-to-exceed amount under the Agreement to \$1,042,782.


3. Except as specifically amended herein, all the other provisions, terms, and obligations of the Agreement between the parties shall remain valid and shall be in full force.

IN WITNESS WHEREOF, the parties have executed this First Amendment on the day, month, and year first above written.

CITY OF SAN RAFAEL

CONSULTANT:

JIM SCHUTZ, City Manager

By:  _____


ATTEST:

Name: Robert Stevens _____

LINDSAY LARA, City Clerk

Title: President/CEO _____

APPROVED AS TO FORM

and
By:  _____

ROBERT F. EPSTEIN, City Attorney

Name: Linda Schmid _____

Title: CFO _____



January 18, 2022

April Miller, PE
City Engineer
City of San Rafael
111 Morphew Street
San Rafael, CA 94901

Subject: Additional Construction Support Services Proposal for the Third Street Rehabilitation

Dear Ms. Miller:

Thank you for the opportunity to support your team and the San Rafael community in the rehabilitation of Third Street. The following are construction phase services that our team proposes to offer to support the project's construction.

- 1. Construction Support Services.** CSW|ST2, Parisi Transportation Consulting, and WRT will support the construction process including reviewing submittals, respond to contractor questions, provide technical guidance, visit the site on ten (10) occasions during construction, and prepare a punch list near the completion of construction. We will assist the City coordinating public utility relocations as well as confirm that the contractor's traffic management and construction mitigation plans are consistent with the contract documents. Our team will provide specialized support for inspection of the fiber optic construction.

Our team will provide the following: A final set of construction drawings and specifications incorporating all changes made during the bid process. Review submittals in electronic format. Responses to requests for information in narrative and drawing format. Reports of our field observations.

- 2. Monument Preservation.** The proposed improvement could impact the nearly 50 survey monuments (recorded and unrecorded) located along Third Street. In accordance with California law, CSW|ST2 will identify and find in the field these monuments and provide three permanent reference points (nail and brass tag marked PLS 9387) that can be used in the future to replace any monument that is disturbed or destroyed during the construction process. If multiple monuments are found in the same vicinity, we will use the same reference points to maximize efficiency

Once we have found all the monuments, we will create Pre-Construction Corner Records for each monument (or multiple monuments on a single corner record if in direct vicinity of one another). This pre-construction corner record will show the surveyed location of the monument being preserved with ties stating the distance and angle to each reference point. We will submit the

completed Corner Records to Marin County Department of Public Works for recording. We will provide PDFs and/or TIF files of the finalized Corner Records to the City for your record.

Our team will provide the following: Reference points set in the field tagged by a licensed land surveyor to allow preservation of any monument that may be disturbed during the construction process. A signed and stamped PDF or TIF file of each Pre-Construction Corner Record will be provided to the City once approved by the County Surveyor. Corner Record will be provided on the standard Corner Record form and prepared on an 8.5"x11" sheet at an appropriate engineering scale.

- 3. Culvert Repair Support.** During the design phase, our team retained Voss Laboratories to complete a field evaluation of the concrete in the concrete culvert below Second Street. Voss completed the analysis and provided general recommendations to path the culvert, which we incorporated into the bid documents. We recommend retaining Voss to provide additional details and support the repairs during construction.

SCHEDULE

This project will require about 1.5 years to complete with work commencing in March 2022 and completing in late 2023.

COMPENSATION

We will perform these services on a time and materials basis for a total not to exceed value of \$ 117,000. Note that the total design and construction support fee is about 6% of the \$18 million construction cost. A summary of the costs per task include:

Task	Description	Fee
1A	CSW ST2 Construction Support	\$ 35,000
1B	Parisi Transportation Consulting Construction Support	\$ 17,000
1C	WRT Construction Support Services	\$ 15,000
2	CSW ST2 Monument Preservation	\$ 30,000
3	Culvert Repair Support	\$ 20,000

If I can provide any additional information, please contact Robert at 415.533.1864 or rstevens@cswst2.com.

Sincerely,



Robert Stevens, PE, TE
Project Manager

BILLING RATE SCHEDULE

Effective January 1, 2022 – December 31, 2022

ENGINEERING SERVICES HOURLY RATES

Senior Engineer	\$ 180.00
Engineer I, II, III	\$ 129.00, \$ 157.00, \$ 175.00
Technician	\$ 118.00
Engineering Assistant	\$91.00

SURVEY SERVICES HOURLY RATES

Senior Surveyor	\$180.00
Surveyor I, II, III	\$ 129.00, \$ 157.00, \$ 175.00
Technician	\$ 118.00
Surveying Assistant	\$91.00
Two Person Survey Party	\$ 283.00
One Person Survey Party	\$ 195.00
Aerial Drone Surveyor	\$ 195.00

OTHER PROFESSIONAL RATES

Principal	\$ 231.00 - \$ 258.00
Associate Principal	\$ 221.00
Project Manager	\$ 196.00 - \$ 216.00
Construction Manager	\$ 211.00
Resident Engineer	\$ 155.00
Technical Writer	\$ 124.00
Graphic Illustrator	\$ 118.00
Project Assistant	\$ 91.00

- All expenses for transportation (mileage, bridge fare, etc.) will be charged at the Internal Revenue Service rate plus 10%.
- Filing fees, checking fees, prints, and other outside costs (such as agency submittal/permit fees etc.) will be charged at cost, plus service charges at the rate of 10%.
- Billing will be monthly net 30 days.

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A
REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF SAN RAFAEL AND SAN
RAFAEL SANITATION DISTRICT FOR BID SCHEDULE B OF THE CONSTRUCTION
CONTRACT AND CONSTRUCTION MANAGEMENT OF
THE THIRD STREET REHABILITATION PROJECT**

WHEREAS, the City desires to implement safety improvements along the Third Street corridor from Union Street to Miracle Mile; and

WHEREAS, the San Rafael Sanitation District also had an infrastructure project planned within the project limits of the Third Street Rehabilitation Project; and

WHEREAS, the City and San Rafael Sanitation District agreed to collaborate as one joint project to minimize construction duration and reduce the overall impacts to the community; and

WHEREAS, staff went out to bid for the joint project and received a low bid from Ghilotti Bros. Inc., for the construction of the Third Street Rehabilitation Joint Project; and

WHEREAS, the City Council has awarded the construction contract for the Third Street Rehabilitation Project to Ghilotti Bros., Inc.; and

WHEREAS, the San Rafael Sanitation District is proposing to reimburse the City for the cost of construction for Bid Schedule B from the construction contract with Ghilotti Bros., Inc. using the construction schedule of values, which is all work associated with the San Rafael Sanitation District pipeline project with contingency in an amount not to exceed \$4,400,000, \$199,000 for Construction Management and Inspection, pavement restoration contributions of \$180,700, and the actual cost of material testing associated with the pipeline project by way of Reimbursement Agreement;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL

RESOLVES as follows:

1. The City Council hereby approves and authorizes the City Manager to execute the Reimbursement Agreement between the San Rafael Sanitation District and

the City for the cost of construction for Bid Schedule B from the construction contract with Ghilotti Bros., Inc. with contingency in an amount not to exceed \$4,400,000 using the construction schedule of values, \$199,000 for Construction Management and Inspection, and \$180,700 for pavement restoration, which agreement is included with the staff report supporting this resolution, subject to final approval as to form by the City Attorney.

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

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City on Monday, the 7th day of February 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**REIMBURSEMENT AGREEMENT BETWEEN
THE CITY OF SAN RAFAEL AND SAN RAFAEL SANITATION DISTRICT
FOR CONTRACT AND CONSTRUCTION MANAGEMENT OF THE
THIRD STREET REHABILITATION PROJECT**

THIS REIMBURSEMENT AGREEMENT (“AGREEMENT”) is made and entered into this ____ day of _____ 2021, by and between the CITY OF SAN RAFAEL, hereinafter referred to as “CITY”, and the SAN RAFAEL SANITATION DISTRICT, hereinafter referred to as “SRSD”, both located in the State of California, collectively the “PARTIES”;

For good and valuable consideration, the PARTIES agree as follows:

SECTION 1: RECITALS.

- A. CITY plans to conduct corridor improvements along Third Street starting at Union Street and continuing to Second Street and along Second Street from Shaver Street to 4th Street, hereinafter the “ROADWAY PROJECT”.
- B. As part of the ROADWAY PROJECT, the CITY will resurface the roadway along this identified portion of Third Street.
- C. SRSD plans to replace and/or repair sewer facilities within the identified portion of Third Street and Miramar Avenue, hereinafter the “PIPELINE PROJECT”, in advance of the CITY’s final roadway resurfacing associated with the ROADWAY PROJECT.
- D. For efficiency, SRSD has requested the CITY combine the PIPELINE PROJECT with the ROADWAY PROJECT resulting in a JOINT PROJECT and the CITY will manage integration of design plans, the bidding and award of the JOINT PROJECT.
- E. SRSD has separately contracted with the CITY’S design consultants CSW/ STUBER-STROEH ENGINEERING GROUP, INC. and KIMLEY HORN AND ASSOCIATES, INC. for the preparation of final bid documents prepared by the consultant.
- F. The CITY has filed for a CEQA exemption which discussed a JOINT PROJECT and is in the process of preparing design plans for the ROADWAY PROJECT.
- G. The San Rafael City Council and the Board of Directors of SRSD wish to enter into this AGREEMENT and collaborate for the completion of construction bid documents, Caltrans encroachment permit, solicitation of contractor bids, and construction for the JOINT PROJECT.
- H. The AGREEMENT provides that the CITY will manage the integration of design plans, Caltrans encroachment permit, and the bidding and the award of the JOINT PROJECT contract to the lowest responsive bidder, hereinafter referred to as “CONTRACTOR”.
- I. CITY and SRSD wish to enter into this AGREEMENT to clarify the allocation of costs associated with the construction, management, and administration of the PIPELINE PROJECT.

4. Construction Inspection of PIPELINE PROJECT and Procurement of Pipeline Materials; and
 5. Material testing services for the PIPELINE PROJECT, including, but not limited to, trench subgrade and backfill compaction and asphalt testing.
- C. The PARTIES agree and understand that as part of the JOINT PROJECT, there are various best practices and mitigation measures, that have associated costs, including but not limited to, the preparation of a construction risk management plan and traffic management plan.

SECTION 4: DUTIES OF CITY

- A. The CITY shall administer a public bid to construct the JOINT PROJECT with a separate bid item for the PIPELINE PROJECT, the plans and specifications for which are incorporated into CITY plans and specifications. Prior to including the PIPELINE PROJECT plans and specifications in the public bid, SRSD will review and provide any revisions to CITY for inclusion in the CITY plans and specifications. Prior to award and entering into a construction contract for the JOINT PROJECT, the CITY shall receive written authorization from SRSD of acceptance of the CONTRACTOR bid item or a portion of the CONTRACTOR'S bid item for the PIPELINE PROJECT.
- B. The CITY shall provide construction management for the JOINT PROJECT. CITY shall require CONTRACTOR to provide the CITY with Payment and Performance bonds for the JOINT PROJECT, all in accordance with the terms and conditions of the CITY contract, which shall be mutually agreed upon by the PARTIES, with the CONTRACTOR.
- C. CITY shall pay CONTRACTOR for the PIPELINE PROJECT in accordance with the unit bid prices and specifications approved by SRSD. No extra work on the PIPELINE PROJECT will be authorized by CITY or CONTRACTOR without prior written approval of SRSD. CONTRACTOR shall receive compensation for such SRSD approved extra work at the unit bid prices and in accordance with the specifications contained in the bid submitted by CONTRACTOR; insofar as such prices are applicable. Where existing contract bid items cannot be extended for payment of such SRSD approved extra work, a change order will be executed between CITY and CONTRACTOR only if such work and cost are authorized in advance by SRSD in writing. The request for approved extra work shall be sent to SRSD 's Project Manager, Tim Tran at Tim.Tran@cityofsanrafael.org.
- D. CITY or its representative shall be responsible for communicating SRSD's decisions regarding PIPELINE PROJECT to CONTRACTOR and coordinating the execution and implementation of SRSD decisions with CONTRACTOR on the PIPELINE PROJECT.
- E. CITY shall require CONTRACTOR to name SRSD as an additional insured on all insurance required to be obtained, including but not limited to CONTRACTOR general liability and automobile policies, and shall require that CONTRACTOR indemnify SRSD to the same extent as CITY under the JOINT PROJECT contract.
- F. CITY shall be responsible for the Project Administration and Construction Management of the JOINT PROJECT and will contract with a construction management firm, referred to herein as CONSULTANT, to provide these services. These services shall include: PIPELINE inspection, daily inspection reports, progress payment preparation, change

order preparation, schedule review, claims negotiation, meeting attendance, project reports, labor and wage compliance, utility coordination, project documentation, redline as-built plans, and overall project administration.

- G. CITY shall provide SRSD status updates and other Construction Management information needed to facilitate the construction of the PIPELINE PROJECT on a weekly or an "as needed" basis.
- H. CITY shall prepare and submit to SRSD invoices for CONTRACTOR costs associated with the PIPELINE PROJECT on a monthly basis.
- I. At the completion of the PIPELINE PROJECT, CITY shall prepare and submit invoice to SRSD for CONSULTANT costs associated with the construction management and administration of the PIPELINE PROJECT.

SECTION 5: DUTIES OF SRSD

- A. SRSD shall reimburse CITY for the PIPELINE PROJECT construction costs in accordance with the unit bid prices and specifications authorized in writing by SRSD. SRSD shall also reimburse CITY for any extra or changed work authorized by advanced written notice from SRSD's Project Manager, Tim Tran. SRSD shall review CITY progress payment estimates and provide CITY written notice approving or disapproving each progress payment estimate related to the PIPELINE PROJECT within fourteen (14) calendar days of SRSD receiving each progress payment estimate from CITY. SRSD will remit payment to CITY within twenty-one (21) calendar days following its approval of a PIPELINE PROJECT progress payment.
- B. SRSD shall review CONTRACTOR change orders for extra work on the PIPELINE PROJECT and provide CITY a written notice of approval or disapproval of extra work within three (3) days of receiving each request. SRSD shall be responsible for CONTRACTOR claims arising from SRSD's failure to timely approve or disapprove CONTRACTOR change orders for extra work.

SRSD shall be responsible for delays to the JOINT PROJECT which are a direct result of unavoidable delays in the work prosecution or completion of PIPELINE PROJECT. Unavoidable delays in the work prosecution or completion shall mean all delays resulting from causes beyond the CONTRACTOR'S control which they could not reasonably have anticipated and mitigated or avoided by the exercise of care, prudence, foresight, and diligence and which actually and necessarily cause a delay in the completion of the whole work. Any delay which results from SRSD changes in the amount of work to be done, the quantity of material to be furnished, or the schedule of other forces working concurrently for SRSD, shall be the responsibility of SRSD. Any delay caused by SRSD's or another PIPELINE PROJECT related utility's failure to provide for removal or relocation of existing main or trunkline utility facilities located on the construction site which are not identified with reasonable accuracy in the contract document, will be defined as right-of-way delays and will be paid for as outlined below.

Right-of-way delays will be considered unavoidable, and the responsibility of SRSD, to the extent that they actually and necessarily delay the CONTRACTOR'S completion of the whole work on the PIPELINE PROJECT. Unavoidable delays do not include delays caused directly or indirectly by the default, delay, or other breach of the CONTRACTOR or any subcontractor of the CONTRACTOR. Delays due to adverse weather conditions will be regarded as unavoidable only to the extent that they actually and necessarily cause a delay in completion of the whole work and to the extent that such condition could not reasonably have been anticipated and mitigated or avoided by the exercise of care, prudence, foresight, and diligence of the CONTRACTOR.

- C. In order to bear all costs associated with and arising from construction management and administration of the PIPELINE PROJECT within the JOINT PROJECT, SRSD shall reimburse CITY for 21.2% of all construction management CONSULTANT costs associated with the JOINT PROJECT. CITY shall prepare and submit an invoice for CONSULTANT costs at the completion of the PIPELINE PROJECT, which shall be paid within thirty (30) calendar days of receipt by SRSD.

Said reimbursement ratio of 21.2% was calculated based on the following estimate:
$$\frac{\$3,870,000 \text{ PIPELINE PROJECT IMPROVEMENTS}}{\$18,250,000 \text{ JOINT PROJECT IMPROVEMENTS}} = 21.2\%$$

SRSD shall reimburse CITY for CONSULTANT construction management and administration fees in the amount of \$199,000 at the completion of the PIPELINE PROJECT based upon the following calculation:

The CONSULTANT Construction Management fee is \$938,300 (excluding materials testing).
$$21.2\% \times \$938,300 = \$199,000$$

- D. PARTIES agree to work cooperatively to renegotiate cost sharing of CONSULTANT fees for construction management and administration should there be a change in these fees or scope of the PIPELINE PROJECT.
- E. SRSD shall reimburse CITY for administration and trench cost savings from restoring the pavement using a straight trench versus the standard t-cut trench section described in the Marin County Uniform Construction Standards 2018 for the pipeline within the CITY'S ROADWAY PROJECT limit. SRSD and City have agreed on an amount of \$3.82 per square foot of trench within pavement restoration area, which is a total of \$180,700. CITY shall prepare and submit an invoice for this amount at the completion of the PIPELINE PROJECT, which shall be paid within thirty (30) calendar days of receipt by SRSD. All surface restoration for other PIPELINE PROJECT work outside the ROADWAY PROJECT boundaries shall be restored per the Marin County Uniform Construction Standards 2018 and City of San Rafael Pavement Restoration Matrix dated June 30, 2021 upon installation of the pipeline and restoration of the roadway pavement.
- F. CITY shall provide inspection services for all construction of the PIPELINE PROJECT. SRSD shall review and approve all submittals required by the PIPELINE PROJECT specifications within ten (10) calendar days of receipt by SRSD.

- G. CITY shall provide materials testing services for the PIPELINE PROJECT, including, but not limited to materials testing of the trench subgrade, backfill, and asphalt compaction used for trench restoration. The CONSULTANT shall track materials testing services separately between the PIPELINE PROJECT contract work and the ROADWAY PROJECT contract work. CITY shall include actual material testing for PIPELINE PROJECT on monthly invoices to SRSD. Sewer trench backfill material including but not limited to, crushed rock, class 2 aggregate base, control density fill and hot mix asphalt shall be provided by the CONTRACTOR and shall be paid per the SRSD Bid Item price for said items.

SECTION 6: PARTNERING

- A. The PARTIES agree to participate in the Formal Collaborative Partnering Process described below with the project CONTRACTOR.
- B. Formal Collaborative Partnering for this project will start within 30 days of the issuance of the Notice to Proceed to CONTRACTOR and will include the following:
- a. CITY and CONTRACTOR will contract with an IPI Certified Independent Professional Neutral Partnering Facilitator;
 - b. A "Partnering Charter" containing the joint development of goals will be developed collaboratively between the CITY, MMWD, SRSD, and the CONTRACTOR;
 - c. A periodic, joint evaluation of the Partnering process;
 - d. Executive Level, Core Team, and Stakeholder Partnering;
 - e. A Partnering Follow-up Plan to resolve potential problems at the lowest possible level; and
 - f. A Training Plan for development of partnering skills.
- C. Participation in the formal partnering process will not void any portion of the contract. All rights and remedies set forth in the final contract will be preserved.

SECTION 7: MISCELLANEOUS TERMS

- A. Term of Agreement: This AGREEMENT shall terminate upon SRSD acceptance of the completed PIPELINE PROJECT, provided that SRSD reimbursement and CITY and SRSD indemnification duties shall continue following the end of such term.
- B. Termination: This AGREEMENT may be terminated, without cause, by either Party, upon thirty (30) calendar days advance written notice to the other Party following CITY rejection of bids as provided herein, and may be terminated, with cause, by either Party, upon thirty (30) calendar days advance written notice to the other Party following the

notified Party's failure to cure or correct the cause of termination notice, within thirty (30) calendar days receipt of that notice.

- C. Amendment and Merger: This AGREEMENT contains all the terms and conditions made between the PARTIES to this AGREEMENT and may only be modified by written AGREEMENT signed by all the PARTIES to this AGREEMENT or their respective successors-in-interest. This writing is intended both as a final expression of the AGREEMENT between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of this AGREEMENT. No modification of this AGREEMENT shall be effective unless and until such modification is evidenced by a writing signed by both PARTIES.
- D. Agreement Binding: The terms and provisions of this AGREEMENT shall extend to and be binding upon and inure to the benefit of the heirs, executors, and administrators or to any approved successor, as well as to any assignee or legal successor to any PARTIES to this AGREEMENT. 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.
- E. Cooperation: The PARTIES pledge cooperation during the term of this AGREEMENT.
- F. No Third-Party Beneficiaries: Nothing contained in this AGREEMENT shall be construed to create, and the PARTIES do not intend to create any rights in third parties.
- G. Severability: If any term, covenant or condition of this AGREEMENT or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remainder of this AGREEMENT or the application of such term, covenants or conditions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant and condition of this AGREEMENT shall be valid and be enforced to the fullest extent permitted by law.
- H. No Waiver: The waiver by either of the PARTIES of any default under this AGREEMENT shall not operate as a waiver of any subsequent breach of the same or any other provision of this AGREEMENT.
- I. Time is of the Essence: Time is of the essence with respect to the performance of every provision of this AGREEMENT for which time or performance is a factor. PARTIES agree to adhere to all deadlines stated in the approved project specifications.
- J. Mediation: Any dispute or claim in law or equity between the CITY and SRSD arising out of this AGREEMENT, if not resolved by informal negotiation between the PARTIES, shall be mediated. The mediation process shall continue until the case is resolved or until such time as the mediator makes a finding that there is no possibility of resolution. If mediation is unsuccessful, the PARTIES may avail themselves of any other remedies.
- K. Applicable Law: This AGREEMENT shall be construed and enforced in accordance with the laws of the State of California.

L. No Presumption Regarding Drafter: The PARTIES acknowledge and agree that the terms and provisions of this AGREEMENT have been negotiated and discussed between the PARTIES and their attorneys, and this AGREEMENT reflects their mutual AGREEMENT regarding the same. Because of the nature of the negotiations, and discussions it would be inappropriate to deem any Party to be the drafter of this AGREEMENT. Therefore, no presumption for or against validity, or as to any interpretation hereof, based upon the identity of the drafter, shall be applicable in interpreting or enforcing this AGREEMENT.

M. Assistance of Counsel: Each Party to this AGREEMENT warrants as follows:

- a. That each Party had the assistance of counsel in the negotiation for, and the execution of, this AGREEMENT and all related documents; and
- b. That each Party has lawfully authorized the execution of this AGREEMENT.

N. Section Headings: The section headings contained in this AGREEMENT are for convenience and identification only and shall not be deemed to limit or define the contents of the sections to which they relate.

O. Counterparts and Electronic Signatures: 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 hereto have executed this AGREEMENT by their duly authorized officers as of the day and year first above written.

CITY OF SAN RAFAEL

SAN RAFAEL SANITATION DISTRICT

Jim Schutz, City Manager



Doris Toy, District Manager/District Engineer

ATTEST:

ATTEST:

By: _____
Lindsay Lara, City Clerk

By: 

Cindy Hernandez, District Secretary

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Robert Epstein, City Attorney

By: 

Kerry L. Gerchow, Deputy County Counsel

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A
REIMBURSEMENT AGREEMENT WITH THE MARIN MUNICIPAL WATER DISTRICT
FOR BID SCHEDULE C OF THE CONSTRUCTION CONTRACT AND
CONSTRUCTION MANAGEMENT FOR THE THIRD STREET REHABILITATION
PROJECT**

WHEREAS, the City desires to implement safety improvements along the Third Street corridor from Union Street to Miracle Mile; and

WHEREAS, the Marin Municipal Water District also had an infrastructure project planned within the project limits of the Third Street Rehabilitation Project; and

WHEREAS, the City and Marin Municipal Water District agreed to collaborate as one joint project to minimize construction duration and reduce the overall impacts to the community; and

WHEREAS, staff went out to bid for the joint project and received a low bid from Ghilotti Bros. Inc., for the construction of the Third Street Rehabilitation Joint Project; and

WHEREAS, the City Council has awarded the construction contract for the Third Street Rehabilitation Project to Ghilotti Bros., Inc.; and

WHEREAS, the Marin Municipal Water District is proposing to reimburse the City for the cost of construction for Bid Schedule C from the construction contract with Ghilotti Bros., Inc. using the construction schedule of values which is all work associated with the Marin Municipal Water District pipeline project with contingency in an amount not to exceed \$3,400,000, \$155,757 for Construction Management and Inspection, and pavement restoration contributions of \$159,570.95 by way of Reimbursement Agreement;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL
RESOLVES** as follows:

1. The City Council hereby approves and authorizes the City Manager to execute the Reimbursement Agreement between the Marin Municipal Water District and the City for the cost of construction for Bid Schedule C from the construction

contract with Ghilotti Bros., Inc. with contingency in an amount not to exceed \$3,400,000 using the construction schedule of values, \$196,275 for Construction Management and Inspection, and \$159,570.95 for pavement restoration which agreement is included with the staff report supporting this resolution, subject to final approval as to form by the City Attorney.

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

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City on Monday, the 7th day of February 2022 by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**REIMBURSEMENT AGREEMENT BETWEEN
THE CITY OF SAN RAFAEL AND MARIN MUNICIPAL WATER DISTRICT
FOR CONTRACT AND CONSTRUCTION MANAGEMENT OF THE
THIRD STREET REHABILITATION PROJECT**

THIS REIMBURSEMENT AGREEMENT (“AGREEMENT”) is made and entered into this ____ day of _____ 2022, by and between the CITY OF SAN RAFAEL, hereinafter referred to as “CITY”, and the MARIN MUNICIPAL WATER DISTRICT, hereinafter referred to as “MMWD”, both located in the State of California, collectively the “PARTIES”;

For good and valuable consideration, the PARTIES agree as follows:

SECTION 1: RECITALS.

- A. CITY plans to conduct corridor improvements along Third Street starting at Union Street and continuing to Second Street and along Second Street from Shaver Street to 4th Street, hereinafter the “ROADWAY PROJECT”,
- B. As part of the ROADWAY PROJECT the CITY will resurface the roadway along this identified portion of Third Street.
- C. MMWD plans to replace and/or repair water supply facilities within the identified portion of Third Street, hereinafter the “PIPELINE PROJECT”, in advance of the CITY’s final roadway resurfacing associated with the ROADWAY PROJECT.
- D. For their mutual benefit, the PARTIES agreed to a Memorandum of Understanding on February 26, 2021 (“MOU”), which combined the PIPELINE PROJECT with the ROADWAY PROJECT resulting in a “JOINT PROJECT”.
- E. The MOU provides that the CITY will manage the integration of design plans, Caltrans encroachment permit, and the bidding and the award of the JOINT PROJECT contract to the lowest responsive bidder, hereinafter referred to as “CONTRACTOR”.
- F. CITY and MMWD wish to enter into this AGREEMENT to clarify the allocation of costs associated with the construction, management, and administration of the PIPELINE PROJECT.

SECTION 2: PROJECT COORDINATION

- A. All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and given by personal delivery, or deposited with the United States Postal Service, postage prepaid, addressed to the parties named in this Section. 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.

To: MMWD
Ben Horenstein
General Manager
Marin Municipal Water District
220 Nellen Avenue
Corte Madera, CA 94925

To: CITY
Bill Guerin
Public Works Director
City of San Rafael
111 Morphew Street
San Rafael, CA 94901

- B. MMWD. The General Manager shall be the representative of MMWD for all purposes under this AGREEMENT. Ben Horenstein is hereby designated as the Project Director for MMWD. MMWD's Project Director shall be responsible for all aspects of the progress and execution of this AGREEMENT on behalf of MMWD.
- C. CITY. The Public Works Director shall be the representative of CITY for all purposes under this AGREEMENT. Bill Guerin, the Public Works Director, is hereby designated as the Project Director for CITY. CITY's Project Director shall be responsible for all aspects of the progress and execution of this AGREEMENT on behalf of CITY.
- D. The Public Works Director is hereby declared to be the authorized CITY representative in administering this AGREEMENT. The MMWD General Manager is hereby declared to be the authorized MMWD representative in administering this AGREEMENT. Either Party may change its designated representative by providing written notice of the same to the other Party.

SECTION 3: SCOPE OF AGREEMENT

- A. The PARTIES acknowledge and agree that the sole purpose of this AGREEMENT is to set forth the PARTIES' responsibilities regarding the construction, management, inspection, and administration of the PIPELINE PROJECT portion of the JOINT PROJECT and to set forth the amount that MMWD will reimburse the City for its costs associated with the construction, management, and administration of the PIPELINE PROJECT.
- B. The PARTIES agree that the services needed for the construction contracting, management, and administration of the PIPELINE PROJECT within the JOINT PROJECT include the tasks set forth below:
 - 1. Public Bidding of the Joint Project
 - 2. Construction management services of PIPELINE PROJECT;
 - 3. Payment to CONTRACTOR for PIPELINE PROJECT;
 - 4. Construction Inspection of PIPELINE PROJECT and Procurement of Pipeline Materials; and
 - 5. Material testing services for the PIPELINE PROJECT, including, but not limited to, trench subgrade and backfill compaction and asphalt testing.
- C. The PARTIES agree and understand that as part of the JOINT PROJECT there are various best practices and mitigation measures that have associated costs, including, but not limited to, the preparation of a construction risk management plan and traffic management plan.

SECTION 4: DUTIES OF CITY

- A. The CITY shall administer a public bid to construct the JOINT PROJECT with a separate bid item for the PIPELINE PROJECT, the plans and specifications for which are incorporated into CITY plans and specifications. Prior to including the PIPELINE PROJECT plans and specifications in the public bid, MMWD will review and provide any revisions to CITY for inclusion in the CITY plans and specifications. Prior to award and entering into a construction contract for the JOINT PROJECT, the CITY shall receive written authorization from MMWD of acceptance of the CONTRACTOR bid item or a portion of the CONTRACTOR'S bid item for the PIPELINE PROJECT.
- B. The CITY shall provide construction management for the JOINT PROJECT. CITY shall require CONTRACTOR to provide the CITY with Payment and Performance bonds for the ROADWAY PROJECT, all in accordance with the terms and conditions of the CITY contract. The CITY shall also require CONTRACTOR to provide MMWD with Payment, Performance, and Maintenance bonds for the PIPELINE PROJECT, all in accordance with the terms and conditions of the CITY contract, which shall be mutually agreed upon by the PARTIES, with the CONTRACTOR.
- C. CITY shall pay CONTRACTOR for the PIPELINE PROJECT in accordance with the unit bid prices and specifications approved by MMWD. No extra work on the PIPELINE PROJECT will be authorized by CITY or CONTRACTOR without prior written approval of MMWD. CONTRACTOR shall receive compensation for such MMWD approved extra work at the unit bid prices and in accordance with the specifications contained in the bid submitted by CONTRACTOR; insofar as such prices are applicable. Where existing contract bid items cannot be extended for payment of such MMWD approved extra work, a change order will be executed between CITY and CONTRACTOR only if such work and cost are authorized in advance by MMWD in writing. The request for approved extra work shall be sent to MMWD's Project Manager, Alex Anaya at aanaya@marinwater.org.
- D. CITY or its representative shall be responsible for communicating MMWD's decisions regarding PIPELINE PROJECT to CONTRACTOR and coordinating the execution and implementation of MMWD decisions with CONTRACTOR on the PIPELINE PROJECT.
- E. CITY shall require CONTRACTOR to name MMWD as an additional insured on all insurance required to be obtained, including but not limited to CONTRACTOR general liability and automobile policies, and shall require that CONTRACTOR indemnify MMWD to the same extent as CITY under the JOINT PROJECT contract.
- F. CITY shall be responsible for the Project Administration and Construction Management of the JOINT PROJECT and will contract with a construction management firm, referred to herein as CONSULTANT, to provide these services. These services shall include: general inspection (not including daily inspection by MMWD for PIPELINE work as set forth in section 5G below), progress payment preparation, change order preparation, schedule review, claims negotiation, meeting attendance, project reports, labor and wage compliance, utility coordination, project documentation, as-built plans (excluding redline as-builts of PIPELINE plan sheets prepared by MMWD inspectors), and overall project administration.

- G. CITY shall provide MMWD status updates and other Construction Management information needed to facilitate the construction of the PIPELINE PROJECT on a weekly or an "as needed" basis.
- H. CITY shall prepare and submit to MMWD invoices for CONTRACTOR costs associated with the PIPELINE PROJECT on a monthly basis.
- I. At the completion of the PIPELINE PROJECT, CITY shall prepare and submit invoice to MMWD for CONSULTANT costs associated with the construction management and administration of the PIPELINE PROJECT.

SECTION 5: DUTIES OF MMWD

- A. MMWD shall reimburse CITY for the PIPELINE PROJECT construction costs in accordance with the unit bid prices and specifications authorized in writing by MMWD. MMWD shall also reimburse CITY for any extra or changed work authorized by advanced written notice from MMWD's Project Manager, Alex Anaya. MMWD shall review CITY progress payment estimates and provide CITY written notice approving or disapproving each progress payment estimate related to the PIPELINE PROJECT within 14 calendar days of MMWD receiving each progress payment estimate from CITY. MMWD will remit payment to CITY within 21 calendar days following its approval of a PIPELINE PROJECT progress payment.
- B. MMWD shall review CONTRACTOR change orders for extra work on the PIPELINE PROJECT and provide CITY a written notice of approval or disapproval of extra work within three (3) days of receiving each request. MMWD shall be responsible for CONTRACTOR claims arising from MMWD failure to timely approve or disapprove CONTRACTOR change orders for extra work.

MMWD shall be responsible for delays to the JOINT PROJECT which are a direct result of unavoidable delays in the work prosecution or completion of the PIPELINE PROJECT. Unavoidable delays in the work prosecution or completion shall mean all delays resulting from causes beyond the CONTRACTOR'S control which they could not reasonably have anticipated and mitigated or avoided by the exercise of care, prudence, foresight, and diligence and which actually and necessarily cause a delay in the completion of the whole work. Any delay which results from MMWD changes in the amount of work to be done, the quantity of material to be furnished, or the schedule of other forces working concurrently for MMWD, shall be the responsibility of MMWD. Any delay caused by MMWD's or another PIPELINE PROJECT-related utility's failure to provide for removal or relocation of existing main or trunkline utility facilities located on the construction site which are not identified with reasonable accuracy in the contract document, will be defined as right-of-way delays and will be paid for as outlined below. Right-of-way delays will be considered unavoidable, and the responsibility of MMWD, to the extent that they actually and necessarily delay the CONTRACTOR'S completion of the whole work on the PIPELINE PROJECT. Unavoidable delays do not include delays caused directly or indirectly by the default, delay, or other breach of the CONTRACTOR or any subcontractor of CONTRACTOR. Delays due to adverse weather conditions will be regarded as unavoidable only to the extent that they actually

and necessarily cause a delay in completion of the whole work and to the extent that such condition could not reasonably have been anticipated and mitigated or avoided by the exercise of care, prudence, foresight, and diligence of the CONTRACTOR.

- C. In order to bear all costs associated with and arising from construction management and administration of the PIPELINE PROJECT within the JOINT PROJECT, MMWD shall reimburse CITY for 16.6% of all construction management CONSULTANT costs associated with the JOINT PROJECT. CITY shall prepare and submit an invoice for CONSULTANT costs at the completion of the PIPELINE PROJECT, which shall be paid within 30 calendar days of receipt by MMWD.

Said reimbursement ratio of 16.6% was calculated based on the following estimate:

$$\frac{\$3,025,275 \text{ PIPELINE PROJECT IMPROVEMENTS}}{\$18,248,707.54 \text{ JOINT PROJECT IMPROVEMENTS}} = \underline{16.6\%}$$

MMWD shall reimburse CITY for CONSULTANT construction management and administration fees in the amount of \$155,757 at the completion of the PIPELINE PROJECT based upon the following calculation:

The CONSULTANT Construction Management fee is \$938,300 (excluding materials testing).

$$\underline{16.6\%} \times \$938,300 = \underline{\$155,757.}$$

- D. PARTIES agree to work cooperatively to renegotiate cost sharing of CONSULTANT fees for construction management and administration should there be a change in these fees or scope of the PIPELINE PROJECT.
- E. MMWD shall reimburse CITY for 16.6% of all costs associated with and arising from Water Pollution Control and the Project Schedule of the PIPELINE PROJECT within the JOINT PROJECT. CITY shall prepare and submit an invoice for these construction costs at the completion of the PIPELINE PROJECT, which shall be paid within 30 calendar days of receipt by MMWD.
- F. MMWD shall reimburse CITY for administration and trench cost savings from restoring the pavement using a straight trench versus the standard t-cut trench section described in the Marin County Uniform Construction Standards 2018 for the pipeline installed within the CITY'S ROADWAY PROJECT limit. MMWD and CITY have agreed on an amount of \$3.82 per square foot of trench within pavement restoration area, which is a total of \$159,570.95. CITY shall prepare and submit an invoice for this amount at the completion of the PIPELINE PROJECT, which shall be paid within 30 calendar days of receipt by MMWD. All surface restoration for other PIPELINE PROJECT work outside the ROADWAY PROJECT boundaries shall be restored per the Marin County Uniform Construction Standards 2018 upon installation of the pipeline and restoration of the roadway pavement.
- G. MMWD shall provide inspection services, at MMWD'S cost, for all construction of the PIPELINE PROJECT. MMWD shall review and approve all submittals required by the PIPELINE PROJECT specifications within 10 calendar days of receipt by MMWD.

- H.** MMWD shall provide the water distribution system pipe materials for the PIPELINE PROJECT and materials testing services for the PIPELINE PROJECT, including, but not limited to materials testing of the trench subgrade, backfill, and asphalt compaction used for trench restoration, but excepting 14-inch steel casing and 8-inch fusible PVC pipe to be furnished by CONTRACTOR. Materials testing services shall be paid for by MMWD. MMWD shall provide all materials testing results to CONSULTANT within twenty-four (24) hours of receiving them. Water distribution system pipe backfill material including but not limited to, sand, class 2 aggregate base, control density fill and hot mix asphalt and 14-inch steel casing pipe and 8-inch fusible PVC pipe shall be furnished by the CONTRACTOR and shall be paid per the MMWD Bid Item price for said items.

SECTION 6: PARTNERING

- A.** The PARTIES agree to participate in the Formal Collaborative Partnering Process described below with the project CONTRACTOR.
- B.** Formal Collaborative Partnering for this project will start within 30 days of the issuance of the Notice to Proceed to CONTRACTOR and will include the following:
- a. CITY and CONTRACTOR will contract with an IPI Certified Independent Professional Neutral Partnering Facilitator;
 - b. A "Partnering Charter" containing the joint development of goals will be developed collaboratively between the CITY, MMWD, SRSD, and the CONTRACTOR;
 - c. A periodic, joint evaluation of the Partnering process;
 - d. Executive Level, Core Team, and Stakeholder Partnering;
 - e. A Partnering Follow-up Plan to resolve potential problems at the lowest possible level; and
 - f. A Training Plan for development of partnering skills.
- C.** Participation in the formal partnering process will not void any portion of the contract. All rights and remedies set forth in the final contract will be preserved.

SECTION 7: MISCELLANEOUS TERMS

- A.** Term of AGREEMENT: This AGREEMENT shall terminate upon MMWD acceptance of the completed PIPELINE PROJECT, provided that MMWD reimbursement and CITY and MMWD indemnification duties shall continue following the end of such term.
- B.** Termination: This AGREEMENT may be terminated, without cause, by either Party, upon thirty (30) calendar days advance written notice to the other Party following CITY rejection of bids as provided herein, and may be terminated, with cause, by either Party, upon thirty (30) calendar days advance written notice to the other Party following the

notified Party's failure to cure or correct the cause of termination notice, within thirty (30) calendar days receipt of that notice.

- C. Amendment and Merger: This AGREEMENT contains all the terms and conditions made between the PARTIES to this AGREEMENT and may only be modified by written AGREEMENT signed by all the PARTIES to this AGREEMENT or their respective successors-in-interest. This writing is intended both as a final expression of the AGREEMENT between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of this AGREEMENT. No modification of this AGREEMENT shall be effective unless and until such modification is evidenced by a writing signed by both PARTIES.
- D. Agreement Binding: The terms and provisions of this AGREEMENT shall extend to and be binding upon and inure to the benefit of the heirs, executors, and administrators or to any approved successor, as well as to any assignee or legal successor to any PARTIES to this AGREEMENT. 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.
- E. Cooperation: The PARTIES pledge cooperation during the term of this AGREEMENT.
- F. No Third-Party Beneficiaries: Nothing contained in this AGREEMENT shall be construed to create, and the PARTIES do not intend to create, any rights in third parties.
- G. Severability: If any term, covenant or condition of this AGREEMENT or the application thereof to any person or circumstance is determined to be invalid or unenforceable, the remainder of this AGREEMENT or the application of such term, covenants or conditions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant and condition of this AGREEMENT shall be valid and be enforced to the fullest extent permitted by law.
- H. No Waiver: The waiver by either of the PARTIES of any default under this AGREEMENT shall not operate as a waiver of any subsequent breach of the same or any other provision of this AGREEMENT.
- I. Time is of the Essence: Time is of the essence with respect to the performance of every provision of this AGREEMENT for which time or performance is a factor. PARTIES agree to adhere to all deadlines stated in the approved project specifications.
- J. Mediation: Any dispute or claim in law or equity between the County and MMWD arising out of this AGREEMENT, if not resolved by informal negotiation between the PARTIES, shall be mediated. The mediation process shall continue until the case is resolved or until such time as the mediator makes a finding that there is no possibility of resolution. If mediation is unsuccessful, the PARTIES may avail themselves of any other remedies.
- K. Applicable Law: This AGREEMENT shall be construed and enforced in accordance with the laws of the State of California.

L. No Presumption Regarding Drafter: The PARTIES acknowledge and agree that the terms and provisions of this AGREEMENT have been negotiated and discussed between the PARTIES and their attorneys, and this AGREEMENT reflects their mutual AGREEMENT regarding the same. Because of the nature of the negotiations, and discussions it would be inappropriate to deem any Party to be the drafter of this AGREEMENT. Therefore, no presumption for or against validity, or as to any interpretation hereof, based upon the identity of the drafter, shall be applicable in interpreting or enforcing this AGREEMENT.

M. Assistance of Counsel: Each Party to this AGREEMENT warrants as follows:

- a. That each Party had the assistance of counsel in the negotiation for, and the execution of, this AGREEMENT and all related documents; and
- b. That each Party has lawfully authorized the execution of this AGREEMENT.

N. Section Headings: The section headings contained in this AGREEMENT are for convenience and identification only and shall not be deemed to limit or define the contents of the sections to which they relate.

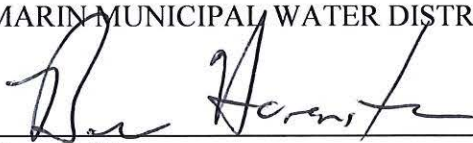
O. Counterparts and Electronic Signatures: This AGREEMENT may be executed by electronic signature and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one document. Counterpart signature pages may be delivered by telecopier, email or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

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT by their duly authorized officers as of the day and year first above written.

CITY OF SAN RAFAEL

MARIN MUNICIPAL WATER DISTRICT

Jim Schutz, City Manager



General Manager

ATTEST:

ATTEST:

By: _____
Lindsay Lara, City Clerk

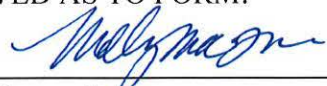
By: 

Board Secretary

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Robert Epstein, City Attorney

By: 

General Counsel



January 7, 2022

Bill Guerin
Director of Public Works
City of San Rafael
San Rafael, CA. 94901

RE: 2nd/3rd Street Improvements

Dear Bill,

We greatly appreciate the City's willingness to explore ways of saving the valuable London Plane tree in the 2nd Street median that greets those entering San Rafael from the west. We especially appreciate the efforts of April Miller to reach a solution, and her thorough response to Sustainable San Rafael's June 21 letter (attached).

We continue to believe that the key to such a solution lies in balancing the multiple civic values that must be integrated here—those of drivers, cyclists, pedestrians, parkers, neighborhoods, and not least, the contributions made by full-grown trees to the character and environmental health of Marin. Such trees are valuable members of our community.

Reducing the speed limit for these two blocks of 2nd and 3rd Streets to match the 25-mph posted for both streets through the rest of downtown would benefit all parties. Drivers, cyclists, and pedestrians would be safer. Danger would be lessened for people parking in the exposed spaces outboard of the new bike 'facility' (as all who have paralleled-parked on westbound Miracle Mile can attest). Finally, slower traffic would take less space to safely transition to the new street alignment east of the tree, retaining the full width of the existing median to the east dripline, and thereby saving the tree. (The attached DPW drawings clarify how shifting the transition north and perhaps shortening it could save the tree with little loss of parking.)

The reduced speed is further warranted by the reduced lane widths already planned. The additional street trees that are also planned will help signal drivers that it's time to slow down for downtown conditions, including more pedestrians, cyclists, and on-street parking. Saving this mature London Plane, positioned at the entrance of the City, is a first step towards calming traffic for a safe and enjoyable journey through San Rafael.

With the length of these two blocks apparently totaling about 1200 feet, the reduction in speed translates into an increased drive time of merely 9 seconds. We believe that saving this 50-year-old tree is well worth these few seconds of travel time. In our opinion, it is also worth a few parking spaces (2-4) that could be made up for by implementing parking strategies already in the Downtown Parking Study and the new Downtown Plan.

In addition to the many long-known benefits that trees bring to our community—natural beauty, human scale, replenished oxygen, stable property values, biodiversity—this particular tree also

models significant responses to the growing climate crisis. The London Plane is among the most effective species of street tree for drawing down the atmospheric carbon largely responsible for climate change and storing it in branches, roots, and soil. This tree alone sequesters about a ton of greenhouse gas every three years. Its broad deciduous leaves also provide cooling shade during our increasingly dangerous heat events, reducing summer heat islands, while allowing sunlight to warm winter sidewalks. In addition, the species survives and helps mitigate air pollution, particularly important as wildfire smoke becomes a more frequent climate impact.

As you know, Sustainable San Rafael has closely monitored and supported the overall Third Street Improvement Project since it began in 2017, with particular attention to the interests of pedestrians and the fate of the four median trees on Second Street. It therefore came as a surprise when the last and most valuable of these trees was eliminated from the drawings less than a year ago, in February 2021. We suggest that the loss of this beautiful tree is unnecessary, and is not responsive to the full constituency of San Rafael.

For all these reasons, we continue to urge the City to redouble its efforts to make this tree an example of the partnership that has now become critical to the survival of both people and nature. Again, thanks for your close attention to this important matter.

Sincerely,

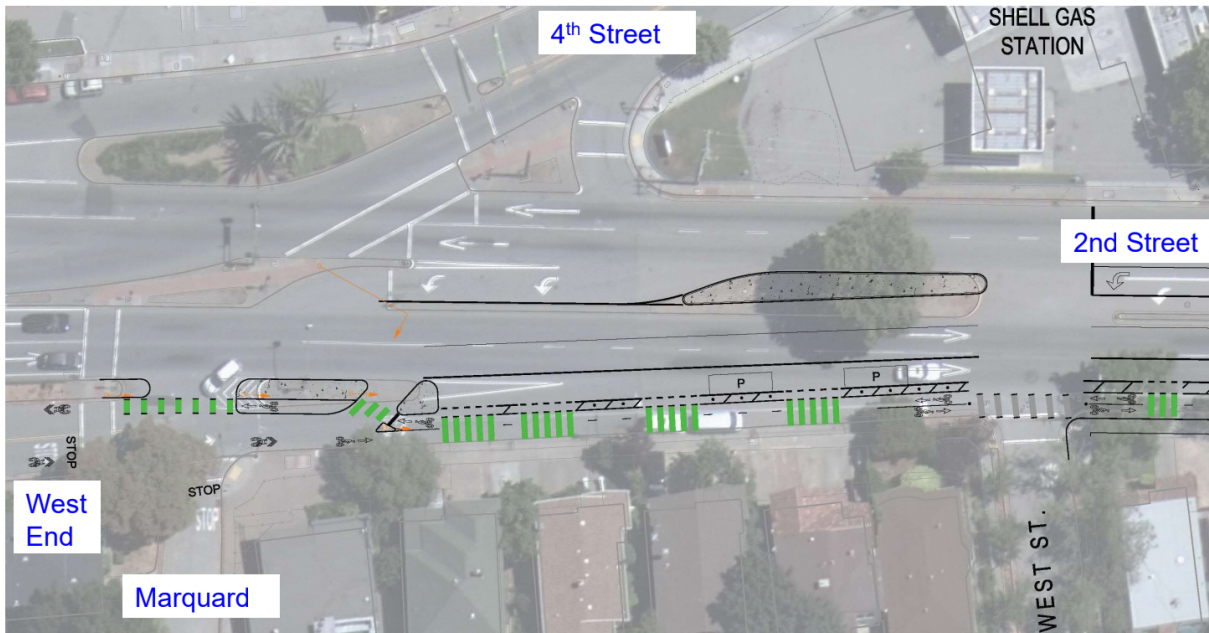
William Carney
President

Attachments:

DPW drawings showing alternative 2nd Street realignments
SSR letter, 6/21/21

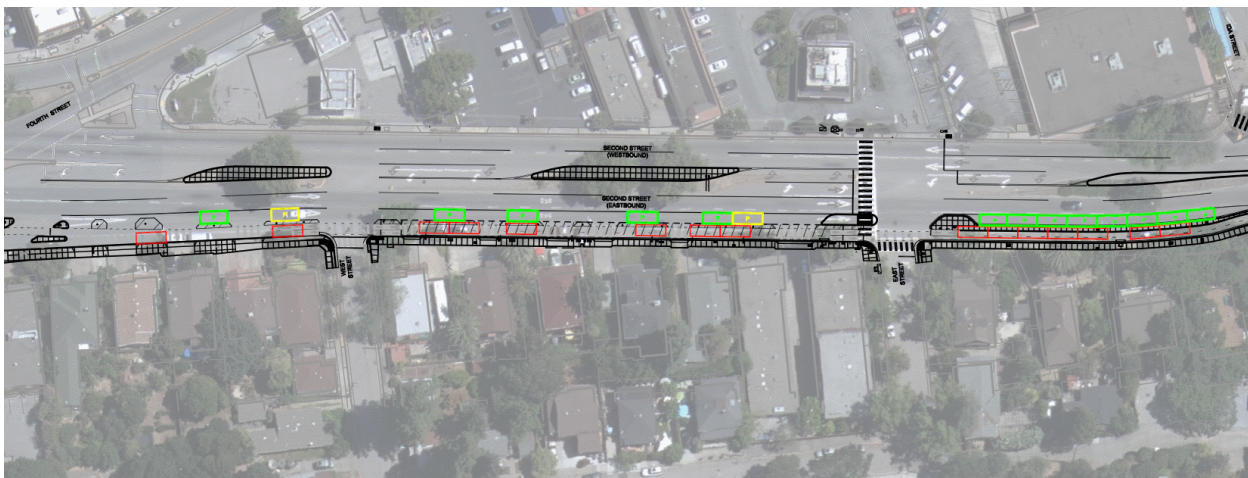
cc: Mayor Kate Colin, San Rafael City Council, Jim Schutz, Cory Bytof, Alicia Giudice, April Miller

2nd Street Interim Connection



Concept Design Exhibits

1. Current proposal eliminates beautiful London Plane tree by cutting a few feet into median to save 2 parking spaces between Marquard and West Streets. The 200' transition to a new lane alignment east of West St. takes place between Marquard and West Streets.

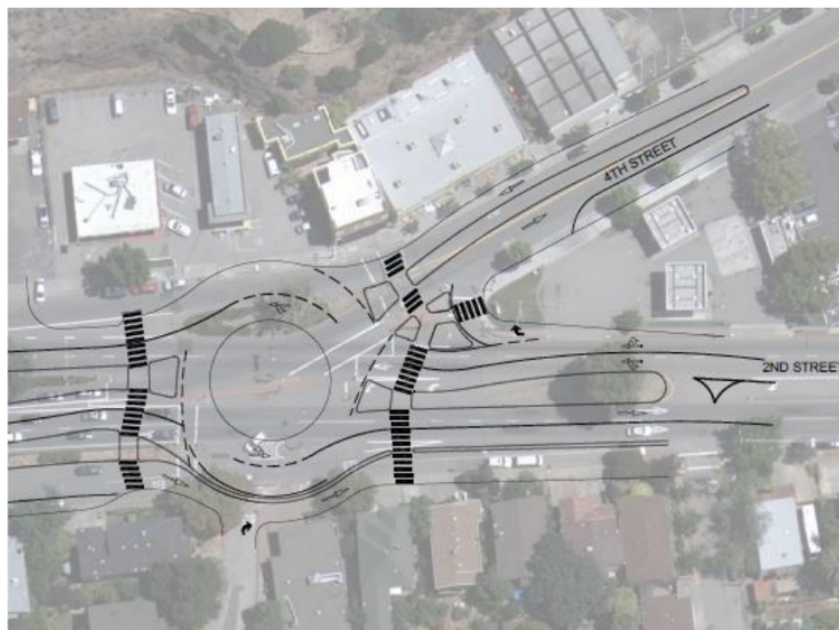


2. The same 200' transition could preserve the tree by starting at its east dripline, eliminating just 2 more parking spaces east of West Street. Reducing the speed limit from 35 to 25 mph (as elsewhere on 2nd St.) could increase safety and save another parking space.

Figure 22: East Street to Miracle Mile/ West End Avenue Proposed Project- Option B



3. An earlier DPW study shows a sharper transition, preserving both the tree and all the parking east of West Street. Even with the wider bike lane now proposed, a similar transition might work with slower speeds, saving the tree and losing only one additional parking space.



4. DPW conceptual sketch of the proposed 4th / 2nd Streets roundabout shows how this mature London Plane tree fits in, helps calm traffic, and marks the 2nd Street entry into San Rafael.



June 21, 2021

Bill Guerin
Director of Public Works
City of San Rafael
San Rafael, CA. 94901

RE: 2nd/3rd Street Improvements

Dear Bill,

With a construction manager on board, we hope that you will take another look at all possibilities for saving the valuable London Plane Tree in the 2nd Street median that welcomes those entering San Rafael from the west.

Following the last Council presentation on this project, I discussed several possibilities with project manager April Miller:

- Consider decreasing the speed along the combined section of 2nd and 3rd Streets for the two blocks east of the 4th Street intersection to 25 mph, which is the speed posted for the remaining portions of these two streets through downtown San Rafael. This would decrease the distance needed for traffic to transition to the new lane alignment proposed east of West Street, potentially resulting in fewer parking spaces lost from retaining the tree. It would also increase the safety of all users of these blocks—pedestrians, cyclists, drivers, and those parking outboard of the new bike facility—a goal repeated frequently during the Council meeting.
- End the median immediately east of the drip line of the tree, further facilitating a safe lane transition.
- Explore lane dimensions and restriping that would avoid removal of the tree.

For reasons stated in our previous letters, Sustainable San Rafael continues to believe that this magnificent tree contributes greatly to the overall character of this portion of the 2nd/3rd boulevard and the project as a whole, outweighing the value of parking a few additional cars in a stretch of public right-of-way already dominated by automobiles. The City's 'complete streets' policy calls instead for balancing traffic, bikes, pedestrians, and natural elements.

Thank you for your further consideration.

Sincerely,

William Carney, President

cc: Mayor Kate Colin

January 11, 2022

Bill Guerin, Director
Department of Public Works
City of San Rafael
111 Morpew Street
San Rafael, CA 94901
via email: Bill.Guerin@cityofsanrafael.org, April.Miller@cityofsanrafael.org

RE: 2nd/3rd Street Improvements

Dear Bill:

I became aware of the threat to the valuable London Plane tree in the 2nd Street median, just down the hill from my home, when William Carney of Sustainable San Rafael contacted me to join his noble effort to save this tree. I enjoy seeing this tree several times during the week, either by driving by it or walking by it since the Second/Third Street corridor is the only access to our hillside neighborhood.

I reached out to April Miller to try to understand where the opposition for saving the trees was coming from. She responded that there had been a community meeting on 9/23/20 where residents expressed concerns about losing parking spaces. However, there is no recorded video or minutes of this meeting.

So, I reached out to neighbors on East, West and Second Streets and received the following comments: "It would be propitious to keep such trees intact rather than trying to grow other trees, which would take too long to mature grown from mere saplings." "Our house is on 2nd street right in front of the trees (they are the only thing that helps us not to feel that we're living on a highway)." "We are dreading the day that project begins and we are going to be very, very sad to see them (the trees) go." "We are certainly concerned about so many spaces being eliminated, but I think the tree (the London Plane) should be saved no matter what. It is a magnificent tree and adds immeasurably to the neighborhood." "I thought they should buy Peter Levi's (1818 2nd St) and make it a residents' only parking lot."

San Rafael residents are engaged in their community and will frequently write letters, circulate petitions, and provide public comment at City Council meetings on issues of importance, even if the issue is considered a "done deal." Sustainable San Rafael, California Urban Forests Council and several residents submitted written correspondence and provided public comments, urging the Council to save the street trees along Second Street, in particular, this large London Plane.

*It was surprising that **NO ONE** wrote a letter or spoke during any of the Council meetings about the parking spaces on Second Street. No one bothered to thank staff for saving parking spaces or complained about it – nothing, no public comment whatsoever about the parking spaces!*

I understand that Public Works may prefer tearing out and replanting rather than "working around" a 40-foot mature London Plane, given the additional oversight that may be required, but saving the 1 London Plane tree out of 4 existing street trees in the medians along Second Street is a more than fair compromise between the City and the neighborhood.

We don't want these mature full-canopied trees replaced with little spindly trees that can't survive our water restrictions, heat waves, car exhaust, and limited maintenance. Trees planted in the nearby median along West End Avenue about 10 years ago need pruning; one is growing in a "U" shape, the

tree canopies should be fuller, and they contrast sharply with the lush landscaping along the Miracle Mile in neighboring San Anselmo.

There is also the issue of safety at the intersection of West at Second Street. A neighbor had a serious accident at this corner while turning right onto Second Street from West Street. The parking space on Second Street located immediately west of West Street should be removed. A parked car in this location blocks visibility of oncoming traffic and is dangerous for vehicles turning right from West Street onto Second. I never turn right here. Instead, I zigzag down to East Street and make a right turn onto Second Street from East, where the visibility of on-coming traffic is much better.

It doesn't appear that the Collision Study includes Second Street, west of Shaver to Marquard. I have personal knowledge of several vehicle/bicycle collisions at the intersection of Marquard and West End Ave. The fault generally lies with the bicyclist whizzing through the stop sign at West End Ave and colliding with a vehicle exiting Marquard. I recall seeing a bicyclist motionless on the pavement after such a collision. A bicyclist flew over the hood of my car once. A former neighbor had his car window broken and the bicyclist broke his collarbone on another occasion.

However, when the bike route changed to require a left turn at the end of West End Ave to cross to Fourth Street, bicyclists stopped at the stop sign to walk their bikes across the intersection, increasing safety. There's also a tall utility box on the southwest corner of Marquard which blocks the visibility of on-coming cyclists. Public Works should seriously consider installing guard rails or a barrier on the small median (between West End and Fourth Street) where pedestrians and cyclists are forced to stand in the middle of fast east-moving traffic as the lanes split between Fourth and Second Street. There is currently nothing to prevent a vehicle from jumping the curb of this small median and striking a pedestrian standing there, waiting to cross.

I'm concerned that in an effort to appease BPAC and quickly provide an "interim solution," the City has not given thorough consideration of all safety considerations at the Marquard/West End Intersection. This is a complicated intersection with multi-directional travel among vehicles and now, bicycles. The proposed west traveling bicycle lane with a "bicycle signal" at Marquard is a recipe for disaster. With bicyclists no longer detouring to Fourth Street from West End Avenue, they will once again whiz through the Stop Sign going east down Second Street and now a separate lane of west traveling bicyclists will not stop at the "bicycle signal," and vehicles coming from multiple directions will have to navigate the bicyclists traveling in separate lanes. Add to the mix, the frequency of vehicles traveling west down Second Street opting to make an illegal u-turn at Marquard in order to reverse direction. Will there be a synchronized stop light at West End Avenue?

We suggest you take the following actions:

1. Save the beautiful London Plane Tree. It is a more than fair compromise to give up 3 mature trees but save the most beautiful one. Trees with large canopies create a calming effect on traffic, provide greenery for pedestrians, bicyclists, and all residents to enjoy, and block the view of the gas station for residences along this section of Second Street.
2. Reduce the speed limit and implement measures to calm traffic speed from Marquard to East Street (or G Street) to reflect the residential use and frequent crossings by pedestrians and cyclists and to save parking spaces along Second Street between East and West Streets. Calming measures could include the timing of stop lights to reduce speed.
3. Remove the 2 curbside parking spaces on Second Street between West St and Marquard in order to preserve the London Plane tree. The one parking space closest to West should be removed for safety reasons and the other parking space is a small price to pay to save this beautiful tree.
4. The interim-connection at Marquard and Second Street needs to be reassessed for safety reasons.

5. The tall utility box at the southwest corner of Marquard and West End Avenue should be moved for safety reasons.
6. Guard rails or barriers should be installed to protect pedestrians and bicyclists standing in the small median in the middle of east moving traffic where it splits between Fourth and Second Streets.
7. The Collision Study should include the section of Second Street from Shaver to Marquard.

Thank you,

Victoria DeWitt
Jeff Eader
Liza Ryan
Kristen Vyas
Deborah Coburn, resident since 1987
Steve Thomson
Jasmin Thomson
Linda Lieberman
Anne Bowen
Susan Bradford
Amy Likover
Joe Likover

cc: Mayor Kate Colin and City Council members

From: [REDACTED]
Sent: Monday, January 17, 2022 12:34 PM
To: April Miller <April.Miller@cityofsanrafael.org>
Subject: Re: Third Street Project update

Dear Ms. Miller,

Thank you for keeping us in the loop with respect to the Third Street Project.

As you know, I am the owner of the Pierce Realty Office building located at 1601 Second Street (Corner of Miramar/Second), San Rafael. As it stands, the two (2) parking spaces in front of my building will be removed due to the street improvements as well as my driveway which will be replaced with a sidewalk blocking off three (3) additional parking spaces. So, a total of five (5) parking spaces will be removed. As I understand it, some of this parking will be replaced down the road at Second and Shaver Street. As you know, parking is becoming a premium but is necessary for our businesses.

This letter will serve as **my opposition** to remove any additional street parking on Second Street in order to retain existing trees. If you want a bicycle lane, the trees have to go. This part of Second Street needs as much street parking as they can get. Along this corridor of Second Street, you have a restaurant, gymnasium, coffee shop, and multifamily units all along this section. If you retain these trees, remove the existing street parking, you are going to cause so many problems with side streets and my property down the road. **I am totally against it.** Where is the common sense?

The present plan in place works, it's not ideal for me but at least the cyclists have their own lane and safer for them. As electric bikes become more affordable, many people will be using the bicycle lane to get around. **I am begging the City of San Rafael to proceed with the current improvements, remove the trees as necessary** and provide a safer Second Street. If the environmentalists want the trees, they can go for a walk in the park or enjoy the many trails we have in our open space districts which are approximately 80% of the total land mass in Marin County.

I think the City of San Rafael has done a great job with this current plan. Please don't change it for a few tree lovers. We have loads of trees.

Thank you, Ms. Miller, for your kindness to everyone and doing a wonderful job.

For the record, I have been at this desk for 51 years, no one knows Second Street like I do. **Please, please, please, don' change the present plan.**

Charles C. Pierce
CHARLES C. PIERCE, INC.
1601 Second St., Suite 101
San Rafael, CA. 94901

[REDACTED]

P.S. I know the San Rafael Police Department does a great job, but **cars are moving too fast.** The police department is out hear almost every day, but the cars are still moving way too fast. When you install the bicycle lane, you are going to have fatalities unless this traffic slows down. Maybe the **traffic lights** can be **adjusted** somehow.

From: Randy Dilena <randy@dilena.org>
Sent: Monday, January 17, 2022 5:46 PM
To: Distrib- City Clerk <City.Clerk@cityofsanrafael.org>
Subject: Third Street Project - February 7, 2022
Importance: High

To the honorable Mayor, Vice Mayor and members of the City Council,

I represent the ownership of **West End Center** - the San Rafael strip mall that extends perpendicularly from Fourth Street to Second Street and the private parking lot adjoining it. As such, I have followed the Third Street Project from inception and have commented positively on many of the features of the project during its planning stages. Many of the features we have strongly supported and commented on include: 1) the addition of a traffic signal on Second Street at Earl Street, and 2) the retention of as many Third Street parking spaces as possible (for benefit of the many small businesses, home owners and local tenants that conduct business and/or reside in the West End community).

I understand the City of San Rafael and their design teams have been busy working out the final design details of the Third Street Project and have coordinated much of this project with MMWD, SRSD, and PG&E. I further understand that you will be meeting next on February 7, 2022 to discuss and approve the final details of this project. It is for that reason I want to state the fact the Third Street Rehabilitation project is something we strongly support, and we want you to know that we **DO NOT want to see the removal of any parking spaces from the current plan**. Removal of any parking spaces in the area near West End Center (Second Street) will increase stress on an already overstressed parking situation in our private parking lot, cause an increased hardship to local businesses who have limited parking (and are struggling to survive), and, will likely impose an unnecessary project delay that could cost the City additional funds to study and process.

In summary, we fully **support** the current Third Street Project plan and the retention of a maximum number of parking spaces along Second Street, while **we oppose** any additional reduction of parking spaces along Second Street. Please make it a priority to retain all parking spaces on Second Street as noted in the currently approved plans!

Thank you,
Randy Dilena

Randy Dilena
Co-Owner



Dilena Properties
Managing the Experience with Excellence

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randy@dilena.org

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From: [REDACTED]
Sent: Thursday, January 20, 2022 2:23 PM
To: April Miller
Subject: Third Street Rehabilitation Project

Dear Ms. Miller,

First of all, I want to thank you so much for keeping me up to date in regards to the Second St. bicycle facility, particularly as it might relate to the elimination of parking between Marquard/West End Ave. and Ida St.

For your as well as the council's benefit, I would like to reiterate my objection to the elimination of any parking between Marquard/West End Ave. and Ida St. As previously stated in prior emails, I own 4 rental properties in the area with a total of 8 tenants, 3 properties on Second St. between Marquard/West End Ave. and West St. and 1 property on West St. All of these properties have limited parking as it now stands.

Onsite parking in this area as well as the side streets of West St., East St., Jessup St. and Hart St. is very limited and home owners and tenants rely heavily on street parking. Many of these side street homes were constructed during an era with one car garages or no onsite parking at all. The elimination of any parking is going to be a disaster for all property owners and tenants whether they be located on Second St. or one of the aforementioned side street. Landlords will find it more difficult to find good tenants without sufficient parking. Tenants and homeowners who live on Second St. and who rely on Second St. parking for themselves and their guests will end up parking in the residential side streets that are already overcrowded with cars parked on the street.

In addition to the above, the council needs to consider the city's recent ordinance allowing the city to restrict parking on roads shorter than 30 feet wide. Three of the four streets adjacent to the project are plus or minus 24 feet wide, therefore significant parking could be eliminated exasperating the loss of parking on Second St.

I can already hear the cry for relief from property owners and tenants who will be adversely affected should any parking be eliminated. In an already divided country, do we really need more division?

Therefore, I am very strongly opposed to the elimination of any parking along Second St. between Marquard/West End Ave. and Ida St.

Respectfully,

Roger Pierce

1/10/22

City Council of San Rafael,

I am writing to you to strongly protest against the request by environmentalists to save the trees and remove on-street parking on Second Street as part of the Third Street Rehabilitation Project.

I have been told that people with environmental concerns are upset that the trees near the street will be removed in order to have room for both the parking and bikes lanes. We have many lovely trees in this community besides the ones near the street.

The quality of our lives and that of our neighbors and tenants will be negatively impacted if the parking if the parking on Second Street does not remain available.

We have been property owners here since 1987. Besides living on the property, we have four rental units which provide affordable housing for the community. All of our tenants have more than one car and require on-street parking.

The fourteen-unit apartment complex at the corner of East Street and Second Street also serves San Rafael as affordable housing. Where will those community members park?

The plan to remove the on-street parking on the south side of Second Street from Marquard Avenue to Miramar Avenue is unfair to all of us living in this community, many of whom are low-to -moderate income families providing essential services to Marin County.

Parking is critical to our quality of life and parking is extremely scarce in the West End of San Rafael. The loss of parking on Second Street would greatly impact parking on all the side streets of our community.

I plead with you stay committed to the project re-design which was presented in 2021 which maintained the street parking.

Once again, it is the low and moderate income community members living in the West End of San Rafael whose quality of life will be negatively impacted if the parking is removed.

Thank you,
Sandra Ponek & Angel Rodriguez
[REDACTED] San Rafael



MARIN COUNTY GROUP

Protecting the Marin environment since 1968
scmaringroup@gmail.com

Jan. 18, 2022

Bill Guerin
Director of Public Works
City of San Rafael San Rafael, CA. 94901

RE: 2nd/3rd Street Improvements, London Plane Tree preservation

Dear Bill,

As Climate Change continues to be a threat to all of us, we are glad that the city is addressing ways to encourage additional fossil fuel free biking by developing safe lanes for travel. However, cutting down large trees to do this, rather than removing parking spaces, is a supreme failure to understand the incredible value that mature trees bring to the city and the interconnectedness of our decisions when dealing with the complexity of climate change.

The Marin Group Sierra Club supports the letter and findings of Sustainable San Rafael and strongly encourages you to keep the mature London Plane tree at the western “entrance” to the city—for its shade, its aesthetic and environmental values, and to conform with San Rafael’s Climate Change Action Plan 2030 and General Plan 2040.

Small trees do not match the value of mature trees for carbon sequestration,¹ urban heat island relief or water infiltration, which reduces the impacts of both flooding and drought. What is predicted for future rain patterns in our area are both additional years of drought with soaring temperatures and more intense storms such as we witnessed in October 2021. These conditions will affect the health and survival of any newly planted trees and may make such grand schemes

¹ <https://www.pacificforest.org/ee-old-trees-store-more-carbon-more-quickly-than-younger-trees/> A sweeping study of forests around the world finds that the older the tree, the greater its potential to store carbon and slow climate change. The 38 researchers from 15 countries found that 97 percent of trees from more than 400 species studied grew more quickly as they aged, thus absorbing more carbon. Although trees become less efficient at processing carbon as they get older, there are a greater number of leaves to absorb CO₂, explained Nate Stephenson, lead author of the study. Leaves are crucial in photosynthesis, the process by which plants make energy and absorb carbon dioxide. “Even though on an individual leaf scale their productivity might be declining slightly, they just have so many more leaves that the net effect is that they’re able to fix more carbon in total than a small tree,” said Stephenson, a scientist with the U.S. Geological Survey’s Western Ecological Research Center in Three Rivers, Calif.



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scmaringroup@gmail.com

of “replacement trees” an unreachable hope rather than a sound plan. It makes much more sense to protect and preserve what we have: large, well-established healthy trees. Given MMWD’s proposed drought restrictions, which will return after we have predictably more dry years, it may be impossible to even plant a new tree unless recycled water is available for irrigation.

Public safety and beautiful surroundings are values that promote community health and happiness, which should not be underestimated. From a mental health perspective, it is also a horrible shock when people learn, usually after the deed has been done, that a much loved and appreciated tree was cut down as a matter of expediency when other feasible options clearly existed.

We have cut down, paved over, and modified our planet so much that we are now at a serious tipping point. We must do all we can to lessen those climatic impacts that we are already experiencing: extreme drought, heat, and other unpredictable and increasingly violent weather patterns. Every decision needs to be made through the lens of will this support the mitigation of climate change or will it make that change more certain? While it may be true that one tree will make a relatively small difference, the cumulative impacts of all the deforestation at the local and rainforest level ARE having a negative impact that we can avoid by being more judicious and careful.

In addition, a letter from residents showing a preference for car, bike and pedestrian safety, without any complaints about losing parking spaces, needs to be seriously considered. The roundabout conceptual plan that San Rafael proposed keeps the tree as well as slowing traffic, which tends to increase safety for all. A discussion with nearby residents could be extremely helpful to develop the best plan for all.

This tree is valuable and irreplaceable. Please modify your plans, as per the suggestions given in Sustainable San Rafael’s letter, to keep this tree standing.

Thank you,

Judy Schriebman
Chair, Sierra Club Marin Group

cc: Mayor Kate Colin, San Rafael City Council, Jim Schutz, Cory Bytof, Alicia Giudice, April Miller