Marin General Services Authority

555 Northgate Drive, Suite 102
San Rafael, CA 94903-3680
415 446 4428
mgsastaff@marinjpas.org

BOARD MEETING AGENDA

DATE: **March 11, 2021**

TIME: **10:00 a.m.**

PLACE: **This meeting will be held remotely and the public is invited to attend online or via phone. Join via computer on Zoom at:**

https://us02web.zoom.us/j/86708952429

If your computer does not have a microphone or speakers, you may need to call in. Dial (669) 900-6833 or (346) 248-7799 and enter ID: 86708952429

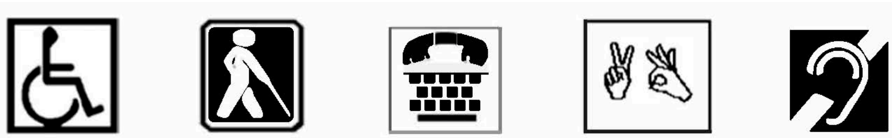
Coronavirus (COVID-19) Advisory Notice

In compliance with local and state shelter-in-place orders, and as allowed by Executive Order N-29-20 (March 17, 2020), the MGSA will not offer an in-person meeting location for the public to attend this meeting. Members of the Board and staff may participate in this meeting via teleconference. Members of the public are encouraged to participate remotely as identified above.

How to Provide Comment

Before the meeting: Email or text your comments to Executive Officer Michael Frank at mfrank@marinjpas.org no later than 4:00 P.M. on the Wednesday prior to the meeting, and they will be forwarded to the MGSA Board and read at the meeting (not to exceed 3 minutes). Please be sure to indicate the agenda item you are addressing.

During the meeting: Email or text your comments during the meeting to Executive Officer Michael Frank at mfrank@marinjpas.org indicating the agenda item in your email subject line. Comments must be received before the President announces that the time for public comment on that agenda item is closed. Email comments submitted during the meeting will be read (not to exceed three minutes).



The meeting facilities are accessible to persons with disabilities. Requests for special accommodations (assisted listening device, sign language interpreters, etc.) should be directed to Michael Frank, 415-446-4428 or email:michael@michaelsfrank.com **no later than 5 days** before the meeting date.

March 11, 2021 MGSA Board Agenda

A. **Report from Executive Officer** (Frank)

B. **Public Comment**

Anyone wishing to address the Board on matters not on the posted agenda may do so. Each speaker is limited to two minutes. As these items are not on the posted agenda, the Executive Officer and members of the Board may only respond briefly but topics may be agendized and taken up at a future meeting. Public input will be taken as part of each agendized item.

C. **Approve Minutes of January 14, 2021 Regular Meeting** (All)

D. **Marin County Storm Water Pollution Prevention Program (MCSTOPPP) Update and Fiscal Year 2021-2022 Proposed Budget** (Carson)

E. **Audit of the Franchise and PEG Fees Paid by Comcast to the Marin General Services Authority for 2017 – 2019, Issuance of Demand Letter, and Extension of Tolling Agreement** (Frank)

F. **MGSA Transition to a Virtual Office Space and Delegation of Authority for Contract Negotiations with the Transportation Authority of Marin to Provide Various Office-Related Services** (Frank)

G. **Office Space Lease Termination at 555 Northgate Drive, Suite 102, San Rafael** (Frank)

H. **MGSA Fiscal Year 2021-22 Ad Hoc Budget Subcommittee Appointment** (Board)

I. **Adjournment**

NEXT SCHEDULED MEETING: May 13, 2021

NOTE: A complete copy of the agenda packet is available on MGSA's website at http://maringeneralservicesauthority.com. Also, at this website one can subscribe to all Board of Directors Meeting notifications.

DISTRIBUTION: Clerk to the Board of Supervisors and San Rafael City Clerk for posting; City/Town Managers/County Administrator; Novato City Clerk (w/minutes); Denise Merleno at TAM; General Counsel Dave Byers; Contractors Wayne Bush, Bob Brown, Maureen Chapman, and Christine O'Rourke; Michael Eisenmenger, CMCM; Bruce Anderson; Eric Dreikosen; and Madeline Thomas.

Agenda Item C

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BOARD MINUTES FOR MEETING OF JANUARY 14, 2021

As a result of the COVID-19 pandemic, the Board Meeting came to order on-line in compliance with orders, as allowed by Executive Order N-29-20 (March 17, 2020). The meeting started at 10:01 a.m.

MGSA Board Members Attending: President Greg Chanis, Vice President Andy Poster, and Members Sean Condry, Adam McGill, and Angela Nicholson were present. Craig Middleton and Cristine Alilovich were absent.

Program Contractors Attending: Executive Officer Michael Frank, General Counsel Dave Byers, Bob Brown, Christine O'Rourke, and Maureen Chapman.

A. Report from Executive Officer

The Executive Officer reported on activities since the last meeting. In particular, he mentioned:

- Telecommunications – There is currently one streetlight pre-reservation in San Rafael with Crown Castle.
- Digital Marin Project – The MGSA Executive Officer is facilitating the Government / Emergency Management Working Group whose first meeting was January 14. Interviews, meetings, and focus groups are or will be scheduled with Police Chiefs, Fire Chiefs, MERA, Emergency Preparedness, IT Directors, PIO/Communications folks, MMA, and others.
- Administrative – Staff is moving full steam ahead with researching becoming a virtual office. The Executive Officer plans on bringing forward proposal at next Board meeting.
- Streetlight Maintenance – PG&E has provided their inventory of streetlights for unincorporated county. Staff is working with County staff and DC Electric to transfer assets to the appropriate parties.

B. Public Comment

There was no public comment.

C. Board Meeting Minutes of November 12, 2020 Board Meeting

Motion by Nicholson, seconded by McGill to approve the minutes. Motion was approved 4 – 0 – 3 with Alilovich and Middleton absent and Condry abstaining.

D. ITEM POSPONED UNTIL MARCH MEETING **- Marin County Storm Water Pollution Prevention Program (MCSTOPPP) Update and Fiscal Year 2021-2022 Proposed Budget**

E. **Marin Climate and Energy Partnership Program (MCEP) Funding Agreement with the Transportation Authority of Marin (TAM) to Prepare a Countywide Electric Vehicle Readiness Plan and Associated Budget Amendment** (O'Rourke and McGill, TAM)

Following a presentation by O'Rourke and TAM representative Derek McGill, there was a motion by Condry seconded by Nicholson to pass Resolution 2021-02 to authorize the Executive Officer to execute a funding agreement with the Transportation Authority of Marin (TAM) to develop a Countywide Electric Vehicle Readiness Plan for the Marin Climate and Energy Partnership program. Motion was approved 5 – 0 – 2 with Alilovich and Middleton absent.

Motion by McGill seconded by Poster to pass resolution 2021-03 to amend the MGSA General Fund FY 2020-21 MCEP Budget to reflect $54,000 in revenue and expenses for development of the Countywide Electric Vehicle Readiness Plan. Motion was approved 5 – 0 – 2 with Alilovich and Middleton absent.

F. **Annual Fiscal Year 2019-20 Financial Statement and Auditor's Reports for the Marin General Services Authority and the Dissolved Marin Telecommunications Agency**

Following comments by Executive Officer Frank, a motion was made by McGill, seconded by Poster, to accept the Annual Fiscal Year 2019-2020 Financial Statement and Auditor's Reports for MGSA and MTA. Motion was approved 5 – 0 – 2 with Alilovich and Middleton absent.

G. **MGSA Board Appointments to the Community Media Center of Marin (CMCM) Board of Directors**

Following an introduction by Frank, there was a motion by Condry, seconded by McGill to appoint Jim Schutz, City Manager of San Rafael and Barbara Coler, Councilmember of Fairfax to the CMCM Board of Directors for one-year terms. Motion was approved 5 – 0 – 2 with Alilovich and Middleton absent.

H. **Taxi Regulation Program Proposed Six-Month Forbearance on Collection of Taxicab Renewal Permit Fees** (Brown)

Following a staff introduction by Frank and Brown, there was a brief discussion. Taxicab owner Kevin Carroll spoke on this item in support and stated that he would be submitting a complaint for two drivers working without permits.

Motion by Poster, seconded by Condry, to approve the attached Resolution 2021-04 allowing a six-month forbearance on collection of fees for taxicab company and vehicle renewal permits. Motion was approved 5 – 0 – 2 with Alilovich and Middleton absent.

I. MGSA Work Plan Status Update for FY 2020-21 and Input on FY 2021-22 Work Plan Initiatives

Following a presentation by Executive Officer Frank, there was a brief discussion and some questions and answers. No action requested or taken.

J. Adjournment

The meeting adjourned at 11:14 a.m.

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Michael S. Frank, Executive Officer

Marin General Services Authority

555 Northgate Drive, Suite 102
San Rafael, CA 94903-3680
415 446 4428
mgsastaff@marinjpas.org

MEMORANDUM

DATE: March 11, 2021

TO: MGSA Board of Directors

FROM: Michael S. Frank, Executive Officer

SUBJECT: Marin County Stormwater Pollution Prevention Program (MCSTOPPP) Fiscal Year 2021-2022 Proposed Budget

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Recommendation

By motion, staff recommends adoption of the attached Resolution 2021-01 supporting the proposed budget and forwarding a recommendation to the Marin County Board of Supervisors.

Discussion

Rob Carson, MCSTOPPP Program Manager, has prepared the FY 2021-22 MCSTOPPP budget for review by the MGSA Board and a recommendation to the Board of Supervisors.

The attached memorandum and attachments from Mr. Carson review the proposed budget in detail. In summary, the Fiscal Year 2021-2022 budget keeps member contributions flat compared to the prior year, increases total expenditures by $52, 704 vs. prior year budget, anticipates utilizing $163,035 from reserves to balance the budget, and projects a year-end fund balance of $263,879.

Mr. Carson attended the November 12, 2020 MGSA Board Meeting and provided an update of the MCSTOPPP Program as well as a preview of next year's budget. Future permit costs and requirements, increases in consultant expenditures, and a strategy to minimize fluctuation and significant annual increases to jurisdictions was discussed. MGSA staff is supportive of the recommended budget. Mr. Carson will be at the March 11, 2021 Board Meeting to discuss the budget and answer questions of the Board.

Attachments

- **D1** - Fiscal Year 2021-2022 Proposed MCSTOPPP Budget Memorandum and Exhibits
- **D2** - Draft Resolution 2021-01, titled "FY 2021-22 MCSTOPPP Budget"

Marin County Department of Public Works
Marin County Stormwater Pollution Prevention Program
P.O. Box 4186 San Rafael, CA 94913-4186
3501 Civic Center Dr. #304
Tel. (415) 473-6528 Fax (415) 473-2391
www.mcstoppp.org

Member Agencies:

Belvedere

Corte Madera

County of Marin

Fairfax

Larkspur

Mill Valley

Novato

Ross

San Anselmo

San Rafael

Sausalito

Tiburon

Date: March 11, 2021

To: Marin General Services Authority Board

From: Rob Carson, MCSTOPPP Program Manager

Subject: Proposed MCSTOPPP Fiscal Year 2021-2022 (FY 21-22) Budget

Recommendation: Accept report and recommend approval of Proposed FY 21-22 MCSTOPPP Budget.

<u>Introduction:</u>

Thank you for this opportunity to present the Proposed FY 21-22 MCSTOPPP budget. Your participation in the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) provides great value to the member jurisdictions and helps protect the environment and ensure compliance with the Phase II Stormwater Permit in a cost-effective manner.

<u>Discussion</u>

The Marin County Flood Control and Water Conservation District, a special district under the County Board of Supervisors (BOS), administers MCSTOPPP through a Joint Exercise of Powers Agreement. The County BOS adopts MCSTOPPP's annual budget each June, after the budget is reviewed and recommended to the Flood Control District BOS by the MGSA Board.

Fiscal Year 17-18 was the fifth year of a five-year permit term for the statewide Phase II stormwater permit. Until a new permit is issued, Marin's municipal permittees must continue to implement existing permit requirements. We had been anticipating reissuance in late 2019, but the state's reissuance schedule now projects an adoption hearing in Spring 2022.

The delay in reissuance has enabled MCSTOPPP to use existing staff and consultant resources to focus on engaging with the state regulators on drafting permit language for the next issuance, as well as to proceed with trash control planning projects to help inform local municipal implementation efforts.

MCSTOPPP will continue to follow the reserve recommendations of the MGSA Board and MCSTOPPP Budget Subcommittee to maintain at least a 5% operating reserve. This reserve funding will not be appropriated into the annual MCSTOPPP budget unless through recommendation from the MGSA Board to the Flood Control District BOS.

When comparing the proposed FY 21-22 budget to the previous year the following should be noted:

- **Professional Services** – The proposed FY 21-22 budget includes an increase in professional and consultant services. For two of the last three years, MCSTOPPP has underspent proposed budget for consultant support related to some trash control and TMDL planning due to delays in permit reissuance by the State. Technical and regulatory support for permit negotiations and preliminary research and assessment of pending TMDL requirements and regulatory programs will continue to be needed during the 2021-22 fiscal year. The increase is due to planned engineering studies of trash device retrofits in Marin's municipalities.
- **Staff Salaries** – Relatively little change over revised FY 20-21 budget. The slight increase is due to anticipated step increase for existing staff. No cost of living adjustment is included in FY 21-22. Staff salary costs include benefits and direct overhead.
- **Agency Contributions** – No proposed increase in FY 21-22 proposed member agency contributions over FY 20-21. The projected budget shortfalls due to impacts from Covid-19, along with regulatory delays offer the opportunity to keep contributions flat in FY 21-22 and the reserve funds can be used to supplement budgets to meet needs.
- **Reserve Funds** – The reserve fund has a larger than anticipated balance due mostly to delays at the state level on regulatory development and permit reissuance. The proposed FY 21-21 budget includes the use of about 38%% of these funds while still maintaining a robust operating reserve to allow for unanticipated permit compliance or grant-related costs. This will allow for MCSTOPPP to keep increases to member agency contributions more even over the next three-to-five years to meet anticipated programmatic and regulatory demands.

The proposed budget includes a contribution from MCSTOPPP member agencies of $800,000. This contribution is supplemented by just over $163,000 in MCSTOPPP reserve funds to balance the proposed $969,535 in projected expenses. The use of reserve funds beyond those proposed for use to balance the FY 21-22 budget would only be appropriated into the MCSTOPPP budget by the Flood Control District Board after MCSTOPPP receives a recommendation from your Board.

Exhibit C below lists the individual MCSTOPPP contribution amounts by agency for the proposed FY 21-22 MCSTOPPP budget.

MCSTOPPP staff will notify Marin's finance directors of the MCSTOPPP municipal contribution amounts upon receiving a recommendation from the MGSA Board each Spring. MCSTOPPP may also communicate information about the fiscal impacts and timing of future requirements in this notification.

Table 1 summarizes the proposed FY 21-22 budget and the FY 20-21 adopted budget and projected actuals. The budget detail is available in Exhibit A below.

Table 1

MCSTOPPP Revenues, Expenditures and Fund Balances	FY20-21 Approved Budget	FY20-21 Projected Actuals	FY21-22 Proposed Budget
Revenues			
Interest	$ 6,500	$6,500	$6,500
Total Contribution to MCSTOPPP	$ 800,000	$800,000	$800,000
Total Revenues	**$ 806,500**	**$ 806,500**	**$ 806,500**
Expenditures			
Memberships and Regional Projects	$ 95,000	$ 92,000	$ 95,000
Professional Services	$ 215,400	$ 215,400	$ 266,500
Miscellaneous Expenses	$ 20,000	$ 15,600	$ 20,000
MCSTOPPP Fully Weighted Staff Salaries including indirect County overhead (A87)	$ 586,431	$ 497,430	$ 588,035
Total Fiscal Year Expenditures	**$ 916,831**	**$ 820,430**	**$ 969,535**
Net Operating Budget			
Reserve needed to balance budget	**$ (110,331)**	**$ (13,930)**	**$ (163,035)**
Ending Fund Balance			
Available Reserve (Unrestricted Fund Balance)	$ 440,844	$ 426,914	$ 263,879
Total Ending Fund Balance	**$ 440,844**	**$ 426,914**	**$ 263,879**

*The reserve amounts shown for the current and proposed FY are based on best available information pending the final audit of MCSTOPPP's past FY financial statements.

Projected Program Needs Beyond FY 21-22

The Regional Water Quality Control Board (RWQCB) has communicated to MCSTOPPP and other Bay Area Phase II stormwater permittees that they will include additional requirements related to the TMDLs for Polychlorinated Biphenyls (PCBs) and Mercury into the next permit issuance. These requirements will include monitoring, reporting, source control as well as green infrastructure planning elements and will likely result in significant program cost increases over the course of the next 5-year permit term. The RWQCB has agreed to work with Phase II permittees to include these TMDL requirements into the statewide Phase II permit rather than requiring Marin municipalities to join the Phase I Municipal Regional Permit. Marin permittees should anticipate costs for stormwater compliance to increase beyond in FY 21-22 to account for future TMDL and trash control requirements, including significant capital costs around design, installation and maintenance of trash capture and the integration of low impact development and green infrastructure into public projects.

Attachment: Exhibit A - Proposed FY 20-21 MCSTOPPP Budget
Exhibit B – Budget Category Definitions
Exhibit C – Proposed MCSTOPPP municipal contribution amounts by agency

C (by email): Pat Echols, Acting Director of Marin County Public Works
Liz Lewis, Acting Assistant Director of Marin County Public Works
Michael Frank, Executive Director, Marin General Services Authority
Marin Public Works Association
Municipal Stormwater Coordinators

Exhibit A
Proposed FY 21-22 MCSTOPPP Budget
FY 20-21 Projected Actuals
FY 19-20 Actuals

MCSTOPPP Revenues, Expenditures, and Fund Balances	FY19-20 Approved Budget	FY19-20 Revised Budget	A FY19-20 Actual Final	B FY20-21 Approved Budget	C FY20-21 Projected Actuals	D FY21-22 Proposed Budget	
Beginning Fund Balance							
Restricted Fund Balance (encumbered in prior fiscal year)	*tbd*	*tbd*	*$45,313.47*	*tbd*	*tbd*	*tbd*	
Unrestricted Fund Balance	*$379,866*	*$379,866*	*$457,253*	*$551,175*	*$440,844*	*$426,914*	
Total Beginning Fund Balance*	**$379,866**	**$379,866**	**$502,567**	**$551,175**	**$440,844**	**$426,914**	
Revenues							
Interest	$500	$500	$13,265	$6,500	$6,500	$6,500	
Total Contribution to MCSTOPPP	**$780,000**	**$780,000**	**$780,000**	**$800,000**	**$800,000**	**$800,000**	**←Total Contribution**
Miscellaneous Revenue (partners, grants, events)	$1,000	$1,000	$0	$0	$0	$0	
Total Revenues	**$781,500**	**$781,500**	**$793,265**	**$806,500**	**$806,500**	**$806,500**	**←Total Revenue**
Expenditures							
Total Expenditures	**$919,064**	**$919,064**	**$699,343**	**$916,831**	**$820,430**	**$969,535**	
MCSTOPPP Labor (full cost) • **Plan for FY 21-22:** 75% Program Administrator, 95% Engineering Assistant, 2x 50% Engineering Technician IIIs, 5% GIS Specialist, 5% Senior Planner • Estimated County costs for taxes and benefits: 53.8% • County DPW indirect overhead: supplies, support, phone, office space, computer leases, maintenance, and administration: 18.62% • Cost of Living Adjustment (FY22): 0%	$498,000	$573,118	$499,856	$575,067	$486,084	$576,330	**←Labor**
Marin County A87 Indirect Cost Allocation	$11,364	$11,364	$37,822	$11,364	$11,346	$11,705	**←Indirect County Overhead**
Professional Services • Consultant assistance: technical, regulatory, & grant assistance • Reporting and training • Environmental Education (STRAW) • Pesticide reduction outreach (Our Water Our World) • Public Education and Outreach • Administrative (financial audit)	$289,300	$214,183	$55,359	$215,400	$215,400	$266,500	**←Professional Services**
Professional Services carry forward encumbrances from Previous FY	*45,313.47*	*45,313.47*	*45,313.47*	*136,254.42*	*136,254.42*	*tbd*	
Professional Services Total (carry forward from Previous FY included in total)	*334,613.47*	*259,495.97*	*100,672.52*	*351,654.42*	*351,654.42*	*tbd*	
Memberships and Regional Projects • San Francisco Bay Regional Monitoring Program (SFEI) • Bay Area Stormwater Management Agencies Association (BASMAA) (dues and regional projects) • North Bay Watershed Association (NBWA) • California Stormwater Quality Association (CASQA)	$95,000	$95,000	$91,765	$95,000	$92,000	$95,000	**←Memberships, Regional Projects, Collaboration**

Exhibit A
Proposed FY 21-22 MCSTOPPP Budget
FY 20-21 Projected Actuals
FY 19-20 Actuals

MCSTOPPP Revenues, Expenditures, and Fund Balances	FY19-20 Approved Budget	FY19-20 Revised Budget	A FY19-20 Actual Final	B FY20-21 Approved Budget	C FY20-21 Projected Actuals	D FY21-22 Proposed Budget	
Miscellaneous Expenses • Direct Program Expenses for: Supplies, services, office, prof. dev't., travel, computer, printing	$25,400	$25,400	$14,541	$20,000	$15,600	$20,000	**←All Misc. Expenses**
Mobile Device (Cell Phones and field tablets)	*$2,000.00*	*$2,000.00*	*$530.89*	*$1,000.00*	*$1,000.00*	*$1,000.00*	*Mobile Phones*
MiscEX-BGT (Miscellaneous Services)	*$7,000.00*	*$7,000.00*	*$2,653.91*	*$5,000.00*	*$3,000.00*	*$5,000.00*	*Misc. Services*
Office expense (supplies)	*$1,600.00*	*$1,600.00*	*$38.10*	*$1,000.00*	*$300.00*	*$1,000.00*	*Office Supplies*
Printing (education, outreach, workshops)	*$4,000.00*	*$4,000.00*	*$4,244.46*	*$4,000.00*	*$4,300.00*	*$4,000.00*	*Brochure Printing*
Print binding	*$0.00*	*$0.00*	*$0.00*	*$0.00*	*$0.00*	*$0.00*	
Equipment - Copier/printer/scanner rental	*$3,000.00*	*$3,000.00*	*$1,736.00*	*$2,000.00*	*$2,000.00*	*$2,000.00*	*Office Copier*
Minor Equipment (misc supplies: workshop supplies and food, field equipment, tarps for secured loads events, OWOW outreach supplies)	*$3,500.00*	*$3,500.00*	*$1,109.23*	*$2,000.00*	*$2,000.00*	*$2,000.00*	*Misc. Supplies*
EDU TRN - Professional Development	*$2,000.00*	*$2,000.00*	*$2,225.16*	*$2,500.00*	*$2,500.00*	*$2,500.00*	*Professional Dev't*
Transportation & Travel (includes 523415; 523425; 523430; 523440)	*$1,800.00*	*$1,800.00*	*$2,003.23*	*$2,000.00*	*$500.00*	*$2,000.00*	*Transportation & Travel*
Computer lease charge	*$500.00*	*$500.00*	*$0.00*	*$500.00*	*$0.00*	*$500.00*	*Staff Computer Lease*
Total Expenditures	**$919,064**	**$919,064**	**$699,343**	**$916,831**	**$820,430**	**$969,535**	
Ending Fund Balance (estimated for FY 19-20 and FY 20-21)							
Available Reserve[2] (Unrestricted Fund Balance)	$242,302	$242,302	$551,175	$440,844	$426,914	$263,879	***← Reserve Fund***
Total Ending Fund Balance	**$242,302**	**$242,302**	**$551,175**	**$440,844**	**$426,914**	**$263,879**	
Reserve used to balance budget (as planned/authorized)	**$137,564.00**	**$137,564.00**	**-$93,921.34**	**$110,331.00**	**$13,930.00**	**$163,034.72**	**←Reserve to balance budget**

*The reserve amounts shown for the current and proposed FY are based on best available information pending the final audit of MCSTOPPP's past FY financial statements.

Exhibit B
MCSTOPPP Budget Category Definitions
MCSTOPPP Labor: Program staff are employees of the County of Marin Department of Public Works. MCSTOPPP Labor line item includes the direct salary and benefits costs in addition to DPW indirect overhead. • Estimated costs for Taxes and Benefits is +53.8% for FY20-21. • Public Works Departmental Indirect Overhead* is 18.62% for FY20-21 and includes departmental overhead for support staff, supplies, phone systems, office space, support computers, maintenance and administration. *This category <u>does not include</u> A87 Indirect Cost Allocation budgeted amount for FY 2020-21, see separate 'Marin County A87 Indirect Cost Allocation' category in detail.
Professional Services: Includes both Professional and Trade Services as applicable. Professional Services include technical, environmental, engineering, financial consultants as well as many other special services. Trade Services include services of tradespersons and some maintenance and monitoring work.
Memberships, Regional Projects, Collaboration: MCSTOPPP participation in and support for regional or statewide programs and associations that advance collaborative efficiencies in program implementation or policy.
Miscellaneous Expenses: Direct, itemized programmatic expenses for supplies and services, including: office supplies, communication, web services, travel, printing, copier, computers, licenses and equipment.
Marin County A87 Indirect Cost Allocation: Costs include A87 Indirect Cost Allocation charges from the County Department of Finance. MCSTOPPP is charged a negotiated overhead cost in accordance with the County's Fiscal Policy and as allowed by the federal Office of Management and Budget (OMB) Circular 2 CFR Part 200. This cost is in addition to the direct charges for staff labor, professional services, utilities and construction trade services. The State Controller's Office formally reviews and approves the Countywide Cost Allocation Plan for indirect costs from sixteen categories such as accounting, legal counsel, payroll, collections and employee relations (HR) and the following specific services: • County Counsel • Risk Management • Department of Finance • Information Systems & Technology • County Management and Budget • Building Maintenance • Printing Services • County Garage • Landscape Maintenance

Reserve Funds: The unallocated MCSTOPPP fund balance. MCSTOPPP will maintain at least a 5% operating reserve in each annual budget to allow for operational flexibility. Reserve funds will not be appropriated into the annual MCSTOPPP budget unless through recommendation from the MGSA Board to the Flood Control District Board of Supervisors.
Total Contribution: The financial contribution by MCSTOPPP member agencies to the MCSTOPPP annual budget. Municipal shares of the total contribution are calculated using a weighted formula using population for the County's share and both population and area for the cities' and towns' share. <u>County Share</u> = Population of unincorporated Marin County/Total population of Marin County <u>Each City/Town Share</u> = [1-County Share] * [[0.5(Area)/Sum of City Areas] + [0.5(Population)/Sum of City Populations]]

Municipality	AREA (sq. mi.)	*Current Population	21-22 SHARE	Prior Year FY 20-21 Contributions	FY 2020-2021 Proposed Contributions	Change from FY 19-20
Belvedere	0.49	2,124	0.007	$5,374.66	$5,365.10	-$9.57
Corte Madera	3.9	10,114	0.040	$32,051.60	$32,286.93	$235.34
Fairfax	2.7	7,399	0.029	$23,354.19	$22,961.32	-$392.87
Larkspur	3.05	12,253	0.040	$32,249.12	$31,910.80	-$338.32
Mill Valley	4.67	14,674	0.053	$42,403.43	$42,592.25	$188.82
Novato	27	53,702	0.248	$198,400.22	$198,500.29	$100.07
Ross	1.4	2,550	0.012	$9,861.42	$9,932.91	$71.49
San Anselmo	2.5	12,757	0.038	$30,377.97	$30,317.80	-$60.17
San Rafael	17.3	59,807	0.208	$165,729.94	$166,136.49	$406.55
Sausalito	2.2	7,252	0.026	$20,740.87	$20,585.05	-$155.82
Tiburon	3.3	9,540	0.036	$28,430.22	$28,825.67	$395.45
County of Marin	94.19	68,659	0.263	$211,026.37	$210,585.40	-$440.97
Total	**162.7**	**260,831**	**1**	**$800,000.00**	**$800,000.00**	**$0**

*Population figures based on most recent (1/1/2020) State Deptartment of Finance estimates.
(2010 Census Benchmark).
Follow link (accessed 1-05-21):
http://www.dof.ca.gov/Forecasting/Demographics/Estimates/E-1/

Formula for Calculating Contributions to MCSTOPPP

$$\text{County Share} = \frac{\text{Population of unincorporated areas within Marin County}}{\text{Total population within Marin County}}$$

$$\text{Each City/Town Share} = \frac{(1.00 - \text{County Share})\ 0.5(\text{Area})}{\sum \text{City Areas}} + \frac{0.5(\text{Population})}{\sum \text{City Population}}$$

The "Alameda Formula" was selected as the simplest method of allocation for determining each municipality's contribution to MCSTOPPP. This formula was recommended to Marin's City Managers who approved its use in 1992. It has worked well in Alameda County and is easy to use. The County's share is calculated solely on the basis of population. A weighted formula using population and area is used for the cities.

Attachment D2

MARIN GENERAL SERVICES AUTHORITY
FY 2021-22 MCSTOPPP BUDGET
RESOLUTION 2021 - 01

WHEREAS, the staff of the Marin County Stormwater Pollution Prevention Program (MCSTOPPP) has prepared a draft FY 2021-22 Budget; and

WHEREAS, the MGSA Board of Directors has the responsibility to review and recommend approval of the budget to the Marin County Board of Supervisors; and

WHEREAS, on March 11, 2021 the MCSTOPPP staff presented and the MGSA Board reviewed and discussed the FY 2021-22 Budget.

NOW THEREFORE, BE IT RESOLVED, that the MGSA Board of Directors recommends to the Marin County Board of Supervisors approval of the FY 2021-22 MCSTOPPP Budget as presented to the MGSA Board of Directors and as summarized on Exhibit A.

Adopted this 11th day of March 2021.

Ayes: Alilovich, Blunk, Chanis, McGill, Middleton, Nicholson, Poster

Noes: Alilovich, Blunk, Chanis, McGill, Middleton, Nicholson, Poster

Absent: Alilovich, Blunk, Chanis, McGill, Middleton, Nicholson, Poster

____
Greg Chanis
President, MGSA Board of Directors

Attested By:

____
Michael S. Frank
Executive Officer

Marin General Services Authority

Attachment D2 - Exhibit A
MCSTOPPP FY 2021-22
Budget Summary

Description	Proposed FY 2021-22 MCSTOPPP Budget
Est Beginning Fund Balance	**426,914**
Expenses	
Salaries and benefits	576,330
Services and supplies	381,500
County Indirect overhead	11,705
Total Expenses	**969,535**
Revenues	
Municipal contribution	800,000
Miscellaneous revenue and interest	6,500
Total Revenues	**$806,500**
MCSTOPPP reserve needed to fund expenses	(163,035)
Ending Fund Balance	**$263,879**

Agenda Item E

Marin General Services Authority

555 Northgate Drive, Suite 102
San Rafael, CA 94903-3680
415 446 4428
mgsastaff@marinjpas.org

MEMORANDUM

DATE: March 11, 2021

TO: MGSA Board of Directors

FROM: Michael S. Frank, Executive Officer

SUBJECT: Audit of the Franchise and PEG Fees Paid by Comcast to the Marin General Services Authority for 2017 – 2019, Issuance of Demand Letter, and Extension of Tolling Agreement

Recommendation

1. By motion, accept audit report prepared by Ashpaugh & Sculco, CPAs, PLC (A&S) as engaged by MGSA, to review the franchise and PEG fees paid by Comcast for the review period of July 1, 2017 through June 30, 2019.
2. By motion, direct Executive Officer to send a Demand Letter to Comcast for unpaid Franchise and PEG Fees.
3. By motion authorize the Executive Officer to work with Comcast to extend the term of the 9/15/2020 Tolling Agreement.

Background

Comcast holds a state video franchise under the Digital Infrastructure and Video Competition Act ("DIVCA") covering the municipalities that are subject to the MGSA's authority. Comcast pays franchise fees and Public, Education and Government (PEG) fees to MGSA which are subject to an audit to verify their accuracy.

Gross revenues subject to the five percent (5%) franchise fee payments by cable franchisors to local governments are established in DIVCA. The DIVCA sections defining "gross revenue" are Sections 5860 and 5870. These sections are used by both the cable franchisors and local governments to identify what is and what is not "gross revenue" for the purposes of paying the 5% franchise fee.

PEG fees are one percent (1%) of gross revenues, are paid by subscribers and then distributed by the local governments to their Direct Access Providers (DAP) to support capital programs. Thus, the interpretation of gross revenues can also have an effect on PEG fee revenue.

Comcast's interpretation of "gross revenue" has been subject to challenge by local governments nationwide, and Comcast has taken a particularly narrow interpretation of revenue and exceptions to revenue in calculating what the franchise fees it owes local governments.

As a result, MGSA, like many other local governments, periodically audits the revenue proceeds received from its cable television franchisors. Comcast is the largest of MGSA's three franchise entities, and has been the most aggressive in limiting revenue under the franchise fee statutes. The discrepancy amounts, if underpaid, are also subject to interest accruals, and if the discrepancy represents an agreed upon underpayment of more than 5%, Comcast is then obligated to pay for the cost of the audit.

Discussion

Audit Report by Ashpaugh & Sculco, CPAs, PLC

MGSA (and MTA, its predecessor in this arena) has retained Ashpaugh & Sculco CPA, PPL (A&S) for many years to audit Comcast revenues; most recently July 1, 2017 through June 30, 2019 (2017-19). A&S examined the gross revenue stream information provided by Comcast and determined that there were discrepancies based on A&S's interpretation of DIVCA's gross revenue definitions, and the exceptions to gross revenue.

A&S presents in their attached report their opinion that the total amount due to the MGSA from Comcast for underpayment of franchise fees, PEG fees, and interest charges, totals $366,644.

Demand Letter to Comcast

As recommended by staff and A&S, the next step is to provide the A&S audit report along with a "Demand Letter." Once Comcast responds to the MGSA letter, staff will review options for fee recovery with the MGSA Board in Closed Session. A draft demand letter is attached to this staff report.

Tolling Agreement Extension

In an effort to forestall any running of an applicable statute of limitations regarding the payment of abovementioned franchise and PEG fees, an extension of our existing tolling agreement is desired.

Staff believes Comcast will be amenable to this extension to toll and preserve any claims that are not already barred by the expiration of any applicable statute of limitations to allow the parties to further research and discuss a potential resolution of fee payment discrepancies. Staff is requesting the Board provide the Executive Office the authority to work with Comcast to extend the existing tolling agreement.

Attachments

E1: Ashpaugh & Sculco Audit of the Franchise and PEG Fees Paid by Comcast to the Marin General Services Authority

E2: Draft Demand Letter to Comcast from MGSA

ASHPAUGH & SCULCO, CPAs, PLC
Certified Public Accountants and Consultants

February 19, 2021

Michael Frank, Executive Officer
Marin Telecommunications Agency
555 Northgate Drive, #230
San Rafael, CA 94903

Subject: Review of the Franchise and PEG Fees Paid by Comcast to the Marin General Services Authority, California

Dear Mr. Frank:

Ashpaugh & Sculco, CPAs, PLC (A&S) was engaged by the Marin General Services Authority, California (MGSA) to review the franchise and PEG fees paid by Comcast. Please find enclosed our findings for the review period of June 1, 2017 through July 1, 2019. To review the franchise and PEG fees paid by Comcast, A&S performed the Scope of Work included on page two of this letter report.

This letter report is intended solely for the information and use of the MGSA, is not intended to be, and should not be used by anyone other than these specified parties. It is our opinion that the total amount due to the MGSA from Comcast for underpayment of franchise fees, PEG fees, and interest charges, totals $366,644, as shown on page one of this letter report.

We appreciate the opportunity to be of service to you. If you have any questions, please let us know.

Sincerely,

ASHPAUGH & SCULCO, CPAS, PLC

Ashpaugh & Sculco, CPAs, PLC

300 North New York Avenue, #879 • Winter Park, FL 32790 • 407.645.2020 • Fax 866-397-0871
gashpaugh@ascpas.com • csculco@ascpas.com

SUMMARY

Ashpaugh & Sculco, CPAs, PLC (A&S) was engaged by the Marin General Services Authority, California (MGSA) to review the franchise and PEG fees paid by Comcast. While the review period was from June 1, 2017 through July 1, 2019 (review period) and the adjustments, unless specifically stated otherwise, are for the entire review period, A&S's examination was of each quarter individually of 2017 through 2019. The purpose of our review was to determine whether Comcast was in conformance with Comcast's state franchise under the Digital Infrastructure and Video Competition Act of 2006 (DIVCA) enacted in California. In accordance with DIVCA, franchise fees are 5.00% of gross revenues and the PEG fee obligation is 1.00% of gross revenues. A&S has identified the total amount due to the MGSA for underpayment of franchise fees, PEG fees, and interest charges is $366,644.

TABLE 1

No.	Description	Franchise Fees Due to MGSA	PEG Fees Due to MGSA	Total Due to MGSA
1	Franchise and PEG Fees Calculated by Comcast	$6,714,534	$1,342,907	$8,057,441
2	California PUC Fees	(11,014)		(11,014)
3	Franchise and PEG Fees Paid by Comcast	$6,703,520	$1,342,907	$8,046,427
	Adjustments			
4	Subscriber Revenues	$35	$7	$42
5	Subscriber Revenues - November 2017	41,732	8,346	50,078
6	Subscriber Revenues - GAAP Adjustment	65,742	13,148	78,890
7	Late Fees	6,889	1,378	8,267
8	Insufficient Funds Fees	919	184	1,103
9	Convenience Fees	1,351	270	1,621
10	Early Termination Fees	14,907	2,981	17,888
11	Whole House Maintenance Fees	33,888	6,778	40,666
12	Billing and Collection	6,597	1,319	7,917
13	Video Installation/Repair Credits	4,790	958	5,747
14	Netflix Revenues	10,900	2,180	13,080
15	Bad Debt	(3,330)	(666)	(3,996)
16	PEG Fee Revenues	67,838	13,568	81,405
17	Launch Incentives	3,857	771	4,629
18	California PUC Fees	11,014		11,014
19	Total Adjustments	$267,128	$51,223	$318,351
20	Franchise and PEG Fees Calculated by A&S (Lns 3+19)	$6,970,649	$1,394,130	$8,364,778
21	Franchise and PEG Fees Paid by Comcast (from Ln 3)	(6,703,520)	(1,342,907)	(8,046,427)
22	Amount Due to the MGSA	$267,128	$51,223	$318,351
23	Interest Charges	38,591	9,702	48,293
24	Total Amount Due to the MGSA	$305,719	$60,925	$366,644

SCOPE OF WORK

A&S was not engaged to and did not perform an audit of Comcast, the objective of which would be the expression of an opinion that the financial statements provide a representation of the operations for the period reviewed. Accordingly, we do not express such an opinion. Had A&S performed such additional procedures, other matters might have come to our attention that would have been reported to the MGSA. This report relates only to a review of Comcast's gross revenues used to calculate franchise and PEG fees and does not extend to any financial statements of Comcast or the MGSA. A&S has relied solely on information provided to us by the MGSA and Comcast.

A&S reviewed the franchise and PEG fees paid by Comcast to the MGSA to determine whether Comcast complied with the franchise and PEG fee obligations of DIVCA. The analysis was performed solely to assist the MGSA with respect to evaluating franchise and PEG fees owed by Comcast to the MGSA for the review period. The conclusions and recommendations are based on data responses, accounting records, and interviews provided by the MGSA and Comcast. A&S performed the following Scope of Work:

1. Submitted initial data request to Comcast, on behalf of the MGSA, requesting information for the review period.
2. Reviewed DIVCA to understand the terms, conditions, and requirements for the determination of franchise and PEG fees.
3. Submitted data requests to Comcast to resolve outstanding items and questions.
4. Corresponded with Comcast and the MGSA's staff, if needed, to obtain additional information.
5. Reconciled the gross revenues reported in franchise and PEG fee payments to supporting data provided by Comcast.
6. Determined whether the categories of revenues were correctly included in the calculation of franchise and PEG fees.
7. Summarized the dollar impact of any exceptions.
8. Calculated interest charges associated with the underpayment of franchise and PEG fees.
9. Submitted report to the MGSA summarizing our findings and recommendations.

REVIEW OF FRANCHISE AND PEG FEES

In accordance with DIVCA, franchise fees are 5.00% and PEG fees are 1.00% of gross revenues, respectively. A&S reviewed the franchise and PEG fees paid by Comcast to the MGSA for the review period of June 1, 2017 through July 1, 2019. The total amount due to the MGSA for underpayment of franchise and PEG fees is $366,644. We explain our adjustments and reference them by line number in the remainder of this report, using the same line numbers listed in Table 1 on Page 1.

ANALYSIS OF SUBSCRIBER REVENUES

Comcast earns a substantial portion of its revenues from cable television subscriber revenues. Cable subscriber revenues include amounts received for programming (basic, digital, high-definition), premium channels, franchise fees, pay-per-view, installation charges, channel guides, equipment lease rentals, late fees, returned check fees, and other miscellaneous charges. A&S reconciled the subscriber revenues to the franchise and PEG fee payments, on a test basis, utilizing the same data as Comcast for reporting revenues to the MGSA.

Subscriber Revenues (Line 4)

A&S reviewed the monthly subscriber revenues to determine whether the revenues were correctly included in the gross revenues reported to the MGSA. Comcast excluded certain subscriber revenues because, in Comcast's opinion, they were not revenues in accordance with the definition of gross subscriber revenues. We reviewed the revenues and made an adjustment to include the subscriber revenues that should have been reported to the MGSA.

Due to the confidential nature of the subscriber revenues, we have not provided any additional detail in this report. At Comcast's request and with the MGSA's approval, we will submit supporting calculations to Comcast for subsequent review and discussion.

Subscriber Revenues – November 2017 (Line 5)

Comcast made an adjustment in November 2017 to reflect a correction in its accrual accounting. The effect of the adjustment, which was implemented nationally by Comcast, reduced the franchise and PEG fee payments to local franchise authorities to approximately 50% of the amount paid in November. Additionally, the adjustment reduced the taxes and fees components of gross revenues for November (franchise fees, PEG fees, and video revenue surcharges) by the same 50%. While A&S is reviewing this adjustment and supporting data provided by Comcast, we have included it as a discrepancy in our report. If A&S subsequently agrees with the adjustment, we will revise our findings. It should be noted that the adjustment did not affect subscriber bills, i.e., Comcast still collected the same amounts from subscribers but only remitted a portion of what was collected to the MGSA.

Subscriber Revenues – GAAP Adjustment (Line 6)

Comcast provides cable/video service in addition to high-speed data or Internet, voice/telephone and security services. In many cases, Comcast offers packages for these services in what is referred to as a bundle. A bundle may contain as few as two of the services or combinations of different services. The subscriber agrees to take the bundle package for a specific period, usually 12 or 18 months, during which time the price and the components of the bundle do not change. When these services are provided in a bundle, Comcast typically prices the package at a significant discount from the standalone prices of the products, i.e., if the subscriber purchased the services individually. Other products and services outside of the bundle can be subscribed to in addition to the bundle. The price of those additional services can change over the subscription term for the bundle.

Effective January 1, 2018, Comcast explained that it implemented monthly adjustments to the bundle package revenues reported to the MGSA to conform to generally accepted accounting principles ("GAAP"), specifically Accounting Standards Codification ("ASC") Topics 605 Revenue Recognition and 606 Revenue From Contracts With Customers. ASC 606 further enhanced ASC 605 and was effective for fiscal years starting after December 2017.

ASCs 605 and 606 address and set the rules for how the discounts associated with these bundles will be applied to determine revenue of each product included in the bundle. While ASC 606 superseded ASC 605, the guidance and methodology from 605 on recognizing revenue associated with bundle packages and the associated package discount remained mostly the same. ASC 605 explained:

> The amendments in this Update will eliminate the residual method of allocation and require that arrangement consideration be allocated **<u>at the inception of the arrangement</u>** to all deliverables using the relative selling price method. The relative selling price method allocates any discount in the arrangement proportionally to each deliverable on the basis of each deliverable's selling price.
>
> The amendments in this Update will require that a vendor determine its best estimate of selling price in a manner that is consistent with that used to determine the price to sell the deliverable on a standalone basis. The amendments in this Update do not prescribe any specific methods that vendors must use to accomplish this objective; however, examples have been provided to illustrate the concept of estimated selling price and the relative selling price method.
>
> Emphasis added.
>
> Source: Accounting Standards Update No. 2009-13, Revenue Recognition (Topic 605) Multiple-Deliverable Revenue Arrangements, page 2.

While the adoption of ASC 605 and ASC 606 is required for financial reporting purposes to the Federal Securities and Exchange Commission ("SEC"), investors and banks, Comcast has gone further and developed software that it refers to as the "Blender" that recalculates every subscriber bill every month for all 20+ million subscribers it serves nationally to push the impact of ASC 605 and ASC 606 down to the determination of gross revenues for all local franchise authorities ("LFAs").

The methodology in ASC 605/606 explains that:

1. The discount is computed by comparing the sum of the standalone prices of the products in the bundle to the bundle price.
2. The discount is then allocated to each product based on the standalone price of that product divided by the total of the standalone prices of the bundle components.
3. The revenue associated with each product is then determined by netting the standalone product price and the allocated discount. In the case of franchise fees, the netted cable/video amount should be used in the determination of franchise fees.

Comcast's methodology varies from the emphasized language above. Instead of using the prices at the **<u>inception</u>** of the subscriber's agreement to take bundle service, Comcast uses the current rate card (advertised) prices of the products at the time of each monthly Blender analyses. This has led to a major discrepancy in its calculation. Comcast compounds this error by unilaterally determining to include components in the bundle that were not included the bundle price. For example, our analysis in another project identified premium channels that Comcast included in the bundle discount allocation that were not part of the subscriber's bundle package. This issue was also reflected in the analyses relative to the MGSA.

However, by far the largest "interpretation" by Comcast, is its inclusion of the Broadcast Television ("BTV") and Regional Sports Network ("RSN") fees in the allocation of the bundle discount. Neither of these fees are or were included in the bundle price at inception. Both are separately itemized on the subscriber's bill and vary independently of the bundle price, i.e., Comcast changes the amount of the BTV and RSN charges on the bill while not changing the contracted bundle price.

While the above discusses how Comcast uses the Blender analyses to determine franchise fees, it should be noted that Comcast does not reflect any change on the subscriber's bill relative to ASCs 605/606 resulting in different amounts of franchise fees paid by subscribers as compared to the amounts remitted by Comcast to MGSA associated with the bills.

Comcast has stated that it uses the same Blender methodology throughout the country. We have extensively reviewed the Blender methodology in several recent projects and concluded that Comcast's methodology is unreliable and provides erroneous results. In summary, Comcast's GAAP adjustment is inaccurate and inappropriately shifts reported revenues away from video revenues, thus reducing the franchise fees paid to the MGSA. Due to the numerous problems and inconsistencies discussed, A&S eliminated Comcast's GAAP adjustments. Table 2 below shows the impact of the GAAP video adjustment, by quarter, on franchise and PEG fees paid to THE MGSA.

TABLE 2

	1st Qtr 2018	2nd Qtr 2018	3rd Qtr 2018	4th Qtr 2018	1st Qtr 2019	2nd Qtr 2019
Franchise Fees	$19,453	$11,204	$8,211	$8,449	$8,304	$10,120
PEG Fees	$3,891	$2,241	$1,642	$1,690	$1,661	$2,024
Adjustment	$23,344	$13,445	$9,854	$10,138	$9,965	$12,144

The MGSA should be aware that Comcast is still using the same Blender software in determining the franchise fee payments after the Review Period. Thus, the issues identified above would also be present in those subsequent years.

MULTI-SERVICE REVENUES

Comcast classifies a group of subscriber charges that are not specific to any line of service as "multi-service revenues," i.e., not specifically identifiable to any one line of business. Comcast includes in this grouping non-sufficient funds (NSF) fees, convenience fees, service protection plan fees, administrative fees, early termination fees, and billing and collection expenses. Comcast allocates each of these components in the same manner, i.e. based on the ratio of billed video revenue to total billed revenue even though the appropriate treatment of each individually is not the same, as will be discussed in the following. Most of the charges are associated with the bill, an action taken by the subscriber or the service package and are not related to a line of business (i.e., video, HSD, voice, or security). For example, an administrative fee is typically charged when the subscriber pays the bill over the phone. The charges are the same amount whether the subscriber takes only video or takes multiple services.

Comcast argues that, according to Generally Accepted Accounting Principles (GAAP), these revenues are "multiple products" and should be allocated when reported to the MGSA. This argument is without merit. None of the NSF fees, convenience fees and administrative fees are "products." As noted above, the fee is the same in every instance and holds no relationship to any line of business or the amount of the bill.

A&S disagrees that these revenues should be aggregated and treated in the same way and made adjustments to each as explained in the following paragraphs.

Late Fees (Line 7)

Late fees are flat-rate administrative fees charged to subscribers when they pay their bill past the due date. For the calculation of franchise and PEG fees, Comcast allocated the late fee revenues based on total billed gross revenues. Until Comcast provides data on the actual services billed on the associated with these revenues, it is our opinion that 100% of these revenues should be included in video gross revenues.

Non-Sufficient Funds Fees (Line 8)

Non-Sufficient Funds (NSF) fees are flat-rate administrative fees charged to subscribers when their payment is returned by the bank or the credit card charge was not valid. Until Comcast provides data on the actual services billed associated with these revenues, it is our opinion that 100% of these revenues should be included in video gross revenues.

Convenience Fees (Line 9)

Convenience fees are flat-rate administrative fees charged to subscribers when they contact Comcast customer service. Examples include discussing or paying the bill and requesting copies of statements. Until Comcast provides data on the actual services billed associated with these revenues, it is our opinion that 100% of these revenues should be included in video gross revenues.

Early Termination Fees (Line 10)

If a subscriber signed up for services for a specified term and then terminated or canceled services before the end of the contract, Comcast charges an early termination fee. Until Comcast provides data on the actual services billed associated with these revenues, it is our opinion that 100% of these revenues should be included in video gross revenues.

Whole House Maintenance Fees (Line 11)

Comcast offers subscribers a Service Protection Plan (SPP). It is insurance in case there is a wiring problem that interferes with service. The charge is a flat rate per subscriber amount. Comcast allocates these revenues based on total billed gross revenues. However, these charges are not related to total billed gross revenues. Over the history of this revenue stream, Comcast has identified and differentiated whether the customer was or was not a video subscriber. When that data was available, A&S included 100% of the revenue associated with video subscribers and excluded the amounts identified from non-video. Comcast no longer differentiates these revenue streams but chooses to allocate the total based on gross revenues. It is our opinion that 100% of these revenues should be included until Comcast provides data on the actual services billed associated with these revenues.

Billing and Collection (Line 12)

Comcast reduced the revenues reported to the MGSA by amounts classified as "billing and collection." According to Comcast, this category is related to credits to customers, which are business expenses. However, the credits are co-mingled between the different lines of business (video, voice, high-speed data, and security) and are not reflected in Comcast's revenue / account receivable data, requiring Comcast to make a separate adjustment in multi-service. Comcast allocated this decrease to revenues based on total billed gross revenues. A&S made an adjustment to reverse the amounts. It is our opinion that these adjustments should not decrease the gross revenues reported to the MGSA.

Video Installation/Repair Credits (Line 13)

Comcast provides customers with an on-time guarantee and customers receive a credit on their bill if Comcast is late or fails to show up for an appointment. Also, if Comcast fails to repair a problem on the first visit and must make repeated trouble calls, Comcast frequently gives customers credit on their bills. These credits are for missed appointments and failure to fix a problem from a service call by its technician. The credits given to subscribers for Comcast's failures in these instances are business expenses.

Comcast decreased the revenues reported to the MGSA for credits related to failed on-time guarantees, installations, and repairs. The adjustment was necessary since Comcast does not recognize these credits as reductions in revenue except for reporting for franchise fees. By reducing gross revenues for franchise fees by these credits, Comcast is requiring the MGSA to subsidize its operational failures. A&S made an adjustment to reverse the amounts. It is our opinion that these are business expenses and should not decrease the gross revenues reported to the MGSA.

Netflix Revenues (Line 14)

Comcast offers a subscriber the option to purchase Netflix and the charge is identified as such separately on the subscriber's bill. This is similar to a subscriber purchasing HBO, Showtime, or Pay-per-view. When purchased through Comcast, Netflix is delivered through Comcast's set-top X1 TV box. Comcast did not include Netflix revenues in the revenues reported to the MGSA for the review period. A&S made an adjustment to include Netflix revenues.

Bad Debt (Line 15)

Subscriber bad debt reported to the MGSA should include only actual video write-offs and recoveries. Historically, the CPSM-318 reports utilized by Comcast did not provide the breakout of write-offs and recoveries by line of business. Comcast estimated video write-offs based on an allocation of video revenues to total subscriber revenues. Based on our review of the CPSM-318 reports, A&S noted that the reports listed actual bad debt write-offs and recoveries by line of business for the Review Period. However, the bad debt detail was not accurately reported by line of business. Although we disagree with Comcast's allocation of bad debt based on revenues, absent a better method supported by data, we recalculated bad debt, net of all adjustments, utilizing an allocation based on the total revenues on the CPSM-318 reports. A&S made an adjustment to bad debt for the difference in Comcast's estimate of bad debt compared to our estimate of bad debt.

PEG Fee Revenues (Line 16)

Comcast did not include the revenues collected from subscribers related to the pass-through of PEG fees in the gross revenues reported to the MGSA for the review period. These are revenues received from subscribers and billed on their cable bills. A&S included the amounts collected from subscribers for PEG fees in the gross revenues reported to the MGSA.

NON-SUBSCRIBER REVENUES

Comcast included non-subscriber revenues generated from advertising, home shopping and other revenues in the gross revenues used to calculate the franchise fees paid to the MGSA. A&S obtained and reviewed the amounts from data provided by Comcast. A&S identified the following discrepancies, which are summarized by line item in Table 1.

Launch Incentives (Line 17)

Comcast received launch incentives from programming suppliers as reimbursement of costs incurred in support of the launch or promotion of new programming. Comcast records launch incentives as "contra-expenses", i.e., reductions to expense, and does not recognize them as revenues. There is no exclusion of any payments from the definition of gross revenues. In fact, the MGSA's definition of gross revenues states that gross revenues include "other consideration paid by programmers." A&S made an adjustment to include the launch incentives in the gross revenues reported to the MGSA for the Review Period.

California PUC Fees (Line 18)

Comcast deducted "California PUC Fees" assessed by the California Public Utilities Commission to holders of state-issued franchises from the third quarter franchise fee payments. Based on our review of DIVCA and federal law, we disagree that the California PUC Fees should be deducted from the franchise fee payments. A&S made an adjustment to add back the "California PUC Fees."

INTEREST CHARGES (Line 23)

Interest charges are defined in DIVCA, Section 5860, paragraph (h) as follows:

> The state franchise fee shall be remitted to the applicable local entity quarterly, within 45 days after the end of the quarter for that calendar quarter. Each payment shall be accompanied by a summary explaining the basis for the calculation of the state franchise fee. If the holder does not pay the franchise fee when due, the holder shall pay a late payment charge at a rate per year equal to the highest prime lending rate during the period of delinquency, plus 1 percent. If the holder has overpaid the franchise fee, it may deduct the overpayment from its next quarterly payment.

A&S calculated interest charges, compounded annually, for the underpayment of franchise fees utilizing the prime rate plus 1.00%. The prime rate plus 1.00% is shown in the table below. A&S assumed that payment of the outstanding amount would be on February 28, 2021. If payment is after February 28, 2021, additional interest charges will accrue until actual payment is expected to be received.

Period Interest Rate was in Effect	Prime Rate Plus 1%
April 1, 2018 – June 30, 2018	5.75%
July 1, 2018 – September 30, 2018	6.00%
October 1, 2018 – December 31, 2018	5.25%
January 1, 2019 – July 31, 2019	5.50%
August 1, 2019 – September 30, 2019	5.25%
October 1, 2019 – October 31, 2019	5.00%
November 1, 2019 – April 30, 2020	4.75%
May 1, 2020 – February 28, 2021	3.25%

DIVCA does not address the issue of interest charges for the underpayment of PEG fees. Therefore, A&S utilized the language from the California Constitution, Article 15, Section 1, to determine the interest charges associated with PEG fees. A&S calculated interest charges at 7.00%, compounded annually, through February 28, 2021. If payment is after February 28, 2021, additional interest charges will accrue until actual payment is expected to be received.

AUDIT FEES

In accordance with DIVCA, Section 5860(i), "If the examination discloses that the holder has underpaid franchise fees by more than 5 percent during the examination period, the holder shall pay all of the reasonable and actual costs of the examination." The identified underpayment due to the MGSA from our review did not exceed the 5.00% threshold for the review period. Thus, reimbursement of the audit fee is not included in Table 1.

STATUTE OF LIMITATIONS AND TOLLING

In accordance with DIVCA, Section 5860(i), "any claims for refunds or other corrections to the remittance of the holder of a state franchise, shall be made within three years and 45 days of the end of the quarter for which compensation is remitted, or three years from the date of the remittance, whichever is later." Due to delays in getting data from Comcast, the MGSA was at risk of losing the opportunity to file a timely claim. The MGSA sought and Comcast agreed to a tolling of that period. Currently, Comcast and the MGSA have signed a tolling agreement that expires on June 30, 2021.

CONCLUSION

A&S recommends pursuing the underpayment of franchise fees totaling $366,644 from Comcast. It is reasonable to assume that some of the findings noted in this report could apply to payments after July 31, 2019. Based on our experience, Comcast will continue to make the following adjustments:

1. GAAP Adjustment

2. Multi-service fees
3. Netflix Revenues

A&S proposes that the MGSA request that Comcast maintains all financial records related to the determination of franchise and PEG fees if the MGSA decides to review additional years later. The financial records should include all accounting records, general ledgers, analyses, number of subscribers, and supporting detail for advertising revenues. It is imperative to maintain these records because clerical errors, changes in accounting methods or unique situations that would not surface during the year may be discovered under direct question and analyses.

Marin General Services Authority

555 Northgate Drive, Suite 102
San Rafael, CA 94903-3680
415 446 4428
mgsastaff@marinjpas.org

March 11, 2021

Lee Ann Peling
Director of Franchise Operations – CA Region
Comcast
3055 Comcast Place
Livermore, CA 94551

Subject: **Payment Demand – Franchise Fee and PEG Fee Findings for the Period from July 1, 2017 through June 30, 2019**

Dear Ms. Peling:

The Marin General Services Authority, California (MGSA) requests that Comcast make payment to the MGSA in the amount of $366,644, including accrued interest through February 28, 2021. Interest continues to accrue until such date payment is made to the MGSA. I have attached the Comcast franchise and PEG fee report prepared by Ashpaugh & Sculco, CPAs, PLC and dated February 19, 2021.

We request payment by April 5, 2021. Thank you in advance for your prompt attention to this matter. Please feel free to call me at (415) 798-6073 if you have any questions or concerns.

Sincerely,

Michael Frank
Executive Officer

Cc: Garth Ashpaugh, Ashpaugh & Sculco, CPAs, PLC
Carolyn Sculco, Ashpaugh & Sculco, CPAs, PLC

Agenda Item F

Marin General Services Authority

555 Northgate Drive, Suite 102
San Rafael, CA 94903-3680
415 446 4428
mgsastaff@marinjpas.org

MEMORANDUM

DATE: March 11, 2021

TO: MGSA Board of Directors

FROM: Michael S. Frank, Executive Officer

SUBJECT: MGSA Transition to a Virtual Office Space and Delegation of Authority for Contract Negotiations with the Transportation Authority of Marin to Provide Various Office-Related Services

Recommendation

By motion, pass Resolution 2021-05 supporting the Executive Director to take actions to minimize or eliminate office space, move MGSA to a virtual environment, and delegate authority to the Executive Officer to negotiate and sign an agreement with TAM for office services.

Background

The MGSA office staff, files, records, and meeting space has been at 555 Northgate, San Rafael since March 2009. Originally, MGSA co-located with LAFCO and MTA. In 2016, LAFCO opted to no longer share space or resources with MGSA and MTA. As part of new lease negotiations, MGSA and MTA moved into a smaller space in a different area of the office building.

With LAFCO's departure and MTA's recent dissolution, the number of part time contractors using the space has significant diminished. In fact, many contractors came into the office infrequently even prior to those changes unless there was a meeting with an outside party. The revenue impacts on MGSA from COVID-19 as well as stay-at-home orders has forced our agency to think about how we do business and the cost/benefit of maintaining an office suite along with its associated costs.

Discussion

Staff reviewed a series of policy and procedural questions and looked at various public and private sector options to address current and future needs. Issues reviewed included:

- Permanent File Storage Needs
- Mail receipt and disposition
- Check and revenue handling
- Bank deposits
- Taxi applications review
- Face-to-face meetings
- Conference room needs
- Clerical needs
- Printing, copying, and scanning needs
- Confidentiality
- Signage
- Internet access
- Current and future office space needs

Following research and analysis, staff approached TAM about any possible interest they might have in providing some office related services. TAM has been very amenable to working with us on our agency specific needs. In addition, they have an office they are willing to sublease to us. This is ideal for several reasons:

- Allows us to store our organization's required hard copy records (approximately 25 file boxes).
- Allows one-on-one meetings where required.
- Allows access to TAM's conference rooms (pre-COVID we were holding our Board Meetings at TAM).
- Permits access to a printer/copier/scanner.
- Allows anticipated growth in the small cell streetlight telecommunications program and the ability to add a part-time contractor.

<u>Annual Fiscal Impact</u>

If the MGSA Board approves the attached resolution and a contract is successfully negotiated with TAM, the following would be the fiscal impact on MGSA's budget:

Draft Virtual Office Changes	$ Impact	Notes
Terminate Office Lease at 555 Northgate	-23,047	Lease allows 3-month termination with 3-month notice
Terminate Internet	-540	Comcast Business
Terminate Copier Lease	-800	2.5 years left on lease
One-time Copier Equipment Return Cost	450	One-time
Reduce Budgeted Clerical Support	-8,800	Eliminates potential contractor / employee issue
Draft TAM Contract	12,000	Currently in negotiations
SAVINGS	**$20,737**	

Attachments

F1: Draft Contract with TAM for Space and Office Services

F2: Resolution 2021-05 – Office Services Agreement with the Transportation Authority of Marin (TAM)

F3: Draft Project Plan

AGREEMENT

Marin General Services MGSA (MGSA) and Transportation MGSA of Marin (TAM)
Space and Services Agreement

THIS AGREEMENT is made and entered into this ___ day of **March, 2021**, by and between the **MARIN GENERAL SERVICES MGSA**, hereinafter referred to as "MGSA" and **TRANSPORATION MGSA OF MARIN**, hereinafter referred to as "TAM."

RECITALS:

WHEREAS, MGSA desires to sublease an office space at the Headquarters of TAM located at 900 Fifth Ave, San Rafael, California and utilize certain TAM staff services;

WHEREAS, TAM warrants that they are able to provide space and are qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the agreement made, and the payments to be made by MGSA, the parties agree to the following:

1. **SCOPE OF SERVICES:**

TAM agrees to provide all of the services described in Exhibit "A," attached hereto and by this reference made a part hereof.

2. **FEES**:

The fees for furnishing services under this Contract shall be based on the rate schedule, which is attached hereto as Exhibit "A" and by this reference incorporated herein. Said fees shall remain in effect for the entire term of the contract. The term of this contract is for 4 years starting April 1, 2021 through March 31, 2025 with the office sublease starting June 1, 2021.

3. **MAXIMUM COST TO MGSA**:

In no event will the cost to MGSA for the services to be provided herein exceed the maximum sum of $25,000.

4. **PAYMENT**:

The fees for services under this Contract shall be due as set forth in Exhibit "A" upon receipt by MGSA of an invoice covering the service(s) rendered.

5. **WORKER'S COMPENSATION:**

TAM acknowledges that it is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and it certifies that it will comply with such provisions before commencing the performance of the work of this Contract.

6. INSURANCE:

Where the services to be provided under this Contract involve or require the use of any type of vehicle by TAM in order to perform said services, TAM shall provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of $300,000.00. Said policies shall remain in force through the life of this Contract and shall be payable on a "per occurrence" basis unless MGSA specifically consents to a "claims made" basis.

TAM shall be provided a certificate of insurance for liability for a minimum of $1,000,000 with an annual aggregate of not less than $2,000,000 and it must include endorsements naming both the lessee and lessor as additional insured.

The insurers shall supply certificates of insurance with endorsements signed by the insurer evidencing such insurance prior to commencement of work or occupying space, and said certificate with endorsement shall provide for ten (10) day advance notice to of any termination or reduction in coverage. Failure to provide and maintain the insurance required by this contract will constitute a material breach of the agreement.

7. CONFIDENTIALITY

TAM and MGSA both recognize that they may come across confidential information in the course of their business. All information encountered shall be held in the upmost confidentially. Staff should be educated and trained in maintaining confidentiality.

8. NONDISCRIMINATORY EMPLOYMENT:

TAM and MGSA shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age or condition of disability. TAM and MGSA understand and agrees that they are bound by and will comply with the nondiscrimination mandates of all Federal, State and local statutes, regulations and ordinances.

9. ASSIGNMENT:

The rights, responsibilities and duties under this Contract are personal to TAM and MGSA and may not be transferred or assigned without the express prior written consent of the parties.

10. TIME OF AGREEMENT:

This Agreement shall commence on April 1, 2021 and shall continue on a month-to-month basis. Time is of the essence with respect to this Contract.

11. TITLE:

It is understood that all documents, information and reports concerning this project prepared by and/or submitted to TAM, shall be the property of the MGSA. In the event of the termination of this Contract, for any reason whatever, TAM shall promptly turn over all information, writing and documents to MGSA without exception or reservation.

12. TERMINATION:

A. If either party fails to provide in any manner the services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law, which applies to its performance herein, either party may terminate this Contract by giving five (5) calendar days written notice to the party involved.

B. The parties shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which they have no control.

C. Either party hereto may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by email and registered mail.

D. In the event of termination not the fault of TAM, TAM shall be paid for services performed to the date of termination in accordance with the terms of this Contract.

13. RELATIONSHIP BETWEEN THE PARTIES:

It is expressly understood that in the performances of the services herein, that TAM, and the agents and employees thereof, shall act in an independent capacity, as an independent agency, and not as officers, employees or agents of MGSA. TAM shall be solely responsible to pay all required taxes, including but not limited to, all withholding social security, and worker's compensation.

14. AMENDMENT:

This Contract may be amended or modified only by written agreement of all parties.

15. JURISDICTION AND VENUE:

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

16. INDEMNIFICATION:

Both parties agree to indemnify, defend, and hold harmless from any and all liabilities including, but not limited to, litigation costs and attorney's fees which it may incur as a consequence of this Contract and from any and all claims and losses to anyone who may be injured or damaged by reason of either party's willful misconduct or negligent in performance of this Contract.

17. COMPLIANCE WITH APPLICABLE LAWS:

Both parties shall comply with any and all federal, state and local laws affecting the services covered by this Contract.

18. NOTICES:

All invoices shall be submitted by this party or his designee and all notices shall be emailed to MGSA at the following address:

Executive Officer, Michael Frank
mfrank@marinjpas.org

Notices shall be emailed to TAM at the following address:

Executive Officer, Anne Richmond
arichman@tam.ca.gov

IN WITNESS WHEREOF, the parties hereunto have executed this Contract on the date first above written.

APPROVED AS TO FORM: APPROVED BY:

GENERAL COUNSEL

By: ______________________

MARIN GENERAL SERVICES MGSA:

By: _________________________________
Michael S. Frank, Executive Officer

TAM:
By: ____________________________________
Name: Name
Federal Tax I.D.:
Telephone No.:

Exhibit A - Scope of Services

1. Mailing Address

- GSA would change its permanent mailing address to 900 Fifth Ave, San Rafael, CA 94901 (suite number to be determined).

2. Clerical Support

Cost

- Service charge will be $600 monthly based on an estimated 10 hours per month of staff time. Charge may be adjusted following actual experience by mutual agreement.
- Increases in cost will be tied to actual increases provided to staff by the TAM Board.

Mail Receipt, Scanning, and Handling

- Mail received would be scanned (junk and routine notices that are not action items would not be scanned) a minimum of once a week.
- In whatever process developed collaboratively is the simplest, MGSA would communicate which items should be tossed, shredded, or forwarded.
- Checks would be forwarded a minimum of once a week to our Accountant.

Agenda Posting

- Publicly post MGSA Board Meeting Agenda (every other month) at the Marin Civic Center or other mutually agreeable location.

3. Dedicated Use of One Office

Cost

- Charge for sublease of a dedicated office will be $400 monthly and includes all additional space costs (e.g., utilities and janitorial).
- Increases in cost will be tied to actual CPI increases included in TAM's master lease.

Office Sublease

- Sublease includes limited space in TAM's file room and usage of all common areas, including meeting rooms, when not in conflict with TAM's own needs.
- TAM will not provide any computer or telephone wired connections but will allow access to the internet through Wi-Fi.
- MGSA will provide its own office supplies.
- MGSA will provide its own general liability insurance as required by the master lease.
- MGSA will follow all TAM's office policies, including all COVID protocols.
- Any office signage would be paid by MGSA and follow either office building Master Lease rules or be approved by TAM.

- Security codes and keys to access building, TAM suite, and office keys will be provided to the Executive Officer and up to two MGSA program administrators.

4. Copier / Printer

Cost

- TAM will allow MGSA access to the copier/printer and will charge based on actual usage. TAM will determine cost per black/white and color copies including paper and toner.

Other

- TAM will work with MGSA to be able to print to the copier through the WIFI network.

Marin General Services Authority

555 Northgate Drive, Suite 102
San Rafael, CA 94903-3680
415 446 4428
mgsastaff@marinjpas.org

OFFICE SERVICES AGREEMENT
WITH TRANSPORTATION AUTHORITY OF MARIN

RESOLUTION 2021-05

WHEREAS, the Marin General Services Authority (MGSA) wishes to contract with the Transportation Authority of Marin (TAM) to provide space and certain office services; and

WHEREAS, the MGSA Board is supportive of moving the organization towards virtual operations; and

WHEREAS, MGSA and TAM wish to execute an agreement for these services.

NOW THEREFORE, BE IT RESOLVED, that the MGSA Board of Directors authorizes the Executive Officer to negotiate and sign, with General Counsel review, an agreement for office space and services in an amount not to exceed $25,000 annually, increasing with any annual contract increases.

Adopted this 11th day of March 2021.

Ayes: Alilovich, Blunk, Chanis, McGill, Middleton, Nicholson, Poster

Noes: Alilovich, Blunk, Chanis, McGill, Middleton, Nicholson, Poster

Absent: Alilovich, Blunk, Chanis, McGill, Middleton, Nicholson, Poster

____
Greg Chanis, MGSA Board President

Attested By:

____
Michael S. Frank, Executive Officer

MGSA DRAFT Virtual Project Timeline

Task	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
	Feb 16	Feb 23	Mar 2	Mar 9	Mar 16	Mar 23	Mar 30	Apr 6	Apr 13	Apr 20	Apr 27	May 4	May 11	May 18	May 25	Jun 1	Jun 8	Jun 15	Jun 22	Jun 29
Discuss with MarinIT ending Network		X																		
Discuss with IT Tech Equip & Office Server		X																		
Recycle Old Files		X																		
Empty Cubes		X																		
Transport Taxi Forms / Boxes			X																	
Distribute Office Furniture			X																	
MGSA Board Approval				X																
Terminate 555 Northgate Lease					X															
Post Office Change of Address Paperwork					X															
Generate List of Change of Address Notifications					X															
Develop and Sign Contract with TAM						X														
Aquire BofA Check Scanner and Finalize Process						X														
Send Out Change of Address Notification							X													
Update MGSA Owner Manuals							X													
Shut down MGSA Lockbox								X												
Remove MGSA Signage								X												
Transition / Train TAM Staff on Processes								X												
Remove 555 Northgate MGSA Signage												X								
Put Note in 555 Northgate Mailbox												X								
Remove WIFI Hotspots if Exist																X				
Have File Boxes / Furniture Moved																X				
Have Copier Returned																X				
End Comcast Internet																X				
Get Lock Box Key and Laptop from Clerical																			X	

Marin General Services Authority

555 Northgate Drive, Suite 102
San Rafael, CA 94903-3680
415 446 4428
mgsastaff@marinjpas.org

MEMORANDUM

DATE: March 11, 2021

TO: MGSA Board of Directors

FROM: Michael S. Frank, Executive Officer

SUBJECT: 555 Northgate Drive Office Lease Termination

Recommendation

By motion, direct the Executive Officer to provide notice to Professional Investors 32, LLC regarding MGSA's termination of its office lease.

Discussion

In April, 2020, MGSA and MTA entered into an office lease with Professional Investors 32, LLC. The lease is for 2 years ending March 31, 2022 with 2 four-year optional extensions. The MGSA office staff, files, records, and meeting space has been at 555 Northgate, San Rafael since March 2009.

The revenue impacts on MGSA and its budget from COVID-19 as well as stay-at-home orders has forced the agency to rethink how it does business and the cost/benefit of maintaining an office suite along with its associated costs.

The April, 2020 Lease allows termination with three months' notice. The appropriate sections of the contract are shown below. Staff is requesting approval to provide Professional Investors 32, LLC with a termination notice.

7. **<u>TERMINATION CLAUSE:</u>** LESSEE may terminate this Lease with such termination to be made upon written notice to LESSOR. LESSEE may cancel this Lease pursuant to this authority by giving written notice to LESSOR at least ninety (90) days prior to the date when such termination shall become effective. The amount of rent remaining to be paid for the month in which the LESSEE actually vacates the Premises will be prorated on a daily basis through the end of said month.

8. **<u>NOTICES</u>:** All notices and demands, which may or are to be required or permitted to be given by either party to the other hereunder, must be in writing and shall be deemed to be fully given in any of the manners specified herein and delivered to the addresses specified below:

A. On the day delivered in person during normal business hours, with proof of delivery by a signature at the office of the delivery; or
B. Two business days after being sent by United States mail, certified postage prepaid; or
C. On the date of delivery via overnight carrier that makes deliveries at the address being delivered.
D. By email from LESSOR to LESSEE. Email addresses listed below.

Notices to LESSOR:
Professional Investors 32, LLC
350 Ignacio Boulevard, Ste. 200
Novato, CA 94949
Attn: Lewis Wallach

Notices to LESSEE:
Marin General Services Authority
555 Northgate Drive, Suite 102
San Rafael, CA 94903
Attn: Executive Officer
Main Email: mgsastaff@marinjpas.org
Secondary Email: michael@michaelsfrank.com

Agenda Item H

Marin General Services Authority

555 Northgate Drive, Suite 102
San Rafael, CA 94903-3680
415 446 4428
mgsastaff@marinjpas.org

MEMORANDUM

DATE: March 11, 2021

TO: MGSA Board of Directors

FROM: Michael S. Frank, Executive Officer

SUBJECT: Ad Hoc Budget Subcommittee Appointment

Recommendation

By motion, appoint two or three Board Members to an Ad Hoc Budget Subcommittee to provide input to the Executive Officer in the development of the Budget.

Discussion

The MGSA Executive Officer is requesting input through a Budget Subcommittee regarding the upcoming FY 2021/22 Proposed Budget. It is anticipated that only one or two meetings will be needed.