



12.1

DEPARTMENT OF
FINANCE

FINANCE ADMINISTRATION

CITY OF SACRAMENTO
CALIFORNIA

June 10, 2004

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City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Proposed FY2004/05 Budget – Summary of Final Recommendations (B-22)

LOCATION AND COUNCIL DISTRICT: Citywide

RECOMMENDATION: This report recommends that the City Council direct staff to incorporate the following items in the FY2004/05 Budget when it is brought to the City Council for approval on June 22, 2004:

- Hold contributions to partner organizations generally at the same level as FY2003/04 subject to the State budget impact being less than \$10 million; request partner organizations to prepare 5 and 10 percent reduction proposals for submittal to the City Manager by December 30, 2004;
- Pursue implementation of a 911 Emergency Communication System Fee;
- Incorporate the reductions identified in the Proposed Budget (shown on Attachment 3), with the exception of those related to public safety which are recommended to be restored subject to implementation of the 911 Emergency Communication System Fee;
- Incorporate the recommended General Fund augmentations in the FY2004/05 Budget subject to the State budget impact being less than \$10 million;
- Incorporate the recommended Enterprise Fund augmentations effective July 1, 2004; and
- Authorize the City Manager to use salary savings to cover any shortfalls due to implementation timelines.

CONTACT PERSON(S): Reina Schwartz, Budget, Policy & Strategic Planning Manager, 808-7195
Gus Vina, Finance Director, 808-7138

FOR MEETING OF: June 15, 2004

SUMMARY:

This report reflects the input from City Council during the hearings on the Proposed FY2004/05 Budget and provides revised recommendations relating to proposed reductions, new revenues and proposed augmentations. The report requests Council direction to incorporate the revised recommendations in the FY2004/05 Budget when it is brought to City Council for approval on June 22, 2004.

BACKGROUND:

Proposed FY2004/05 City Budget

The Proposed FY2004/05 Budget includes:

- Implementing the first year of a two-year strategy to address a \$25 million structural gap in the City's General Fund, consistent with the Mayor and City Council's sustainable budget policy;
- Fixing \$12.7 million of the structural gap in the City's General Fund through a combination of efficiencies/reorganizations (\$4.5 million), new revenues (\$4.5 million) and reductions (\$3.7 million); and
- Setting aside \$6 million to absorb anticipated loss of State revenues

Even with the prudent, balanced plan proposed to the City Council, there continue to be financial uncertainties facing the City which could impact the plan as proposed. These uncertainties include:

- State reductions beyond what is planned in the Proposed Budget
- Passage of a state constitutional amendment to protect local revenue sources
- Pending labor negotiations for all unions in the City over the next two years
- Service level impacts due to economic growth and new development across the City
- Impacts on service demands due to County reductions

Based on the feedback from the Mayor and City Council during the budget hearings, the following modifications to the original Proposed FY2004/05 Budget are recommended:

- Generally maintain City contributions to partner organizations (JPAs, non-profits and others) at the same level as the current year, subject to the State budget impact being less than \$10 million. (See Attachment 1 for detail on City contributions.) Staff also recommends that the Mayor and City Council request that the partner organizations prepare proposals for 5 and 10 percent reductions in City contributions – identifying what would be affected and what the impact would be. These proposals would be submitted to the City Manager by the end of calendar year 2004, in preparation for the FY2005/06 budget process.
- Direct staff to pursue implementation of a 911 Emergency Communication System Fee. Attachment 3 contains additional information on the proposed Emergency Communication System Fee including a joint City/County staff report on the fee and a copy of a memorandum from the City Attorney's Office commenting on the City's ability to establish a 911 Emergency Communication System Fee without voter approval. See Attachment 3 for additional information.
- Incorporate the reductions included in the Proposed Budget (shown on Attachment 3), with the exception of those related to public safety (\$1.2 million) which are recommended to be restored contingent upon implementation of a 911 Emergency Communication System Fee as described above (see Attachment 2 for additional information):

City Council
Proposed FY2004/05 Budget – Summary of Final Recommendations
June 10, 2004

- Fire (\$220,000)
- Police (\$988,500)
- Direct staff to include in the final FY2004/05 Budget the following General Fund augmentations, subject to the State budget impact being less than \$10 million (additional detail on Attachment 4):
 - Code Enforcement (\$495,000, fully offset by revenues/transfers, 5.0 FTE)
 - Fire (\$1.5 million, fully offset by ALS and other revenues, 13.0 FTE)
 - General Services (\$1 million, 2.5 FTE)
 - Mayor/Council (\$50,000, 1.0 FTE)
 - Parks and Recreation (\$875,183, \$283,000 offset by other revenues, 19.0 FTE)
 - Police (\$2.4 million, fully offset by grant funds/savings, 27.0 FTE)
 - Library (\$361,500)

Although the overall cost of these augmentations is approximately \$6.7 million, the net burden on discretionary General Fund revenues has been limited to the \$2 million through the use of grants, new revenues and other strategies.

- Direct staff to include in the final FY2004/05 Budget the following enterprise-funded augmentations effective July 1, 2004 (Attachment 5):
 - Water Fund (\$267,100, 2.5 FTE) to handle increased workload and new regulatory requirements
 - Storm Drainage Fund (\$477,000, 3.0 FTE) to handle growth-related service demand and new conjunctive use facilities
 - Parking Fund (\$545,260) to handle increased costs associated with the new contractor for the Downtown Plaza garages
- Authorize the City Manager to implement salary savings to generate budget savings in order to balance any temporary shortfalls due to timing, implementation issues or greater-than-anticipated State revenue losses.

State Budget Impact

Since the Proposed FY2004/05 Budget was released a number of proposals have been discussed at the State level that would affect the City's budget. The current proposal that has been agreed to by the League of California Cities and the Governor would reduce City revenues by approximately \$5.5 million annually for the next two years, but if approved by the voters would also guarantee local governments protection from future State revenue reductions. In addition, the current proposal would return to the City in FY2006/07 approximately \$7.7 million in Motor Vehicle License Fee revenue withheld from the City in the current fiscal year. More information on the current local government proposal is included in Attachment 6.

FINANCIAL CONSIDERATIONS:

With the recommended changes, the Proposed FY2004/05 Budget represents a prudent and balanced financial plan, consistent with the Council's sustainable budget philosophy.

POLICY CONSIDERATIONS:

The Proposed FY2004/05 Operating and Capital Improvement Budgets are balanced and transmitted to City Council consistent with the requirements of the City Charter. The Proposed Budget is consistent with and supports the City's adopted 2001-2004 Strategic Plan.

ENVIRONMENTAL CONSIDERATIONS:

Environmental review under the California Environmental Quality Act (CEQA) for any project, which utilizes funds allocated under the FY2004/05 budget, has been or will be performed in conjunction with planning, design, and approval of each specific project as appropriate. The ongoing administrative and maintenance activities funded under the FY2004/05 budget are not subject to review under CEQA.

ESBD CONSIDERATIONS:

Not applicable.

Respectfully submitted,


Reina J. Schwartz
Budget, Policy and Strategic Planning Manager


Gus Vina
Finance Director

RECOMMENDATION APPROVED:


ROBERT P. THOMAS
City Manager

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Attachment 1
Summary of Funding of Partner Organizations

FY 2003/04 Partner Organization Funding

dollars in thousands

Partner Organization	City General Fund	County	Other Public Sources	Private	Overall Budget	% of Budget funded by City General Fund
<i>County jointly funded with City of Sacramento</i>						
Archives and Museum Collection Center	\$210	\$160	--	\$2	\$372	56%
Metropolitan Arts Commission	913	749	--	135	1,797	51%
Museum of History, Science & Technology	343	212	--	803	1,358	25%
<i>Joint Powers Authorities</i>						
Library Authority base operations	7,636	14,340	--	4,096	26,072	29%
Sacramento Convention & Visitors Bureau	560	700	940	4,467	6,667	8%
Sacramento Sports Commission	200	215	--	50	465	43%
Sacramento Area Commerce & Trade Org	54	130	35	1,281	1,500	4%
Paratransit	650	67	4,000	8,000	12,717	5%
Human Rights Fair Housing Commission	122	101	527	--	750	16%
H St Theater / Sacramento Theater Company	66	66	--	868	1,000	7%
<i>Non-Profit Partners</i>						
Sacramento Zoological Society - operations	575	--	--	3,725	4,300	13%
Fairytale Town	25	--	--	875	900	3%
Catholic Social Svcs/Camellia City Center	81	--	--	47	128	63%
Area 4 Agency on Aging/Ombudsman Services	56	64	474	--	594	9%
Hunger Commission	39	--	--	7	46	86%
Sacramento Mediation Center	26	--	375	--	400	6%
Crocker Art Museum	937	--	--	2,563	3,500	27%
<i>Other Contributions</i>						
Sacramento Local Agency Formation Commission	83	165	248	--	495	17%
Totals	\$12,576	\$16,968	\$6,598	\$26,919	\$63,061	20%

Proposed Emergency Communication System Fee
Joint City/County staff report
City Attorney's Opinion



LOU BLANAS
Sheriff



RICK MARTINEZ
Chief



JULIUS J. CHERRY
Chief



ALBERT NAJERA
Chief

June 4, 2004

Board of Supervisors
Sacramento, California

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Report on the Concept of a 911 Emergency
Communications System Fee

DISTRICT: Countywide/Citywide

RECOMMENDATION:

This report provides information on the concept of a countywide 911 Emergency Communications System Fee and recommends that the Sacramento County Board of Supervisors and the Sacramento City Council support the concept of such a fee and direct staff to return, following public outreach, with an ordinance and recommendation on adoption of such a fee.

FOR THE BOARD/COUNCIL MEETING DATE OF: June 15, 2004

CONTACT PERSONS: Richard Ramirez, Deputy City Manager, 808-7598
Geoff Davey, Chief Financial/Operating Officer,
874-5803
Patti Bisharat, Special Projects Manager, 808-8197

SUMMARY:

The 911 Emergency Communications System Fee would be a fee applied to monthly telephone bills. Over the past five years, statistics show that calls for service are increasing throughout the region. To keep pace with rising operation and maintenance costs of local 911 communications systems, and to mitigate budget reductions in public safety operations, is the basis for considering a 911 fee. This report provides detail regarding this fee and recommends support of the concept of implementing such a fee in Sacramento City and County.

BACKGROUND:

While the ability to pick up the phone in an emergency and call 911 for assistance is something we take for granted, the concept is a relatively new

Joint County/City Report
911 Emergency Communications System Fee

phenomenon. It was in 1968 that 911 was first announced as the single emergency public safety telephone number. Today, 911 is an enhanced service that goes far beyond simply providing an easy-to-remember single telephone number for emergencies.

In Sacramento County, the Sheriff's 911 Communications Center answered over 775,850 emergency calls in 2003. The Sacramento Police 911 Communications Center answered over 803,000 calls in 2003. This includes a combination of direct 911 calls and transferred emergency calls from the California Highway Patrol and alarm companies. The number of transferred calls has increased due to the use of cell phones. The Centers also answer calls for non-life threatening assistance such as non-injury vehicle accidents, burglary, etc. The Sacramento Regional Fire Emergency Communications Center (SRFECC), that receives incoming calls for both Metro Fire and Sacramento Fire, answered over 302,800 calls in 2003. Information on 911 communications system call volume from 1999 – 2003 is included as Attachment A.

The annual cost for operation of the County 911 Communications Center is \$8.147 million and the County's portion of the SRFECC is \$2.282 million. Detail of the County's annual 911 communications system cost is included as Attachment B. The cities of Elk Grove, Citrus Heights and Rancho Cordova currently contract with the County for public safety and 911 communications services.

The annual cost for operation of the Police Communications Center and the City's portion of the SRFECC is over \$13 million annually not including indirect and overhead costs. Details of the city's annual 911 communications system costs are included as Attachment C. In order to meet the State Formula Call Center Response Guidelines, which is based on current call volume, the City would need to add four 24/7 call stations at an estimated annual cost of \$1.75 million. The State Guidelines for number of call stations are calculated based on a 10 second call answering goal. The City currently has 15 call stations with the State Guidelines recommending 19.

Clearly there is increasing demand placed on the 911 communications systems in the Sacramento region. The City of Sacramento is currently constructing a new 911 Communications Center that includes a state-of-the-art facility to meet current and future demand. With the current effort to consolidate special operations in the region, the new center establishes a foundation for future opportunity in that effort.

Cities and counties throughout California are struggling to balance their budgets through a combination of cuts and new revenues. The additional take-away of local revenues by the State in order to balance its budget is imminent. Both the City and County of Sacramento are facing reductions in services, including public safety operations, in order to balance their respective budgets for the coming fiscal year. Staff is recommending consideration of a 911 Emergency

Joint County/City Report
911 Emergency Communications System Fee

Communications System Fee in order to fund the requirements of the 911 communications system and mitigate reductions to public safety services in the Sacramento region.

Concept

The 911 Emergency Communications System Fee is directly related to the significant benefit telephone subscribers derive from the immediate access to emergency services from the on-going operation of and improvements to the 911 communications system. The fee is the most practical and equitable revenue mechanism to finance the operation of an adequate and reliable 911 communications system. The fee is implemented through adoption of an ordinance by City Councils for cities and the Board of Supervisors for counties. The specific fee levels can be adopted by resolution. The revenues can only be used to offset the cost of providing the 911 communications systems.

The 911 Fee is a flat rate assessed on a per line basis for access lines. The telephone service supplier collects the fee and remits it to the City or County. The fee would only be imposed on "landlines" within the City and County of Sacramento because the California Highway Patrol currently answers wireless 911 calls. Should wireless 911 calls eventually be placed under local jurisdiction, they could be assessed some level of 911 fee.

The State currently collects a "State 911 Surcharge" on landlines and wireless. This surcharge is a tax and was intended initially to support the statewide CHP 911 System and provide support to local 911 systems. Unfortunately, the revenues have historically not been used for this purpose. Under current law, the surcharge rate can be set up to 0.75 percent. The State has currently set the rate at 0.72 percent.

The 911 Emergency Communications System Fee, which is imposed and collected at a local level, is relatively new to California. San Francisco has had the fee in place for over a decade and it has been recently adopted by the cities of Santa Cruz and Watsonville as well as the county of Santa Clara. The cities of San Jose, Stockton and Palm Springs are considering a similar fee proposal in their budget for fiscal year 2005. Attachment D is a list of other entities that have or are proposing the fee and their fee level if known.

While the City Attorney and the County Counsel have concluded that it is likely that this fee is not a tax, there is no definitive judicial ruling to that effect. There has been some opposition in some jurisdictions. In Santa Cruz County, adequate signatures were collected on a petition to place the fee on the November ballot for voter consideration. The City of Union City has had a lawsuit filed by a wireless service provider regarding the fee.

Joint County/City Report
911 Emergency Communications System Fee

Eligible Costs

The fee is intended to solely provide revenue to offset the cost of operation of the 911 communications system. Eligible costs that have been identified in ordinances approved by other entities include:

Operating costs: Defined as the costs to operate, repair or maintain the 911 communications system or backup 911 communications system, including but not limited to costs for personnel, planning, training, software and hardware maintenance and upgrades, facility maintenance and repair, depreciation equipment replacement, technical infrastructure and attorneys fees.

Project costs: Defined as the costs of acquiring, re-financing and developing land on which to locate a 911 communications system facility or backup 911 communications system facility, acquiring and installing computerized call delivery processing and dispatch equipment and software, and/or any other acquisition or construction necessary to combine 911 Communications staff, under a single uniform management structure and to house 911 communications system equipment and staff in a seismically safe and fireproof facility or backup facility, including any debt service payments related thereto.

Calculating the Fee

The fee is assessed on a per line basis. Subscribers of trunk lines pay a higher fee because each line within the trunk has access to 911. Certain categories such as Life Line, coin-operated telephones, hospitals, non-profit, educational and others identified by law are exempt from the fee. Under the proposed fee, each agency can only recover a percentage of costs proportionate to the percentage of eligible access lines to total lines. The City of Sacramento has a high exemption rate of about 45%. This means that the City could optimally recover only 55% of total eligible costs of the 911 communications system. The County of Sacramento has an exemption rate of 22%.

The economic thresholds for Life Line customers are lower or comparable to the City's Utility User Tax rebate levels. Life Line customers would be exempt from the 911 fee.

Business trunk lines, which have multiple lines, are charged at a rate based on a multiplier of 7.5 lines and 18 lines for "super" trunks. This multiplier is based on information from the California Public Utilities Commission on the average access benefit for trunk lines. These multipliers have been used by the other entities that have implemented the 911 fee.

Joint County/City Report
 911 Emergency Communications System Fee

Some entities that have adopted a 911 fee have included a cap on the amount an individual subscriber would pay annually. Staff is evaluating a cap mechanism to include in the proposed ordinance.

Outreach

The proposed fee is supported by the Sacramento Police Officers Association, Local 522, and the Sacramento County Deputy Sheriffs Association. To date, staff has met with and shared information on the 911 Emergency Communications System Fee with the Sacramento Metropolitan Chamber of Commerce, Downtown Partnership, Sacramento County Taxpayers League and landline telephone service providers. The intent is to continue outreach efforts over the next 2-3 months to include other business chambers, residents, neighborhood associations and community-based organizations.

Staff would return to the Board and City Council in early fall with a proposed ordinance and fee resolution for adoption with implementation in early 2005.

FINANCIAL CONSIDERATIONS:

The monthly fee charged for 911 is calculated based on amount of eligible cost, number of eligible lines and the desired level of cost recovery. In other cities and counties the current fee ranges from \$1.47 - \$3.49 a month with cost recovery levels of 45-91%. See Attachment D.

To achieve full cost recovery, the County 911 fee level is estimated at \$2.70 a month for single access lines. The following are examples of fee levels and recovery levels for the County of Sacramento based on current costs:

	Single Line	Trunk	+Super Trunk	Est. Revenue*
County Fee @ 100% Recovery	\$2.70 a month	\$20.00 a month	unknown	\$7,493,000
County Fee @ Direct Cost Recovery	\$2.15 a month	\$16.15 a month	unknown	\$5,973,000
County Fee @ Partial Cost Recovery	\$2.00 month	\$15.00 a month	unknown	\$5,556,000

*Based on 77% of eligible costs.

+Number of super trunk accounts is still being researched.

Joint County/City Report
911 Emergency Communications System Fee

To achieve full cost recovery, the City 911 fee level is estimated at \$3.60 a month for single access lines. The following are examples of fee levels and recovery levels for the City of Sacramento based on current costs:

	Single Line	Trunk	Super Trunk	Est. Revenue*
City Fee @ 100% Recovery	\$3.60 a month	\$27.00 a month	\$65.50 a month	\$9,113,000
City Fee @ Direct Cost Recovery	\$2.90 a month	\$21.75 a month	\$52.60 a month	\$7,302,000
City Fee @ Partial Cost Recovery	\$2.00 a month	\$15.00 a month	\$36.00 a month	\$4,999,000

*Based on 55% of eligible costs.

The 911 Emergency Communications System Fee would provide a stable revenue source to address the growth in demand, keep pace with increasing costs and mitigate the impact of budget reductions to public safety. It could also assist in addressing requirements for additional call stations to meet the State Guidelines for 10 second call answering, replacement of the regional 911 radio backbone and other elements that are critical to maintaining this essential service.

ENVIRONMENTAL CONSIDERATIONS:

This report concerns administrative activities that will not have any significant effect on the environment, and that do not constitute a "project" as defined by the California Environmental Quality Act (CEQA) [CEQA Guidelines Sections 15061(b)(3); 15378(b)(2)].

POLICY CONSIDERATIONS:

Staff is recommending consideration of a 911 Emergency Communications System Fee in order to fund the requirements of the 911 communications system and mitigate reductions to public safety services in the Sacramento region. The fee is the most practical and equitable revenue mechanism to finance the operation of an adequate and reliable 911 communications system. Those who have discounted telephone service through "lifeline" service are exempt from the fee.

Joint County/City Report
911 Emergency Communications System Fee

ESBD EFFORTS:

Not applicable.

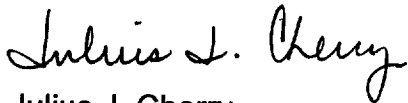
Respectfully submitted,



Lou Blanas
Sheriff
County of Sacramento



Albert Najera
Chief of Police
City of Sacramento

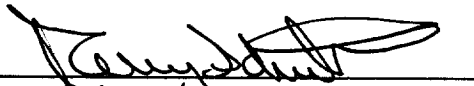


Julius J. Cherry
Fire Chief
City of Sacramento



Rick Martinez
Fire Chief
Sacramento Metro Fire District

RECOMMENDATION APPROVED:



Terry Schutter
County Executive



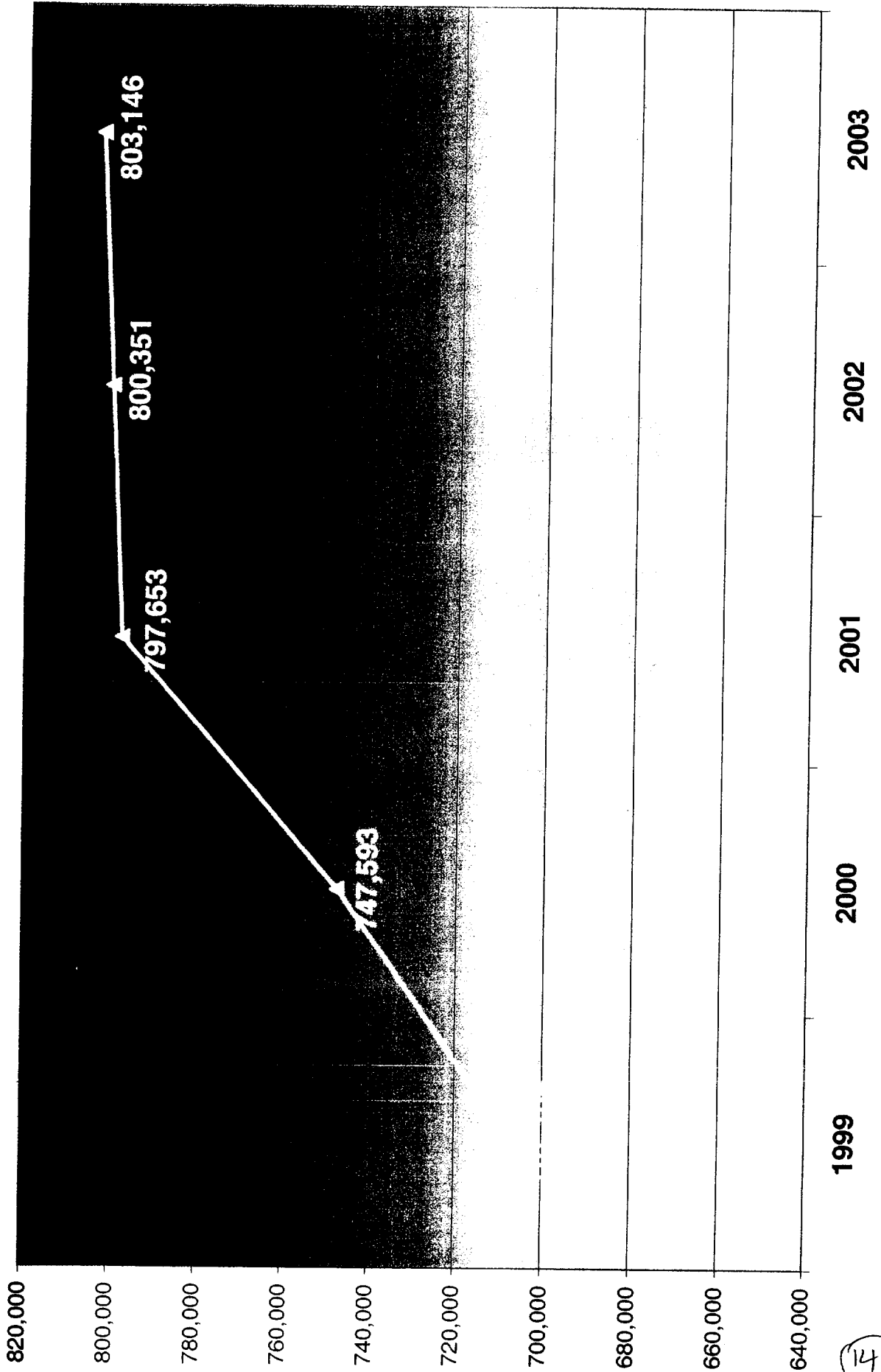
Robert P. Thomas
City Manager

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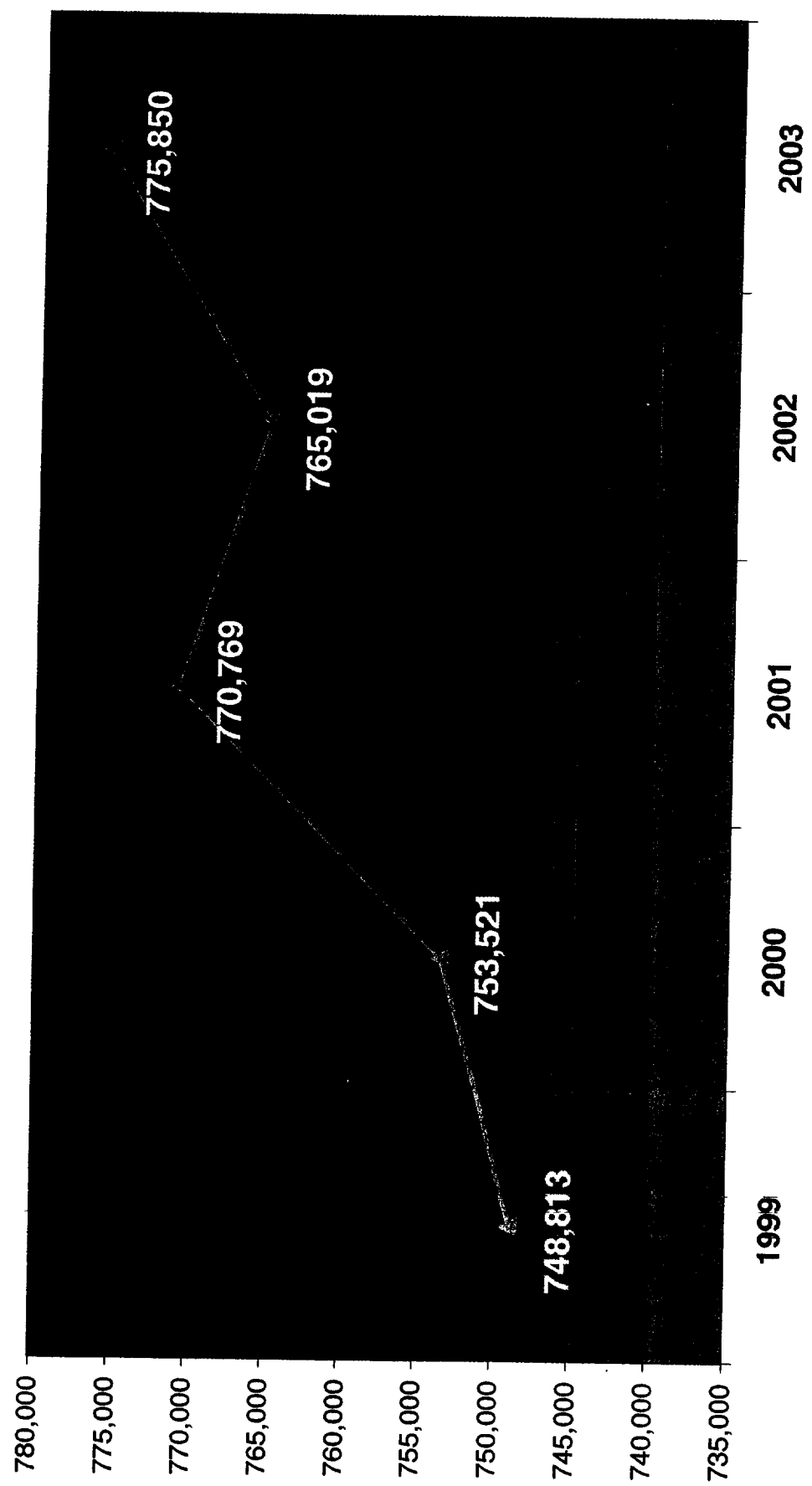
Sacramento Police Department Call Volume 1999-2003

Total Call Volume

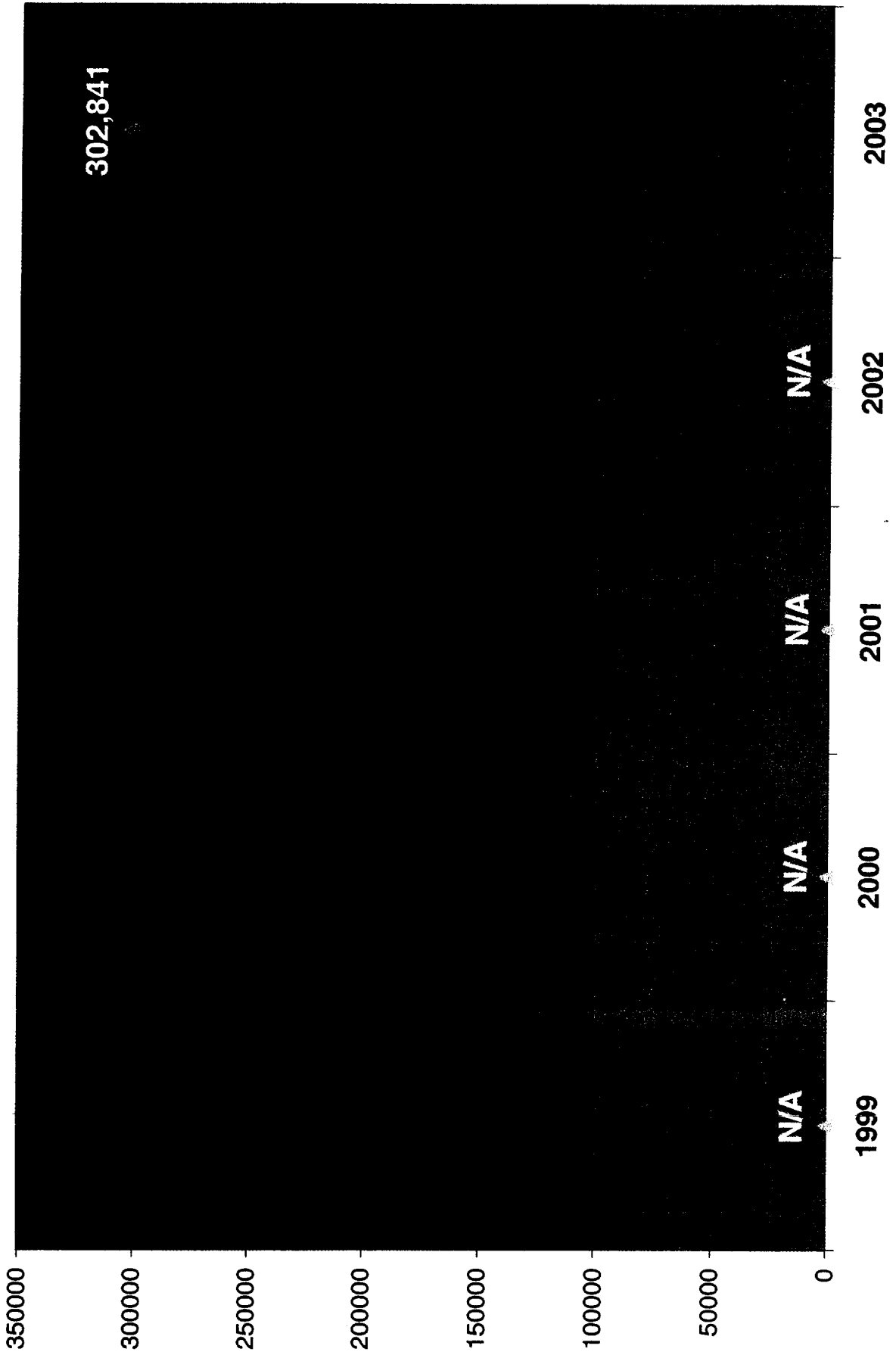


Sacramento Sheriff Department Call Volume 1999-2003

Total Call Volume



Sacramento Regional Fire/EMS Communications Center



* Data not available for prior years.

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**County of Sacramento
 Communications Dispatch Center Costs
 For Fiscal Year 2004/2005**

	Sheriff's Department	Metropolitan Fire District	Total Costs
Salaries & Benefits	\$6,245,959		\$6,245,959
Services & Supplies	127,101	\$2,282,000	2,409,101
Other Charges	0		0
Fixed Assets	0		0
Intrafund Charges	0		0
County Wide Cost Application Plan Costs	101,459		101,459
Department Support Service Costs	1,672,259		1,672,259
Total Costs	\$8,146,778	\$2,282,000	\$10,428,778
Total Costs			10,428,778
Less Contract City Reimbursements			(1,017,347)
Net Costs Including Contract City Reimbursements			9,411,431

**CITY OF SACRAMENTO
CURRENT 911 COMMUNICATION COSTS**

Police Communications Center Operations:

Salaries/Benefits	\$6,780,000	
Technology Support/Equipment	\$ 420,000	
Services & Supplies	<u>\$ 342,000</u>	
		\$7,542,000

Debt Service for new 9-1-1 Communications Center	\$1,273,000	
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Replacement of 9-1-1 Communications Center (25 year amortization)	\$1,500,000	
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Replacement of 9-1-1 Equipment (5 year amortization)	<u>\$ 670,000</u>	
		\$3,443,000

Fire Communications:

Contribution to Regional Communications Center		<u>\$2,292,000</u>
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TOTAL DIRECT COSTS		\$13,277,000
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Unfunded Needs:

Training & Equipment	\$ 490,000	
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Staff Levels per State Formula Call Center Response Guidelines	\$1,750,000	
---	-------------	--

Additional Costs:

Administration/Overhead	\$3,292,000	
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California Entities with 911 Fees
 (Note: Information subject to change.)

Entity	Proposed Fee	Current Fee	Population	Current %	Proposed %	Recycling
San Francisco	\$1.75*	\$13.13	780,500	14.9%	791,900	83%
Santa Cruz (County)	\$1.47	\$11.03	79,000	9%	134,700	91%
Santa Cruz (City)	\$3.49	26.16	30,659	10%	55,600	90%
Watsonville	\$2.00	18.00	13,479	38%	47,700	45%
Santa Clara (County)	\$2.21	16.58	47,398	20%	99,600	80%
<u>California</u>						
Average Cost of Single and Trunk Lines.	<u>\$2.18</u>	<u>\$16.38</u>		<u>18%</u>		<u>78%</u>

*Proposed increase to \$2.75 for FY05 Budget.

Cities Proposing Fee as Part of FY05 Budget	
Stockton	\$1.50 monthly single access
San Jose	\$1.75 monthly single access+
Palm Springs	\$1.06 monthly single access

+Includes cellular phones

California Entities in various stages of implementing the 911 Fee:
 (As of June 1 2004)

Napa	Oakland	Cupertino	
Redwood City	West Sacramento	Hayward	San Rafael
Santa Clara	South San Francisco	Sebastopol	Union City



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JAMES F. WILSON

June 7, 2004

MEMORANDUM

TO: Mayor and City Council

FROM: Samuel L. Jackson, City Attorney
Richard E. Archibald, Assistant City Attorney
Robert D. Tokunaga, Supervising Deputy City Attorney (0500)

RE: 911 Emergency Response Fee

ISSUE PRESENTED

Can the City Council adopt a 911 emergency response system fee without voter approval?

BRIEF ANSWER

Probably yes. Strong arguments can be made to support the adoption of a 911 Fee without voter approval. However, there are aspects of the fee that have not been tested under Propositions 13 and 218 that may provide a contrary outcome. Litigation was recently initiated to challenge the 911 Fee established by Union City.

BACKGROUND

City staff intends to bring forward to the City Council a 911 Emergency Response Fee ("Emergency Response Fee" or "911 Fee"). Generally stated, the purpose of the 911 Fee will be to defray a portion of the costs necessary to construct and operate the City's new 911 Communications and Training Facility as well as a portion of the City's contribution to Sacramento Regional Fire/EMS Communication Center.

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Mayor and City Council
Re: **911 Emergency Response Fee**
June 7, 2004
Page 2

The City and County of San Francisco adopted a 911 Fee in 1993. The City and County of Santa Cruz followed suit in 2002 by adopting a fee modeled after the San Francisco fee, as did the City of Union City in November, 2003. Likewise, City staff envisions the City's adoption of a fee modeled after the San Francisco fee. Following is a brief overview of that city's fee ordinance follows.

San Francisco ordinance

In 1993, the City and County of San Francisco adopted an emergency response fee in order to "substantially improve the performance of that city's 911 communication system." The fee was adopted "to finance the acquisition and construction of land, equipment, software, and facilities which are needed to provide an adequate and reliable 911 communication system" and the operation of the system. The San Francisco Board of Supervisors found from a series of reports and audits that its 911 communication system contained serious deficiencies. In addition to improvements to the system's infrastructure, the Board also found that a combined dispatch service for police, fire and health services would provide a more efficient and effective emergency response system. Initially, the Board imposed the fee to pay for the construction and equipping of the new combined dispatch center. In subsequent amendments, the Board revised the fee ordinance to also pay for a backup facility and the cost of operation of the combined 911 communication system.

The Board found that because San Francisco telephone subscribers would reap most of the benefits from an improved system, the fee was imposed on those subscribers on a per-line basis with certain conditions, limitations and exceptions, e.g. differing rates paid by single telephone lines, trunk lines and high capacity trunk lines, and exceptions for "lifeline" customers, various nonprofit groups, persons effectively exempted by federal and state law, and other specified telephone users. The fee ordinance requires that the costs of providing the 911 service to exempt subscribers must be paid from a source other than 911 Fee revenues.

The fee is imposed on every phone subscriber with a wired access line or a wireless "place of primary use" in San Francisco under the theory that each such phone service provides access to the 911 communication system.¹ The fee is calculated by dividing the eligible costs relating to the construction and operation of the centralized system by the number of phone subscribers representing single-line subscribers, and trunk line and high

¹ The California Highway Patrol currently is on the receiving end of telephone services carrying 911 emergency calls placed by cellular wireless telephones. Hence, the City's proposed fee does not include a fee imposed on wireless subscribers. It is our understanding that the San Francisco fee initially was not imposed on wireless subscribers until after that city's combined system directly received wireless 911 calls.

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capacity trunk line subscribers. Fee revenue is collected by telephone service providers as part of their normal billing practices, and transmitted monthly to the City Tax Collector. The revenue is maintained in a special fund and may only be used to pay eligible project and operating costs described in the fee ordinance.

DISCUSSION

As mentioned above, several other California jurisdictions have adopted similar emergency response fees. Until recently, there has been no legal challenge to such 911 Fees. On May 20, 2004, suit was filed against Union City challenging its emergency response fees on a number of grounds described below. Following is a brief summary of the grounds for the challenge of the Union City.

The lawsuit against Union City seeks a judicial determination that the city's emergency response fee is a tax and the subject ordinance is invalid and illegal until such time it is approved by the voters under Propositions 13 and 218, or, in the alternative, that the fee is an invalid fee for general governmental services or an invalid property-related fee under Proposition 218; that the fee is a special tax as it fails to meet the requirements of Government Code section 50076 and is invalid until it is approved by the voters under Propositions 13 and 218; and that the fee imposed on wireless phone subscribers is not authorized under law and is in violation of the Equal Protection Clauses of the Federal and State Constitutions.²

Under Proposition 13, a "special tax" is defined as a tax levied for a specific purpose rather than for general governmental revenue. Government Code section 50076 excludes from the term "special tax" "any fee which does not exceed the reasonable cost of providing the service or regulatory activity for which the fee is charged, and which is not levied for general revenue purposes." To avoid a designation as a "special tax" and the voter approval requirement that such designation carries with it under Proposition 13, the proposed 911 Fee must be tailored to only meet its purposes of constructing and operating the City's emergency response communication system for the benefit of the phone subscribers and the fee revenue must not be diverted to other unrelated general revenue purposes.

² As mentioned previously, since the California Highway Patrol currently receives emergency calls placed by cellular wireless telephones, the fee under consideration by City staff will not include a fee imposed on wireless subscribers. However, determinations as to this aspect of the Union City case will be instructive should the City later seek to expand the fee to wireless subscribers.

The same factors required by Government Code section 50076 have been raised successfully in defeating characterization of various types of fees as special taxes in a number of situations. While a 911 Fee has not been the subject of an appellate court opinion, there is precedence that could support similar arguments establishing its nature as a fee, not a special tax requiring voter approval. To ensure that the 911 fee does not raise excess revenues, it would be appropriate to set the fee at a level that is conservative and addresses most, but not all, potentially eligible costs.³

Proposition 218

As mentioned above, under Proposition 218, property-related fees are subject to voter approval. Property-related fees are either imposed upon a parcel of property or on persons "as an incident of property ownership" and includes fees charged for a "property-related service." The proposed 911 Fee will not be imposed upon a parcel of property; it is imposed on telephone subscribers. Hence, the Proposition 218 inquiry here is whether the fee is imposed on telephone subscribers "as an incident of property ownership" and whether emergency response service is a "property-related service." The courts have construed the term "property-related fee" narrowly, in a manner favorable to jurisdictions seeking to impose fees for non-property related services. There are a number of strong factual arguments that can be raised in support of the argument that the 911 Fee is not a property-related fee, e.g. property ownership itself does not mandate telephone service and with it access to the emergency response communication system, a property owner may elect not to have telephone service, and a telephone subscriber, wired or wireless, may have no interest in real property and yet have access to the emergency response service.

The Union City complaint also alleges that phone service (and hence the 911 system that is inherent in such service) is an incident of property ownership. There are no appellate cases on point to provide guidance as to the likelihood of success of this argument. However, given the personal nature of phone service, this claim will likely fail.

The Union City complaint also alleges that the 911 Fee violates the provisions of Proposition 218 that prohibit the imposition of fees to pay for general governmental services, including police, fire and ambulance services, among other things. However, the prohibition of Proposition 218 applies only against property related fees, and as discussed above, the better argument appears to be that the 911 fee is not a property-related fee.

³ Cases have held that a jurisdiction may satisfy the requirement of showing a reasonable relationship between the fees to be charged and the estimated cost of the service to be provided by showing that the fees will generate substantially less than the anticipated costs.

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CONCLUSION

The imposition of a fee without voter approval to pay for the costs of an emergency response system would appear to be permissible under Propositions 13 and 218. The issues are being addressed in a challenge to the 911 fee established by Union City, and this office will follow and advise the Council as appropriate on the status of this litigation.

REA/RDT/dw

Attachment 3
Summary of Proposed Reductions/Restorations

Department	Reduction	Proposed Budget		Proposed Restorations		Revised Budget	
City Attorney	Reduce Technology CIP. Would leave balance of approximately \$725,000.	(200,000)	0.0	--	--	(200,000)	0.0
City Clerk	Reduce services and supplies support for online campaign filing program.	(50,000)	0.0	--	--	(50,000)	0.0
City Manager	Reduce operating budget (services & supplies)	(50,000)	0.0	--	--	(50,000)	0.0
Convention, Culture & Leisure	Reduced outreach and marketing (\$50,000); reduce cultural awards grants (\$50,000); reduce support to Old Sacramento	(110,000)	(0.4)	--	--	(110,000)	(0.4)
Finance	Eliminate 1.0 FTE Special Projects Manager (alternative funding)	(120,000)	(1.0)	--	--	(120,000)	(1.0)
Fire	Eliminate 1.0 FTE Deputy Chief and Fitness Coordinator position	(220,000)	(2.0)	220,000	2.0	0	0.0
Human Resources	Eliminate career development support (1.0 FTE) and 1.0 FTE Human Resources Manager	(192,000)	(2.0)	--	--	(192,000)	(2.0)
Information Technology	Eliminate vacant GIS position (\$83,200); discontinue COBOL application support (\$15,000); reduce citywide IT Excellence Training Fund by half (\$125,000); eliminate 1.0 FTE Computer Operator (position filled - \$64,500); savings in services and supplies/consulting (\$70,000)	(357,700)	(2.0)	--	--	(357,700)	(2.0)
Labor Relations	Hold Labor Relations Manager position vacant (\$104,000); provide some funding for contract assistance during labor negotiations	(50,000)	0.0	--	--	(50,000)	0.0
Mayor/ Council	Reduce Mayor and Council budget	(80,000)	0.0	--	--	(80,000)	0.0

Attachment 3
Summary of Proposed Reductions/Restorations

Department	Reduction	Proposed Budget		Proposed Restorations		Revised Budget	
Neighborhood Services	Reduce 1.0 FTE Neighborhood Service Area administrative staff and 1.0 FTE Neighborhood Resources Coordinator.	(134,900)	(2.0)	--	--	(134,900)	(2.0)
Parks & Recreation	Reduced special events support (\$50,000); shift funding for Parks Planning Design & Development (PPDD) Program Specialist to Park Development Impact Fund (\$45,000); increase offsets from L&L and Special Recreation funds (\$62,000); reduce supplies/consultant services (\$105,000); reduce Special Program Leader work hours by 30 minutes per day (\$90,000); reduce Park maintenance services by approximately 4 hours per week (11 FTE - non-career, \$260,000)	(612,000)	(11.0)	--	--	(612,000)	(11.0)
Police	Eliminate 4 CSO in Patrol (report writing - \$261,500); eliminate equestrian unit (5 FTE, \$500,000); eliminate marine unit (2 FTE, \$227,000)	(988,500)	(11.0)	988,500	11.0	0	0.0
Miscellaneous	Miscellaneous reductions	(600,000)	0.0	0	0.0	(600,000)	0.0
subtotal, Reductions		(3,765,100)	(31.4)	1,208,500	13.0	(2,556,600)	(18.4)

Attachment 4
Summary and Description of Proposed General Fund Augmentations

Proposed General Fund Augmentations		General Fund Cost	Offsets/ Revenue	Net General Fund Cost	Net FTE Change
Code Enforcement	Add 1.0 FTE Building Inspector, 1.0 FTE Code Enforcement Officer, 1.0 FTE Building Technician, 1.0 FTE IT Systems Specialist, 1.0 FTE Deputy City Attorney to address increased workload.	495,000	(495,000)	0	5.0
Fire	Medic Unit #11 - funded from ALS fees.	630,000	(630,000)	0	6.0
	Add 4th Battalion Chief staffing - 3.0 FTE, funded from ALS fees	525,000	(525,000)	0	3.0
	2.0 FTE administrative staff and 2.0 FTE IT staff	317,000	(317,000)	0	4.0
General Services	Additional funding for janitorial, security and utilities at new Facilities (North Area Corp Yard, OES, Public Safety Admin Building)	485,000	0	485,000	0.0
	Additional operating costs for Interim City Hall (one-time in FY2004/05)	215,000	0	215,000	0.0
	New City Hall; 1.0 FTE Stationary Engineer, 1.0 FTE Building Maintenance Worker, 0.5 Building Manager plus 1 vehicle. Annualized cost is \$1.3 million.	300,000	0	300,000	2.5
Mayor/Council	Addition of 1.0 FTE for additional reception support associated with new City Hall operations	50,000	0	50,000	1.0
Parks and Recreation	Restore park maintenance reduction	260,000	0	260,000	11.0
	Parks Maintenance: 1 Park Maintenance Worker II (PMWII), August 2004. \$59,000 Funded from Lighting & Landscape (L&L)	59,000	(59,000)	0	1.0
	Volunteer & Community Garden programs; 2.0 Human Services Program Coordinator. 1.5 hired in July/August, 0.5 hired in May/June '05. \$57,683 Funded through L&L.	57,683	(57,683)	0	2.0
	1.0 FTE General Supervisor for special programs. Hired July/August, \$83,000 funded from L&L.	83,000	(83,000)	0	1.0
	1.0 FTE General Supervisor to oversee contracts. \$83,000 funded from Park Maintenance Community Facilities District	83,000	(83,000)	0	1.0
	1.5 PMW I. 0.5 hired in July/August, 1.0 hired in April/May '05.	27,500	0	27,500	1.5

Attachment 4
Summary and Description of Proposed General Fund Augmentations

Proposed General Fund Augmentations	General Fund Cost	Offsets/ Revenue	Net General Fund Cost	Net FTE Change
Parks and Recreation (cont'd)				
1.5 FTE Youth Aide for youth employment program. Hired May/June	5,000	0	5,000	1.5
General park maintenance costs. Annualized cost is approximately \$500,000.	300,000	0	300,000	0.0
Police				
Increased staffing for operations; funded by grants for 3 years. Total cost is \$5 - \$6 million annually beginning in FY2007/08	2,425,742	(2,425,742)	0	27.0
Library				
Funding for North Natomas interim facility opening in FY2004/05	361,500	0	361,500	0.0
Totals, General Fund Augmentations	6,679,425	(4,675,425)	2,004,000	67.5

Additional information on proposed General Fund Augmentations

Code Enforcement

- An increase in code enforcement activity, as well as population growth, has contributed toward the need for additional staffing to handle the workload. Code Enforcement activity in the city has increased steadily over the past several years. For example, in FY03, there were over 31,000 code enforcement cases in the city, a 15% increase from FY02. In FY02, code enforcement cases increased 12%. To address this increase, the proposed augmentation includes a Code Enforcement Officer and a Building Inspector. A Building Technician is also included to handle code enforcement issues at the public counter. Currently, a Code Enforcement Officer is being assigned to handle these code issues. Funding for the Building Technician shall be provided by the Development Services Department.
- Not only has enforcement activity increased, but the need for technology support has grown as well. The City implemented wireless computing to keep inspectors in the field as much as possible and still provide real-time access to City systems and databases for both data entry and retrieval. This has resulted in the inspectors and code enforcement officers being able to spend more time in the field, since they do not need to return to the office for research. The laptops and printers allow the officers to process their paperwork in the field. As a result, remediation of code violations has been expedited and case turn-around time has effectively reduced the complaint backlog. To keep up with the technology changes, maintain an efficient system, and provide adequate support to the division, additional technology support staff is included in the proposed augmentation.

Summary and Description of Proposed General Fund Augmentations

- Additional staffing and resources recommended for FY04/05:

1.0 Building Inspector III	\$85,000	
1.0 Code Enforcement Officer	\$65,000	
1.0 Building Technician	\$65,000	
(to be paid for by Planning & Building)		
1.0 IT Systems Specialist	\$85,000	
<u>1.0 Dep. City Attorney</u>	<u>\$125,000</u>	
(City Attorney's Office position)		
Labor		\$425,000
<u>Services/supplies</u>		<u>\$70,000</u>
Total		\$495,000

- These program costs would be paid for by increased Code Enforcement revenues generated by these activities, as well as an offset from development fees, at no net cost to the General Fund.

Fire

- The Fire Department Budget to be augmented by 13.0 FTE, including six firefighter/paramedics, three battalion chiefs for field supervision, two administrative technicians and two information technology positions. This augmentation would allow for: the addition of the 11th Medic Unit to support increased call volume, the 4th Battalion to be reinstated (eliminated during budget cuts in 1993) to provide increased field supervision, and essential staff for administrative, mapping and computer network demands.
- The augmentation requested includes on-going costs of approximately \$1,380,000 and approximately \$92,000 of one-time costs. The on-going costs cover the salaries and benefits associated with the additional personnel. The one-time costs would cover the costs of medic equipment, a battalion chief vehicle and staff computers. These program costs would be paid for by Advanced Life Support revenues at no net cost to the General Fund.

General Services

- The proposed augmentations in General Services relate to a number of facility-related needs.
- Citywide utility costs for all multi-tenant buildings have increased over the last several years without any corresponding budget adjustments. An augmentation of \$70,000 is requested to bring the budget in line with current costs.
- The Interim City Hall is exceeding anticipated costs for utility (\$130,000) and security (\$85,000) costs. The proposed augmentation would be a one-time cost to fund those increased costs for what is anticipated to be the final year of occupancy of the Interim City Hall, pending the move in to the new City Hall in Summer 2005.

Summary and Description of Proposed General Fund Augmentations

- The Public Safety Administration building is also experiencing higher-than-anticipated costs for utilities (\$100,000) as well as for janitorial services (\$10,000).
- The North Area Corp Yard is coming online as a new facility housing City employees and programs in the FY2004/05 budget. The projected costs for utilities, security and janitorial at this new facility are \$255,000.
- Another facility that has come online in the current year is the former State Office of Emergency Services operation at the Meadowview City Service Complex. Operating costs relating to utilities costs and janitorial service will be approximately \$50,000 for FY2004/05.
- Finally as the new City Hall comes online, a total of 2.5 FTE are requested for covering operations and maintenance (1.0 FTE Stationary Engineer, 1.0 FTE Building Maintenance Worker and 0.5 FTE Building Manager). The estimated annual cost of staffing as well as utilities, janitorial etc... is \$1.2 million. A portion of the annual amount, \$300,000 is requested for FY2004/05 to begin staffing operations late spring 2005.

Mayor/Council

- An augmentation for one position to assist with reception and other duties in the new, larger City Hall is requested to improve customer service and balance workload for existing staff.

Parks and Recreation

- During FY2004/05, the City will have approximately 18 new parks coming online.
- There are a number of dedicated funding sources that will provide some of the funding for maintenance of these new parks, including the Community Facilities District approved for park maintenance as well as the existing Lighting and Landscaping assessment.
- Even with the additional funding, there will be additional net General Fund support required to support the expanded park areas as well as implementing Council approved programs such as the Community Gardens, Volunteer and Youth Employment programs.
- The net General Fund augmentation requested for FY2004/05 is \$592,500 which restores the park maintenance reductions included in the Proposed FY2004/05 Budget (11.0 FTE) and adds 8.0 FTE (2.5 FTE Park Maintenance Workers, 2.0 FTE Human Services Program Coordinators, 2.0 FTE General Supervisors, 1.5 FTE Youth Aides), to be hired in a phased in manner as parks and programs come online.

Summary and Description of Proposed General Fund Augmentations

Police

- The Police Department is requesting permission to activate the remaining 27 Universal Hiring Program (UHP) Grant Positions that are of the 10% Match Formula. The detailed information below provides a summary of the cost to the City.
- The Police Department needs these positions to increase the staffing needs for the Patrol Division because the department has not increased staffing in the patrol division since the 1990 budget.
- The police department's experience for operations is that, due to efficiencies in revenue collection and due to unanticipated vacancies, the department realizes an annual department carryover which will cover the expected general fund costs for this grant program at no additional cost to the general fund.
- This initiative would add 27.0 FTE to the FY2004/05 budget. The total cost for the 27 patrol officers is estimated at \$2.4 million. Based on anticipated grant recovery of \$1.3 million, the net City cost for the officers is \$1.1 million which will be covered within the Police Department's existing budget through salary savings. Labor costs increase as officers become more experienced and the grant requires the city to absorb an increasing percentage of that cost and fully pay for the 4th year. At the end of the 4 year grant, the City would have received the benefit of 27 officers while paying for 62% of their costs. The cost, grant recovery and net general fund support for these added patrol officers would be:

Labor	\$9,499,000
Fleet	1,175,700
UHP grant recovery	<u><4,044,900></u>
City cost, 27 FTE for 4 years	\$6,629,800

Library

- An interim library facility in North Natomas is scheduled to begin operation in September 2004 at Inderkum High School. The estimated first year cost is approximately \$485,500. Of that amount, \$124,000 will be paid from the public facilities fee fund. A General Fund augmentation of \$361,500 is proposed to cover the balance of the operating costs for the first year. In addition, the Natomas Unified School District has \$300,000 available for books and furnishings for the library that must be expended by February 2005.



Attachment 5
Summary of Proposed Enterprise Fund Augmentations

Proposed Enterprise Fund Augmentations		Net Budget Change	Net FTE Change
Utilities - Water Fund	1.0 FTE Water Distribution workload; 1.5 FTE increased City Operator staffing due to workload; increased services and supplies related to general workload and new regulatory requirements.	267,100	2.5
Utilities - Storm Drainage Fund	1.0 FTE Plant Operator due to growth; increased regulatory fees; 1.0 FTE Engineer to oversee Storm Water Management programs; 1.0 FTE related to North Natomas conjunctive use facilities	477,000	3.0
Transportation - Parking Fund	Increased costs associated with new contractor for Downtown Plaza garages	545,260	0.0
Totals, Enterprise Fund Augmentations		1,289,360	5.5

Proposed Agreement With Governor Arnold Schwarzenegger

November 2004 Constitutional Amendment

- **VLF Repayment.** Require repayment in FY2006/07 of FY2003/04 VLF Backfill Loan (\$520 million back to cities).
- **VLF Reduction/New Property Taxes to Cities.** Lower the VLF permanently to 0.65% from 2%, and provide property taxes to cities and counties to offset VLF backfill (less \$700 million for 2 years--\$350 million city and \$350 million county).
- **No Future Tax Raids.** Prohibit the state from taking the property tax, sales tax, and the remaining VLF of local governments.
- **Mandate Reimbursements.** Require payment of deferred mandate reimbursements to local government, beginning in FY2006/07.
- **Automatic Repeal of Mandates.** Require that failure to pay mandate reimbursements in timely way will trigger repeal of the law imposing mandate.
- **Property Tax Backfill.** Guarantee payment of the property tax backfill to cities and counties due to the Proposition 57 "triple flip" (which suspended ¼ cent local sales tax).
- **Sales Tax Returned.** Guarantee that the Bradley-Burns sales tax is restored to the full rate when the Proposition 57 bonds are repaid.
- **No Property-Sales Tax Exchange.** Oppose addition of property-sales tax exchange.
- **Governor to Chair Campaign.** Governor advocates legislative approval of the proposed amendment and serves as chairman of the campaign to secure voter approval in November 2004.
- **LOCAL Initiative Still on Ballot.** The *Local Taxpayers and Public Safety Protection Act* remains on the November 2004 ballot in the event legislature does not approve "agreement". If legislative approval were secured, the League and the LOCAL Coalition would devote all of our efforts to passage of the new constitutional amendment.