



**COUNTY OF SAN MATEO**  
**Inter-Departmental Correspondence**

Department of Public Works

**DATE:** August 21, 2002

**BOARD MEETING DATE:** September 10, 2002

**TO:** Honorable Board of Supervisors

**FROM:** Neil R. Cullen, Public Works Director

**SUBJECT:** **Second Amended Joint Powers Agreement Incorporating the Terms and Conditions of the Previous Agreement, and Creating the San Mateo County Telecommunications and Franchise Negotiation Authority ("SAMCAT") with the Authority to Negotiate Model Franchise Agreements with Public Utilities.**

**Recommendation**

Adopt a resolution authorizing the President of the Board to execute the Joint Powers Agreement as described above.

**Previous Board Action**

1. Joined with eight cities in 1989 to create the San Mateo County Cable TV Joint Powers Authority (SAMCAT).
2. Approved the First Amendment to the Joint Powers Agreement authorizing SAMCAT to regulate basic service tier cable rates in 1996.

**Key Facts**

1. The Court which has responsibility for ruling on the restructuring of PG&E will be considering two different reorganization proposals by December 31, 2002.
2. One proposal, if approved, will necessitate the renegotiation of the franchise agreements with PG&E for the use of the public roads for their facilities.
3. The San Mateo City/County Managers Association and the SAMCAT Board of Directors believe that SAMCAT can build on its previous experience of negotiating uniform telecommunication agreements to develop standard utility franchise agreements and that this work would be cost effective since SAMCAT includes all but two cities in the County.
4. The proposed agreement uses the same acronym for the Joint Powers Authority (JPA), but changes the name of the JPA to the San Mateo County Telecommunications and Franchise Negotiation Authority ("SAMCAT") and authorizes SAMCAT to develop model gas/electric utility franchise agreements.

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### **Discussion**

#### **Background**

The San Mateo County Cable TV Authority (SAMCAT), a joint powers authority, was formed in 1989 for the purpose of aggregating the needs and negotiating power of local agencies to create a model Cable TV franchise that would provide better terms than the individual agencies negotiated in the past.

The JPA agreement was last amended in 1996 to allow SAMCAT to work on issues and the development of model franchise documents that included various forms of telecommunications including fiber optic, wireless, microwave and other telecom services.

#### **Request for New Franchises**

California cities and counties were approached recently by PG&E with a request to negotiate franchises for two new companies that PG&E proposes to establish as part of their plan to reorganize and emerge from bankruptcy. These new firms would handle the existing Gas and Electricity Transmission systems and are called the "G-Trans" (Gas Transmission) and "E-Trans" (Electric Transmission) companies or the "Newcos" for short. The Newcos would be regulated by the Federal Energy Regulatory Commission (FERC) instead of the California Public Utilities Commission (CPUC). PG&E would continue to exist and would handle the distribution of gas and electricity.

The California Public Utilities Commission (CPUC) has offered a competing plan to the court for the bankruptcy reorganization of PG&E. The CPUC plan calls for PG&E to continue to operate both the gas and electric transmission and distribution systems and to continue to be subject to regulation by the CPUC as is the case today. Both plans are subject to review by the Bankruptcy Judge and it is not clear at this point which plan will be adopted and approved.

#### **Role of SAMCAT**

As stated under Key Facts above, SAMCAT has the background to develop uniform or model franchise agreements and it is proposed that the existing JPA agreement be superceded by an agreement that adds the ability to negotiate model franchises with public utilities (such as PG&E) to SAMCAT's list of potential duties.

The proposed agreement will need to be approved by 2/3rds of the SAMCAT member agencies before the SAMCAT Board can authorize work on draft franchise documents for the Newcos that have been proposed by PG&E, or to incorporate material that has been developed by the League of California Cities regarding this issue. Any model franchise developed by SAMCAT would be considered and approved independently by each City Council and your Board for the unincorporated area.

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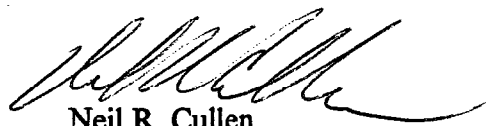
**Vision Alignment**

We believe our recommendation is consistent with Shared Commitment to be a "responsive, effective and collaborative government", and goal Number 22, "County and local governments effectively communicate, collaborate and develop strategic approaches to issues affecting the entire County" as the amendment enables the County to collaborate with other members of SAMCAT to jointly negotiate franchise agreements to balance the needs of the public utilities with the County's and cities' responsibility for maintaining the roads that serve the public.

**Fiscal Impact**

The County General Fund currently receives approximately \$392,000 annually in franchise fee revenue from PG&E. PG&E has stated that unless new franchises are established between the "Newcos" and governmental agencies, it may cease paying existing franchise fees after December 2002. We disagree with PG&E's position but are willing to work with the cities in a cooperative effort to resolve this issue with PG&E in a timely manner.

A form of resolution and agreement has been approved by County Counsel. The agreement provides that member agencies can sign the proposed agreement concurrently, and we will report if at least 2/3rds of the member agencies approve the agreement within the next month.

  
Neil R. Cullen  
Director of Public Works

NRC:BCL:WDC:JSD:cda

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cc: Brian Moura, SAMCAT Chairman  
Milt Mares, Deputy County Counsel  
Brian C. Lee, Division Manager, Programs and Engineering Services

**RECOMMENDED**  
  
COUNTY MANAGER