



**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
FEBRUARY 20, 2024
110 EAST MAIN STREET AND TELECONFERENCE
TOWN COUNCIL CHAMBERS
7:00 PM**

*Mary Badame, Mayor
Matthew Hudes, Vice Mayor
Rob Moore, Council Member
Rob Rennie, Council Member
Maria Ristow, Council Member*

IMPORTANT NOTICE

This is a hybrid meeting and will be held in-person at the Town Council Chambers at 110 E. Main Street and virtually through Zoom Webinar (log-in information provided below). Members of the public may provide public comments for agenda items in-person or virtually through the Zoom Webinar by following the instructions listed below. The live stream of the meeting may be viewed on television and/or online at www.LosGatosCA.gov/TownYouTube.

HOW TO PARTICIPATE

To provide oral comments in real-time during the meeting:

Zoom Webinar (Online): Join from a PC, Mac, iPad, iPhone or Android device. Please click this URL to join: <https://losgatosca-gov.zoom.us/j/87343508612?pwd=g6cSuz5lUXw-tcYdTqBNHvV4H39pfg.nzFsRpaTVSmnTXIV>

Passcode: 099349 You can also type in 873 4350 8612 in the “Join a Meeting” page on the Zoom website at <https://zoom.us/join> and use passcode 099349.

When the Mayor announces the item for which you wish to speak, click the “raise hand” feature in Zoom. If you are participating by phone on the Zoom app, press *9 on your telephone keypad to raise your hand.

Telephone: Please dial (877) 336 1839 for US Toll-free or (636) 651-0008 for US Toll. (Conference code: 1052180)

If you are participating by calling in, press #2 on your telephone keypad to raise your hand.

In-Person: Please complete a “speaker’s card” located on the back of the chamber benches and return it to the Town Clerk before the meeting or when the Mayor announces the item for which you wish to speak.

NOTES: (1) Comments will be limited to three (3) minutes or less at the Mayor’s discretion.

(2) If you are unable to participate in real-time, you may email to Clerk@losgatosca.gov the subject line “Public Comment Item #___” (insert the item number relevant to your comment). All comments received will become part of the record.

(3) Deadlines to submit written comments are as follows:

11:00 a.m. the Thursday before the Council meeting for inclusion in the agenda packet.

11:00 a.m. the Monday before the Council meeting for inclusion in an addendum.

11:00 a.m. on the day of the Council meeting for inclusion in a desk item.

(4) Persons wishing to make an audio/visual presentation must submit the presentation electronically to Clerk@losgatosca.gov no later than 3:00 p.m. on the day of the Council meeting.

CALL MEETING TO ORDER

ROLL CALL

APPROVE REMOTE PARTICIPATION *(This item is listed on the agenda in the event there is an emergency circumstance requiring a Council Member to participate remotely under AB 2449 (Government Code 54953)).*

PLEDGE OF ALLEGIANCE

CLOSED SESSION REPORT

COUNCIL / MANAGER MATTERS

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine Town business and may be approved by one motion. Any member of the Council may request to have an item removed from the Consent Items for comment and action. Members of the public may provide input on any or multiple Consent Item(s) when the Mayor asks for public comments on the Consent Items. If you wish to comment, please follow the Participation Instructions contained on Page 2 of this agenda. If an item is removed, the Mayor has the sole discretion to determine when the item will be heard.)*

1. Approve Minutes of the February 6, 2024 Closed Session Town Council Meeting.
2. Approve Minutes of the February 6, 2024 Town Council Meeting.
3. Approve Minutes of the February 13, 2024 Closed Session Town Council Meeting.
4. Approve Minutes of the February 13, 2024 Special Town Council Meeting.
5. Receive the Monthly Financial and Investment Report for December 2023.
6. Approve the Report Entitled "Vegetation Management Plan for the Town of Los Gatos, Santa Clara County, California" Dated June 2021.
7. Parking Program Implementation-Wayfinding and Signage (CIP No. 813-0242):
 - a. Reject All Bids Opened on January 19, 2024, and
 - b. Authorize Town Manager to Re-bid the Project.
8. Consider Approval of On-Call Consultants List for Engineering and Design Support Services.
9. Approve the Following Action for the Highway 17 Bicycle and Pedestrian Overcrossing (Project No. 818-0803):
 - a. Authorize the Town Manager to Execute a First Amendment to the Agreement for Consultant Services with BKF Engineers Inc. for Construction Phase Grant Writing Services, increasing the amount by \$48,735 for a Total Agreement Not to Exceed \$3,048,735.
10. Adopt a Resolution to Designate the Town's Agents By Title to Obtain Federal and/or State Financial Assistance Through the California Governor's Office of Emergency Services (Cal OES).

VERBAL COMMUNICATIONS *(Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda and is within the subject matter jurisdiction of the Town Council. The law generally prohibits the Town Council from discussing or taking action on such items. However, the Council may instruct staff accordingly. To ensure all agenda items are heard, this portion of the agenda is limited to 30 minutes. In the event additional speakers were not able to be heard during the initial Verbal Communications portion of the agenda, an additional Verbal*

Communications will be opened prior to adjournment. Each speaker is limited to no more than three (3) minutes or such time as authorized by the Mayor.)

OTHER BUSINESS *(Up to three minutes may be allotted to each speaker on any of the following items.)*

11. Discuss and Provide Direction on the Proposed Revisions to the Draft Revised 2023-2031 Housing Element and Next Steps. Location: Town-Wide. General Plan Amendment Application GP-22-003.

PUBLIC HEARINGS *(Applicants/Appellants and their representatives may be allotted up to a total of five minutes maximum for opening statements. Members of the public may be allotted up to three minutes to comment on any public hearing item. Applicants/Appellants and their representatives may be allotted up to a total of three minutes maximum for closing statements. Items requested/recommended for continuance are subject to Council's consent at the meeting.)*

12. Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Define 'By Right Approvals' and Amend the Housing Element Overlay Zone (HEOZ), Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,'" to Clarify Regulations Applicable to "By Right" and "Non By Right" Residential Development in the Housing Element Overlay Zone. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-24-001. APPLICANT: Town of Los Gatos. PROJECT PLANNERS: Jocelyn Shoopman and Erin Walters.

OTHER BUSINESS

13. Mid-Year Budget Report - July 1 - December 31, 2023:
 - a. Receive the FY 2023/24 Mid-Year Budget Report; and
 - b. Authorize Budget Adjustments as Recommended in the Mid-Year Budget Report.
14. Review the Five-Year Forecast (Fiscal Year 2024/25 -FY 2028/29) and the Finance Commission Recommendations, Determine Key Assumptions for the Five- Year Forecast, and Provide Direction for the Preparation of the FY 2024/25 Operating Budget.
15. Provide Direction on Any Ballot Measures to Consider for Polling.

PUBLIC HEARINGS

16. Hear Protests and Adopt a Resolution Making Determinations and Approving the Reorganization of an Uninhabited Area Designated as Blackberry Hill Road No. 06, Approximately 2.1 Acres on Property Pre-Zoned HR-2½. APN 532-25-011. Annexation Application AN23-001. Project Location: 15405 Blackberry Hill Road. Property Owner/Applicant: Maurice Brewster.
17. Adopt Resolution Repealing the Building Board of Appeals (BBA) Enabling Resolutions and Introduce "An Ordinance of the Town Council of the Town of Los Gatos Designating the Town Council to Hear Appeals from Decisions of the Building Official."

ADJOURNMENT *(Council policy is to adjourn no later than midnight unless a majority of Council votes for an extension of time.)*

ADA NOTICE In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Clerk's Office at (408) 354- 6834. Notification at least two (2) business days prior to the meeting date will enable the Town to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR §35.102-35.104]



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 1

**DRAFT
Minutes of the Town Council Special Meeting – Closed Session
Tuesday, February 6, 2024**

The Town Council of the Town of Los Gatos conducted a Special Meeting in-person and utilizing teleconferencing means on Tuesday, February 6, 2024, at 5:00 p.m. to hold a Closed Session to discuss labor negotiations, anticipated litigation, and real property negotiations.

MEETING CALLED TO ORDER AT 5:00 P.M.

ROLL CALL

Present: Mayor Mary Badame, Vice Mayor Matthew Hudes, Council Member Rob Moore, Council Member Rob Rennie, and Council Member Maria Ristow.

Absent: None

VERBAL COMMUNICATIONS (ONLY ON ITEMS ON THE AGENDA)

None.

THE TOWN MOVED TO CLOSED SESSION ON THE FOLLOWING ITEM:

1. CONFERENCE WITH LABOR NEGOTIATORS (Government Code §54957.6)
To meet with Town Negotiators listed below in closed session pursuant to Government Code §54957.6 regarding negotiations with the Employee Organizations listed below:

Town Negotiators: Lisa Charbonneau, Liebert Cassidy Whitmore
Katy Nomura, Assistant Town Manager

Employee Organizations:
American Federation of State, County and Municipal Employees (AFSCME)
Town Employees Association (TEA)
Police Officers' Association (POA)
2. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government Code Section 54956.8)
 - a. Property: 4 Tait Avenue
Negotiating Parties: Town of Los Gatos and Imwalle and Associates
Negotiator: Laurel Prevetti, Town Manager and Donald Imwalle
To Be Negotiated: Terms of purchase, sale, exchange or lease
 - b. Property: 75 Church Street
Negotiating Parties: Town of Los Gatos and Imwalle and Associates
Negotiator: Laurel Prevetti, Town Manager and Donald Imwalle
Negotiations: Terms of purchase, sale, exchange or lease
3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION – Significant exposure to litigation pursuant to Government Code Section 54956.9(e)(1): 1 case.

PAGE 2 OF 2

SUBJECT: Draft Minutes of the Special Town Council Meeting of February 6, 2024

DATE: February 13, 2024

The Town Council reconvened in open session. The Town Attorney stated there was no reportable action.

ADJOURNMENT

The meeting adjourned at 6:48 p.m.

Attest:

Submitted by:

Jenna De Long, Deputy Town Clerk

Laurel Prevetti, Town Manager



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 2

**DRAFT
Minutes of the Town Council Meeting
Tuesday, February 6, 2024**

The Town Council of the Town of Los Gatos conducted a regular meeting in-person and utilizing teleconferencing means on Tuesday, February 6, 2024, at 7:00 p.m.

MEETING CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Present: Mayor Mary Badame, Vice Mayor Matthew Hudes, Council Member Rob Moore, Council Member Rob Rennie, Council Member Maria Ristow.

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Badame led the Pledge of Allegiance. The audience was invited to participate.

CLOSED SESSION REPORT

Gabrielle Whelan, Town Attorney, stated the Town Council met in closed session to discuss labor negotiations pursuant to Government Code Section 54957.6 and anticipated litigation pursuant to Government Code Section 54956.9(e)(1), and there was no reportable action.

COUNCIL/TOWN MANAGER REPORTS

Council Matters

- Council Member Ristow stated she attended a Housing Element Advisory Board meeting; met with Girl Scout Troup 60879 to discuss leadership; attended a Council Policy Committee meeting, the League of California Cities New Mayor and Council Member Academy, and a Cal Cities Peninsula Division Legislative Address; volunteered at the Los Gatos-Almaden Pollinator Garden; attended a Midpeninsula Newt Project Bicyclist Stakeholder meeting; met with stakeholders on topics such as the Housing Element and the Rail to Trail pathway project; met with Jim Foley regarding the Chamber of Commerce priorities; and addressed severe weather concerns.
- Council Member Moore addressed severe weather concerns; acknowledged CERT Member Mark Wang for providing generators to residents during severe weather; attended an Interim Community Center community meeting and the Los Gatos History Club open house; met with Senator Josh Becker regarding affordable housing; attended a Cal Cities Peninsula Division Legislative Address; listened to Vice President Kamla Harris, Senators Alex Padilla and Laphonza Butler, and Secretary of Health and Human Services Xavier Becerra; held his first Council Member Happy Hour; attended a Democracy Tent meeting; concluded his time as Assistant Coach of the Leigh Wrestling Team; attended the Housing

Element Advisory Board meeting, and a Cities Association Legislative Action Committee meeting; and announced his Council Member Community Coffee on Friday.

- Council Member Rennie stated he met with the Finance Commission Chair; attended a Silicon Valley Clean Energy Authority (SVCEA) Risk Oversight Committee meeting; met with Jim Foley to discuss the Post Office building and the Tait and Forbes Mill leases; met with neighbors near the proposed Lynn Avenue Path and Pinehurst Community Garden; and met with architect Jay Plett regarding Senate Bill (SB) 9.
- Vice Mayor Hudes stated he attended the Cities Association Board of Directors meeting; met with the Finance Commission Chair; met with Chamber of Commerce Director; met with the Initiatives and Publicity Committee of the Older Adults Thrive Foundation; toured the Mountain View Senior Center; attended Older Adults Thrive Foundation meetings, the League of California Cities New Mayor and Council Members Academy; met with Community Health and Senior Services Commission Chair Eleanor Yick; met with the developers of the Los Gatos Meadows; and met with Jim Foley.
- Vice Mayor Badame stated she toured the Mountain View Community Center; attended the League of California Cities New Mayors and Council Members Academy; met with Jim Foley of the Chamber of Commerce to discuss beach traffic; met with Nancy Rollett (Executive Director of Los Gatos-Saratoga Recreation) to discuss the Senior Services Program; met with the Executive Director of the West Valley Solid Waste Management Authority; attended a West Valley Clean Water Authority Board meeting, a West Valley Solid Waste Management Authority Board meeting, and attended the Rotary Club Crab Festival and auction at St. Luke's Church.

Manager Matters

- Announced Board, Commission, and Committee applications are open, and applications are due by March 4. Opportunities include seats on the Planning Commission; Parks and Sustainability Commission; General Plan Committee; Personnel Board; and the Diversity, Equity, and Inclusion Commission seat for a Los Gatos business owner who is also a resident.

ANNOUNCEMENT OF FINANCE COMMISSION APPOINTMENTS

Vice Mayor Hudes announced Joe Rodgers as his appointment to the Finance Commission.

Council Member Moore announced Dr. Ashby Monk as his appointment to the Finance Commission.

CONSENT ITEMS (TO BE ACTED UPON BY A SINGLE MOTION)

1. Approve Closed Session Minutes of the January 16, 2024 Town Council Meeting.
2. Approve Minutes of the January 16, 2024 Town Council Meeting.
3. Authorize the Town Manager to Execute a Notice of Completion and Certificate of Acceptance for Specified Improvements Completed by SummerHill N40 LLC for the North 40 Phase 1 Development at Lark Avenue and Los Gatos Boulevard and Authorize the Town Clerk to Submit for Recordation.

4. Adopt a Resolution Remanding Decision to Deny a Fence Height Exception Request at 124 Garden Hill Drive for the Construction of a Six-Foot Tall Fence Located Within the Required Front Yard Setback, Street Side Yard Setback, and Corner Sight Triangle on Property Zoned R-1:8 to the Planning Commission for Further Consideration. APN 424-23-084. Fence Height Exception Application FHE-23-005. Categorically Exempt Pursuant to CEQA Guidelines Section 15303: New Construction or Conversion of Small Structures and Section 15301: Existing Facilities. Property Owner: Rushikesh Kulkarni. Applicant/Appellant: Martin Lettunich. Project Planner: Ryan Safty. **RESOLUTION 2024-006**
5. Authorize \$10,000 from the County of Santa Clara County Grant for Unhoused Los Gatos Residents to Be Used for the Hotel Program.

Mayor Badame opened public comment.

No one spoke.

Mayor Badame closed public comment.

MOTION: Motion by Council Member Ristow to approve consent items 1-5. Seconded by Council Member Moore.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Lynley

- Commented in opposition of Diversity, Equity, and Inclusion efforts.

OTHER BUSINESS

6. Review and Discuss the Proposed Revisions to the Draft Revised 2023-2031 Housing Element. Location: Town-Wide. General Plan Amendment Application GP-22-003.

Jocelyn Shoopman, Associate Planner, presented the staff report.

Mayor Badame opened public comment.

No one spoke.

Mayor Badame closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Rennie to leave the language as proposed and not change “a variety of neighborhoods” to “Town-wide.” Seconded by Council Member Ristow.

Council discussed the motion.

Council Member Rennie withdrew the motion.

MOTION: Motion by Vice Mayor Hudes to bundle the steps to increase housing mobility similar to Los Altos in the Town's Housing Element, modify Program J language from "in all neighborhoods" to "in a variety of neighborhoods," and replace the language in the current draft [of the Housing Element] in the paragraph that starts with "Zoning for small multi-unit housing" with language similar to Los Altos, which is "Rezoning - modify zoning to allow residential or increased residential intensity and/or density of residential throughout Los Gatos. This includes zoning amendments already completed along higher intensity corridors with access to transit and other opportunities (North 40, Los Gatos Boulevard, Highway 9, and Winchester Boulevard) and for sites within lower-density neighborhoods herein, Oka Lane, Lark Avenue, Union Avenue, Downtown Area). See Program AZ which has been implemented.

Recess 8:20 p.m.

Reconvene 8:28 p.m.

After the recess, the Vice Mayor's written motion was distributed to each Council Member and projected in the Chambers for the public to see.

MOTION: Written motion submitted by Vice Mayor Hudes: Programs J and AY Rezoning - Modify zoning to allow residential or increased residential intensity and/or density in a variety of neighborhoods. This includes zoning amendments already completed along higher intensity corridors with access to transit and other opportunities (North 40, Los Gatos Boulevard, Highway 9, and Winchester Boulevard) and for sites within lower-density neighborhoods (Oka Lane, Lark Avenue Area, Union Avenue, Downtown Area). See Program AZ which has been implemented. **Seconded** by Mayor Badame.

VOTE: Motion failed 2-2-1. Council Members Ristow and Council Member Moore voted no. Council Member Rennie abstained.

After further discussion Vice Mayor Hudes made a request to submit a written motion.

Recess 8:48 p.m.

Reconvene 8:58 p.m.

After the recess, the Vice Mayor's written motion was distributed to each Council Member and projected in the Chambers for the public to see.

MOTION: Written to replace the language in the paragraph starting with “Zoning – for multi-unit housing” (which was provided by the HEAB) and replace it with the following language: “Zoning – Modify the Zoning Code to facilitate small multi-unit housing in certain low and medium density designations. This includes creating mixed residential neighborhoods through new and innovative housing types that meet the changing needs of Los Gatos households and expand housing choices in a variety of neighborhoods. Housing types include but are not limited to single dwelling units, multi-family dwelling units, accessory dwelling units, small and micro units, use of prefabricated homes, and cluster/cottage housing. This zoning will occur in a variety of areas throughout town but not in areas that are very high fire hazard severity zone, adjacent to homes in our historic inventory (currently pre-1941) home, in hillside residential zones, within 500 feet of an evacuation route and are more than 1/2 mile of a currently established public transit stop.

Town Attorney Whelan clarified her understanding of the intent of the motion is that all of the places listed be excluded from areas that would be rezoned and if that were the case, the language would state within 500 feet of an evacuation route or more than a half mile from a currently established public transit stop.

Vice Mayor Hudes confirmed that was his intention and accepted the clarification of his motion.
Seconded by Mayor Badame.

AMENDMENT: Amendment by **Vice Mayor Hudes** to modify his motion to say, “within half mile of a transit stop.” **Seconder Mayor Badame** accepted the amendment.

VOTE: Motion passed 3-2. Council Member Ristow and Council Member Moore voted no.

MOTION: Motion by **Vice Mayor Hudes** to direct staff to apply this language in a consistent way throughout the document including program J and program AY. **Seconded by Mayor Badame.**

VOTE: Motion passed 3-2. Council Member Ristow and Council Member Moore voted no.

MOTION: Motion by **Vice Mayor Hudes** to move the objective from 50 to 150 [units] for the combined actions of California Department of Housing and Community Development (HCD) suggested in their letter. **Seconded by Council Member Ristow.**

VOTE: Motion passed unanimously.

MOTION: Motion by Council Member Ristow to direct staff and the consultant to work through the language, get feedback from legal counsel and the Housing consultant, do their best to get feedback from HCD on latest changes, and report back to the Council at the next meeting. **Seconded by Council Member Moore.**

Council Member Ristow clarified the intent of the motion is that the work would be reviewed by Council and there would not be another review by the Housing Element Advisory Board (HEAB).

VOTE: Motion passed unanimously.

7. Adopt a Resolution to Set a Date for Consideration of the Reorganization of an Uninhabited Area Designated as Blackberry Hill Road No. 06, Approximately 2.1 Acres on Property Pre-Zoned HR-2½. APN 532-25-011. Annexation Application AN23-001. Project Location: 15405 Blackberry Hill Road. Property Owner/Applicant: Maurice Brewster. **RESOLUTION 2024-007**

Jennifer Armer, Planning Manager, presented the staff report.

Mayor Badame opened public comment.

No one spoke.

Mayor Badame closed public comment.

Council discussed the item.

MOTION: Motion by Council Member Rennie to adopt a resolution to set a date for consideration of the reorganization of an uninhabited area designated as Blackberry Hill Road No. 06, approximately 2.1 acres on located at 1545 Blackberry Hill Road APN 532-25-011. **Seconded by Vice Mayor Hudes.**

VOTE: Motion passed unanimously.

8. Receive Report and Provide Input on Town of Los Gatos Street Tree Program.

Jim Harbin, Parks Superintendent, presented the staff report.

Mayor Badame opened public comment.

No one spoke.

Mayor Badame closed public comment.

Council discussed the item and provided direction regarding prioritizing native and drought tolerant trees.

9. Receive a Status Report on Capital Improvement Projects and Provide Direction for the Fiscal Year 2024/25 – 2028/29 Priorities.

Nicolle Burnham, Parks and Public Works Director, presented the staff report.

Mayor Badame opened public comment.

Bill

- Commented on increasing capacity and accessibility for pickleball, stated concerns with the court upkeep, and sound mitigation.

Liz

- Commented on the need for additional pickleball courts and stated concerns with the upkeep of the courts.

Leeann

- Commented on Creekside Park project and stated concern with using artificial turf.

Cynthia

- Commented on Creekside Park turf replacement project and stated concerns with using artificial turf.

Nicole

- Commented on concerns with the use of artificial turf.

Pamela

- Commented on the Creekside Sports Park, requested the Town consider replacing turf with natural drought tolerant grass, and stated concerns with artificial turf.

Aiden

- Commented on reducing light pollution and concerns with artificial turf.

Mayor Badame closed public comment.

Council discussed the item and provided preliminary direction on CIP priorities.

MOTION: Motion by Council Member Moore to extend the meeting to 12:15 a.m. Seconded by Mayor Badame.

VOTE: Motion passed unanimously.

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SUBJECT: Draft Minutes of the Town Council Meeting of February 6, 2024

DATE: February 6, 2024

Council discussed the item and provided preliminary direction on Capital Improvement Projects priorities.

ADJOURNMENT

The meeting adjourned at 12:06 a.m.

Respectfully Submitted:

Jenna De Long, Deputy Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 3

**DRAFT
Minutes of the Town Council Special Meeting – Closed Session
Tuesday, February 13, 2024**

The Town Council of the Town of Los Gatos conducted a Special Meeting in-person and utilizing teleconferencing means on Tuesday, February 13, 2024, at 5:45 p.m. to hold a Closed Session to discuss real property negotiations.

MEETING CALLED TO ORDER AT 5:45 P.M.

ROLL CALL

Present: Mayor Mary Badame, Vice Mayor Matthew Hudes, Council Member Rob Moore, Council Member Rob Rennie, and Council Member Maria Ristow.

Absent: None

VERBAL COMMUNICATIONS (ONLY ON ITEMS ON THE AGENDA)

None.

THE TOWN MOVED TO CLOSED SESSION ON THE FOLLOWING ITEM:

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Government Code Section 54956.8)
 - a. Property: 4 Tait Avenue
Negotiating Parties: Town of Los Gatos and Imwalle and Associates
Negotiator: Laurel Prevetti, Town Manager and Donald Imwalle
To Be Negotiated: Terms of purchase, sale, exchange or lease
 - b. Property: 75 Church Street
Negotiating Parties: Town of Los Gatos and Imwalle and Associates
Negotiator: Laurel Prevetti, Town Manager and Donald Imwalle
Negotiations: Terms of purchase, sale, exchange or lease

The Town Council reconvened in open session. The Town Attorney stated the Town Council voted to direct staff to terminate the master lease for the Tait Avenue property and to extend the lease for the Church Street property by six months.

ADJOURNMENT

The meeting adjourned at 6:39 p.m.

Attest:

Submitted by:

Jenna De Long, Deputy Town Clerk

Laurel Prevetti, Town Manager



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 4

**DRAFT
Minutes of the Town Council Special Meeting
Tuesday, February 13, 2024**

The Town Council of the Town of Los Gatos conducted a special meeting in-person and utilizing teleconferencing means on Tuesday, February 13, 2024, at 7:00 p.m. to determine 2024-2026 Strategic Priorities.

MEETING CALLED TO ORDER AT 7:00 P.M.

ROLL CALL

Present: Mayor Mary Badame, Vice Mayor Matthew Hudes, Council Member Rob Moore, Council Member Rob Rennie, Council Member Maria Ristow.

Absent: None

VERBAL COMMUNICATIONS (ITEMS ONLY ON THE AGENDA)

Jay Plett

- Commented on the Senate Bill 9 (SB9) stepback rule for massing and requested Council consider a modification to the SB9 ordinance.

Patrick

- Commented on Senate Bill 9 (SB9) and requested a Council consider a modification to the SB9 ordinance to change the stepback requirements.

Joseph Enz

- Commented on the Los Gatos Creek, homeless resources, and police services.

Nicole Lee

- Commented on concerns with artificial turf and requested Council reconsider its use at the sports field.

Neha Tadikamalla

- Commented on concerns with artificial turf and requested the Council consider prioritizing the use of real grass over the use of artificial turf.

Pamela Bond

- Commented on concerns with artificial turf and requested Council consider banning the use of artificial turf.

OTHER BUSINESS

1. Affirm and/or Refine Existing Strategic Priorities and Determine the Priorities for New Ordinances.

Laurel Prevetti, Town Manager, introduced Dr. Shawn Spano, Consultant, and presented the staff report.

Dr. Shawn Spano invited the Council discuss accomplishments from 2023.

Recess 7:27 p.m.

Reconvene 7:31 p.m.

Council discussed accomplishments of the 2023 calendar year.

Gabrielle Whelan, Town Attorney, reviewed the ordinances adopted in 2023 and staff recommendation of ordinance priorities.

MOTION: Motion by Council Member Rennie to prioritize the ordinances in the following order:

1. SB9
2. Street Vendor/Peddler
3. Sign Ordinance
4. Organic Waste
5. Wireless Facilities
6. Water Efficient Landscaping.

Seconded by Council Member Moore.

VOTE: Motion passed unanimously.

Council discussed refining the strategic priorities.

MOTION: Motion by Mayor Badame to add the itemized Core Goals as was done in 2020-2022 Strategic Priorities underneath the heading. **Seconded by Council Member Ristow.**

VOTE: Motion passed unanimously.

MOTION: Motion by Vice Mayor Hudes to advance and activate ad hoc wildfire action items. **Seconded by Council Member Ristow.**

VOTE: Motion passed unanimously.

MOTION: Motion by Mayor Badame to approve the Traffic and Transportation priorities per Attachment 4 (Draft Strategic Priorities). **Seconded** by Council Member Ristow.

VOTE: Motion passed unanimously.

MOTION: Motion by Mayor Badame to approve the Prudent Financial Management Strategic Priorities with the removal of Explore New Revenue Opportunities and Cure Forecasted Structural Deficit. **AMENDMENT:** Add a fifth high level bullet point called "Council Scorecard". **Seconded** by Council Member Rennie.

VOTE: Motion passed 3-2. Council Member Moore and Council Member Ristow voted no.

MOTION: Motion by Mayor Badame to approve the five bullet points under Quality of Life under Community Vitality (Draft Strategic Priorities)). **Seconded** by Council Member Ristow.

VOTE: Motion passed unanimously.

MOTION: Motion by Council Member Ristow to keep Economic Vitality as written in the draft Strategic Priorities. **Seconded** by Vice Mayor Hudes.

VOTE: Motion passed 4-1. Council Member Rennie voted no.

MOTION: Motion by Mayor Badame to adopt the Land Use Planning per the Attachment 4 (Draft Strategic Priorities) with the two additions discussed, which were: implement policies that support a land use mix and density that reflect the values of the community and working on objective standards. **Seconded** by Vice Mayor Hudes.

VOTE: Motion passed 3-2. Council Member Ristow, Council Member Moore voted no.

ADJOURNMENT

The meeting adjourned at 9:33 p.m.

Respectfully Submitted:

Jenna De Long, Deputy Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 5

DATE: February 13, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive the Monthly Financial and Investment Report for December 2023

RECOMMENDATION:

Receive the Monthly Financial and Investment Report for December 2023.

BACKGROUND:

California Government Code Section 41004 requires that the Town Treasurer submit to the Town Clerk and the legislative body a written report and accounting of all receipts, disbursements, and fund balances. The Finance Director assumes the Town Treasurer role.

Attachment 1 contains the December 2023 Monthly Financial and Investment Report which fulfills this requirement. The December 2023 Monthly Financial and Investment Report was received by Finance Commission on February 12, 2024.

DISCUSSION:

The December 2023 Monthly Financial and Investment Report includes a Fund Balance Schedule, representing estimated funding available for all funds at the end of the respective month. The fund balances were estimated at a point in time and will be finalized at the final close of the fiscal year.

Please note that the amount in the Fund Schedule differs from the Portfolio Allocation and Treasurer's Cash Fund Balances Summary schedule because assets and liabilities are components of the fund balance.

PREPARED BY: Eric Lemon
Finance and Accounting Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION (continued):

As illustrated in the summary below, Total Cash is adjusted by the addition of Total Assets less the amount of Total Liabilities to arrive at the Ending Fund Balance – which represents the actual amount of funds available.

Reconciling Cash to Fund Balance - December 31, 2023		
Total Cash	\$	67,640,642
Plus: Assets	\$	13,702,329
Less: Liabilities	\$	(26,212,721)
Estimated Fund Balance	\$	55,130,250

As of December 31, 2023, the Town's financial position (Assets \$81.34M, Liabilities \$26.21M, and Fund Equity \$55.13M) remains strong and there are no issues meeting financial obligations in the near future.

As of December 31, 2023, the Town's weighted portfolio yield for investments under management was 4.23% which was 30 basis points above the Local Agency Investment Fund (LAIF) yield of 3.93% for the same reporting period. Currently, the LAIF portfolio's weighted average maturity (WAM) is 230 days versus the Town's longer WAM of 587 days. The longer maturity (WAM) for Town assets under management reflects the Town's strategy to take advantage of higher yields associated with longer maturities balanced with shorter term yields available on investments held with the State's LAIF. The Town's weighted average rate of return on investments under management of 4.23% at the close of December was 3 basis points higher when compared to the prior month's return of 4.20% reported as of November 30, 2023.

Since December 2022, LAIF yields had climbed from 217 basis points (2.17%) to 393 basis points (3.93%) through the end of December 2023.

Staff, in coordination with the Town's investment advisor, primarily replaced maturing investments with long term maturities in the three-to-five-year maturity range. These investments capture current yields that exceed the rates expected to be earned in the LAIF pool during that same time period. The State LAIF pool typically lags the market when current market yields are either increasing or decreasing.

On March 22, 2023, the Federal Reserve voted to approve a ¼ percentage basis point increase from 4.75% to 5.00%. This action was followed with additional hikes in May 2023 from 5.00% to 5.25% and July from 5.25 % to 5.5 %. Through these actions over time, the Federal Open Market Committee's (FOMC) goal is to bring year to year inflation to its targeted level of 2%.

DISCUSSION (continued):

The labor market showed signs of loosening. The ratio of job openings to unemployed people fell to 1.4, the lowest figure since 2021. Nonfarm payrolls rose by 199,000 in November. Wage growth was 4.0% year-on-year, unchanged from the prior month and the lowest since June 2021. The unemployment rate unexpectedly rose to 3.7% from 3.9% despite a decline in the labor force participation rate from 62.7% to 62.8%.

The Town's investments are in compliance with the Town's Investment Policy dated February 21, 2023, and also in compliance with the requirements of Section 53600 at seq. of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

CONCLUSION:

Receive Monthly Financial and Investment Report for December 2023.

Attachment:

1. Financial and Investment Report (December 2023)

**Town of Los Gatos
Summary Investment Information
December 31, 2023**

Weighted Average YTM Portfolio Yield on Investments under Management

4.23%

Weighted Average Maturity (days)

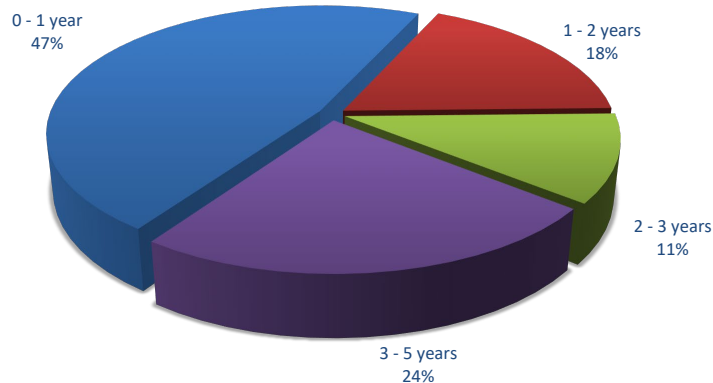
587

	This Month	Last Month	One year ago
Portfolio Allocation & Treasurer's Cash Balances	\$67,640,642	\$65,687,227	\$64,463,675
Cert. of Participation 2002 Lease Payment Fund			
Managed Investments	\$49,413,850		
Local Agency Investment Fund	\$11,278,106		
Reconciled Demand Deposit Balances	\$6,948,686		
Portfolio Allocation & Treasurer's Cash Balances	\$67,640,642		

Benchmarks/ References:

Town's Average Yield	4.23%	4.20%	2.28%
LAIF Yield for month	3.93%	3.84%	2.17%
3 mo. Treasury	5.36%	5.40%	4.41%
6 mo. Treasury	5.27%	5.41%	4.77%
2 yr. Treasury	4.25%	4.68%	4.43%
5 yr. Treasury (most recent)	3.85%	4.27%	4.01%
10 Yr. Treasury	3.88%	4.33%	3.88%

Portfolio Maturity Profile

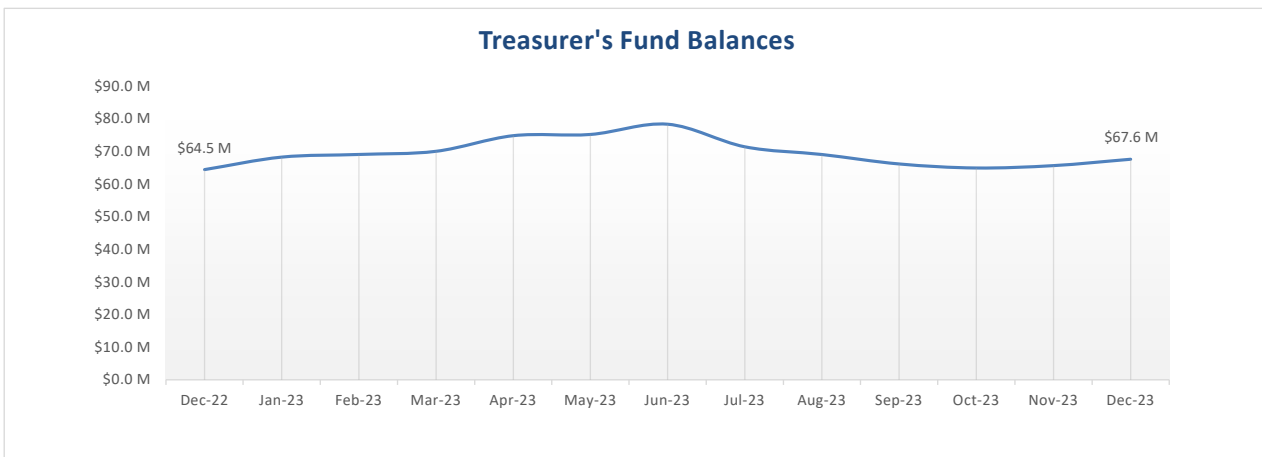
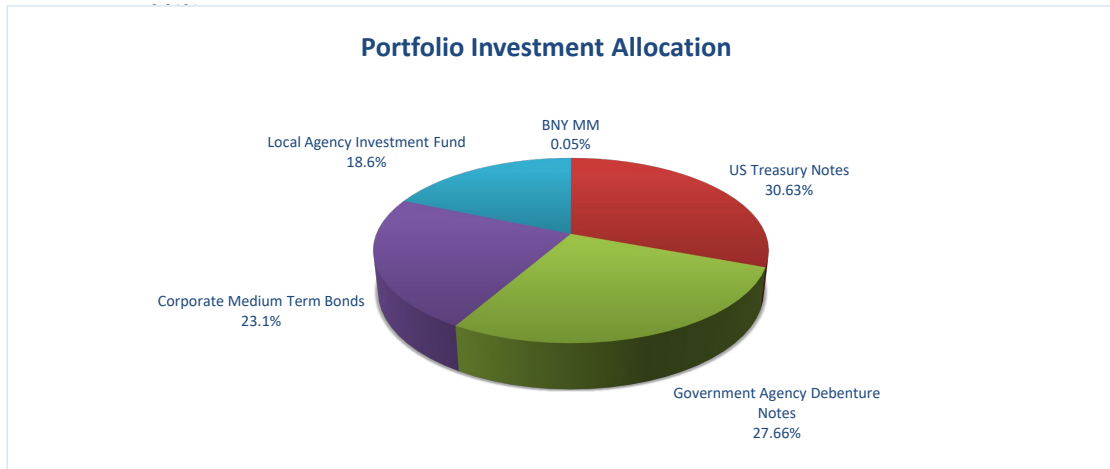


Compliance: The Town's investments are in compliance with the Town's investment policy dated February 21, 2023 and also in compliance with the requirements of Section 53600 at seq. of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

Town of Los Gatos
Portfolio Allocation & Treasurer's Cash Balances
December 31, 2023

	Month	YTD
Cash & Investment Balances - Beginning of Month/Period	\$ 65,687,226.84	\$ 78,384,947.79
Receipts	6,428,326.09	32,548,230.69
Disbursements	(4,474,910.73)	(43,292,536.28)
Cash & Investment Balances - End of Month/Period	\$67,640,642.20	\$67,640,642.20

Portfolio Allocation	Amount	% of Portfolio	Max. % or \$ Allowed per State Law or Policy
BNY MM	\$31,730.60	0.05%	20% of Town Portfolio
US Treasury Notes	\$18,590,323.24	30.63%	No Max. on US Treasuries
Government Agency Debenture Notes	\$16,786,911.90	27.66%	No Max. on Non-Mortgage Backed
Corporate Medium Term Bonds	\$14,004,884.01	23.08%	30% of Town Portfolio
Local Agency Investment Fund	\$11,278,106.16	18.58%	\$75 M per State Law
Subtotal - Investments	60,691,955.91	100.00%	
Reconciled Demand Deposit Balances	6,948,686.29		
Total Portfolio Allocation & Treasurer's Cash Balances	\$67,640,642.20		



Town of Los Gatos
Non-Treasury Restricted Fund Balances
December 31, 2023

	Beginning Balance	December 2023 Deposits Realized Gain/Adj.	December 2023 Interest/ Earnings	December 2023 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	\$ 709,697.86		\$ 2,824.02		\$ 712,521.88	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	790.69		3.35		794.04	Note 1
Cert. of Participation 2002 Lease Payment Fund	436.84		1.80		438.64	Note 1
Cert. of Participation 2010 Series Reserve Fund	1,347,394.36		5,833.96		1,353,228.32	Note 2
Total Restricted Funds:	<u>\$ 2,058,319.75</u>	<u>\$ -</u>	<u>\$ 8,663.13</u>	<u>\$ -</u>	<u>\$ 2,066,982.88</u>	
CEPPT IRS Section 115 Trust	1,400,131.72		62,445.68		\$ 1,462,577.40	Note 3
Grand Total COP's and CEPPT Trust	<u>\$ 3,458,451.47</u>	<u>\$ -</u>	<u>\$ 71,108.81</u>	<u>\$ -</u>	<u>\$ 3,529,560.28</u>	

These accounts are not part of the Treasurer's fund balances reported elsewhere in this report, as they are for separate and distinct entities.

Note 1: The three original funds for the Certificates of Participation 2002 Series A consist of construction funds which will be expended over the next few years, reserve funds which will guarantee the payment of lease payments, and a third fund for the disbursement of lease payments and initial delivery costs.

Note 2: The 2010 COP Funds are all for the Library construction, reserves to guarantee lease payments, and a lease payment fund for the life of the COP issue. The COI fund was closed in September 2010.

Note 3: The CEPPT Section IRS Section 115 Trust was established as an irrevocable trust dedicated to accumulate resources to fund the Town's unfunded liabilities related to pension and other post employment benefits.

Town of Los Gatos
Statement of Interest Earned
December 31, 2023

Interest by Month	
July 2023	\$ 133,845.42
August 2023	129,679.93
September 2023	158,361.71
October 2023	151,048.03
November 2023	154,152.18
December 2023	166,600.98
January 2024	-
February 2024	-
March 2024	-
April 2024	-
May 2024	-
June 2024	-
	<u>\$ 893,688.25</u>

**Town of Los Gatos
Investment Schedule
December 31, 2023**

Institution	CUSIP #	Security	Coupon	Deposit Date	Par Value	Original Cost	Original Issue (Discount) Premium	Market Value	Market Value Above (Under) Cost	Purchased Interest	Maturity Date or Call Date	Yield to Maturity or Call	Interest Received to Date	Interest Earned Prior Yrs.	Interest Earned Current FY	Days to Maturity
FFCB	3133EKM1	Gov. Agency Debenture	2.23%	8/2/2019	1,000,000.00	1,014,400.00	14,400.00	995,380.00	(19,020.00)		2/23/2024	1.90%	\$ 96,075.83	\$ 74,902.07	\$ 9,651.25	54
FFCB	3133EMBE1	Gov. Agency Debenture	0.30%	10/8/2020	1,600,000.00	1,598,000.00	(2,000.00)	1,579,888.00	(18,112.00)		3/28/2024	0.34%	\$ 14,253.34	\$ 14,655.57	\$ 2,710.18	88
Apple	037833DB3	Corporate Bond	2.90%	12/20/2022	1,300,000.00	1,228,591.00	(71,409.00)	1,245,816.00	17,225.00		6/21/2027	4.19%	\$ 27,437.22	\$ 28,170.97	\$ 26,997.18	1268
Home Depot	437076BM3	Corporate Bond	3.00%	8/4/2022	1,000,000.00	991,960.00	(8,040.00)	969,360.00	(22,600.00)		1/1/2026	3.04%	\$ 34,750.00	\$ 29,252.66	\$ 16,310.57	732
US Treasury	912828ZW3	US Treasury Note	0.25%	8/9/2022	350,000.00	322,096.88	(27,903.12)	328,783.00	(6,886.12)		6/30/2025	3.16%	\$ 1,217.39	\$ 9,366.72	\$ 5,303.00	547
IBM	459200Y8	Corporate Bond	3.00%	3/25/2021	1,000,000.00	1,071,040.00	71,040.00	990,960.00	(80,080.00)		5/15/2024	0.71%	\$ 79,166.67	\$ 16,751.96	\$ 3,727.16	136
FFCB	3133ENS8	Gov. Agency Debenture	4.13%	1/17/2023	236,000.00	239,174.20	3,174.20	236,417.72	(2,756.48)		1/11/2027	3.76%	\$ 4,705.25	\$ 4,016.30	\$ 4,506.10	1107
US Treasury	91282CBT7	US Treasury Note	0.75%	9/30/2022	800,000.00	712,565.18	(87,434.82)	742,472.00	(29,906.82)		3/31/2026	4.14%	\$ 6,000.00	\$ 23,165.06	\$ 15,613.08	821
FFCB	3133ENP95	Gov. Agency Debenture	4.25%	9/30/2022	900,000.00	900,939.60	939.60	897,606.00	(3,333.60)		9/30/2025	4.14%	\$ 38,250.00	\$ 28,374.86	\$ 19,124.45	639
American Honda	02665WC22	Corporate Bond	2.40%	11/27/2019	1,000,000.00	1,012,410.01	12,410.01	985,210.00	(27,200.01)		6/27/2024	2.12%	\$ 96,733.34	\$ 76,483.79	\$ 10,734.57	179
JP Morgan Chase	46625HRS1	Corporate Bond	3.20%	9/23/2022	500,000.00	474,660.00	(25,340.00)	482,635.00	7,975.00		3/15/2026	4.70%	\$ 19,644.44	\$ 17,865.15	\$ 11,739.95	805
Honeywell Int'l.	438516BW5	Corporate Bond	2.30%	11/20/2019	1,000,000.00	1,014,660.00	14,660.00	982,140.00	(32,520.00)		7/15/2024	1.64%	\$ 85,483.33	\$ 71,679.55	\$ 10,006.86	197
Caterpillar Financial Serv	14913QZV0	Corporate Bond	2.85%	2/23/2021	1,000,000.00	1,077,370.00	77,370.00	989,660.00	(87,710.00)		5/17/2024	0.44%	\$ 77,900.00	\$ 10,677.18	\$ 2,292.42	138
FNMA	3135GOV75	Gov. Agency Debenture	1.75%	10/17/2019	1,100,000.00	1,105,833.30	5,833.30	1,081,652.00	(24,181.30)		7/2/2024	1.63%	\$ 71,706.25	\$ 66,718.86	\$ 9,080.08	184
US Bancorp	91159HHV5	Corporate Bond	3.38%	12/24/2019	1,000,000.00	1,049,040.00	49,040.00	997,630.00	(51,410.00)		2/5/2024	2.12%	\$ 121,968.75	\$ 76,859.43	\$ 11,014.12	36
FFCB	3133EKAQ7	Gov. Agency Debenture	2.08%	10/21/2019	1,000,000.00	1,019,780.00	19,780.00	980,390.00	(39,390.00)		9/10/2024	1.66%	\$ 80,831.11	\$ 61,888.40	\$ 8,447.67	254
FHLB	3135G05X7	Gov. Agency Debenture	0.38%	6/10/2022	1,200,000.00	1,120,952.40	(97,047.60)	1,122,120.00	19,167.60		8/25/2025	3.04%	\$ 5,437.50	\$ 36,626.55	\$ 17,504.64	603
US Treasury	91282ZL7	US Treasury Note	0.38%	4/12/2022	1,700,000.00	1,583,927.57	(116,072.43)	1,609,016.00	25,088.43		4/30/2025	2.72%	\$ 9,879.49	\$ 9,017.06	\$ 22,385.45	486
JP Morgan Chase	46625HUT8	Corporate Bond	3.88%	9/23/2019	1,400,000.00	1,485,414.00	85,414.00	1,397,522.00	(87,892.00)		2/1/2024	2.39%	\$ 209,163.89	\$ 130,689.90	\$ 17,475.98	32
US Treasury	912828Y23	US Treasury Note	2.25%	11/29/2021	1,000,000.00	1,032,933.04	32,933.04	1,000,000.00	(32,933.04)		12/31/2023	0.66%	\$ 46,956.52	\$ 10,649.43	\$ 3,390.13	0
US Treasury	91282CBEB 2	US Treasury Note	0.13%	10/7/2021	1,000,000.00	994,768.98	(5,231.02)	998,160.00	3,391.02		1/15/2024	0.36%	\$ 2,214.67	\$ 6,137.79	\$ 1,789.78	15
FHLB	3130ALH98	Gov. Agency Debenture	0.25%	2/26/2021	1,000,000.00	997,610.00	(2,390.00)	991,800.00	(5,810.00)		2/26/2024	0.33%	\$ 6,250.00	\$ 7,113.30	\$ 1,661.88	57
FHLB	3130AQF65	Gov. Agency Debenture	1.25%	11/30/2022	1,300,000.00	1,160,559.40	(139,440.60)	1,195,584.00	35,024.60		12/21/2026	4.15%	\$ 17,197.92	\$ 29,385.32	\$ 25,504.24	1086
US Treasury	912828X70	US Treasury Note	2.20%	12/30/2019	1,000,000.00	1,010,589.29	10,589.29	989,530.00	(21,059.29)		4/30/2024	1.75%	\$ 84,703.30	\$ 68,481.11	\$ 9,859.56	121
US Treasury	912828XT2	US Treasury Note	2.00%	10/31/2019	1,000,000.00	1,015,667.41	15,667.41	986,680.00	(28,987.41)		5/31/2024	1.64%	\$ 81,639.34	\$ 60,792.37	\$ 8,360.09	152
US Treasury	91282CBH0	US Treasury Note	0.13%	9/15/2021	650,000.00	647,615.46	(2,384.54)	648,804.00	1,188.54		1/15/2024	0.28%	\$ 1,488.12	\$ 3,281.18	\$ 924.56	15
FHLB	3130APJ99	Gov. Agency Debenture	0.75%	1/17/2023	1,000,000.00	907,010.00	(92,990.00)	932,070.00	25,060.00		10/28/2026	4.17%	\$ 5,854.17	\$ 14,420.85	\$ 16,179.49	1032
FFCB	3133ENSNE	Gov. Agency Debenture	4.00%	2/8/2023	1,700,000.00	1,706,732.00	6,732.00	1,699,218.00	(7,514.00)		1/6/2028	3.91%	\$ 27,955.56	\$ 25,921.64	\$ 33,588.61	1467
Freddie Mac	3137EAE13	Gov. Agency Debenture	0.04%	5/1/2023	750,000.00	689,032.50	(60,967.50)	700,140.00	11,107.50	156.26	9/23/2025	3.97%	\$ (156.26)	\$ 4,222.09	\$ 18,247.74	632
American Honda	02665WED9	Corporate Bond	4.70%	5/11/2023	600,000.00	608,856.00	8,856.00	605,688.00	(3,168.00)		1/12/2028	4.34%	\$ 4,778.33	\$ 3,603.61	\$ 13,261.29	1473
US Treasury	91282CEP4	US Treasury Note	2.50%	6/9/2023	1,500,000.00	1,416,626.12	(83,373.88)	1,434,495.00	17,868.88		3/31/2027	4.09%	\$ 11,577.87	\$ 3,416.23	\$ 29,932.72	1186
US Treasury	91282CGA3	US Treasury Note	4.00%	6/20/2023	2,100,000.00	2,080,558.59	(19,441.41)	2,089,248.00	8,689.41		1/15/2025	4.40%	\$ 40,852.46	\$ 2,515.25	\$ 46,280.54	715
Colgate-Palmolive	194162AR4	Corporate Bond	4.60%	7/14/2023	500,000.00	504,655.00	4,655.00	512,630.00	7,975.00		2/1/2028	4.37%	\$ 3,002.79	\$ -	\$ 10,236.47	1493
FannieMae	3135G06G3	Gov. Agency Debenture	0.50%	7/14/2023	500,000.00	455,157.00	(44,843.00)	465,830.00	10,673.00		11/7/2025	4.63%	\$ 784.72	\$ -	\$ 10,164.75	677
FFCB	3133EPQC2	Gov. Agency Debenture	4.63%	7/17/2023	500,000.00	501,957.50	1,957.50	505,375.00	3,417.50		7/17/2026	4.48%	\$ -	\$ -	\$ 10,282.21	929
FFCB	3133EPBM6	Gov. Agency Debenture	4.13%	7/14/2023	600,000.00	596,220.00	(3,780.00)	601,848.00	5,628.00		8/23/2027	4.29%	\$ 2,681.25	\$ -	\$ 11,955.51	1331
PNC Bank	69353RFJ2	Corporate Bond	3.25%	7/25/2023	1,000,000.00	921,490.00	(78,510.00)	941,160.00	19,670.00	270.83	12/23/2027	5.23%	\$ (270.83)	\$ -	\$ 21,901.39	1453
US Treasury	91282CFU0	US Treasury Note	4.13%	7/31/2023	1,300,000.00	1,290,660.60	(9,339.40)	1,309,139.00	18,478.40		10/31/2027	4.31%	\$ 13,406.25	\$ -	\$ 23,398.53	1400
Toyota Motor Credit	89236TKL8	Corporate Bond	5.45%	8/25/2023	1,600,000.00	1,617,168.00	17,168.00	1,658,192.00	41,024.00		11/10/2027	5.16%	\$ 18,166.67	\$ -	\$ 29,150.92	1410
US Treasury	912810FE3	US Treasury Note	5.50%	10/3/2023	1,200,000.00	1,238,207.14	38,207.14	1,283,952.00	45,744.86	8,788.04	8/15/2028	4.76%	\$ (8,788.04)	\$ -	\$ 14,804.64	1689
Pepsico Inc	713448DF2	Corporate Bond	2.85%	10/16/2023	1,000,000.00	947,570.00	(52,430.00)	967,060.00	19,490.00	4,116.67	11/24/2025	5.24%	\$ (4,116.67)	\$ -	\$ 11,109.16	694
FFCB	3133EPUW3	Gov. Agency Debenture	4.75%	10/13/2023	1,000,000.00	994,338.00	(5,662.00)	1,015,410.00	21,072.00	5,541.67	9/1/2026	4.96%	\$ (5,541.67)	\$ -	\$ 10,705.20	975
Freddie Mac	3137EAE90	Gov. Agency Debenture	1.50%	10/13/2023	1,000,000.00	951,540.00	(48,460.00)	965,540.00	14,000.00	2,541.67	2/12/2025	5.32%	\$ (2,541.67)	\$ -	\$ 11,091.53	409
US Treasury	91282CEW7	US Treasury Note	3.25%	10/16/2023	1,000,000.00	950,039.06	(49,960.94)	971,850.00	27,810.94		6/30/2027	4.73%	\$ 6,711.96	\$ -	\$ 9,573.50	1277
US Treasury	91282CEN7	US Treasury Note	2.75%	10/31/2023	1,300,000.00	1,214,336.39	(85,663.61)	1,251,250.00	36,913.61		4/30/2027	4.82%	\$ -	\$ -	\$ 10,066.65	1216
US Treasury	912828YV6	US Treasury Note	1.50%	11/15/2023	700,000.00	673,667.97	(26,332.03)	678,944.00	5,276.03		11/30/2024	5.26%	\$ 430.33	\$ -	\$ 4,502.48	335
US Treasury	91282CAB7	US Treasury Note	0.25%	11/15/2023	675,000.00	623,900.39	(51,099.61)	632,232.00	8,331.61	490.66	7/31/2025	4.92%	\$ (490.66)	\$ -	\$ 3,979.63	578
US Treasury	91282CGL9	US Treasury Note	3.88%	11/30/2023	1,000,000.00	983,515.62	(16,484.38)	991,330.00	7,814.38	6,458.33	3/31/2025	5.17%	\$ (6,458.33)	\$ -	\$ 4,340.41	456
US Treasury	91282CH12	US Treasury Note	1.25%	12/21/2023	900,000.00	798,647.55	(101,352.45)	803,394.00	4,746.45		6/30/2028	3.99%	\$ 305.71	\$ -	\$ 921.36	1643
FNMA	3135G0Q22	Gov. Agency Debenture	1.88%	12/21/2023	900,000.00	845,676.00	(54,324.00)	849,231.00	3,555.00	4,078.12	9/24/2026	4.22%	\$ (4,078.12)	\$ -	\$ 1,001.26	998
Subtotal					\$ 50,361,000.00	\$ 49,382,119.15	#####	\$ 49,296,441.72	\$ (85,677.43)	\$ 32,442.25			\$ 1,425,119.50	\$ 1,072,702.22	\$ 626,866.95	
BNY MM		Money Market				31,730.60		31,730.60	0.00			0.00%				1
LAIF		State Investment Pool				11,278,106.16		11,205,284.91	(72,821.25)			3.93%			253,114.93	1
						\$60,691,955.91		\$60,533,457.23	(\$158,498.68)	\$32,442.25			\$ 1,425,119.50	\$ 1,072,702.22	\$ 879,981.88	
Matured Assets																
PNC Financial	69349LAM0	Corporate Bond	3.80%	2/7/2022	1,000,000.00	1,033,470.00	33,470.00				7/25/2023	1.49%	\$ 55,733.33	\$ 20,987.56	\$ 1,032.85	
US Treasury	91282CCN9	US Treasury Note	0.13%	1/13/2022	1,200,000.00	1,188,375.00	(11,625.00)				7/31/2023	0.75%	\$ 2,323.37	\$ 13,176.45	\$ 766.36	
Toyota Motor Credit	89236THA6 1	Corporate Bond	1.35%	4/12/2021	500,000.00	510,580.00	10,580.00				8/25/2023	0.45%	\$ 15,993.75	\$ 5,065.91	\$ 350.67	
Toyota Motor Credit	89236THA6	Corporate Bond	1.35%	1/11/2022	1,100,000.00	1,107,315.00	7,315.00				8/25/2023	0.94%	\$ 24,090.00	\$ 15,144.57	\$ 1,585.23	
US Treasury	91282CDA6	US Treasury Note	0.25%	1/31/2022	1,100,000.00	1,085,222.44	(

Town of Los Gatos
Investment Transaction Detail
December 31, 2023

Date	Cusip/Id	Description	Transaction Type	Settlement Date	Par	Coupon	Maturity Date	Price	Principal	Interest	Transaction Total
12/4/2023	Cash-USD	Cash-USD	SHORT TERM INVESTMENT FUND INCOME	12/4/2023	334.85	0.000%		100.00	-	-	334.85
12/15/2023	91282CGA3	USA TREASURY 4% 15DEC2025	BOND INTEREST	12/15/2023	2,100,000	400.000%	12/15/2025	-	-	42,000.00	42,000.00
12/15/2023	46625HRS1	JPMORGAN CHASE & CO 3.2% 15JUN2026 (CALLABLE 15MAR26)	BOND INTEREST	12/15/2023	500,000	320.000%	6/15/2026	-	-	8,000.00	8,000.00
12/21/2023	91282CCH2	USA TREASURY 1.25% 30JUN2028	PURCHASE	12/21/2023	900,000	125.000%	6/30/2028	88.74	798,647.55	5,319.29	803,966.84
12/21/2023	3135G0Q22	FANNIE MAE 1.875% 24SEP2026	PURCHASE	12/21/2023	900,000	187.500%	9/24/2026	93.96	845,676.00	4,078.13	849,754.13
12/21/2023	3130AQF65	FEDERAL HOME LOAN BANK 1.25% 21DEC2026	BOND INTEREST	12/21/2023	1,300,000	125.000%	12/21/2026	-	-	8,125.00	8,125.00
12/21/2023	3133EJ3Q0	FEDERAL FARM CREDIT BANK 2.875% 21DEC2023	BOND INTEREST	12/21/2023	1,500,000	287.500%	12/21/2023	-	-	21,562.50	21,562.50
12/21/2023	3133EJ3Q0	FEDERAL FARM CREDIT BANK 2.875% 21DEC2023	REDEMPTION	12/21/2023	1,500,000	287.500%	12/21/2023	100.00	1,500,000.00	-	1,500,000.00
12/27/2023	02665WCZ2	AMERICAN HONDA FINANCE 2.4% 27JUN2024	BOND INTEREST	12/27/2023	1,000,000	240.000%	6/27/2024	-	-	12,000.00	12,000.00

Town of Los Gatos								
Insight ESG Ratings as of December 31, 2023								
Security Description	Maturity Date	Par/Shares	S&P Rating	Moody Rating	Insight ESG Rating	Environment	Social	Governance
JPMORGAN CHASE & CO 3.875% 01FEB2024	2/1/2024	\$ 1,400,000	A-	A1	3	1	3	4
US BANCORP 3.375% 05FEB2024 (CALLABLE 05JAN24)	2/5/2024	\$ 1,000,000	A	A3	4	3	4	4
IBM CORP 3.0% 15MAY2024	5/15/2024	\$ 1,000,000	A-	A3	2	1	2	3
CATERPILLAR FIN SERVICES 2.85% 17MAY24	5/17/2024	\$ 1,000,000	A	A2	4	4	3	4
AMERICAN HONDA FINANCE 2.4% 27JUN2024	6/27/2024	\$ 1,000,000	A-	A3	3	2	3	3
HONEYWELL INTERNATIONAL 2.3% 15AUG2024 (CALLABLE 15JUL24)	8/15/2024	\$ 1,000,000	A	A2	4	3	4	3
PEPSICO INC 2.85% 24FEB2026 (CALLABLE 24NOV25)	2/24/2026	\$ 1,000,000	A+	A1	2	2	2	2
HOME DEPOT INC. 3% 01APR2026 (CALLABLE 01JAN2026)	4/1/2026	\$ 1,000,000	A	A2	2	2	3	3
JPMORGAN CHASE & CO 3.2 15JUN2026 (CALLABLE 15MAR26)	6/15/2026	\$ 500,000	A-	A1	3	1	3	4
APPLE INC. 2.9% 12SEP2027 (CALLABLE 12JUN27)	9/12/2027	\$ 1,300,000	AA+	Aaa	5	1	4	5
TOYOTA MOTOR CREDIT CORP 5.45% 10NOV2027	11/10/2027	\$ 1,600,000	A+	A1	3	2	3	4
AMERICAN HONDA FINANCE 4.7% 12JAN2028	1/12/2028	\$ 600,000	A-	A3	3	2	3	3
PNC BANK NA 3.25% 22JAN2028 (CALLABLE 01 FEB28)	1/22/2028	\$ 1,000,000	A	A2	3	2	3	3
COLGATE-PALMOLIVE CO 4.6% 01MAR2028 (CALLABLE 01FEB28)	3/1/2028	\$ 500,000	AA-	Aa3	3	2	3	3
Total/Average		\$ 13,900,000			3.1	2.0	3.1	3.4

*ESG ratings are from 1 to 5, with 1 as the highest rating and 5 as the lowest. All ratings are weighted by industry rankings, based on the importance of the category within the individual industry.

Fund Schedule

Fund Number	Fund Description	Prior Year Carryforward 7/1/2023	Increase/ (Decrease) July - Nov	Dec 2023				Estimated Fund Balance 12/31/2023*
				Current Revenue	Current Expenditure	Transfer In	Transfer Out	
111	GENERAL FUND							
	Non-Spendable:							
	Loans Receivable	159,000	-	-	-	-	-	159,000
	Restricted Fund Balances:							
	Pension	1,400,163	-	-	-	-	-	1,400,163
	Land Held for Resale	44,338	-	-	-	-	-	44,338
	Committed Fund Balances:							
	Budget Stabilization	6,129,774	-	-	-	-	-	6,129,774
	Catastrophic	6,129,775	-	-	-	-	-	6,129,775
	Pension/OPEB	300,000	-	-	-	-	-	300,000
	Measure G District Sales Tax	590,581	-	-	-	-	-	590,581
	Assigned Fund Balances:							
	Open Space	410,000	-	-	-	-	-	410,000
	Sustainability	140,553	-	-	-	-	-	140,553
	Capital/Special Projects	10,359,577	-	-	-	-	-	10,359,577
	Carryover Encumbrances	37,698	-	-	-	-	-	37,698
	Compensated Absences	1,580,623	-	-	-	-	-	1,580,623
	ERAF Risk Reserve	689,608	-	-	-	-	-	689,608
	Council Priorities - Economic Recovery	1,556,614	-	-	-	-	-	1,556,614
	Unassigned Fund Balances:							
	Other Unassigned Fund Balance Reserve (Pre YE distribution)	-	(4,165,093)	5,540,278	(5,474,559)	-	-	(4,099,374)
	General Fund Total	29,528,304	(4,165,093)	5,540,278	(5,474,559)	-	-	25,428,930.00

* Interfund transfers and ARPA funding allocation to be performed as part of the fiscal year end closing entries.

Fund Schedule

Fund Number	Fund Description	Prior Year Carryforward 7/1/2023	Increase/ (Decrease) July - Nov	Dec 2023				Estimated Fund Balance 12/31/2023*
				Current Revenue	Current Expenditure	Transfer In	Transfer Out	
	SPECIAL REVENUE							
211/212	CDBG	166,653	-	-	-	-	-	166,653
222	Urban Runoff (NPDES)	629,843	35,579	29,996	(36,669)	-	-	658,749
231-236	Landscape & Lighting Districts	176,964	(13,774)	-	-	-	-	163,190
251	Los Gatos Theatre	74,991	(2,219)	5,514	(211)	-	-	78,075
711-716	Library Trusts	530,173	76,274	500	(992)	-	-	605,955
	Special Revenue Total	1,578,624	95,860	36,010	(37,872)	-	-	1,672,622
	CAPITAL PROJECTS							
411	GFAR - General Fund Appropriated Reserve	21,725,837	(25,323)	86,754	(229,579)	-	-	21,557,689
421	Grant Funded Projects	(406,889)	(98,189)	-	(24,846)	-	-	(529,924)
461-463	Storm Basin Projects	3,218,331	73,055	3,087	-	-	-	3,294,473
471	Traffic Mitigation Projects	431,079	-	33,016	(33,016)	-	-	431,079
472	Utility Undergrounding Projects	3,438,996	10,881	855	-	-	-	3,450,732
481	Gas Tax Projects	1,671,245	(915,098)	142,468	-	-	-	898,615
	Capital Projects Total	30,078,599	(954,674)	266,180	(287,441)	-	-	29,102,664
	INTERNAL SERVICE FUNDS							
611	Town General Liability	212,022	(500,210)	540,911	(37,512)	-	-	215,211
612	Workers Compensation	514,813	(350,942)	117,769	(134,423)	-	-	147,217
621	Information Technology	2,474,618	(308,853)	164,526	(22,550)	-	-	2,307,741
631	Vehicle & Equipment Replacement	2,413,719	232,110	270,052	-	-	-	2,915,881
633	Facility Maintenance	927,699	83,305	236,359	(44,968)	-	-	1,202,395
	Internal Service Funds Total	6,542,871	(844,590)	1,329,617	(239,453)	-	-	6,788,445
	Trust/Agency							
942	RDA Successor Agency	(6,187,789)	(1,674,135)	-	(487)	-	-	(7,862,411)
	Trust/Agency Fund Total	(6,187,789)	(1,674,135)	-	(487)	-	-	(7,862,411)
	Total Town	61,540,609		7,172,085	(6,039,812)	-	-	55,130,250

* Interfund transfers and ARPA funding allocation to be performed as part of the fiscal year end closing entries.

Deposit Accounts of Interest:

111-23541 General Plan Update deposit account balance \$853,257.47
111-23521 BMP Housing deposit account balance \$4,021,280.60



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/20/2024

ITEM NO: 6

DATE: February 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve the Report Entitled "Vegetation Management Plan for the Town of Los Gatos, Santa Clara County, California" Dated June 2021

RECOMMENDATION:

Approve the report entitled "Vegetation Management Plan for the Town of Los Gatos, Santa Clara County, California" dated June 2021.

BACKGROUND:

On June 2, 2020 Town Council authorized an agreement for SWCA Environmental Consultants (SWCA) to develop a Vegetation Management Plan for Town roadsides and open spaces. At that meeting, the Council directed staff to expedite the roadside vegetation management plan to allow for work to begin as soon as possible.

On September 1, 2020 Town Council approved the Roadside Vegetation Management Plan.

DISCUSSION:

Following approval of the roadside plan in September 2020 SWCA continued work on the overall "Vegetation Management Plan for the Town of Los Gatos, Santa Clara County, California" (the Plan). Due to the length of the plan (564 pages), a copy is located on the Town website¹. The Plan sets standards for clear roadway width and height, as well as understory growth management along 31.09 miles of roadways and within 193.91 acres of open space located in the Very High Fire Hazard Severity Zone of the Town.

¹ https://www.losgatosca.gov/DocumentCenter/View/36713/Los-Gatos-Veg-Mgmt-Plan_20210616

PREPARED BY: Nicolle Burnham
Parks and Public Works Director

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

PAGE 2 OF 2

SUBJECT: Approve the Report Entitled "Vegetation Management Plan for the Town of Los Gatos, Santa Clara County, California" Dated June 2021

DATE: February 15, 2024

DISCUSSION (continued):

The document was prepared in accordance with the California Board of Forestry and Fire Protection's California Vegetation Treatment Program (CalVTP). The CalVTP specifies approved methods of vegetation treatment and environmental protection methods.

Staff used the Plan to support applications to the Federal Emergency Management Agency's Hazard Mitigation Grant Program. The Town secured two grants, one for roadside and one for open space. The Town secured a third federal grant through the United States Forest Service to support additional roadside work. Staff is working to execute the vegetation management contemplated in the report and for which funding has been received. Having Town Council approval of the Plan supports the execution of the work program and management of the grants.

CONCLUSION:

The approval of the Plan assures compliance with our federal funding programs and provides Town Council with the opportunity to review the proposed work.

COORDINATION:

This memorandum has been coordinated with the Town Manager's Office, Finance Department, and the Community Development Department.

FISCAL IMPACT:

The approval of this plan does not result in a fiscal impact.

ENVIRONMENTAL ASSESSMENT:

All effects of the proposed project (a) have been covered in the CalVTP Program Environmental Impact Report, and (b) all applicable Standard Project Requirements and mitigation measures identified in the CalVTP PEIR will be implemented. The proposed project is, therefore, within the scope of the CalVTP PEIR. No Additional CEQA documentation is required.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/20/24

ITEM NO: 7

DATE: February 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Parking Program Implementation-Wayfinding and Signage (CIP No. 813-0242):
a. Reject All Bids Opened on January 19, 2024, and
b. Authorize Town Manager to Re-bid the Project.

RECOMMENDATION:

Parking Program Implementation-Wayfinding and Signage (CIP No. 813-0242):

- a. Reject All Bids Opened on January 19, 2024, and
- b. Authorize Town Manager to Re-bid the Project.

BACKGROUND:

On December 17, 2019, the Town Council received the Comprehensive Downtown Parking Study from Dixon Resources Unlimited (DIXON). The Parking Study identified wayfinding as a strategy to efficiently manage parking, improve the visitor experience, and enhance vehicle traffic flow.

On January 26, 2021, the Town Council reaffirmed the commitment to the Parking Roadmap with the adoption of the Strategic Priorities FY 2021-2023. One of the initial Town Council priorities was to enhance wayfinding signage and new parking program branding to assist visitors in finding convenient parking.

In November 2021, work began with Hunt Design on the Downtown Wayfinding Master Plan, and on March 15, 2022, Town Council selected a design style which was used by Hunt to develop the final design for static signs throughout the downtown area.

PREPARED BY: Gary Heap
Town Engineer

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Parks and Public Works Director, and Finance Director

PAGE 2 OF 3

SUBJECT: Reject all bids for Parking Program Implementation-Wayfinding Signage and authorize Town Manager to Re-bid the project

DATE: February 15, 2024

BACKGROUND (continued):

The Town Council authorized advertising the signage project for construction bidding on December 3, 2023. Bids were advertised on December 8, 2023 and opened on January 19, 2024.

DISCUSSION:

The Town received bid proposals from four bidders: BAYOU Graphics, Fusion Sign & Design, Martinelli Environmental Graphics, and Square Signs LLC dba Front Signs. Fusion Sign & Design was the lowest bidder. Upon reviewing all proposals, discrepancies were noticed in the proposal submitted by the lowest bidder. It was further noted that bids from BAYOU Graphics and Martinelli Environmental Graphics included irregularities that made the bids non-compliant. Since three out of four proposals received were deemed unresponsive due to non-compliance with bid requirements and the one remaining bid exceeded the engineer's estimate, staff recommends rejecting all bids and re-bidding the project in accordance with Public Contract Code Section 22038 and the Town's purchasing procedure.

CONCLUSION:

Approval of the recommendations would allow staff to move forward with re-bidding the Wayfinding Signage Project.

COORDINATION:

This report was coordinated with the Office of Economic Vitality.

SUBJECT: Reject all bids for Parking Program Implementation-Wayfinding Signage and authorize Town Manager to Re-bid the project

DATE: February 15, 2024

FISCAL IMPACT:

The engineer's cost estimate for this package of wayfinding signs is \$287,200. The adopted Fiscal Year 2023/24 – 2027/28 Capital Improvement Program (CIP) Budget for this project is shown in the table below:

Parking Program Implementation CIP No. 813-0242		
	Budget	Costs
GFAR	\$ 598,500	
Total Budget	\$ 598,500	
		Costs
Consultant and Construction Costs (Including Encumbrances)		\$ 278,629
Misc. Project Costs		\$ 892
Temp Staff Charges		\$ 1,934
Total Costs		\$ 281,455
Available Balance		\$ 317,045

ENVIRONMENTAL ASSESSMENT:

This is not a project as defined under CEQA, and no further action is required.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/20/2024

ITEM NO: 8

DATE: February 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Consider Approval of On-Call Consultants List for Engineering and Design Support Services

RECOMMENDATION:

Consider approval of On-Call Consultants List for Engineering and Design Support Services.

BACKGROUND:

The Department of Parks and Public Works requires the assistance of consultants for engineering and design support services. The types of needed support services and expertise are in twelve different disciplines, including:

- Architectural Study and Design
- Bridge Design and Inspection
- Construction Inspection Services
- Construction Management Services
- Environmental Compliance
- General Civil Engineering
- Geotechnical Services
- Land Development Plan Review and Inspection Services
- Landscape Architecture Services
- Materials Testing
- Surveying
- Traffic Engineering

PREPARED BY: Gary Heap
Town Engineer

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Parks and Public Works Director

BACKGROUND (continued):

A Request for Qualifications (RFQ) for On-Call Consultant Services was issued by the Parks and Public Works Engineering Division on September 18, 2023. The RFQ was posted on the Town of Los Gatos website and noticed through the Town's bidding portal BidNet. Eighty-one Statements of Qualifications (SOQs) were received for the twelve disciplines from 44 firms by the Friday, October 20, 2023 deadline. The consultants that submitted SOQs are listed in alphabetical order in Attachment 1.

The Statements of Qualifications were reviewed and scored based on the criteria listed in the RFQ. Criteria for selection were past experience, references, key personnel, and project experience that would qualify them to perform engineering and design work for the Town's project needs.

Having multiple firms gives the Town the opportunity to select a consultant that is best suited to a particular job, and to provide the efficiency of having multiple consultants working on multiple projects simultaneously. The prequalification process streamlines the consultant selection process and provides for engineering and design support services on an as-needed basis for a period of four years, with an allowance for one one-year extension of the qualified list.

DISCUSSION:

A committee consisting of Parks and Public Works staff was formed to score and qualify each of the firms based on their Statement of Qualifications. The Committee members have the requisite knowledge and experience in the scope of work involved and the type and quality of professional firms needed to perform the work. All firms provided well-prepared SOQs based on the criteria listed in the RFQ. Firms were reviewed and qualified based on the following criteria:

- Statement of Qualifications
- References
- Key Staff and Subconsultants
- Project Experience

Based on their qualifications and ability, the consultants listed in Attachment 2 are recommended as the best qualified for the approved on-call list of engineering and related consultants for future projects in the Town of Los Gatos.

SUBJECT: Consider Approval of On-Call Consultants List for Engineering and Design Support Services

DATE: February 15, 2024

DISCUSSION (continued):

It should be noted that the approval of this list of consultants does not assign any work to these firms or bind the Town to any contracts, but rather only pre-qualifies them to provide proposals to the Town when requested. When the Town requires the services of consultants of the type listed in the approved list, a Request for Proposals (RFP) will be distributed to the approved on-call list of firms. Proposals will be evaluated based on the consultant response including the cost of services, and a separate contract for professional services will be executed for those services per the Town's Procurement Procedures.

CONCLUSION:

Staff recommends Town Council approve the list of on-call consultants identified in Attachment 2.

FISCAL IMPACT:

There are no fiscal impacts associated with the Town Council's action to approve the list of consultants for future on-call services. If there is a need for the Town to engage one of these consultants in the future for engineering and design support services, a Request for Proposals (RFP) will be issued to the listed on-call firms per the Town's Procurement Procedures. A contract for professional services will then be executed with the best qualified firm for that specific project. A funding source will be identified at the time of contract approval.

ENVIRONMENTAL ASSESSMENT:

Approval of an on-call list of consultants is not considered a project defined under CEQA, and no further action is required.

Attachments:

1. List of Submitting Consultants
2. List of Approved On-Call Consultants by Discipline

ATTACHMENT 1
APPROVAL OF ON-CALL CONSULTANTS LIST FOR ENGINEERING AND DESIGN SUPPORT SERVICES
LIST OF SUBMITTING CONSULTANTS
(in alphabetical order)

1. ActiveWayz Engineering
2. ARC Engineering Consultants, Inc.
3. Bellecci
4. Biggs Cardosa Associates, Inc.
5. BKF Engineers
6. Brightview Design Group
7. BSK Associates
8. Consor PMCM, Inc.
9. CSG Consultants, Inc.
10. Dillingham Associates
11. EMC Planning Group
12. Fehr & Peers
13. Gates + Associates
14. Gensler
15. Ghirardelli Associates, Inc.
16. H.T. Harvey & Associates
17. Haley & Aldrich
18. HMM Engineers
19. Integra Planning + Landscape Architecture
20. Integrated Project Solutions
21. ISI Inspection Services
22. Jayson Architecture
23. Kier+Wright
24. Kimley-Horn
25. MIG, Inc.
26. MME Civil + Structural Engineering
27. NCE
28. Ninyo & Moore Geotechnical & Engineering Scientists Consultants
29. O'Dell Engineering
30. PARIKH Consultants, Inc.
31. RHAA Landscape Architectural + Planning
32. Sandis Civil Engineers Surveyors Planners
33. Schaaf & Wheeler
34. Sidell Pakravan Architects
35. SORA Engineering
36. Studio-MLA
37. The KPA Group
38. TJKM
39. TL Engineering
40. Townsend Management, Inc.
41. Verde Design, Inc.
42. W-Trans
43. William Duff Architects
44. Wilsey Ham

ATTACHMENT 2

APPROVAL OF ON-CALL CONSULTANTS LIST FOR ENGINEERING AND DESIGN SUPPORT SERVICES **LIST OF APPROVED ON-CALL CONSULTANTS BY DISCIPLINE** (in alphabetical order)

Architectural Study and Design

1. Gensler
2. Integrated Project Solutions
3. Jayson Architecture
4. Sidell Pakravan Architects
5. The KPA Group
6. William Duff Architects

Bridge Design and Inspection

1. ARC Engineering Consultants, Inc.
2. Biggs Cardoso Associates, Inc.
3. CSG Consultants, Inc.

Construction Inspection Services

1. ARC Engineering Consultants, Inc.
2. Consor PMCM, Inc.
3. CSG Consultants, Inc.
4. Integrated Project Solutions
5. Ninyo & Moore Geotechnical & Environmental Sciences Consultants
6. Townsend Management, Inc.

Construction Management Services

1. ARC Engineering Consultants, Inc.
2. Consor PMCM, Inc.
3. CSG Consultants, Inc.
4. Haley & Aldrich
5. SORA Engineering
6. Wilsey Ham

Environmental Compliance

1. CSG Consultants, Inc.
2. EMC Planning Group
3. MIG, Inc.
4. NCE

General Civil Engineering

1. ActiveWayz Engineering
2. Bellecci
3. BKF Engineers
4. CSG Consultants, Inc.
5. HMM Engineers

6. Kier+Wright
7. Kimley-Horn
8. MME Civil + Structural Engineering
9. NCE
10. Sandis Civil Engineers Surveyors Planners
11. Schaaf & Wheeler
12. Sidell Pakravan Architects
13. SORA Engineering
14. Wilsey Ham

Geotechnical Services

1. BKS Associates
2. Haley & Aldrich
3. Ninyo & Moore Geotechnical & Environmental Sciences Consultants
4. PARIKH Consultants, Inc.
5. Sidell Pakravan Architects

Land Development Plan Review and Inspection Services

1. CSG Consultants, Inc.
2. Ghirardelli Associates, Inc.
3. Haley & Aldrich
4. HMM Engineers
5. Kimley-Horn
6. SORA Engineering

Landscape Architecture Services

1. Brightview Design Group
2. Dillingham Associates
3. Gates + Associates
4. H.T. Harvey & Associates
5. HMM Engineers
6. Integra Planning + Landscape Architecture
7. Kimley-Horn
8. MIG, Inc.
9. NCE
10. O'Dell Engineering
11. RHAA Landscape Architecture + Planning
12. Sidell Pakravan Architects
13. Studio-MLA
14. Verde Design, Inc. Verde Design, Inc.

Materials Testing

1. BKS Associates
2. ISI Inspection Services, Inc.
3. Nino & Moore Geotechnical & Environmental Sciences Consultants

Surveying

1. Bellecci
2. BKF Engineers
3. HMM Engineers
4. Kier+ Wight
5. Sandis Civil Engineers Surveyors Planners
6. Sidell Pakravan Architects
7. Wilsey Ham

Traffic Engineering

1. BKF Engineers
2. Fehr & Peers
3. Kimley-Horn
4. Sandis Civil Engineers Surveyors Planners
5. TJKM
6. TL Engineering
7. W-Trans



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/20/2024

ITEM NO: 9

DATE: February 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve the Following Action for the Highway 17 Bicycle and Pedestrian Overcrossing (Project No. 818-0803):
a. Authorize the Town Manager to Execute a First Amendment to the Agreement for Consultant Services with BKF Engineers Inc. for Construction Phase Grant Writing Services, increasing the amount by \$48,735 for a Total Agreement Not to Exceed \$3,048,735

RECOMMENDATION:

Approve the following action for the Highway 17 Bicycle and Pedestrian Overcrossing (Project No. 818-0803):

- a. Authorize the Town Manager to execute a first amendment to the agreement for consultant services with BKF Engineers Inc. (BKF) for construction phase grant writing services, increasing the amount by \$48,735 for a total agreement not to exceed \$3,048,735 (Attachment 2).

BACKGROUND:

The Highway 17 Bicycle and Pedestrian Overcrossing Project is a high priority project in the Town's adopted Bicycle and Pedestrian Master Plan (BPMP). The project would improve bicycle and pedestrian mobility, encourage active transportation, close a gap in the Town's bicycle network, and enhance safety for all modes of travel on Blossom Hill Road between Roberts Road West and Roberts Road East. Blossom Hill Road is a high-volume transportation corridor and route to school for the Town.

PREPARED BY: Sean Rose
Special Projects Manager

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Finance Director, and Director of Parks and Public Works

BACKGROUND (continued):

The project is being led by the Town with significant funding support from the 2016 Santa Clara Countywide Measure B Program and design oversight by Caltrans for the portion of the project within Caltrans' Highway 17 right of way.

The project's feasibility study was completed in 2020 and included several public meetings, pop-up events, and other community engagement activities. Overall, the project received strong support from the community. Based on the feasibility analysis, engineering assessment, and past Council direction, the plan proposes: 1) a new 20-foot wide bicycle/pedestrian bridge over Highway 17 south of the existing Blossom Hill Road overcrossing; 2) pathways on the east and west sides of the new bridge to provide a new, continuous bicycle and pedestrian pathway between Roberts Road West and Roberts Road East; 3) safety enhancements to the Blossom Hill Road/Roberts Road West and Blossom Hill Road/Roberts Road East intersections; and 4) modifications to the existing vehicle and bicycle lane configurations and pedestrian facilities on Blossom Hill Road. A Location Map of these project improvements is shown in Attachment 1.

The following is a brief chronology of past Town Council actions associated with the project:

- On June 13, 2019, Council authorized the issuance of a Request for Proposals (RFP) for the project's feasibility study and authorized the consultant agreement in an amount not to exceed \$234,456.
- On March 3, 2020, Council approved the project's purpose and need, and authorized staff to proceed with design alternatives for a separate bicycle and pedestrian overcrossing.
- On September 1, 2020, at the recommendation of the Town's Complete Streets and Transportation Commission (CSTC), Council adopted the 2020 BPMP update identifying the project as a high priority.
- On September 1, 2020, Council approved the feasibility study, directed staff to proceed with final design of a separate 16- to 20-foot wide bridge south of Blossom Hill Road and analyze three bridge types (steel truss, steel arch, and concrete), authorized the submittal of an Active Transportation Program (ATP) grant application for construction, and committed up to \$1 million in FY23-24 budget funding as a local match for the ATP grant.
- On December 1, 2020, Council authorized a Measure B grant funding agreement in the amount of \$2,754,990 for project design, authorized \$946,210 in Town General Fund monies as a required local match for the Measure B grant, authorized issuance of an RFP for project design, authorized the Town Manager to sign a consultant agreement in an

BACKGROUND (continued):

amount not to exceed \$3,000,000 and approved the project's community engagement plan. On May 20, 2021, the Town entered into an agreement for consultant services with BKF for project design including preliminary engineering, environmental review, and final design in an amount not to exceed \$3,000,000 consistent with the Council action that had been taken on December 1, 2020.

- On November 9, 2022, Town Council received an update on the project's community outreach activities and the preferred bridge type and approved the concrete box girder as the preferred bridge type for project design.

DISCUSSION:

Since May 2021, the project team has made significant progress on preliminary engineering and environmental review. Staff has continued to engage with project stakeholders for additional input, including the Los Gatos Union School District, Safe Routes to School Program, Complete Streets and Transportation Commission, Arts and Culture Commission, and others.

The design team expects to complete preliminary engineering and obtain environmental clearance in April 2024, after which work on final design will commence. Final design is anticipated to be complete by early 2025 at which time it will be ready for construction bidding if funding is available. The project is fully funded through final design.

The current estimate of the total construction cost is \$25 million. The Town will need to obtain construction funding prior to advertising the project for construction bids. The majority of the funding is anticipated to come from Federal and/or State grant programs. Based on staff's research and recent communication with the California Transportation Commission (CTC), Metropolitan Transportation Commission (MTC), and Valley Transportation Agency (VTA), staff recommends applying for the Active Transportation Program (ATP) and Safe Streets For All (SS4A) grant programs. The ATP and SS4A programs are anticipated to begin accepting applications in March 2024 and February 2024, respectively, with applications due in June or July 2024.

The grant applications are competitive and successful applications typically require numerous exhibits, schematics, photo essays, visual simulations, data analyses, and other documents. Staff requested a proposal from BKF to assist Town staff with the applications. BKF's proposal is provided in Exhibit B of Attachment 2. Staff believes the proposed scope of work and \$48,735 fee are reasonable and will significantly enhance the Town's competitiveness for the grants. As the project design consultant, BKF is ideally suited to provide these services. Staff recommends amending BKF's agreement for the additional services they can commence work on the applications as soon as possible.

DISCUSSION (continued):

The construction grant programs require a minimum local funding match of 20% of the total project cost in order to maximize the Town's competitiveness for the grants. The estimated total project cost is \$29 million (\$4 million for design plus \$25 million for construction), resulting in a required local match of \$5.8 million. The funding sources used for the existing project budget of \$4,457,880 (see fiscal table) qualify as local match; therefore, an additional \$1,342,120 in local match will be needed if the grant applications are successful. Staff will identify potential funding sources for the match through the Capital Improvement Program Budget that will be presented in April 2024. While Town funds may be needed for this match, staff is actively seeking additional Measure B funds which could limit the Town's General Fund contribution to less than the \$1,342,120.

CONCLUSION:

The Town Council's authorization of the first amendment to BKF's consultant agreement for the Highway 17 Bicycle/Pedestrian Overcrossing Project design would allow BKF to provide additional grant writing consulting services to submit construction phase funding grant applications for the ATP and SS4A grant programs on behalf of the Town.

If these applications are successful, additional funds will be required for the local match. Staff is working to identify potential sources for this match.

COORDINATION:

This report is coordinated with the Finance Department.

FISCAL IMPACT:

The current project budget, including approval of the BKF amendment, is provided in the table below. The proposed BKF amendment would not increase the overall project budget; it would come from the previously approved design contingency budget, decreasing it from \$300,000 to \$251,265. The budget reflects the cost of the feasibility study and project design phases. As shown in the table, there is an estimated \$601,745 surplus from those phases that can be allocated to the construction phase as part of the local match.

FISCAL IMPACT (continued):

Highway 17 Bicycle and Pedestrian Overcrossing Project		
CIP No. 818-0803		
	Budget	Costs
TDA Article 3	\$87,451	
2016 Measure B	\$2,754,900	
Traffic Impact Mitigation Fund	\$147,005	
GFAR	\$946,210	
GFAR/Development In-Lieu Fee	\$522,314	
Total Budget	\$4,457,880	
BKF Engineers - Feasibility Study		\$234,456
BKF Engineers - Final Design Existing Contract		\$3,000,000
BKF Engineers - First Amendment Requested with this Staff Report		\$48,735
Design Contingency		\$251,265
Independent Structural Review		\$50,000
Caltrans Cooperative Agreement		\$55,691
Part-Time Staff Cost		\$215,988
Total Expenditures		\$3,856,135
Remaining Budget for Construction Phase		\$601,745

ENVIRONMENTAL ASSESSMENT:

This is a project as defined under CEQA but is statutorily exempt under Section 21080.25. A Notice of Exemption has been filed.

Attachments:

1. Location Map
2. First Amendment to Agreement for Consultant Services with BKF Engineers Inc. for the Highway 17 Bicycle and Pedestrian Overcrossing Project #19-818-0803 with Exhibit A (Original Agreement) and Exhibit B (Grant Writing Scope of Services)



HIGHWAY 17 BICYCLE AND PEDESTRIAN OVERCROSSING

LOCATION MAP

ATTACHMENT 1



FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES

This FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES is dated for identification this 20th day of February 2024 and amends that certain AGREEMENT FOR CONSULTANT SERVICES FOR THE HIGHWAY 17 BICYCLE AND PEDESTRIAN OVERCROSSING PROJECT #19-818-0803, dated May 20, 2021, made by and between the Town of Los Gatos, ("Town,") and BKF Engineers Inc. ("CONSULTANT") identified as a California corporation and whose address is 1730 N. First Street, Suite 600, San Jose, CA 95112.

RECITALS

- A. Town and CONSULTANT entered into an agreement for Consultant Services on May 20, 2021 ("Agreement"), a copy of which is attached hereto and incorporated by reference as Exhibit A to this Amendment.
- B. Town desires to amend the Agreement to add to the scope of work to include grant writing services for construction phase grant applications for the Highway 17 Bicycle/Pedestrian Overcrossing Project.

AMENDMENT

- 1. ARTICLE II STATEMENT OF WORK is amended to ADD the following text:

Consultant shall provide services as described in that certain Proposal dated January 17, 2024, which is hereby incorporated by reference and attached hereto as Exhibit B.
- 2. ARTICLE V ALLOWABLE COSTS AND PAYMENTS, PART E. is amended to read as follows:

The total amount payable by LOCAL AGENCY for PHASE I shall not exceed \$3,048,735. The original not-to-exceed amount of the agreement of \$3,000,000 was increased by \$48,735 as compensation for the First Amendment.
- 3. All other terms and conditions of the Agreement remain in full force and effect.

Exhibit A Agreement for Consulting Services for the Highway 17 Bicycle and Pedestrian Overcrossing Project #19-818-0803 dated May 20, 2021

Exhibit B Proposal by BKF for Grant Writing Services for ATP and SS4A Grant Applications dated January 17, 2024

IN WITNESS WHEREOF, the Town and CONSULTANT have executed this Amendment.

Town of Los Gatos, by:

CONSULTANT, by:

Laurel Prevetti
Town Manager

Jaggi Bhandal, Vice President, BKF

Department Approval:

Nicolle Burnham
Director of Parks and Public Works

Approved as to Form:

Attest:

Gabrielle Whelan
Town Attorney

Wendy Wood, CMC
Town Clerk

EXHIBIT A

AGREEMENT FOR CONSULTANT SERVICES

HIGHWAY 17 BICYCLE AND PEDESTRIAN OVERCROSSING PROJECT # 19-818-0803

ARTICLE I - INTRODUCTION

- A. This AGREEMENT is made and entered into on May 20, 2021 by and between the TOWN OF LOS GATOS, a California municipal corporation, hereinafter referred to as, LOCAL AGENCY and **BKF Engineers**, hereinafter referred to as, CONSULTANT, whose address is **1730 N. First Street, Suite 600, San Jose, CA 95112**. The CONSULTANT is incorporated in the State of California.

The Project Manager for the "CONSULTANT" will be **Natalina V. Bernardi, PE, LEED AP, Principal and Vice President**.

The Contract Administrator for LOCAL AGENCY will be WooJae Kim, Town Engineer.

This Agreement is made with reference to the following facts.

The LOCAL AGENCY desires to engage CONSULTANT to provide professional engineering services for the Highway 17 Bicycle and Pedestrian Overcrossing Project.

The CONSULTANT represents and affirms that it is willing to perform the desired work pursuant to this Agreement.

The CONSULTANT represents and warrants to LOCAL AGENCY that it possesses the distinct professional skills, qualifications, experience, and resources necessary and has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for CONSULTANT to practice its profession and to timely perform the services described in this Agreement. CONSULTANT acknowledges LOCAL AGENCY has relied upon these warranties to retain the CONSULTANT.

CONSULTANT shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws.

CONSULTANT shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.

- B. The work to be performed under this AGREEMENT is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal dated **05-06-21**. The approved CONSULTANT's Scope of Service (Exhibit A) and Cost Proposal (Exhibit B) is attached hereto and incorporated by reference. If there is any conflict between the approved Scope of Services or Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- C. CONSULTANT agrees, to the fullest extent permitted by law, to save, keep, indemnify and hold harmless and defend the LOCAL AGENCY, its officers, agents, employees and volunteers from all damages, claims, demands, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act, errors, or omissions of the CONSULTANT, or any of the CONSULTANT'S officers, employees, or agents or any

sub-consultant. CONSULTANT will reimburse LOCAL AGENCY for any expenditure, including reasonable attorney fees, incurred by LOCAL AGENCY in defending against claims ultimately determined to be due to negligent acts, errors, or omissions of CONSULTANT.

- D. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to LOCAL AGENCY employee(s). With prior written consent, the CONSULTANT may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. CONSULTANT shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by CONSULTANT or is based on allegations of CONSULTANT'S negligent performance or wrongdoing.
- E. LOCAL AGENCY is not required to make any deductions or withholding from the compensation payable to CONSULTANT under the provisions of this AGREEMENT, and is not required to issue W-2 forms for income and employment tax purposes for any of CONSULTANT'S assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.
- F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against LOCAL AGENCY based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.
- G. Except as expressly authorized herein, CONSULTANT'S obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the LOCAL AGENCY. However, claims for money due or which become due to CONSULTANT from LOCAL AGENCY under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the LOCAL AGENCY.
- H. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- I. No alteration or variation of the terms of this contract shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT'S expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II STATEMENT OF WORK

CONSULTANT agrees to perform the services as outlined in "Exhibit A –Scope of Services" within the time frames specified therein, and "Exhibit B – Consultant's Cost Proposal" which are hereby

incorporated by reference and attached. In the performance of the Scope of Services for this contract, the responsible CONSULTANT professional engineer shall sign all plans, specifications and estimates and engineering data furnished under the AGREEMENT, including registration number.

ARTICLE III CONSULTANT'S REPORTS OR MEETINGS

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the LOCAL AGENCY'S Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.
- C. This AGREEMENT provides for conferences as needed, visits to the site, and inspection of the work by representatives of the LOCAL AGENCY, State, and/or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the CONSULTANTS fee.

ARTICLE IV PERFORMANCE PERIOD

- A. This contract shall go into effect on May 20, 2021 contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The contract shall end at the earlier of final Project construction or on 12/31/26 unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

TASK 1 -

- A. The method of payment for PHASE I of this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment necessary to provide the services described in Article II Statement of Work. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the Project. In the instance of a change in the scope of work or scope of the Project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by LOCAL AGENCY.
- B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- C. CONSULTANT shall not commence performance of work or services until this contract has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.
- D. CONSULTANT will be reimbursed within 30 days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than 30 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each phase and on each task as applicable. Invoices shall follow the format

stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and Project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice must be submitted within 60-calendar days after completion of CONSULTANT's work, unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

Town of Los Gatos Parks and Public Works Department
ATTN: WooJae Kim, Town Engineer
Highway 17 Bicycle and Pedestrian Overcrossing Project
41 Miles Avenue
Los Gatos, CA 95030

- E. The total amount payable by LOCAL AGENCY for PHASE I shall not exceed \$3,000,000 (Three million dollars).

PHASE II – PHASE II work shall not be awarded at this time. Future Phase II services, if requested, shall be incorporated to this agreement by contract amendment for approval by LOCAL AGENCY and the CONSULTANT. The following articles shall apply to a future Phase II contract amendment.

- A. The method of payment for Phase II shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.
- B. The specified rate to be paid for vehicle expense for CONSULTANT's field personnel, if any, shall be per approved Cost Proposal. The rates for fully equipped vehicle(s) shall be as specified in Article II Statement of Work, if applicable. The specified rate to be paid for equipment shall be, as listed in the approved Cost Proposal, if applicable.
- C. The method of payment for Phase II of this AGREEMENT, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment-rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in the approved Cost Proposal, unless additional reimbursement is provided for, by contract amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and AGREEMENT is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "J," shall not be exceeded unless authorized by AGREEMENT amendment.
- D. In addition to the allowable costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$(0). The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- E. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.

- F. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- G. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in the Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.
- H. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- I. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each Project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and Project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase of this contract. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

Town of Los Gatos Parks and Public Works Department
ATTN: Woo Jae Kim/Town Engineer
Highway 17 Bicycle and Pedestrian Overcrossing Project
41 Miles Avenue
Los Gatos, CA 95030

- J. The total amount payable by LOCAL AGENCY for Phase II shall be as specified by a future contract amendment.
- K. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.
- L. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

ARTICLE VI TERMINATION

- A. This AGREEMENT may be terminated by LOCAL AGENCY provided that LOCAL AGENCY gives not less than thirty (30) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawing and data estimates performed to that date, whether complete or not.
- B. LOCAL AGENCY may temporarily suspend the AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination. If the duration of the temporary suspension exceeds 180 calendar days, this AGREEMENT may be terminated by

CONSULTANT provided that CONSULTANT gives not less than thirty (30) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate.

- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by LOCAL AGENCY by virtue of any breach of this AGREEMENT by CONSULTANT, and LOCAL AGENCY may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due LOCAL AGENCY from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.
- E. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 2 CFR, Part 200 or 48 CFR Part 31, are subject to repayment by CONSULTANT to LOCAL AGENCY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CRF Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORDS/AUDIT

For the purpose of determining compliance with Government Code 8546.7; the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT, including but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT'S Independent CPA, shall make such materials available at their respective offices at all reasonable times during the AGREEMENT period and for five (5) years from the date of final payment under the AGREEMENT. LOCAL AGENCY, Caltrans Auditor, FHWA, VTA, or any duly authorized representative of the Federal Government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of CONSULTANT, Subconsultants, and the CONSULTANT'S Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and subconsultant AGREEMENTS, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, LOCAL AGENCY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the contract and disallowance of prior reimbursed costs.
- E. CONSULTANT Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Caltrans' Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
 - 1. During a Caltrans' review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR, part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by IOAI.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred and fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred and fifty percent (150%) and two hundred percent (200%) - the provisional rate will be eighty five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the provisional rate will be seventy five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA-audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA-audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. The CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the CONSULTANT'S approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its subconsultants within fifteen (15) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY..
- E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator in advance of assigning work to a subconsultant(s).
- F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made. In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

G. Prompt Payment of Withheld Funds to Subconsultants

The LOCAL AGENCY may hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY, of the contract work, and pay retainage to CONSULTANT based on these acceptances. The LOCAL AGENCY designates the method below to ensure prompt and full payment of any retainage kept by CONSULTANT or subconsultant to a subconsultant.

Method 3: The LOCAL AGENCY shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY of the contract work and pay retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the LOCAL AGENCY. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.

Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a subconsultant.

ARTICLE XI EQUIPMENT PURCHASE

- A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000) prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.

- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:
1. "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.
 2. Regulation 2 CFR, Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the Project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction Project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY Projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this Project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records
 1. Each CONSULTANT and subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.

- b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works Project.
- 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
- 3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
- 4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or subconsultant performing the work shall not be marked or obliterated.
- 5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
- 6. The CONSULTANT or subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
- F. Penalty
 - 1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or

portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.

2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or subconsultant.
4. If a worker employed by a subconsultant on a public works Project is not paid the general prevailing per diem wages by the subconsultant, the prime CONSULTANT of the Project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the subconsultant for the performance of work on public works Projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the subconsultant to the employees by periodic review of the certified payroll records of the Sub-consultant.
 - c. Upon becoming aware of the Sub-consultant's failure to pay the specified prevailing rate of wages to the subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the subconsultant for work performed on the public works Project.
 - d. Prior to making final payment to the subconsultant for work performed on the public works Project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the subconsultant that the subconsultant had paid the specified general prevailing rate of per diem wages to the subconsultant's employees on the public works Project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works Project within fifteen (15) calendar days of receipt of a complaint that a subconsultant has failed to pay workers the general prevailing rate of per diem wages.
6. If LOCAL AGENCY determines that employees of a subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due

the subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction Project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction Project which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction Project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right in its discretion; to terminate the AGREEMENT without liability; to pay only for the value of the work actually performed; or to deduct from the AGREEMENT price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING

A. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subagreements, which exceed one hundred thousand dollars (\$100,000) and that all such sub recipients shall certify and disclose accordingly.

ARTICLE XVI NON DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.
- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
 - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - 3. Does not have a proposed debarment pending; and

4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. CONSULTANT, subrecipient (LOCAL AGENCY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, The LOCAL AGENCY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate good faith efforts to meet this goal. It is CONSULTANT's responsibility to verify that the DBE firm is certified as DBE at date of proposal opening and document the record by printing out the California Unified Certification Program (CUCP) data for each DBE firm. A list of DBEs certified by the CUCP can be found [here](#).

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTS who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.

- B. The goal for DBE participation for this AGREEMENT is **12%**. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in Exhibit 10-O2: Consultant Contract DBE Commitment attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: DBE Information – Good

Faith Efforts to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance Under 49 CFR 26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying CONSULTANT from future proposing as non-responsible

E. Termination and Substitution of DBE Subconsultants

CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the LOCAL AGENCY's written consent. CONSULTANT shall not terminate or substitute a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the LOCAL AGENCY. Unless the LOCAL AGENCY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02 Consultant Contract DBE Commitment form, included in the Bid.

The LOCAL AGENCY authorizes a request to use other forces or sources of materials if CONSULTANT shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the Project.
2. The LOCAL AGENCY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the LOCAL AGENCY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the Project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The LOCAL AGENCY determines other documented good cause.

CONSULTANT shall notify the original DBE of the intent to use other forces or material sources and provide the reasons and provide the DBE with 5 days to respond to the notice and advise CONSULTANT and the LOCAL AGENCY of the reasons why the use of other forces or sources of materials should not occur.

CONSULTANT's request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph.
2. Notices from CONSULTANT to the DBE regarding the request.
3. Notices from the DBEs to CONSULTANT regarding the request.

If a listed DBE is terminated or substituted, CONSULTANT must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet or exceed the DBE goal.

F. Commitment and Utilization

The LOCAL AGENCY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The LOCAL AGENCY shall request CONSULTANT to:

1. Notify the LOCAL AGENCY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subconsultant
 - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business (see Exhibit 9-F *Monthly Disadvantaged Business Enterprise Payment*)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the LOCAL AGENCY. On work completion, CONSULTANT shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form to the LOCAL AGENCY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the LOCAL AGENCY within 90 days of contract acceptance. The LOCAL AGENCY will withhold \$10,000 until the form is submitted. The LOCAL AGENCY will release the withhold upon submission of the completed form.

In the LOCAL AGENCY's reports of DBE participation to Caltrans, the LOCAL AGENCY must display both commitments and attainments.

- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining

quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.

- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or Project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.
- L. After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant shall complete and email the Exhibit 9- F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to the Agency.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance in compliance with the following:

Minimum Scope of Insurance:

- i. Consultant agrees to have and maintain, for the duration of the contract, General Comprehensive Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.

- ii. Consultant agrees to have and maintain, for the duration of the contract, bodily injury liability insurance herein provided for, which shall be in effect at all times during the term of this AGREEMENT.
- iii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iv. Consultant shall provide to the LOCAL AGENCY all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the LOCAL AGENCY before work commences. The Certificate of Insurance will provide: 1. That the insurer will not cancel the insured's coverage without thirty (30) calendar days prior written notice to LOCAL AGENCY. 2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this AGREEMENT are concerned. 3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.
- v. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

General Liability:

- i. The LOCAL AGENCY, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. This requirement does not apply to the professional liability insurance required for professional errors and omissions.
- ii. The Consultant's insurance coverage shall be primary insurance as respects the LOCAL AGENCY, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the LOCAL AGENCY, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the LOCAL AGENCY, its officers, officials, employees or volunteers.
- iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the LOCAL AGENCY. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.

In the event said insurance coverage expires at any time or times during the term of this

AGREEMENT, CONSULTANT agrees to provide a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.

Workers' Compensation. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the LOCAL AGENCY before beginning services under this Agreement. Further, Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.

- B. CONSULTANT agrees that the insurance herein provided for, shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the contract, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to terminate the AGREEMENT pursuant to Article VI, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

- A. This AGREEMENT may be amended only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY'S Contract Administrator.
- C. There shall be no change in CONSULTANT'S Project Manager or members of the Project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY'S Contract Administrator.

ARTICLE XXII CONTINGENT FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXII DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and Parks and Public Works Director, who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

ARTICLE XXIV INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the Project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction Project site.
- B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the Project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.
- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices,

work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other Project except the one detailed in this Contract. Any reuse by City for another Project or Project location shall be at City's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to

CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.

- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the contract record.

ARTICLE XXXI PROMPT PAYMENT FROM THE LOCAL AGENCY TO CONSULTANT

The LOCAL AGENCY shall make any progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the LOCAL AGENCY fails to pay promptly, the LOCAL AGENCY shall pay interest to the contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied. Upon receipt of a payment request, the LOCAL AGENCY shall act in accordance with both of the following:

- 1) Each payment request shall be reviewed by the LOCAL AGENCY as soon as practicable after receipt for the purpose of determining that the payment request is a proper payment request.
- 2) Any payment request determined not to be a proper payment request suitable for payment shall be returned to CONSULTANT as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

ARTICLE XXXII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT: Natalina V. Bernardi, PE
(NAME)
ATTN: Jaggi Bhandal
(Project Manager)

1730 N. First Street, Suite 600

San Jose, CA 95112
(ADDRESS)

LOCAL AGENCY: Parks and Public Works Department
ATTN: WooJae Kim, Town Engineer, Contract Administrator
41 Miles Avenue
Los Gatos, CA 95030

ARTICLE XXXIII CONTRACT

The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.

ATTACHMENTS:

EXHIBIT A – SCOPE OF SERVICES
EXHIBIT B – CONSULTANT’S COST PROPOSAL
EXHIBIT 10-O2 - Consultant Contract DBE Information

ARTICLE XXXIV SIGNATURES

Recommended by Department Head:

DocuSigned by:

Matt Morley

5/13/2021

Matt Morley, Parks and Public Works Director

IN WITNESS WHEREOF, THE LOCAL AGENCY AND CONSULTANT HAVE EXECUTED THIS AGREEMENT.

TOWN OF LOS GATOS by:

DocuSigned by:

Laurel Prevetti

5/20/2021

Laurel Prevetti, Town Manager

CONSULTANT by:

DocuSigned by:

Natalina V. Bernardi

5/12/2021

Signature

Natalina V. Bernardi, Principal / Vice President

Printed Name and Title

Approved as to Form:

DocuSigned by:

Robert W. Schultz

5/18/2021

Robert Schultz, Town Attorney

Attest:

DocuSigned by:

Shelley Neis

5/20/2021

Shelley Neis, CMC, Town Clerk

EXHIBIT A - PROJECT SCOPE OF SERVICES

May 6, 2021

PROJECT SCOPE OF SERVICES**PHASE I - ENGINEERING DESIGN SERVICES AND ENVIRONMENTAL CLEARANCES:**

The BKF Team will provide all design services, including but not limited to: Project management; preliminary engineering; environmental studies and clearances; utility coordination and right-of-way; permits and coordination with other agencies; surveys and mapping; geotechnical investigations and reports; structural and final design and development of all contract documents; bid support and obtaining the authorization to proceed to construction from Caltrans for the Highway 17 Bicycle and Pedestrian Overcrossing Project as more specifically described as follows. Where appropriate professional engineer shall sign all plans, specifications and estimates and engineering data furnished under the scope of services, including registration number.

- **Task A.1 Project Management** - The BKF Team will provide the necessary Project coordination, administration, management and interfacing with the Town, Caltrans, and other internal/external stakeholders to achieve Project objective. The BKF Team will proactively provide direction to the Town regarding the Project tasks necessary to deliver the federally funded Project consistent with Caltrans permitting requirements and federal reimbursement requirements. The BKF Team will be responsible for Project management activities throughout the life of the contract. The scope of these activities includes, but is not limited to,
 - provide, distribute, and maintain contact information for all Project team members
 - coordinate and schedule meetings/conference calls as needed
 - prepare and distribute meeting minutes
 - itemize, track, and pursue all Project action items to completion
 - develop and maintain the Project schedule, report on Project progress
 - manage Subconsultant activities to remain on schedule,
 - supervise, coordinate, and monitor design for conformance with all current applicable design standards from the Town, AASHTO, Caltrans Design Standards and Specifications, California Building Code, and any affected utilities
 - supervise, coordinate, and monitor the design for conformance with permit requirements from Caltrans, VTA, and utility companies
 - conduct field reviews as needed
 - prepare and track Town's submissions to Caltrans
 - provide internal quality control checks and document quality control actions conducted for the Project
 - conduct cross-checking to avoid potential conflicts between various subconsultant's work
 - develop Project filing and record keeping system for Project files for a period of 5 years
 - develop a list of Project stakeholders for coordination during Project design
 - assist the Town with grant funding pursuits for project construction. BKF understands that the Town will lead these funding pursuit efforts, but will provide minimal support (project information, exhibits, etc).

Deliverables: Meeting minutes, schedule, progress reports, action item logs, tracking spreadsheets, Caltrans submissions and other items resulting from the BKF Team's Project management duties

- **Task A.2 Data Collection and Review** - The BKF Team will obtain and collect data as needed to develop general Project design concepts and related activities needed to establish the parameters for final design, such as, existing topography/geometrics, grading and drainage considerations, geotechnical/retaining wall considerations, structural engineering and proposed bridge structure, ADA considerations, extent of required demolition activities, construction phasing/staging, environmental and future maintenance considerations. The scope of these activities includes, but is not limited to, (items to be provided by the Town or items on the Town's Project webpage are as indicated below).
 - Complete an extensive site review/existing conditions assessment of the Project area
 - Collect and review existing background information regarding the Project including:
 - Town's adopted Bicycle and Pedestrian Master Plan and Update (see Attachment 3)
 - Highway 17 Bicycle and Pedestrian Overcrossing Feasibility Analysis (see Attachment 3)



EXHIBIT A - PROJECT SCOPE OF SERVICES**May 6, 2021**

- Funding Agreement between the Town of Los Gatos and Santa Clara Valley Transportation Agency for the Bicycle and Pedestrian Overcrossing Over Highway 17 (see Attachment 3)
- Caltrans Local Procedures Manual
- Plans for existing utilities in Project area
- Development plans for adjacent properties – (Town to provide)
- Proposed developments in the Project vicinity (Town to provide) and potential Project impacts
- Street improvement plans, including signalized intersections (Town to provide)
- Aerial photos and any available mapping, including digitized topography
- Survey control data
- ROW information, including Caltrans right of way documents, existing easements, etc.
- Existing as-built information from the Town, Caltrans, property owners, local agencies, utility companies, and other organizations
- Existing Blossom Hill Road Highway 17 Overcrossing bridge structure plans and geotechnical information
- Geologic and soil literature in the Project vicinity
- Design standards and codes applicable to the Project
- Town's Standard Specifications and Details for Construction, 2010 Caltrans Standard Specifications and Standard Plans, and applicable portions of the MUTCD and California MUTCD, and other controlling design standards as appropriate
- Americans with Disabilities Act (ADA) requirements
- Connect Los Gatos webpage and Highway 17 Bicycle and Pedestrian Overcrossing Project page
- Minutes from Project related community meetings
- Based on existing conditions and Project objectives, determine required permits and permit requirements necessary for successful completion of Project and review permit applications and requirements
- Based on the data collected and site evaluations, review the preliminary layout as presented in the feasibility study, verify assumptions, and confirm consistency with the Project's objectives and budget.
- Based on information collected, prepare a summary or diagram of existing conditions highlighting any special/potential conditions that may affect the final design (opportunities and constraints diagram)

Deliverables: Video of existing site conditions, listing of all potentially required permits, opportunities and constraints diagram

- **Task A.3 Surveys and Base Mapping** - The BKF Team will be responsible for data collection, and all mapping and surveying necessary to complete a comprehensive base map and other plans as indicated below. The scope of a comprehensive base map and survey includes setting Project benchmarks and establishing control for Project layout and construction, aerial photogrammetry, design level topographic surveys, identification of all public right-of-way, adjacent parcels, property lines, easements, and existing utility locations. The extent of the topographical surveying and mapping shall extend a minimum of 10' or more beyond the existing Blossom Hill Road right of way to show adequate conforms to existing conditions and proper future drainage. Existing conditions mapping shall include appropriate data collected in Task A.2.
- The BKF Team shall conduct a detailed field survey to review and record existing conditions in the Project area and shall identify any unusual or special conditions that may affect the design or construction of the Project. The field survey for the Project area shall include at a minimum, the location of all existing above and below grade facilities, including but not limited to, roadways, signing/stripping, medians, traffic signals and appurtenances, fire hydrants, street lights, retaining walls, sidewalks, curbs, gutters, ramps, SR 17 overcrossing structure including the embankments and structural components, fences, gates, utilities, flood control facilities, waterways, outfalls, trees



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- greater than 6" DBH, and any existing irrigation facilities.
- The BKF Team shall review data and survey information collected with proposed Project layout and shall complete physical verification of utility locations in areas of potential conflict. The BKF Team shall obtain all permits and approvals necessary to complete the potholing operations. Results of potholing shall be included on the Utilities Base Map.
- Based on the survey and data collected, the BKF Team shall prepare one or more existing conditions base maps, at a scale of 1"=20' for use in the Project design and community meetings, including
 - Existing Conditions Base Map
 - Existing Utilities Base Map
 - Existing Tree Plan - the BKF Team shall prepare a separate plan showing the location and number of existing trees over 6" DBH, including size, species, and location.
 - Right of Way Map – showing location of all property lines and easements within or immediately adjacent to the Project area.

Deliverables: Survey data sheets, base map(s) and plans in AutoCAD format– including Existing Conditions Base Map, Existing Utilities Base Map, Tree Locations and Right of Way Map

- **Task A.4 Stakeholder Coordination and Project Permits** - The BKF Team shall identify all Project stakeholders and shall take actions necessary to coordinate Project design with the Town and Project stakeholders. Meetings with the stakeholders, including the Town, Town Council and Commissions, community members, Caltrans, VTA, any affected utilities, and any affected private properties will be included in this scope of work and shall include preparing and providing supporting documents, reports, and exhibits. The BKF Team shall determine the need for permits to allow for the ultimate construction of the Project, including a Caltrans encroachment permit, and any other permits deemed necessary for construction access and staging areas and shall prepare required applications, documents, and reports to allow the Town to obtain the Project permits in a timely manner. Design of the Project is to remain within the existing public and Caltrans right of way, however, the BKF Team will identify any conform or other activities that may need to temporarily take place on private property, and will coordinate with adjacent property owners to obtain clearances for such activities. The BKF Team shall coordinate permits necessary for geotechnical drilling operations and USA clearances.

Caltrans Coordination: The BKF Team will take the lead and coordinate with Caltrans and the Town to prepare a Project Initiation Document (PID), Project Study Report-Project Development Study (PSR-PSD), Project Approval & Environmental Document (PA&ED), and final PS&E including all reports and documentation required by Caltrans in order to obtain a Caltrans encroachment permit for the Project. To start the coordination process, BKF will assist the Town in obtaining a Cooperative Agreement with Caltrans to start the PID phase. The PID shall comply with the Caltrans standard PSR-PDS requirements and will include the overall site plan and typical conceptual cross-sections for the alternatives identified in the feasibility study. The BKF Team will assist the Town in the development of the necessary Cooperative Agreements with Caltrans for the PID, PA/ED, and PS&E phases. The BKF Team will schedule and hold meetings as needed with Caltrans and shall also schedule and hold regular Project team coordination meetings with Caltrans and shall prepare the meeting agendas, minutes, and action items. It will be the BKF Team's responsibility to prepare, implement and monitor a realistic schedule of the activities necessary, to lead the Town through the PID, PA/ED, and PS&E phases of the Project. BKF will also assist the Town in the execution of a Maintenance Agreement for the proposed project improvements and supporting exhibits necessary to complete the agreement.

Deliverables: Approved PID, PA/ED, and PS&E; Project team meeting agendas, minutes, action item lists, Caltrans encroachment permit for Project construction.

Selection of Preferred Bridge Type: The feasibility study has identified three feasible types of bridge structures for consideration. The BKF Team understands that the Town



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plans to only move forward with the concrete and steel truss bridge options identified in the feasibility study. BKF will develop each concept further and shall assist the Town in the presentation of these two alternatives to the community, the Town's Complete Streets and Transportation Commission and the Town Council. The BKF Team will lead the Town's effort to develop a consensus regarding the final bridge type for advancing into the final design process. This process is to take place concurrently with the development of the Project Initiation Document (PID), and shall result in the Town Council's selection of the final bridge type prior to the completion of the PID phase. The following tasks are anticipated for the selection of the preferred bridge structure:

- Prepare a Principal Span Structure Selection Matrix including structure type, anticipated costs, key opportunities and constraints for each bridge type
- Define embankments (if any), retaining walls/sound walls (if any), supports, main span and approach structure geometrics
- Geometric alignment and clearances, including bridge and approaches with a focus on geometric plans through Caltrans right of way. The geometric design for the bridge and approaches through Caltrans right of way will be developed based on project objectives, the constraints and the Town's and Caltrans design standards. Adequate detail will be provided so that assessments and evaluations can be made and discussed.
- Refine each alternative to show impacts to adjacent properties and relationship to adjacent property lines
- Provide diagrams and plans showing the movement of bicycle and pedestrians across the structures and through the adjacent intersections and across bridge structure
- Develop additional perspectives for each bridge structure showing:
 - Viewer friendly plans showing proposed alignment, profiles, and cross-sections of each bridge alternative
 - Visual simulation/view of each bridge structure from both south and northbound SR 17
 - Visual simulation/view of each bridge from the user's perspective both east and west bound directions
 - Potential additional architectural features or opportunities for each bridge type including pedestrian and bicycle railings, lighting concepts, and potential incorporation of public art features.
 - Landscape and urban design concepts
 - Refine basic cost estimate for each bridge type
- Assist the Town in a community workshop(s) to review bridge types and determine community preference
- Assist the Town in presentations to the Parks and Recreation Commission, the Complete Streets and Transportation Commission, and Town Council to determine the final bridge type.

In advance of the 35% phase, the BKF Team will develop Bridge APS submittal for the Town's and Caltrans review and approval. The team will perform necessary modeling and analysis to support member sizing. The Bridge APS shall be performed in accordance with Caltrans Bridge Memo to Designers 1-8. The APS shall consist of one structure plan sheet showing general structure layout details and estimated cost, preliminary geotechnical memorandum, APS checklists, design memorandum, and itemized cost estimates. There will be no APS sheets developed for the retaining structures unless these walls are very unusual in characteristic and type.

Deliverables: Opportunities and constraints diagrams, visual simulations, plans, profiles, cross-section, meeting presentations, cost estimates, APS.

Community Engagement: With assistance from the BKF Team, Town staff will implement and lead the Project's Community Engagement Plan. The BKF Team shall develop and implement a robust community engagement process, attend and provide support to Town staff in public outreach efforts, and facilitate community meetings to obtain input on the proposed design. The BKF Team will develop all necessary meeting materials including graphics, presentations slides, handouts, drawings, graphic boards, etc. for each meeting, as



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appropriate. BKF will conduct a "pre-meeting planning session" with the Town via teleconference before each meeting to review materials. The BKF Team will provide minutes for all meetings. A minimum of eighteen (18) public outreach activities are anticipated per the RFP. The following public activities are preliminary proposed into three broad phases: 1) Technical Translation Phase to build and test educational materials, 2) Stakeholder Engagement Phase to interact directly with specific key groups such as adjacent homeowners, nearby schools, and other specific organizations, to address their key concerns and 3) General Public Phase to engage the broader public to ensure understanding of the project, the community preferences, and forthcoming design and construction schedule. The following list includes public meetings and other engagement activities anticipated during and after the Structural Design and Aesthetic Evaluation Study. Specific community engagement activities required of the BKF Team are anticipated to include the following:

- Stakeholder Engagement Materials: The BKF Team will provide supporting documents and exhibits for the Town's use in stakeholder notifications.
- Stakeholder and Contact Database: The BKF Team shall collaborate with Town staff to build onto any existing contact list to include key individuals, organizations, and agencies to engage.
- Community Engagement Strategy: Working with Town staff, the BKF Team shall define key outreach activities, their sequence, and their likely schedule.
- Project Informational Materials: The BKF Team shall develop materials to help educate the community about the project and potentially promote input activities, typically including a Project Fact Sheet, FAQ sheet, and flyer template, or other information that can be posted to the Town's website.
- Stakeholder Interviews: The BKF Team shall interview specific individuals and community champions representing key stakeholder groups or constituencies early in the process to identify concerns and early design preferences or parameters.
- Stakeholder Group Meetings: The BKF Team shall coordinate and present at stakeholder meetings. Among the possibilities include advisory group meetings, neighborhood group meetings, the chamber of commerce, school PTA meetings, service clubs (Kiwanis, Rotary, Lions, etc.), or employee groups.
- Community Meeting and Workshops: The BKF Team and Town shall develop a list of key Project milestones for community input and workshops. The Town shall arrange venues – if health guidelines allow – for workshops and shall notify stakeholders of meetings and workshops, however the BKF Team will be prepared to facilitate the community discussion/workshops and Commission/Council presentations and shall provide supporting documentation and visual aids. Workshops and meetings will be conducted as virtual events if shelter in place protocols remain. Visual aids shall include renderings and visual simulations of major Project elements. All Project materials shall include the appropriate Measure B logo and acknowledgements. The BKF Team will provide meeting summaries and follow up on outstanding comments or issues. It is anticipated that the community meetings, workshops, and presentations will be required at the following Project milestones:
 - Preferred Bridge Type Selection – Two (2) community workshops, plus four (4) Council or other Commission presentations
 - Community/Commission Design Reviews– minimum of two (2) each at PID, PA/ED, 35% design, 65% design, and 95% design
 - Town Council presentation at 35% and at 100% complete PS&E
- On-line Engagement: the BKF Team shall provide periodic progress updates for the Town to post on the Project web-page.
- Online Preference Setting Activity: To reach the broader Los Gatos community beyond those attending in-person, an online activity, potentially a graphics – or map-based survey is proposed to help garner community input and ideas, and to help hone in on a design alternative.
- Town Council Meetings: The BKF Team shall attend and assist in presentations in up to a total of two (2) Town Council meetings. These meetings shall be planned at the Town's staff's discretion.

Deliverables: Workshops and presentations (18 total), agendas, visual aids/visual simulations, renderings, meeting summaries, follow-up as needed,



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VTA Coordination: the BKF Team assumes the Town will facilitate all coordination efforts with the VTA for this Project, however, BKF will provide support as outlined below:

- Include insurance coverage and endorsements as required by VTA funding agreement. The Project must include Measure B branding/logo in work released to the public and in project construction/specifications.
- The BKF Team shall allow VTA a minimum of thirty (30) calendar days to review and provide comments and shall include such review time in the master Project schedule. VTA's comments must be considered in the final design phase of the Project. The BKF Team shall provide back-up information as necessary for any VTA comment that will not be incorporated into the final design documents. BKF assumes that the Town will lead/facilitate reviews with the VTA.
- Submit to the Town all records including invoices, miscellaneous invoices, and force account charges as substantiation for invoices submitted to VTA for reimbursement hereunder.
- Maintain financial records, books, documents, papers, accounting records, and other evidence pertaining to costs related to the Project for five (5) years. The BKF Team shall make such records available to VTA and the Town upon written request for review and audit purposes. Financial audits may be performed at VTA's sole discretion.

Deliverables: Written responses to VTA review comments.

Utility Coordination – The complete effort for utility coordination is to include accurately identifying and mapping of existing utilities, identifying and defining any relocations or modifications required by the Project, and documenting utilities in accordance with Caltrans policies, and coordinating any future utility requirements for the Project.

- Coordinate with all utility companies early in Project to identify and confirm any potential conflicts with the Project.
- Submit proposed plans to utility companies as necessary for review in accordance with utility requirements.
- Complete potholing to verify location of utilities in potential conflict areas.
- Coordinate any necessary utility relocations, including and temporary relocation of the utility facilities, as needed, for bridge installation or other construction considerations.
- Coordinate with PG&E and the SJWC for future power and water service points needed for the Project.
- Develop and maintain a list of utility contacts and relocation tracking database for the Project design and construction activities.
- Prepare Utility A, B, and C letters.
- Conduct utility coordination meetings, prepare agendas, minutes, and track action items.
- Prepare utility conflict maps clearly delineating existing and proposed utilities in current and final locations.
- Provide support to the Town for the utility relocation process, determining liability for the costs associated with necessary relocations.
- Prepare necessary Utility Agreements.
- Incorporate relocation activities into Project schedule.
- Certify that all utility conflicts are addressed and other actions necessary to obtain the Utility Certification as part of the ROW Certification.

Deliverables: A, B, C, letters and utility certifications, agreements, permits, clearances as required to obtain the Caltrans encroachment permit and for construction of the Project, meeting minutes, utility contact list.

- **Task A.5 Environmental Studies and Documentation – CEQA and NEPA**

The BKF Team will complete all required environmental reviews and obtain all environmental clearances to allow the Project to move forward into construction. All environmental documents and reports, studies and public noticing shall be conducted according to the



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provisions of the California Environmental Quality Act (CEQA) and the National Environmental Protection Act (NEPA).

For CEQA clearance, David J. Powers & Associates, Inc. (DJP&A) will prepare an Initial Study pursuant to the requirements of CEQA and the Town of Los Gatos. This scope assumes the Initial Study will not be circulated for public review; instead, upon completion of the Initial Study, the Town will determine the project is categorically or statutorily exempt from the provisions of CEQA. In addition, with the recent passing of Senate Bill 288, Public Resources Code Section 21080.20 now exempts bicycle and pedestrian facility projects. Therefore, DJP&A believes the project would be statutorily exempt under CEQA. For the purposes of this proposal, the BKF Team assumes the Town will be designated as the CEQA lead agency.

NEPA clearance will be required due to the future federal funding for construction of the Project. The BKF Team will work with Caltrans (the lead for the NEPA process) and the Town, and complete all technical memorandums and studies as identified by Caltrans through the Preliminary Environmental Studies (PES) and Field Review process. For the purpose of this proposal, the BKF Team assumes the appropriate filing for NEPA will be a Categorical Exclusion under NEPA (23 CFR 771.117; (c) (3): Construction of bicycle and pedestrian lanes, paths, and facilities.

Based on the DJP&A's recent experience working on Caltrans Local Assistance Projects in the greater Bay Area, DJP&A believes Caltrans will require preparation of the following technical memos for the bicycle and pedestrian overcrossing. The actual studies to be completed will be determined by Caltrans upon completion of the PES and field review meeting:

- Traffic Technical Memo
- Air Quality PM2.5 Exemption
- Water Quality Technical Memo
- Natural Environmental Study (Minimal Impact)
- Archaeological Survey Report
- Equipment Staging Technical Memo
- Initial Site Assessment
- Visual Impact Assessment (Moderate Impact)

DJP&A will prepare the air quality, traffic, equipment staging, and water quality memos based on information provided by the Town and BKF.

The Natural Environmental Study (Minimal Impact), Archaeological Survey Report and Historic Property Survey Report, and Visual Impact Assessment (Moderate Impact) will be prepared by H.T. Harvey & Associates, Archaeological Historic Consultants, and Earthview Sciences, respectively, under contract to DJP&A.

The Natural Environmental Study (Minimal Impact) will characterize the existing conditions, and determine the potential project impacts to sensitive biological resources. A wetland delineation is not included in this scope.

The Archeological Survey Report will include a summary of records search results and Native American consultations. The Historic Property Survey Report (HPSR) will report the findings of any documented historic resources located within the project limits and a summary of the findings of the Archeological Survey Report, which will be included as an attachment to the HPSR.

The Visual Impact Assessment will evaluate up to three views, based on photosimulations to be prepared under separate contract and provided to DJP&A. Earthview Sciences will participate in consultation with Caltrans and Town staff for viewpoint selection.

The Phase I Initial Site Assessment will be prepared by Parikh for the proposed project. ASTM recommends a 1.0-mile radius for the data search. Environmental Data Research Inc. (EDR Inc.) report study will be ordered using an approximate center of the project. The ISA



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study will be prepared to identify potential hazardous waste sites and evaluate environmental factors that may have impacted the soil groundwater quality within the project limits. The study will include data collection and documents research including historical land use based on study of aerial photographs and other relevant documents. No field exploration and/or testing are included in this phase of the work.

The studies and memos will be prepared based on Caltrans' Standard Environmental Reference (SER) and submitted to the Town and BKF for review. DJP&A will revise the memos once and submit them back to the Town for submittal to Caltrans. Based upon review comments by Caltrans, DJP&A and its subconsultants (H.T. Harvey & Associates, Archaeological Historic Consultants, and Earthview Sciences), with concurrence from the Town, will revise the memos once for resubmittal to Caltrans. Once the memos are deemed complete by Caltrans, Caltrans will issue the NEPA Categorical Exclusion for use by the Town in obtaining federal funding.

Note the technical memos and reports will also be used to support the CEQA Categorical Exemption.

For the purpose of this proposal, the BKF Team assumes the following:

- The Project will not include work outside of existing Town or Caltrans right-of-way.
- The NEPA and CEQA process will be limited to the evaluation of one build alternative.
- The Project description will not change.
- The Project will not impact threatened or endangered plant or animal species, or habitat utilized by such species.
- No private property will be affected by the Project.
- The Project will use Tier 4 construction equipment and construction air quality analysis will be qualitative.
- All construction staging will occur on paved surfaces within Town right-of-way.
- BKF will provide information on tree location and diameter.
- BKF will provide information on construction staging, duration, equipment use, etc.
- Completion of an Extended Phase I (i.e., subsurface archaeological testing) will not be required.

Regulatory Agency Permits – The BKF Team assumes the project will not need regulatory agency permits from the San Francisco Regional Water Quality Control Board or California Department of Fish and Wildlife because there are no wetlands or riparian habitat within or immediately adjacent to the project alignment.

Deliverables to include: Initial Study, Notice of Exemption, Preliminary Environmental Studies form, traffic technical memo, air quality PM2.5 exemption confirmation, water quality technical memo, Natural Environmental Study (Minimal Impact), Archaeological Survey Report, Equipment Staging Technical Memo, Initial Site Assessment Visual Impact Assessment (Moderate Impact).

- **Task A.6 Geotechnical Investigations and Reports** - The BKF Team will conduct geotechnical investigations as necessary to ensure that all geotechnical data within the Project area that may affect the final design and construction of the Project are identified and addressed per the Caltrans encroachment permit requirements and in the final design of the Project. The specific project elements that will require geotechnical studies are listed below:
 - New bridge POC structure, Caltrans Review
 - Retaining Walls, embankments, slopes and trail pavement (Non-Caltrans ROW)

The following proposed geotechnical studies are planned to be performed during PA/ED Phase:

- **Preliminary Foundation Report (PFR):** Preliminary Foundation Report will be prepared for the POC over Highway 17. The PFR will be prepared in accordance with Caltrans guidelines and will include discussions on potential



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geotechnical/geologic impacts and mitigations on a broad basis including but not limited to slope stability, geology, seismic impacts, erosion, groundwater conditions, etc. for the proposed bridge structure. Certain design assumptions are made as to the type of foundations, approximate pile length. Generally, the geotechnical issues relevant to the proposed project are presented in a qualitative manner with no specific design recommendations. Subsequently, during the PS&E phase a more detailed Foundation Report will be prepared for the bridge.

- **Preliminary Geotechnical Design Report (PGDR):** The project proposes to include retaining walls and slope cuts, embankments and pavement for the trail work. However, this work is outside of the Caltrans ROW. To simplify the process, Parikh will prepare a combined report that covers these elements as a PGDR.

A Preliminary Geotechnical Design Report is proposed for the roadway pavement, retaining walls, slopes and other civil design features. The review will be based on readily available data including as-built Log of Test Borings from the previous geotechnical reports and other Agency records. The potential geotechnical/geologic impacts and mitigations will be discussed on a broad basis including but not limited to slope stability, geology, seismic impacts, erosion, groundwater conditions, etc. for the proposed project. Wall foundation types will be based on Caltrans standard design guidelines. Generally, the geotechnical issues relevant to the proposed project are presented in a qualitative manner with no specific design recommendations.

Overall scope of work during PS&E Phase will include preparation of a Geotechnical Design Report for the roadway work, slopes, retaining walls and embankments. A separate foundation report will be prepared for the overcrossing of Highway 17. The proposed retaining walls are not located within the Caltrans right-of-way; therefore, separate foundation reports are NOT proposed for each of these walls.

The following proposed geotechnical studies are planned to be performed during PS&E Phase:

- **Foundation Report and Log of Test Borings (Bridge):** Parikh will prepare foundation report and log of test borings for the POC structure. Existing borings and CPT data from the Caltrans database will be used as a reference. Additional borings will be required for the new structure. Following is a task breakdown for the proposed work.
 - Research and Data Collection: Review of readily available geologic and soil literature in the vicinity of the site including review of any as-builts drawings and existing LOTB.
 - Permits/USA Clearances: Comply with the Caltrans Permit requirements. Encroachment permits will be processed with Caltrans for field investigations within Caltrans R/W. The BKF Team assumes encroachments within the Town will follow is streamlined process with fees waived.
 - Field locate the borings and call for USA clearance.
 - Field Exploration: Due to limited access, steep terrain and need for deeper exploration portable rigs are not feasible. There are three potential locations identified for the bridge project. One median boring will be included in this program that will require potentially night work and lane closures. This will be dictated by the Permit Engineer. The borings are proposed to a depth of 100' or refusal. One exploration per working shift is assumed. These explorations will provide an evaluation of subsurface conditions for the proposed structures. Traffic control is assumed for 1 shift.
 - The boring locations will depend upon the available access and the boring data from previous studies. We anticipate using a truck-mounted rig for majority of the work. Coordination and encroachment/permit to enter is to be provided by the client. Some private access and permits may be required.
 - Classify and continuously log subsurface soil conditions encountered in



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each test boring at the time of drilling. Obtain “relatively undisturbed” and bulk samples of substrata from test borings. The borings will be drilled and capped in accordance with the permit requirements.

- Laboratory Testing: Perform laboratory tests on representative soil samples such as moisture density, consolidation tests, unconfined compression, gradation analyses, corrosion tests and Plasticity Index test, as necessary.
- Soils Analysis/Evaluation: Perform engineering analyses and develop design recommendations for the proposed structure foundation design. The design should follow AASHTO LRFD specifications (8th edition, September 2017) with California amendment 2019.
- Prepare Draft Preliminary Foundation Reports (Type Selection) for the bridge structure. Prepare preliminary recommendations for the overcrossing and provide Draft Foundation Report with the LOTB. The foundation design will be based on analyses using Caltrans seismic design and LRFD guidelines.
- Discuss seismic considerations, evaluate the liquefaction potential and comment on the site soil conditions from this standpoint. Information related to Caltrans Seismic design criteria (SDC v 2.0) shall be provided. Information related to the recently revised Seismic design guidelines (2019) and the ARS curves (using Caltrans ARS online tool) will be provided.
- Prepare Foundation Report for the overcrossing structure. LOTB will be prepared using the general plan as a base map.

▪ **Geotechnical Design Report (one report within Town right-of-way):**

PARIKH will prepare a separate Geotechnical Design Report (GDR). The GDR will include retaining walls, slope stability analyses and trail. Detail scope for preparing this report is as follows:

- Research and Data Collection: Review of additional available geologic and soil literature in the vicinity of the site.
- Permits/USA Clearances: Work will comply with the Town’s Permit requirements. Encroachment permits (Town/private) will be provided by the client.
- Boring locations will be located for USA clearance.
- Field Exploration: The boring program will include 4 explorations to 30 feet deep for the proposed walls and the slopes. These are planned with track mounted field equipment. These explorations will provide an evaluation of subsurface conditions for the proposed cut and fill walls and slopes. The boring locations will depend upon the available access and any permit conditions. No traffic control is assumed at this time as most of the work will be off the travel areas.
- Classify and log subsurface soil conditions encountered in each test boring at the time of drilling. Obtain “relatively undisturbed” and bulk samples of substrata from test borings. The borings will be drilled and capped in accordance with the permit requirements. Generally, the borings are required to be backfilled with cement grout.
- Laboratory Testing: Perform laboratory tests on representative soil samples such as moisture density, unconfined compression, gradation analyses, corrosion tests and Plasticity Index test, as necessary.
- Soils Analysis/Evaluation: Perform engineering analyses and develop design recommendations for the proposed retaining walls, slopes, embankments, and pavement design.
- Prepare Draft Geotechnical Design Report: Prepare preliminary recommendations including retaining wall design parameters, possible MSE wall option, slope stability recommendations and pavement section. Draft LOTB will be included in the report.
- Prepare final Geotechnical Design Report: Final GDR will include response to review comments from agency. Final design recommendations will be based on the updated design requirements. Log of Test Borings will be prepared using the general plan as a base map.



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- **Prepare Phase II ISA:** The Phase II ISA will include the following field activities and laboratory analysis:
 - Field Activities will include the following:
 - Advance up to 8 hand-auger borings to 2.5 ft bgs.
 - Collect 3 soil samples per boring (total 24 samples)
 - Analytical Laboratory Analyses (Standard Laboratory Turnaround Time):
 - 18 soil samples for Total Lead
 - 6 soil samples for CAM 17 Metals
 - 8 samples for TPHg
 - 8 samples for TPHd/mo
 - 4 samples for Organochlorine Pesticides
 - 1 sample for Volatile Organic Compounds
 - 1 sample for Semi-Volatile Organic Compounds
 - 1 sample for Polychlorinated Biphenyls
 - 4 samples for Naturally Occurring Asbestos
 - Prepare Site Investigation Report

Deliverables: Draft and Final Preliminary Geotechnical Design Report (PGDR), Draft and Final Preliminary Foundation Report (PFR), Draft Geotechnical Design Report (Town right-of-way), Draft Foundation Report for POC (Caltrans), Final Geotechnical Design Report (Town right-of-way), Final Foundation Report for POC (Caltrans).

- **Task A.7 35% PS&E** – The preliminary 35% design is intended to allow the Town, Caltrans, the community, and other stakeholders to review and comment based upon the basic design concepts early in the design process to minimize change in subsequent tasks. Plan development shall be based on the base mapping, data collection, and other determinations that are developed through the Environmental and PID and PA/ED phases. The BKF Team shall prepare the 35% design and submit to stakeholders for review and comment at community, commission, and Council meetings. Stakeholder comments shall be addressed in writing by the BKF Team prior to continuation of the design to the next level.

For scoping purposes, the BKF Team assumes that the basic structural configuration and concept, is limited to the concrete box girder and steel truss options identified in the Feasibility Study will be the preferred bridge type over Highway 17. The preliminary 35% design will include the following:

Preliminary Transportation Management Plan (TMP): TJKM will prepare a TMP Data Sheet to include proper cost, scope, and scheduling of the TMP activities at this early stage of development as required by the Caltrans PSR-PDS guidelines.

Basis of Design Memorandum: The BKF Team will confirm the applicable Town, Caltrans, other applicable jurisdictional standards and guidelines to be implemented and considered for the design of the pedestrian and bicycle overcrossing. The applicable standards and criteria set for the Project design will be described and culminated in a Design Basis Memorandum.

Preliminary Plans: The BKF Team shall refine the initial concept designs and prepare preliminary design plans (35%) for the preferred alternative based on community and Town input showing architectural and civil plans, structure elevations, sections, any artwork, lighting, and fence/railing elements, horizontal control lines, vertical profiles and super-elevations, grading and drainage, structure location and wall limits, utility impacts, and right-of-way/construction easement impacts.

Preliminary Cost Estimates: The BKF Team shall prepare preliminary construction cost estimate for the project in accordance with Caltrans guidelines including Caltrans Bridge Memo to Designers 1-8 and Section 11 of the Caltrans Bridge Design Aids. Use Caltrans Cost Estimate form for bridge item.

Bridge Type Selection Report: The BKF Team will analyze the structure type selection before extensive structural design work is performed and prepare a Bridge Type Selection



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Report (TSR) in accordance with Caltrans guidelines. The TSR will include a Bridge General Plan, Bridge Site Data Submittal, Foundation Plan, Construction Cost Estimate and Type Selection Memo. This work will be developed using Section 10, "Type Selection," of the Caltrans Bridge Design Aids, and Section 1-29, "Type Selection Review Meeting," of the Caltrans Bridge Memo to Designers. The BKF Team will submit the TSR for Caltrans review, and will present the proposed structure to Caltrans at a Bridge Type Selection Meeting. The BKF Team will conduct one (1) "pre-meeting planning session" teleconference with the Town. The BKF Team will finalize the TSR based on input received in the meeting. The TSR General Plan and Foundation Plan will be incorporated into the 35% Plan Submittal.

35% submittal, at a minimum, is anticipated to include the following:

- **PSR-PDS and Supporting Documents**
 - Purpose and Need
 - Geometric Approval Plans (Typicals and Horizontal and Vertical Alignments)
 - Identify Design Exceptions
 - Preliminary Drainage Report
 - PID Level Storm Water Data Report (SWDR)
 - Preliminary Transportation Management Plan (TMP)
 - Traffic Engineering Performance Assessment (TEPA) – The BKF Team assumes a formal TEPA is not required and minimal efforts to address the Traffic section in the PSR-PDS will suffice since the Project does not propose to alter traffic operations. Although a formal traffic analysis will not be required by Caltrans, BKF assumes a traffic memo to address the anticipated traffic signal modifications at West and East Roberts Road intersections will be required as part of the project scope. This analysis would be limited to Town review only and opening year operations.
 - Preliminary Geotechnical Memo and Preliminary Site Investigation
 - Biological/Cultural Records Searches
 - Preliminary Environmental Assessment Report (PEAR)
 - Construction and Support Cost Estimates
 - PID Draft Narratives/Sections
 - Administrative Draft PSR/PDS
 - Draft PSR/PDS with comments incorporated
 - Final PSR/PDS
- **PR and Supporting Documents** – For scoping purposes, the BKF Team assumes only one (1) alignment alternative and one (1) bridge type will be evaluated in the Project Report and supporting documents, which will include the following:
 - Geometric Approval Plans (Typicals and Horizontal and Vertical Alignments)
 - Design Exception Report
 - Utility Policy Exception
 - Preliminary Drainage Report
 - Storm Water Data Report (SWDR)
 - Transportation Management Plan (TMP)
 - Traffic Operations Analysis Report (TOAR) - The BKF Team assumes a formal TOAR is not required and minimal efforts to address the Traffic section in the PR will suffice since the Project does not propose to alter traffic operations. Although a formal traffic analysis will not be required by Caltrans, BKF assumes a traffic memo to address the anticipated traffic signal modifications at West and East Roberts Road intersections will be required as part of the project scope. This analysis would be limited to Town review only and opening year operations.
 - Right of Way Data Sheet (R/W Data Sheet)
 - Structures Advance Planning Study (APS)
 - Cost Estimate
 - Risk Management Plan
 - PR Draft Narrative/Sections
 - Administrative Draft Project Report
 - Updated/Finalized Supporting Documents
 - Draft Project Report with comments incorporated



EXHIBIT A - PROJECT SCOPE OF SERVICES**May 6, 2021**

- Final Draft Project Report
- **35% PS&E** – The 35% PS&E submittal will be limited to the development of the Geometric Approval Drawings to obtain Caltrans Design approval of the Project's alignment design and features, including nonstandard design features.
 - Horizontal and vertical alignment plans
 - Typical trail cross sections
 - Preliminary bridge plans (structural and architectural), typical cross sections, and details
 - Preliminary and Final Type Selection Reports
 - Preliminary retaining wall plans, details, and cross sections
 - Tree removal/Tree Protection plan
 - Independent quality control check including a review of the 35% plans and specifications for accuracy and conformance to applicable design standards and codes, constructability, and potential for value engineering/cost savings measures.
- **Task A.8 Final Design** – Based on the 35% PS&E documents and resolved comments, and following Caltrans approval of the PA/ED, the BKF Team will prepare the PS&E for the 65%, 95% and Final 100% submittals. PS&E shall be submitted to the Town of Los Gatos - Parks and Public Works Department at 65%, 95% and 100% complete. At each submittal stage, the items listed in Task A.7 shall be completed to the appropriate level of design. At each state, 3 hard copy sets of D-size (24"x36") plans and 3 hard copy sets of B-size (11"x17") plans shall be submitted along with electronic copies prepared in PDF format. At each stage 3 hard copies of the Specifications, Special Provisions, and Cost Estimates shall be provided along with electronic copies in MS Word/Excel. After each submittal, the BKF Team will allow appropriate time frames for identified stakeholders to review the submittal and return comments. All comments provided shall be addressed in writing prior to beginning work on the following submittal.

Based on the work from the previous 35% PS&E, and upon review and approval of the same by the Town, the BKF Team shall prepare and submit 65% design plans and updated cost estimates. The BKF Team will prepare the necessary design plan sheets for the 65% PS&E submittal, which includes the following:

- Title Sheet, Vicinity Map, and Key Map
- Typical Sections
- Layout Plans
- Profiles/Superelevations
- Grading Plans
- Demolition Plans
- Drainage Plans and Profiles
- Stormwater Management Plans and Details
- Temporary Water Pollution Control Plans and Details
- Utility Plans, Profiles, and Details – BKF assumes water line design work will not be required as part of this scope. BKF recognizes the San Jose Water Company (SJWC) has expressed a desire to relocate their line onto the new bridge and will coordinate with SJWC to accommodate this line on the new structure, however, all design details to include this on the structure and any specific reinforcement/attachment details will be completed by SJWC.
- Construction Details
- Stage Construction Plans
- Traffic Handling Plans
- Pavement Delineation Plans
- Signing Plans
- Electrical Plans and Details
- Traffic Signal Plans and Conductor Schedules – modifications are assumed at the Roberts Road West and East intersections. BKF assumes the Town can provide existing as-built drawings for these existing traffic signals.



EXHIBIT A - PROJECT SCOPE OF SERVICES

May 6, 2021

- Tree Removal/Protection Plans
- Planting and Irrigation Plans

Anticipated structural design drawings include but are not limited to:

- General Plan
- Structure Plan
- Deck Contours
- Foundation Plan
- Abutment Layout and Details
- Retaining Wall Layout and Details
- Bent Layout and Details
- Typical Sections
- Girder Layout and Details
- Approach Ramp Details
- Log of Test Borings
- Project specifications, special provisions and estimates

The Structural PS&E packages will be prepared in accordance with Caltrans processes/procedures. The structural design calculations will be performed in accordance with the most current California bridge practices and the following bridge design codes and manuals:

- Caltrans Standard Plans and Specifications
- Caltrans Bridge Design and Detailing Manuals
- American Association of State Highway and Transportation Officials Load and Resistance Factor Design (AASHTO LRFD) Bridge Design Specifications
- California Amendments to the AASHTO LRFD Bridge Design Specifications
- AASHTO LRFD Guide Specifications for the Design of Pedestrian Bridges
- Caltrans Seismic Design Criteria (SDC)

The proposed design will be coordinated with anticipated projects (i.e. Senior Housing Center northeast of existing Blossom Hill Overcrossing, SJWC Water line upgrade, Public Art Program, etc) located within the Project site limits, assuming their schedule progresses on a similar timeline as the proposed project design.

BKF assumes the Town of Los Gatos will Advertise, Award, and Administer (AAA) the construction of the proposed structure. As a result, BKF will not prepare additional Caltrans documents (Quantity Sheets, Survey files, RE files, etc.) that are typically required by Caltrans when Caltrans AAA's a construction contract.

BKF's subconsultant, TJKM, will prepare a TMP report to support construction activities proposed in the PS&E phase. The TMP is a method for minimizing activity-related traffic delay and accidents by the effective application of traditional traffic handling practices and an innovative combination of public and motorist information, demand management, incident management, system management, construction strategies, alternate route, and other strategies. During the final design phase, TJKM will propose lane closures on both Highway 17 and Blossom Hill Road, if needed, to support the construction of the bike and pedestrian overcrossing structure. The TMP report will be started at 65% PS&E and will be updated accordingly during 95% PS&E, and 100% PS&E. The BKF Team assumes no substantial impacts will be created with a full closure on Highway 17 and no detour will be needed during construction in the scope of work given the scope of work assumes the construction of a cast-in-place concrete structure with falsework, or steel truss structure. As a result, an approval or formal presentation with the Caltrans District Lane Closure Review Committee (DLCRC) will not be required and design approval can occur solely with the Caltrans TMP group during design approval.

Project Specifications and Special Provisions: The BKF Team shall prepare technical specifications and special provisions for all bid items including bid alternates. Documents shall be developed in accordance with federal, state and local requirements in all subsequent final design tasks. General conditions shall follow the Town and Caltrans requirements. The BKF Team shall prepare special provisions based on Caltrans Standard



EXHIBIT A - PROJECT SCOPE OF SERVICES**May 6, 2021**

Special Provisions, Caltrans Standard Specifications, and Town construction contract standards. Special provisions shall follow the 2018 format of the Caltrans Standard Specifications and Standard Special provisions (SSP's)

Cost Estimate: The BKF Team shall prepare an engineer's estimate of probable construction cost for 65% design using both Caltrans and the Team's professional experience. Estimate shall include construction costs that reflect current market conditions, the bid items, utility relocation costs (if any), environmental mitigation costs, and contingencies.

65% submittal shall include all plan sheets developed to a minimum 65% complete stage and shall have been reviewed by the BKF Team for quality control, and coordination and consistency between plan sheets. Specifications and Special Provisions at the 65% level shall include a complete table of contents with all special provisions necessary for the construction of the Project identified. The construction cost estimate shall be prepared and shall include an appropriate estimating contingency.

It is the BKF Team's understanding that the 65% structural submittal package that consists of structural plans and specifications, and structural calculations will be reviewed by a Structural Engineer registered in the State of California and hired by the Town outside of this proposal.

BKF Team's Independent Structures Check of PS&E: As required by the Caltrans Office of Specially Funded Projects (OSFP), an independent check of the bridge design and drawings will be performed. The independent check will include independent structural calculations and independent quantities calculations and will be performed by an engineer who was not involved in the design of the bridge. The independent check will be performed concurrently with the Caltrans review of the 65% PS&E.

The BKF Team shall ensure all activities necessary to comply with regulations of the State Water Resources Control Board, including the requirements for the National Pollutant Discharge Elimination System permitting process, preparation of Project Registration Documents (PRDs) by a licensed qualified stormwater pollution prevention plan (SWPPP) developer (QSD), submittal of information to the Stormwater Multi Application Permit Tracking System (SMARTS), preparing landscape plans in accordance with Model Water Efficient Landscape Ordinance (MWELO), obtaining the WDID Project number, processing any other applicable documents, studies, waivers, and payment of all fees is addressed by the BKF Team and/or included in the construction Project specifications for completion during construction.

Once the Town receives the final 65% PS&E submittal, the BKF Team shall schedule a meeting with the Town and PDT members to review the revisions on the final 65% PS&E submittal package. Following this review session, the BKF Team shall prepare the 95% PS&E submittal. All comments from the 65% PS&E submittal review shall have been addressed.

95% submittal shall be the fully developed set of contract documents including all plans sheets, Specifications and Special Provisions, details, and other contract documents necessary for the construction of the Project. The construction cost estimate shall be finalized and shall include a 10% estimating contingency. The BKF Team will have conducted an internal quality control review of the plans, Specifications, Special Provisions, and construction cost estimate prior to submitting the 95% complete set and shall ensure that the contract documents are well coordinated, and information is consistent between all documents.

Following submission and review of the 95% submittal, The BKF Team will prepare and provide the Town with the final contract documents 100% for use in the construction bid process. All contract documents (plans, Specifications, Special Provisions, and estimates) are to be signed by the appropriately licensed professional engineer in responsible charge of the design.



EXHIBIT A - PROJECT SCOPE OF SERVICES

May 6, 2021

Once the Town receives the final 95% PS&E submittal, the BKF Team shall schedule a meeting with the Town and PDT members to review the revisions on the final 95% PS&E package. Following this review session, the Team shall prepare the 100% PS&E package.

The BKF Team shall also ensure that all design calculations, deliverables, and other works are independently verified to ensure accuracy. All exhibits, plans, and reports should be checked, corrected, and backed checked for accuracy and completeness prior to submitting documents to the Town and other agencies for review.

The PS&E must be approved prior to submission to Caltrans District Local Assistance. The BKF Team shall assist the Town in obtaining Caltrans approval of the Project PS&E for compliance with all applicable federal and state regulations and procedures. A preliminary "PS&E Checklist" form, included as Exhibit 12-D in Chapter 12 (Plans, Specifications & Estimate) of Caltrans' Local Assistance Procedures Manual, which summarizes the items requiring local agency compliance and identifies critical federal requirements shall be prepared by the BKF Team. With prior approval and consent from the Town, the BKF Team shall prepare the final Project PS&E Checklist, PS&E approval letter (Exhibit 12-C, LAPM Chapter 12), and preliminary estimate to be submitted to the Caltrans District Local Assistance Engineer (DLAE) along with a completed E-76 - "Request for Authorization" to proceed with construction.

The BKF Team shall provide an electronic copy of the final contract documents, a signed and stamped mylar copy of the final approved plans, and a hard copy of the final signed, approved, and stamped Specifications, Special Provisions, and construction cost estimate. The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications and estimate shall be provided in both Microsoft Word/Excel format and PDF format. Town of Los Gatos - Parks and Public Works Department will be responsible for making copies of contract documents and will distribute to plan rooms and contractors in advance of the bid phase.

Deliverables: Plans, Specifications, Special Provisions, and estimates for Town review at 35%, 65%, 95% design stages; final contract documents, SWPPP, WDID Project number

Right of Way, Utility and ADA Certifications – BKF assumes that temporary and permanent right of way will not be required for the Project. The BKF Team shall verify and prepare the appropriate Right of Way, Utility, and ADA certifications to advance the Project to the construction phase using procedures outlined in the Caltrans Local Assistance Procedures Manual. All property lines are to be shown on the design and construction documents.

Deliverables: Utility Clearance, Right of Way and ADA Certifications

- **Task A.9 Construction Phase Authorization** – The BKF Team shall assist the Town in the preparation of the Request for Authorization to advance Project to Construction using procedures outlined in the Caltrans Local Assistance Procedures Manual and shall complete any items necessary to obtain authorization for the Town to proceed with construction.

Deliverables: Caltrans Encroachment Permit, Authorization from Caltrans to proceed with construction (E-76)

PHASE II – CONSTRUCTION SUPPORT SERVICES (FUTURE SCOPE OF SERVICES):

As part of Phase II, the BKF Team will provide design support services to the Town during construction of the Project as noted below. The scope of work outlined below assumes the Town will advertise, award, and administer (AAA) construction of the project.

- **Task B.1 Project Management**

The BKF Team will provide all the necessary Project coordination, administration, management and interfacing with the Town, Caltrans, and other internal/external stakeholders to achieve Project objective. The BKF Team shall proactively provide direction



EXHIBIT A - PROJECT SCOPE OF SERVICES**May 6, 2021**

to the Town regarding the Project tasks necessary to deliver the federally funded Project consistent with Caltrans permitting requirements and federal reimbursement requirements. The BKF Team will be responsible for Project management activities throughout the life of the contract. The scope of these activities includes, but is not limited to,

- provide, distribute, and maintain contact information for all Project team members
- coordinate and schedule meetings/conference calls as needed
- prepare and distribute meeting minutes
- itemize, track, and pursue all Project action items to completion
- develop and maintain the Project schedule, report on Project progress
- supervise, coordinate, and monitor the construction for conformance with permit requirements from Caltrans, VTA, and utility companies
- conduct field reviews as needed,
- prepare all submissions for the Town's submittal to Caltrans
- provide internal quality control checks and document quality control actions conducted for the Project
- conduct cross-checking to avoid potential conflicts between various subconsultant's work
- develop Project filing and record keeping system for Project files for a period of 5 years
- develop a list of Project stakeholders for coordination during Project design
- provide the Town with required documents required for compliance with the Measure B funding Agreement between the Town and VTA, Including but not limited to progress reports, reimbursement forms, etc.)
- provide monthly Project updates for posting on the Project page of the Town's website

Deliverables: Meeting minutes, schedule, progress reports, action item logs, tracking spreadsheets, Caltrans submissions and other items resulting from the BKF Team's Project management duties

- **Task B.2 Bid Support Services** –The BKF Team shall respond in writing to questions that arise during the bid phase and shall prepare addendums, if necessary, which will be distributed by the Town of Los Gatos - Parks and Public Works Department. Each addendum shall also address cost implications to the Project construction cost estimate. The BKF Team shall prepare written responses to questions received and addenda in a format that can be easily posted to the Town's website. Following completion of bid stage, The BKF Team shall incorporate any addenda into the final contract documents and shall prepare the final "Conformed Contract Documents". The BKF Team shall provide an electronic copy of the final Conformed Contract Documents, a signed and stamped mylar copy of the final conformed plans, and a hard copy of the final signed, approved, and stamped conformed Specifications, Special Provisions, and cost estimate. The electronic copy of the plans shall be provided as both AutoCAD files and PDF files, and the electronic copy of the specifications and estimate shall be provided in both Microsoft Word/Excel format and PDF format.
- **Task B.3 Construction Support Services** – The BKF Team shall be prepared to provide the following construction support services:
 - Review of submittals and shop drawings for compliance with Contract Documents
 - Review and response to Requests for Information, Requests for Change Orders, Quotes from Contractor
 - Review of Contract Change Orders
 - Review and tracking of results from materials testing for conformation to Contract Documents
 - Field review and geotechnical monitoring during bridge installation
 - Structural review and field monitoring during bridge installation
 - Prepare design modifications if necessary due to unforeseen conditions

Assumptions:

1. The BKF Team assumes a formal Traffic Engineering Performance Assessment (TEPA) will not be needed for PSR/PDS phase.
2. It is assumed that a formal Traffic Operation Report (TOAR) will not be needed for



EXHIBIT A - PROJECT SCOPE OF SERVICES**May 6, 2021**

PA/ED phase. In the event that lane modifications are needed to accommodate the new pathway where roadway widths are constrained, the BKF Team will analyze intersection delay/level of service for two intersections of Blossom Hill Road/Roberts Road West/Vasona Park Road and Blossom Hill Road/Roberts Road East in the Town of Los Gatos with and without project (up to one build alternative) for existing conditions. Travel demand forecasting and future analysis are NOT included in this scope and fee under this task. If a more comprehensive TOAR is required, additional work will be required warranting a fee amendment.

3. PS&E Submittals will be provided at 35%, 65%, 95%, and 100% completion levels. Agency reviews are limited to one round of comments consolidated to one set of redline plan, specification and estimate redline comments per agency. BKF understands minor comments may be received outside of these formal reviews and will do its best to incorporate comments into the noted completion levels when reasonable. Substantial comments not received within reasonable timeframes will be evaluated on a case-by-case basis with the Town as they may require additional efforts not identified within this proposal. Project Reports will be limited to one draft and one final version of each report.
4. For planning and budgeting purposes the 35% and Final design scope of services have been estimated assuming the basic structural configuration and concept outlined in the conceptual Study for a concrete and structural steel truss bridge option. These design scope will be reviewed with the Town at the completion of Task A.6 to ensure that all required design services are adequately addressed.
5. The Construction Support Services scope will be reviewed with the Town at the completion of Final Design to ensure that all required services are adequately addressed.
6. Formal Caltrans Value Engineering services will not be required since the project is projected to be less than the \$40 million per bridge project threshold.
7. The Town will assign a Resident Engineer (RE) to the project that will be responsible for day to day oversight of the Town's Contractor and all inspections required by the Project Documents. It is assumed that the Town RE will have all of the necessary experience, expertise and authority to manage the day to day oversight of the project, coordinate with outside agencies (such as Caltrans, County, Utilities, etc.) and to perform all necessary inspections and shop drawing reviews not otherwise identified as being performed by the Design Team.
8. In addition to the quality assurance and control measures required as part of this scope, BKF Team recommends that the Town retain their RE prior to completion of the 95% PS&E submittal and that the Town RE perform a constructability, bidability, and cost verification of the 95% plans, specifications, and estimates.
9. Structural construction support work is limited to major items of work only as outlined herein. Minor and construction management and administration elements will be reviewed by the Town RE.
10. All correspondence, shop drawing submittals and RFIs for Design Team review will be routed and coordinated through the RE to BKF and then BCA.
11. As outlined in the Caltrans Standard Specification requirements, shop drawing reviews are provided for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor all of which remain the responsibility of the Contractor to the extent required by the Contract Documents. The BKF Team review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the BKF Team, of construction means, methods, techniques, sequences or procedures. The BKF Team's review of a specific item shall not indicate approval of an assembly of which the item is a component. The contract documents prepared by BKF will clearly identify the Contractor's responsibilities in these areas.
12. Record Drawings will be prepared from one consolidated master mark-up set of Town RE red line comments provided to the BKF Team by the Town RE. Record Drawings will be prepared per project drafting standards in AutoCad format and it is assumed that Caltrans will not require transition of Record Drawings into Microstation format.
13. Construction staking, construction inspection, and post-construction survey of the



EXHIBIT A - PROJECT SCOPE OF SERVICES**May 6, 2021**

proposed improvements are excluded from this proposal.

14. Phase I shall be completed within a reasonable timeframe. Following the notice to proceed, the assumed timeframe for completing Phase I scope as outlined within the proposal is approximately 40 months (Preliminary Engineering/Environmental Approval – 24 months; Final Design – 12 months; Construction Phase Authorization – 4 months). Key milestones and their approximate durations are further outlined below:

- a. Task 5 Environmental Studies and Documentation – 16 months
- b. Task 7 Preliminary Design - 35% PS&E Submittal – 24 months
 - i. PSR-PDS – 10 months
 - ii. PR – 14 months
- c. Task 8 Final Design – 12 months
 - i. 65% PS&E – 6 months
 - ii. 95% PS&E – 4 months
 - iii. 100% PS&E – 2 months
- d. Task 9 Construction Phase Authorization – 4 months



EXHIBIT B - COST PROPOSAL

Highway 17 Bicycle and Pedestrian Overcrossing Project

BKF Engineers, 5/6/2021

Phase I - Engineering Design Services and Environmental Approval	TOTAL NOT TO EXCEED
Task A.1 Project Management and Administration	\$ 176,115
Task A.2 Data Collection and Review	\$ 57,281
Task A.3 Surveying and Base Mapping	\$ 119,790
Task A.4 Stakeholder Coordination and Project Permits	\$ 453,756
Task A.5 Environmental Studies and Documentation - CEQA and NEPA	\$ 138,883
Task A.6 Geotechnical Engineering	\$ 202,215
Task A.7 Preliminary Design - 35% PS&E Submittal	\$ 655,460
Task A.8 Final Design	\$ 1,146,561
Task A.9 Construction Phase Authorization	\$ 49,939
Total Not To Exceed	\$ 3,000,000
Phase II - Construction Support - (FUTURE SCOPE OF SERVICES)	
Task B.1 Project Management and Administration	\$ 192,013
Task B.2 Bidding Phase	\$ 37,545
Task B.3 Additional Reports and Services	\$ 482,426
Total	\$ 711,984

Phase I Assumptions:

1. Town will be the CEQA Lead Agency.
2. Scope does not identify any community or public hearing meetings for environmental process.
3. No ABC Mapping Process will be required.
4. Utility Potholing budget identified is an allowance; potholing fees exceeding this balance will be reimbursed by the Town.
5. Permit Application and Filing Fees will be borne by the Town.
6. Town will hire a firm to perform the structural independent check.
7. PG&E and CPUC Encroachment Processing is not required.
8. All proposed project improvements are located within the public right of way.
9. Town will provide Title Reports if required.
10. Town will administer the construction contract; Caltrans will not RTL the project and thus DOE review not required.
11. A three year project schedule has been assumed for the Preliminary Engineering, Environmental Approval and Final Design Phase.
12. Design effort is based on a concrete or steel structure within the Caltrans right of way.
13. 401/404 Regulatory Permits are not required.
14. Only one round of comment response will be received from each agency at each milestone submittal. BKF understands minor comments may be received outside of these formal reviews and will do its best to incorporate comments into the noted design completion levels when reasonable. Substantial comments not received within reasonable timeframes will be evaluated on a case-by-case basis with the Town as they may require additional efforts not identified within this scope of services.
15. There will only be one iteration on the 100% PS&E package, which will serve as the Final PS&E package

Phase II Assumptions:

1. Construction Support Services are provided for reference only. Future construction support services will be negotiated following completion of design and are not a part of the current contract scope of services..
2. The estimated effort for Design Services During Construction is an estimated allowance only and will depend on final design of the bridge and project improvements.
3. Construction Inspection services are excluded. BKF assumes the Town will hire a Resident Engineer to administer construction and inspection.
4. Contractor will provide red lined mark-ups for as-built record drawings
5. A one and half year construction schedule has been assumed for Construction.

Local Assistance Procedures Manual

Exhibit 10-02
Consultant Proposal DBE Commitment

Reset Form

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: Town of Los Gatos 2. Contract DBE Goal: 12%
 3. Highway 17 Bicycle and Pedestrian Overcrossing Project
 4. Project Location: Town of Los Gatos
 5. Consultant's Name: BKF Engineers 6. Prime Certified DBE: No 7. Total Contract Award Amount: \$3,000,000
 8. Total Dollar Amount for ALL Subconsultants: \$1,340,016 9. Total Number of ALL Subconsultants: 8 Tier 1 Subs (+1 ODC Subs)

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE \$
Environmental Engineering- CEQA/NEPA	VTA #38205	Akoni Danielsen - <u>David J. Powers & Associates, Inc.</u> , 1871 The Alameda, Ste 200, CA 95126	\$97,227.73
Geotechnical Engineering Services	20259	Gary Parkh - <u>Parikh Consultants Inc.</u> , 1497 N Milpitas Blvd., Milpitas, CA 95035	\$198,986.89
Traffic Engineering	40772	Nayan Amin - <u>TJKM Transportation Consultants</u> , 2055 Gateway Pl #400, Sann Jose, CA 95110	\$62,926.53
Traffic Control	38321	Kellie Avila - <u>Avila Traffic Safety</u> , 8365 El Camino Real, Atascadero, CA 93422	\$4,000.00
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	\$363,141.15
17. Local Agency Contract Number: <u>19-818-0863</u> 18. Federal-Aid Project Number: 19. Proposed Contract Execution Date: <u>April 16, 2021</u> 20. Consultant's Ranking after Evaluation: <u>#1</u> Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate. <i>McCombs</i>		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. 12. Preparer's Signature 13. Date: 01/14/2021 14. Preparer's Name 15. Phone: 408-467-1932 16. Preparer's Title <u>Natalina Bernardi</u> <u>408-467-1932</u> <u>Principal and Vice President</u>	

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654- 3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

LPP 18-01

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January 2019

EXHIBIT B



January 17, 2024

Sean Rose, Special Projects Manager
Town of Los Gatos, Parks & Public Works Department
41 Miles Avenue, Los Gatos CA 95030
Transmitted Via Email: SRose@losgatosca.gov

Subject: Proposal for Grant Writing Services for SS4A and ATP Grant Applications for the - Highway 17 Bicycle and Pedestrian Overcrossing (BPOC) Project_(Project)

Dear Sean:

BKF Engineers is excited to submit this proposal to provide grant writing services for of the Town of Los Gatos' (Client, Town) applications to the Department of Transportation's (DOT) Safe Streets for All (SS4A) program, and Caltrans' Active Transportation Program (ATP). Our Grants and Funding Services Team (Team) has extensive experience in preparing successful federal and state grant applications and looks forward to working with the Town to develop compelling grant applications that effectively highlight the Project's many benefits and positions them for success. The Team recently submitted an SS4A application and is proud to have secured \$17.5 million for a Bikeway and Streetscape Improvement Project.

These services will involve utilizing our experience and training to produce well-written grant proposals according to the conditions outlined in **Exhibit A - Terms** and costs listed herein and in **Exhibit B - Fees**. BKF will diligently gather information and craft the proposals in accordance with the goals and objectives provided by Client, as well as the guidelines and requirements of the funding agencies (DOT and Caltrans).

If requested, BKF will provide Grant Reporting and/or Grant Compliance services once this grant has been submitted and/or approved for funding. These additional services are not included in this proposal and will be the subject of a separate agreement.

PROJECT UNDERSTANDING

BKF understands that Client is asking BKF's Grants Team to develop, write and submit the next cycle of the SS4A and ATP grant applications. The Highway 17 Bicycle and Pedestrian Overcrossing Project (BPOC) aims to enhance safety and connectivity for pedestrians and bicyclists in Los Gatos. This involves constructing a new bridge over Highway 17, thus uniting the East and West parts of the town. The project is pivotal in providing a safe route to school, promoting sustainable transportation, and ensuring public safety. Despite its critical role, the project currently faces a funding shortfall for construction, making the pursuit of grant opportunities essential.

SCOPE OF SERVICES

Task 1: Grant Writing – BKF will provide comprehensive grant writing services to Client, encompassing all necessary activities to develop well-structured and compelling grant proposals for both the SS4A and the ATP applications. These grant writing services include, but are not limited to providing, the following subtasks:

- **Action Plan:** The preparation of an Action Plan is a critical part of our grant application process. The Action Plan will serve as a roadmap, outlining all tasks, responsibilities, and deliverables for each grant. This will ensure that both parties have a clear understanding of their roles and expectations, facilitating a smooth and efficient grant application process.

- **Narrative/Deliverables Content:** This includes preparing grant application narratives and assisting Client in compiling and organizing all required deliverables, attachments, supporting documents, letters of support, board resolutions and other requested attachments.
- **Project Maps:** GIS team will prepare the project maps to reflect conditions and plans.
- **Engineering Support:** BKF's engineers will provide additional engineering support for both applications. This can include performing traffic safety data analysis and collision assessments to demonstrate safety needs; and developing project plans, exhibits, schedules, updated cost data, and other technical documents required for the applications.
- **Additional Improvements:** In our review for additional improvements, we will meticulously evaluate every section of the application, cross-referencing with the latest guidelines and requirements. This ensures that the application not only meets the minimum requirements but also stands out in areas like innovation, sustainability, and community impact.
- **Analyzing the SS4A and ATP grants:** Review guidelines requirements, scoring and evaluation criteria to ensure compliance and maximize the proposal's competitiveness.
- **Collaborating with Client:** to gather relevant project details, goals, outcomes, and supporting documentation for all deliverables required for the grant application.
- **Letter of Support:** BKF assumes the Town will coordinate with supporting public agencies (Caltrans, VTA, MTC, etc.) to obtain Letters of Support to include with the grant applications. BKF will prepare an LOS template for Client to send to the relevant stakeholders.
- **Reviewing and Revising:** Revising the draft proposal based on Client's feedback and incorporating any necessary revisions to enhance its quality and effectiveness. BKF will provide up to three iterations of each narrative as requested, including a final, polished draft for submission.
- **Budget and Financial Analysis:** Assisting Client in developing a comprehensive budget that accurately reflects the project's financial needs and aligns with grant guidelines. While BKF will assist Client in developing the budget and related items, Client is ultimately responsible for providing accurate and complete supporting data, and approving final budget for submission.
- **Packaging:** Providing guidance and recommendations on packaging the grant proposal for submission, including submission procedures, deadlines, and any additional requirements specified by the funding agency. Packaging the grant proposal for timely submission to the funding agency on behalf of Client after Client approves final narrative, budget and deliverables.
- **PROFESSIONAL SERVICES FEE**

BKF will conduct the Task outlined herein, billed as a Lump Sum, not to exceed as follows:

Task	Description	Fee
1	~SS4A Grant Writing and Proposal Development	\$21,215
	~Engineering Technical Support for applications: Timeline, Milestones, Maps, Budget, Feasibility, etc.	\$2,500
	~ATP Grant Writing and Proposal Development	\$22,520
	~Engineering Technical Support for applications: Timeline, Milestones, Maps, Budget, Feasibility, etc.	\$2,500
Total Fee		\$48,735



Thank you for the opportunity to present this proposal and Letter Agreement. We look forward to assisting in the funding development of this project. Please contact me at 323.309.9728 if you have any questions. Otherwise, please sign below to authorize us to proceed.

Sincerely,

BKF Engineers



Doug Fleming
Director of Funding Strategies

Authorized to proceed per the terms described herein:

Print Name

Signature

Title

Date



Exhibit A – Terms

TERMS:

Grant Writing – Once the notice-to-proceed is given, BKF will create an Action Plan (Plan) for each grant application, outlining tasks, deliverables, expectations, and both internal and external due dates. Our Action Plan promotes effective collaboration and timely submissions. The Plan will detail expectations of both parties, as required to develop and submit a complete application package prior to the grant deadline. Client acknowledges and agrees to provide BKF with accurate and timely information, relevant project details, and any additional materials necessary for the completion of the grant proposal. Client shall also review and provide feedback on draft versions of the proposal in a timely manner. BKF's ability to prepare a complete application package outlined in the Plan will depend on deliverables needed from Client within the timeframes agreed upon. Client's failure to provide the requested materials by the agreed dates in the Action Plan may hinder BKF's ability to submit the completed application package by the final due date.

Additional Terms – BKF's services are limited to those expressly set forth in this letter. It is understood that BKF will have no other obligations or responsibilities except as provided herein, or as otherwise agreed to in writing. For any additional services, such as grant reporting or grant compliance, BKF will provide a written addendum outlining the revised scope along with any necessary adjustments to the retainer. Additional services will not be performed until formally authorized in writing (e.g. signed agreement, e-mail recognition) by Client.

In providing services under this agreement, BKF shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. In executing these Tasks, BKF will operate as independently as requested, while also maintaining close communication with staff to ensure seamless coordination throughout the proposal development process. While BKF is committed to delivering a high-quality grant proposal, it is important to acknowledge that the success of the grant application and the awarding of funds are dependent on many factors beyond the control of a grant writer or firm. BKF cannot guarantee the ultimate success or outcome of the grant application process, including the approval or funding of the grant.

This agreement may be terminated by either party at any time for any reason with 7 days written notice. If client elects to terminate this agreement before our services are complete, BKF will issue a final invoice proportional to the services which were provided up to the date which services were terminated and client agrees to pay said invoice within 30 days of receipt. This Agreement shall be governed by and construed in accordance with the laws of California. Any disputes arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the courts of California.



Exhibit B – Fees

FEES AND PAYMENT:

Grant Writing – BKF’s grant writing services are subject to the referenced fee structure. The fees cover the comprehensive grant writing services specified in Task 1 of this Agreement. For each grant, BKF has formulated a not-to-exceed cost estimate that outlines the steps required to complete the grant application and produce and submit a complete grant proposal package. Each grant application preparation and submittal will be billed on a lump sum/flat fee basis. Payment will be invoiced upon submission of the final grant package to the funding agency and due within 30 days upon receipt. Any additional services outside of this Task will be billed on an hourly basis and subject to a separate agreement.





**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/20/2024

ITEM NO: 10

DATE: February 13, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a Resolution to Designate the Town's Agents By Title to Obtain Federal and/or State Financial Assistance Through the California Governor's Office of Emergency Services (Cal OES)

RECOMMENDATION:

Adopt a Resolution (Attachment 1) to designate the Town's agents by title to obtain Federal and/or State financial assistance through the California Governor's Office of Emergency Services (Cal OES).

BACKGROUND:

When disasters such as fire, flood, and earthquakes occur, cities may be eligible for Federal and/or State financial assistance by means of reimbursement or grant funding. Cal OES requires documentation be kept on file authorizing specific agents to apply for this financial assistance. This authorization must be approved by the Town Council and updated every three years.

DISCUSSION:

Pending and future reimbursement and grant applications will only be accepted from an authorized agent whose title appears on the list approved by Council resolution and provided to Cal OES. This list of authorized agents is designated by title to alleviate the need to adopt a new resolution each time one of the designated agents leaves their position.

Staff recommends that the Town Council authorize the following titles as designated agents to apply for Federal and State disaster financial assistance and make necessary assurances to obtain such assistance: Town Manager and Assistant Town Manager.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, and Assistant Town Manager

PAGE 2 OF 2

SUBJECT: Adopt a Resolution to Designate the Town's Agents by Title to Obtain Federal and/or State Financial Assistance Through the California Governor's Office of Emergency Services (Cal OES)

DATE: February 13, 2024

CONCLUSION:

Designation of the Town Manager and Assistant Town Manager as agents to apply for Federal and State disaster financial assistance will allow for the Town to take advantage of opportunities for funding should they arise in the future.

FISCAL IMPACT:

There is no fiscal impact from this project.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Resolution to Designate the Town's Agents By Title to Obtain Federal and/or State Financial Assistance Through the California Governor's Office of Emergency Services (Cal OES)

**DESIGNATION OF APPLICANT'S AGENT RESOLUTION
FOR NON-STATE AGENCIES**

BE IT RESOLVED BY THE Town Council OF THE Town of Los Gatos
(Governing Body) (Name of Applicant)

THAT Town Manager, OR
(Title of Authorized Agent)

Assistant Town Manager, OR
(Title of Authorized Agent)

(Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the Town of Los Gatos, a public entity
(Name of Applicant)

established under the laws of the State of California, this application and to file it with the California Governor's Office of Emergency Services for the purpose of obtaining certain federal financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

THAT the Town of Los Gatos, a public entity established under the laws of the State of California,
(Name of Applicant)

hereby authorizes its agent(s) to provide to the Governor's Office of Emergency Services for all matters pertaining to such state disaster assistance the assurances and agreements required.

Please check the appropriate box below:

☒ This is a universal resolution and is effective for all open and future disasters up to three (3) years following the date of approval below.

☐ This is a disaster specific resolution and is effective for only disaster number(s) _____

Passed and approved this 20th day of February, 2024

Mary Badame, Mayor

(Name and Title of Governing Body Representative)

Matthew Hudes, Vice Mayor

(Name and Title of Governing Body Representative)

(Name and Title of Governing Body Representative)

CERTIFICATION

I, Wendy Wood, duly appointed and Town Clerk of
(Name) (Title)

Town of Los Gatos, do hereby certify that the above is a true and correct copy of a
(Name of Applicant)

Resolution passed and approved by the Town Council of the Town of Los Gatos
(Governing Body) (Name of Applicant)

on the 20th day of February, 2024 .

Town Clerk

(Signature)

(Title)

Cal OES Form 130 Instructions

A Designation of Applicant's Agent Resolution for Non-State Agencies is required of all Applicants to be eligible to receive funding. A new resolution must be submitted if a previously submitted Resolution is older than three (3) years from the last date of approval, is invalid or has not been submitted.

When completing the Cal OES Form 130, Applicants should fill in the blanks on page 1. The blanks are to be filled in as follows:

Resolution Section:

Governing Body: This is the group responsible for appointing and approving the Authorized Agents.

Examples include: Board of Directors, City Council, Board of Supervisors, Board of Education, etc.

Name of Applicant: The public entity established under the laws of the State of California. Examples include: School District, Office of Education, City, County or Non-profit agency that has applied for the grant, such as: City of San Diego, Sacramento County, Burbank Unified School District, Napa County Office of Education, University Southern California.

Authorized Agent: These are the individuals that are authorized by the Governing Body to engage with the Federal Emergency Management Agency and the Governor's Office of Emergency Services regarding grants applied for by the Applicant. There are two ways of completing this section:

1. **Titles Only:** If the Governing Body so chooses, the titles of the Authorized Agents would be entered here, not their names. This allows the document to remain valid (for 3 years) if an Authorized Agent leaves the position and is replaced by another individual in the same title. If "Titles Only" is the chosen method, this document must be accompanied by a cover letter naming the Authorized Agents by name and title. This cover letter can be completed by any authorized person within the agency and does not require the Governing Body's signature.
2. **Names and Titles:** If the Governing Body so chooses, the names **and** titles of the Authorized Agents would be listed. A new Cal OES Form 130 will be required if any of the Authorized Agents are replaced, leave the position listed on the document or their title changes.

Governing Body Representative: These are the names and titles of the approving Board Members.

Examples include: Chairman of the Board, Director, Superintendent, etc. The names and titles **cannot** be one of the designated Authorized Agents, and a minimum of two or more approving board members need to be listed.

Certification Section:

Name and Title: This is the individual that was in attendance and recorded the Resolution creation and approval.

Examples include: City Clerk, Secretary to the Board of Directors, County Clerk, etc. This person **cannot** be one of the designated Authorized Agents or Approving Board Member (if a person holds two positions such as City Manager and Secretary to the Board and the City Manager is to be listed as an Authorized Agent, then the same person holding the Secretary position would sign the document as Secretary to the Board (not City Manager) to eliminate "Self Certification."



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/20/2024

ITEM NO: 11

DATE: February 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Provide Direction on the Proposed Revisions to the Draft Revised 2023-2031 Housing Element and Next Steps. Location: Town-Wide. General Plan Amendment Application GP-22-003.

RECOMMENDATION:

Discuss and provide direction to staff on the proposed revisions to the Draft Revised 2023-2031 Housing Element and next steps.

BACKGROUND:

On December 1, 2023, the Town received the California Department of Housing and Community Development's (HCD) findings/comment letter, previously provided as Attachment 3 to the January 16, 2024, staff report. A link to Town Council staff reports and attachments can be viewed on the Town's website at: <https://losgatos-ca.municodemeetings.com>.

On December 19, 2023, the Town Council unanimously voted to follow the following process regarding the 2023-2031 Housing Element update, which includes the following actions:

1. Prioritizing the comments from the December 1, 2023 HCD comment letter;
2. Addressing the most challenging comments first and presenting the draft text of the Draft Revised Housing Element to the Town Council for review, including examples from two to three certified Housing Elements. Additionally, the Town Council hearing will provide the public with an opportunity to comment on the draft text with staff addressing the public comments in subsequent meetings, as needed;
3. Scheduling Town Council meetings with staff and the Housing Element consultant on a regular basis to complete the edits;
4. Reviewing the proposed edits with HCD, as frequently as HCD is able to meet with Town staff, and the Housing Element consultant and providing written feedback to the Council about HCD's responses; and

PREPARED BY: Erin Walters, Associate Planner and
Jocelyn Shoopman, Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and the Community Development Director

BACKGROUND (continued):

The Town Council also unanimously voted to review the Draft Revised Housing Element prior to a resubmittal to HCD.

On January 16, 2024, the Town Council met to review and discuss the proposed revisions to the Draft Revised Housing Element in response to the December 1, 2023 HCD comment letter. The Town Council provided direction for each HCD comment.

On January 18, 2024, staff and the Housing Element consultant met with the Town's HCD reviewer and received an informal preliminary review matrix. A copy of this informal preliminary review matrix was previously provided as Attachment 9 to the January 16, 2024 Town Council staff report, available online on the Town's agenda website at: <https://losgatos-ca.municodemeetings.com>. The informal preliminary comments are based on the proposed edits made to the Draft Revised Housing Element and provided to the Town's HCD reviewer for initial feedback on December 24, 2023.

On January 18, 2024, the Housing Element Advisory Board (HEAB) met to review and discuss the proposed revisions to the Draft Revised Housing Element in response to the December 1, 2023 HCD comment letter; Town Council direction provided on January 16, 2024; and HCD's informal preliminary review matrix provided on January 18, 2024.

On February 6, 2024, the Town Council met to review and discuss the proposed revisions to the Draft Revised Housing Element. The Town Council voted to modify the language of Program J and Program AY as summarized in Section A of this report. The Town Council also approved a motion to confirm that the work of the HEAB is complete.

DISCUSSION:

The primary purpose of this agenda item is for the Town Council to review and discuss the proposed revisions to the Draft Revised Housing Element. Staff is also seeking direction from Town Council on the timing of next steps, including the required seven-day public review period and the resubmittal to HCD for the formal 60-day review.

A. Town Council Meeting – February 6, 2024

The Draft Revised Housing Element was reviewed by Town Council on February 6, 2024. The Town Council staff report and attachments, including the Draft Revised Housing Element, included as Attachment 7 of the February 6, 2024 Town Council staff report, can be viewed online at: <https://losgatos-ca.municodemeetings.com>.

DISCUSSION (continued):

The revisions made to the various iterations of the Draft Revised Housing Element are color coded as follows:

- **Blue** highlighting denotes revisions reviewed by Town Council at the January 16, 2024 Town Council meeting.
- **Green** highlighting denotes revisions reviewed by the Town Council at the February 6, 2024 Town Council meeting.
- **Grey** highlighting denotes new revisions since the February 6, 2024 Town Council meeting.

On February 6, 2024, the Town Council approved a motion to incorporate modified language to Program J and Program AY. Additionally, staff identified the following minor revisions to the Draft Revised Housing Element:

- Modify the priority level rating for a Fair Housing Issue related to housing mobility from low to high on Page A-19 of Appendix A;
- Include Program AY as a program aimed at furthering Affirmatively Furthering Fair Housing (AFFH) efforts on Page 10-82 of Chapter 10;
- Include Program AY as a program aimed at AFFH efforts on Page A-3 of Appendix A; and
- Include Program AY in Table A-1 on Page A-21 of Appendix A.

Extracted pages from the Draft Revised Housing Element to illustrate these proposed revisions in grey highlighting have been provided as Attachment 15.

B. HCD Communications

On February 1, 2024, the Housing Element consultant requested informal feedback from the Town's HCD reviewer on Town's draft approach to the December 1, 2023, HCD comment letter and January 18, 2023, HCD informal preliminary review matrix. A follow-up email was also sent on February 6, 2024.

On February 9, 2024, the Housing Element consultant requested informal feedback on the modified language to Program J and Program AY, as directed by the Town Council on February 6, 2024.

Staff is awaiting a response back from HCD with preliminary feedback. If feedback is received from HCD, an Addendum or Desk Item will be prepared for the Town Council review.

DISCUSSION (continued):

C. Next Steps

This agenda item provides the Town Council an opportunity to discuss the proposed revisions to the Draft Revised Housing Element. The Housing Element consultant and Town's outside legal counsel will be available to answer Council Members' questions. As required by AB 215, revisions to the Draft Revised Housing Element must be made available to the public for a seven-day review period prior to a formal resubmittal to HCD.

Should the Town Council be satisfied with the proposed revisions to the Draft Revised Housing Element, the seven-day review period could be started on Thursday, February 22, 2024, ending on Thursday, February 29, 2024, with a formal resubmittal to HCD by Monday March 4, 2024. Subsequent review by HCD will take up to 60 days.

CONCLUSION:

Staff looks forward to the Town Council's discussion and direction.

PUBLIC COMMENTS:

The meeting has been publicized on the Town's website and through the Town's social media platforms. As of the drafting of this report, no comments from the public have been received.

COORDINATION:

The Community Development Department coordinated with the offices of the Town Attorney and Town Manager in the preparation of this report.

ENVIRONMENTAL ASSESSMENT:

An Environmental Analysis was prepared for the Housing Element update and available on the Town's Housing Element website at: <https://www.losgatosca.gov/EnvironmentalAnalysis>. All potentially significant effects have been analyzed adequately in the Town of Los Gatos 2040 General Plan Environmental Impact Report (EIR), pursuant to applicable standards including CEQA Guidelines Section 15168(c)2, because the Housing Element update is consistent with the growth projections evaluated in the General Plan EIR.

ATTACHMENTS:

Previously Received with the January 16, 2024 Staff Report:

1. Draft Revised Housing Element, Track Changes Copy
2. Draft Response Table
3. December 1, 2023 HCD's Findings Comment Letter
4. Public Comments Received Between 11:01 a.m., Tuesday, December 19, 2023, and 11:00 a.m., Thursday, January 11, 2024

Previously Received with the January 16, 2024 Desk Item:

5. Comments from the Vice Mayor
6. Public Comments Received Between 11:01 a.m., Thursday, January 11, 2024, and 11:00 a.m., Tuesday, January 16, 2024

Previously Received with the February 6, 2024 Staff Report:

7. Draft Revised Housing Element, Track Changes – January 2024
8. Draft Response Table – January 2024
9. HCD Informal Preliminary Review Matrix with Staff's Responses
10. Goldfarb & Lipman, LLP Feedback Table with Staff's Responses
11. Track Changes and Clean Version of Program AY Housing Mobility
12. Public Comments Received Between 11:01 a.m., Tuesday, January 16, 2024, and 11:00 a.m., Thursday, February 1, 2024

Previously Received with the February 5, 2024 Addendum:

13. Pages from the Draft Revised Housing Element Without the Recommendations Made by the Housing Element Advisory Board
14. Correspondence with HCD

Attachments Received with this Report:

15. Extracted Pages from the Draft Revised Housing Element with Revisions

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Programs	
	Performance Metric(s)
	Delivery of Housing Element
JJ	Helping Senior Housing s PrograResourcesm
Provide financial assistance for health, safety, emergency and accessibility home repairs to low-income seniors and low-income mobile homeowners through the Below Market Price Program funds, subject to availability of Program funds.	Implementation Policies
	HE-1.6 Universal Design HE-2.7 Senior Housing HE-2.8 Equal Housing and Special Needs <u>HE-6.1 Fair Housing</u> <u>HE-6.2 Financial Assistance</u> <u>HE-6.3 Housing for Persons with Special Needs</u> <u>HE-6.4 Affordable Housing Awareness</u> <u>Responsible Department/Review Authority</u>
<u>Provide regularly updated senior housing resource materials at the Adult Recreation Center, Library, and Farmers' Market.</u>	Responsible Department/Review Authority
	Community Development Department and the Town Council
	Timeframe
	Ongoing and annual effort <u>Update materials annually</u>
	Funding Source
	Town Affordable Housing Funds
	Quantified Objective
	Maintain the existing housing stock by funding three home repairs to lower income seniors <u>annually</u>
	Performance Metric(s)
	Measure the number of units assisted versus the need
JK	Small Multi-Unit Housing, "Missing Middle"
<u>The Housing Element supports the land use goal of providing opportunities for housing that can accommodate the needs, preferences, and financial capabilities of current and future residents in terms of different housing types, tenures, density, sizes, and costs. Specifically, the Town aims to create mixed residential neighborhoods through new and innovative housing types that meet the changing needs of Los Gatos households and expand housing in a variety of neighborhoodsall neighborhoods. These housing types include, but are not limited to, single dwelling units, multifamily dwelling units, accessory dwelling units, small and micro units, use of pre-fabricated homes, and clustered housing/cottage housing. The</u>	Implementation Policies
	HE-1.5 Variety of Housing Choices HE-2.4 Rental Housing HE-3.3 Efficient Development Processing
	Responsible Department/Review Authority
	Community Development Department
	Timeframe
	December 2024
	Funding Source
	None required
	Quantified Objective
	Increase the number of <u>small multi-unit housinglow-rise multi-family developments by five50150 units from the previous yearover eight years with the goal of achieving 100% of the units in low to medium density designations and high median income areas</u>

10. Housing Element

Programs	
<p>Town will also promote small multi-unit housing that increases density while remaining consistent with the building scale and character present in existing neighborhoods. This includes multi-family units or clustered residential buildings that provide relatively smaller, less expensive units within existing neighborhoods.</p> <p>Update the Zoning Code to facilitate low rise multi-family structures small multi-unit housing in the low to mMedium Residential Density designations.</p> <p>Modify the Zoning Code to facilitate small multi-unit housing in certain low and medium density designations. This includes creating mixed residential neighborhoods through new and innovative housing types that meet the changing needs of Los Gatos households and expand housing choices in a variety of neighborhoods. Housing types include, but are not limited to single dwelling units, multifamily dwelling units, accessory dwelling units, small and micro units, use of prefabricated homes, and clustered/cottage housing. This zoning will occur in a variety of areas throughout the Town but NOT in areas which are in Very High Fire Hazard Severity Zones, historic districts, adjacent to home in our historic inventory (currently pre-1941) homes, in hillside residential zones, within 500 feet of an evacuation route and within a half mile of a transit stop.</p> <p>Small multi-unit housing is defined as multiple units on a single parcel (whether attached or detached) that are compatible in scale and form with detached single-family homes. Common housing types include duplexes; triplexes; fourplexes; courtyard apartments; cottage courts; townhomes; triplex stacked (vertical); and live-work spaces.</p> <p>Promote this program through publication, to include the following information: Low rise multi-family dwelling units ranging from two to 10 units can help meet the needs of families, seniors and students. Permit processing times tend to be shorter than larger multi-family buildings</p>	<p>Performance Metric(s)</p> <p>Complete Zoning Code amendment by December 2024 and track the number of entitled Planning applications received per year</p>

Programs	
<p>due to the low-rise nature of the structures.</p> <p>Specifically, update the Zoning to allow for all housing types considered for the provision of Small Multi-Unit Housing types as part of Low Density High Density Residential designations.</p> <p>Research existing regulatory impediments to the creation of new housing types that have the potential to fulfill unmet housing needs (e.g., tiny homes, co-housing developments) and if necessary, amend applicable ordinances and development standards to facilitate and to allow for their development at the maximum density.</p> <p>Pursue establishment of a maximum average unit size as a tool to moderate unit sizes for developments over a certain size but to allow flexibility for a range of unit sizes.</p>	
<p>L Rental Housing for Large Families</p> <p>Encourage development of multi-family rental housing that is greater than two bedrooms to encourage the provision of adequate rental housing for families.</p>	<p>Implementation Policies</p> <p>HE-1.5 Variety of Housing Choices</p> <p>HE-2.4 Rental Housing</p> <p>Responsible Department/Review Authority</p> <p>Community Development Department</p> <p>Timeframe</p> <p>Ongoing and annual effort</p> <p>Funding Source</p> <p>None required</p> <p>Quantified Objective</p> <p>Four family friendly multi-family rental housing units are entitled a year</p> <p>Performance Metric(s)</p> <p>Number of two-, three-, and four-bedroom units entitled and number of family friendly designated units</p>
<p>MK Lot Consolidation</p> <p>The Town will conduct outreach to property owners in these areas to identify meaningful incentives to facilitate lot consolidation, lot assemblage and redevelopment in mixed use and commercial areas. Based on this feedback, within two years of Housing Element adoption, the Town will consider</p>	<p>Implementation Policies</p> <p>HE-3.4 Lot Consolidation</p> <p>Responsible Department/Review Authority</p> <p>Community Development Department</p> <p>Timeframe</p> <p>June 2025</p> <p>Funding Source</p>

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10. Housing Element

Programs	
	<p><u>Establish a list by December 31, 2024, to post online.</u></p> <p><u>Funding Source</u></p> <p><u>General fund (staff time)</u></p> <p><u>Quantified Objective</u></p> <p><u>Annually update the list or upon request from a local union.</u></p> <p><u>Performance Metric(s)</u></p> <p><u>N/A</u></p>
<p>AY Housing Mobility</p> <p>Housing mobility strategies consist of removing barriers to housing in areas of opportunity and strategically enhancing access (Los Gatos is entirely highest resource in terms of access to opportunity and a concentrated area of affluence). To improve housing mobility and promote more housing choices and affordability townwide, including in lower density neighborhoods, the Town will employ a suite of actions to expand housing opportunities affordable to extremely low, very low-, low-, and moderate-income households. Actions and strategies include:</p> <ul style="list-style-type: none"> ■ SB 9 – Monitor the Town’s SB 9 standards and amend standards to facilitate SB 9 applications (e.g., duplexes in single-family zones) if the Town is not on track to meet its SB 9 application goals during the planning period. See Program AV. ■ Rezoning for Small Multi-Unit Housing, “Missing Middle” – Modify the Zoning Code to facilitate small multi-unit housing in certain low and to medium density designations. This includes creating mixed residential neighborhoods through new and innovative housing types that meet the changing needs of Los Gatos households and expand housing choices in a variety of neighborhoods. Housing types include, but are not limited to single dwelling units, multifamily dwelling units, accessory dwelling units, small and micro units, use of prefabricated homes, and clustered/cottage housing. This zoning will occur in a 	<p><u>Implementation</u></p> <p><u>Policy HE-1.5 Variety of Housing Choices</u></p> <p><u>Policy HE-1.7 Infill Opportunities in Single-Family Neighborhoods</u></p> <p><u>Responsible Department/Review Authority</u></p> <p><u>Community Development Department</u></p> <p><u>Timeframe</u></p> <p><u>Annually review overall progress and effectiveness in April and include information in annual report to HCD. If the Town is not on track to meet its 160 affordable housing unit goal for the 8-year RHNA cycle by 2027 (i.e., 80 affordable units built or in process by 2027), the Town will consider alternative land use strategies and make necessary amendments to zoning or other land use documents to facilitate a variety of housing choices, including but not limited to, strategies that encourage missing middle zoning (small-scale multi-unit projects), adaptive reuse, and allowing additional ADUs and/or JADUs, within six months, if sufficient progress toward this quantified objective is not being met.</u></p> <p><u>Funding Source</u></p> <p><u>General fund (staff time)</u></p> <p><u>Quantified Objective</u></p> <p><u>Provide 160 housing opportunities affordable to lower income households by January 2031.</u></p> <p><u>Performance Metric(s)</u></p> <p><u>Townwide, but especially lower-density neighborhoods</u></p>

Programs

variety of areas throughout the Town but NOT in areas which are in Very High Fire Hazard Severity Zones, historic districts, adjacent to home in our historic inventory (currently pre-1941) homes, in hillside residential zones, within 500 feet of an evacuation route and within a half mile of a transit stop. See Program J.

- **Housing on Town Sites –** Enter into a public-private partnership to develop housing, targeting low-income households, on Town owned properties. See Program E.

- **Enhanced Inclusionary Housing –** Assess and amend the Town's inclusionary housing requirements to better produce low-income units and units for special needs groups townwide. See Program L.

- **Accessory Dwelling Units (ADUs) –** Encourage and streamline ADUs in single-family neighborhoods by preparing standardized ADU plans with a variety of unit sizes and by affirmatively marketing and outreach to increase awareness and the diversity of individuals residing in Los Gatos. See Program Q.

- **Junior ADUs –** Develop and adopt objective standards to allow more than one (at minimum two) Junior ADU per structure by July 2025. The objective is to achieve at least 10 JADUs in lower-density neighborhoods by January 2031. See Program Q.

- **Religious Institutional Sites –** Expand housing opportunities on all religious institutional sites within the Town. See Program S. Conduct outreach to owners and operators of religious institutions to raise awareness and encourage housing proposals. Increase affordable housing on religious institution/faith-based site(s) during the 2023-2031 planning period by 25 units. If no application for housing on a religious institution/faith-based site is received by December 2025, the Town will expand outreach efforts to be conducted annually. This may include direct mailings to faith-based sites highlighting

10. Housing Element

Programs	
	<p>successful affordable housing units on other faith-based sites, as well as available Town resources and programs to support such projects (e.g., Programs N, P, T, AI, AJ – Assist in securing funding for affordable housing projects).</p> <ul style="list-style-type: none">▪ Homesharing – Research and pursue a homesharing program, including coordination with non-profits and other to assist with matching tenants with existing homeowners. The Town will publicize and take other actions as necessary (e.g., facilitate presentations at the Los Gatos Adult Recreation Center, etc.) at least annually with the goal of five opportunities per year. See Program T.

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Program	Specific Commitment	Timeline	Geographic Targeting	Eight-Year Metric
Program L. Below Market Price Program	Conduct a study to evaluate the existing BMP Program and recommend changes to the program to increase the number of units constructed.	By June 2025	Townwide with emphasis on high median income areas	Increase number of BMP units annually by five units (from 257 baseline) with a goal of achieving 30% of new units in high median income areas.
Program V. Housing Opportunities for Persons Living with Disabilities	Review and update regulations and encourage implementation of Universal Design. Amend Zoning Code to increase housing for persons with disabilities.	2023-2031 By December 2025.	Townwide	Increase housing for persons with disabilities by 90 units.
Program AP. Special Needs Housing	Establish streamlined procedures for special needs housing. Amend the Zoning Code to remove barriers to building special needs housing	By January 2028 By January 2024	Townwide	Adopt Zoning Cod amendments to facilitate the construction of units for special needs populations.
Program X. Assistance for Persons with Developmental Challenges	Work with local and/or regional partners to provide rental assistance for persons with developmental challenges.	Annually	Townwide	Provide rental assistance for persons with disabilities.
Program Q. ADUs	Promote the use of Housing Choice Vouchers (HCVs) and homesharing (once established) to make the units available to lower income households.	By December 2025	Townwide	Initiate a marketing plan and coordinate efforts for HCVs and homesharing programs.
Program T. Nonprofit Affordable Housing Providers	Pursue a homesharing program and market program annually.	By December 2025; Annually	Townwide with emphasis on lower density, single-family neighborhoods, and high median income neighborhoods	Facilitate 5 matches per year.
Program AV. Senate Bill 9 Monitoring	Annually monitor SB 9 entitlements and develop strategies, e.g., more flexible development standards to accommodate a potential shortfall, if necessary.	Annually monitor and adopt additional incentives, if needed by end of 2027	Townwide with emphasis on lower density, single-family neighborhoods, and high median income neighborhoods	Facilitate 96 SB 9 entitlements
Program AY. Housing Mobility	To improve housing mobility, promote more housing choices, and affordability.	Annually	Townwide	Provide 160 housing opportunities to lower income households.
Place-based Strategies for Neighborhood Improvement - Medium Priority				
Program AI. Countywide Home Repair Programs	Support home repair programs including Habitat for Humanity East Bay/Silicon Valley, Rebuilding Together, Housing Trust of Santa Clara County, and contribute funding from the Town's Below Market Price	2023-2031	Townwide with emphasis on central and western tracts where substandard housing conditions and aging units are more prevalent.	Complete three minor home repairs or accessibility improvements for lower income households annually.

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Appendix A. AFFH Report

Past priorities for single-family residential land uses through planning and zoning efforts as well as historical restrictive covenants have contributed to the prevalence of RCAs in the Town.

- The Town will use “Affirmative Marketing” strategies, as described in Implementation Program **AT BI**, to work with affordable and market rate housing developers to ensure that affordable housing is affirmatively marketed to households with disproportionate housing needs, including Hispanic and Black households who work in and live outside of Los Gatos (e.g., materials in Spanish and English, distributed through employers). The Town will also amend its Zoning Ordinance in order to increase the development of affordable housing.
- Opportunities, including employment, environmental, economic, and housing may not be accessible to all residents, especially those in vulnerable populations.
 - In addition to Program AT described above, Los Gatos will implement programs to facilitate the development of affordable housing, including special needs housing, to increase housing opportunities in the Town (Programs D, E, L, N, O, W). The Town will also serve vulnerable populations through Senior Housing Resources (Program I), Housing Opportunities for the Homeless (Program U), Assistance for Persons with Developmental Challenges (Program V), and Supportive Services for the Homeless (Program Y). The Town also aims to increase transportation opportunities for new households through Program AF, Transit Oriented Development.
 - In addition to actions to facilitate new affordable housing opportunities described previously, the Town has outlined place-based strategies for neighborhood improvement with the following metrics to develop better access to opportunities (environmental, housing, etc.). Specifically, the Town will complete three minor home repairs or accessibility improvements for lower income households annually, provide rehabilitation to five low-income homeowner units annually, and complete three projects related to public facilities and transportation infrastructure.

Fair Housing Issue

Los Gatos feeds to high performing schools, yet, except for Asian students, students of color cannot take advantage of these learning opportunities because they cannot afford to live in Los Gatos.

Priority Level: ~~Low~~High

Contributing factors:

- Lack of affordable housing overall due to high land costs, high construction costs, limited availability of land, limited availability of financing, duration of permitting process, cost of permitting process, and lack of incentives.
- The Town will address this issue by allocating a percentage of the Town’s Affordable Housing (Below Market Program) Fund to subsidize housing for extremely low-income households and by including housing development sites on the Sites Inventory in all areas of Town. **The Town aims to increase BMP units by five units annually in addition to other actions to facilitate affordable housing development outlined in this Housing Element.**

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Appendix A. AFFH Report

Table A-1. Contributing Factors

Identified Fair Housing Issue	Contributing Factor	Action	Priority
Outreach and Enforcement	<ul style="list-style-type: none"> Lack of adequate fair housing testing, monitoring, or targeted outreach 	<ul style="list-style-type: none"> Program A: Developer Forum Program O: Affordable Housing Development Program W: Rental Dispute Resolution Program Program AE: Fair Housing Law Education Program AM: Santa Clara County Fair Housing Consortium Program I: Senior Housing Resources Program X: Developmental Challenges Program AN: Use a Variety of Communication Methods Program AO: Educate Single-Family Property Owners Regarding In-Fill Housing Options Program AT: Affirmative Marketing 	High
Integration and Segregation (Outreach and Enforcement, New Housing Opportunities in High Resource Areas, and Housing Mobility)	<ul style="list-style-type: none"> Concentrated wealth and White populations in the Town as compared to the region Past priorities for single-family residential land uses and historical restrictive covenants 	<ul style="list-style-type: none"> Program O: Affordable Housing Development Program AM: Santa Clara County Fair Housing Consortium Program AN: Use a Variety of Communication Methods Program AT: Affirmative Marketing Program D: Additional Housing Capacity for North Forty Specific Plan Program J: Small Multi-Unit "Missing Middle" Housing Program L: Below Market Price Program Program AP: Special Needs Housing Program AY: Housing Mobility 	High
Access to Opportunities (New Housing Opportunities in High Resource Areas)	<ul style="list-style-type: none"> Lack of diverse housing stock such as multifamily housing Lack of affordable housing overall due to high land costs, high construction costs, limited availability of land, limited availability of financing, duration of permitting process, cost of permitting process, and lack of incentives 	<ul style="list-style-type: none"> Program D: Additional Housing Capacity for North Forty Specific Plan Program N: Funds for Development for Extremely Low Income (ELI) Households Program O: Affordable Housing Development Program Q: ADUs Program AB: Allow for 100 Percent Affordable Residential Development in Mixed-Use General Plan Designations 	Medium
Disproportionate Housing Needs (Housing Mobility and Place-based Strategies for Neighborhood Improvement)	<ul style="list-style-type: none"> Lack of diverse housing stock such as multifamily housing Disproportionate need for housing and assistance for special needs populations 	<ul style="list-style-type: none"> Program V: Housing Opportunities for Persons Living with Disabilities Program AP: Special Needs Housing Program X: Assistance for Persons with Developmental Challenges Program T: Nonprofit Affordable Housing Providers Program AI: Countywide Home Repair Programs Program AJ: Residential Rehabilitation Program AFFH: CIP Projects 	Medium

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/20/2024

ITEM NO: 11

DESK ITEM

DATE: February 20, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Discuss and Provide Direction on the Proposed Revisions to the Draft Revised 2023-2031 Housing Element and Next Steps. Location: Town-Wide. General Plan Amendment Application GP-22-003.

REMARKS:

Attachment 16 includes all correspondence with the State Department of Housing and Community Development (HCD) since the February 6, 2024, Town Council meeting.

On February 20, 2024, the Town's HCD reviewer provided staff and the Housing Element Consultant with a second informal preliminary review matrix based on revisions made to the Draft Revised Housing Element and informally provided to the Town's HCD reviewer on February 1, 2024, and February 9, 2024. The second informal preliminary review matrix is included in Attachment 17.

Attachment 18 contains public comment received between 11:01 a.m., Thursday, February 15, 2024, and 11:00 a.m., Tuesday, February 20, 2024.

ATTACHMENTS:

Previously Received with the January 16, 2024 Staff Report:

1. Draft Revised Housing Element, Track Changes Copy
2. Draft Response Table
3. December 1, 2023 HCD's Findings Comment Letter
4. Public Comments Received Between 11:01 a.m., Tuesday, December 19, 2023, and 11:00 a.m., Thursday, January 11, 2024

Previously Received with the January 16, 2024 Desk Item:

5. Comments from the Vice Mayor

PREPARED BY: Erin Walters, Associate Planner and
Jocelyn Shoopman, Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and the Community Development Director

ATTACHMENTS (continued):

6. Public Comments Received Between 11:01 a.m., Thursday, January 11, 2024, and 11:00 a.m., Tuesday, January 16, 2024

Previously Received with the February 6, 2024 Staff Report:

7. Draft Revised Housing Element, Track Changes – January 2024
8. Draft Response Table – January 2024
9. HCD Informal Preliminary Review Matrix with Staff's Responses
10. Goldfarb & Lipman, LLP Feedback Table with Staff's Responses
11. Track Changes and Clean Version of Program AY Housing Mobility
12. Public Comments Received Between 11:01 a.m., Tuesday, January 16, 2024, and 11:00 a.m., Thursday, February 1, 2024

Previously Received with the February 5, 2024 Addendum:

13. Pages from the Draft Revised Housing Element Without the Recommendations Made by the Housing Element Advisory Board
14. Correspondence with HCD

Previously Received with the February 20, 2024 Staff Report:

15. Extracted Pages from the Draft Revised Housing Element with Revisions

Attachment Received with this Desk Item:

16. Correspondence with HCD
17. HCD Second Informal Preliminary Review Matrix
18. Public Comment Received Between 11:01 a.m., Thursday, February 15, 2024, and 11:00 a.m., Tuesday, February 20, 2024

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From: Veronica Tam <[REDACTED]>
Sent: Tuesday, February 20, 2024 9:00 AM
To: Jauregui, Jose @HCD <Jose.Jauregui@hcd.ca.gov>; McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Cc: Jennifer Armer <JArmer@losgatosca.gov>; Erin Walters <EWalters@losgatosca.gov>
Subject: RE: Los Gatos HE Revisions

I mean before our meeting tonight, thanks!

Veronica Tam, AICP
Principal
[Veronica Tam and Associates, Inc.](#)

[REDACTED]
[REDACTED]
[REDACTED]

From: Veronica Tam
Sent: Tuesday, February 20, 2024 8:59 AM
To: Jauregui, Jose @HCD <Jose.Jauregui@hcd.ca.gov>; McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Cc: Jennifer Armer <JArmer@losgatosca.gov>; Erin Walters <EWalters@losgatosca.gov>
Subject: Los Gatos HE Revisions

Hi Jose and Paul –

Any chance we can get some feedback on the revisions?

Veronica

Veronica Tam, AICP
Principal
[Veronica Tam and Associates, Inc.](#)

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[REDACTED]
[REDACTED]

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From: Veronica Tam <[REDACTED]>
Sent: Friday, February 16, 2024 10:16 AM
To: Jauregui, Jose @HCD <Jose.Jauregui@hcd.ca.gov>
Subject: Re: Los Gatos


Yes!! Thanks. Sorry having a morning exercise class.

Sent from my iPhone

From: Jauregui, Jose @HCD <Jose.Jauregui@hcd.ca.gov>
Sent: Friday, February 16, 2024 9:35 AM
To: Veronica Tam <[REDACTED]>
Subject: RE: Los Gatos

Just to confirm Green reflects latest revisions, Teal reflects revisions made in January and Yellow reflects revisions made in September?

Warm regards,

	Jose A. Jauregui he / him Housing Policy Analyst Housing Policy Development Housing & Community Development 2020 W. El Camino Avenue, Suite 500 Sacramento, CA 95833 Cell: (916) 820-1516
---	---

From: Veronica Tam <[REDACTED]>
Sent: Friday, February 16, 2024 10:16 AM
To: Jauregui, Jose @HCD <Jose.Jauregui@hcd.ca.gov>
Subject: Re: Los Gatos

It's the green highlight.

Sent from my iPhone

From: Jauregui, Jose @HCD
Sent: Friday, February 16, 2024 8:31 AM
To: Veronica Tam <[REDACTED]>
Subject: RE: Los Gatos

Good morning Veronica,

Can you please let me know which highlighted track changes reflect the most recent revisions made to the element? There are too many colors that I just want to be sure as to what we are reviewing.

Warm regards,

	Jose A. Jauregui he / him Housing Policy Analyst
---	--

Housing Policy Development
Housing & Community Development
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833
Cell: (916) 820-1516

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From: Veronica Tam <[REDACTED]>
Sent: Wednesday, February 14, 2024 2:30 PM
To: Jauregui, Jose @HCD <Jose.Jauregui@hcd.ca.gov>
Cc: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Subject: RE: Los Gatos

Yes, I sent the revised pages in a couple of emails. The town council does not want us to officially resubmit until you have okayed it.

Veronica Tam, AICP
Principal
[Veronica Tam and Associates, Inc.](#)

[REDACTED]
[REDACTED]
[REDACTED]

From: Jauregui, Jose @HCD <Jose.Jauregui@hcd.ca.gov>
Sent: Wednesday, February 14, 2024 2:29 PM
To: Veronica Tam <[REDACTED]>
Cc: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Subject: RE: Los Gatos

Can't guarantee I can give this a look by Tuesday, but I'll do my best! Did you just want us to review the revised program languages? I'm still catching up on emails.

Warm regards,

<image001.png>

Jose A. Jauregui he / him
Housing Policy Analyst
Housing Policy Development
Housing & Community Development
2020 W. El Camino Avenue, Suite 500 | Sacramento, CA 95833
Cell: (916) 820-1516

From: Veronica Tam <[REDACTED]>
Sent: Wednesday, February 14, 2024 2:10 PM
To: Jauregui, Jose @HCD <Jose.Jauregui@hcd.ca.gov>
Cc: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>
Subject: Los Gatos

Hi Jose –

Los Gatos has a Town Council meeting on Tuesday. Do you think you can take a quick look at our revisions before that and give some feedback?

Thanks,
Veronica

Veronica Tam, AICP

Principal

Veronica Tam and Associates, Inc.

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[REDACTED]
[REDACTED]

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From: Veronica Tam <[REDACTED]>
Sent: Friday, February 9, 2024 1:54 PM
To: McDougall, Paul@HCD <Paul.McDougall@hcd.ca.gov>; Jauregui, Jose @HCD <Jose.Jauregui@hcd.ca.gov>
Cc: Erin Walters <EWalters@losgatosca.gov>; Jocelyn Shoopman <jshoopman@losgatosca.gov>; Jennifer Armer <JArmer@losgatosca.gov>
Subject: Programs J and AY - Revisions based on Council direction

Hi Paul and Jose –

Town Council met on February 6th and is proposing alternative language to Programs J and AY and are requesting HCD's feedback. Attached are the edits to Program J and Program AY per the Town Council's direction. Can we get your feedback by February 16? We need to report to Council.

Thanks,
Veronica

Veronica Tam, AICP
Principal
[Veronica Tam and Associates, Inc.](#)

[REDACTED]
[REDACTED]
[REDACTED]

Programs	
	Performance Metric(s)
	Delivery of Housing Element
JJ	Helping Senior Housing s PrograResourcesm
Provide financial assistance for health, safety, emergency and accessibility home repairs to low-income seniors and low-income mobile homeowners through the Below Market Price Program funds, subject to availability of Program funds.	Implementation Policies
	HE-1.6 Universal Design HE-2.7 Senior Housing HE-2.8 Equal Housing and Special Needs <u>HE-6.1 Fair Housing</u> <u>HE-6.2 Financial Assistance</u> <u>HE-6.3 Housing for Persons with Special Needs</u> <u>HE-6.4 Affordable Housing Awareness</u> <u>Responsible Department/Review Authority</u>
<u>Provide regularly updated senior housing resource materials at the Adult Recreation Center, Library, and Farmers' Market.</u>	Responsible Department/Review Authority
	Community Development Department and the Town Council
	Timeframe
	Ongoing and annual effort <u>Update materials annually</u>
	Funding Source
	Town Affordable Housing Funds
	Quantified Objective
	Maintain the existing housing stock by funding three home repairs to lower income seniors <u>annually</u>
	Performance Metric(s)
	Measure the number of units assisted versus the need
JK	Small Multi-Unit Housing, "Missing Middle"
<u>The Housing Element supports the land use goal of providing opportunities for housing that can accommodate the needs, preferences, and financial capabilities of current and future residents in terms of different housing types, tenures, density, sizes, and costs. Specifically, the Town aims to create mixed residential neighborhoods through new and innovative housing types that meet the changing needs of Los Gatos households and expand housing in a variety of neighborhoodsall neighborhoods. These housing types include, but are not limited to, single dwelling units, multifamily dwelling units, accessory dwelling units, small and micro units, use of pre-fabricated homes, and clustered housing/cottage housing. The</u>	Implementation Policies
	HE-1.5 Variety of Housing Choices HE-2.4 Rental Housing HE-3.3 Efficient Development Processing
	Responsible Department/Review Authority
	Community Development Department
	Timeframe
	December 2024
	Funding Source
	None required
	Quantified Objective
	Increase the number of <u>small multi-unit housinglow-rise multi-family developments by five50150 units from the previous yearover eight years with the goal of achieving 100% of the units in low to medium density designations and high median income areas</u>

10. Housing Element

Programs	
<p>Town will also promote small multi-unit housing that increases density while remaining consistent with the building scale and character present in existing neighborhoods. This includes multi-family units or clustered residential buildings that provide relatively smaller, less expensive units within existing neighborhoods.</p> <p>Update the Zoning Code to facilitate low rise multi-family structures small multi-unit housing in the low to mMedium Residential Density designations.</p> <p>Modify the Zoning Code to facilitate small multi-unit housing in certain low and medium density designations. This includes creating mixed residential neighborhoods through new and innovative housing types that meet the changing needs of Los Gatos households and expand housing choices in a variety of neighborhoods. Housing types include, but are not limited to single dwelling units, multifamily dwelling units, accessory dwelling units, small and micro units, use of prefabricated homes, and clustered/cottage housing. This zoning will occur in a variety of areas throughout the Town but NOT in areas which are in Very High Fire Hazard Severity Zones, historic districts, adjacent to home in our historic inventory (currently pre-1941) homes, in hillside residential zones, within 500 feet of an evacuation route and within a half mile of a transit stop.</p> <p>Small multi-unit housing is defined as multiple units on a single parcel (whether attached or detached) that are compatible in scale and form with detached single-family homes. Common housing types include duplexes; triplexes; fourplexes; courtyard apartments; cottage courts; townhomes; triplex stacked (vertical); and live-work spaces.</p> <p>Promote this program through publication, to include the following information: Low rise multi-family dwelling units ranging from two to 10 units can help meet the needs of families, seniors and students. Permit processing times tend to be shorter than larger multi-family buildings</p>	<p>Performance Metric(s)</p> <p>Complete Zoning Code amendment by December 2024 and track the number of entitled Planning applications received per year</p>

Programs	
<p>due to the low-rise nature of the structures.</p> <p><u>Specifically, update the Zoning to allow for all housing types considered for the provision of Small Multi-Unit Housing types as part of Low Density High Density Residential designations.</u></p> <p><u>Research existing regulatory impediments to the creation of new housing types that have the potential to fulfill unmet housing needs (e.g., tiny homes, co-housing developments) and if necessary, amend applicable ordinances and development standards to facilitate and to allow for their development at the maximum density.</u></p> <p><u>Pursue establishment of a maximum average unit size as a tool to moderate unit sizes for developments over a certain size but to allow flexibility for a range of unit sizes.</u></p>	
<p>L Rental Housing for Large Families</p> <p>Encourage development of multi-family rental housing that is greater than two bedrooms to encourage the provision of adequate rental housing for families.</p>	<p>Implementation Policies</p> <p>HE-1.5 Variety of Housing Choices</p> <p>HE-2.4 Rental Housing</p> <p>Responsible Department/Review Authority</p> <p>Community Development Department</p> <p>Timeframe</p> <p>Ongoing and annual effort</p> <p>Funding Source</p> <p>None required</p> <p>Quantified Objective</p> <p>Four family friendly multi-family rental housing units are entitled a year</p> <p>Performance Metric(s)</p> <p>Number of two-, three-, and four-bedroom units entitled and number of family friendly designated units</p>
<p>MK Lot Consolidation</p> <p>The Town will conduct outreach to property owners in these areas to identify meaningful incentives to facilitate lot consolidation, lot assemblage and redevelopment in mixed use and commercial areas. Based on this feedback, within two years of Housing Element adoption, the Town will <u>consider</u></p>	<p>Implementation Policies</p> <p>HE-3.4 Lot Consolidation</p> <p>Responsible Department/Review Authority</p> <p>Community Development Department</p> <p>Timeframe</p> <p>June 2025</p> <p>Funding Source</p>

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10. Housing Element

Programs	
	<p><u>Establish a list by December 31, 2024, to post online.</u></p> <p><u>Funding Source</u></p> <p><u>General fund (staff time)</u></p> <p><u>Quantified Objective</u></p> <p><u>Annually update the list or upon request from a local union.</u></p> <p><u>Performance Metric(s)</u></p> <p><u>N/A</u></p>
<p>AY Housing Mobility</p> <p>Housing mobility strategies consist of removing barriers to housing in areas of opportunity and strategically enhancing access (Los Gatos is entirely highest resource in terms of access to opportunity and a concentrated area of affluence). To improve housing mobility and promote more housing choices and affordability townwide, including in lower density neighborhoods, the Town will employ a suite of actions to expand housing opportunities affordable to extremely low, very low-, low-, and moderate-income households. Actions and strategies include:</p> <ul style="list-style-type: none"> ■ SB 9 – Monitor the Town’s SB 9 standards and amend standards to facilitate SB 9 applications (e.g., duplexes in single-family zones) if the Town is not on track to meet its SB 9 application goals during the planning period. See Program AV. ■ Rezoning for Small Multi-Unit Housing, “Missing Middle” – Modify the Zoning Code to facilitate small multi-unit housing in certain low and to medium density designations. This includes creating mixed residential neighborhoods through new and innovative housing types that meet the changing needs of Los Gatos households and expand housing choices in a variety of neighborhoods. Housing types include, but are not limited to single dwelling units, multifamily dwelling units, accessory dwelling units, small and micro units, use of prefabricated homes, and clustered/cottage housing. This zoning will occur in a 	<p><u>Implementation</u></p> <p><u>Policy HE-1.5 Variety of Housing Choices</u></p> <p><u>Policy HE-1.7 Infill Opportunities in Single-Family Neighborhoods</u></p> <p><u>Responsible Department/Review Authority</u></p> <p><u>Community Development Department</u></p> <p><u>Timeframe</u></p> <p><u>Annually review overall progress and effectiveness in April and include information in annual report to HCD. If the Town is not on track to meet its 160 affordable housing unit goal for the 8-year RHNA cycle by 2027 (i.e., 80 affordable units built or in process by 2027), the Town will consider alternative land use strategies and make necessary amendments to zoning or other land use documents to facilitate a variety of housing choices, including but not limited to, strategies that encourage missing middle zoning (small-scale multi-unit projects), adaptive reuse, and allowing additional ADUs and/or JADUs, within six months, if sufficient progress toward this quantified objective is not being met.</u></p> <p><u>Funding Source</u></p> <p><u>General fund (staff time)</u></p> <p><u>Quantified Objective</u></p> <p><u>Provide 160 housing opportunities affordable to lower income households by January 2031.</u></p> <p><u>Performance Metric(s)</u></p> <p><u>Townwide, but especially lower-density neighborhoods</u></p>

Programs

variety of areas throughout the Town but NOT in areas which are in Very High Fire Hazard Severity Zones, historic districts, adjacent to home in our historic inventory (currently pre-1941) homes, in hillside residential zones, within 500 feet of an evacuation route and within a half mile of a transit stop. See Program J.

- **Housing on Town Sites –** Enter into a public-private partnership to develop housing, targeting low-income households, on Town owned properties. See Program E.

- **Enhanced Inclusionary Housing –** Assess and amend the Town's inclusionary housing requirements to better produce low-income units and units for special needs groups townwide. See Program L.

- **Accessory Dwelling Units (ADUs) –** Encourage and streamline ADUs in single-family neighborhoods by preparing standardized ADU plans with a variety of unit sizes and by affirmatively marketing and outreach to increase awareness and the diversity of individuals residing in Los Gatos. See Program Q.

- **Junior ADUs –** Develop and adopt objective standards to allow more than one (at minimum two) Junior ADU per structure by July 2025. The objective is to achieve at least 10 JADUs in lower-density neighborhoods by January 2031. See Program Q.

- **Religious Institutional Sites –** Expand housing opportunities on all religious institutional sites within the Town. See Program S. Conduct outreach to owners and operators of religious institutions to raise awareness and encourage housing proposals. Increase affordable housing on religious institution/faith-based site(s) during the 2023-2031 planning period by 25 units. If no application for housing on a religious institution/faith-based site is received by December 2025, the Town will expand outreach efforts to be conducted annually. This may include direct mailings to faith-based sites highlighting

Town of Los Gatos Informal 2 Preliminary Review

Received 12/24/2023

Subsequent Informal 2: 2/01/24

Prior Review: 12/01/2023

Prior HCD Finding	Page #	Prelim Rev 1	Page#	Prelim Rev 2	Notes
Affirmatively Furthering Fair Housing					
<u>Income and Racial Concentration Area of Affluence (RCAA):</u> The element now includes actions to promote an inclusive community; however, the element must provide specific analysis of income and RCAA at a regional level (town compared to the broader region) to better formulate appropriate policies and programs. The analysis should at least address trends, conditions, coincidence with other fair housing factors (e.g., race, highest resource, overpayment), effectiveness or absence of past strategies (e.g., lack of publicly assisted housing and lack of multifamily zoning), local data and knowledge and other relevant factors.	A-69	~/No	A-71	Yes/~	Minimal revision. Prior Review: Minimal analysis added; should address trends, coincidence with other factors (e.g., income, TCAC), past strategies and effectiveness such as result of North 40 in the prior planning period, zoning, land use and other factors. These analyses should be incorporated into contributing factors
<u>Contributing Factors to Fair Housing Issues:</u> Based on a complete analysis, the element should re-assess and prioritize contributing factors to fair housing issues. For example, the Town is wholly a RCAA, highest resource and highest median incomes in contrast to the rest of the region. As a result, fair housing issues such as the lack of affordable housing and segregation from the rest of the region should be a high priority.	A-18	~	A20	Yes	Re-assess based on a complete analysis
<u>Goals and Actions:</u> As noted above, the element must include a complete analysis of affirmatively furthering fair housing (AFFH). The element must be revised to add goals and actions based on the outcomes of a complete analysis.	10-43- 10-50- 10-65 10-66	~/No	10-76	~	Include metric for home sharing action (Program Q)

<p>In addition, while the element includes some actions toward AFFH and enhancing housing mobility (e.g., choices and affordability), actions should be added, numeric targets should be increased, and geographic targeting should be fine-tuned to better promote inclusive neighborhoods throughout the Town. This is particularly important since over 80 percent of the lower-income regional housing need allocation (RHNA) is isolated in two census tracts. As noted in HCD's prior review and the assessment of fair housing, the Town is wholly a racially concentrated area of affluence, highest resource and highest median incomes in contrast to the rest of the region.</p> <p>These conditions and circumstances warrant significant and robust actions (not limited to the RHNA) to promote housing mobility and increasing housing choices and affordability throughout the Town, including lower-density neighborhoods. Actions should be added and revised with aggressive numeric targets and geographic targets throughout the Town, including lower-density neighborhoods. Examples include creating more housing choices and affordability in single-family neighborhoods beyond complying with law (e.g., SB 9, ADUs) such as missing middle housing types, targeting affordable housing funding, homesharing, more than one unit of converted space within a single-family structure, increased multifamily capacity, enhanced efforts on religious institutional sites and other alternative land use and financing strategies.</p>					<p>Program AY</p> <p>Prior Review: See Programs J, L, O, Q, T, AV</p> <p>Program J should clarify that capacity will be increased (not just zoning text), development standards will be adjusted to facilitate maximum densities and increase the objective (~150 units) or add strategies (religious institutional, JADU plus, SB 10)</p> <p>Consider adding JADU plus to ADU HCV homesharing program and increasing objective</p> <p>Program AV should go beyond complying with SB 9 (marketing, modification to development standards)</p> <p>For all housing mobility actions (Programs J, L, O, Q, T, AV), geographic targeting should be revised to clarify town-wide including highest median income areas and numeric targets should be reflected with geographic targeting (e.g., 100 units townwide and 50% in highest median income areas)</p>
Sites Inventory, Analysis and Adequate Sites					
<p><u>Small Sites:</u> The element identifies several sites with parcels less than a half-acre (p. D-13) that have common ownership and, in some cases, expressed interest to redevelop the site.</p>	D-2	Yes	D-11	N/A	

For small sites with expressed interest in redevelopment, the element should clarify that the expressed interest is also in consolidating the sites. For the remaining sites (Sites D-2 and D-5), the element should explain the circumstances leading to the potential for consolidation such as necessity to consolidate due to access, feasibility, shape, or site planning flexibility. Based on the outcomes of this analysis, the element should add or modify Program K (Lot Consolidation) to further promote lot consolidation, if appropriate.					
<u>Electronic Sites Inventory:</u> For your information, while the Town has submitted an electronic sites inventory as part of this submittal, pursuant to Government Code section 65583.3, the Town must submit an electronic sites inventory with its adopted housing element. Please see HCD's housing element webpage at https://www.hcd.ca.gov/planning-andcommunity-development/housing-elements for a copy of the form and instructions. The Town can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance	N/A	FYI		FYI	
<u>Adequate Sites Programs:</u> As noted in the prior review, if necessary to make appropriate zoning available to accommodate the lower-income RHNA, programs must be revised to meet all requirements pursuant to Government Code section 65583.2, subdivisions (c), (h) and (i). The element includes Programs D (Program By Right Zoning Text Amendment to Accommodate RHNA), AR (General Plan Amendment) and AS (Adequate Sites for Housing) to address these requirements. With respect to sites identified in prior planning periods, the element meets statutory requirements, but these actions must be completed by January 31, 2024. With respect to a shortfall of adequate sites to accommodate the lower-income RHNA, the element includes Programs AR and AS. However, the Programs commit to the appropriate zoning given the rezoning occurs after the statutory deadline of January 31, 2023. HCD understands the Town completed the rezoning after the statutory deadline and, therefore, the rezoning must meet all by right requirements pursuant to Government Code section 65583.2, subdivisions (h) and (i). Based on a cursory review, the rezoning does not appear to meet these requirements. As a result, these programs must	Not Found	No/?		Yes	Rezone ordinance 2347, Ord 2348, Ord 2349, Ord 23507;

<p>clearly commit to meet all by-right requirements by January 31, 2024.</p> <p>In addition, please be aware, the recent California appellate decision in <i>Martinez v. City of Clovis</i> found that while overlays can be used in a rezone, when the base zone allows residential development, both the base zone and the overlay zone must comply with the minimum density requirements of Government Code section 65583.2, subdivision (h). The Town may need to adjust its rezoning strategy if the underlying zoning for sites that will be rezoned allows minimum densities less than 20 dwelling units per acre. <i>Martinez v. City of Clovis</i> (2023) 90 Cal.App.5th 193, 307 Cal.Rptr.3d 64.</p>					
Governmental Constraints					
<p><u>Land Use Controls:</u> HCD's prior review found that the Town must list and evaluate development standards in the North Forty Specific Plan and High Density Residential and Commercial designation. In response, the Town has now listed development standards by each zoning district but should also analyze those development standards for impacts on housing supply and cost and most importantly, the ability to encourage maximum densities without exceptions. For example, lot coverages, heights, and setbacks in the Multifamily Residential (RM) zone; and lot coverage heights and guest parking requirements in the North Forty Specific Plan could be constraints. Based on the outcomes of a complete analysis, the element should add or modify programs to include specific commitment to review and revise these development standards as necessary.</p>	<p>C-1 C-5 10-62</p>	<p>?</p>	<p>10-43</p>	<p>No</p>	<p>Program D includes action to remove guest parking in North Forty Specific plan; however, include a program to revise all MF guest parking requirements, specifically RM, CH zones.</p> <p>Prior Review: RM parking program? Guest parking reduced?</p> <p>Guest parking and lot coverage in the North Forty Specific Plan analyzed?</p>
<p><u>Local Processing and Permit Procedures:</u> The element now discusses decision-making bodies and lists approval findings for the Architecture and Site Application. However, the element should also analyze these processes to better inform programs to address identified constraint. For example, the element mentions the decision-making body depends on the scope of the application. The element should explain the scope, resulting decision-making body and impacts on</p>	<p>10-62</p>	<p>No/?</p>	<p>C-41</p>	<p>~</p>	<p>Brief statement made on approval body but must discuss and analyze the scope of the trigger for PC review.</p> <p>Program AQ</p> <p>Prior Review: See Program AQ</p>

approval timing and certainty. In addition, the element lists approval findings and concludes some findings may be constraints then modifies Program AQ (Zoning Code Amendments) to amend approval findings (considerations). But the element should discuss which approval findings may be constraints to better inform implementation of Program AQ.					<p>Program should remove or modify Findings 4 and 6 of the architectural and site process</p> <p>Scope trigger for approval body analyzed? Addressed?</p>
<u>Programs:</u> As noted above, the element requires a complete analysis of potential governmental constraints. Depending upon the results of that analysis, the Town may need to revise or add programs and address and remove or mitigate any identified constraints. In addition, programs should be revised, as follows:		TBD		TBD	Depends on complete analysis
<u>Program D (Additional Capacity for the North Forty Specific Plan):</u> The Program should also commit to establish or modify development standards to facilitate achieving maximum densities, regardless of the level of affordability and should specify to either remove the unit cap or increase the unit cap to allow maximum build out of each parcel , including State Density Bonus Law or other circumstances that might warrant increasing allowable densities .	10-41	~/No/?		No	<p>Include a specific commitment to increase or remove unit cap (within 6 months)</p> <p>Prior Review: No action included to modify development standards?</p> <p>No action to remove cap. Commitments should also not implement the cap to allow maximum build out of each parcel or other circumstances warranting increasing allowable densities</p>
<u>Program V (Housing opportunities for Persons living with Disabilities):</u> Given the importance of promoting housing access for persons with disabilities, the Program could be modified with a date earlier in the planning period (e.g., by December 2024).	?	No/?	10-57	Yes	
<u>Program AA (Reduce Parking Standards):</u> The Program currently commits to "Initiate a study to determine specific updates..." While initiating a study and making a determination are important steps by themselves, these actions do not result in outcomes. The Program should clearly commit to amending the municipal code. For example, the	10-53	Yes		N/A	

Program could commit to: “Initiate a study and outreach, including with developers, and amend the Municipal Code, as follows:...”					
<u>Program AQ (Zoning Code Amendments)</u> : The Program commits to apply the Housing Element Overlay Zone (HEOZ) to identified sites and modify development standards. HCD understands this action has been completed. Based on a cursory review of the Town’s Ordinance 2347, some development standards such as heights may be a constraint on achieving maximum densities. As a result, this Program should commit to monitor and evaluate these development standards, including outreach with the development community, and making adjustments, as appropriate, by a specified date.	10-61	~/No	10-70	Yes	Program AQ
<u>Program AW (Story Poles and Netting Policy)</u> : While the Program now commits to revise Story Poles and Netting Policy Requirements; these requirements are constraints and impact housing costs; supply (number of units) and approval certainty and should be removed or replaced with cost effective measures to promote certainty for the developers and the community. Further, the element should evaluate the effectiveness of any future requirements or measures, and making adjustments, as necessary, by a specified date (e.g., by 2028).	10-65-	No	C-38	Yes	Program AW Prior Review: Video rendering should be expanded to other visual methods Scope of alternative should be expanded to all multifamily and mixed use
Housing Programs: ADU					
<u>Program Q Accessory Dwelling Units (ADU)</u> : While the Program now commits to amend the ADU Ordinance, it must also commit to establish incentives such as modifying development standards (e.g., heights), pursuing funding; waiving fees beyond ADU law; proactive marketing and establishing points of contact to ease permitting processes. In addition, the Program commits to monitor production and affordability of ADUs annually but should also commit to making adjustments by a specified date (e.g., within six months) if production and affordability are not meeting assumptions. Further, the Program should clearly commit to options beyond incentives such as rezoning if production and affordability far differs from assumptions.	10-48-	Yes		N/A	

Public Participation:

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the Town should continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available and considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD. HCD particularly encourages the Town to continue engaging commenters on this review. These comments contained valuable insights that can result in a more effective housing elements, especially related to programs and specific commitment. HCD's future reviews will continue to consider the extent to which the revised element documents how the Town solicited, considered, and addressed public comments in the element. The Town's consideration of public comments must not be limited by HCD's findings in this review letter.

?

10-17

Yes/~

Summary of Public comments submitted.

Other (HCD use only)

Program J

N/A

No

New language excluding missing middle housing types in multiple areas throughout the Town. The program should remove new language and proceed with previous program language informally reviewed.

Program AY

N/A

No

See comments above.

Sb 9 units

N/A

10-9
D-2

No/?

Is the town now counting SB 9 units towards RHNA?
Table D-2?

Public comments

TBD

Yes

Additional comments?

					Prior Review: Must address new public comments
Document availability		FYI		FYI	
Rezone timing		FYI		FYI	Cant be found in full compliance until all rezones are complete
50% nonvacant resolution		FYI		FYI	
Electronic sites inventory		FYI		FYI	
Overlay				No	Program AQ HE Overlay zone
Modification Authority		N/A		N/A	Informal submittal

From: Iddo Hadar <[REDACTED]>
Sent: Sunday, February 18, 2024 8:11 PM
To: Housing Element <HEUpdate@losgatosca.gov>
Subject: Fwd: Housing Situation in Los Gatos

In reference to: Town Council Meeting – February 20, 2024– 7:00 p.m.

We were informed that, on February 20, 2024, the Town Council will be discussing and providing feedback on the latest revisions to the Draft Revised Housing Element.

I would like to provide (and discuss in person during the session) comments on specific site plans included in your list:

The plans for Capri Fruitstand (14288 Capri Dr) are absurd, in terms of height and number of units. Neither Plan A nor Plan B are logical for the location and the town in general.

Thank you for the opportunity to review this information and provide input.

-Iddo Hadar

----- Forwarded message -----

From: Matthew Hudes <[REDACTED]>
Date: Mon, Feb 12, 2024 at 6:30 AM
Subject: Re: Housing Situation in Los Gatos
To: Iddo Hadar <[REDACTED]>

Hi Iddo,

We have recently **made some progress on our Housing Element** document that needs to be certified by the State.

As you know, the document failed to gain approval 4 times, but obtaining this approval ASAP is imperative, since the fact that it is overdue for State certification has opened the door to developers claiming that they have the right to a Builder's Remedy. In fact, a **Builder's Remedy has already been claimed in at least 9 of the 11 new proposals to the Town**, as listed below. (If granted, a Builder's Remedy limits the Town's ability to alter/guide the proposed development, providing "almost automatic" approval.) During the February 6 Council meeting, we made progress responding to the State's requirement to spread housing throughout the Town. Some members of the Council proposed **opening all single-family residential neighborhoods to multi-unit housing**. This **expansive approach**, added to our already included housing sites, **could allow a maximum possible 5,250 new housing units** in Town, going far beyond the State requirement of **1,993 units**. Of course this large number is not likely, but it illustrates the uncontrolled nature of an approach with no constraints. And yet, this approach would still **not necessarily result in any of the small multi-unit housing actually being affordable**

housing. I proposed a **more guided approach, which passed on a 3-2 vote.** The guided approach steers this denser development to areas that are more **fire-safe and more transit-available** and that are less likely to disrupt the historic and natural beauty of Los Gatos.

This progress on the Housing Element is part of the more efficient approach to getting our entire Housing Element approved **as quickly as possible.** Over the last 18 months, the Town failed 4 times to get its 800-page document approved, each time going through a cumbersome 3-6 month cycle. Now, in order to **obtain State approval more nimbly and efficiently,** the Town is following a process (that I proposed and the Council unanimously approved) to "fix" the State's concerns, piece by piece, in manageable "bites" that can be **readily, informally reviewed and approved by the State.** This should save months of time as compared to our previous approach. I believe that it is not **how quickly we submit, but how quickly we are certified that matters.**

Our next meeting is on February 20, and your involvement and engagement are welcomed. We will continue to push forward until we obtain certification.

Regards,
Matthew
Vice Mayor, Town of Los Gatos

Site	Address	Builder's Remedy	Pre-Application	Formal Application	Stories	Units	Affordable
Post Office	101 S. Santa Cruz Ave "A"***	x		x	7	58	12
North 40 Phase IIA	14859, etc. LG Blvd			x	7	451	67
North 40 Phase IIB	14849 Los Gatos Blvd	x	x		7	132	27
Alberto Way	405 Alberto Way			x	4	52	8
Los Gatos Lodge	50 LG-Saratoga Rd	x		x	3	158	32
Mirassou School	220 Belgatos Road	x	x		2	30	6
Capri Fruitstand	14288 Capri Dr "A"***	x	x		12	175	35
Ace Hardware	15300-15330 LG Blvd	x	x		7	188	38
Surrey Farms	Twin Oaks Dr	x	x		2	12	3
Café Dio	143-151 E. Main Street	x	x		4	26	2
Stanford Health Care	15861 Winchester Blvd	x	x		3	20	4
						1,302	234
* Information provided by Los Gatos website: - https://www.losgatosca.gov/2875/Senate-Bill-SB-330 11 February, 2024							
** An alternative for 14288 Capri Drive "B" is:		x	x		7	95	19
*** An alternative for 101 S. Santa Cruz "B" is:		x	x		4	20	4

I am always open to information provided at public hearings. I will not express a final opinion until the Council votes on these matters. Any expression is by me as an individual, not by the Council.

On Dec 31, 2023, at 12:06 PM Matthew Hudes <[REDACTED]> wrote:
Hi Iddo,

Some **good news about the Housing Element** document that needs to be certified by the State (and has failed to gain approval 4 times):

On December 19, the Los Gatos Town Council met and **adopted a new, more effective process for revising and obtaining approval from the State. This new process is structured to better engage** the community, the Council, the housing consultant and the State. This will enable the **community to be more involved** in the decisions that are made regarding the **locations for housing** as well making more effective, directed progress toward **State certification**. By a 5-0 vote, the Council adopted a motion that I made, outlined as having the following actions:

1. Prioritizing the comments from the California Department of Housing and Community Development (HCD)
2. Presenting the Los Gatos Housing Element draft text to Council with examples from two to three certified Housing Elements, and providing the public an opportunity to comment at the Council meeting with staff addressing the public comments in subsequent meetings
3. Scheduling Council meetings with the Town's housing consultant on a regular basis to complete the edits
4. Reviewing the proposed edits with HCD and providing written feedback to the Council about HCD's responses
5. Conducting public engagement with the Housing Element Advisory Board after Council completes the draft

Council also unanimously voted to meet and review the Housing Element prior to submittal to the State (HCD).

This means that you will have the **opportunity to participate at the January 16 Council meeting** and at subsequent meetings until the **State certifies our Housing Element**. As Mayor Badame stated, this is the most important issue currently facing the Town. Please keep your ideas and comments coming, as I read all of them.

Regards,
Matthew

More information:

Video of February 6 Council Meeting

<https://www.youtube.com/watch?v=NiejWYHRdGE&t=4s>

(about 37 minutes in)

SB 330 including Pre-Applications

<https://www.losgatosca.gov/2875/Senate-Bill-SB-330>

Formal Applications

<https://www.losgatosca.gov/2216/Pending-Planning-Projects>

Housing Element

<https://www.losgatosca.gov/1735/General-Plan---Housing-Element>

Matthew Hudes for Town Council · CA 95030, United States

This email was sent to [REDACTED]. To stop receiving emails, [click here](#).



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 12

DATE: February 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Define 'By Right Approvals' and Amend the Housing Element Overlay Zone (HEOZ), Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,'" to Clarify Regulations Applicable to "By Right" and "Non By Right" Residential Development in the Housing Element Overlay Zone. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-24-001. APPLICANT: Town of Los Gatos. PROJECT PLANNERS: Jocelyn Shoopman and Erin Walters.

RECOMMENDATION:

Approve a recommendation of the Planning Commission to introduce to Introduce an Ordinance titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Define 'By Right Approvals' and Amend the Housing Element Overlay Zone (HEOZ), Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,'" to Clarify Regulations Applicable to "By Right" and "Non By Right" Residential Development in the Housing Element Overlay Zone (Attachment 2).

BACKGROUND:

The Town of Los Gatos is required to prepare an updated Housing Element for the period covering 2023-2031 that is certified by the State Housing Community Development Department (HCD). The Housing Element is one of nine State-mandated elements that must be included in every General Plan. The Housing Element assesses housing needs for all income groups within

PREPARED BY: Jocelyn Shoopman, Associate Planner and
Erin Walters, Associate Planner

Reviewed by: Town Manager, Community Development Director, Planning Manager, and Town Attorney

BACKGROUND (continued):

the community and identifies implementation programs to meet those housing needs. Unlike other General Plan elements, the Housing Element must be updated every eight years, rather than every 10 to 20 years, must address statutory requirements regarding its content, and is subject to mandatory review by HCD. The Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle planning period is 1,993 units.

The Town of Los Gatos 2023-2031 Housing Element identifies amending the Town Code to create the HEOZ as a strategy to accommodate the Town's RHNA.

On November 21, 2023, the Town Council adopted Ordinance No. 2347 to enact the proposed Town Code amendments to modify the Affordable Housing Overlay Zone (AHOZ) to become the HEOZ (Attachment 1).

On December 1, 2023, the Town received the HCD findings/comment letter on the Town's Draft Revised Housing Element as submitted to HCD, including a preliminary review of the adopted HEOZ Ordinance. The comment letter recommended additional amendments. The letter is available on the Town's Housing Element webpage:

<https://www.losgatosca.gov/HousingElement>

On January 24, 2024, the Planning Commission met to discuss the amendments proposed in response to the HCD comments. The Planning Commission received and considered public comments on the proposed amendments, reviewed the proposed language, and unanimously recommended approval to Town Council with the single modification of "at the density ranges specified in Table 1-A" to "within the density ranges specified in Table 1-A in Section 29.80.510 (a)" (Attachments 3 and 4).

DISCUSSION:

The Town has received comments from HCD requiring amendments to the Town's adopted HEOZ Ordinance to include by right approval requirements pursuant to Government Code section 65583.2, subdivision (h) and (i), as well as the minimum density requirements of Government Code section 65583.2, subdivision (h).

Staff, with the assistance from the Town's outside legal counsel, Goldfarb and Lipman LLP, and the Town's Housing Consultant, Veronica Tam and Associates, have prepared an amended ordinance (Attachment 2) to address HCD's comments, as described in Attachment 3.

The proposed amended ordinance in Attachment 2 includes a definition of "By Right Approval" from the State Government Code. The amended Ordinance also provides clarification on which regulations apply to "By Right" and "Non By Right" residential development in the HEOZ.

DISCUSSION (continued):

The Town's HCD reviewer has reviewed the proposed language, asked clarifying questions of staff, and staff provided HCD answers. The Town's HCD reviewer responded with an email thanking staff for the clarifications.

PUBLIC COMMENTS:

Public notification has included a legal advertisement in the paper. The meeting has also been publicized on the Town's website and through the Town's social media platforms. As of the drafting of this report, no comments from the public have been received.

CONCLUSION:

Staff recommends that the Council introduce an Ordinance titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Define 'By Right Approvals' and Amend the Housing Element Overlay Zone (HEOZ), Division 5 of Article VIII, 'Overlay Zones and Historic Preservation'" to clarify which regulations apply to "By Right" and "Non By Right" residential development in the HEOZ (Attachment 2) with any specific changes identified and agreed upon by the majority of the Town Council.

Alternatively, the Council may:

1. Continue this item to a date certain with specific direction to staff; or
2. Refer the item back to the Planning Commission with specific direction.

Attachments:

1. Ordinance 2347
2. Draft Ordinance
3. January 24, 2024, Planning Commission Staff Report with Exhibits 1-2
4. January 24, 2024, Planning Commission Verbatim Minutes

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ORDINANCE 2347

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS AMENDING CHAPTER 29, "ZONING REGULATIONS," OF THE TOWN CODE TO REPLACE THE AFFORDABLE HOUSING OVERLAY ZONE DIVISION 5 OF ARTICLE VIII, "OVERLAY ZONES AND HISTORIC PRESERVATION," WITH THE HOUSING ELEMENT OVERLAY ZONE AS DIVISION 5 OF ARTICLE VIII, "OVERLAY ZONES AND HISTORIC PRESERVATION"

ZONING CODE AMENDMENT APPLICATION Z-23-002

PROPERTY LOCATION: TOWN WIDE APPLICANT: TOWN OF LOS GATOS

WHEREAS, the Town of Los Gatos 2023-2031 Housing Element identifies amending the Town Code to create the Housing Element Overlay Zone as a strategy to accommodate the Town's Regional Housing Needs Allocation (RHNA); and

WHEREAS, the Planning Commission at its meeting on August 23, 2023, reviewed the proposed Town Code amendments , held a public hearing, and forwarded a recommendation of approval to the Town Council; and

WHEREAS, the Town Council at its meeting on October 3, 2023, reviewed the proposed Town Code amendment, held a public hearing, and adopted the ordinance to amend the Town Code to modify the Affordable Housing Overlay Zone to be the Housing Element Overlay Zone; and

WHEREAS, because the project description in the public hearing notice did not include the Planning Commission's recommendation, the item was re-noticed for the Town Council's consideration; and

WHEREAS, November 7, 2023, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Town Code amendment and held a public hearing; and

WHEREAS, the Town Council considered all facts and information related to a request to amend the Town Code as shown in Exhibit A and voted to introduce the Ordinance; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on November 21, 2023.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. CEQA.

The Town Council finds as follows:

- A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Zoning Code amendments; and
- B. The Town Code Amendments are consistent with the General Plan and its elements in that the proposed zonings are consistent with the proposed General Plan land use designations; and
- C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.; and

SECTION II. Chapter 29, Article VIII., Division 5 of the Town Code is hereby amended to read as follows:

ARTICLE VIII. OVERLAY ZONES AND HISTORIC PRESERVATION

...

DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

Sec. 29.80.505. Intent.

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

Sec. 29.80.510. HEOZ and underlying zoning.

A property that has the HEOZ designation may be developed with a residential or mixed-use project with a residential use occupying more than 50 percent of the total floor area based on the standards provided in this division or, where standards are not specified, then based on

the standards provided in the underlying zone. The underlying zoning development standards will remain in effect for all other development without a residential component.

Pursuant to Government Code Section 65583.2(i), by right development will be allowed when 20 percent or more of the units are affordable to lower income households.

Sec. 29.80.515. HEOZ general development standards.

A proposed residential project, including a mixed-use project with a residential use occupying more than 50 percent of the total floor area within the HEOZ shall be designed and constructed in conformity with the development standards for the corresponding zoning and General Plan Land Use designation in Table 1A (Overlay Zones Development Standards). Regardless of the underlying zoning designation, no residential project or mixed-use project with a residential use occupying more than 50 percent of the total floor area may be developed that does not meet the applicable HEOZ development standards.

Table 1A (HEOZ Development Standards)

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20
Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20
Service Commercial	LM	As authorized by Section 29.70.125	N/A	1.0	35 feet	none
Light Industrial	CM	As authorized by Section 29.70.235	N/A	1.0	35 feet	none

SECTION III. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 7th day of November, 2023, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the 21st day of November, 2023. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

COUNCIL MEMBERS:

AYES: Matthew Hudes, Rob Moore, Rob Rennie, Mayor Maria Ristow

NAYS: None

ABSENT: None

ABSTAIN: Mary Badame

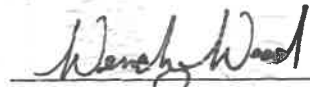
SIGNED:



MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 11-22-23

ATTEST:



TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: 11/22/23

Chapter 29 - ZONING REGULATIONS
ARTICLE VIII. - OVERLAY ZONES AND HISTORIC PRESERVATION
DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

Sec. 29.80.505. Intent.

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

Sec. 29.80.510. HEOZ and underlying zoning.

A property that has the HEOZ designation may be developed with a residential or mixed-use project with a residential use occupying more than 50 percent of the total floor area based on the standards provided in this division or, where standards are not specified, then based on the standards provided in the underlying zone. The underlying zoning development standards will remain in effect for all other development without a residential component.

Pursuant to Government Code Section 65583.2(i), by right development will be allowed when 20 percent or more of the units are affordable to lower income households.

Sec. 29.80.515. HEOZ general development standards.

A proposed residential project, including a mixed-use project with a residential use occupying more than 50 percent of the total floor area within the HEOZ shall be designed and constructed in conformity with the development standards for the corresponding zoning and General Plan Land Use designation in Table 1A (Overlay Zones Development Standards). Regardless of the underlying zoning designation, no residential project or mixed-use project with a residential use occupying more than 50 percent of the total floor area may be developed that does not meet the applicable HEOZ development standards.

Table 1A (HEOZ Development Standards)

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20

Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20
Service Commercial	LM	As authorized by Section 29.70.125	N/A	1.0	35 feet	none
Light Industrial	CM	As authorized by Section 29.70.235	N/A	1.0	35 feet	none

DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29, "ZONING REGULATIONS," OF THE TOWN CODE
TO DEFINE "BY RIGHT APPROVALS" AND AMEND THE HOUSING ELEMENT
OVERLAY ZONE (HEOZ), DIVISION 5 OF ARTICLE VIII, "OVERLAY
ZONES AND HISTORIC PRESERVATION"**

ZONING CODE AMENDMENT APPLICATION Z-24-001

**PROPERTY LOCATION: TOWN WIDE
APPLICANT: TOWN OF LOS GATOS**

WHEREAS, the Town of Los Gatos 2023-2031 Housing Element identifies amending the Town Code to create the Housing Element Overlay Zone as a strategy to accommodate the Town's Regional Housing Needs Allocation (RHNA); and

WHEREAS, the Planning Commission at its meeting on August 23, 2023, reviewed the proposed Town Code amendments, held a public hearing, and forwarded a recommendation of approval to the Town Council; and

WHEREAS, on October 3, 2023, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Town Code amendment, held a public hearing, and continued to the matter to November 7, 2023; and

WHEREAS, on November 7, 2023, the Town Council reviewed the proposed Town Code amendments, held a public hearing, and introduced the ordinance to amend the Town Code to modify the Affordable Housing Overlay Zone to be the Housing Element Overlay Zone; and

WHEREAS, on November 21, 2023, the Town Council adopted Ordinance No. 2347 to enact the proposed Town Code amendments; and

WHEREAS, on December 1, 2023, the Town received comments from the State Housing and Community Development Department (HCD) regarding the adopted Housing Element Overlay Zone ordinance; and

WHEREAS, staff has prepared a revised ordinance to address HCD's comments; and

WHEREAS, the Planning Commission at its meeting on January 24, 2024, reviewed proposed Town Code amendments, held a public hearing, and forwarded a recommendation of approval to the Town Council; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law

and came before the Town Council on February 20, 2024.

WHEREAS, on February 20, 2024, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Town Code amendments, held a public hearing, and introduced an ordinance to add a definition of "by right approval" and modify the HEOZ Ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Section 29.10.020, "Definitions," of Chapter 29, "Zoning Regulations," of the Town Code is amended to add the following between the definitions of "*Business or commerce*" and "*Carport*" to read as follows:

By right approval shall have the meaning set forth in Government Code Section 65583.2 (i).

SECTION II. Division 5 of Article VIII, "Overlay Zones and Historic Preservation," of Chapter 29, "Zoning Regulations," is amended to read as follows:

ARTICLE VIII. OVERLAY ZONES AND HISTORIC PRESERVATION

...

DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

Sec. 29.80.505. Intent.

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

Sec. 29.80.510. HEOZ and underlying zoning.

- (a) "By right" residential developments on sites with underlying zoning of RM, CH, or NF-SP (Table 1A below). Pursuant to Government Code Section 65583.2, subsections (h) and (i), in the HEOZ, residential developments with at least 20 percent of the units proposed for "low income" households and without a subdivision are subject to "by right approval." These developments are subject to the following:

1. The developments must be developed ~~at~~ within the ~~density~~ density ranges specified in Table 1A below and in no event shall any residential development projects be developed below the minimum density of 30 units per acre.
2. The developments shall be subject to non-discretionary design review based on objective development standards in accordance with the procedures specified in Article II, "Administration and Enforcement," of Chapter 29, "Zoning Regulations," of the Town Code.
3. No California Environmental Quality Act review shall be required.
4. Subdivisions remain subject to all applicable state and local laws, including but not limited to the Subdivision Map Act.
5. Residential units shall occupy at least 50 percent of the floor area in all mixed-use projects.
6. For residential developments and mixed-use projects, the standards set forth in Table 1A shall apply.

Table 1A HEOZ Development Standards for "By Right" Residential Development

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40

(b) For all other residential developments other than those described in subsection (a), the standards set forth in Table 1B below shall apply.

Table 1B HEOZ Development Standards for Other Residential Development

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20

Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20

- (c) The underlying zoning development standards will remain in effect for all other development without a residential component.
- (d) Regardless of the underlying zoning designation, no residential use may be developed that does not meet the applicable HEOZ development standards.
- (e) Where standards are not specified, the development standards provided in the underlying zoning district shall apply.

SECTION III. CEQA.

The Town Council finds as follows:

- A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Town Code amendments; and
- B. The Town Code amendments are consistent with the General Plan and its elements; and
- C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.

SECTION IV. EFFECTIVE DATE.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 20th day of February 2024, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of _____, 2024. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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**TOWN OF LOS GATOS
PLANNING COMMISSION
REPORT**

MEETING DATE: 01/24/2024

ITEM NO: 3

DATE: January 19, 2024
TO: Planning Commission
FROM: Joel Paulson, Community Development Director
SUBJECT: Consider a Request to Further Amend Chapter 29 of the Town Code to Define "By Right Approvals" and Amend the Housing Element Overlay Zone as Division 5 of Article VIII, "Overlay Zones and Historic Preservation." An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-24-001. **Project Location: Town Wide.** Applicant: Town of Los Gatos.

RECOMMENDATION:

Forward a recommendation of approval to the Town Council to further amend Chapter 29 of the Town Code to define "By Right Approvals" and amend the Housing Element Overlay Zone (HEOZ) as Division 5 of Article VIII, "Overlay Zones and Historic Preservation."

BACKGROUND:

The Town of Los Gatos is required to prepare an updated Housing Element for the period covering 2023-2031 that is certified by the State Housing Community Development Department (HCD). The Housing Element is one of nine State-mandated elements that must be included in every General Plan. The Housing Element assesses housing needs for all income groups within the community and identifies implementation programs to meet those housing needs. Unlike other General Plan elements, the Housing Element must be updated every eight years, rather than every 10 to 20 years, must address statutory requirements regarding its content, and is subject to mandatory review by HCD. The Town's Regional Housing Needs Allocation (RHNA) for the sixth cycle planning period is 1,993 units.

The Town of Los Gatos 2023-2031 Housing Element identifies amending the Town Code to create the HEOZ as a strategy to accommodate the Town's Regional Housing Needs Allocation (RHNA).

PREPARED BY: Jocelyn Shoopman and Erin Walters
Associate Planner and Associate Planner

Reviewed by: Community Development Director, Planning Manager, and Town Attorney

BACKGROUND (continued):

On August 23, 2023, the Planning Commission reviewed the proposed Town Code amendments, held a public hearing, and forwarded a recommendation of approval to the Town Council to modify the Affordable Housing Overlay Zone (AHOZ) to be the HEOZ.

On October 3, 2023, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Town Code amendment and held a public hearing.

On November 7, 2023, the Town Council, reviewed the proposed Town Code amendments, held a public hearing, and introduced the ordinance to amend the Town Code.

On November 21, 2023, the Town Council adopted Ordinance No. 2347 to enact the proposed Town Code amendments (Exhibit 1).

On December 1, 2023, the Town received the HCD findings/comment letter on the Town's Draft Revised Housing Element as submitted to HCD, including a cursory review of the adopted HEOZ ordinance. The letter is available on the Town's Housing Element webpage:

<https://www.losgatosca.gov/HousingElement>

DISCUSSION:

A. Zoning Amendments

The Town has received comments from HCD requiring amendments to the Town's adopted HEOZ ordinance to include by right approval requirements pursuant to Government Code section 65583.2, subdivision (h) and (i), as well as the minimum density requirements of Government Code section 65583.2, subdivision (h).

Staff, with the assistance from the Town's outside legal counsel, Goldfarb and Lipman LLP, and the Town's Housing Consultant, Veronica Tam and Associates, have prepared an amended ordinance (Exhibit 2) to address HCD's comments.

B. Add "By Right Approval" Definition

The definition of "By Right Approval" below will be added to Section 29.10.2020, "Definitions," of Chapter 29, "Zoning Code Regulations," of the Town Code:

By right approval shall have the meaning set forth in Government Code Section 65583.2 (i).

DISCUSSION (continued):

Government Code Section 65583.2 (i) defines “By Right Approval” as the following:

For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

C. Provide Additional Specification on Residential Development in the HEOZ

Division 5 of Article VIII, “Overlay Zones and Historic Preservation,” of Chapter 29, “Zoning Regulations,” is amended to provide clarification on what regulations apply to “by right” and “non by right” residential development in the HEOZ.

Specification includes the following for “by right” developments:

- Residential developments on sites with underlying zoning of RM, CH, or NF-SP with at least 20 percent of the units proposed for “low income” households and without a subdivision are subject to “by right approval.”
- The developments must be developed at the densities specified in Table 1A below and in no event shall any residential development projects be developed below the minimum density of 30 units per acre.
- The developments shall be subject to non-discretionary design review based on objective development standards in accordance with the procedures specified in Article II, "Administration and Enforcement," of Chapter 29, “Zoning Regulations,” of the Town Code.
- No California Environmental Quality Act review shall be required.
- Subdivisions remain subject to all applicable state and local laws, including but not limited to the Subdivision Map Act.
- Residential units shall occupy at least 50 percent of the floor area in all mixed-use projects.
- For residential developments and mixed-use projects, the standards set forth in Table 1A shall apply.

DISCUSSION (continued):

Table 1A HEOZ Development Standards for “By Right” Residential Development

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40

Specification includes the following for all other residential developments include the standards in Table 1B:

Table 1B HEOZ Development Standards for Other Residential Development

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405, 29.40.530, and 29.40.645	75%	N/A	35 feet	14-22 or 5-12 in Very High Fire Hazard Severity Zones
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20
Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20

Specification includes the following for all residential developments, both “by right” and “non by right”:

- The underlying zoning development standards will remain in effect for all other development without a residential component.
- Regardless of the underlying zoning designation, no residential use may be developed that does not meet the applicable HEOZ development standards.
- Where standards are not specified, the development standards provided in the underlying zoning district shall apply.

DISCUSSION (continued):

D. Next Steps

The Town Council will consider the proposed HEOZ Town Code amendments at a future date.

PUBLIC COMMENTS:

Public notification has included a legal ad in the paper. The meeting has also been publicized on the Town's website and through the Town's social media platforms. As of the drafting of this report, no comments from the public have been received.

CONCLUSION:

A. Summary

Consider a request for approval to further amend Chapter 29 of the Town Code to Define "By Right Approvals" and amend the HEOZ as Division 5 of Article VIII, "Overlay Zones and Historic Preservation."

B. Recommendation

Based on the analysis above, staff recommends that the Planning Commission consider the Town Code amendments and forward a recommendation for approval of the amendments to the Town Council (Exhibit 2).

C. Alternatives

Alternatively, the Planning Commission can:

1. Continue the matter to a date certain with specific direction; or
2. Provide a recommendation for denial to the Town Council providing findings for denial.

EXHIBITS:

1. Adopted Ordinance 2347
2. Draft Ordinance

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A P P E A R A N C E S:

Los Gatos Planning Commissioners:	Steve Raspe, Chair Emily Thomas, Vice Chair Susan Burnett Melanie Hanssen Kathryn Janoff Adam Mayer
Town Manager:	Laurel Prevetti
Community Development Director:	Joel Paulson
Town Attorney:	Gabrielle Whelan
Transcribed by:	Vicki L. Blandin (619) 541-3405

1
2
3 P R O C E E D I N G S:

4 CHAIR RASPE: We now move to the public portion
5 of the hearing tonight, and tonight we have a single item
6 on the agenda, a request to further amend Chapter 29 of the
7 Town Code to define "By Right Approvals," and amend the
8 Housing Element Overlay Zone as Division 5 of Article VIII,
9 "Overlay Zones and Historic Preservation." An Environmental
10 Impact Report was prepared and certified for the 2040
11 General Plan Update on June 30, 2022. As a result, no
12 further environmental analysis is required.
13

14 Tonight I believe our Staff Report is from Ms.
15 Walters. Ms. Walters, would you like to proceed?

16 ERIN WALTERS: Yes, good evening, Chair and
17 Planning Commissioners.

18 Before you tonight is an amendment to the Housing
19 Element Overlay Zone Ordinance, also known as the HEOZ
20 Ordinance. On November 21st of last year the Town Council
21 adopted the original HEOZ Ordinance as recommended by
22 Planning Commission, and this can be found in Exhibit 1.
23

24 Tonight's amendment is in response to HCD's
25 comments received by the Town on December 1st. The amended
ordinance does not change the density minimum or maximum,

LOS GATOS PLANNING COMMISSION 1/24/2024, Item #3,
Amendments to Town Code re: By Right Approvals,
Amendment to Housing Element Overlay Zone

1 it does not propose to modify sites with the HEOZ Overlay,
2 but rather the proposed amendment provides more clear and
3 explicit language. The Town's outside legal counsel,
4 housing consultant, and HCD have reviewed this language.

5 The proposed amended ordinance in Exhibit 2
6 includes a definition of "by right approval" by the State
7 government code. It also provides clarification on
8 regulations that apply to by right and non-by right
9 residential development, which is an HEOZ overlay.

10 Planning Commission recommendation tonight will
11 be forwarded to Town Council. Tentatively the Council will
12 hear this item on February 20th, and the second reading is
13 tentative for March 5th.

14 This concludes Staff's presentation. Staff is
15 available for questions.

16 CHAIR RASPE: Thank you, Ms. Walters.
17 Commissioners, any questions for Staff on this item?
18 Commissioner Hanssen.

19 COMMISSIONER HANSSEN: Since we have gone through
20 plenty of reviews with HCD, you did mention that this
21 proposed change in language has been reviewed by outside
22 legal, our consultants, and HCD, so you know what my next
23 question is going to be. We shouldn't have any issue with
24 getting this through HCD this time. They did flag that we
25

LOS GATOS PLANNING COMMISSION 1/24/2024, Item #3,
Amendments to Town Code re: By Right Approvals,
Amendment to Housing Element Overlay Zone

1 had not met the requirements for the rezoning, and so this
2 will take us there and we don't have anything left?

3 ERIN WALTERS: That would be our hope per their
4 review and our guidance from outside counsel.

5 COMMISSIONER HANSSEN: But they actually reviewed
6 this section of what changes and they said it looks okay?

7 ATTORNEY WHELAN: They have. Yes, they did. This
8 is Gabrielle Whelen, Town Attorney. They reviewed the
9 ordinance over the past several weeks. They did have some
10 questions for Staff on Monday and we responded to those
11 questions, and I believe it meets their requirements.

12 COMMISSIONER HANSSEN: Okay, thank you.

13 CHAIR RASPE: Thank you. Any other questions from
14 Commissioners? Commissioner Janoff.

15 COMMISSIONER JANOFF: Thank you. Since you met
16 with HCD on Monday, or had feedback on Monday, and we
17 received our packages on Friday, did the feedback from HCD
18 offer any substantial changes to what you had offered?

19 ATTORNEY WHELAN: No, they wanted to see
20 explicitly where it is stated that any residential
21 development must comply with the minimum densities that are
22 set forth in the ordinance, and so we provided that. I
23 can't remember their other questions. They had like two
24
25

1 other questions. It was mostly they wanted to know where
2 specifically in the ordinance requirements were located.

3 JENNIFER ARMER: I can jump in through the Chair
4 to provide additional clarification. We shared this draft
5 of the ordinance with HCD and with our reviewer on Friday
6 at the same time that we provide you with the Staff Report,
7 and we heard from them on Monday with a few clarifying
8 questions.

9
10 It seemed clear that they were just confirming
11 that certain things were in there, for example, the fact
12 that you can't use the underlying zone, which might have a
13 lower density, but that you would need to meet the minimum
14 density in the Housing Element Overlay Zone, and so it was
15 just confirming that those were located within, and we
16 received acknowledgement of our responses.

17 CHAIR RASPE: Thank you so much. Any further
18 questions, Commissioners? I have just one, and correct me
19 if I'm wrong. This appears to me to be a largely technical
20 correction for some language to be included. Is it correct
21 that this does not impact our RHNA allocation numbers?

22 ERIN WALTERS: That's correct, that does not
23 change.

24 CHAIR RASPE: I appreciate the confirmation.
25 Thank you. Commissioners, anything else? Let's then go to

LOS GATOS PLANNING COMMISSION 1/24/2024, Item #3,
Amendments to Town Code re: By Right Approvals,
Amendment to Housing Element Overlay Zone

1 members of our public for their comments. I have two cards
2 tonight. Lee Fagot, if you'd please come to the podium and
3 state your name for the record. You have three minutes.

4 LEE FAGOT: Good evening, thank you. Appreciate
5 the opportunity to speak tonight. Lee Fagot, a resident of
6 Los Gatos. I'm not representing any group; I'm speaking as
7 an individual long-term resident of the Town.

8 I appreciate the clarification tonight from the
9 feedback that occurred Monday that was discussed as well
10 earlier this week by Council.

11 My concern is that we must preserve the historic
12 parts of our town, because that is the history of this
13 town, that is the legacy, and that is what our next
14 generations want to be able to relate to; that link is
15 critical. If there is a way to go forward and continue to
16 preserve and still meet the RHNA allocation requirements of
17 numbers of sites, please find a way to do that.

18 The other question I had was going to be did you
19 consider input from HCD from this week, but I just heard
20 you do that.

21 Again, thanks for all the work that you've been
22 doing. It's been a lot of effort, a lot of work, and the
23 citizens appreciate it. You are representing us, the
24 citizens in town going forward, and preserving the
25

LOS GATOS PLANNING COMMISSION 1/24/2024, Item #3,
Amendments to Town Code re: By Right Approvals,
Amendment to Housing Element Overlay Zone

1 character of our town. The heritage that we inherited needs
2 to be passed on, so please do what you can to preserve the
3 Historic District and those sites with the design elements,
4 the height, and densities that are appropriate.

5 Seeing Victorian homes with five-story monoliths
6 next to them, as we've seen in some other municipalities,
7 is not Los Gatos, and we can't let the clowns in Sacramento
8 begin telling us how we're supposed to live our lives here.
9 Let's be folks who take control of our lives here locally
10 and manage it as best we can through this process and their
11 edicts that are coming down. Thank you.
12

13 CHAIR RASPE: Thank you, Mr. Fagot. Before you
14 sit down, do any Commissioners have any questions? No.
15 Thank you, again, for your comments. Lee Quintana, please,
16 if you would approach.

17 LEE QUINTANA: I was going to ask the question
18 also whether this had been reviewed by HCD, and I guess
19 that's been answered, but I do have some questions.

20 The first question I have is I'm somewhat
21 confused by the 1-A, which is, "Developments must be
22 developed within the densities of Table 1-A below." Is it
23 "within" the densities, or "at" the densities?
24

25 It says in one place as long as there is no
subdivision, I believe, and then in another place it

LOS GATOS PLANNING COMMISSION 1/24/2024, Item #3,
Amendments to Town Code re: By Right Approvals,
Amendment to Housing Element Overlay Zone

1 indicates that subdivisions may be applicable. "Subdivision
2 remains subject to all the applicable state and local laws,
3 including but not including the Subdivision Act," so I was
4 a little confused about that.

5 If you could refresh my memory, are there any
6 medium-density sites within the AHOZ zone? My concern there
7 is most medium-density sites in the downtown area are
8 either on very small lots so they can't be developed into
9 larger homes, or they are pre-1941, or they are within an
10 historic district, so I just wanted clarity on that.

11 The other thing I wanted clarity on is whether or
12 not all of the AHOZ zones currently have a General Plan
13 designation and a zoning designation that are consistent
14 with one another, because along the Boulevard I'm not sure
15 they are. Those are my major questions.

16 CHAIR RASPE: Thank you, Ms. Quintana. Before you
17 sit down, any Commissioners have questions of Ms. Quintana?
18 Seeing none, thank you again for your comments. I think
19 that's all the public comments we have here in the
20 chambers. Mr. Paulson, anybody on Zoom wishing to speak on
21 this matter?

22 JOEL PAULSON: No, there are no speakers on Zoom.

23 CHAIR RASPE: Thank you. I'll then close the
24 public portion of this matter and I'll open up the
25

LOS GATOS PLANNING COMMISSION 1/24/2024, Item #3,
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1 Commission to discussion, questions of Staff, anything
2 further. Commissioner Burnett.

3 COMMISSIONER BURNETT: Thank you to the two Lees
4 for your questions. My question would be for Staff. Would
5 you be able to addresses Ms. Quintana's two questions?

6 ATTORNEY WHELAN: I can address the first two
7 questions.

8 COMMISSIONER BURNETT: Thank you.

9 CHAIR RASPE: Please proceed.

10 ATTORNEY WHELAN: As written, the ordinance said
11 that developments must be developed at the density
12 specified in Table 1-A, but those densities are ranges.

13 I think it's clear as it is, but if the Planning
14 Commission feels that it would be clearer to say "within
15 the density ranges specified in Table 1-A below," I'd be
16 open to making that change pending input from CDD.

17 The second question was about subdivisions. The
18 first part of the ordinance where subdivisions are
19 referenced is intended to say that, "Projects requiring
20 subdivisions will not be by right projects," and then the
21 second reference to subdivisions in the ordinance is
22 intended to say that, "Subdivisions will remain subject to
23 all other applicable laws," which is another way of saying
24
25

1 that subdivisions won't be by right development, and so
2 that was our intent with the drafting.

3 CHAIR RASPE: Commissioner Burnett, does that
4 answer your question?

5 COMMISSIONER BURNETT: Yes, thank you.

6 CHAIR RASPE: Thank you. Commissioner Hanssen.

7 COMMISSIONER HANSSEN: I thought it would be
8 worth asking the question about the timing of this since we
9 had a lot of Builder's Remedy applications. When this
10 actually takes effect, we do have some sites that are
11 contained within the site inventory where we've already had
12 a proposal from someone to develop then, and so I'm pretty
13 sure that this won't apply to them because of the timing of
14 their application, but I thought it was worth asking that
15 question, and then I have a follow up question.

16 JENNIFER ARMER: Thank you for that question.
17 Yes, for those that have already had their preliminary
18 application deemed submitted, those vest the regulations at
19 that time, and so any that were deemed submitted prior to
20 December 21, 2023 but then had the overlay zone applied
21 would be developed under the previous zoning.

22 If though, through the development process or
23 decisions by the Applicant, that vesting is lapsed so they
24 don't meet the State regulations or they choose to change
25

LOS GATOS PLANNING COMMISSION 1/24/2024, Item #3,
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1 the project by more than 20% for floor area or number of
2 units, then they would need to restart and it would be
3 newly vested, and therefore they would then be subject to
4 the Housing Element Overlay Zone regulations.

5 This really is being more explicit about what we
6 already were referencing and had in place with the Housing
7 Element Overlay Zone, so it's stronger, more defensible,
8 and follows the direction from the State, but does not
9 substantially change anything, because the numbers in the
10 table are still the same.

11
12 COMMISSIONER HANSSEN: Thank you; that was very
13 helpful. Related to that, would it also be true that since
14 they filed it and they are vesting with the zoning that was
15 there at the time that they are not eligible for by right
16 unless they came in under some other provision like it was
17 provided for in SB 330?

18 JENNIFER ARMER: If I understand the question
19 correctly, if we're talking about a site that then has been
20 rezoned in order to provide affordable units in our sites
21 inventory, but that rezoning occurred after the vesting of
22 the regulations, your question is are those by right as
23 described in here? I will defer to the Town Attorney to see
24 if she has thoughts on that question.
25

1 ATTORNEY WHELAN: I probably don't have an answer
2 for the Planning Commission tonight. What I can do is
3 follow up with a memo.

4 COMMISSIONER HANSSEN: Okay. I think that would
5 be really helpful to understand, especially since we have a
6 number of applications out there.

7 One last question, if the Chair doesn't mind, and
8 this is for the benefit of people watching or trying to
9 understand this. When it's by right, if they meet the 20%
10 affordable, what by right means is that they do have to
11 live within our objective standards within our zoning, but
12 there is no discretionary review if it doesn't seem
13 compatible with the neighborhood as long as it meets the
14 objective standards in our Zoning Code. Is that how you see
15 by right?

16 ATTORNEY WHELAN: Yes, the two big impacts are
17 they're subject only to objective design review, and there
18 is no analysis under CEQA.

19 COMMISSIONER HANSSEN: So if people don't like
20 the architecture or something else, that's not something
21 that we have purview over once it becomes by right?

22 ATTORNEY WHELAN: So long as it meets the Town's
23 objective design standards, that's correct, and then there
24
25

1 would be no opportunity to evaluate the aesthetics under
2 CEQA.

3 COMMISSIONER HANSSEN: Okay, thank you.

4 CHAIR RASPE: Thank you for those answers.
5 Commissioners, any further questions for Staff? Vice Chair
6 Thomas.

7 VICE CHAIR THOMAS: Thank you. I did just want to
8 follow up with a question regarding the densities versus at
9 the density ranges. When I read this I assumed that was
10 within the... I understand why it's not within, because that
11 would intend lower ranges also, but I guess I'm asking the
12 Community Development Director, do you feel like what
13 language is most helpful for Staff?
14

15 JOEL PAULSON: I would say that Staff doesn't
16 have a preference. The Town Attorney has offered that if
17 you want to make that change she's comfortable with that,
18 so we would be comfortable with it as well.

19 VICE CHAIR THOMAS: Okay. I don't have a huge
20 opinion either way, but I'm also not a developer person
21 that's going to be reading this.

22 CHAIR RASPE: Commissioner Janoff.

23 COMMISSIONER JANOFF: I would only say that
24 because it's a range I would suggest that we use the word
25 "within."

LOS GATOS PLANNING COMMISSION 1/24/2024, Item #3,
Amendments to Town Code re: By Right Approvals,
Amendment to Housing Element Overlay Zone

1 CHAIR RASPE: Very good. Commissioners, any
2 further questions or comments? If not, I'm willing to
3 entertain a motion at this time. Further comment from the
4 Vice Chair.

5 VICE CHAIR THOMAS: This is a question for the
6 Town Attorney. What language would you be comfortable
7 changing to?

8 ATTORNEY WHELAN: I think another alternative
9 would be, and this is pending acceptance by CDD, "The
10 developments must be developed within the density ranges
11 specified in Table 1-A below."

12 VICE CHAIR THOMAS: Okay.

13 JENNIFER ARMER: That's acceptable to us.

14 CHAIR RASPE: Thank you. Commissioner Hanssen.

15 COMMISSIONER HANSSEN: I just wanted to weigh in
16 and say that it feels clearer to me to use the word
17 "within" than "at," but that could just be me.

18 CHAIR RASPE: Thank you, and with that
19 clarification, is the Commission ready to proceed with this
20 matter? I can give a crack at the motion, seeing no other
21 takers.

22 I move to recommend to Town Council to further
23 amend Chapter 29 of the Town Code to define "By Right
24 Approvals," and amend the Housing Element Overlay Zone as

25 LOS GATOS PLANNING COMMISSION 1/24/2024, Item #3,
Amendments to Town Code re: By Right Approvals,
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1 Division 5, Article VIII, "Overlay Zones and Historic
2 Preservations," containing the language as provided to the
3 Planning Commission in the Staff Report with the singular
4 change suggested by Town Counsel, substituting the "within"
5 language as opposed to the "at" language. Making all
6 necessary findings. Commissioner Hanssen.

7 COMMISSIONER HANSSEN: I second the motion.

8 CHAIR RASPE: Vice Chair Thomas.

9 VICE CHAIR THOMAS: I just wanted to say
10 explicitly amend the motion to contain Exhibit 2.

11 CHAIR RASPE: So amended. And the seconder?

12 COMMISSIONER HANSSEN: Yes.

13 CHAIR RASPE: Roll call or show of hands on this?

14 JENNIFER ARMER: Show of hands is fine.

15 CHAIR RASPE: So Commissioners, can I see a show
16 of hands of all those in favor of the motion? Being all in
17 favor, none against, the motion passes unanimously. Thank
18 you, Commissioners.

19 (END)
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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 12

DESK ITEM

DATE: February 20, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Approve a Recommendation of the Planning Commission to Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Chapter 29, 'Zoning Regulations,' of the Town Code to Define 'By Right Approvals' and Amend the Housing Element Overlay Zone (HEOZ), Division 5 of Article VIII, 'Overlay Zones and Historic Preservation,'" to Clarify Regulations Applicable to "By Right" and "Non By Right" Residential Development in the Housing Element Overlay Zone. An Environmental Impact Report (EIR) was Prepared and Certified for the 2040 General Plan Update on June 30, 2022. No further Environmental Analysis is Required. Zoning Code Amendment Application Z-24-001. APPLICANT: Town of Los Gatos. PROJECT PLANNERS: Jocelyn Shoopman and Erin Walters.

REMARKS:

Based on State Housing and Community Development (HCD) Department feedback received last week by the City of Sunnyvale and the Town's outside legal counsel, Goldfarb and Lipman LLP, further revisions have been made to the Draft Ordinance as found in Attachment 5 (redline). A proposed Ordinance for adoption with the recommended changes is attached as Attachment 6.

The revision includes removing the phrase "and without a subdivision" in the description of "by right" in Section 29.80.510 (a) and replacing subsection (a)(4) of Section 29.80.510 with the following:

"Any subdivision of sites in the HEOZ shall be subject to all laws, including, but not limited to, Chapter 24, "Subdivision Regulations," and Sections 29.10.067-29.10.087 of the Town Code implementing the Subdivision Map Act."

PREPARED BY: Jocelyn Shoopman, Associate Planner,
Erin Walters, Associate Planner, and
Gabrielle Whelan, Town Attorney

Reviewed by: Town Manager, Community Development Director, Planning Manager, and Town Attorney

PAGE 2 of 2

SUBJECT: Housing Element Overlay Zone/Z-24-001

DATE: February 20, 2024

REMARKS (continued):

In addition, a severability clause has been added to the Ordinance. This means that, if any portions of the Ordinance are ruled unlawful, the remaining portions will remain in effect.

Previously Received with the February 20, 2024 Report:

1. Ordinance 2347
2. Draft Ordinance
3. January 24, 2024, Planning Commission Staff Report with Exhibits 1-2
4. January 24, 2024, Planning Commission Verbatim Minutes

Attachments Received with this Desk Item:

5. Revised Draft Ordinance – Redline
6. Revised Draft Ordinance for Adoption

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DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29, "ZONING REGULATIONS," OF THE TOWN CODE
TO DEFINE "BY RIGHT APPROVALS" AND AMEND THE HOUSING ELEMENT
OVERLAY ZONE (HEOZ), DIVISION 5 OF ARTICLE VIII, "OVERLAY
ZONES AND HISTORIC PRESERVATION"**

ZONING CODE AMENDMENT APPLICATION Z-24-001

**PROPERTY LOCATION: TOWN WIDE
APPLICANT: TOWN OF LOS GATOS**

WHEREAS, the Town of Los Gatos 2023-2031 Housing Element identifies amending the Town Code to create the Housing Element Overlay Zone as a strategy to accommodate the Town's Regional Housing Needs Allocation (RHNA); and

WHEREAS, the Planning Commission at its meeting on August 23, 2023, reviewed the proposed Town Code amendments, held a public hearing, and forwarded a recommendation of approval to the Town Council; and

WHEREAS, on October 3, 2023, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Town Code amendment, held a public hearing, and continued the matter to November 7, 2023; and

WHEREAS, on November 7, 2023, the Town Council reviewed the proposed Town Code amendments, held a public hearing, and introduced the ordinance to amend the Town Code to modify the Affordable Housing Overlay Zone to be the Housing Element Overlay Zone; and

WHEREAS, on November 21, 2023, the Town Council adopted Ordinance No. 2347 to enact the proposed Town Code amendments; and

WHEREAS, on December 1, 2023, the Town received comments from the State Housing and Community Development Department (HCD) regarding the adopted Housing Element Overlay Zone ordinance; and

WHEREAS, staff has prepared a revised ordinance to address HCD's comments; and

WHEREAS, the Planning Commission at its meeting on January 24, 2024, reviewed proposed Town Code amendments, held a public hearing, and forwarded a recommendation of approval to the Town Council; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law

and came before the Town Council on February 20, 2024.

WHEREAS, on February 20, 2024, the Town Council accepted the report of the Planning Commission's recommendation of approval for the proposed Town Code amendments, held a public hearing, and introduced an ordinance to add a definition of "by right approval" and modify the HEOZ Ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Section 29.10.020, "Definitions," of Chapter 29, "Zoning Regulations," of the Town Code is amended to add the following between the definitions of "*Business or commerce*" and "*Carport*" to read as follows:

By right approval shall have the meaning set forth in Government Code Section 65583.2 (i).

SECTION II. Division 5 of Article VIII, "Overlay Zones and Historic Preservation," of Chapter 29, "Zoning Regulations," is amended to read as follows:

ARTICLE VIII. OVERLAY ZONES AND HISTORIC PRESERVATION

...

DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

Sec. 29.80.505. Intent.

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

Sec. 29.80.510. HEOZ and underlying zoning.

- (a) "By right" residential developments on sites with underlying zoning of RM, CH, or NF-SP (Table 1A below). Pursuant to Government Code Section 65583.2, subsections (h) and (i), in the HEOZ, residential developments with at least 20 percent of the units proposed for "low income" households ~~and without a subdivision are subject~~ are subject to "by right approval." These developments are subject to the following:

1. The developments must be developed ~~at~~ within the ~~densities~~ ranges specified in Table 1A below and in no event shall any residential development projects be developed below the minimum density of 30 units per acre.
2. The developments shall be subject to non-discretionary design review based on objective development standards in accordance with the procedures specified in Article II, "Administration and Enforcement," of Chapter 29, "Zoning Regulations," of the Town Code.
3. No California Environmental Quality Act review shall be required.
4. ~~Subdivisions remain subject to all applicable state and local laws, including but not limited to the Subdivision Map Act.~~ Any subdivision of sites in the HEOZ shall be subject to all laws, including, but not limited to, Chapter 24, "Subdivision Regulations," and Sections 29.10.067-29.10.087 of the Town Code implementing the Subdivision Map Act.
5. Residential units shall occupy at least 50 percent of the floor area in all mixed-use projects.
6. For residential developments and mixed-use projects, the standards set forth in Table 1A shall apply.

Table 1A HEOZ Development Standards for "By Right" Residential Development

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
High Density Residential	R-M	As authorized by Section 29.40.645	75%	N/A	45 feet	30-40
Mixed-Use	CH	As authorized by Section 29.60.435	N/A	3.0	45 feet	30-40
North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40

- (b) For all other residential developments other than those described in subsection (a), the standards set forth in Table 1B below shall apply.

Table 1B HEOZ Development Standards for Other Residential Development

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
Medium Density Residential	R-1D, R-D, and R-M	As authorized by Section 29.40.405,	75%	N/A	35 feet	14-22 or 5-12 in Very High

		29.40.530, and 29.40.645				Fire Hazard Severity Zones
Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20
Central Business District	C-2	As authorized by Section 29.60.335	N/A	2.0	45 feet	20-30
Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20

- (c) The underlying zoning development standards will remain in effect for all other development without a residential component.
- (d) Regardless of the underlying zoning designation, no residential use may be developed that does not meet the applicable HEOZ development standards.
- (e) Where standards are not specified, the development standards provided in the underlying zoning district shall apply.

SECTION III. CEQA.

The Town Council finds as follows:

- A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Town Code amendments; and
- B. The Town Code amendments are consistent with the General Plan and its elements; and
- C. That all proceedings have been conducted in compliance with the provisions of Government Code Section 65850 et seq.

SECTION IV. EFFECTIVE DATE AND PUBLICATION.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 20th day of February 2024, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of _____, 2024. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

SECTION V. SEVERABILITY.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Ordinance and shall not affect

the validity of the remaining portions of this Ordinance. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses, or phrases in this Ordinance might be declared unconstitutional, preempted, or otherwise invalid.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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DRAFT ORDINANCE

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29, "ZONING REGULATIONS," OF THE TOWN CODE
TO DEFINE "BY RIGHT APPROVALS" AND AMEND THE HOUSING ELEMENT
OVERLAY ZONE (HEOZ), DIVISION 5 OF ARTICLE VIII, "OVERLAY
ZONES AND HISTORIC PRESERVATION"**

ZONING CODE AMENDMENT APPLICATION Z-24-001

**PROPERTY LOCATION: TOWN WIDE
APPLICANT: TOWN OF LOS GATOS**

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WHEREAS, the Planning Commission at its meeting on January 24, 2024, reviewed proposed Town Code amendments, held a public hearing, and forwarded a recommendation of approval to the Town Council; and

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and came before the Town Council on February 20, 2024.

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SECTION II. Division 5 of Article VIII, "Overlay Zones and Historic Preservation," of Chapter 29, "Zoning Regulations," is amended to read as follows:

ARTICLE VIII. OVERLAY ZONES AND HISTORIC PRESERVATION

...

DIVISION 5. HOUSING ELEMENT OVERLAY ZONE

Sec. 29.80.505. Intent.

The Housing Element Overlay Zone (HEOZ) ordinance in this division is intended to increase the supply and the mix of housing types, tenure, and affordability within the Town of Los Gatos. Through appropriate densities, concessions, and fee deferrals or waivers, the HEOZ encourages the development of housing affordable to all income levels on sites within the Town that are deemed to be most appropriate for such uses. The Housing Element lists sites within the Town of Los Gatos as key housing opportunities. The designation of these sites will assist the Town in meeting its Regional Housing Needs Allocation (RHNA), as required by the State.

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- (a) "By right" residential developments on sites with underlying zoning of RM, CH, or NF-SP (Table 1A below). Pursuant to Government Code Section 65583.2, subsections (h) and (i), in the HEOZ, residential developments with at least 20 percent of the units proposed for "low income" households are subject to "by right approval." These developments are subject to the following:

1. The developments must be developed within the density ranges specified in Table 1A below and in no event shall any residential development projects be developed below the minimum density of 30 units per acre.
2. The developments shall be subject to non-discretionary design review based on objective development standards in accordance with the procedures specified in Article II, "Administration and Enforcement," of Chapter 29, "Zoning Regulations," of the Town Code.
3. No California Environmental Quality Act review shall be required.
4. Any subdivision of sites in the HEOZ shall be subject to all laws, including, but not limited to, Chapter 24, "Subdivision Regulations," and Sections 29.10.067-29.10.087 of the Town Code implementing the Subdivision Map Act.
5. Residential units shall occupy at least 50 percent of the floor area in all mixed-use projects.
6. For residential developments and mixed-use projects, the standards set forth in Table 1A shall apply.

Table 1A HEOZ Development Standards for "By Right" Residential Development

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
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North Forty Specific Plan	NF-SP	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	As defined in Specific Plan	30-40

- (b) For all other residential developments other than those described in subsection (a), the standards set forth in Table 1B below shall apply.

Table 1B HEOZ Development Standards for Other Residential Development

General Plan Land Use Designation	Zoning	Minimum Yards	Maximum Lot Coverage	Maximum Floor Area Ratio (FAR)	Maximum Height Limit (ft)	Density Units Per Acre
Low Density Residential	R-1	As authorized by Section 29.40.405	50%	N/A	30 feet	0-5
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Neighborhood Commercial	C-1	As authorized by Section 29.60.225	N/A	1.0	35 feet	10-20
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Office Professional	O	As authorized by Section 29.60.100	N/A	1.0	35 feet	10-20

- (c) The underlying zoning development standards will remain in effect for all other development without a residential component.
- (d) Regardless of the underlying zoning designation, no residential use may be developed that does not meet the applicable HEOZ development standards.
- (e) Where standards are not specified, the development standards provided in the underlying zoning district shall apply.

SECTION III. CEQA.

The Town Council finds as follows:

- A. No further Environmental Analysis is required as an Environmental Impact Report (EIR) was prepared and certified for the 2040 General Plan Update on June 30, 2022, which included the proposed Town Code amendments; and
- B. The Town Code amendments are consistent with the General Plan and its elements; and
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This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 20th day of February 2024, and adopted by the following vote as an ordinance of the Town of Los Gatos at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of _____, 2024. This ordinance shall take effect 30 days after the date it is adopted. The Town Clerk shall cause this ordinance or a summary thereof to be published in accordance with Section 36933 of the California Government Code.

SECTION V. SEVERABILITY.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Ordinance and shall not affect the validity of the remaining portions of this Ordinance. The Town hereby declares that it

would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses, or phrases in this Ordinance might be declared unconstitutional, preempted, or otherwise invalid.

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 13

DATE: February 13, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Mid-Year Budget Report - July 1 - December 31, 2023:
a. Receive the FY 2023/24 Mid-Year Budget Report; and
b. Authorize Budget Adjustments as Recommended in the Mid-Year Budget Report

RECOMMENDATION:

Staff recommends that the Town Council take the following actions regarding the Mid-Year Budget Performance Report - July 1 - December 31, 2023:

- a. Receive the FY 2023/24 Mid-Year Budget Report (Attachment 1); and
- b. Authorize budget adjustments as recommended in the Mid-Year Budget Report.

BACKGROUND:

The purposes of the Mid-Year Report (Attachment 1) are to provide the Town Council with a status of the adopted Fiscal Year (FY) 2023/24 Operating Budget after the first six months and to make any adjustments to ensure the continuity of municipal services and operations for the remainder of the fiscal year. The Report is one of several periodic updates to the Town Council on the status of the current year's revenues and expenditures and the projected financial condition of all Town funds compared with the Adopted Operating Budget. The updates primarily focus on the Town's General Fund.

The Mid-Year Report dated February 13, 2024 (Attachment 1) contains a few modifications from the February 6, 2024 Report provided to the Finance Commission. The revised Report updates the Police Services discussion, adds the Program numbers to the Recommended Budget Adjustments, describes the Recommended Budget Adjustments in the Equipment Replacement Fund, and makes other minor edits.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, and Assistant Town Manager

BACKGROUND (continued):

Finance Commission Review

On February 12, 2024, the Finance Commission received the Mid-Year Report. The Commission did not discuss the report in detail due to time constraints and the fact that a majority of the Commissioners indicated that they did not get a chance to read the report. The Chairperson commented that his year-end estimates predict higher surpluses than indicated in the staff presentation.

DISCUSSION:

Highlights of the Mid-Year Budget Report include:

Financial Overview and Executive Summary

As discussed in the Report, the current fiscal year-end projections for FY 2023/24 reflect an anticipated \$1.7 million surplus of operating revenues and planned use of reserves over expenditures after reserving 30% of Education Revenue Augmentation Fund (ERAF) and the required allocation to the Pension Trust Fund.

The primary drivers of the projected surplus are the increased revenue projection for property tax and the restoration of the garbage franchise fee to prior year levels.

General Fund Revenue Analysis

The current year-end projections expect increases in economically sensitive revenues such as property tax, and franchise fees; however, sales tax revenues, business license tax, and transient occupancy tax are trending lower than the Adopted Budget. Current year-end estimates project increases in interest, parking citation, engineering review, engineering permit collections. Pass-Through Revenue increases have matching expenditure increases in the Town's affordable housing program. The combined recommended mid-year revenue adjustments total a net increase of approximately \$2.1 million. While staff conducted a detailed analysis of all General Fund revenues and provided the expected year-end estimates, only major revenue sources are recommended for adjustment at this time.

General Fund Expenditure Analysis

General Fund expenditure totals are trending in accordance with the Adjusted Budget, with total operational expenditures at the end of the second quarter at about 47% of the Adjusted Budget. With six months of data now available, staff expects that the next six months of expenditures will be within the Adjusted Budget, assuming that Town Council approves the

DISCUSSION (continued):

recommended budget adjustments. The analysis examines all expenditure line items; however, budget adjustments are only recommended in certain instances as outlined in the Report. The recommended General Fund mid-year expenditure adjustments total just over \$0.8 million.

The FY 2023/24 Adjusted Budget includes a 4.6% vacancy factor. Staff continues to monitor each Department's budget because while an overall Town-wide surplus is predicted due to higher projected revenues, the individual Departments' current expenditure budgets may not be sufficient for the remainder of the year. If additional adjustments are needed during the current fiscal year, the Council would be asked to consider these future actions.

FY 2023/24 Recommended Budget Adjustments and Summary of Key Recommended Budget Adjustments

All recommended revenue and expenditure adjustments are contained in these sections along with a description of the major adjustments.

General Fund Financial Summaries and Estimates

This section introduces the *Schedule of General Fund Operating Revenues Versus Operating Expenditures* for the second quarter of FY 2023/24 which includes comparison information from the prior year.

Financial Summaries of Other Funds

This section provides financial summaries and presents data by governmental, proprietary, and fiduciary fund types. For each, the fund information starts with a beginning fund balance, adds current year revenues, and subtracts current year expenditures, resulting in an ending fund balance.

COORDINATION:

All Town Departments participated in the data collection and analysis that informed the preparation of the Mid-Year Report and proposed budget adjustments.

CONCLUSION AND NEXT STEPS:

Staff is continuing to monitor all revenues and expenditures during the preparation of the Proposed Operating and Capital Budgets for FY 2024/25. Should any additional budget adjustments be necessary to balance operating revenue and expenditures prior to the FY 2023/24 close, Council would be asked to consider appropriate actions. The Draft FY 2024/25

CONCLUSION AND NEXT STEPS (continued):

Operating and Capital Budgets will be available on April 22, 2024 with the Council's budget hearing tentatively scheduled for May 21, 2024.

Staff recommends that the Town Council approve the proposed revenue and expenditure budget adjustments as described in Attachment 1. In addition, staff looks forward to answering the Town Council's questions.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Mid-Year Budget Report - July 1 - December 31, 2023
2. Public Comments Received before 11:00 a.m. on February 15, 2024



**TOWN OF LOS GATOS
MID-YEAR BUDGET REPORT
JULY 1 - DECEMBER 31, 2023**

February 13, 2024

**FINANCIAL OVERVIEW AND EXECUTIVE SUMMARY: STATUS OF FY 2023/24
ADOPTED BUDGET**

The purposes of the Mid-Year Report are to provide the Town Council with a status of the Adopted Fiscal Year (FY) 2023/24 Operating Budget after the first six months and to make any adjustments to ensure the continuity of municipal services and operations for the remainder of the fiscal year. The Report is one of several periodic updates to the Town Council on the status of the current year's revenues and expenditures and the projected financial condition of all Town funds compared with the Adopted Operating Budget. The updates typically focus on the Town's General Fund.

On January 24, 2023, the Town Council determined the Strategic Priorities for 2023-2025, providing guidance to Town staff and Commissions on workload prioritization. The Council affirmed its Strategic Priorities to be multi-year efforts focused on Safety, Prudent Financial Management, Traffic/Transportation, and Quality of Life. Under these broad topics, the Council added a few new items including: Hazardous Tree Management, Develop a Five-Year Structurally Balanced and Sustainable Operating Forecast, Develop a Five-Year Full Funded Capital Plan, Traffic Calming/Safety for All Users, Streamline Permit Process, Work with Town Partners to Support Needs of Unhoused Residents, and Redefine Town Commissions in Alignment with Strategic Priorities (see the following page). Town Council will review these priorities on its February 13, 2024 Special Meeting.

Staff has started budget development work for the next fiscal year, including an update of the Five-Year Financial Forecast, identification of critical Town needs, contractual obligations, unfunded mandates, potential adjustments to the Fee and Fine Schedule, and other analyses. Staff is actively engaged in the FY 2024/25 budget process with the primary focus of ensuring that the available Town resources are allocated to meet the priority service needs of the community. The Town Council is scheduled to hold a public hearing on the Proposed FY 2024/25 Budget on May 21, 2024.

The prior fiscal year closed with approximately \$4.1 million in surplus operating revenues, transfers in, and use of reserves over expenditures, transfers out, and reserve allocations. The General Fund balance was \$29,528,304.

Current fiscal year-end projections for FY 2023/24 reflect an anticipated \$1.7 million surplus of operating revenues and planned use of reserves over expenditures in addition to reserving 30% of ERAF and the proceeds to Pension Trust Fund.

ATTACHMENT 1



Ongoing Strategic Priorities 2023-2025

SAFETY

- Community Policing
- Emergency Preparedness
 - CERT Recruitment & Training
 - Communications, EOC Readiness & Emergency Plan Development
- Fire Protection
 - Implementation of Ad Hoc Wildfire Mitigation Plan
- Vegetation and Hazardous Tree Management

PRUDENT FINANCIAL MANAGEMENT

- Address Pension & OPEB Obligations
- Sell or Lease Certain Town Properties
- Develop a Five-Year Structurally Balanced and Sustainable Operating Forecast
 - Explore New Revenue Opportunities
 - Cure Forecasted Structural Deficit
- Develop a Five-Year Full Funded Capital Plan

QUALITY OF LIFE

- Community Vitality
 - Diversity, Equity & Inclusion Efforts
 - Community Where Older Adults Thrive
 - Adopt a Senior Road Map
 - Events & Other Town-Wide Efforts
 - Community Engagement
 - Environmental Sustainability/Climate Resiliency
- Economic Vitality & Pandemic Recovery
 - Policies & Ordinances
 - Semi-Permanent Parklets
 - Streamline Permit Process
- Land Use Planning
 - General Plan 2040
 - Housing Element
 - Affordable Housing Partnerships
 - SB9 Implementation
- Work with Town Partners to Support Needs of Unhoused Residents
- Redefine Town Commissions in Alignment with Strategic Priorities

TRAFFIC/TRANSPORTATION

- Comprehensive Parking Study
 - Short, Medium, and Long-Term Actions
- Transportation Demand Management
 - Measure B Transportation Projects
 - Bicycle & Pedestrian Improvements
 - Community Shuttle
 - Summer/Rush Hour/School Traffic
 - Regional Transportation Issues
- Traffic Calming/Safety for All Users

As discussed in greater detail later in this Report, the primary drivers of the projected surplus are the increased revenue projection for property tax and the restoration of the garbage franchise fee to prior year levels.

On June 6, 2023, the Town Council balanced the budget with a 4.6% vacancy factor. Staff continues to monitor each Department budget because while overall Townwide savings are predicted due to higher projected revenues, the individual Departments' current expenditure budgets may not be sufficient for the remainder of the year. Staff will recommend the necessary expenditure budget adjustments as needed.

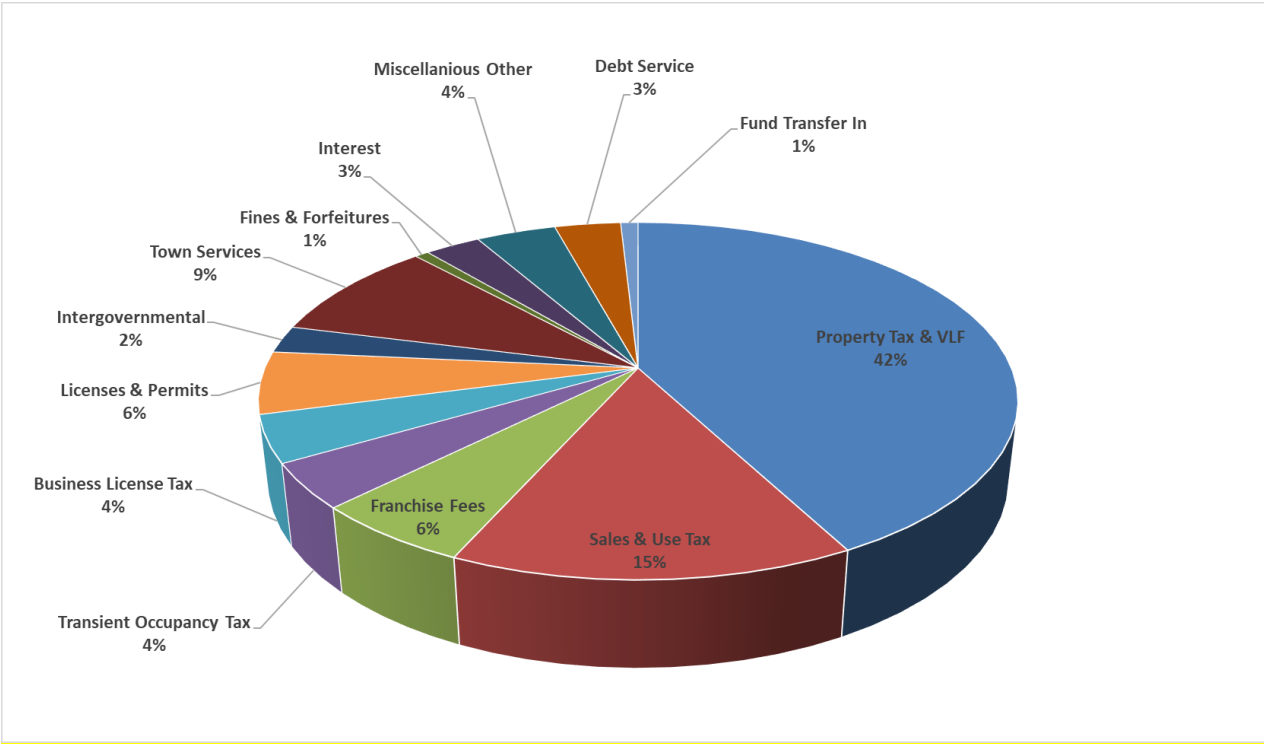
Providing services to the community in this and future fiscal years will require a strong revenue performance of the Town's economically sensitive revenues to offset continued projected cost increases. The FY 2024/25 budget development process will endeavor to maintain essential public services while controlling operational costs in light of the five-year fiscal forecast, which predicts operating revenue shortfalls in subsequent fiscal years with certain assumptions.

CONTENT OVERVIEW

The remainder of this Report focuses on the General Fund and provides analyses of key revenues and expenditures, including historic data by Town Department/Service Area. The next section contains descriptions of recommended revenue and expenditure budget adjustments. The Report also includes financial summaries of other funds as well as a table of General Fund Operating Revenues Versus Operating Expenditures through the second quarter of FY 2023/24 which includes comparison information from the prior year.

GENERAL FUND - KEY REVENUE ANALYSIS FY 2023/24

The following information provides a recap of the General Fund budgeted significant revenue sources, including estimated year end collection as of the second quarter ending December 31, 2023. Staff is monitoring developments in each major revenue source closely for potential adjustments to budgeted revenues as recommended in this Report.



Property Tax and Motor Vehicle in Lieu Fee (VLF)

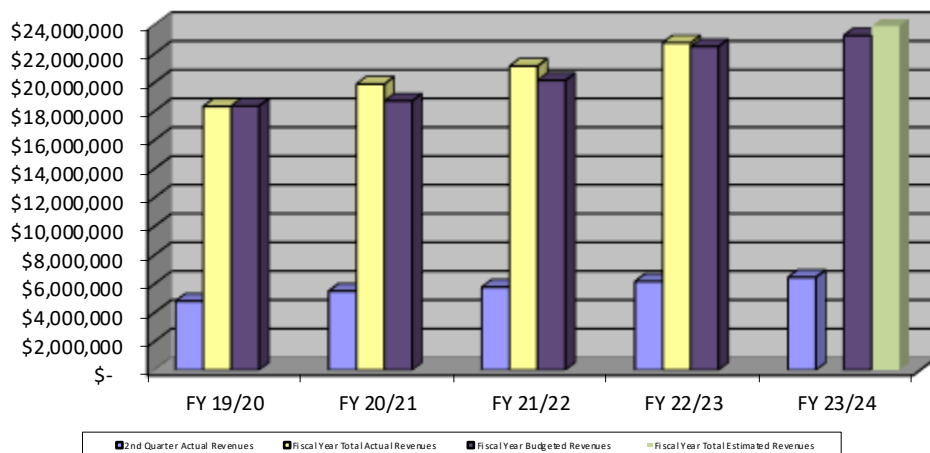
Property tax and VLF are the single largest revenue sources for the Town and comprise approximately 42% of total Town General Fund estimated revenues for FY 2023/24. Property tax is levied by the Santa Clara County Assessor’s Office at 1% of a property’s assessed value, of which the Town receives approximately 9.3 cents per dollar paid on property located within the municipal limits of Los Gatos. In compliance with Proposition 13, the assessed value of real property is based on the 1975/76 assessment roll value, adjusted by a 2% inflation factor annually thereafter. However, when property changes hands or new construction occurs, the property is then reassessed at its current market value.

The County of Santa Clara provides property tax collection updates and projections throughout the year. The current County estimate indicates \$654,587 of more collections than the Adopted Budget. The increase is a combined effect of higher-than-expected Redevelopment Agency (RDA) Residual Apportionment, and Motor Vehicle in Lieu (VLF) Property, Excess Educational Revenue Augmentation Fund (ERAF) estimates and decrease in secured property tax estimates and in property transfer tax.

The Town has been monitoring ongoing developments regarding the distribution of excess ERAF funds. A portion of property tax revenue goes to the ERAF to support local school districts. When the amount contributed to ERAF is more than the minimum cost of funding local schools, excess funds have traditionally been returned to the counties, cities, and special districts. Five counties, including Santa Clara, have been using a redistribution allocation formula that has been contested by the State. The Town received the full amount for FY 2021/22; however, the Santa Clara County Assessor's Office recommends reserving 30% of the FY 2023/24 projected number due to an ongoing lawsuit between Santa Clara County and the State Controller Office and the State Controller's audit findings on Marin County.

Property tax distributions are largely received in the third and fourth quarters. Second quarter receipts are trending similar to those received during the second quarter of the previous fiscal year and are at 28% of budgeted totals. Based on current County projections, staff recommends a \$654,587 increase in estimated General Property Tax and Motor Vehicle in Lieu Fee collections.

Property Tax and VLF - Quarterly and Annual Revenues 5-Year History



	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
2nd Quarter Actual Revenues	\$ 4,785,479	\$ 5,481,928	\$ 5,761,081	\$ 6,155,317	\$ 6,446,869
Fiscal Year Total Actual Revenues	\$ 18,330,427	\$ 19,878,834	\$ 21,129,080	\$ 22,743,088	\$ 23,903,898
Fiscal Year Total Estimated Revenues					\$ 23,903,898
Fiscal Year Budgeted Revenues	\$ 18,352,880	\$ 18,705,325	\$ 20,138,320	\$ 22,484,118	\$ 23,249,311
2nd Quarter Percent of Total	26%	28%	27%	27%	28%
Recommended Budget Revision					\$ 654,587

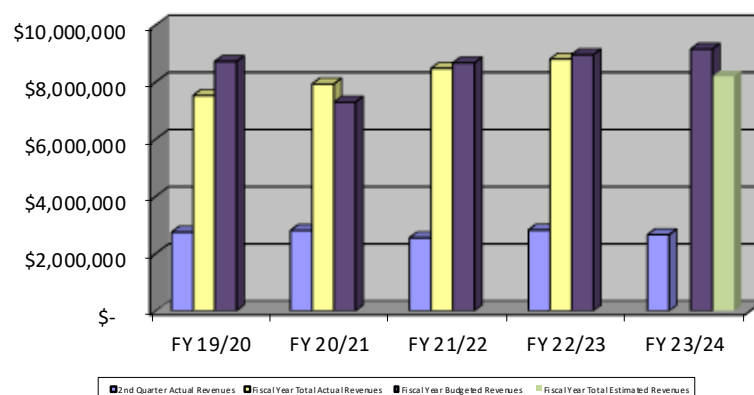
Sales Tax

Sales tax is the second largest revenue source for the Town's General Fund, accounting for 15% of budgeted General Fund projected revenues for FY 2023/24. The Town currently receives 1.125 cents for every 9.125 cents of sales tax paid per dollar on retail sales and taxable services transacted within Los Gatos, including the Town of Los Gatos residents' approved ballot Measure G in 2018 enacting a one-eighth cent (0.125%) district sales tax for 20 years.

Sales tax estimates are based on actual sales tax data and annual sales tax estimates for five years provided by the Town's consultant, MuniServices. In addition to brick-and-mortar sales tax generation, the MuniServices estimates include several online sales tax projections. The 2018 Wayfair Decision resulted in e-commerce vendors utilizing the Amazon platform to collect sales tax based on destination; however, items shipped directly from Amazon fulfillment centers are collecting sales tax based on the point of distribution. Regular sales tax collected through online transactions are distributed through the Santa Clara County pool for which the Town receives a pro rata share of the sales tax generated in Santa Clara County for that particular quarter. The Town directly receives the one-eighth district tax portion of the sales tax generated by the residents of Los Gatos. Current total sales tax estimates include \$6,960,850 (a \$915,383 decrease from the Adopted Budget) in proceeds from regular sales tax and \$1,239,843 (a \$36,802 decrease) in proceeds from the Measure G one-eighth cent district tax. Actual receipts net of administrative fees collected by the State will be confirmed at the close of the fiscal year and per prior Council direction, the Measure G funds are allocated at 50% for capital improvement projects and 50% for operating expenses.

While FY 2023/24 second quarter receipts are trending lower than in the same period last fiscal year, staff recommends a \$952,185 budget decrease to reflect the MuniServices current estimates.

Sales Tax & Measure G Tax - Quarterly and Annual Revenues
5-Year History



	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24
2nd Quarter Actual Revenues	\$ 2,755,208	\$ 2,813,652	\$ 2,556,341	\$ 2,825,421	\$ 2,665,060
Fiscal Year Total Actual Revenues	\$ 7,531,425	\$ 7,933,604	\$ 8,483,673	\$ 8,806,477	
Fiscal Year Total Estimated Revenues					\$ 8,200,693
Fiscal Year Budgeted Revenues	\$ 8,723,000	\$ 7,301,869	\$ 8,671,606	\$ 8,959,134	\$ 9,152,878
2nd Quarter Percent of Total	37%	35%	30%	32%	29%
Recommended Budget Revision					\$ (952,185)

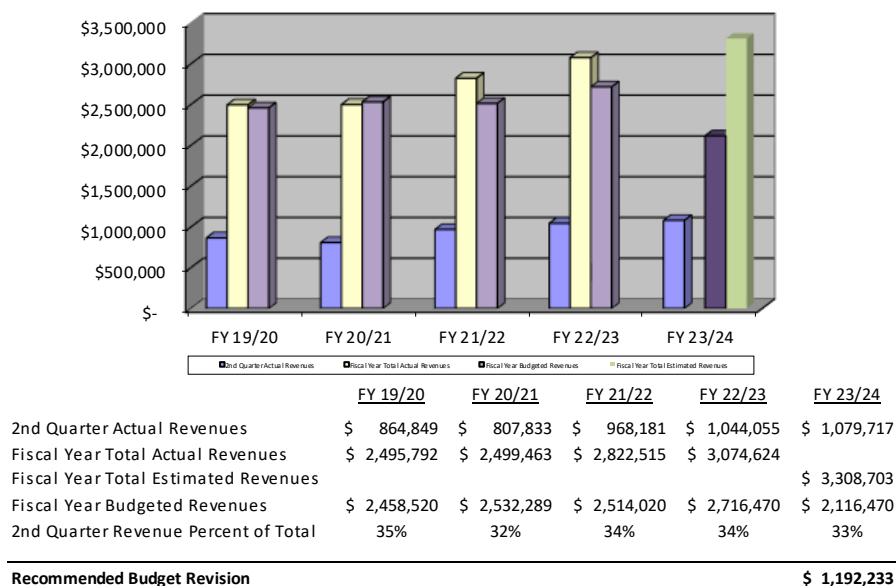
Franchise Fees

Franchise fees are collected by the Town for the privilege of operating a utility service within Los Gatos, and as a fee in lieu of a business license tax. Franchise fees are currently received from Comcast for cable television, PG&E for gas and electric services, West Valley Collection and Recycling for solid waste collection services, and AT&T and Comcast for video services. Franchise fees represent 6% of projected General Fund revenues in FY 2023/24.

Historically, franchise payments are not remitted equally throughout the fiscal year; therefore, second quarter receipts are not necessarily predictive of future receipts. Total franchise fee revenues are trending higher than those of the second quarter in FY 2023/24.

As the Town previously disclosed in the FY 2021/22 Annual Comprehensive Financial Report (ACFR), the California Supreme Court recently issued an opinion in a case challenging the franchise fees that the City of Oakland charges to certain waste hauling companies. In *Zolly v. City of Oakland*, the court concluded that it did not have enough evidence to rule as a matter of law that the fees are exempt from the voter approval requirements that apply to taxes under Proposition 26, Article XIII C of the California Constitution. However, there are several exceptions to the general rule that a tax must be approved by the voters. One exception (Article IIIC, section 1 (e)(1)) is for “a charge imposed for a specific benefit conferred or privileged granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.” The Town anticipated the impact starting on March 1, 2024, when the new garbage hauler contract goes into effect and reduced the Adopted Budget accordingly. The Town has a seat on the West Valley Solid Waste Management Authority (WVSWMA) Board that manages the solid waste contracts. The WVSWMA recently completed a Franchise Valuation Study that indicated that prior level of proceeds will be restored. Staff is recommending a \$1,097,703 increase in garbage franchise fee collection to restore the prior year levels of proceeds, and a \$94,530 increase in the PG&E Franchise Fee collection.

**Franchise Fees - Quarterly and Annual Revenues
5-Year History**



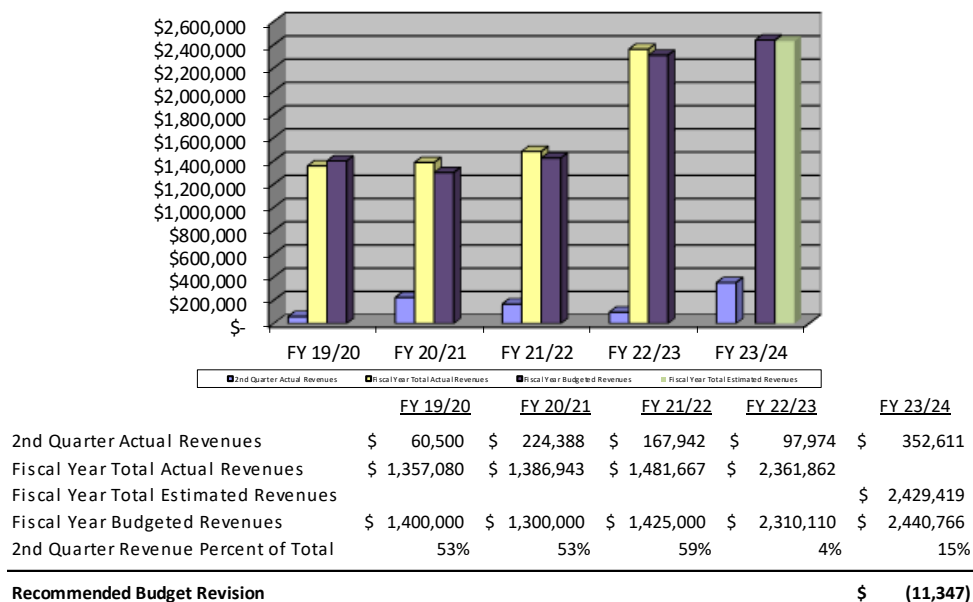
Business License Tax

The Town requires all businesses located within Los Gatos and/or those that operate within Los Gatos to obtain a business license. The amount of business license tax paid by each business is based on its business activity. In November 2022, Los Gatos voters approved Measure J, which modernized the Town's business license tax program. This was the first update to the program since 1991, strengthening funding for core Town services that are enjoyed by Town businesses. Measure J included a 30% increase on flat rate fees, a 40% increase in retailing gross receipts, and a 120% increase in e-commerce, manufacturing, wholesaling, and jobbing gross receipts. Fees for activities such as wholesale sales and manufacturing are charged on a sliding scale based on gross receipts, as is retail, with retail being capped at \$1,365. These gross receipt activities account for approximately 25% of annual business licenses, while the remaining 75% are flat fee businesses. Annual renewal payments are due on January 2 of each year. Payments for new flat-fee-based businesses are prorated by quarter.

The Town is partnering with HdL Companies (HdL) to provide dedicated business license support to Los Gatos businesses. The Town's business license application and renewal process is now streamlined by offering online business license applications and renewals. Council authorized the reactivation of late business license penalties for all businesses in 2024 that was previously omitted due to pandemic and to assist with the business license management transition.

Business license tax revenue projections provided by HdL are trending slightly lower than the adopted budget. Staff is recommending a \$11,347 decrease to this revenue source. Staff anticipates collecting the majority of the business license revenue during the third quarter. Staff is closely monitoring the activities and will return with any recommended adjustments in May.

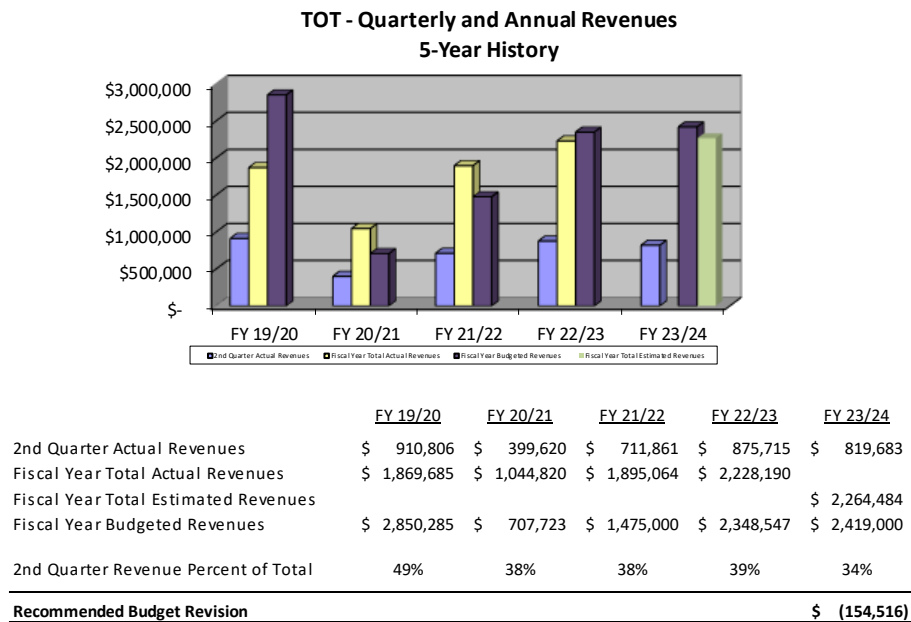
**Business License Tax - Quarterly and Annual Revenues
5-Year History**



Transient Occupancy Tax

TOT is an important revenue source for the Town and comprises approximately 4% of total Town estimated revenues in the amount of \$2.3 million for FY 2023/24. The Town levies a 12% transient occupancy tax (TOT) on all hotel and motel rooms within the municipal limits of Los Gatos. The 12% rate has been in effect since January 1, 2017, after the voters approved a ballot measure to increase in the TOT from 10% to 12% during the November 8, 2016 election.

During the pandemic, TOT experienced the most significant percentage decline relative to historical adopted budgets. Due to a significant rebound in leisure “staycation” travel and modest improvements in business travel, TOT collections were recovering but current quarter is trending lower than the prior year. Based on the current trend, staff is recommending a \$154,516 decrease to this revenue source.



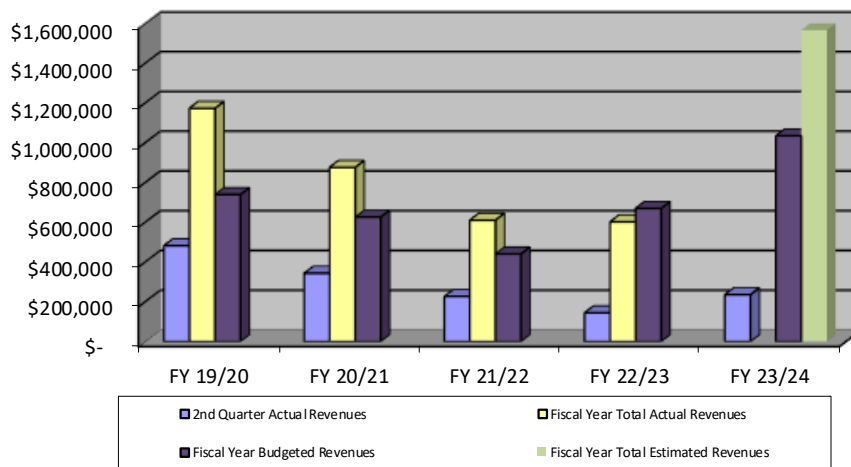
Interest Income

The Town earns interest income by investing monies not immediately required for daily operations in a number of fixed income and money market instruments. These investments are made within the parameters stated in the Town Council's Investment Policy and State regulation. The Town's investment goal is to achieve a competitive rate of return while maintaining sufficient liquidity and protecting the safety of its funds. Interest income revenue is primarily dependent on two factors: the cash balance in the Town's investment portfolio and the yield on those funds.

As of December 31, 2023, the Town's weighted portfolio yield for investments under management was 4.23% which was 30 basis points above the Local Agency Investment Fund (LAIF) yield of 3.93% for the same reporting period. Currently, the LAIF portfolio's weighted average maturity (WAM) is 230 days versus the Town's longer WAM of 587 days. The longer maturity (WAM) for Town assets under management reflects the Town's strategy to take advantage of higher yields associated with longer maturities balanced with shorter term yields available on investments held with the State's LAIF. The Town's weighted average rate of return on investments under management of 4.23% at the close of December was 3 basis points higher when compared to the prior month's return of 4.20% reported as of November 30, 2023.

Based on current interest rate environment and the Town portfolio, staff recommends a \$532,033 revenue budget increase to this revenue source.

**Interest - Quarterly and Annual Revenues
5-Year History**



	FY 19/20	FY 20/21	FY 21/22	FY 22/23	FY 23/24
2nd Quarter Actual Revenues	\$ 482,517	\$ 343,813	\$ 227,164	\$ 145,003	\$ 235,922
Fiscal Year Total Actual Revenues	\$1,173,570	\$ 876,460	\$ 610,975	\$ 602,592	
Fiscal Year Total Estimated Revenues					\$ 1,567,130
Fiscal Year Budgeted Revenues	\$ 739,774	\$ 626,409	\$ 441,233	\$ 670,021	\$ 1,035,097
2nd Quarter Revenue Percent of Total	41%	39%	37%	24%	23%
Recommended Budget Revision					\$ 532,033

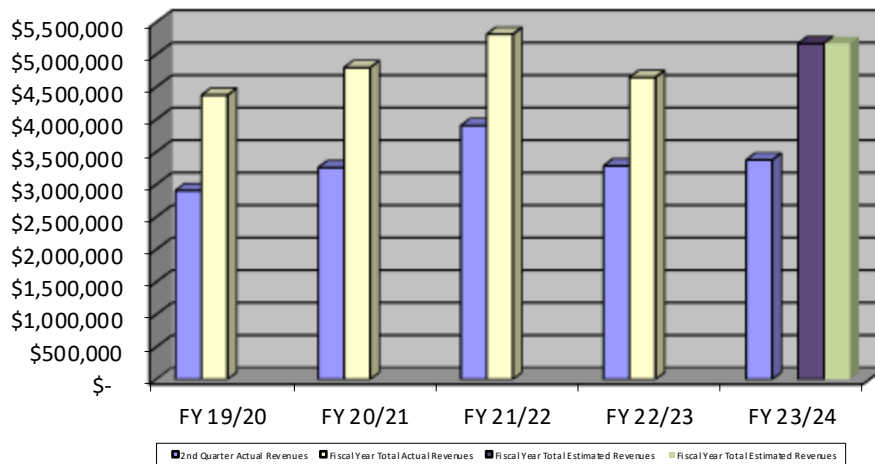
* GASB 31 Market Adjustment is not Included

Charges for Services

Town Service revenues consist primarily of planning, building, inspections, and engineering fees assessed on local building and development activity. Development fees and charges are assessed based on cost recovery formulas, which reflect approximate costs of providing these regulatory services. This category includes charges for the School Resource Officer and crossing guard services.

Second quarter Town Service revenues, specifically Charges for Services, are trending higher than in the second quarter compared to the previous fiscal year. Typically, development fees are collected in advance for projects and recognized as revenue in the fiscal year the work is performed. Fiscal Year estimated revenues includes all revenue line items in this category. Staff recommends a \$199,547 budget increase in selected items to reflect increased activities in planning and engineering services as explained in the Budget Adjustment section of this Report.

**Charges for Services - Quarterly and Annual Revenues
5-Year History**



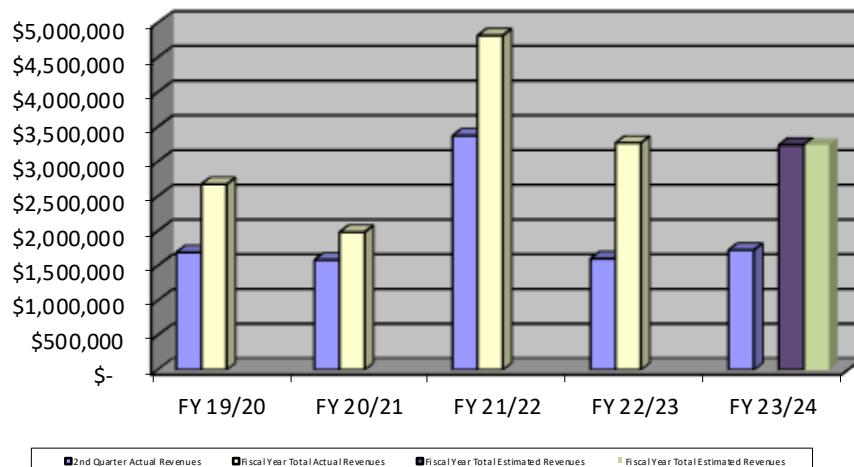
	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
2nd Quarter Actual Revenues	\$ 2,905,238	\$ 3,258,027	\$ 3,906,577	\$ 3,284,766	\$ 3,375,872
Fiscal Year Total Actual Revenues	\$ 4,373,603	\$ 4,797,770	\$ 5,310,271	\$ 4,646,705	
Fiscal Year Total Estimated Revenues					\$ 5,166,743
Fiscal Year Budgeted Revenues					\$ 4,416,250
2nd Quarter Revenue Percent of Total	66%	68%	74%	71%	65%
Recommended Budget Revision					\$ 199,547

Licenses and Permits

Licenses and Permits consist mainly of planning and building permit fees which are collected by the Town to offset administrative costs associated with evaluating development proposals to ensure compliance with codes and policies. Licenses and Permits revenue was budgeted slightly lower than FY 2022/23 in anticipation of slower development activity.

Second quarter License and Permit revenue is trending 59% of budgeted revenue. Fiscal Year estimated revenues includes all revenue line items in this category. Staff recommends a \$337,425 increase in selected items in this category as explained in the next section of this Report.

**Licenses & Permits - Quarterly and Annual Revenues
5-Year History**



	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
2nd Quarter Actual Revenues	\$ 1,692,252	\$ 1,584,098	\$ 3,373,287	\$ 1,602,633	\$ 1,726,270
Fiscal Year Total Actual Revenues	\$ 2,673,706	\$ 1,984,400	\$ 4,814,650	\$ 3,268,498	
Fiscal Year Total Estimated Revenues					\$ 3,239,593
Fiscal Year Budgeted Revenues	\$ 3,250,534	\$ 2,889,898	\$ 3,052,907	\$ 2,830,574	\$ 2,925,230
2nd Quarter Revenue Percent of Total	63%	80%	70%	49%	59%
Recommended Budget Revision					\$ 337,425

GENERAL FUND – EXPENDITURE ANALYSIS

For FY 2023/24, General Fund Operating expenditures (not including debt payment and transfers out) are programmed at \$51.6 million. The delivery of Town services is highly dependent on talent which comprises 67.4% of budgeted General Fund expenditures for FY 2023/24. During the fiscal year, the Town Council has approved several budget adjustments, which are tracked against the Adopted Budget. The net effect is an Adjusted Budget. General Fund expenditure totals are trending in accordance with the Adjusted Budget, with total operational expenditures at the end of the second quarter at or about 44% of the Adjusted Budget. With six months of data now available, staff expects that the individual Departments' current expenditure budgets may not be sufficient for the remainder of the year. If needed, staff will recommend the necessary expenditure budget adjustments which may require future Council action.

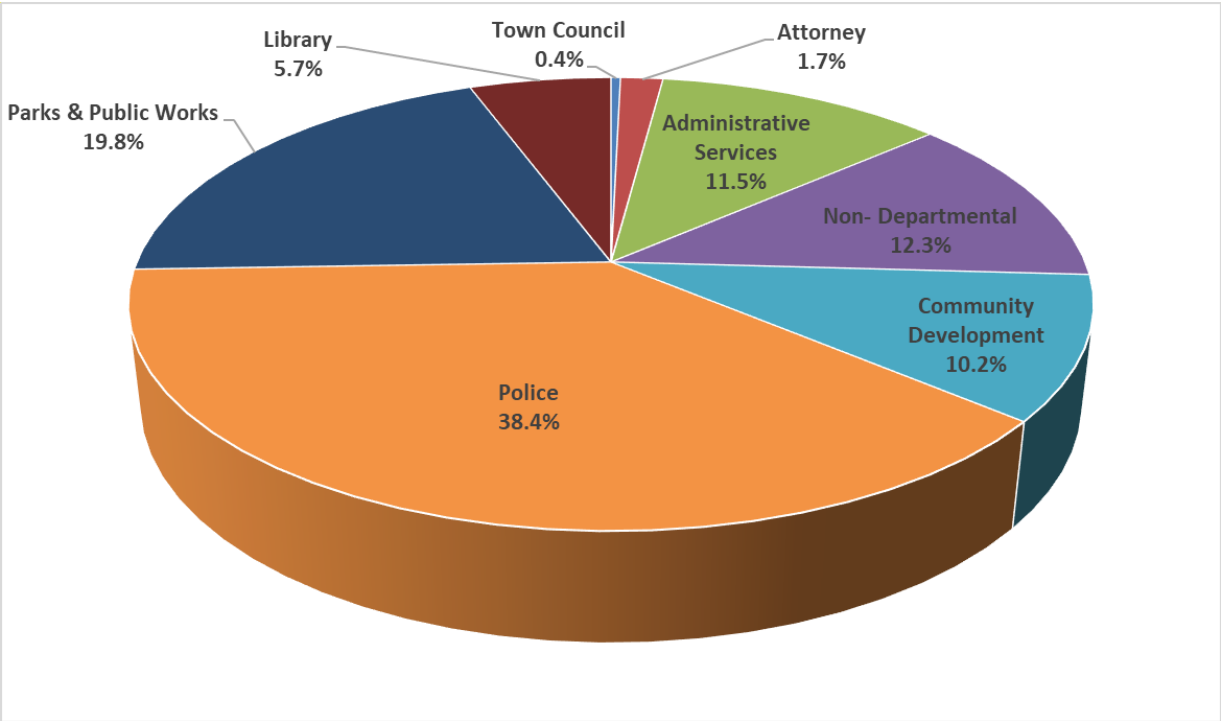
As with most municipalities, services are provided directly by employees to the Town's residents, businesses, and visitors. As a service delivery enterprise, the cost of salaries and benefits are a significant portion of the budget. As the table below illustrates, at mid-year, actual salaries are trending at 48% of budgeted salaries, overtime is trending 98% respectively to the adopted budget, while pension benefits and other benefits are trending at 44% and 43% respectively to the Adjusted Budget.

General Fund Salaries & Benefits							
	FY 2022/23 Actuals	FY 2022/23 2Q	2Q % of FY 2022/23 Actuals	2Q% of FY 2023/24 Adjusted Budget	FY 2023/24 2Q	FY 2023/24 Adjusted Budget as of 12/31/2023	FY 2023/24 Estimated
Salaries	20,424,953	10,163,834	50%	48%	10,288,684	21,263,027	21,516,835
Overtime	1,373,672	639,179	47%	98%	564,876	578,856	1,174,026
Pension Benefits	7,091,215	3,493,382	49%	44%	3,652,570	8,237,154	7,313,256
Other Benefits	3,829,826	1,841,520	48%	43%	2,044,327	4,716,655	4,209,350
Total Salaries and Benefits	32,719,665	16,137,915	49%	48%	16,550,457	34,795,692	34,213,467

The FY 2023/24 budget was balanced including 4.6% vacancy factor, while Council directed that staff continue to hire for all vacant positions. The 4.6% salary savings represents approximately \$1.7 million projected savings. Current year end expenditure estimates include about \$0.6 million salary savings Townwide. Fully staffed Departments are trending over budget due to the 4.6% vacancy factor that was built in. Staff will continue to monitor the Salaries and Benefits and request adjustment as needed to ensure that all programs remain within its allocated budget before Fiscal Year end. Actual vacancies during the course of the first half of fiscal year are illustrated in the table below.

Position		Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23
Deputy Clerk	Separation		Filled										
Emergency Manager - Temp	Separation									Filled			
Finance Manager	Promotion				Filled								
Assistant Town Manager	Separation	Filled		Vacant			Filled						
Accountant	Separation				Vacant			Filled					Vacant
Accountant	Retirement	Filled											
HR Analyst	Separation	Filled			Vacant	Filled							
HR Director	Separation											Vacant	
Associate Planner	Separation					Vacant			Filled				
Permit Technician	Separation												Vacant
Assistant Planner	Separation												Vacant
Police Dispatcher	Separation	Vacant								Filled			
Police Dispatcher	Separation	Vacant	Filled										
Police Dispatcher	Separation	Vacant											
Police Dispatcher	Separation	Vacant				Filled		Vacant		Filled			
Police Officer	Retirement												Vacant
Police Officer	Separation							Filled					
Police Corporal	Separation		Vacant	Filled									
Police Officer	Promotion			Vacant									
Police Officer	Separation			Vacant									
Police Officer	Separation				Vacant								
Police Officer	Separation	Vacant					Filled						
Administrative Analyst	Separation	Vacant											
Parks and Maintenance Worker	Separation							Vacant					
Senior Civil Engineer	Separation												
Transp and Mob Manager	Separation												Vacant
Town Engineer	Separation	Vacant			Filled								
Associate Civil Engineer	Separation		Vacant										

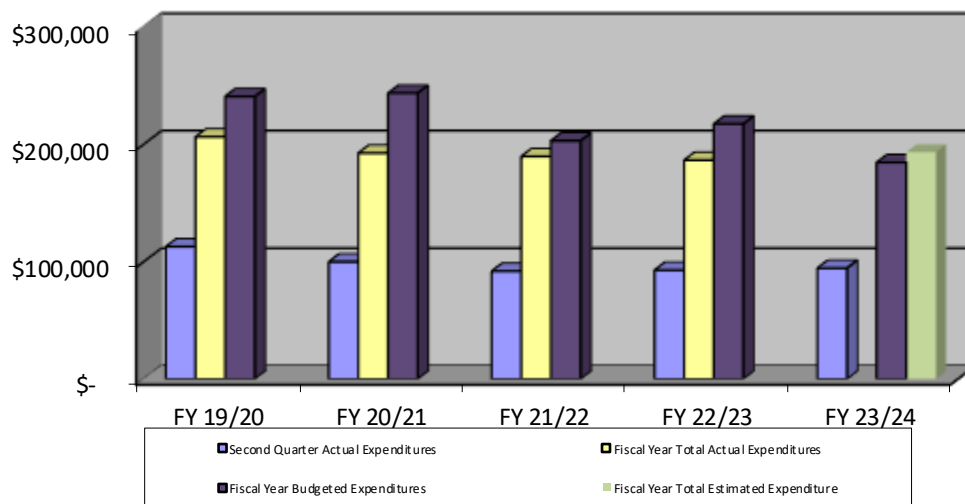
The pie chart below represents the Departmental proportion of the Town’s General Fund estimated operating expenditures. The subsequent pages review program expenditures and any anticipated savings are provided for each program. Also provided are historical program costs, year over year (YOY) percentage changes in actual expenditures, and five-year average changes per the Finance Commission’s suggestion. YOY percentage changes are, in many cases, impacted by the timing of one-time expenditures that occur during the fiscal year. Historical analysis has been provided in selected cases to provide explanations for some of the fluctuations between fiscal years. The FY 2023/24 Estimated figures also include analysis on potential salary and other expenditure savings; however, budget adjustments are only recommended as identified in this Report.



Town Council

The Town Council is the elected legislative body that represents the residents and provides policy direction for the delivery of services and capital improvements for the Town of Los Gatos. Town Council expenditures are trending higher than the same quarter in the prior year. Total estimated expenditures are also trending higher than budget due to the fact that this Department is fully staffed. Staff will monitor this program and request a budget adjustment, if necessary, before Fiscal Year end.

**Town Council - Quarterly and Annual Expenditures
5-Year History**

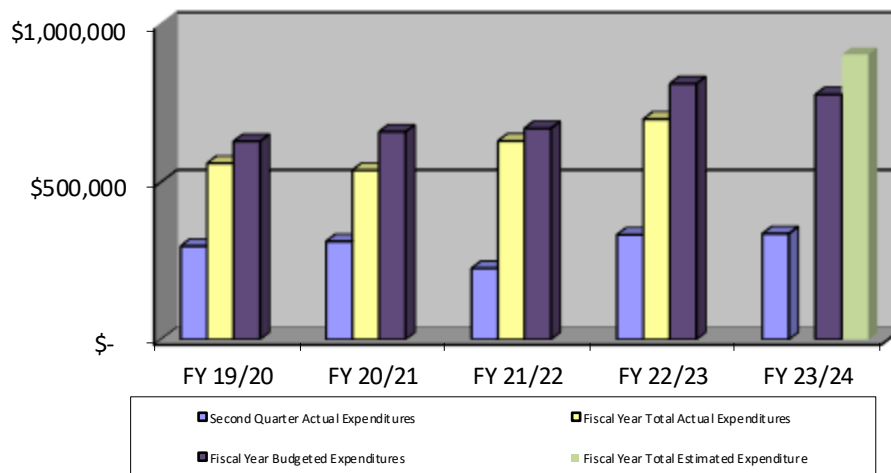


	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
Second Quarter Actual Expenditures	\$ 112,711	\$ 99,787	\$ 91,800	\$ 92,674	\$ 94,408
Fiscal Year Total Actual Expenditures	\$ 206,163	\$ 192,280	\$ 189,569	\$ 186,337	
Fiscal Year Total Estimated Expenditure					\$ 193,212
Fiscal Year Budgeted Expenditures	\$ 240,605	\$ 243,486	\$ 202,891	\$ 217,238	\$ 184,395
Second Quarter Percentage of Total	55%	52%	48%	50%	51%
Recommended Budget Revision					\$ -
YOY Percentage Changes	0.13%	-6.73%	-1.41%	-1.70%	3.69%
5-year Average Percentage Change					-1.21%

Town Attorney

The Town Attorney is the legal advisor to the Town Council, Successor Agency to the former Redevelopment Agency, and Town staff. In this capacity, the office of the Town Attorney provides a wide range of legal services to ensure that Town actions and activities are legally sound. Town Attorney program expenditures are trending at 43%. Staff recommends a \$150,000 expenditure budget increase to provide additional legal support for the Department.

Town Attorney - Quarterly and Annual Expenditures
5-Year History



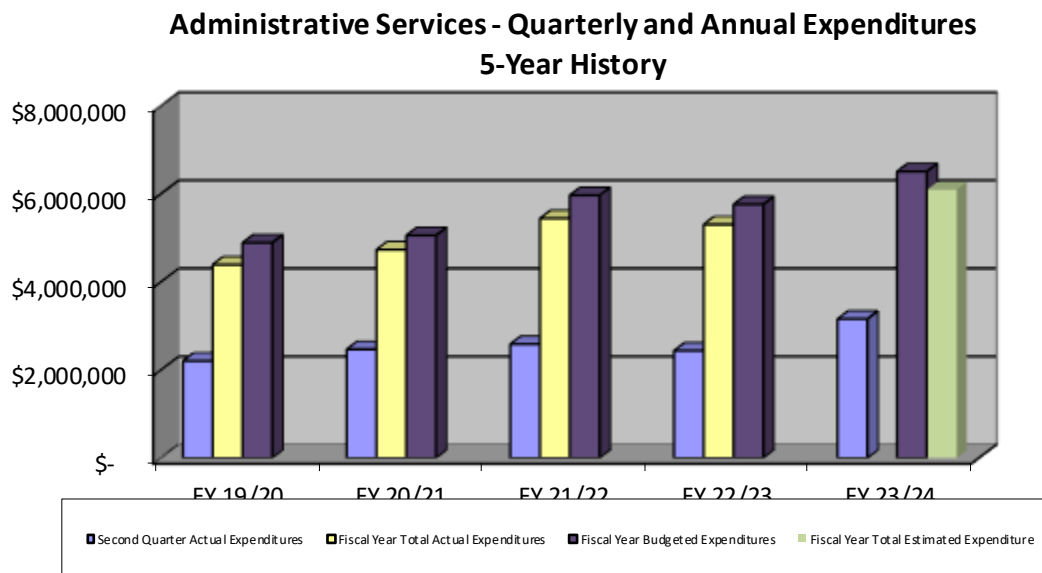
	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
Second Quarter Actual Expenditures	\$ 296,424	\$ 311,520	\$ 226,377	\$ 332,183	\$ 336,063
Fiscal Year Total Actual Expenditures	\$ 559,010	\$ 537,296	\$ 629,935	\$ 699,143	
Fiscal Year Total Estimated Expenditure					\$ 904,041
Fiscal Year Budgeted Expenditures	\$ 628,793	\$ 658,831	\$ 669,733	\$ 811,426	\$ 777,508
Second Quarter Percentage of Total	53%	58%	36%	48%	43%
Recommended Budget Revision					\$ 150,000

YOY Percentage Changes	-0.63%	-3.88%	17.24%	10.99%	29.31%
5-year Average Percentage Change					10.60%

Administrative Services

The Town Manager provides overall management, administration, and direction for the entire Town organization, reporting to the full Town Council. Administrative Services incorporates five key programs: Town Manager's Office, Clerk Department, Finance Department, Human Resources Department, and Information Technology.

Administrative Services program expenditures are trending higher compared to the same quarter expenditures in prior year. This program had some vacancies during the first half of the fiscal year including Accountant and HR Director positions. Staff estimates approximately \$322,000 expenditure savings in this program. Savings are anticipated in mainly staff salaries and benefits, travel and training, and office supplies. Staff requests a total of \$79,500 budget decrease combining a \$20,500 operating budget expenditure increase offsetting with a \$100,000 expenditure budget decrease in the ARPA Tracking Pass-Through expenditures, since funds were expended in the prior year.

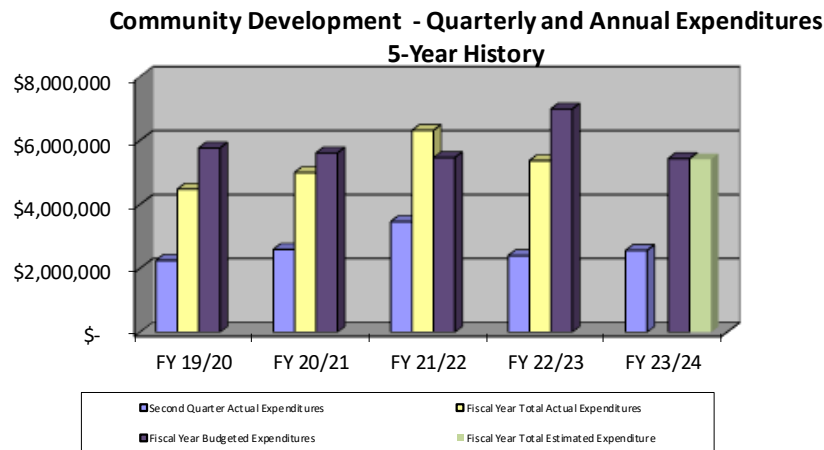


	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
Second Quarter Actual Expenditures	\$ 2,204,552	\$ 2,467,813	\$ 2,583,281	\$ 2,435,224	\$ 3,157,872
Fiscal Year Total Actual Expenditures	\$ 4,388,762	\$ 4,730,360	\$ 5,441,605	\$ 5,302,277	
Fiscal Year Total Estimated Expenditure					\$ 6,091,006
Fiscal Year Budgeted Expenditures	\$ 4,891,905	\$ 5,055,847	\$ 5,965,801	\$ 5,759,393	\$ 6,508,065
Second Quarter Percentage of Total	50%	52%	47%	46%	49%
Recommended Budget Revision					\$ (79,500)
YOY Percentage Changes	10.41%	7.78%	15.04%	-2.56%	14.88%
5-year Average Percentage Change					9.11%

Community Development Services

The Community Development Department works with elected and appointed officials, other Departments, and the community to guide the physical growth, development, and preservation of the Town.

Community Development program expenditures are trending higher than the same quarter expenditures in the prior year due to increased development activities in the Department Building and Pass-Through programs. The Pass-Through program collects the required developer deposits for various review services. The Town provides those services through consultants and the consultants are paid out of the applicant's account. At the close of a project, all remaining fees collected will be refunded to the applicant. This program had limited vacancies during the first half of the fiscal year. In addition, staff recommends expenditure budget adjustments for maintenance and repair of an affordable housing unit in the amount of \$66,000 that is offset with dedicated revenue. Staff also recommends an additional \$3,500 budget adjustment for miscellaneous operating expenditures. Staff anticipates approximately \$20,000 expenditure savings in this program. Staff will monitor this program and request an additional budget adjustment, if necessary, before Fiscal Year end.



	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
Second Quarter Actual Expenditures	\$ 2,245,767	\$ 2,589,502	\$ 3,460,301	\$ 2,394,537	\$ 2,559,684
Fiscal Year Total Actual Expenditures	\$ 4,473,790	\$ 4,994,391	\$ 6,313,505	\$ 5,365,410	
Fiscal Year Total Estimated Expenditure					\$ 5,410,008
Fiscal Year Budgeted Expenditures	\$ 5,760,099	\$ 5,605,215	\$ 5,461,716	\$ 6,978,617	\$ 5,430,624
Second Quarter Percentage of Total	50%	52%	55%	45%	47%
Recommended Budget Revision					\$ 70,418

YOY Percentage Changes	-2.32%	11.64%	26.41%	-15.02%	0.83%
5-year Average Percentage Change					4.31%

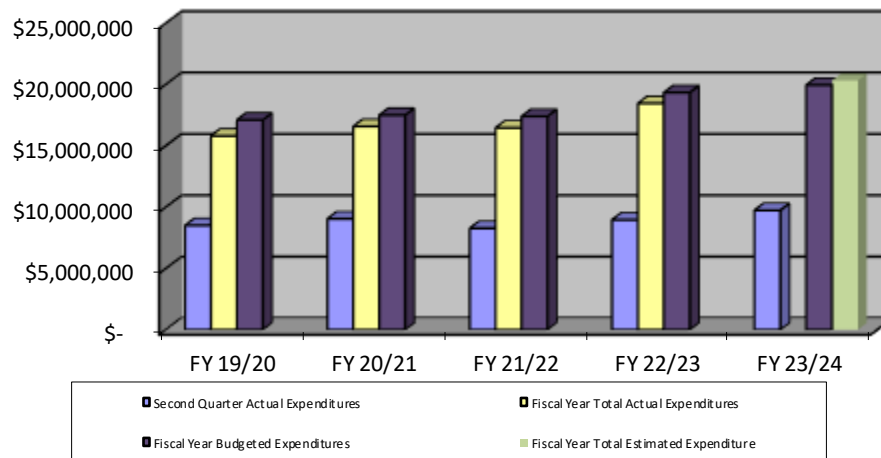
Community Development Department expenditures vary year to year based on the development activity and pass-through services.

Police Services

The Los Gatos-Monte Sereno Police Department provides Police services to the Town of Los Gatos and contractually to the City of Monte Sereno. The Department is committed to ensuring public safety with integrity, compassion, and professionalism, by providing exceptional law enforcement services, building community partnerships, and engaging the community in problem solving.

Staff is continuing to monitor Police service program revenues and expenditures. The Police Department dedicated additional resources for ongoing recruitments for open positions. Whenever feasible, open positions are filled with trainees, per diems, and temporary employees until positions are filled, which contributes to increased costs. Staff recommends \$380,143 expenditure budget increase to aid with recruitment services, additional temporary employee costs, mandated software support, and legal services as described in the Recommended Budget Adjustments. Total estimated expenditures are also trending higher than budget due to overtime related activities. Staff is monitoring this program and may request additional budget adjustments, if necessary, before Fiscal Year end.

**Police - Quarterly and Annual Expenditures
5-Year History**



	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
Second Quarter Actual Expenditures	\$ 8,504,636	\$ 9,041,998	\$ 8,266,432	\$ 8,957,541	\$ 9,732,666
Fiscal Year Total Actual Expenditures	\$ 15,793,815	\$ 16,570,836	\$ 16,451,189	\$ 18,446,040	
Fiscal Year Total Estimated Expenditure					\$ 20,313,916
Fiscal Year Budgeted Expenditures	\$ 17,097,583	\$ 17,487,761	\$ 17,390,969	\$ 19,331,331	\$ 19,933,414
Second Quarter Percentage of Total	54%	55%	50%	49%	49%

Recommended Budget Revision	\$ 380,143
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YOY Percentage Changes	5.35%	4.92%	-0.72%	12.13%	10.13%
5-year Average Percentage Change					6.36%

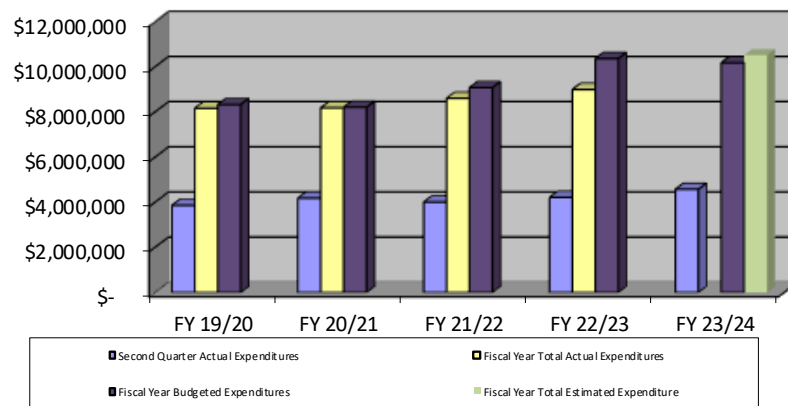
Parks and Public Works Services

The Parks and Public Works Department constructs and maintains the Town's public parks, facilities, roadways, right-of-way, and other infrastructure. Six organizational units work in coordination to achieve the Department's overarching goal of ensuring the Town's facilities are safe, functional, and attractive.

The Parks and Public Works services program expenditures are trending lower than prior year same quarter expenditures. This program experienced vacancies in several positions including Associate Engineer and Park and Maintenance Worker during the first half of the fiscal year. Staff is requesting the deletion of the hire-ahead one-time Lead Maintenance Worker position (approximately \$200,000). Staff also is requesting restructuring a couple of positions to better align the Department needs and further ensure Capital Project delivery by defunding the Transportation Mobility Manager and Associate Engineer positions and adding positions for Engineering Planner and Senior Engineer, resulting in a total net addition of \$23,875.

Total Estimated expenditures are also trending higher than budget due to the fact that the Department is utilizing temporary per diem employees as needed to fill vacancies. Staff recommends an expenditure budget decrease of \$33,416 attributed to the additional contractual obligations combined with the restructuring and defunding the hire-ahead position. Staff will monitor this program and request an additional budget adjustment, if necessary, before Fiscal Year end.

**Parks and Public Works - Quarterly and Annual Expenditures
5-Year History**



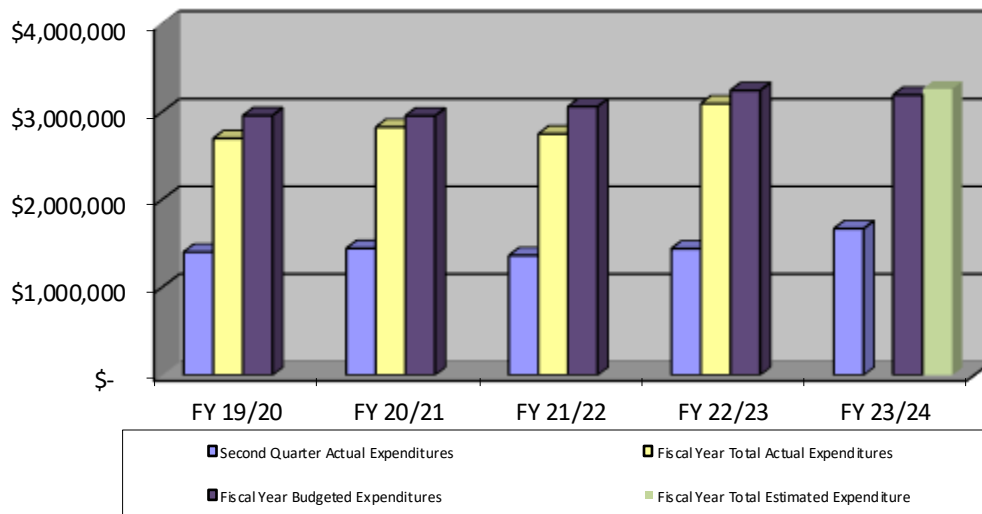
	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
Second Quarter Actual Expenditures	\$ 3,864,874	\$ 4,185,306	\$ 4,010,181	\$ 4,215,979	\$ 4,574,800
Fiscal Year Total Actual Expenditures	\$ 8,168,040	\$ 8,179,757	\$ 8,605,455	\$ 8,998,082	
Fiscal Year Total Estimated Expenditure					\$ 10,519,175
Fiscal Year Budgeted Expenditures	\$ 8,328,730	\$ 8,209,850	\$ 9,080,662	\$ 10,368,194	\$ 10,177,731
Second Quarter Percentage of Total	47%	51%	47%	47%	45%
Recommended Budget Revision					\$ (33,416)
YOY Percentage Changes	2.43%	0.14%	5.20%	4.56%	16.90%
5-year Average Percentage Change					5.85%

Library Services

The Los Gatos Library fosters curiosity and community connection and strives to be at the heart of an engaged and vibrant community.

Library services program expenditures are trending higher than prior year same quarter expenditures. Staff recommends a \$23,200 budget increase for general collection and other miscellaneous operating expenditures as described in the following section. Total Estimated expenditures are also trending higher than budget due to the fact that this Department is fully staffed. Staff will monitor this program and request an additional budget adjustment, if necessary, before Fiscal Year end.

**Library - Quarterly and Annual Expenditures
5-Year History**



	<u>FY 19/20</u>	<u>FY 20/21</u>	<u>FY 21/22</u>	<u>FY 22/23</u>	<u>FY 23/24</u>
Second Quarter Actual Expenditures	\$ 1,404,285	\$ 1,445,899	\$ 1,365,415	\$ 1,442,417	\$ 1,671,000
Fiscal Year Total Actual Expenditures	\$ 2,700,802	\$ 2,828,873	\$ 2,752,401	\$ 3,096,485	
Fiscal Year Total Estimated Expenditure					\$ 3,263,710
Fiscal Year Budgeted Expenditures	\$ 2,960,784	\$ 2,957,531	\$ 3,062,708	\$ 3,247,731	\$ 3,194,842
Second Quarter Percentage of Total	52%	51%	50%	47%	52%
Recommended Budget Revision					\$ 23,200
YOY Percentage Changes	7.67%	4.74%	-2.70%	12.50%	5.40%
5-year Average Percentage Change					5.52%

FY 2023/24 RECOMMENDED BUDGET ADJUSTMENTS

Budget adjustments are recommended for the following revenues and expenditures at the second quarter as described below:

FY 2023/24 MID-YEAR BUDGET ADJUSTMENT REQUESTS - GENERAL FUND					
Program	Account	General Fund Revenues			
1201	411**	Property Tax - Without ERAF	\$ 144,267		Based on Santa Clara County Property Tax Estimates
1201	41126	Excess ERAF	297,000		Based on Santa Clara County Property Tax Estimates
1201	41141	Motor Vehicle In Lieu Fee (VLF)	213,320		Based on Santa Clara County Property Tax Estimates
1201	41211	Sales & Use Tax	(915,383)		Based on MuniServices Most Likely January 2024 Sales
1221	41214	Measure G - District Sales Tax	(36,802)		Based on MuniServices Most Likely January 2024 Sales
1201	41311	Transient Occupancy Tax	(156,472)		Based on Past Receipts and Current Trend
1201	41612	PG&E Franchise Fee	94,530		Funds Anticipated
1201	41613	Garbage Franchise Fee	1,097,703		Funds Anticipated, Restore Prior Level
1301	44715	Attorney Services - Reimbursement	20,989		Funds Received
2101	44316	Leadership Los Gatos Participation Fee	3,450		Funds Received, Partially Matching Expenditures
2101	4351*	Additional Grants for Unhoused Initiative	5,000		Funds Anticipated
2102	48219	ARPA Tracking Pass-Through Revenue	(100,000)		Funds Expended Prior Fiscal Year, Matching
2301	41411	Business License Tax	(11,347)		Funds Anticipated
2301	452**	Interest	532,033		Funds Anticipated
3201	42413	Planning Permits	86,500		Funds Anticipated
3201	42414	Council Appeal Fees	3,000		Funds Anticipated
3301	44421	Plan Check Building	(19,800)		Funds are not Received
3401	45111	Code Compliance - Admin Citation	7,500		Funds Anticipated
3501	45929	Affordable Housing Escrow Refund	85,000		Funds Received, Partially Matching Expenditure
4101	45411	Police Foundation Donation	33,000		Matching Expenditure
4202	43336	Prop 172 - Public Safety Sales Tax	(40,100)		Based on MuniServices Most Probable January 2024
4301	42616	Alarm Registration	(5,500)		Funds are not Received
4304	42611	Parking Permits	(12,000)		Funds are not Received
4304	45112	Online Parking Permit	(7,500)		Funds are not Received
4304	45126	Online Parking Ticket	150,000		Funds Anticipated
4304	45127	SCC Park Bail Collection	5,000		Funds Anticipated
4999	43409	Excess SLESF	43,079		Funds Anticipated
4999	45917	Opioid Settlement	10,422		Funds Anticipated
5101	45919	Metal Recycling	209		Funds Received
5201	49411	Street Paving Project Management Support	23,875		Funds are not Received
5202	42514	Encroachment Permits	50,000		Funds Anticipated
5202	42517	Dumpster Permit	(700)		Funds are not Received
5202	42518	Under Utility Fee	3,000		Funds Anticipated
5202	44214	Other Service Fee	7,600		Funds Anticipated
5202	44621	Engineering Services	(60,000)		Funds are not Received
5202	44623	Engineering Review	130,000		Funds Anticipated
5202	44624	Grading Inspection	55,000		Funds Anticipated
5202	44625	NPDES Inspection	40,000		Funds Anticipated
5301	44614	LGUSL Sport Park Rental	5,884		Funds Anticipated
5301	45313	LGS Lawn Maintenance Reimbursement	(3,972)		Funds are not Received
5302	42523	JPA Fee	216,125		Funds Anticipated
5401	42519	Chargepoint Flex Billing	13,424		Funds Anticipated
5401	45922	Insurance Claim Reimbursement	54,696		Funds Received
5405	45922	Insurance Claim Reimbursement	18,563		Funds Received
7801	43343	Public Library Fund Grant	43,500		Grant Reimbursement Crossing Fiscal Years
TOTAL GENERAL FUND REVENUES			\$ 2,124,093		

FY 2023/24 MID-YEAR BUDGET ADJUSTMENT REQUESTS - GENERAL FUND

Program	Account	General Fund Expenditures			
1201	62113	Town Share of Retiree Medical	\$ 18,506	<i>Funds are not Expended</i>	
1201	62119	Additional Payment to IRS Pension Trust	300,000	<i>From Available Reserve</i>	
1301	63215	Legal Service Support	150,000	<i>Funds are not Expended</i>	
2101	62413	Boards and Commissions - DEI	2,500	<i>Funds are not Expended</i>	
2101	62434	Leadership Los Gatos	13,000	<i>Funds are Partially Expended</i>	
2101	62351	Unhoused Initiatives	5,000	<i>Funds are not Expended</i>	
2102	68219	ARPA Tracking Pass-Through Expenditures	(100,000)	<i>Funds Expended Prior Fiscal Year, Matching Revenues</i>	
3201	61111	Office Supplies	1,000	<i>Funds are not Expended</i>	
3201	61114	Postage	2,500	<i>Funds are Partially Expended</i>	
3201	62142	Membership Fees	1,000	<i>Funds are Partially Expended</i>	
3501	62371	Building Maint and Repairs- Affordable Housing	63,952	<i>Funds are Expended, Matching Revenue</i>	
3501	63370	HOA Dues and Services	1,966	<i>Funds are Expended, Matching Revenue</i>	
4101	67503	Police Foundation Donation	33,000	<i>Matching Revenues</i>	
4201	62143	Dues and Subscriptions	12,635	<i>Funds are Partially Expended</i>	
4201	633XX	Legal Services	48,000	<i>Funds are Partially Expended</i>	
4202	63213	Recruitment Services	78,429	<i>Funds are Partially Expended</i>	
4301	51***	Temporary Employee	100,000	<i>Funds are not Expended</i>	
4301	61145	Safety Uniforms	21,000	<i>Funds are not Expended</i>	
4301	64111	Training	16,000	<i>Funds are not Expended</i>	
4304	62223	SCC Court and Jail Construction Fee	28,000	<i>Funds are Partially Expended</i>	
4999	6841*	Excess SLESF	43,079	<i>Funds are not Expended</i>	
5101	62379	Miscellaneous Services and Repairs	10,000	<i>Funds are Partially Expended</i>	
5301	62524	Park Use Lease	1,500	<i>Funds are Partially Expended</i>	
5301	62613	Utilities - Water	64,000	<i>Funds are Expended</i>	
5301	5****	Defund - Hire Ahead Lead Maintenance Worker	(196,904)	<i>Funds are not Expended</i>	
5101	5****	Defund - Transportation and Mobility Manager	(134,160)	<i>Funds are Partially Expended</i>	
5201	5****	Add - Senior Engineer Planner	121,195	<i>Funds are not Expended</i>	
5201	5****	Defund - Associate Engineer	(237,389)	<i>Funds are Partially Expended</i>	
5201	5****	Add - Senior Engineer	274,229	<i>Funds are not Expended</i>	
5401	61212	Street Signs	20,000	<i>Funds are Partially Expended</i>	
5405	62379	Miscellaneous Services and Repairs	6,216	<i>Funds are Expended</i>	
5405	63364	Traffic Signalization	37,897	<i>Funds are Partially Expended</i>	
7101	62142	Membership Fees	1,000	<i>Funds are Partially Expended</i>	
7101	62317	Office Equipment Maintenance	1,200	<i>Funds are not Expended</i>	
7201	61171	General Collections	6,000	<i>Funds are not Expended</i>	
7204	61132	Computer Supplies	15,000	<i>Funds are not Expended</i>	
TOTAL GENERAL FUND EXPENDITURES			\$ 829,351		

FY 2023/24 MID-YEAR BUDGET ADJUSTMENT REQUESTS - OTHER FUNDS

Fund	Program	Account	Other Fund Revenues		
251	5408		Los Gatos Theatre		
		4353*	Theatre Tenant Rent	51,445	<i>Funds Anticipated</i>
		45919	Tenant Utility Reimbursement	54,155	<i>Funds Anticipated</i>
				\$ 105,600	
611	1302		Liability Self Insurance		
611		45922	Insurance Claim Reimbursement	5,000	<i>Funds Received</i>
				\$ 5,000	
612	2202		Workers' Compensation		
612		45922	Excess Insurance Claim Reimbursement	140,379	<i>Funds Received</i>
				\$ 140,379	
631	5402		Equipment Replacement		
631		45328	Equipment Sharing Revenue	(8,900)	<i>Funds are not Received</i>
		45922	Insurance Claim Reimbursement	18,591	<i>Funds Received</i>
				\$ 9,691	
481	411-811-6004	4332*	Gas Tax		
481			Decreased Gas Tax Projections for Street Repair	(73,138)	<i>Based on California City Finance Projection January 2024</i>
				\$ (73,138)	
711	7301		Library Trust		
711		45411	Additional Donation	1,000	<i>Funds Received</i>
		45452	Friends of the Library Donation	17,300	<i>Funds Received</i>
				\$ 18,300	
TOTAL OTHER FUNDS REVENUES				\$ 50,762	
Fund	Program	Account	Other Fund Expenditures		
251	5408		Los Gatos Theatre		
		62611	Utilities - Electric	73,068	<i>Funds are Partially Expended</i>
		62612	Utilities - Gas	108	<i>Funds are Partially Expended</i>
		62613	Utilities - Water	4,188	<i>Funds are Partially Expended</i>
				\$ 77,364	
411	411-831-9901	69111	GFAR		
411				23,875	<i>From Available GFAR Fund Balance</i>
				\$ 23,875	
481	481-811-9901	82405	Gas Tax		
481			Decreased Gas Tax Projections for Street Repair	(73,138)	<i>Based on California City Finance Projection January 2024</i>
				\$ (73,138)	
611	1302		Liability Self Insurance		
611		655XX	Insurance Premium	49,482	<i>From Available Liability Self Insurance Internal Service Fund</i>
		6551X	Employee Risk Management Authority Insurance	120,000	<i>From Available Liability Self Insurance Internal Service Fund</i>
				\$ 169,482	
612	2202	62332	Workers' Compensation		
612			Ergonomic Evaluation	7,000	<i>From Available Workers' Comp Internal Service Fund</i>
				\$ 7,000	
631	5402	81112	Facilities Maintenance		
			Traffic Speed Monitor Trailer	23,591	<i>From Available Workers' Comp Internal Service Fund</i>
				\$ 23,591	
633	5404		Facilities Maintenance		
633		62611	Utilities - Electric	90,000	<i>From Available Facilities Maintenance Internal Service Fund</i>
		62613	Utilities - Water	30,000	<i>From Available Facilities Maintenance Internal Service Fund</i>
		62631	Utilities - Telephone	15,000	<i>From Available Facilities Maintenance Internal Service Fund</i>
				\$ 135,000	
TOTAL OTHER FUNDS EXPENDITURES				\$ 363,174	

SUMMARY OF KEY RECOMMENDED BUDGET ADJUSTMENTS

- General Property Tax and Motor Vehicle in Lieu Fee: Staff recommends an increase in projected revenues of approximately \$144,267 in General Property Tax and an increase of \$213,320 Motor Vehicle in Lieu fee which are in line with the estimates and forecasts provided to the Town from Santa Clara County.
- ERAF: Staff recommends a \$297,000 revenue budget increase to reflect current estimates and forecasts provided to the Town from Santa Clara County.
- Sales and Use Tax: Staff recommends a \$915,383 revenue budget decrease to reflect current sales tax trends based on MuniServices' current projections.
- Measure G – District Sales Tax: Staff recommends a \$36,802 revenue budget decrease to reflect the current trends of the one-eight cent sales tax based on MuniServices' projections.
- Transient Occupancy Tax (TOT): Staff recommends a \$156,472 revenue budget decrease based on the current trends and past receipts.
- PG&E Franchise Fee: Staff recommends an increase in projected revenues of approximately \$94,530 in cable franchise fee based on last year's actuals.
- Garbage Franchise Fee: Staff recommends an increase in projected revenues of approximately \$1,097,703 to restore prior levels based on the new agreement.
- Attorney Services – Reimbursement: Staff recommends a \$20,989 revenue budget increase based on current reimbursements.
- Leadership Los Gatos: Staff recommends a \$3,450 revenue budget increase in fee revenue based on current receipts and a \$13,000 increase in expenditures based on revised estimates.
- Unhoused Initiative Grant: Staff recommends a \$5,000 revenue and expenditure budget increase based on an anticipated additional contribution.
- ARPA Passthrough Tracking: Staff recommends a \$100,000 revenue and expenditure budget decrease based on funds expended in the prior year.
- Business License Tax: Staff recommends a \$11,347 revenue budget decrease based on revised estimates and current receipts.
- Interest Earnings: Staff recommends a \$531,287 revenue budget increase based on a higher interest rate environment than expected.
- Planning Permits and Council Appeal Fees: Staff recommends a \$86,500 revenue budget increase for planning permits and a \$3,000 budget increase for council appeal fees based on current receipts.

- Plan Check Fees: Staff recommends a \$19,800 revenue budget decrease based on the current plan check activities.
- Code Compliance – Admin Citations: Staff recommends a \$7,500 revenue budget increase based on the current receipts collected.
- Affordable Housing Program: Staff recommends a \$85,000 revenue budget increase based on current escrow funds from the purchase of 137 Bersano Ln and an expenditure budget increase of \$65,918 for building repairs and HOA Dues and services for 137 Bersano Ln.
- Police Foundation: Staff recommends a \$33,000 revenue and expenditure budget increase based on additional donations.
- Prop 172 – Public Safety Sales Tax: Staff recommends a \$40,100 revenue budget decrease to reflect the current trends of the tax based on MuniServices’ current projections.
- Alarm Registration: Staff recommends a \$5,500 revenue budget decrease due to alarm registration trending down for the year.
- Parking Permits: Staff recommends a \$12,000 revenue budget decrease for parking permits and a \$7,500 budget decrease for online parking permits based on a change in the business parking permit process.
- Online Parking Ticket System: Staff recommends a \$150,000 revenue budget increase to reflect revised estimates based on citations collected.
- Parking Bail: Staff recommends a \$5,000 revenue budget increase to reflect revised estimates based on current collections from Santa Clara County.
- Excess SLESF: Staff recommends a \$43,079 revenue and expenditure budget increase to create a pass-through account. This action is recommended and consistent with the intent of the Citizens Option for Public Safety (COPS) program for use of SLESF funds.
- Opioid Settlement Proceeds: Staff recommends a \$10,422 revenue budget increase to recognize the receipt of Opioid Settlement funds. The Settlement requires funds be used primarily for opioid abatement; the Police Department will follow the fiscal guidelines outlined in the Settlement agreement.
- Metal Recycling: Staff recommends \$209 revenue budget increase to recognize receipt of funds for metal recycling.
- Street Paving Project Management: Staff recommends a \$23,875 revenue budget increase based on additional engineering support.
- Encroachment Permits: Staff recommends \$50,000 revenue budget increase to recognize incoming increased development fees.

- Dumpster Permits: Staff recommends \$700 revenue budget decrease based on less applications submitted than expected.
- Utility Underground Fee: Staff recommends \$3,000 revenue budget increase to recognize an increase in encroachment permit inspections.
- Subdivision Map Checking Fees: Staff recommends \$7,600 revenue budget increase based on the current engineering subdivision map checking activities.
- Engineering Development Services: Staff recommends \$60,000 revenue budget decrease based on the current trends for misc. engineering service fees.
- Engineering Review Surcharge: Staff recommends \$130,000 revenue budget increase based on the current trends for applications.
- Public Improvements & Grading Inspection Fees: Staff recommends a revenue budget increase of \$55,000 based on the current trends for inspections.
- National Pollutant Discharge Elimination System (NPDES): Staff recommends a revenue budget increase of \$40,000 based on the current trends for NPDES inspection and permit services.
- Los Gatos Parks Use Agreements: Staff recommends a revenue budget increase of \$5,884 to recognize contracted annual use fee increases.
- LGS-Rec Lease Landscape Services: Staff recommends a revenue budget decrease of \$3,972 to recognize a reduction in the rent.
- West Valley Solid Waste Management Authority JPA: Staff recommends a revenue budget increase of \$216,125 to recognize the current Authority Administrative portion of the Authority Reimbursement paid by WVCRA to each Member Agency, and then each Member Agency pays that to the Authority.
- ChargePoint Flex Billing: Staff recommends a \$13,424 revenue budget increase to recognize the current trend of usage and reimbursements received.
- JPA Safety Grant: Staff recommends a \$54,696 revenue budget increase to recognize the receipt of safety grant for sidewalk repairs.
- Property Damage Claims: Staff recommends a \$18,562 revenue budget increase to recognize the receipt of reimbursement for playground structure, and damaged streetlight, pole and sign; and \$6,216 expenditure budget increase for misc. service and repairs.
- Library Operating Grants: Staff recommends a \$43,500 revenue budget increase based on grant reimbursements that crossed the fiscal year.
- Retiree Medical: Staff recommends a \$18,506 expenditure budget increase based on current estimates.
- IRS Pension Trust: Staff recommends an expenditure budget increase in the amount of \$300,000 for an additional payment to the IRS Pension Trust from available Pension/OPEB Reserve.

- Legal Services Support: Staff recommends a \$150,000 expenditure budget increase based on hiring a firm to assist with part-time legal support.
- Boards and Commissions: Staff recommends a \$2,500 expenditure budget allocation to the Diversity, Equity, and Inclusion Commission.
- Development Review Expenditures: Staff recommends budget expenditure increases for office supplies (\$1,000), postage (\$2,500), and membership fees (\$1,000) based on current expenditures.
- Dues and Subscriptions: Staff recommends a \$12,635 expenditure budget increase for the PowerDMS annual subscription agreement.
- Legal Services: Staff recommends a \$48,000 expenditure budget increase based on additional investigative needs.
- Recruitment Services: Staff recommends a \$78,429 expenditure budget increase based on an increase in recruitment activity and the Police Department has been actively planning for upcoming staff transition. This multi-faceted request is for three vendors services. The first vendor provides law enforcement agencies digital recruiting services using a multi-dimensional approach to officer recruiting combining effective communication, public relations, branding, marketing, and analytics, to engage with potential candidates. The two other vendors are assisting with the Police Captain recruitment and upcoming hiring and promotional process for the ranks of Corporal and Sergeant.
- Temporary Employees: Staff recommends a \$100,000 expenditure budget increase based on temporary/hourly compensation for four planned police recruits attending the police academy.
- Safety Uniforms: Staff recommends a \$21,000 expenditure budget increase based on additional staffing of four police recruits, one lateral police officer, and three sworn promotional positions.
- Training: Staff recommends a \$16,000 expenditure budget increase based on additional training expenditures for four police recruits attending the police academy.
- Court Fee Expenses: Staff recommends a \$28,000 expenditure budget increase based on parking citations trending higher than expected.
- Miscellaneous Services and Repairs: Staff recommends \$10,000 expenditure budget increase to recognize the cost of personnel related contracted services.
- Park Use Lease: Staff recommends an expenditure budget increase of \$1,500 annually for the LG Creek Trail Lease with Dept. of Transportation.
- Park Utilities: Staff recommends an expenditure budget increase of \$64,000 based on the current trends for water costs.
- Defund Lead Park Maintenance Worker: Staff recommends an expenditure budget decrease of \$196,904 to defund the Lead Park Maintenance Worker due to this hire-ahead position being budgeted and the retirement crossed fiscal years.

- Engineering Position Changes: Staff recommends an expenditure budget decrease of \$134,160 to defund the Transportation & Mobility Manager, an expenditure budget decrease of \$237,389 to defund an Associate Engineer, and an expenditure budget increases to add a Senior Engineer (\$274,229) and Senior Engineer Planner (\$121,195) to better align Department needs and workloads. The total net cost is \$23,875 and offset from revenue from the Street Maintenance Capital Project.
- Signs: Staff recommends \$20,000 expenditure budget increase related to the costs for modified signage supplies
- Traffic Signalization: Staff recommends \$37,897 expenditure budget increase to recognize increased property damages to streetlights.
- Membership Fees: Staff recommends an expenditure budget increase in the amount of \$1,000 for increase in costs for participation in Pacific Library Partnership resource sharing.
- Office Equipment Maintenance: Staff recommends an expenditure budget increase in the amount of \$1,200 for additional upholstery repair to Library furniture.
- General Collections: Staff recommends an expenditure increase in the amount of \$6,000 for increased public usage of library media platforms.
- Computer Supplies: Staff recommends a one-time expenditure increase of \$15,000 for replacement of failing radio frequency ID tag readers for circulation of library materials.

Other Fund Revenues and Expenditures

- Theatre Tenant Rent: Staff recommends a \$51,445 revenue budget increase based on anticipated rent payments.
- Tenant Utility Reimbursement: Staff recommends a \$54,155 revenue budget increase based on projected utility bills.
- Insurance Claim Reimbursement: Staff recommends a \$5,000 revenue budget increase based on current receipts.
- Worker's Compensation – Excess Insurance Claim Reimbursement: Staff recommends a \$140,379 revenue budget increase based on higher-than-expected claim activity.
- Equipment Sharing Revenue: Staff recommends a \$8,900 revenue budget decrease based on funds not received.
- Gas Tax: Staff recommends \$73,138 revenue and expenditure budget decrease based on California City Finance Projections.
- Library Trust: Staff recommends a \$18,300 revenue budget increase to recognize additional donation received from the Friends of the Library (\$17,300) and other parties (\$1,000).

- Equipment Replacement Fund: Staff recommends \$18,590 revenue budget increase and \$23,591 expenditure budget increase to recognize the receipt of insurance reimbursement and the purchase of traffic speed trailer caused by a hit and run.
- Theatre Utility Costs: Staff recommends a \$73,068 expenditure budget increase based on the current trends for electric costs, a \$108 expenditure budget increase based on the current trends for gas costs, and a \$4,188 expenditure budget increase based on the current trends for water costs.
- GFAR Project Costs: Staff recommends a \$23,875 expenditure budget increase based on project expenditures.
- Liability Self Insurance: Staff recommends a \$49,482 expenditure budget increase in insurance premiums and a \$120,000 expenditure budget increase in Employee Risk Management Authority Insurance based on an increase in insurance costs.
- Ergonomic Evaluations: Staff recommends a \$7,000 expenditure budget increase based on catching up on staff evaluations.
- Facilities Maintenance: Staff recommends \$90,000 expenditure budget increase based on the current trends for electric costs, \$30,000 expenditure budget increase based on the current trends for water costs, and \$15,000 expenditure budget increase for the increase of Town telephone costs (Frontier and Verizon).

GENERAL FUND FINANCIAL SUMMARIES AND ESTIMATES

The following table is the *Schedule of General Fund Operating Revenues Versus Operating Expenditures* for the second quarter of FY 2023/24 which includes comparison information from the prior year.

The FY 2023/24 Adjusted Budget as of 12/31/2023 column includes the adopted budget and items that Council approved during the course of the first two quarters of the fiscal year, such as additional funding for legal services, and miscellaneous carry over grants from prior fiscal year.

The FY 2023/24 Adjusted Budget as of 2/20/2024 column includes the adopted budget and items that Council approved during the course of the first two quarters of the fiscal year and the budget adjustment requested with this report.

The FY 2023/24 Estimated column contains projections of final balances for the current fiscal year based upon staff analysis, the early trends observed through the second quarter in sales tax and property tax projections, and the proposed mid-year adjustments as listed in this report.

The FY 2023/24 Estimated figures also include analysis on potential salary and other expenditure savings; however, budget adjustments are only recommended as identified in this Report.

Staff continues to fine tune the detailed analysis of the FY 2023/24 year-end estimated revenue and expenditure numbers and an update will be provided with the presentation of the Proposed Fiscal Year 2024/25 Operating Budget.

The table below provides the details of the Revenues and Use of Reserves and Total Expenditures and Reserve Allocations.

GENERAL FUND								
SUMMARY OF REVENUES, TRANSFERS INM USE OF RESERVES AND EXPENDITURES, TRANSFERS OUT AND RESERVE ALLOCATIONS								
	FY 2022/23 Actuals	FY 2022/23 Q2	2Q % of FY 2022/23 Actuals	2Q % of FY 2023/24 Adjusted Budget as of 12/31/2023	FY 2023/24 Q2	FY 2023/24 Adjusted Budget as of 12/31/2023	FY 2023/24 Adjusted Budget as of 2/20/2024	FY 2023/24 Year End Estimates
Revenues								
Property Tax	\$ 18,187,388	\$ 6,155,317	33.8%	34.7%	\$ 6,446,869	\$ 18,556,631	18,997,898	\$ 18,997,898
VLF Backfill Property Tax	4,555,700	-	0.0%	0.0%	-	4,692,680	4,906,000	4,906,000
Sales & Use Tax	7,507,068	2,398,925	32.0%	28.6%	2,250,056	7,876,233	6,960,850	6,960,850
Measure G Sales & Use Tax	1,299,409	426,496	32.8%	32.5%	415,004	1,276,545	1,239,743	1,239,843
Franchise Fees	3,074,624	1,044,055	34.0%	51.0%	1,079,717	2,116,470	3,308,703	3,308,703
Transient Occupancy Tax	2,228,190	857,715	38.5%	33.9%	819,683	2,419,000	2,262,528	2,264,484
Business License Tax	2,361,862	97,974	4.1%	14.4%	352,611	2,440,766	2,429,419	2,429,419
Licenses & Permits	3,268,498	1,614,760	49.4%	59.0%	1,726,270	2,925,230	3,262,655	3,239,593
Intergovernmental	1,553,397	493,329	31.8%	60.0%	735,280	1,224,466	1,100,945	1,356,699
Town Services	4,646,675	3,299,202	71.0%	76.4%	3,375,872	4,416,250	4,615,797	5,166,743
Fines & Forfeitures	416,951	151,615	36.4%	111.2%	226,280	203,450	358,450	367,700
Interest	602,592	145,003	24.1%	22.8%	235,922	1,035,097	1,567,130	1,567,130
GASB 31 to Market	3,197	1,577,168	49332.7%		1,573,971	-	-	-
Use of Property	38,126	-	0.0%		-	-	-	-
Miscellaneous Other	859,578	551,234	64.1%	40.8%	826,265	2,026,716	2,124,634	2,306,791
Park Construction Tax	6,454	-	0.0%	109.7%	7,680	7,000	7,000	8,280
Debt Service - <i>Entry Eliminated for ACFR</i>	1,893,713	1,893,713	100.0%	0.0%	-	1,894,550	1,894,550	1,894,550
ARPA Income Replacement - <i>Entry Eliminated for ACFR</i>	471,664	-	0.0%		-	-	-	-
Pension Trust Income - <i>Entry Eliminated for ACFR</i>	690,000	-	0.0%		-	-	-	-
Measure G for Operations - <i>Entry Eliminated for ACFR</i>	629,065	-	0.0%		-	-	-	-
Proceeds for Sales of Assets	2,162	-	0.0%		-	-	-	-
Fund Transfer In	4,153,408	102,000	2.5%	21.3%	114,499	538,536	562,411	562,411
Total Revenues & Transfers In	\$ 58,449,721	\$ 20,808,506	36%	38%	\$ 20,185,979	\$ 53,649,620	\$ 55,598,713	\$ 56,577,094
Use of Other Funding Sources:								
Use of Reserves - Capital/Special Projects	\$ 2,350,000	\$ -	0.0%	0.0%	\$ -	\$ 2,108,288	\$ 2,108,288	\$ 1,615,000
Use of Reserves - Council Priorities - Economic Recovery	2,065,302	-			-	1,645,281	1,545,281	1,545,281
Use of Reserve - Pension/OPEB	300,000	-			-	-	-	300,000
Total Other Funding Sources	\$ 4,715,302	\$ -	0%	0%	\$ -	\$ 3,753,569	\$ 3,653,569	\$ 3,460,281
Total Revenues and Use of Reserves	\$ 63,165,023	\$ 20,808,506	33%	35%	\$ 20,185,979	\$ 57,403,189	\$ 59,252,282	\$ 60,037,375
Expenditures								
Town Council	\$ 186,337	\$ 92,674	49.7%	51.2%	94,408	\$ 184,395	184,395	\$ 193,212
Attorney	699,143	332,183	47.5%	43.2%	336,063	777,508	927,508	904,041
Administrative Services	5,302,277	2,435,224	45.9%	48.5%	3,157,872	6,508,065	6,428,565	6,091,006
Non- Departmental	2,641,017	3,230,657	122.3%	42.7%	2,759,192	6,462,904	6,781,410	6,499,660
Community Development	5,065,410	2,394,537	47.3%	47.1%	2,559,684	5,430,624	5,501,042	5,410,008
Police	18,446,040	8,957,541	48.6%	48.8%	9,732,666	19,933,414	20,313,557	20,313,916
Parks & Public Works	8,998,082	4,215,979	46.9%	44.9%	4,574,800	10,177,731	10,144,315	10,519,175
Library	3,096,485	1,442,417	46.6%	52.3%	1,671,000	3,194,842	3,218,042	3,263,710
Capital Outlay	300,000	-			-	-	-	-
Principal	156,034	-			-	156,034	156,034	156,034
Total Department Expenditures	\$ 44,890,825	\$ 23,101,212	51%	47%	\$ 24,885,685	\$ 52,825,517	\$ 53,654,868	\$ 53,350,762
Debt Service - <i>Entry Eliminated for ACFR</i>	\$ 1,893,713	\$ -	0.0%	0.0%	\$ -	\$ 1,894,550	\$ 1,894,550	\$ 1,894,550
ARPA Income Replacement - <i>Entry Eliminated for ACFR</i>	471,664	-			-	-	-	-
Transfer to Pension Trust Fund - <i>Entry Eliminated for ACFR</i>	690,000	-			-	-	-	-
Measure G Transfer - <i>Entry Eliminated for ACFR</i>	629,065	-			-	-	-	-
Transfers Out	7,242,939	-	0.0%	0.0%	-	1,615,000	1,615,000	1,615,000
Total Additional Non-Departmental Expenditures	\$ 10,927,381	\$ -	0%	0%	\$ -	\$ 3,509,550	\$ 3,509,550	\$ 3,509,550
Total Expenditures and Transfers Out	\$ 55,818,206	\$ 23,101,212	41%	44%	\$ 24,885,685	\$ 56,335,067	\$ 57,164,418	\$ 56,860,312
Allocate to Budget Stabilization/Catastrophis Reserve	\$ 276,417	-			-	\$ -	\$ -	\$ -
Allocate to Compensated Absences	61,476	-			-	-	-	-
Allocate to Carryover Encumbrances	4,553	-			-	-	-	-
Allocate to Economic Recovery	1,556,614	-			-	-	-	-
Allocate to ERAF Risk Reserve	689,608	-			-	660,900	750,000	750,000
Allocate to Restricted Pension Trust	690,000	-			-	390,000	690,000	690,000
Net Total Revenues, Transfers, and Use of Reserve Less Total Expenditure and Reserve Allocation	\$ 4,068,149 **	\$ (2,292,706) *			\$ (4,699,706) *	\$ 17,222	\$ 647,864	\$ 1,737,063

*FY 2022/23 and FY 023/24 2Q Net Operating Revenues are negative because some revenues budgeted for the entire fiscal year are received in the third or fourth quarters and fund expended in the first or second quarters.

** This schedule includes fund balance uses. Total Revenues and Transfers In (\$58,449,721) minus Total Operating Expenditures (\$55,818,206) equals \$2,631,515.

FINANCIAL SUMMARIES OF OTHER FUNDS

The group of financial summaries on the following pages present data by governmental, proprietary, and fiduciary fund types. For each, the fund information starts with a beginning fund balance, adds current year revenues, and subtracts current year expenditures, resulting in an ending fund balance. Adopted budget amounts are provided as a basis for comparison of actuals to date.

Special Revenue Funds (Governmental Fund Type)

Special Revenue Funds account for the proceeds derived from specific revenue sources that are legally restricted or assigned to special purposes. The Town's Special Revenue Funds are Community Development Block Grant Fund, Housing Conservation Program Fund, Urban Runoff Source Fund (Non-Point Source), several Landscaping Lighting District (LLD) Funds, Theatre Fund, and Library Trusts Funds. Staff also recommends \$105,600 revenue budget adjustment to recognize Theatre tenant lease and utility reimbursement revenues and \$77,364 expenditure budget adjustment for Theatre related expenses from available rent proceeds.

**Special Revenue Funds
Budget to Actuals Comparisons**

	CDBG Grants	Non-Point Source	LLD's	THEATRE	LIBRARY TRUSTS
Beginning Fund Balance	\$ 166,653	\$ 629,843	\$ 176,966	\$ 74,991	\$ 530,174
Budgeted Revenues	-	359,950	39,230	68,400	74,800
Total Actual Revenues - 2nd Qtr	\$ -	\$ 149,979	\$ -	\$ 30,020	\$ 97,161
Budgeted Expenditures	-	271,103	47,684	55,814	100,800
Total Actual Expenditures - 2nd Qtr	-	121,074	13,774	26,936	21,949
2nd Quarter Ending Fund Balance	\$ 166,653	\$ 658,748	\$ 163,192	\$ 78,075	\$ 605,386

Capital Projects Funds (Governmental Fund Type)

Capital Projects Funds account for resources used for the acquisition and construction of capital facilities by the Town. Funds in this category are the GFAR (General Fund Appropriated Reserve) Fund, Traffic Mitigation Fund, Grant Funded CIP Projects Fund, Utility Underground Fund, Gas Tax Fund, and three Storm Drain Funds. Staff recommends revenue and expenditure budget adjustments in the amount of \$73,138 to reflect decreased gas tax projections. Staff will continue to monitor these revenues and expenditures throughout the remainder of the year and \$23,875 expenditure budget increase to support street related engineer work. The Grant Funded CIP fund displays a deficit balance because this grant fund expends Town dollars first, then provides documentation of these expenditures to the State of California or other granting agencies and is reimbursed for those costs. The reimbursements eventually result with the fund “breaking even” or a zero fund balance.

Capital Project Funds Budget to Actuals Comparisons						
	GFAR* Fund	Traffic * Mitigation	Grant Funds* CIP	Storm Drains	Utility Undergd	Gas Tax
Beginning Fund Balance	\$ 21,725,838	\$ 431,078	\$ (406,891)	\$ 3,218,331	\$ 3,438,996	\$ 1,671,245
Budgeted Revenues	4,968,017	80,000	2,427,810	105,670	45,190	1,787,514
Total Actual Revenues - 2nd Qtr	3,580,968	-	177,838	76,142	11,736	691,970
Budgeted Expenditures	24,550,486	413,097	15,561,567	902,219	347,576	3,263,771
Total Actual Expenditures - 2nd Qtr	3,759,292	98,920	330,492	-	-	1,464,600
2nd Quarter Ending Fund Balance	\$ 21,547,514	\$ 332,158	\$ (559,545)	\$ 3,294,473	\$ 3,450,732	\$ 898,615

** GFAR, Traffic Mitigation, and Grant Funds balances are combined in the FY 2023 ACFR. The combined balance of \$21,750,025 is presented as an Appropriated Reserve.*

Internal Service Funds (Proprietary Fund Type)

Internal Service Funds finance and account for special activities and services performed by a designated Town Department for other Town Departments on a cost reimbursement basis. Included in this fund type are the Equipment Replacement Fund, Workers' Compensation Fund, Joint Powers Authority Pooled Liability Network (PLAN) Self-Insurance Fund, Information Technology Fund, and the Facilities Maintenance Fund.

Staff recommends a \$5,000 revenue budget increase for recognize insurance claim reimbursement proceeds and a \$169,482 expenditure budget adjustment to cover additional insurance premium expenses in the Self Insurance Fund. The Self Insurance Fund Display a deficit balance because insurance premiums are paid at the beginning of the fiscal year, however Department reimbursement posted on the bi-monthly bases. In addition, increased premium rates and increased claim activities require the Town to increase its Liability Internal Service charges to increase by \$450,000 or 58% percent to assure cost recovery. Staff recommend \$140,379 revenue budget increase in the Workers' Compensation Internal Service Fund to recognize insurance claim reimbursement proceeds. Staff recommends increasing the internal service rate by \$500,000 or 45% percent to assure cost recovery in the Workers' Compensation Internal Service Fund. Staff will incorporate the new rates in the Proposed FY 2024/25 Operating Budget for Council consideration.

Internal Service Funds Budget to Actuals Comparisons					
	Equipment Replacemt	Workers Compensation	Self Insurance	Information Technology	Facility Maint.
Beginning Fund Balance	\$ 2,413,720	\$ 514,813	\$ 212,022	\$ 2,474,618	\$ 927,699
Budgeted Revenues	1,056,738	1,123,448	779,024	735,656	1,252,523
Total Actual Revenues - 2nd Qtr	528,197	645,243	389,512	385,019	728,988
Budgeted Expenditures	993,636	1,773,264	1,161,313	1,018,679	1,252,521
Total Actual Expenditures - 2nd Qtr	26,035	1,012,838	1,057,171	551,895	454,942
2nd Quarter Ending Fund Balance	\$ 2,915,882	\$ 147,218	\$ (455,637)	\$ 2,307,742	\$ 1,201,745

Trust and Agency Funds (Fiduciary Fund Type)

AB1x26 is the “Dissolution Bill” that eliminated the Town’s Redevelopment Agency effective February 1, 2012. AB 1484 is the “clean-up” bill that revised and attempted to clarify AB1x26. In accordance with the law, the Successor Agency continues to wind down the affairs and operations of the former Redevelopment Agency by implementing programs and activities in accordance with the State-approved Recognized Obligation payment Schedule (ROPS). The Successor Agency monies are now accounted for in a Private Purpose Trust fund and no longer part of the Town’s Financial Statements. The fund balance reported is the actual fund balance that incorporated the full accrual of long-term debt related to the outstanding bonds payable to the 2002 and 2010 Certificates of Participations. The approved ROPS schedule includes full funding related to the obligation for this debt.

**Trust & Agency Fund
Budget to Actuals Comparisons**

		SA Trust
Beginning Fund Balance	\$	(6,187,788)
Budgeted Revenues		3,811,664
Total Actual Revenues - 2nd Qtr		1,894,000
Budgeted Expenditures		3,800,934
Total Actual Expenditures - 2nd Qtr		3,568,622
2nd Quarter Ending Fund Balance	\$	(7,862,410)

From: Phil Koen [Redacted]
Sent: Thursday, February 15, 2024 7:59 AM
To: Janette Judd <jjudd@losgatosca.gov>
Cc: Linda Reiners [Redacted] Laurel Prevetti <LPrevetti@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>
Subject: Re: Meeting with Asst. Town Manager, Finance Director, F.C. Chair and Vice Chair

[EXTERNAL SENDER]

Janette,

I have a 10am meeting but would cancel that meeting to meet at 10 am with everyone. Please let me know as soon as possible.

The reason for the urgency is if my analysis is correct, which I believe it is, then an addendum will need to be sent to the TC correcting the Mid Year Report and providing more disclosure.

For sake of clarity, the analysis is using the Town's estimates for the full year which taken as a whole, may be too conservative. Therefore while my analysis shows a decline in the Ending GF Balance, the actual surplus of revenues over expenditures will most likely be much greater. So the projected decline is only a forecast and probably does not reflect the most likely outcome. That's good news.

However the analysis does show almost the entire use of the Economic Recovery Reserve which is not disclosed in the write up and I am sure will be a surprise to the TC. That's the bad news.

Please let me know if we will be able to meet at 10am to discuss the Mid-Year review and ERAF.

Phil Koen

On Feb 15, 2024, at 6:53 AM, Janette Judd <jjudd@losgatosca.gov> wrote:

Caution: External (jjudd@losgatosca.gov)

Spam Content

Good morning,

Unfortunately neither the Finance Director nor Assistant Manager are available this Friday afternoon. There is potential they could meet at 10:00am, however, I will need to confirm with them as I do see other commitments scheduled.

Also I would need to check with the Town Manager on her preference on attending other dates / times offered, but she is not available on Friday.

I will circle back to you both once I hear from staff.

Thank you,

Janette

From: Phil Koen [Redacted]

Sent: Wednesday, February 14, 2024 5:18 PM

To: Janette Judd <jjudd@losgatosca.gov>; Linda Reiners [Redacted]

Cc: Laurel Prevetti <LPrevetti@losgatosca.gov>; Mary Badame <MBadame@losgatosca.gov>

Subject: RE: Meeting with Asst. Town Manager, Finance Director, F.C. Chair and Vice Chair

[EXTERNAL SENDER]

Hello Janette,

Thank you for your email. I have spoken to Linda, and we would prefer to meet this Friday at 2pm.

In addition to the ERAF topic, we would like to discuss the attached documents which address the Staff's Mid-Year review work product. Since the FC was unable to address this at Monday's meeting because of time constraints, and the Mid-Year review is on the TC agenda for this coming Tuesday, there is urgency to this meeting.

We are concerned with Staff's conclusion the FY 24 projections reflect an anticipated \$1.7m surplus. While the Staff report does not forecast an ending GF balance, we take this to mean the Staff is forecasting the ending GF balance to **increase by \$1.7m**. Please note the Staff report

has a typo in that it indicates the opening GF balance was \$2,631,515 as June 30, 2023, when in fact the correct balance is \$29,528,304.

Based on our analysis, and using the Staff's projections, the ending GF balance for FY 24 will **decrease by \$283,218** to \$29,245,086.

Furthermore, the Staff's work product indicates the reserve for Economic Recovery will be reduced by \$1,545,281 leaving an ending balance of only \$11,333. We are unsure if the TC fully understands the impact of the "planned use of reserves" as noted in the Staff report.

In addition to having the Asst Town Manager and Finance Director attending, we respectfully request the Town Manager to attend this meeting. We think the meeting would be worthy of her time.

Please let me know if we can meet at 2pm of Friday.

Thank you,

Phil Koen

FC Chair



TOWN OF LOS GATOS MID-YEAR BUDGET REPORT JULY 1 - DECEMBER 31, 2023

February 6, 2024

FINANCIAL OVERVIEW AND EXECUTIVE SUMMARY: STATUS OF FY 2023/24 ADOPTED BUDGET

The purpose of the Mid-Year Report is to provide the Town Council with a status of the Adopted Fiscal Year (FY) 2023/24 Operating Budget after the first six months and to make any adjustments to ensure the continuity of municipal services and operations for the remainder of the fiscal year. The Report is one of several periodic updates to the Town Council on the status of the current year's revenues and expenditures and the projected financial condition of all Town funds compared with the Adopted Operating Budget. The updates typically focus on the Town's General Fund.

On January 24, 2023, the Town Council determined the Strategic Priorities for 2023-2025, providing guidance to Town staff and Commissions on workload prioritization. The Council affirmed its Strategic Priorities to be multi-year efforts focused on Safety, Prudent Financial Management, Traffic/Transportation, and Quality of Life. Under these broad topics, the Council added a few new items including: Hazardous Tree Management, Develop a Five-Year Structurally Balanced and Sustainable Operating Forecast, Develop a Five-Year Full Funded Capital Plan, Traffic Calming/Safety for All Users, Streamline Permit Process, Work with Town Partners to Support Needs of Unhoused Residents, and Redefine Town Commissions in Alignment with Strategic Priorities (see the following page). Town Council will review these priorities on its February 13, 2024 Special Meeting.

Staff has started budget development work for the next fiscal year, including an update of the Five-Year Financial Forecast, identification of critical Town needs, contractual obligations, unfunded mandates, potential adjustments to the Fee and Fine Schedule, and other analyses. Staff is actively engaged in the FY 2024/25 budget process with the primary focus of ensuring that the available Town resources are allocated to meet the priority service needs of the community. The Town Council is scheduled to hold a public hearing on the Proposed FY 2024/25 Budget on May 21, 2024.

The prior fiscal year closed with approximately \$4.1 million in surplus operating revenues, transfers in, and use of reserves over expenditures, transfers out, and reserve allocations. The General Fund balance was \$2,631,515 as of June 30, 2023.

Current fiscal year-end projections for FY 2023/24 reflect an anticipated \$1.7 million surplus of operating revenues and planned use of reserves over expenditures in addition to reserving 30% of ERAF and the proceeds to Pension Trust Fund, compared to the anticipated \$3.2 million deficit in the Adopted Budget.

ATTACHMENT 1

As discussed in greater detail later in this Report, the primary drivers of the projected surplus are the increased revenue projection for property tax and the restoration of the garbage franchise fee to prior year levels.

On June 6, 2023, the Town Council balanced the budget with a 4.6% vacancy factor. Staff continues to monitor each Department budget because while overall Townwide savings are predicted due to higher projected revenues, the individual Departments' current expenditure budgets may not be sufficient for the remainder of the year. Staff will recommend the necessary expenditure budget adjustments as needed.

Providing services to the community in this and future fiscal years will require a strong revenue performance of the Town's economically sensitive revenues to offset continued projected cost increases. The FY 2024/25 budget development process will endeavor to maintain essential public services while controlling operational costs in light of the five-year fiscal forecast, which predicts operating revenue shortfalls in subsequent fiscal years with certain assumptions.

Mid-Year Update Summary Schedule	Most Probable FY 24	Adopted FY 24	Adj as Dec 23 FY 24	Budget change YTD	Adopted vs Most Probable
Total Revenues and Transfers In	56,577,094	53,216,570	53,649,620	433,050	3,360,524
Less:					
>Fund Transfer In	562,411	538,536	538,536	0	23,875
>Debt Service - eliminated GAAP	1,894,550	1,894,550	1,894,550	0	0
Adjusted Revenue	54,120,133	50,783,484	51,216,534	433,050	3,336,649
Total Operating Expenditures	53,350,762	51,005,698	52,825,517	1,819,819	2,345,064
Surplus (Deficit) revenues over expenditures	769,371	(222,214)	(1,608,983)	(1,386,769)	991,585
Other Sources (Uses)					
>Transfers In	562,411	538,536	538,536	0	23,875
>Transfer Out	1,615,000	1,615,000	1,615,000	0	0
Net other sources - total	(1,052,589)	(1,076,464)	(1,076,464)	0	23,875
Change in Fund Balance	(283,218)	(1,298,678)	(2,685,447)	(1,386,769)	1,015,460
Reconciliation to Staff Worksheet					
Add decrease of reserves:					
>from Capital Projects Reserve	1,615,000	1,615,000	2,108,288	493,288	0
>from Council Priorities Reserve	1,545,281	779,000	1,645,281	866,281	766,281
>from Pension/OPEB Reserve	300,000		0	0	300,000
Subtotal of decrease in GF Reserves	3,460,281	2,394,000	3,753,569	1,359,569	1,066,281
Less increase to reserves:					
>To Economic recovery Reserve	750,000		660,900	660,900	750,000
>To ERAF Risk Reserve		660,900			
>To Restricted Pension Trust Reserve	690,000	390,000	390,000	0	300,000
Subtotal of increase in GF Reserves	1,440,000	1,050,900	1,050,900	0	389,100
Total - agrees to Staff schedule	1,737,063	44,422	17,222	(27,200)	1,692,641
Fund Balance Analysis	Beginning	Additions	Deductions	Ending	Change
Non spendable					
Loan receivable	159,000			159,000	0
Restricted					
Land held for sale	44,338			44,338	0
Pensions	1,400,163	690,000		2,090,163	690,000
Committed					
Budget Stabilization	6,129,774			6,129,774	0
Catastrophic	6,129,775			6,129,775	0
Pension/OPEB	300,000		300,000	0	(300,000)
Measure G 2018 Sales Tax	590,581			590,581	0
Assigned					
Open Space	410,000			410,000	0
Sustainability	140,553			140,553	0
Capital/Special Projects	10,359,577			10,359,577	0
carryover encumbrances	37,698			37,698	0
ERAF Risk	689,608	750,000		1,439,608	750,000
Economic Recovery	1,556,614		1,545,281	11,333	(1,545,281)
Compensated Absences	1,580,623			1,580,623	0
Sub-Total	29,528,304	1,440,000	1,845,281	29,123,023	(405,281)
Add:					
Surplus FY 2024		769,371		769,371	769,371
Fund Transfer In		562,411		562,411	562,411
Fund Transfer Out			1,615,000	(1,615,000)	(1,615,000)
Unallocated deduction from Reserves		405,281		405,281	405,281
>Total		1,737,063	1,615,000	122,063	122,063
Total Fund Balance	29,528,304	3,177,063	3,460,281	29,245,086	(283,218)

The table below provides the details of the Revenues and Use of Reserves and Total Expenditures and Reserve Allocations.

GENERAL FUND								
SUMMARY OF REVENUES, TRANSFERS IN, USE OF RESERVES AND EXPENDITURES, TRANSFERS OUT AND RESERVE ALLOCATIONS								
	FY 2022/23 Actuals	FY 2022/23 Q2	2Q % of FY 2022/23 Actuals	2Q % of FY 2023/24 Adjusted Budget as of 12/31/2023	FY 2023/24 Q2	FY 2023/24 Adjusted Budget as of 12/31/2023	FY 2023/24 Adjusted Budget as of 2/28/2024	FY 2023/24 Year End Estimate
Revenues								
Property Tax	\$ 18,187,388	\$ 6,155,317	33.8%	34.7%	\$ 6,446,859	\$ 18,556,631	18,997,898	\$ 18,999,898
VLF Backfill Property Tax	4,555,700	-	0.0%	0.0%	-	4,692,680	4,906,000	4,906,000
Sales & Use Tax	7,507,068	2,398,925	32.0%	28.6%	2,250,056	7,676,233	6,960,850	6,960,850
Measure G Sales & Use Tax	1,299,408	426,496	32.8%	32.5%	411,004	1,378,545	1,238,743	1,238,843
Franchise Fees	3,094,628	1,044,055	34.0%	31.0%	1,079,717	2,116,470	3,308,708	3,308,708
Transient Occupancy Tax	2,238,190	857,715	38.5%	33.9%	819,683	2,419,000	2,262,528	2,264,684
Business License Tax	2,361,862	97,974	4.1%	14.4%	352,611	2,440,766	2,429,419	2,429,419
Licenses & Permits	3,268,498	1,614,760	49.4%	59.0%	1,726,270	2,529,230	3,362,655	3,339,593
Intergovernmental	1,553,397	638,329	31.8%	60.0%	733,280	1,274,466	1,100,945	1,356,699
Town Services	4,646,675	3,269,202	70.3%	76.6%	3,373,872	4,416,250	4,615,797	5,166,743
Fines & Forfeitures	416,951	151,615	36.4%	11.1%	236,280	358,450	358,450	367,700
Interest	602,592	145,008	24.2%	22.8%	235,922	1,083,097	1,567,130	1,567,130
GASB 31 to Market	3,197	1,577,168	49332.7%	-	1,573,971	-	-	-
Use of Property	38,126	-	0.0%	0.0%	-	-	-	-
Miscellaneous Other	859,578	551,234	64.1%	40.8%	826,265	2,026,716	2,124,694	2,306,791
Park Construction Tax	6,454	-	0.0%	108.7%	7,680	7,000	7,000	8,280
Debt Service - Entry Eliminated for ACR	1,893,713	1,893,713	100.0%	0.0%	-	1,894,530	1,894,530	1,894,530
ARPA Income Replacement - Entry Eliminated for ACR	471,664	-	0.0%	-	-	-	-	-
Pension Trust Income - Entry Eliminated for ACR	690,000	-	0.0%	-	-	-	-	-
Measure G for Operations - Entry Eliminated for ACR	629,065	-	0.0%	-	-	-	-	-
Domestic Use of Assets	2,362	-	0.0%	-	-	-	-	-
Fund Transfer In	4,153,408	102,000	2.5%	21.3%	114,699	538,536	562,411	562,411
Total Revenues & Transfers In	\$ 58,449,721	\$ 20,808,506	36%	38%	\$ 20,185,979	\$ 53,649,620	\$ 58,598,713	\$ 56,577,094
Use of Other Funding Sources								
Use of Reserves - Capital/Serial Projects	\$ 2,350,000	\$ -	0.0%	0.0%	\$ -	\$ 2,108,280	\$ 2,108,280	\$ 1,615,000
Use of Reserves - Council Priorities - Economic Recovery	2,065,302	-	-	-	-	1,645,281	1,545,281	1,545,281
Use of Reserves - Pension/OPEB	300,000	-	-	-	-	-	-	300,000
Total Other Funding Sources	\$ 4,715,302	\$ -	0%	0%	\$ -	\$ 3,753,561	\$ 3,653,561	\$ 3,460,281
Total Revenues and Use of Reserves	\$ 63,165,023	\$ 20,808,506	33%	38%	\$ 20,185,979	\$ 57,403,181	\$ 62,252,274	\$ 60,037,375
Expenditures								
Town Council	\$ 186,337	\$ 92,674	49.7%	51.2%	94,408	184,385	184,385	\$ 198,212
Attorney	689,143	332,149	47.9%	41.2%	336,063	777,508	927,508	904,041
Administrative Services	5,302,777	2,435,224	45.9%	48.5%	3,257,872	6,508,065	6,429,565	6,091,006
Non-Departmental	2,641,017	3,394,657	127.3%	42.7%	2,799,192	6,462,508	6,781,410	6,498,660
Community Development	5,065,410	2,394,537	47.3%	47.1%	2,969,684	5,430,634	5,371,042	5,410,008
Police	18,446,040	8,957,541	48.6%	43.8%	9,732,666	19,983,414	20,313,557	20,313,916
Parks & Public Works	8,988,082	4,215,979	46.9%	44.9%	4,574,800	10,177,731	10,144,315	10,519,175
Library	3,096,485	1,442,417	46.6%	52.3%	1,671,000	3,194,842	3,218,042	3,263,710
Capital Outlay	300,000	-	-	-	-	-	-	-
Principal	156,094	-	-	-	-	156,094	156,094	156,094
Total Departmental Expenditures	\$ 41,890,825	\$ 23,101,232	55%	47%	\$ 24,885,685	\$ 52,825,517	\$ 53,644,864	\$ 53,354,762
Debt Service - Entry Eliminated for ACR	1,893,713	-	0.0%	0.0%	-	1,894,530	1,894,530	1,894,530
ARPA Income Replacement - Entry Eliminated for ACR	471,664	-	-	-	-	-	-	-
Transfer to Pension Trust Fund - Entry Eliminated for ACR	690,000	-	-	-	-	-	-	-
Measure G Transfer - Entry Eliminated for ACR	629,065	-	-	-	-	-	-	-
Transfer Out	7,242,972	-	0.0%	0.0%	-	1,615,000	1,615,000	1,615,000
Total Additional Non-Departmental Expenditures	\$ 20,977,387	\$ -	0%	0%	\$ -	\$ 3,509,530	\$ 3,509,530	\$ 3,509,530
Total Expenditures and Transfers Out	\$ 62,868,212	\$ 23,101,232	41%	47%	\$ 24,885,685	\$ 56,335,047	\$ 57,154,394	\$ 56,864,292
Allocates to Budget Stabilization/Contingency Reserve	\$ 276,417	-	-	-	-	-	-	-
Allocates to Compensated Absences	61,476	-	-	-	-	-	-	-
Allocates to Encumbrances	4,559	-	-	-	-	-	-	-
Allocates to Economic Recovery	1,536,614	-	-	-	-	-	-	-
Allocates to GRAF Risk Reserve	689,608	-	-	-	-	680,900	750,000	750,000
Allocates to Restricted Pension Trust	690,000	-	-	-	-	390,000	690,000	690,000
Net Total Revenues, Transfers, and Use of Reserves Less	\$ 4,066,811	\$ (2,292,726)	\$ (4,699,706)	\$ 17,222	\$ 647,864	\$ 1,717,063	\$ 1,717,063	\$ 1,717,063

*FY 2022/23 and FY 2023/24 Net Operating Revenues are negative because some revenues budgeted for the entire fiscal year are received in the third or fourth quarters and fund expended in the first or second quarters.

** This schedule includes fund balance uses. Total Revenues and Transfers In (\$58,449,721) minus Total Operating Expenditures (\$55,811,205) equals \$2,638,516.

**TOTAL TOWN
REVENUES AND EXPENDITURES**

GENERAL FUND

	2019/20 Actuals	2020/21 Actuals	2021/22 Actuals	2022/23 Estimated	2023/24 Adopted
REVENUES					
Property Tax	\$ 14,454,513	\$ 15,826,162	\$ 16,899,618	\$ 17,928,118	\$ 18,556,631
VLF Backfill	3,875,914	4,052,672	4,229,462	4,556,000	4,692,680
Sales & Use Tax	6,535,034	6,794,218	7,177,597	7,681,444	7,878,061
Measure G - District Sales Tax	996,391	1,139,386	1,306,076	1,277,690	1,274,717
Franchise Fees	2,495,792	2,499,463	2,822,515	2,716,470	2,116,470
Transient Occupancy Tax	1,869,685	1,044,820	1,895,064	2,348,547	2,419,000
Other Taxes	1,357,080	1,386,943	1,481,667	2,346,847	2,440,766
Licenses & Permits	2,696,457	2,999,711	4,839,489	2,863,374	2,947,230
Intergovernmental	1,104,075	1,573,697	1,263,352	1,260,731	913,094
Town Services	4,447,213	4,835,962	5,435,769	5,083,801	4,394,250
Internal Svc Reimbursement	-	-	-	-	-
Fines & Forfeitures	271,117	103,467	319,170	232,129	203,450
Interest	2,266,134	96,061	(1,404,526)	670,021	1,035,097
Other Sources	1,381,187	2,217,072	5,649,767	5,887,554	1,912,038
Debt Service Reimbursement	1,905,024	1,908,494	1,899,850	1,893,713	1,894,550
Transfers In	599,669	1,833,218	633,352	538,536	538,536
TOTAL REVENUES	\$ 46,255,285	\$ 48,311,346	\$ 54,448,222	\$ 57,284,975	\$ 53,216,570
EXPENDITURES					
Salaries	\$ 18,546,018	\$ 19,330,626	\$ 18,847,234	\$ 20,882,547	\$ 20,969,978
Overtime	708,955	882,421	1,134,177	1,568,744	578,856
Benefits- Pension	6,059,646	6,374,119	6,531,958	6,846,834	8,237,154
Benefits- All Other	3,618,950	3,710,338	3,679,378	3,931,663	4,716,655
Retiree - Medical	1,203,101	1,286,285	1,391,296	1,571,930	1,609,200
Operating Expenditures	12,193,929	12,990,318	12,860,383	13,966,816	10,598,891
Grants & Awards	274,249	298,303	606,449	592,600	774,000
Fixed Assets	138,384	2,365	-	-	-
Interest	-	52,011	156,034	156,034	156,034
Internal Service Charges	2,188,211	2,314,305	2,607,506	2,636,316	3,364,929
Capital Projects	-	-	-	-	-
Capital Acquisitions	-	-	-	-	-
Debt Service	1,905,024	1,908,494	1,899,850	1,893,713	1,894,550
Transfers Out	8,053,847	4,582,641	1,751,787	2,987,359	1,615,000
TOTAL EXPENDITURES	\$ 54,890,314	\$ 53,732,226	\$ 51,466,052	\$ 57,034,556	\$ 54,515,247
Net Increase (Decrease)	(8,635,029)	(5,420,880)	2,982,170	250,419	(1,298,677)
Beginning Fund Balance	37,970,526	29,335,497	23,914,617	26,896,787	27,147,206
Ending Fund Balance	\$ 29,335,497	\$ 23,914,617	\$ 26,896,787	\$ 27,147,206	\$ 25,848,529

* Year End Fund Balance represents General Fund 111 (Long Term Compensated Absences were accounted in Fund 961 prior to FY2018/19, Pension Trust Fund 731 was incorporated in FY2018/19).

50,783,484 51,005,697 (222,213)
 538,536
 1,615,000
 C- (1,298,677) Prof in
 Prof out
 change

FUND BALANCE ACTIVITY SUMMARY FISCAL YEAR 2023/24

deficit (222,213)
+ in 538,536
net 316,323

7/1/23 Estimated Fund Balance	Fiscal Year 2023/24 Proposed Budget						6/30/24 Estimated Fund Balance
	Plus Carryforward	Revenue In	Less Expenditures & Carryforwards	Transfers Out	Use of Reserves		
GENERAL FUND							
Unreserved Fund Balance							
Undesignated Reserves							
Available to be Appropriated	\$	\$ 52,678,034	\$ 538,536	\$ 52,900,247	\$ 1,615,000	\$ 1,343,100	\$ 64,423
Restricted Fund Balances							
Pension Trust	1,380,000					390,000	1,770,000
Conservation:							
Budget Stabilization Reserve	6,129,774						6,129,774
Catastrophic Reserves	6,129,774						6,129,774
Pension/OPEB Reserve	300,000						300,000
Measure G District Sales Tax - Operating	590,581						590,581
Assigned to:							
Open Space Reserve	410,000						410,000
Sustainability	140,553						140,553
Capital/Special Projects	8,020,346						6,805,386
Unexpended Allocations	1,519,147						1,519,147
ERAF Mkt	689,608					660,900	1,350,508
Public Works (Multiple Use)	159,000						159,000
Capital Projects - Economic Recovery	1,645,281					1,779,800	866,281
Total General Fund Reserves	\$ 27,147,209	\$ 52,678,034	\$ 538,536	\$ 52,900,247	\$ 1,615,000	\$	\$ 25,946,532

General Fund Undesignated Reserves reflect ongoing revenue, carryforward, transfer, expenditures, the net effect of the change in Designated Reserves, and the use of Undesignated Reserves.

- FY2023/24 Budgeted revenue (includes \$1.6 OPEB 115 Trust reimbursement) and expenditure appropriations, and transfers to and from the General Fund.
- ~~Available to be appropriated~~ - includes operating appropriations that were brought forward as a funding source. The actual carryforward amount will be determined at FY2023/24 year-end, which will be offset by undesignated revenues.
- General Fund Reserve Policy requires a minimum of 25% of General Fund operating expenditures equally divided between the Budget Stabilization Reserve and Catastrophic Reserves.
- In FY2023/24, Council established a General Fund Pension/Other Post Employment Benefits (OPEB) Reserve Account. At the same time, the Council revised the General Fund Reserve Policy to provide for a maximum of \$300,000 in General Fund Year End Savings upon year-end close to be deposited in the Pension/OPEB Reserve Account and used as authorized by Town Council.
- Undesignated Fund Balance is a year-end fund balance not yet identified by the Town Council for a specific purpose. The Town General Fund Reserve Policy requires full funding of the Catastrophic and Budget Stabilization Reserves, distribution to the Pension/OPEB Reserve, and any remaining balance to the Capital/Special Projects Reserve.

SPECIAL REVENUE FUNDS									
Housing Conservation Program	\$ 177,241	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 177,241	
Community Dev Block Grant	(10,587)							(10,587)	
Libraries-Off Source Fund	614,787	359,950		271,103				705,634	
Blackwell Assessment District	13,506	3,210		2,984		460		13,272	
Kennedy Assessment District	7,150	10,605		13,285		1,510		2,960	
Good Assessment District	29,388	4,750		1,542		610		31,996	
Santa Rosa Assessment District	22,371	4,550		12,227		680		14,094	
Vasco Assessment District	28,083	10,075		8,072		1,430		28,656	
Hill Brook Assessment District	10,274	4,040		4,454		250		11,610	
San Carlos Theatre	32,046	68,600		60,000				60,486	
Library Trust	58,873	70,000		75,000				53,873	
Miss Trust Beghest	22,417			21,000				1,417	
Betty McCord Trust	88,214	900		900				88,214	
Barbora J. Canale Trust	36,217	3,900		3,900				36,217	
Total of Special Revenue Funds Reserves	\$ 1,457,984	\$ 542,580	\$ -	\$ 45,467	\$ 4,920	\$ -	\$ -	\$ 1,548,779	

open deficit (222,213)
+ in 538,536
Net surplus 316,323
C/P Reserve 779,000
Total 1,095,323
new reserves 1,050,900
Net 44,423

Pow 390,000
ERAF 660,900
1,050,900



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 13

DESK ITEM

DATE: February 20, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Mid-Year Budget Report - July 1 - December 31, 2023:
a. Receive the FY 2023/24 Mid-Year Budget Report; and
b. Authorize Budget Adjustments as Recommended in the Mid-Year Budget Report

REMARKS:

In response to a Council Member's questions, staff has provided the following responses in Italics.

Does the FY 2023/24 Year End Estimates indicate that the GF balance is projected to increase by \$1,737,063 year over year?

The estimated General Fund surplus is not an indication of the changes of the current fiscal year end General Fund balance because the projected uses of reserves have to be considered as well. For example, there might be a scenario in which there is an estimated surplus; however, year end reserves are decreasing because of a planned use of a reserve. The FY 2023/24 Estimated General Fund Year End balance is illustrated in the table below.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, and Assistant Town Manager

REMARKS (continued):

	7/1/23 Actual Fund Balance	Fiscal Year 2023/24 Adjusted Budget					6/30/24 Estimated Fund Balance
		Plus		Less		Use of Reserves	
		Revenues & Carryforwards	Transfers In	Expenditures & Carryforwards	Transfers Out		
GENERAL FUND							
Unreserved Fund Balances							
<i>Undesignated Reserves</i>							
Available to be Appropriated	\$ -	\$ 56,014,683	\$ 562,411	\$ 55,245,312	\$ 1,615,000	\$ 2,020,281	\$ 1,737,063
Restricted Fund Balances							
Reserve for Encumbrances	-	-	-	-	-	-	-
Pension Trust	1,400,163	-	-	-	-	690,000	2,090,163
Advance to RDA	-	-	-	-	-	-	-
Actuarial	-	-	-	-	-	-	-
Committed to:							
Budget Stabilization Reserve	6,129,774	-	-	-	-	-	6,129,774
Catastrophic Reserves	6,129,774	-	-	-	-	-	6,129,774
Pension/OPEB Reserve	300,000	-	-	-	-	(300,000)	-
Measure G District Sales Tax - Operating	590,581	-	-	-	-	-	590,581
Assigned to:							
Open Space Reserve	410,000	-	-	-	-	-	410,000
Sustainability	140,553	-	-	-	-	-	140,553
Strategy Reserve	-	-	-	-	-	-	-
Capital/Special Projects	10,359,577	-	-	-	-	(1,615,000)	8,744,577
Authorized Carryforwards	37,698	-	-	-	-	-	37,698
Compensated Absences*	1,580,623	-	-	-	-	-	1,580,623
Land Held for Sale	44,338	-	-	-	-	-	44,338
Market Fluctuations	-	-	-	-	-	-	-
Measure G District Sales Tax - Op/Cap	-	-	-	-	-	-	-
To Workers Comp	-	-	-	-	-	-	-
Vehicle Maintenance & Stores Residual	-	-	-	-	-	-	-
ERAF Risk	689,608	-	-	-	-	750,000	1,439,608
Rehab Loan (Nonspendable)	159,000	-	-	-	-	-	159,000
Council Priorities - Economic Recovery	1,556,614	-	-	-	-	(1,545,281)	11,333
Total General Fund Reserves	\$ 29,528,303	\$ 56,014,683	\$ 562,411	\$ 55,245,312	\$ 1,615,000	\$ -	\$ 29,245,085

Does \$1,545,281 in “Economic Recovery” refer to American Rescue Plan Act (ARPA) funds? If so, where are they being used? Where is the Community Center Development Fund which was supposed to have \$866k? Is that related to the “Economic Recovery” funds in the report? Or to the \$1,615,000 in Capital/Special Projects Reserves?

The Council Priorities – Economic Recovery Reserve has been established to track General Fund revenues freed up from recognizing all ARPA “replacement” revenues to the General Fund for essential government services, for economic recovery and business support, enhanced senior services, capital program augmentations, and other one-time uses as directed by the Town Council. The FY 2023/24 uses are listed in the following table. The Community Center Development is part of the \$1,545,281. The staff established a capital project for the Community Center based on the Council’s action on August 15, 2023.

REMARKS (continued):

General Fund Council Priorities – Economic Recovery Reserve Tracking	FY 2023/24 Estimated
One-Time Community Grant (Council Action 2-21-2023)	150,000
One-Time to LGS REC 55+ Program (Council Action 2-21-2023)	225,000
One-Time Unhoused Residents Efforts (Council Action 2-21-2023)	25,000
One-Time Rent Forgiveness LGS REC (Council Action 3-21-2023)	200,000
One-Time Rent Forgiveness NUMU (Council Action 3-21-2023)	21,000
One-Time Unhoused Residents Efforts (Council Action 4-4-2023)	25,000
One-Time - Additional Chambers of Commerce (Council Action 5-2-2023)	33,000
One-time - Adult Recreation Facility Space Improvements (Council Action 8-15-2023)	866,281
Total	\$ 1,545,281

Is all \$2,500,000 in projected FY 24 Excess Education Revenue Augmentation Fund (ERAF) revenues included in the \$18,997,898 of property taxes? If not, how much is included?

The full \$2,500,000 ERAF is included in the FY 2023/24 Estimated Revenues. Staff also reserved 30% or \$750,000 of the estimated proceeds to the ERAF Risk Reserve per prior Council direction.

Attachments previously distributed with the Staff Report:

1. Mid-Year Budget Report - July 1 - December 31, 2023
2. Public Comments Received before 11:00 a.m. on February 15, 2024



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 14

DATE: February 14, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Review the Five-Year Forecast (Fiscal Year 2024/25 -FY 2028/29) and the Finance Commission Recommendations, Determine Key Assumptions for the Five- Year Forecast, and Provide Direction for the Preparation of the FY 2024/25 Operating Budget

RECOMMENDATION:

Review the Five-Year Forecast (FY 2024/25 -FY 2028/29) and the Finance Commission recommendations, determine key assumptions for the Five- Year Forecast, and provide direction for the preparation of the FY 2024/25 Operating Budget.

BACKGROUND:

An important aspect of the Town's budget development process is taking a multi-year approach to understand revenue and expenditure trends over time. Serving as the foundation of the budget planning process, the Town develops a Five-Year Financial Forecast ("Forecast") beginning in the winter of each year. The Forecast enables the Town to evaluate the Town's fiscal condition and to help guide policy, programmatic planning, and budget decisions. Development of a financial forecast as part of the budget development process has been identified as a best practice by the Government Financial Officers Association (GFOA).

The Forecast takes a forward look at the Town's General Fund revenues and expenditures and is updated regularly. Its purpose is to identify financial trends, potential shortfalls, and other issues so the Town can proactively address them and budget accordingly. It does so by projecting out into the future the fiscal results of continuing the Town's current service levels and policies. This process helps to provide a snapshot of what the future may look like as a result of the decisions made to date.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, and Assistant Town Manager

BACKGROUND (continued):

Attachment 1 contains the staff report to the Finance Commission with Attachments 1 through 6. The report to the Finance Commission outlines the major assumptions and their sensitivity to more optimistic or pessimistic outlooks. The analysis also includes historical information, particularly pertaining to the elements of property tax revenue.

DISCUSSION:

The initial Forecast (FY 2024/25 – 2028/29) is predicated on estimates derived from the FY 2023/24 Mid-Year review and includes updates to Town revenues and expenditures based on the Mid-Year end of year projections. Like any forecast, the Forecast's revenue estimates for the first year is the most critical in the process as they ultimately define the expenditure limitations for the upcoming budget year.

The Five-Year Financial Forecast is not a budget, nor a proposed plan. The Five-Year Financial Forecast sets the stage for the upcoming budget process and is a tool in facilitating both the Town Council and Town Manager in establishing priorities and allocating resources appropriately. The forecast based on a point in time information and has to be updated periodically and will differ from final actual numbers.

Base Case

The base case Five-Year Forecast (FY 2024/25 – 2028/29) as presented to the Finance Commission identifies deficits for all future years, using a 2% salary increase assumption, a 4.6% vacancy saving factor as approved by the Town Council for the FY 2023/24 budget, and other assumptions as outlined further in this report.

5 Year Forecast "Base Case" with 4.6% Vacancy Factor	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Total Revenues & Transfers and Use of Reserves	\$54.5	\$56.3	\$58.1	\$59.6	\$61.4
Total Expenditures & Reserve Allocations	\$56.8	\$58.1	\$60.1	\$61.7	\$63.8
Surplus/Deficit	(\$2.3)	(\$1.8)	(\$2.0)	(\$2.1)	(\$2.4)

The deficits are on the order of approximately \$2M per year and can currently be resolved through expenditure controls and the use of one-time funds.

DISCUSSION (continued):

Finance Commission Recommendations

The Finance Commission discussed the Five-Year Forecast at its February 12th meeting. The Finance Commission unanimously passed the following motion with no specific guidance on the assumptions:

Motion: The Finance Commission recommends the Town Council not accept, nor rely upon, the current version of the FY 2024/25 – 2028/29 5-Year Plan. Given the importance of the Five-Year Forecast in establishing tax policy, the Finance Commission makes a finding that the draft forecast of a 2.9% Compound Annual Growth Rate (CAGR) in total tax revenue is too conservative compared to historic growth rates and the 4.9% CAGR in operating expenditures needs to be reduced through cost containment and productivity measures. The Finance Commission does not agree with staff's conclusion that "the persistent presence of a deficit indicates that the Town needs to consider new revenues ensures if it wants to maintain high levels of municipal services" as stated on page 1 of the staff report.

The Commission's general observation was that the base forecast is too conservative.

Forecasting Approach Consistent with Government Finance Officers Association (GFOA)

A "conservative" forecast as described by GFOA is conservative with revenue assumptions and builds in a layer of contingencies for expenditures. This approach might make it harder to balance the budget but reduces the risk of an actual shortfall. The Town's past forecasting practice represents this conservative approach.

During the last couple of years, staff changed elements of the budgeting and forecasting methodology. Starting FY 2020/21, the salaries are budgeted and forecasted at actual salary plus one step higher. Beginning FY 2023/24 the budget and the forecast included a 4.6% vacancy factor, moving toward less conservative approach.

An "objective" forecast as described by GFOA seeks to estimate revenues and expenditures as accurately as possible, making it easier to balance the budget, yet increasing the risk of an actual shortfall.

It is very important that the approach to the forecast and the underlying assumptions are clear, analyzing the risk between being objective versus conservative. While one-time solutions can solve near term shortfalls, the best practice is to build a structurally balanced forecast where recurring revenues (the portion of the Town's revenues that can reasonably be expected to

DISCUSSION (continued):

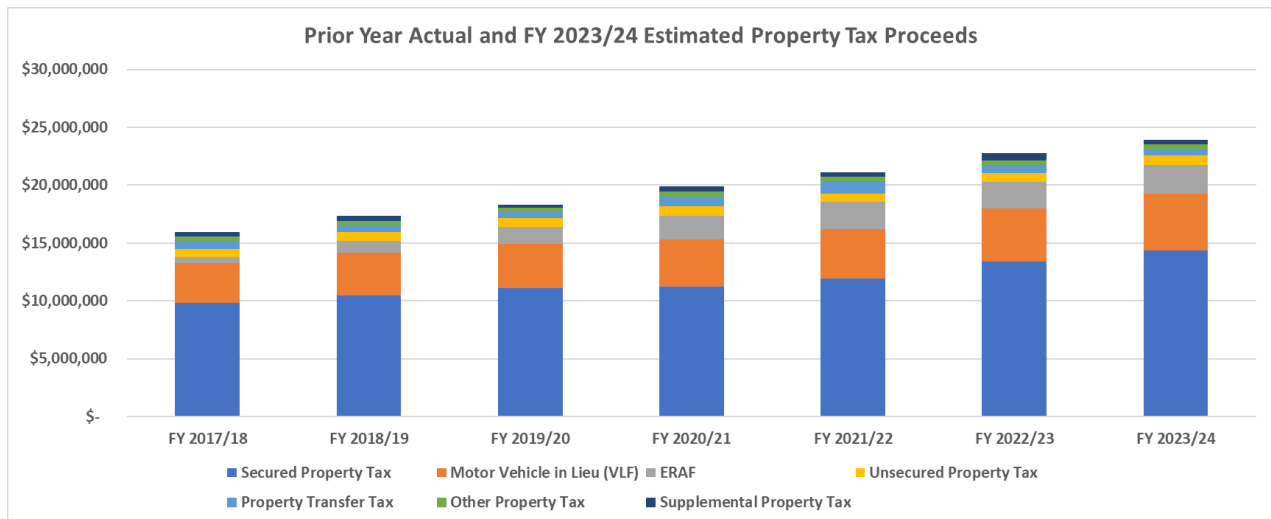
continue year to year with some degree of predictability) equal or exceed recurring expenditures (salaries, benefits, and other operational expenditures).

Modifying the Forecast from Conservative to Objective by Changing the Property Tax Assumptions

Given the Finance Commission’s recommendations, this section focuses on the property tax revenue assumptions that would move the forecast from conservative to objective.

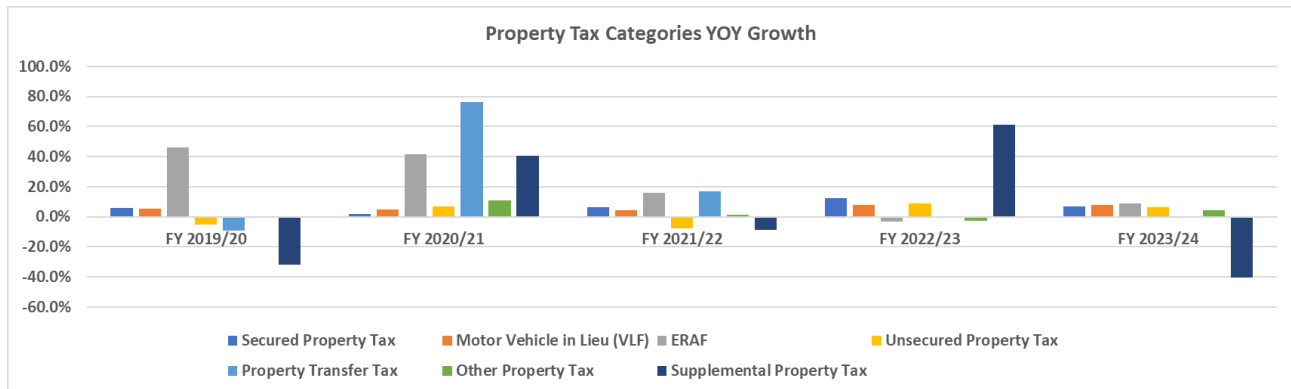
The Town is highly dependent on five economically sensitive revenues comprising 70% of General Fund forecasted revenues. The Finance Commission staff report (Attachment 1) includes detailed analysis (Attachment 1, pages 4 to 14) of the Town’s major revenues including property tax, sales tax, business license tax, franchise fees, and transient occupancy tax (TOT).

Property tax is the single largest revenue source for the Town and comprised approximately 42% of total Town estimated General Fund revenues for FY 2023/24. **Secured Property Tax, Motor Vehicle in Lieu (VLF), and Excess Education Revenue Augmentation Fund (ERAF)** constitutes 91% of the current year property tax proceeds. The following table and graphs illustrate how is the actual year-over-year (YOY) performance for the different property tax categories varies from fiscal year to fiscal year.



DISCUSSION (continued):

Percentage of Total Proceeds	Property Tax Categories	FY 2018/19 Actuals	FY 2019/20 Actuals	FY 2020/21 Actuals	FY 2021/22 Actuals	FY 2022/23 Actuals	FY 2023/24 Estimated	Average YOY Growth
60%	Secured Property Tax	6.9%	5.6%	1.6%	6.1%	12.3%	7.0%	6.6%
21%	Motor Vehicle in Lieu (VLF)	6.9%	5.2%	4.6%	4.4%	7.7%	7.7%	6.1%
10%	ERAF	90.5%	46.1%	41.4%	16.1%	-3.1%	8.8%	33.3%
4%	Unsecured Property Tax	16.4%	-5.1%	6.9%	-7.8%	8.8%	6.1%	4.2%
2%	Property Transfer Tax	-21.8%	-9.2%	76.0%	17.0%	-37.8%	-23.2%	0.2%
2%	Other Property Tax	-11.1%	-0.2%	10.7%	1.0%	-2.6%	4.1%	0.3%
1%	Supplemental Property Tax	17.7%	-31.8%	40.3%	-9.0%	61.1%	-40.5%	6.3%



Secured Property Tax and Motor Vehicle in Lieu (VLF) Property Tax are usually increasing by the growth of the Total Assessment Rolls. The Total 2024 Assessment Roll will be published in July 2024 from the Santa Clara Assessor's Office. In addition to the annual assessment increases and the reassessed Proposition 13 properties as they changed ownership, the historical growth includes the annexation of 24 pockets from Santa Clara County and property sales from the First Phase of North Forty development. VLF collection based on the assessed roll is included as well. Property Tax and VLF are considered recurring revenues. The base case forecast includes the normalized 5.1% growth rate throughout the forecast years.

		FY 2024/25 Assumptions	FY 2025/26 Assumptions	FY 2026/27 Assumptions	FY 2027/28 Assumptions	FY 2028/29 Assumptions
Secured Property Tax	Option A - Lowest YOY over the Last Six Year Period	4.3%	4.3%	4.3%	4.3%	4.3%
	Option B - Normalized for County Annexation and Other One Time Roll Growth ~\$1.5 M	5.1%	5.1%	5.1%	5.1%	5.1%
	Option C - Average YOY Property Tax Roll	6.6%	6.6%	6.6%	6.6%	6.6%
Motor Vehicle in Lieu (VLF)	Option A - Lowest YOY VLF Revenue Growth over the Last Six Year Period	4.4%	4.4%	4.4%	4.4%	4.4%
	Option B - Normalized based on Property Tax Roll	5.1%	5.1%	5.1%	5.1%	5.1%
	Option C - Average YOY VLF Revenue Growth	6.1%	6.1%	6.1%	6.1%	6.1%

DISCUSSION (continued):

If Council selects Option C for both Secured Property Tax and VLF, the estimated deficit is reduced as displayed below.

Alternative Scenario Selecting Secured Property Tax Option C and VLF Option C (Greater Growth)	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Total Revenues & Transfers	\$54.9	\$56.9	\$59.0	\$60.9	\$63.1
Total Expenses & Allocations	\$56.8	\$58.1	\$60.1	\$61.7	\$63.8
Surplus/Deficit	(\$1.9)	(\$1.2)	(\$1.1)	(\$0.8)	(\$0.7)

Excess ERAF is not tied to the Total Assessment Roll. A portion of property tax revenue goes to the ERAF to support local school districts. When the amount contributed to ERAF is more than the minimum cost of funding local schools, excess funds have traditionally been returned to the county, cities, and special districts.

While Excess ERAF grew significantly in the recent fiscal years, there is no guarantee for funding in the future. Santa Clara County has only provided projections for the current fiscal year. FY 2024/25 Excess ERAF projections will not be available until March 2024 and the County has recommended the jurisdictions set aside 30% due to pending litigation. FY 2025/26 estimates will be available in March 2025. The Town has been monitoring and providing periodic updates to the Finance Commission and to the Town Council on the ongoing developments regarding the distribution of excess ERAF funds. Additional information can be found Attachment 1.

If Council assumes 70% of the FY 2024/25 Estimated Excess ERAF proceeds and assumes greater growth (option C) for both the Secured Property Tax and VLF, the estimated deficit is displayed below.

Alternative Scenario Selecting 70% of the Excess ERAF and Secured Property Tax Option C and VLF Option C (Greater Growth)	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Total Revenues & Transfers and Use of Reserves	\$55.4	\$57.4	\$59.5	\$61.4	\$63.6
Total Expenditures & Reserve Allocations	\$56.8	\$58.1	\$60.1	\$61.7	\$63.8
Surplus/Deficit	(\$1.4)	(\$0.7)	(\$0.6)	(\$0.3)	(\$0.2)

DISCUSSION (continued):

If Council assumes 100% of the FY 2024/25 Estimated Excess ERAF proceeds and assumes greater growth (option C) for both the Secured Property Tax and VLF, the estimated result is displayed below.

Alternative Scenario Selecting 100% of the Excess ERAF and Secured Property Tax Option C and VLF Option C (Greater Growth)	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Total Revenues & Transfers and Use of Reserves	\$55.4	\$57.4	\$59.5	\$61.4	\$63.6
Total Expenditures & Reserve Allocations	\$55.9	\$57.1	\$59.1	\$60.7	\$62.7
Surplus/Deficit	(\$0.4)	\$0.3	\$0.4	\$0.7	\$0.9

Other Scenarios

As demonstrated, the Forecast is highly sensitive to the assumptions. If Council were interested in modifying other assumptions as outlined in Attachment 1, the Forecast would change accordingly.

Risk Considerations

It is not unusual for the State to take revenue from local government, such as occurred with the dissolution of the former Redevelopment Agencies (RDA), or for the County to redistribute property tax retroactively based on court rulings. In the recent past (FY 2020/21 and FY 2021/22), the County of Santa Clara withheld approximately \$1.6 million over the three fiscal years to recapture excess RDA residual property tax revenues distributed to the Town. This action was necessary to comply with an appellate court decision involving the City of Chula Vista (49 Cal. App. 5th 539 (2020)) that held that any funds remaining in each RDA Property Tax Trust Fund (RPTTF) must be distributed in accordance with the taxing entities' pro-rata shares without any caps or reductions to the distributions of RPTTF residuals to taxing entities that received pass-through payments. Calculating the redistribution went back three years retroactively.

The Governor's most recent budget assumes the approval of legislation allocating ERAF to charter schools, potentially reversing the recent appellate decision that charter schools do not get ERAF.

CONCLUSION:

The Council should review, discuss, and select the assumptions for the initial Five-Year Forecast and provide direction on other budget considerations.

The preparation of the FY 2024/25 Operating and Capital Budgets is taking into account the Town's current economic reality and long term fiscal picture, as well as maintaining the Town's high level of municipal services. This is considered a "status quo" approach with no major new initiatives or staffing. Key budget principles include:

- Develop and recommend a balanced budget that maintains service levels;
- Address projected deficits;
- Continue to make progress on Strategic Priorities identified by the Town Council; and
- Identify opportunities to maintain or enhance service delivery through new revenue sources and technology.

The Draft FY 2024/25 Operating and Capital Budgets will be available on April 22, 2024 for the Finance Commission's consideration and the Council's budget hearing is tentatively scheduled for May 21, 2024.

Staff looks forward to answering the Council questions and receiving any recommendations for Council consideration for the preparation of the proposed FY 2024/25 Operating Budget that results from the discussion.

COORDINATION:

This Report was prepared in coordination between the Finance Department and the Town Manager's Office.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Five-Year Forecast Report to the Finance Commission with Attachments 1 through 6
2. Public comment received after the Finance Commission's February 12, 2024 meeting and prior to 11 a.m. on February 15, 2024



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/12/2024

ITEM NO: 4

DATE: February 9, 2024
TO: Finance Commission
FROM: Laurel Prevetti, Town Manager
SUBJECT: Review and Make a Recommendation to the Town Council to Accept as Presented or Accept with Modification the FY 24 Five-Year Forecast and Supporting Work Product

RECOMMENDATION:

Review and provide recommendations to the Town Council regarding the Five-Year Forecast (Fiscal Years 2024/25 – 2028/29), assumptions, and scenarios, and provide input for the FY 2024/25 budget direction.

EXECUTIVE SUMMARY:

The base case Five-Year Forecast (FY 2024/25 – 2028/29) (Attachment 2) identifies deficits for all future years, using 2% salary increase assumption and 4.6% vacancy saving factor approved by the Town Council for the FY 2023/24 budget and other assumptions (see Attachments 3 and 4). The deficits are on the order of approximately \$2M per year and can currently be resolved through expenditure controls and the use of one-time funds. The persistent presence of a deficit indicates that the Town needs to consider new revenue measures if it wants to maintain high levels of municipal services.

The sensitivity of the Forecast to its assumptions is demonstrated in this report. The Finance Commission can provide recommendations on the assumptions and selections from different options for Council consideration for the FY 2024/25 budget and provide other budget direction as appropriate. The Capital Program is scheduled for a separate discussion at the next Commission meeting.

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, and Assistant Town Manager

BACKGROUND:

With the passage of Measure A, the Finance Commission has been tasked with several mandated duties as described in the provisions of the adopted Ordinance. Section 2.50.225. – Duties states that:

(a) The Finance Commission shall:

Serve as an on-going, substantive and expert advisory body to the Town and Town Council so that the Town and Town Council can make informed decisions about the Town's financial, budgetary and investment matters and operations related thereto.

On February 20, 2024, the Town Council is scheduled to consider the FY 2024/25 Five Year Forecast which is an important component of the annual budget cycle (Attachment 1).

The Commission is welcome to provide comments on the Forecast, its assumptions, and scenarios as well as any comments for consideration in the preparation of the FY 2024/25 Operating Budget. The Finance Commission will have an opportunity to discuss the Capital Program at its March meeting.

DISCUSSION:

An important aspect of the Town's budget development process is taking a multi-year approach to understand revenue and expenditure trends over time. Serving as the foundation of the budget planning process (Attachment 1), the Town develops a Five-Year Financial Forecast ("Forecast") beginning in the winter of each year. The Forecast enables the Town to evaluate the Town's fiscal condition and to help guide policy, programmatic planning, and budget decisions. Development of a financial forecast as part of the budget development process has been identified as a best practice by the Government Financial Officers Association (GFOA).

The Forecast takes a forward look at the Town's General Fund revenues and expenditures and is updated regularly. Its purpose is to identify financial trends, potential shortfalls, and other issues so the Town can proactively address them and budget accordingly. It does so by projecting out into the future the fiscal results of continuing the Town's current service levels and policies. This process helps to provide a snapshot of what the future may look like as a result of the decisions made to date.

The initial Forecast (FY 2024/25 – 2028/29) is predicated on estimates derived from the FY 2023/24 Mid-Year review and includes updates to Town revenues and expenditures based on the Mid-Year end of year projections. Like any forecast, the Forecast's revenue estimates for the first year is the most critical in the process as they ultimately define the expenditure limitations for the upcoming budget year.

DISCUSSION (continued):

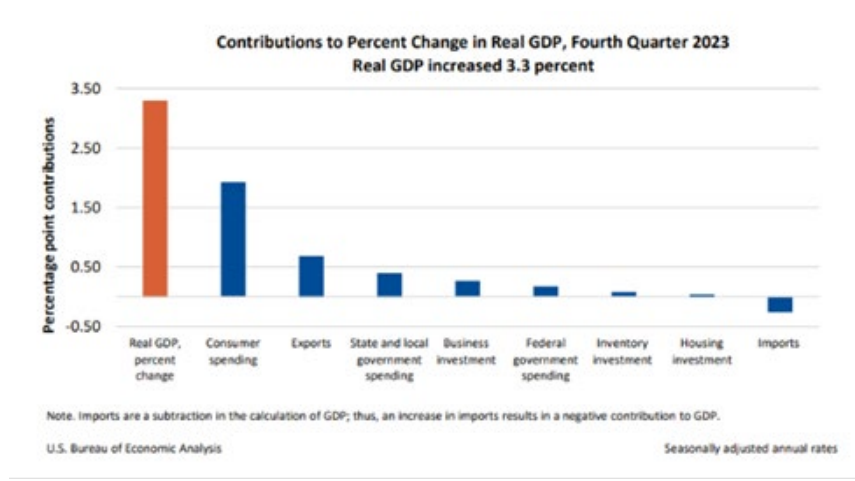
This report contains detailed information that contributes to the preparation of the annual budget, including the Town's "Base Case" Five-Year Forecast, its data sources, and budget assumptions. This report also provides two additional forecast scenarios utilizing a sensitivity analysis for four of the major revenue assumptions. These additional forecast scenarios illustrate the effects on future budgets of a more optimistic revenue scenario ("Greater Growth") and a pessimistic revenue one ("Lower Growth").

The Five-Year Financial Forecast is not a budget, nor a proposed plan. The Five-Year Financial Forecast sets the stage for the upcoming budget process and is a tool in facilitating both the Town Council and Town Manager in establishing priorities and allocating resources appropriately.

National and Local Economic Backdrop

The UCLA Anderson School of Business publishes a quarterly economic forecast for the nation and California. The results of the forecast are utilized as a portion of the macroeconomic basis of the Five-Year Forecast development. In their December 2023 Report, they mentioned that based on their analysis, the chance of recession in U.S. have diminished. Their assessment was backed by strong consumer and government spending that offset the tightening monetary policy in 2022. Their assumption is that the economy will grow 2.4% in 2023, 1.9% in 2024, and 1.5% in 2025. The report indicates the reason for the slower growth in the upcoming years is due mainly to the monetary policy affecting economic growth.

The US economy's resiliency is demonstrated by the Gross Domestic Product (GDP) increase of 4.9% in the third quarter and 3.3% in the fourth quarter of 2023 (Advance Estimate). As the graph below illustrates, the 3.3% increase in GDP is comprised of gains in all areas except imports.



DISCUSSION (continued):

In the quarterly California state report, Anderson indicates that California will outpace the US economy by a small margin. The main areas of concern are the tightened monetary policy and risks of instability in domestic politics and geopolitics. The negative factors are offset by an increase in technical manufacturing and international immigration. Anderson forecasts the state unemployment rate to decline on average from 4.7% in 2023 to 4.5% in 2024 and then 3.8% in 2025. Housing stock is expected to increase based on new building policies. Stock is forecasted to increase to 127,000 net new units in 2024 to 155,000 in 2025.

Operating Revenue Trends and Five-Year Forecast Scenarios

The Town is highly dependent on five economically sensitive revenues comprising 70% of General Fund forecasted revenues. Following are summaries of the Town's major revenues of property tax, sales tax, business license tax, franchise fees, and transient occupancy tax (TOT). To provide context for the development of the Five-Year Forecast (FY 2024/25 – 2028/29), the prior year's growth assumptions and resulting revenue projections are provided. The Base Case Forecast can be found in Attachment 2.

With that context, updated growth assumptions are provided for each revenue source, and the resultant projected revenues for the new Forecast period. The revenue assumptions provided are informed by the County Tax Assessor, the Town's sales tax consultant, and direct communication with the Town's hospitality industry. In addition, alternative forecast scenarios are discussed in this report for these three revenue streams. Please see Attachment 3 for a description of all revenue categories with a comprehensive listing of revenue forecast assumptions.

Property Tax

Property tax is the single largest revenue source for the Town and comprised approximately 42% of total Town estimated General Fund revenues for FY 2023/24. The County of Santa Clara provides property tax collection updates and projections quarterly. The following table illustrates the most recent estimates relative to the Adopted FY 2023/24 Budget and FY 2022/23 actuals. The current County estimate indicates \$654,587 more than the FY 2023/24 Adopted Budget. The increase is a combined effect of higher-than-expected Redevelopment Agency (RDA) Residual Apportionment, and Motor Vehicle License in Lieu (VLF), Educational Revenue Augmentation Fund (ERAF) estimates and decrease in secured property tax estimates and in property transfer tax.

	FY 2022/23 Actual	FY 2023/24 Adopted Budget	FY 2023/24 County Estimates
Property Tax Revenue & Vehicle License Fee Backfill	\$22.7 M	\$23.2 M	\$23.9 M

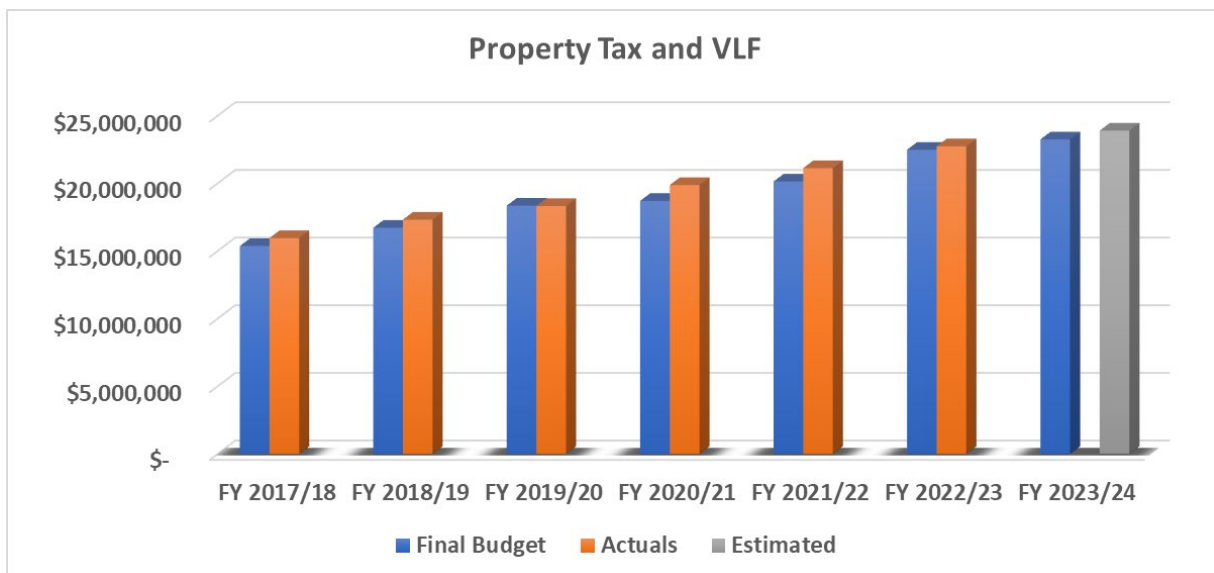
DISCUSSION (continued):

As the following table illustrates, Los Gatos has benefited from the economic expansion as evidenced by year-over-year (YOY) roll growth in property assessment since 2018. For the 6-year period, the average annual growth rate was 6.6%.

	2018	2019	2020	2021	2022	2023	Six Year Average Growth
Total Assesment Roll (Values in Billions)	13.15	13.84	14.9	15.6	16.8	18.1	6.6%
Percent Growth	6.95%	5.23%	7.70%	4.33%	7.77%	7.72%	

Source: Santa Clara County Assessors Annual Reports

The following table illustrates the Town budget to actuals total Property Tax and VLF proceeds for the same time period.

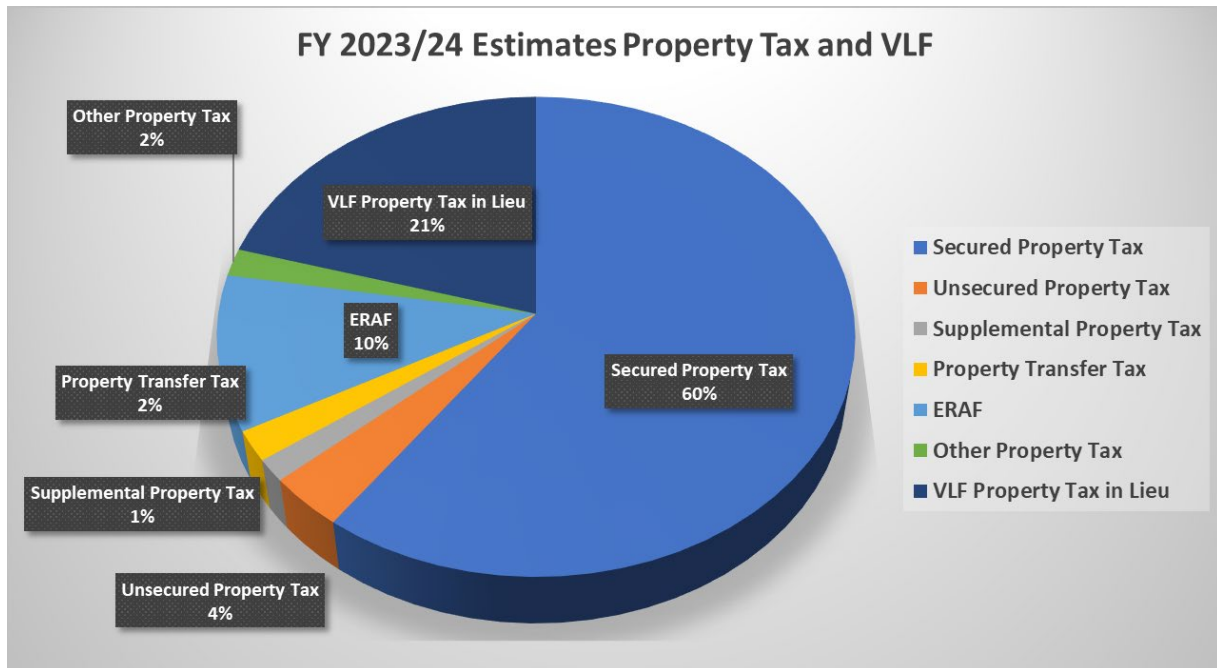


	Budget FY 2017/18	Budget FY 2018/19	Budget FY 2019/20	Budget FY 2020/21	Budget FY 2021/22	Budget FY 2022/23	Adopted FY 2023/24
Final Budget	\$ 15,370,934	\$ 16,718,348	\$ 18,352,880	\$ 18,705,325	\$ 20,138,320	\$ 22,484,118	\$ 23,249,311
Actuals	\$ 15,958,406	\$ 17,321,347	\$ 18,330,426	\$ 19,878,835	\$ 21,129,080	\$ 22,743,088	
Estimated							\$ 23,903,989
Final Budget YOY Growth		8.8%	9.8%	1.9%	7.7%	11.6%	3.4%
Actuals YOY Growth		8.5%	5.8%	8.4%	6.3%	7.6%	
Estimated YOY Growth							5.1%

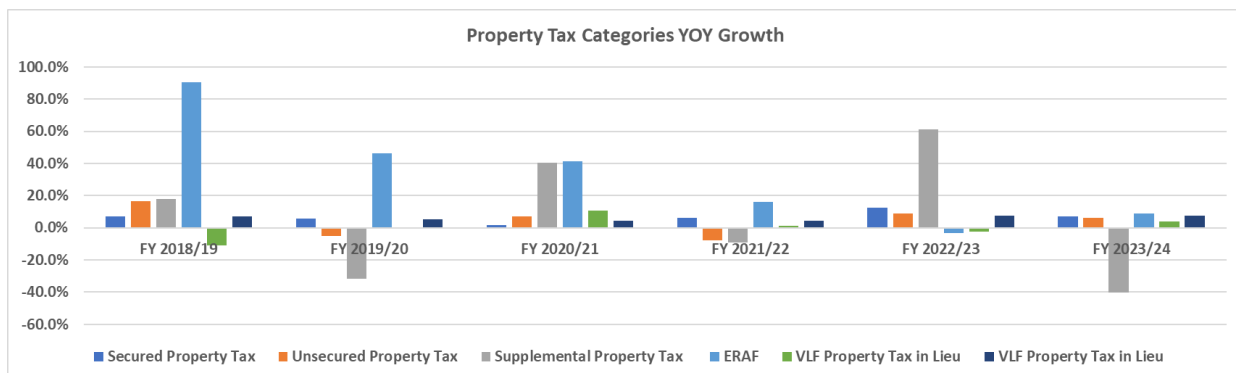
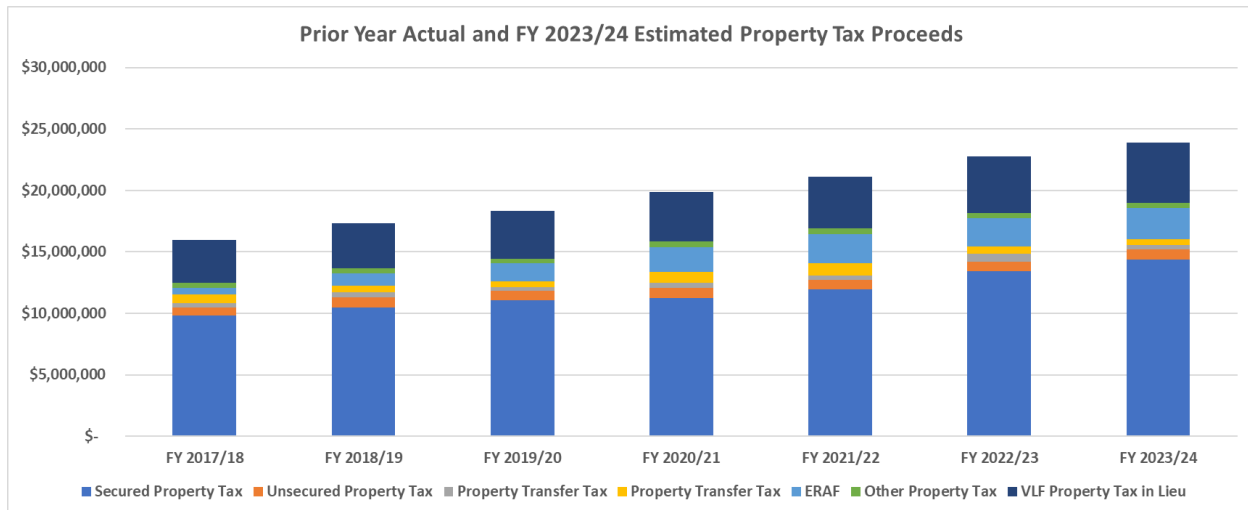
DISCUSSION (continued):

The average YOY Property Tax Budget growth is 7.2% and the Actual Property Tax YOY growth including FY 2023/24 most recent estimates is 7.0%.

The following chart illustrates the major categories of the FY 2023/24 Estimated Property Tax. Secured Property Tax, VLF Property Tax in Lieu, and ERAF constitutes 91% of the current year proceeds.



The following graphs illustrate the historical amounts based on the major categories and the YOY growth of these categories.

DISCUSSION (continued):

	FY 2018/19 Actuals	FY 2019/20 Actuals	FY 2020/21 Actuals	FY 2021/22 Actuals	FY 2022/23 Actuals	FY 2023/24 Estimated	Average YOY Growth
Secured Property Tax	6.9%	5.6%	1.6%	6.1%	12.3%	7.0%	6.6%
Unsecured Property Tax	16.4%	-5.1%	6.9%	-7.8%	8.8%	6.1%	4.2%
Supplemental Property Tax	17.7%	-31.8%	40.3%	-9.0%	61.1%	-40.5%	6.3%
Property Transfer Tax	-21.8%	-9.2%	76.0%	17.0%	-37.8%	-23.2%	0.2%
ERAF	90.5%	46.1%	41.4%	16.1%	-3.1%	8.8%	33.3%
Other Property Tax	-11.1%	-0.2%	10.7%	1.0%	-2.6%	4.1%	0.3%
VLF Property Tax in Lieu	6.9%	5.2%	4.6%	4.4%	7.7%	7.7%	6.1%

As the graphs and table illustrate, the YOY performance for the different property tax categories varies from fiscal year to fiscal year.

DISCUSSION (continued):

Staff analysis includes the three most significant property tax categories.

Secured Property Tax and VLF Property Tax are usually increasing by the growth of the Total Assessment Rolls. The Total 2024 Assessment Roll will be published in July 2024 from the Santa Clara Assessor's Office. In addition to the annual assessment increases and the reassessed Proposition 13 properties as they changed ownership, the historical growth includes the annexation of 24 pockets from Santa Clara County and property sales from the First Phase of North Forty development. VLF Property Tax in Lieu collection based on the assessed roll is included as well.

ERAF, as the chart illustrates above, can vary from year to year, and it is not tied to the Total Assessment Roll. A portion of property tax revenue goes to the ERAF to support local school districts. When the amount contributed to ERAF is more than the minimum cost of funding local schools, excess funds have traditionally been returned to the county, cities, and special districts. The Santa Clara County has only provided projections for the current fiscal year. FY 2024/25 Excess ERAF projections will not be available until March 2024. FY 2025/26 estimates will be available in March 2025. The Town has been monitoring and providing periodic updates to the Finance Commission and to the Town Council on the ongoing developments regarding the distribution of excess ERAF funds. Additional information can be found Attachment 5.

The following table illustrates potential growth factors to choose in the development of the Five-Year Forecast (FY 2024/25 – 2028/29) based on the historical information provided. For each of the three largest revenue categories, staff is asking Finance Commission to select which option to recommend for inclusion in the Forecast.

DISCUSSION (continued):

		FY 2024/25 Assumptions	FY 2025/26 Assumptions	FY 2026/27 Assumptions	FY 2027/28 Assumptions	FY 2028/29 Assumptions
Secured Property Tax	Option A - Lowest YOY over the Last Six Year Period	4.3%	4.3%	4.3%	4.3%	4.3%
	Option B - Normalized for County Annexation and Other One Time Roll Growth ~\$1.5 M	5.1%	5.1%	5.1%	5.1%	5.1%
	Option C - Average YOY Property Tax Roll	6.6%	6.6%	6.6%	6.6%	6.6%
VLF Property Tax in Lieu	Option A - Lowest YOY VLF Revenue Growth over the Last Six Year Period	4.4%	4.4%	4.4%	4.4%	4.4%
	Option B - Normalized based on Property Tax Roll	5.1%	5.1%	5.1%	5.1%	5.1%
	Option C - Average YOY VLF Revenue Growth	6.1%	6.1%	6.1%	6.1%	6.1%
ERAF	Option A - No ERAF	\$0 M	\$0 M	\$0 M	\$0 M	\$0 M
	Option B - 50% of FY 2023/24 Estimated	\$1.25 M	\$1.25 M	\$1.25 M	\$1.25 M	\$1.25 M
	Option C - 70% of FY 2023/24 Estimated based on County Recommendation	\$1.75 M	\$1.75 M	\$1.75 M	\$1.75 M	\$1.75 M
Unsecured Property Tax	4% of Total Property Tax Collections	3.0%	3.0%	3.0%	3.0%	3.0%
Supplemental Property Tax	1% of Total Property Tax Collections varies by sales activity	3.0%	3.0%	3.0%	3.0%	3.0%
Property Transfer Tax	2% of Total Property Tax Collections varies by sales activity	3.0%	3.0%	3.0%	3.0%	3.0%
Other Property Tax	2% of Total Property Tax Collections	3.0%	3.0%	3.0%	3.0%	3.0%

Secured Property Tax:

Option A – Represent the lowest YOY growth rate the last six-year period.

Option B – Represent the normalized (24 County Packet annexation and North 40 First Phase of housing sale, approximately \$1.5 million) YOY growth over the last six-year period.

Option C – Represent the average YOY growth rate the last six-year period.

Staff recommendation is Option B highlighted in orange.

Motor Vehicle in Lieu (VLF):

Option A – Represent the lowest YOY growth rate the last six-year period.

Option B – Represent the normalized total assessed roll YOY growth rate.

Option C – Represent the average YOY growth rate the last six-year period.

Staff recommendation is Option B highlighted in orange.

DISCUSSION (continued):Excess ERAF:

Option A – Since the ERAF is not guaranteed and the FY 2024/25 ERAF estimates are not published until March 2024, one of the options is not to include estimates this time.

Option B – Represent the 50% of the FY 2023/24 Estimated ERAF

Option C – Assumes that the Town will receive 100% of the ERAF proceeds; however, per prior Council direction and the Santa Clara County Assessor's Office advice, 30% is set aside until the lawsuits and audit findings are resolved.

Staff recommendation is Option B highlighted in orange.

Unsecured, Supplemental, Other Property Tax, and Property Transfer Tax:

This category represents 9% of the current proceeds. Staff recommends growing them by 3%.

Staff recommends growing the rest of the property tax (Unsecured, Supplemental, Other Property Tax, and Property Transfer Tax) that represent 9% of the current proceeds by 3%.

For purposes of the Forecast, the "Base Case" utilizes the Option B growth factor for Secured Property Tax, VLF Property Tax in Lieu and Option B (50% of the FY 2023/24 Estimates) for Excess ERAF reflecting the volatility of the revenue source. Option A represent the "Lower Growth" and Option C represent the "Greater Growth" scenarios.

Property Tax (Property Tax & VLF)	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Option A - Lower Growth	\$22.17	\$23.10	\$24.08	\$25.09	\$26.15
Option B - Base Case	\$23.57	\$24.67	\$25.82	\$27.03	\$28.31
Option C - Higher Growth	\$24.34	\$25.74	\$27.23	\$28.81	\$30.49

Sales Tax

Sales tax is the second largest revenue source for the Town and comprised approximately 15% of total Town estimated General Fund revenues for FY 2023/24. The following table illustrates the most recent projections from the Town's sales tax consultant MuniServices relative to the Adopted FY 2023/24 budget and FY 2023/24 actuals.

DISCUSSION (continued):

	FY 2022/23 Actual	FY 2023/24 Adjusted Budget	January 2024 MuniServices Estimate
Base Sales Tax	\$7.5 M	\$7.8 M	\$6.9 M

	FY 2021/22 Actual	FY 2022/23 Adjusted Budget	January 2024 MuniServices Estimate
Measure G – 1/8 District Tax	\$1.3 M	\$1.3 M	\$1.3 M

Current total sales tax estimates include \$6,960,850 (\$915,383 decrease) in proceeds from regular sales tax and \$1,239,843 (\$36,802 decrease) in proceeds from the Measure G one-eighth cent district tax compared to the Adopted budget. Overall growth rates vary due to the anticipation of when and to what extent inflation may begin to decline. The current forecast incorporates a Recession Inflation Scenario, with the Consumer Price Index for all Urban Customers hitting a target of 2.8% at the middle of 2025. Taxable sales for general retail and transportation are expected to see the greatest impacts. Increased interest rates impact business to business activities, while increased mortgage rates leaves customers with less disposable income. In addition, gas service stations are projecting decreased activity due to the popularity of electric vehicles. The most recent forecast also reflects the change of Netflix discontinuing DVD rentals in September 2023. Actual receipts net of administrative fees collected by the State will be confirmed at the close of the fiscal year. Per prior Council direction, the Measure G funds are allocated 50% for capital improvement projects and 50% for operating expenses.

The following tables illustrates MuniServices Most Likely scenario relative to their “Conservative” and “Optimistic” scenarios. For both sales tax categories, staff is asking Finance Commission to select which option to recommend for inclusion in the forecast.

Base Sales Tax	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Option A - Conservative	\$6.54	\$6.64	\$6.74	\$6.83	\$6.91
Option B - Most Likely	\$7.04	\$7.15	\$7.26	\$7.35	\$7.43
Option C- Optimistic	\$7.54	\$7.66	\$7.77	\$7.87	\$7.96

DISCUSSION (continued):

Measure G 1/8 District Tax	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Option A - Conservative	\$1.22	\$1.26	\$1.29	\$1.32	\$1.35
Option B - Most Likely	\$1.28	\$1.32	\$1.35	\$1.39	\$1.42
Option C- Optimistic	\$1.33	\$1.37	\$1.41	\$1.45	\$1.48

Staff recommendation is Option B highlighted in orange.

Further Information related Sales Tax context is included as Attachment 6.

Transient Occupancy Tax

TOT is an important revenue source for the Town and comprises approximately 4% of total Town estimated revenues in the amount of \$2.3 million for FY 2023/24. The Town levies a 12% transient occupancy tax (TOT) on all hotel and motel rooms within the municipal limits of Los Gatos.

The following table illustrates TOT FY 2022/23 actuals, the FY 2023/24 Adjusted Budget, and year-end collection estimates.

	FY 2023/24 Actual	FY 2023/24 Adjusted Budget	FY 2023/24 Year-end Estimate
TOT	\$2.2M	\$2.4 M	\$2.3 M

TOT is an important revenue source for the Town and comprises approximately 4% of total Town estimated revenues in the amount of \$2.3 million for FY 2023/24. The Town levies a 12% transient occupancy tax (TOT) on all hotel and motel rooms within the municipal limits of Los Gatos. The 12% rate has been in effect since January 1, 2017, after the voters approved a ballot measure to increase in the TOT from 10% to 12% at the November 8, 2016 election.

During the pandemic, TOT experienced the most significant percentage decline relative to historical adopted budgets. Due to a significant rebound in leisure “staycation” travel and modest improvements in business travel, TOT collections were recovering but current quarter is trending lower than prior year. Based on the current trend, staff is recommending a \$154,516 decrease to this revenue source.

DISCUSSION (continued):

TOT	2024/25 Forecast	2025/26 Forecast	2026/27 Forecast	2027/28 Forecast	2028/29 Forecast
Proposed Growth	3%	3%	3%	3%	3%
Estimated Revenues	\$2.3 M	\$2.4 M	\$2.5 M	\$2.6 M	\$2.6 M

For purposes of the Forecast, the “Base Case” utilizes a growth factor as illustrated above and the “Greater Growth” and “Lower Growth” scenarios utilize a 2% differential from the Base Case.

TOT	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Option A - Lower Growth 1%	\$2.29	\$2.31	\$2.33	\$2.36	\$2.38
Option B - Base Case 3%	\$2.33	\$2.40	\$2.47	\$2.55	\$2.63
Option C- Greater Growth 4%	\$2.36	\$2.45	\$2.55	\$2.65	\$2.76

TOT:

Staff is asking Finance Commission to select which option to recommend for inclusion in the forecast.

Staff recommendation is Option B highlighted in orange.

Business License Tax

The Town requires all businesses located within Los Gatos and/or those that operate within Los Gatos to obtain a business license. The amount of business license tax paid by each business is based on its business activity. In November 2022, Los Gatos voters approved Measure J, which modernized the Town’s business license tax program. This is the first update to the program since 1991, strengthening funding for core Town services that are enjoyed by Town businesses.

Measure J included a 30% increase on flat rate fees, a 40% increase in retailing gross receipts, and a 120% increase in e-commerce, manufacturing, wholesaling, and jobbing gross receipts. Fees for activities such as wholesale sales and manufacturing are charged on a sliding scale based on gross receipts, as is retail, with retail being capped at \$1,365. These gross receipt activities account for approximately 25% of annual business licenses, while the remaining 75% are flat fee businesses. Annual renewal payments are due on January 2 of each year. Payments for new flat-fee-based businesses are prorated by quarter.

Business license tax revenue projections provided by HdL are trending slightly lower than the adopted budget. Staff is recommending a \$11,347 decrease to this revenue source.

DISCUSSION (continued):

The following table illustrates Business License FY 2022/23 actuals, the FY 2022/23 Adjusted Budget, and FY 2023/24 year-end collection estimates.

	FY 2023/23 Actual	FY 2023/24 Adjusted Budget	FY 2023/24 Year-end Estimate
Business License Tax	\$2.36 M	\$2.44 M	\$2.43 M

Business License Tax	2023/24 Forecast	2024/25 Forecast	2025/26 Forecast	2026/27 Forecast	2027/28 Forecast
Proposed Growth	3%	3%	3%	3%	3%
Estimated Revenues	\$2.5 M	\$2.6 M	\$2.7 M	\$2.7 M	\$2.8 M

For purposes of the Forecast, the “Base Case” utilizes a growth factor as illustrated above and the “Greater Growth” and “Lower Growth” scenarios utilize a 2% differential from the Base Case.

Business License Tax	2023/24 Forecast (\$M)	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)
Option A - Lower Growth 1%	\$2.45	\$2.48	\$2.50	\$2.53	\$2.55
Option B - Base Case 3%	\$2.50	\$2.58	\$2.65	\$2.73	\$2.82
Option C - Greater Growth 4%	\$2.53	\$2.63	\$2.73	\$2.84	\$2.96

Business License

Staff is asking Finance Commission to select which option to recommend for inclusion in the forecast.

Staff recommendation is Option B highlighted in orange.

Garbage Franchise Fee

Franchise fees are collected by the Town for the privilege of operating a utility service within Los Gatos, and as a fee in lieu of a business license tax. Franchise fees are currently received from Comcast for cable television, PG&E for gas and electric services, West Valley Collection and Recycling for solid waste collection services, and AT&T and Comcast for video services. Franchise fees represent 6% of projected General Fund revenues in FY 2023/24.

DISCUSSION (continued):

As the Town previously disclosed in the FY 2021/22 Annual Comprehensive Financial Report (ACFR), the California Supreme Court recently issued an opinion in a case challenging the franchise fees that the City of Oakland charges to certain waste hauling companies. In *Zolly v. City of Oakland*, the court concluded that it did not have enough evidence to rule as a matter of law that the fees are exempt from the voter approval requirements that apply to taxes under Proposition 26, Article XIII C of the California Constitution.

However, there are several exceptions to the general rule that a tax must be approved by the voters. One exception (Article IIIC, section 1 (e)(1)) is for “a charge imposed for a specific benefit conferred or privileged granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege.”

Town anticipated the impact starting on March 1, 2024 when the new garbage hauler contract goes into effect and reduced the Adopted Budget accordingly. The Town has a seat on the Board of the West Valley Solid Waste Management Authority (WVSWMA), a Joint Powers Authority (JPA) that manages the solid waste contracts. The West Valley Solid Waste Management Authority recently completed Franchise Valuation Study indicates that prior level of proceeds will be restored. Staff is recommending \$1,097,703 increase in garbage franchise fee collection to restore the prior year levels of proceeds, and a \$94,530 increase in PG&E Franchise Fee collection.

The following table illustrates Franchise Fee FY 2022/23 actuals, the FY 2022/23 Adjusted Budget, and FY 2023/24 year-end collection estimates.

	FY 2022/23 Actual	FY 2023/24 Adjusted Budget	FY 2023/24 Year-end Estimate
Franchise Fees	\$3.07 M	\$2.12 M	\$3.31 M

Franchise Fees	2023/24 Forecast	2024/25 Forecast	2025/26 Forecast	2026/27 Forecast	2027/28 Forecast
Proposed Growth	3%	3%	3%	3%	3%
Estimated Revenues	\$3.4 M	\$3.5 M	\$3.6 M	\$3.7 M	\$3.8 M

For purposes of the Forecast, the “Base Case” utilizes a growth factor as illustrated above and the “Greater Growth” and “Lower Growth” scenarios utilize a 2% differential from the Base Case.

DISCUSSION (continued):

Franchise Fees	2023/24 Forecast (\$M)	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)
Option A - Lower Growth 1%	\$3.34	\$3.38	\$3.41	\$3.44	\$3.48
Option B - Base Case 3%	\$3.41	\$3.51	\$3.62	\$3.72	\$3.84
Option C- Greater Growth 4%	\$3.44	\$3.58	\$3.72	\$3.87	\$4.03

Franchise Fees:

Staff is asking Finance Commission to select which option to recommend for inclusion in the forecast.

Staff recommendation is Option B highlighted in orange.

Operating Expense Trends and Five-Year Forecast Scenarios

Forecasts of future operating expenditures take into account two key factors: cost escalation and new operating expenditures. New operating expenditures refer to costs created by new or enhanced service programs approved during the annual budget process. Attachment 4 contains the expenditure assumptions.

Cost escalation refers to largely unavoidable increases in the cost of doing business. It includes inflation, multi-year contract costs, health care costs, and unfunded State mandates. Cost escalation also includes other unavoidable cost increases unique to a government organization, such as a rise in wages consistent with collective bargaining agreements and annual pension payments mandated by CalPERS. The Town has three bargaining units, including the Town Employees' Association (TEA), the American Federation of State, County and Municipal Employees (AFSCME), and the Police Officers' Association (POA). The unrepresented groups are Management and Confidential.

For FY 2023/24, General Fund Estimated Operating expenditures (not including debt payment and transfers out) are \$51.6 million. The delivery of Town services is highly dependent on talent which comprises 67.4% of estimated General Fund expenditures. Given the high dependence on labor for service delivery, the Town has helped manage salary escalation (and benefits) through the maintenance of lower staffing levels.

Mandated pension payments to CalPERS has consistently been one of the major cost drivers for the Town over the past decade with persistent unanticipated increases in pension costs. The Town's plans over the past several decades, like all other CalPERS participants, have

DISCUSSION (continued):

experienced unfavorable investment returns, changes in actuarial assumptions, and demographic changes which have outweighed any positive plan experiences. The outcome of these unfavorable economic and demographic results is the development of unfunded pension and Other Post-Employment Benefit (OPEB) obligations for the Town. To address the escalation in pension costs, previous Councils have allocated additional discretionary pension funding, totaling \$10.4 million. These additional discretionary payments will ultimately yield an approximate additional \$12.7 million in contribution savings.

The Town and its bargaining groups have also worked to contain benefit costs. The Town closed the CalPERS retiree Tier 1 benefit for non-safety employees and created a new Tier 2 for non-safety new employees in 2012, implemented the Public Employees' Pension Reform Act (PEPRA) for all new non-classic employees starting in 2013, and participates in the CalPERS discounted prepayment option.

In addition to the management of the Town's pension obligations, prior Councils and the Town's bargaining groups have worked to curb cost escalation in OPEB. In 2009, the Town initiated prefunding of the retiree healthcare benefit and has since established approximately \$23.4 million in OPEB assets (as of 9/31/2023) from zero in 2009. In 2016, the Town's bargaining groups approved the introduction of dependent cost sharing and a reimbursement cap to Medicare eligible employees, and in 2018 the elimination of the Town's existing retiree healthcare benefit prospectively.

While these collective measures have helped to slow the growth in salary and benefit expenses, the Forecast anticipates continued increases in the Town's pension obligations.

Provided below are the expense assumptions for salary and benefits and alternate case scenarios for pension contributions. The majority of other expenses are assumed to increase at 3% per annum. Detailed expenditure assumptions and factors can be found in Attachment 4.

Salary and Benefits

Salary

The Town has historically budgeted vacant and non-sworn positions at top step of the range for the position. Sworn and management positions are budgeted at one step higher of current step in anticipation of any merit increases expected to be awarded in the upcoming fiscal year. Based on Council's direction for FY 2021/22, salaries were budgeted at actual salary plus a one step increase, which was a significant budgeting methodology change from previous practice. In addition, the FY 2023/24 budget built in a 4.6% vacancy factor. These methodologies will be continued for the development of FY 2024/25 budget unless modified by the Town Council.

DISCUSSION (continued):

For the Forecast, positions are budgeted at the actual rate of pay of employees including benefits as of January 2023. Then, by position, salary costs are updated in accordance with the applicable Memorandum of Understanding (MOU) between the Town and its bargaining units. The Memoranda of Understanding that outline the individual agreements between the Town and each unit related to compensation, health benefits, leave time, and grievance procedures will expire with TEA and AFSCME on June 30, 2024. POA's MOU will expire on September 30, 2024. The Management and Confidential groups are unrepresented.

In addition to the economic terms of the MOUs, the Forecast assumes step increases for employees in applicable positions, and merit increases for Management and Confidential employees. In addition, based on prior Council guidance, 2% cost of living wage adjustments (COLA) are included in the Forecast for each year starting in 2024/25 and a 4.6% vacancy factor.

Salaries (2%)	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Base Case	\$23.10	\$23.62	\$24.09	\$24.63	\$25.17

Pension and Other Benefits

For purposes of the Forecast, staff utilizes estimates provided by each plan's most recent actuarial valuation received from CalPERS. The employer contribution rates reflect percentages of covered payroll. Rates shown for FY 2023/24 are actual rates as prescribed by CalPERS. Forecasted rates for FY 2024/25 and subsequent years are based on the most recent CalPERS Actuarial Valuation Reports as adjusted by the impact related to the FY 2022/23 CalPERS actual investment return and forecasted payroll.

Beginning in FY 2021/22, the estimates of employer contributions were credited with an anticipated reductions associated with the approximate \$4.8 million additional discretionary payment (ADP) toward the 2016 unfunded amortization base paid off in October 2019 and the total of approximately \$5.8 million in ADPs toward unfunded 2013 and 2015 amortization bases that were paid off in FY 2020/21. Other Benefits includes health insurance, life insurance and workers' compensation insurance premium. The forecast models a \$500,000 increase in the Premium Townwide in FY 2024/25 with a 3% growth in the out years to properly recover the cost of the program.

Pension Benefits	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Base Case	\$8.98	\$9.15	\$9.72	\$10.32	\$11.22

DISCUSSION (continued):

Other Benefits	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Base Case	\$5.59	\$5.78	\$5.97	\$6.18	\$6.39

Given that investment returns have one of the largest impacts on contribution variability, CalPERS provides projected employer Unfunded Actuarial Liability (UAL) contributions under alternate investment returns. Analysis using the investment return scenarios from the Asset Liability Management process completed in 2021 was performed to determine the effects of various future investment returns on required employer contributions.

The projections below reflect the impact of the CalPERS Funding Risk Mitigation policy. The projected normal cost rates reflect that the rates are anticipated to decline over time as new employees are hired into lower-cost benefit tiers. The projections also assume that all other actuarial assumptions will be realized and that no further changes in assumptions, contributions, benefits, or funding will occur. The table shows projected contribution requirements if the fund were to earn either 3.0% or 10.8% annually. These alternate investment returns were chosen because 90% of long-term average returns are expected to fall between these levels over the 20-year period ending June 30, 2041.

UAL Town Contributions (Misc & Safety)	2025/26 Forecast	2026/27 Forecast	2026/27 Forecast	2027/28 Forecast	2028/29 Forecast
Greater Investment Return Scenario (10.8%)	\$5,492,000	\$5,650,000	\$5,540,000	\$5,469,000	\$1,453,000
Base Investment Return Case (3.0%)	\$5,797,000	\$6,564,000	\$7,381,000	\$8,580,000	\$9,526,000

CalPERS Actuarial Valuations as of June 30, 2022.

For the year ending June 30, 2023, the Public Employees Retirement Fund (PERF) returned 6.1%. The table below illustrates the historic investment returns for five years, ten years, twenty years, and thirty years.

CalPERS Compound Annual Rates of Return (as of June 30, 2022)	5 Years	10 Years	20 Years	30 Years
Compound Annual Return	8.30%	7.10%	8.50%	8.60%

Workers' Compensation and Liability Self Insurance Internal Service Charges

Workers' Compensation Fund and Joint Powers Authority Pooled Liability Network (PLAN) Self-Insurance Fund finance and account for workers' compensation and general liability services for the entire Town.

DISCUSSION (continued):

Increased premium rates and increased claim activities require the Town to increase its Liability Internal Service charges to increase by \$450,000 or 58% percent to assure cost recovery. Staff recommends increasing the internal service rate by \$500,000 or 45% percent to assure cost recovery in the Workers' Compensation Internal Service Fund. Staff incorporated this increase starting FY 2024/25 in the forecast.

Alternative Scenario Other Benefits Without Workers' Comp Rate Increase	2024/25 Forecast	2025/26 Forecast	2026/27 Forecast	2027/28 Forecast	2028/29 Forecast
	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)
	\$5.09	\$5.28	\$5.47	\$5.68	\$5.89

Alternative Scenario Internal Service Charges Without General Liability Rate Increase	2024/25 Forecast	2025/26 Forecast	2026/27 Forecast	2027/28 Forecast	2028/29 Forecast
	(\$M)	(\$M)	(\$M)	(\$M)	(\$M)
	\$3.59	\$3.76	\$3.94	\$4.11	\$4.28

Staff recommends including the increase in the Forecast; however, the Finance Commission can select not to include the rate increase to the Forecast. One-time General Fund transfers will be required at year end if the fund balance is trending negative.

Five-Year Financial Forecast Alternative Scenarios

The tables below present the "Base Case" forecast contrasted against the two alternative revenue scenarios of "Greater Growth" and "Lower Growth." All scenario includes a 4.6% salary saving factor. The fourth scenario presents the predicted results without workers' compensation and self-insurance rate increase. As illustrated in the tables, even modest changes to the "Base Case" forecast can result in either additional surpluses or deficits during the forecast period.

5 Year Forecast "Base Case" with 4.6% Vacancy Factor	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Total Revenues & Transfers and Use of Reserves	\$54.5	\$56.3	\$58.1	\$59.6	\$61.4
Total Expenditures & Reserve Allocations	\$56.8	\$58.1	\$60.1	\$61.7	\$63.8
Surplus/Deficit	(\$2.3)	(\$1.8)	(\$2.0)	(\$2.1)	(\$2.4)

DISCUSSION (continued):

Alternative Scenario "Greater Growth" with 4.6% Vacancy Factor	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Total Revenues & Transfers and Use of Reserves	\$55.5	\$57.5	\$59.6	\$61.8	\$64.2
Total Expenditures & Reserve Allocations	\$56.8	\$58.1	\$60.1	\$61.7	\$63.8
Surplus/Deficit	(\$1.3)	(\$0.6)	(\$0.5)	\$0.1	\$0.4

Alternative Scenario "Lower Growth" with 4.6% Vacancy Factor	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Total Revenues & Transfers and Use of Reserves	\$53.1	\$54.4	\$55.7	\$57.1	\$58.5
Total Expenditures & Reserve Allocations	\$56.8	\$58.1	\$60.1	\$61.7	\$63.8
Surplus/Deficit	(\$3.7)	(\$3.7)	(\$4.4)	(\$4.6)	(\$5.3)

Alternative Scenario "Base Case" with 4.6% Vacancy Factor Without Workers Comp and General Liability Rate Increase	2024/25 Forecast (\$M)	2025/26 Forecast (\$M)	2026/27 Forecast (\$M)	2027/28 Forecast (\$M)	2028/29 Forecast (\$M)
Total Revenues & Transfers and Use of Reserves	\$54.5	\$56.3	\$58.1	\$59.6	\$61.4
Total Expenditures & Reserve Allocations	\$55.9	\$57.1	\$59.1	\$60.7	\$62.7
Surplus/Deficit	(\$1.3)	(\$0.8)	(\$1.0)	(\$1.1)	(\$1.3)

CONCLUSION:

The Finance Commission should review and discuss the elements and select the assumptions of the initial Five-Year Forecast and other budget considerations. The "Base Case" Forecast estimates deficits at this time. Staff looks forward to answering the Finance Commission questions and receiving any recommendations for Council consideration for the preparation of the proposed FY 2024/25 Operating Budget that results from the discussion.

CONCLUSION (continued):

The preparation of the FY 2024/25 Operating and Capital Budgets is taking into account the Town's current economic reality and long term fiscal picture, as well as maintaining the Town's high level of municipal services. This is considered a "status quo" approach with no major new initiatives or staffing. Key budget principles include:

- Develop and recommend a balanced budget that maintains service levels;
- Address projected deficits;
- Continue to make progress on Strategic Priorities identified by the Town Council; and
- Identify opportunities to maintain or enhance service delivery through new revenue sources and technology.

The Capital Improvement Program and direction will be discussed separately at the March meeting. The Finance Commission may also discuss budget assumptions. The Draft FY 2024/25 Operating and Capital Budgets will be available in April for the Finance Commission elaboration with the budget hearing tentatively scheduled for May 21, 2024.

COORDINATION:

This Report was prepared by the Finance Department and the Town Manager's Office.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Annual Budget Process
2. Base Case Five-Year Forecast
3. Forecast Revenue Assumptions
4. Forecast Expense Assumptions
5. Additional Information on ERAF
6. Additional Sales Tax Context from MuniServices
7. Commissioner Comments

	Prior FY (2022/23)	Current FY (2023/24)	Next FY (2024/25)
December	<p>June 30, 2023 ACFR finalized and presented for Council approval.</p> <p>ACFR surpluses assigned per the Council Reserve Policy as of June 30, 2023</p>		
January		<p>Council deliberates Strategic Priorities and Budget direction for FY 2024/25.</p> <p>Review of Five-year Forecast and assumptions.</p> <p>Council determines if previously assigned surpluses should be reallocated for FY 2024/25.</p>	
February		Council considers Mid-Year Budget adjustments through 12/31/2023 for FY 2023/24 Budget.	
April		Finance Commission review and comment on Proposed FY 2024/25 Operating & Capital Budgets .	
May		Public hearing on FY 2024/25 Operating & Capital Budgets	
June		Council adoption of the FY 2024/25 Operating & Capital Budgets	End of June 30, 2024 ACFR period
July			Start of new FY 2024/25 Operating Budget year
December			<p>June 30, 2024 ACFR finalized and presented for Council approval.</p> <p>ACFR surpluses assigned per the Council Reserve Policy as of June 30, 2024</p> <p>ATTACHMENT 1</p>

	Prior FY (2022/23)	Current FY (2023/24)	Next FY (2024/25)
December	<p>June 30, 2023 ACFR finalized and presented for Council approval.</p> <p>ACFR surpluses assigned per the Council Reserve Policy as of June 30, 2023</p>		
January		<p>Council deliberates Strategic Priorities and Budget direction for FY 2024/25.</p> <p>Review of Five-year Forecast and assumptions.</p> <p>Council determines if previously assigned surpluses should be reallocated for FY 2024/25.</p>	
February		Council considers Mid-Year Budget adjustments through 12/31/2023 for FY 2023/24 Budget.	
April		Finance Commission review and comment on Proposed FY 2024/25 Operating & Capital Budgets .	
May		Public hearing on FY 2024/25 Operating & Capital Budgets	
June		Council adoption of the FY 2024/25 Operating & Capital Budgets	End of June 30, 2024 ACFR period
July			Start of new FY 2024/25 Operating Budget year
December			<p>June 30, 2024 ACFR finalized and presented for Council approval.</p> <p>ACFR surpluses assigned per the Council Reserve Policy as of June 30, 2024</p> <p>ATTACHMENT 1</p>

General Fund 5-Year Forecast - Base Case
(in \$ million)

Revenue Category	FY 2022/23 Actuals	FY 2023/24 Adjusted Budget	FY 2023/24 Estimates	FY 2024/25 Forecast	FY 2025/26 Forecast	FY 2026/27 Forecast	FY 2027/28 Forecast	FY 2028/29 Forecast
Property Tax	\$ 18.2	\$ 18.6	\$ 19.0	\$ 18.6	\$ 19.5	\$ 20.4	\$ 21.3	\$ 22.3
VLF Backfill Property Tax	4.6	4.7	4.9	4.9	5.2	5.4	5.7	6.0
Sales & Use Tax	7.5	7.9	7.0	7.0	7.2	7.2	7.3	7.5
Measure G District Sales Tax	1.3	1.3	1.2	1.3	1.3	1.4	1.4	1.4
Franchise Fees	3.1	2.1	3.3	3.4	3.5	3.6	3.7	3.8
Transient Occupancy Tax	2.2	2.4	2.3	2.3	2.4	2.5	2.5	2.6
Business License Tax	2.4	2.4	2.4	2.5	2.6	2.7	2.7	2.8
Licenses & Permits	3.3	2.9	3.3	2.9	3.0	3.1	3.2	3.3
Intergovernmental	1.6	1.2	1.4	0.9	0.9	1.0	0.9	0.9
Town Services	4.6	4.4	5.1	4.2	4.3	4.4	4.5	4.6
Fines & Forfeitures	0.4	0.2	0.4	0.4	0.4	0.4	0.4	0.4
Interest	0.6	1.0	1.6	1.7	1.6	1.5	1.4	1.3
Other Sources	8.1	3.9	4.1	3.1	3.1	3.2	3.3	3.2
Fund Transfers In	0.5	0.5	0.6	0.5	0.5	0.5	0.5	0.5
TOTAL OPERATING REVENUES & TRANSFERS*	\$ 58.4	\$ 53.5	\$ 56.6	\$ 53.7	\$ 55.5	\$ 57.3	\$ 58.8	\$ 60.6
Use of Capital/Special Projects Reserve	2.4	2.1	0.8	0.8	0.8	0.8	0.8	0.8
Use of Pension/OPEB Reserve	0.3	-	0.3	-	-	-	-	-
Use of Council Priorities - Economic Recovery	-	1.6	1.5	-	-	-	-	-
TOTAL REVENUES, TRANSFERS, AND USE OF RESERVES	\$ 61.1	\$ 57.2	\$ 59.2	\$ 54.5	\$ 56.3	\$ 58.1	\$ 59.6	\$ 61.4

Expenditure Category	FY 2022/23 Actuals	FY 2023/24 Adjusted Budget	FY 2023/24 Estimates	FY 2024/25 Forecast	FY 2025/26 Forecast	FY 2026/27 Forecast	FY 2027/28 Forecast	FY 2028/29 Forecast
Salary	\$ 20.4	21.3	21.5	23.2	23.7	24.2	24.8	25.3
Overtime	1.4	0.6	1.2	0.6	0.6	0.6	0.6	0.6
CalPERS Benefits	7.1	8.2	7.3	9.0	9.1	9.7	10.3	11.2
All Other Benefits	3.8	4.7	4.2	5.6	5.8	6.0	6.2	6.4
4.6% Salary and Benefits Savings	-	-	-	(1.8)	(1.8)	(1.9)	(1.9)	(2.0)
OPEB Pay as You Go	1.5	1.6	1.6	1.8	1.9	2.0	2.0	2.0
Operating Expenditures	11.7	10.0	10.9	8.7	8.8	9.2	9.4	9.7
Grants & Awards	0.6	0.9	0.9	0.4	0.3	0.3	0.3	0.3
Utilities	0.6	0.6	0.7	0.7	0.7	0.8	0.8	0.8
Internal Service Charges	2.6	3.4	3.3	4.0	4.2	4.4	4.6	4.8
Debt Service	2.0	2.1	2.1	2.1	2.1	2.1	2.1	2.1
TOTAL OPERATING EXPENDITURES	\$ 51.8	\$ 53.4	\$ 53.8	\$ 54.2	\$ 55.5	\$ 57.5	\$ 59.1	\$ 61.2
Additional Discretionary Payment - Pension	0.7	0.4	0.7	0.4	0.4	0.4	0.4	0.4
TOTAL OPERATING & DISCRETIONARY	\$ 52.5	\$ 53.8	\$ 54.5	\$ 54.6	\$ 55.9	\$ 57.9	\$ 59.5	\$ 61.6
Capital Transfers Out to GFAR	2.4	1.6	1.6	1.1	1.1	1.1	1.1	1.1
Allocate ERAF Risk Reserve	0.7	0.7	0.8	-	-	-	-	-
Allocate to Pension Trust	0.7	0.4	0.7	0.4	0.4	0.4	0.4	0.4
TOTAL EXPENDITURES & RESERVE ALLOCATIONS	\$ 56.2	\$ 57.2	\$ 57.5	\$ 56.8	\$ 58.1	\$ 60.1	\$ 61.7	\$ 63.8
NET REVENUES , TRANSFERS IN, USE OF RESERVES LESS EXPENDITURES, TRANSFERS IN, AND RESERVE ALLOCATIONS	\$ 4.9	\$ -	\$ 1.7	\$ (2.3)	\$ (1.8)	\$ (2.0)	\$ (2.1)	\$ (2.4)

* Due to rounding of individual categories FY 2022/23 Actual total revenues, and FY 2023/24 Estimated total expenditures includes \$0.1 million.

Revenue Baselines and Projection Factors

Type of Revenue	FY 2023/24 Estimates Baseline	FY 2024/25 Forecast	FY 2025/26 Forecast	FY 2026/27 Forecast	FY 2027/28 Forecast	FY 2028/29 Forecast
Property Tax/VLF Backfill	Current baseline set by SCC Assessor Office February 2024 report	5.1%	5.1%	5.1%	5.1%	5.1%
Motor Vehicle License in Lieu (VLF)	Current baseline set by SCC Assessor Office February 2024 report	5.1%	5.1%	5.1%	5.1%	5.1%
ERAF	Current baseline set 100% of SCC Assessor Office November 2023 report Reserving 30% to ERAF Risk Reserve	\$1.25 million	\$1.25 million	\$1.25 million	\$1.25 million	\$1.25 million
Sales Tax	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates
Sales Tax - Measure G	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates	MuniServices January 2024 Most Likely Estimates
Franchise Fee	Current baseline set by FY 2023/24 Estimates	3%	3%	3%	3%	3%
Transient Occupancy Tax	Current baseline set by FY 2023/24 Estimates	3%	3%	3%	3%	3%
Business License Tax	Current baseline set by FY 2023/24 Estimates	2%	2%	2%	2%	2%
License & Permits	Current baseline set by FY 2023/24 Estimates	3%	3%	3%	3%	3%

Revenue Baselines and Projection Factors

Type of Revenue	FY 2023/24 Estimates Baseline	FY 2024/25 Forecast	FY 2025/26 Forecast	FY 2026/27 Forecast	FY 2027/28 Forecast	FY 2028/29 Forecast
Town Services	Current baseline set by FY 2023/24 Estimates	3%	3%	3%	3%	3%
Fine & Forfeitures	Current baseline set by FY 2023/24 Estimates	Varies	Varies	Varies	Varies	Varies
Interest	Current baseline set by FY 2023/24 Actuals	4%	4%	3%	3%	3%
Other Sources	Current baseline set by FY 2023/24 Estimates	Varies	Varies	Varies	Varies	Varies

EXPENDITURE BASELINE AND PROJECTION FACTORS

Beginning in FY 2020/21, the Town started budgeting salaries at the actual salary plus a one-step increase. In the Five-Year Forecast, positions are forecasted at the actual rate of pay including salaries and benefits as of December 31, 2023. Beginning FY 2023/24 the total budget includes 4.6% vacancy factor.

Type of Expenditure	FY 2023/24 Budget	FY 2024/25 Forecast	FY 2025/26 Forecast	FY 2026/27 Forecast	FY 2027/28 Forecast	FY 2024/25 Forecast
Salaries*(TEA, Conf, Temp)	3%	2%	2%	2%	2%	2%
Salaries *(POA)	3%	2%	2%	2%	2%	2%
Salaries*(AFSCME)	3%	2%	2%	2%	2%	2%
Salaries * (Management)	3%	2%	2%	2%	2%	2%
Benefit - Medical**	7%	7%	7%	7%	7%	7%
Operating Expenditures***	3%	3%	3%	3%	3%	3%
Grants & Awards	0%	0%	0%	0%	0%	0%
Utilities***	Varies	3%	3%	3%	3%	3%
Workers Comp Charges	Based on projected payroll	Additional \$0.5 M to the base	3%	3%	3%	3%
General Liability Charges	Based on projected payroll	Additional \$0.45 M to the base	3%	3%	3%	3%
Other Internal Service Charges***	Based on operating cost and scheduled replacement	Based on operating cost and scheduled replacement	Based on operating cost and scheduled replacement	Based on operating cost and scheduled replacement	Based on operating cost and scheduled replacement	Based on operating cost and scheduled replacement
Debt Service	Debt Service Schedules					

*Salary increases are based on actual step increases and approved Memoranda of Understanding with the bargaining units plus the Council's assumption of 2% per year cost of living adjustment.

** Benefit increase estimates are provided by CalPERS/Public Employees' Medical and Hospital Care Act (PEMHCA)

*** Based on historical trends.

The Town's required employer contribution rate estimates were developed using data provided by each plan's most recent CalPERS actuarial valuation. The employer contribution rates reflect percentages of covered payroll. Rates shown for FY 2023/24 are actual rates as prescribed by CalPERS. Forecasted rates for FY 2024/25 and subsequent years are based on the most recent CalPERS actuarial valuation Reports as adjusted by the impact related to the FY 2022/23 CalPERS 6.1% investment return and forecasted payroll.

Beginning in FY 2021/22, the estimates of employer contributions were credited with an anticipated reductions associated with the approximate \$4.8 million additional discretionary payment (ADP) toward the 2016 unfunded amortization base paid off in October 2019 and the total of approximately \$5.8 million in ADPs toward unfunded 2013 and 2015 amortization bases that were paid off in FY 2020/21.

Type of Expenditure	FY 2023/24 Forecast	FY 2024/25 Forecast	FY 2025/26 Forecast	FY 2026/27 Forecast	FY 2027/28 Forecast	FY2028/29 Forecast
Safety POA	81.31%	96%	98.7%	102.3%	106.1%	116.0%
Safety Management POA	84.31%	99%	101.7%	105.3%	109.1%	118%
Safety POA - PEPRA	14.5%	15.6%	15.6%	15.7%	16.0%	16.0%
Miscellaneous TEA/AFSCME/Confidential/Management	29.97%	30.6%	296%	31.0%	32.3%	33.8%
Miscellaneous TEA/AFSCME/Confidential/Management PEPRA						
Separate PEPRA rate for Miscellaneous has not been established yet by CalPERS.	29.97%	30.6%	296%	31.0%	32.3%	33.8%

The Town has been monitoring and providing periodic update to the Finance Commission and to the Town Council on the ongoing developments regarding the distribution of excess ERAF funds. A portion of property tax revenue goes to the ERAF to support local school districts. When the amount contributed to ERAF is more than the minimum cost of funding local schools, excess funds have traditionally been returned to the county, cities, and special districts. Five counties, including Santa Clara, have been using a redistribution allocation formula that has been contested by the State. Santa Clara County provided an update on the Excess ERAF at its September property tax meeting. The Third District Court of Appeal has affirmed the Trial Court decision in the California School Boards Association (CSBA) case, ruling that CSBA did not establish that charter schools are entitled to ERAF. However, in January the Santa Clara County advised the Town that the FY 2024/25 State Budget Governor proposes legislation allocating ERAF to charter schools, potentially reversing the recent appellate decision the County and State Controller's Office obtained holding that charter schools do not get ERAF. Annual negative impact on local jurisdiction's Excess ERAF is approximately 8 % which may fluctuate annually. Proposing In August 2023, the State Controller's Office (SCO) issued a negative audit finding to Marin County regarding inclusion of the redevelopment dissolution revenue in the Excess ERAF calculation, asserting that this violated Health & Safety Code section 34188(d). Excess ERAF counties do not agree with this finding and are currently working to find a resolution. The annual at-risk percentage is now at about 22% of the distribution both on an ongoing basis and going back to the distribution in Fiscal Year 2020/21. The County filed a lawsuit against the State Controller's Office on this matter in late December. The County also provided the updated projection for FY 2023/24 Excess ERAF distribution (\$2,500,000) based on the latest State-released information. The amounts provided are before any provision to account for the State Controller's audit finding or other annual adjustments in the calculation. The County will provide an updated estimates for the FY 2023/24 excess ERAF distribution and estimates for FY 2024/25 excess ERAF distribution in March 2024.

The following table illustrates the potential at-risk amount from FY 2020/21.

	FY 2020/21	FY 2021/22	FY 2022/23	FY 2023/24
Actual Excess ERAF Distributed	\$ 2,043,321	\$ 2,371,984	\$ 2,298,692	
Estimated Excess ERAF (11/3/2023)				\$ 2,500,000
30% At Risk	\$ 612,996	\$ 711,595	\$ 689,607	\$ 750,000
22% At Risk	\$ 449,531	\$ 521,836	\$ 505,712	\$ 550,000
Town ERAF Risk Reserve - 30%			\$ 689,607	\$ 750,000

With the adoption of the FY 2023/24 budget, Council directed a 30% ERAF Risk Reserve. The ERAF Risk Reserve is estimated at \$1,439,607 and the at-risk amount from FY 2020/21 is estimated at \$2,027,079.

Los Gatos

Bradley Burns 1% Sales & Use Tax Forecast Comparison Summary
As of 01/18/2024

A Revenue forecast was provided on 10/13/23 based on 2023Q2 Sales Tax data.
A Revenue forecast was provided on 01/03/24 based on 2023Q3 Sales Tax data.
This analysis compares those forecasts.

COMPARISON:								
	FY 22 - 23	FY 23 - 24	FY 24 - 25	FY 25 - 26	FY 26 - 27	FY 27 - 28	FY 28 - 29	FY 29 - 30
Previous Forecast	7,452,000	7,284,000	7,364,000	7,490,000	7,605,000	7,709,000	7,802,000	7,884,000
Current Forecast	7,452,000	6,961,000	7,041,000	7,152,000	7,256,000	7,349,000	7,433,000	7,508,000
Change	0	(323,000)	(323,000)	(338,000)	(349,000)	(360,000)	(369,000)	(376,000)
% Change	0.0%	-4.4%	-4.4%	-4.5%	-4.6%	-4.7%	-4.7%	-4.8%
----- % COMPARISON: -----								
	FY 22 - 23	FY 23 - 24	FY 24 - 25	FY 25 - 26	FY 26 - 27	FY 27 - 28	FY 28 - 29	FY 29 - 30
Previous Forecast	4.6%	-2.3%	1.1%	1.7%	1.5%	1.4%	1.2%	1.1%
Current Forecast	4.6%	-6.6%	1.1%	1.6%	1.5%	1.3%	1.1%	1.0%
% Change	0.0%	-4.3%	0.1%	-0.1%	-0.1%	-0.1%	-0.1%	0.0%

The current forecast is lower in all forecast years. Overall Growth Rates vary, due to the anticipation when and to what extent inflation will begin to decline.
The current forecast incorporates a Disinflation Scenario, with the CPI-U hitting a target of 2.8% by the middle of 2025.

Category	FY 22 - 23	FY 23 - 24	FY 24 - 25	FY 25 - 26	
General Retail		(110,000)	(144,000)	(160,000)	Category declined by -9.4% QTR over QTR in 2023Q3, grew by +10.5% in 2023Q2
County Pool		(143,000)	(160,000)	(161,000)	Category declined by -28.4% QTR over QTR in 2023Q3, grew by +2.2% in 2023Q2 -\$1.4 million in corrections caused a -\$2.1 million swing in 2023Q3 Santa Clara Countywide Pool Revenues
All		(70,000)	(19,000)	(17,000)	Various other factors
	\$ -	\$ (323,000)	\$ (323,000)	\$ (338,000)	Total Forecast Change

Los Gatos

Bradley Burns 1% Sales & Use Tax Forecast Comparison Summary
As of 10/16/2023

A Revenue forecast was provided on 06/28/23 based on 2023Q1 Sales Tax data.
A Revenue forecast was provided on 10/13/23 based on 2023Q2 Sales Tax data.
This analysis compares those forecasts.

COMPARISON:								
	FY 22 - 23	FY 23 - 24	FY 24 - 25	FY 25 - 26	FY 26 - 27	FY 27 - 28	FY 28 - 29	FY 29 - 30
Previous Forecast	7,396,000	7,379,000	7,609,000	7,829,000	8,034,000	8,223,000	8,397,000	
Current Forecast	7,452,000	7,284,000	7,364,000	7,490,000	7,605,000	7,709,000	7,802,000	7,884,000
Change	56,000	(95,000)	(245,000)	(339,000)	(429,000)	(514,000)	(595,000)	
% Change	0.8%	-1.3%	-3.2%	-4.3%	-5.3%	-6.3%	-7.1%	
----- % COMPARISON: -----								
	FY 22 - 23	FY 23 - 24	FY 24 - 25	FY 25 - 26	FY 26 - 27	FY 27 - 28	FY 28 - 29	FY 29 - 30
Previous Forecast	3.8%	-0.2%	3.1%	2.9%	2.6%	2.4%	2.1%	
Current Forecast	4.6%	-2.3%	1.1%	1.7%	1.5%	1.4%	1.2%	1.1%
% Change	0.8%	-2.0%	-2.0%	-1.2%	-1.1%	-1.0%	-0.9%	

The current forecast is lower in all forecast years. Overall Growth Rates vary, due to the anticipation when and to what extent inflation will begin to decline.
The current forecast incorporates a Recession Inflation Scenario, with the CPI-U hitting a target of 2.2% at the end of 2024.

Category	FY 22 - 23	FY 23 - 24	FY 24 - 25	FY 25 - 26	
General Retail	70,000				Category grew by +9.4% QTR over QTR in 2023Q2, declined by -11.3% in 2023Q1, better than expected. Apple Stores, (23.9% of General Retail), grew by +132.4% QTR over QTR in 2023Q2, by +31.7% in 2023Q1.
Transportation	(30,000)	(75,000)	(100,000)	(160,000)	Category declined by -15.6% QTR over QTR in 2023Q2, -14.8% in 2023Q1. Zero Emission Vehicles (ZEVs) comprised 24.3% of the sales of new light vehicles in CA for the first six months of 2023. Forecast includes a -40% reduction of Service Station Sales Tax Revenues by 2030, -75% reduction by 2035 and a -90% reduction by 2040.
All	16,000	(20,000)	(145,000)	(179,000)	Various other factors
	\$ 56,000	\$ (95,000)	\$ (245,000)	\$ (339,000)	Total Forecast Change

Los Gatos

Bradley Burns 1% Sales & Use Tax Forecast Comparison Summary
As of 08/16/2023

A Revenue forecast was provided on 03/13/23 based on 2022Q4 Sales Tax data.
A Revenue forecast was provided on 06/28/23 based on 2023Q1 Sales Tax data.
This analysis compares those forecasts.

COMPARISON:								
	FY 21 - 22	FY 22 - 23	FY 23 - 24	FY 24 - 25	FY 25 - 26	FY 26 - 27	FY 27 - 28	FY 28 - 29
Previous Forecast	7,125,000	7,684,000	7,876,000	8,128,000	8,410,000	8,685,000	8,950,000	9,207,000
Current Forecast	7,125,000	7,396,000	7,379,000	7,609,000	7,829,000	8,034,000	8,223,000	8,397,000
Change	0	(288,000)	(497,000)	(519,000)	(581,000)	(651,000)	(727,000)	(810,000)
% Change	0.0%	-3.7%	-6.3%	-6.4%	-6.9%	-7.5%	-8.1%	-8.8%
----- % COMPARISON: -----								
	FY 21 - 22	FY 22 - 23	FY 23 - 24	FY 24 - 25	FY 25 - 26	FY 26 - 27	FY 27 - 28	FY 28 - 29
Previous Forecast	5.9%	7.8%	2.5%	3.2%	3.5%	3.3%	3.1%	2.9%
Current Forecast	5.9%	3.8%	-0.2%	3.1%	2.9%	2.6%	2.4%	2.1%
% Change	0.0%	-4.0%	-2.7%	-0.1%	-0.6%	-0.7%	-0.7%	-0.8%

The current forecast is lower in all forecast years. Overall Growth Rates vary, due to the anticipation when and to what extent inflation will begin to decline.
The current forecast incorporates a Recession Inflation Scenario, with the CPI-U hitting a target of 2.2% at the end of 2024.

Category	FY 21 - 22	FY 22 - 23	FY 23 - 24	FY 24 - 25	
General Retail		(65,000)	(195,000)	(227,500)	Category declined by -12.4% QTR over QTR in 2023Q1, grew by 6.2% in 2022Q4. Miscellaneous Retail, (38% of this category), declined by -11.5% QTR over QTR in 2023Q1 Furniture / Appliance, (23% of this category), declined by -12.8% QTR over QTR in 2023Q1 Drug Stores, (12% of this category), declined by -11.6% QTR over QTR in 2023Q1
Transportation		(70,000)	(210,000)	(245,000)	Category declined by -15.9% QTR over QTR in 2023Q1, grew by +7.6% in 2022Q4. Prices for gasoline have plummeted from \$6.20 in June 2022 to \$4.27 in January 2023. Auto Sales declined by -19.0% QTR over QTR in 2023Q1, grew by +10.7% in 2022Q4.
All		(153,000)	(92,000)	(46,500)	Various other factors, including using a Recession Inflation Scenario with 2.2% target
	\$ -	\$ (288,000)	\$ (497,000)	\$ (519,000)	Total Forecast Change

From: [Phil Koen](#)
To: [Laurel Prevetti](#); [Gitta Ungvari](#)
Cc: [Linda Reiners](#); [Mary Badame](#)
Subject: Refund of ERAF funds
Date: Tuesday, February 13, 2024 8:28:08 AM

[EXTERNAL SENDER]

Hello Laurel,

At last night's FC meeting when Andrew Howard asked staff if the Town had ever refunded ERAF money you stated that we had done that one time in the past.

You then explained that it was tied to the end of the redevelopment agency (?) and that the refund was over a three year period. Frankly I didn't fully understand the explanation and I am sure a number of the Commissioners also didn't understand.

Given the amount of time we spent discussing the ERAF revenue, and Staff's concern about the possibility of a clawback of funds, would you please provide a more detail explanation of what actually occurred in the past so the FC can access those facts and make an informed decision regarding the likelihood of there being a claw back given the current facts. In my mind what occurred in the past had a very different set of facts than the issue today and therefore perhaps a different outcome.

Thank you,

Phil Koen
Sent from my iPhone



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 14

ADDENDUM

DATE: February 16, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Review the Five-Year Forecast (Fiscal Year 2024/25 -FY 2028/29) and the Finance Commission Recommendations, Determine Key Assumptions for the Five- Year Forecast, and Provide Direction for the Preparation of the FY 2024/25 Operating Budget

REMARKS:

Attachment 3 contains Santa Clara County Letter to Senator Cortese regarding the Governor's budget proposal on charter schools' eligibility for Educational Revenue Augmentation Fund (ERAF). The County shared this letter with the Town and other Santa Clara County Cities late afternoon on Thursday February 15, 2024.

Attachments previously distributed with the Staff Report:

1. Five-Year Forecast Report to the Finance Commission with Attachments 1 through 6
2. Public comment received after the Finance Commission's February 12, 2024 meeting and prior to 11 a.m. on February 15, 2024

Attachment distributed with this Addendum:

3. County of Santa Clara Letter to Senator Cortese Regarding Excess ERAF

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, and Assistant Town Manager

COUNTY OF SANTA CLARA

OFFICE OF THE COUNTY EXECUTIVE

COUNTY GOVERNMENT CENTER
70 W. HEDDING STREET,
EAST WING, 11TH FLOOR
SAN JOSE, CALIFORNIA 95110
(408) 299-5102
james.williams@ceo.sccgov.org



JAMES R. WILLIAMS
COUNTY EXECUTIVE

February 2, 2024

The Honorable Dave Cortese
California State Senate
1021 O Street, Room 6630
Sacramento, CA 95814-4900

**Re: Governor's Proposed Budget: Charter School Eligibility for Education
Revenue Augmentation Funds—OPPOSE**

Dear Senator Cortese:

On behalf of the County of Santa Clara, I write to oppose the Governor's budget proposal to "clarify" that charter schools are eligible to receive Education Revenue Augmentation Funds (ERAF).¹ Unfortunately, the Governor's current Excess ERAF Proposal is the latest in a series of misguided attempts by the Department of Finance (DOF) to strip local governments' constitutionally protected funds that are essential for the maintenance of critical local safety net programs and services. While we are mindful of the need to close the State's budget gap, this proposal would do so at the expense of vulnerable communities without any offsetting benefit to charter schools.

ERAF allocations are constitutionally protected

Faced with a fiscal crisis in 1992, the Legislature, seeking to meet State minimum funding obligations under Proposition 98, required local governments to divert a portion of their property tax revenues to ERAF. Under this scheme, once school funding levels are met, any remaining funds—"excess ERAF"—are returned pro rata to the county, cities, and special districts that contributed their property taxes to ERAF.

However, to satisfy the State's school funding obligations, the Legislature periodically mandated further ERAF shifts, wreaking havoc on local government budgets.

¹ *Governor's Budget Summary—2024-25*, p. 18, available at <https://ebudget.ca.gov/2024-25/pdf/BudgetSummary/FullBudgetSummary.pdf>.

Letter to Honorable Dave Cortese
Re: Governor's Proposed Budget: Charter School Eligibility for Education Revenue
Augmentation Funds—OPPOSE
February 2, 2024
Page 2 of 4

In 2004, to spare local governments from this volatility, the Legislature and Administration agreed to a ballot measure—Proposition 1A—that was adopted by 83.7 percent of the voters. That measure prohibits the Legislature from “*reduc[ing] for any fiscal year the percentage of the total amount of ad valorem property tax revenues* in a county that is allocated among the county, cities, and special districts in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for the same fiscal year under the statutes in effect on November 3, 2004.”²

The Legislative Analyst's ballot summary stated that the measure “[e]nsures local property tax and sales tax revenues remain with local government thereby safeguarding funding for public safety, health, libraries, parks, and other local services.”³ “Proposition 1A was intended to prevent the Legislature from statutorily reducing the existing allocations of property taxes among cities, counties, and special districts. In essence, it was intended to stop the periodic ERAF shifts of property tax revenues from local agencies to satisfy the State's school funding obligations.”⁴

Yet this is precisely what DOF has been attempting for years. One of DOF's recent attempts was to erroneously assert that excess ERAF decreases school funding statewide and to support the California School Boards Association in its lawsuit challenging the State Controller's determination that charter schools are not entitled to excess ERAF.⁵ The trial and appellate courts rejected these arguments as baseless.⁶ Having lost this case, DOF now seeks to legislate around it. However, DOF's proposal to change the law to give excess ERAF to charter schools would violate the California Constitution because it would reduce the total percentage of property tax revenues allocated to counties, cities, and special districts below what the laws in effect on November 3, 2004 would have provided.

² Cal. Const. art. XIII, § 25.5(a)(1)(A), emphasis added. This provision protects counties, cities, and special districts from State actions to shift local property taxes to schools because it defines “local agency” for these purposes as “a city, county, and a special district.” (Cal. Const. art. XIII, § 25.5(b); Rev. & Tax Code, § 95(a).)

³ *Official Voter Information Guide—November 3, 2004 General Election*, p. 3, available at https://repository.uclawsf.edu/cgi/viewcontent.cgi?article=2237&context=ca_ballot_props.

⁴ *City of Cerritos v. State of California* (2015) 239 Cal.App.4th 1020, 1041.

⁵ The evidence submitted by CSBA in its lawsuit included a declaration and other documents from DOF staff.

⁶ *California School Bds. Ass'n v. Cohen*, 2023 WL 4853693 (3rd Dist. Court of Appeal, unpublished) (“CSBA”). Although the appellate decision is unpublished, it constitutes a final judicial determination that charter schools do not receive ERAF.

The proposed budgetary change would have devastating consequences to local government

Apart from conflicting with Proposition 1A, this proposal would yield no additional funding to charter schools or school districts. State law already provides a mechanism for charter schools to receive “local” funding through “in lieu” payments from their host school district.⁷ But the impact to affected local governments, including Santa Clara, San Mateo, San Francisco, Marin, Napa, and Alpine Counties, would be dramatic.

The proposed budgetary change would have a significant impact on Santa Clara County, costing about \$32 million in funding per year. This would be devastating to a county that is already facing a budget deficit of close to \$300 million. The cities and special districts in Santa Clara County would likewise be stripped of an additional \$10 million a year. This money-grab will compound local fiscal challenges, with grave consequences for local governments’ ability to provide critical public programs and safety net services to their most vulnerable populations—precisely when they are most in need.

As the safety net to the most vulnerable of its two million residents, the County would be unable to close a budget gap of this size without considering severe cuts to critical services and staff reductions. In 2023, Santa Clara County staff collectively assisted more than 150,000 families with their benefit applications; helped 2,560 individuals gain permanent housing; enrolled 6,072 individuals in temporary housing; coordinated more than 1.5 million meals for seniors; issued 10,300 marriage licenses; answered more than 200,000 9-1-1 calls; provided reentry resources for 5,700 individuals formerly in custody; delivered 4,400 babies; provided care through more than 1 million primary, specialty, and emergency visits; hired 2,100 new County employees; coordinated countywide emergency response efforts during multiple disasters; investigated 6,000 reports of child abuse and neglect; managed 52,000 acres of parkland; processed 486,000 real property assessments; collected \$8 billion in property taxes to support K-12 schools and other public services; and delivered so many other vital services to our community. These are the services that the County would be forced to cut if the Governor’s budget proposal moves forward.

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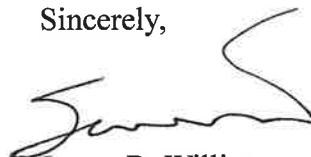
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⁷ See Educ. Code §§ 42238.02(i)-(k), 42238.03(a), (e), 46735; CSBA, 2023 WL 4853693, * 4. This in lieu payment is a percentage of the school district’s property tax revenues based on the ratio of the school district’s average daily attendance (ADA) and the charter school’s ADA. Non-basic aid school districts are effectively reimbursed from ERAF for their charter school in lieu payments.

Letter to Honorable Dave Cortese
Re: Governor's Proposed Budget: Charter School Eligibility for Education Revenue
Augmentation Funds—OPPOSE
February 2, 2024
Page 4 of 4

I respectfully urge you to reject DOF's budget proposal. We look forward to discussing this with you and the rest of our delegation in the next county caucus meeting in March, which will be scheduled in the near future. In the meantime, please don't hesitate to reach out if you have any questions.

Sincerely,



James R. Williams
County Executive

Enclosed Fact Sheet

cc: Santa Clara County Legislative Delegation
Senate President Pro Tempore Designate, Mike McGuire
Senator Nancy Skinner, Chair, Senate Budget Committee
Senator Roger Niello, Vice Chair, Senate Budget Committee
Senator John Laird, Chair, Senate Budget Subcommittee on Education
Senator Steven Padilla, Chair, Senate Budget Subcommittee on State Administration and General Government
Assemblymember Jesse Gabriel, Chair, Assembly Budget Committee
Assemblymember Vince Fong, Vice Chair, Assembly Budget Committee
Assemblymember David Alvarez, Chair Assembly Budget Subcommittee on Education Finance
Assemblymember Sharon Quirk-Silva, Chair, Assembly Budget Subcommittee on State Administration
Santa Clara County Board of Supervisors
Greta S. Hansen, J.D., Chief Operating Officer
David Campos, Deputy County Executive
Josh Tosney, Legislative Deputy County Counsel
Jean Hurst, Hurst Brooks Espinosa



Impacts of Re-Redirecting Excess ERAF from Counties

BACKGROUND

The California Constitution requires the State to guarantee that schools receive a certain minimum level of funding. In 1992, to reduce the impact of this mandate on the State general fund, the State required each county to establish an Educational Revenue Augmentation Fund (ERAF) where local property tax dollars are taken from the county, cities, and special districts, deposited in ERAF, and used to bring school districts up to their minimum funding levels. Importantly, despite its name, **ERAF does not increase school funding—it merely offsets the State’s school funding obligations, dollar-for-dollar.** When more local property tax revenue is diverted to ERAF than is needed to meet school districts’ minimum funding needs, that revenue is deemed “excess ERAF” and returned to the county, cities, and special districts whose taxes were diverted to ERAF.

CHARTER SCHOOL FUNDING

Charter schools also have minimum funding guarantees, but they do not receive ERAF.ⁱ Instead, they receive “in lieu” payments from their host school district. If the in lieu payment is not enough to meet the charter school’s minimum funding level, the State makes up the difference.

PROBLEM

The California Department of Finance (DOF) has engaged in numerous efforts over many years to shift excess ERAF away from local governments to benefit the State budget.

One of DOF’s recent efforts was to assert, without any legal basis, that charter schools receive ERAF. DOF even supported the California School Boards Association’s unsuccessful lawsuit challenging the State Controller’s determination that charter schools do not receive ERAF.

DOF’s response to that judicial defeat is to propose unconstitutional budget legislation that would give charter schools ERAF, thereby shifting funds away from local governments.

The estimated impact to Santa Clara County from DOF’s proposal would be \$32 million per year. Our 15 cities and 11 special districts would also lose roughly \$10 million per year.

Losing these additional local property tax dollars would put critical safety net services—such as behavioral health care, supportive housing, and health services for children and families—at significant risk.

DOF’s proposal is also unconstitutional because Article XIII, § 25.5(a) restricts the State’s authority to use or redirect local property taxes from counties, cities and special districts. But DOF seems undeterred by this inconvenient fact.

We are asking our delegation to stay very alert for any proposed legislation entitling charter schools to ERAF.

CONTACT

James R. Williams, County Executive

Funding At Risk for Santa Clara County Communities

Annual Revenue Loss	
County of Santa Clara	\$32 M
15 Cities	\$7.9M
11 Special Districts	\$2M
Total Revenue Loss	\$41.9M



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 14

DESK ITEM

DATE: February 20, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Review the Five-Year Forecast (Fiscal Year 2024/25 -FY 2028/29) and the Finance Commission Recommendations, Determine Key Assumptions for the Five- Year Forecast, and Provide Direction for the Preparation of the FY 2024/25 Operating Budget

REMARKS:

Attachment 4 contains public comment received between 11:01 a.m. Friday, February 16, 2024, and 11:00 a.m. Tuesday, February 20, 2024.

Attachments previously distributed with the Staff Report:

1. Five-Year Forecast Report to the Finance Commission with Attachments 1 through 6
2. Public comment received after the Finance Commission's February 12, 2024 meeting and prior to 11 a.m. on February 15, 2024

Attachment previously distributed with the Addendum:

3. County of Santa Clara Letter to Senator Cortese Regarding Excess ERAF

Attachment received with this Desk Item:

4. Public comments received between 11:01 a.m. Friday, February 16, 2024, and 11:00 a.m. Tuesday, February 20, 2024

PREPARED BY: Gitta Ungvari
Finance Director

Reviewed by: Town Manager, Town Attorney, and Assistant Town Manager

From: [Phil Koen](#)
To: [Mary Badame](#); [Matthew Hudes](#); [Rob Rennie](#); [Rob Moore](#); [Maria Ristow](#)
Cc: [Linda Reiners](#); [Laurel Prevetti](#); [Gitta Ungvari](#); [Wendy Wood](#); [Gabrielle Whelan](#)
Subject: Agenda item #14 - 5 year forecast
Date: Sunday, February 18, 2024 5:13:55 PM
Attachments: [adopted Resolutions - Item # 4.docx](#)
[General Fund Expenditure Analysis - FY 22 - FY 29.xlsx](#)
[General Fund Expenditure Analysis - FY 22 - FY 29 - Adjusted Case.xlsx](#)

[EXTERNAL SENDER]

Dear Honorable Mayor and Town Council Members,

I am writing to you in my capacity as Chair of the Finance Commission. Unfortunately, because of the timing of the Council meeting, the entire Commission has not had an opportunity to review and comment on this memo. I take full responsibility for its content. I believe the major points expressed by the Finance Commission have been captured and the memo is accurate.

Summary Comments

The Finance Commission discussed for over an hour the Staff's 5 Year Forecast, analyzing the forecast as a whole and carefully listening to the Staff's presentation and comments. The agenda called for the Finance Commission to make a recommendation to the Town Council to either accept or reject the forecast as presented. The Finance Commission's role was not to opine on individual assumptions but rather to review and determine whether the Council should rely on the Staff's work product taken as a whole.

There was considerable discussion and comments provided to Staff regarding the underlying assumptions and the reasonableness of the forecast. It is important to note that based on the 5 Year Forecast, Staff concluded “**the persistent presence of a deficit**” indicates that the Town needs to consider new revenue measures if it wants to maintain high levels of municipal services” (Executive Summary, page 1 of the Staff report). Given this conclusion the Finance Commission took extra care to probe the reasonableness of the 5 Year Forecast.

Additionally, the Finance Commission considered in FY 22 and FY 23 the Town’s General Fund had an operating surplus of \$4.4 million and \$5.7 million. It was difficult for the Finance Commission to bridge from a \$5.7 million operating surplus in FY 23 to an operating deficit of \$1.5m by FY 25. That would be a negative turnaround of \$7.2m in two years, which was never adequately explained by Staff.

In a unanimous decision, the Finance Commission made a finding the 5 Year Forecast total tax revenues were too conservative compared to historic growth rates, and operating expenditures could be managed through cost containment and productivity measures to reduce the forecasted growth rates. If adjustments were made to property tax and sales tax growth rates to align with more closely, but remain below, historic growth rates and cost containment and productivity measures

were reasonably applied to internal service costs to reduce the projected growth rate from 10.8% to 7.1%, the Town would realize **persistent future surpluses and not deficits**.

Based on the above, the Finance Commission unanimously **voted not to recommend** the Staff's 5 Year Forecast to the Town Council and **did not agree** with Staff's conclusion that "the persistent presence of a deficit indicates that the Town needs to consider new revenue measures if it wants to maintain high levels of municipal services".

Additional Detail Comments

Attached are two schedules which the Finance Committee referenced in making its finding but were not included in the Town Council package.

The first schedule – **General Fund Expenditure Analysis – FY 22-FY 29** – presents in a simplified format the Staff's 5 Year Plan. As you can see the Staff has assumed a compounded annual growth rate (CAGR) of 3.7% for property taxes. During the discussion Staff confirmed the 6-year historical growth rate has been approximately 7.4%. Additionally, the Staff's forecast has assumed a 10.8% CAGR in internal service charges which reflect the growth in operating expenses for equipment replacement, workers compensation, self-insurance, information technology and facilities maintenance. There are

no salary and pension expenses included in internal service charges.

The second schedule – **General Fund Expenditure Analysis – FY22-FY29 – adjusted case** – presents an alternative to the Staff forecast which increases the property tax CAGR to 5.5%, slightly increases sales tax growth rate to 1.7% CAGR and moderates the forecasted growth rate in internal service charges to 7.1% CAGR. The result is operating surpluses for every year starting at \$1.2m in FY 25 and growing to \$3.2m by FY 29.

Additionally, the Staff report does not disclose that two resolutions were approved by the Finance Commission. Both resolutions are attached. The report includes the second resolution but omits the first resolution which was equally important. This resolution addressed a fundamental weakness in the Town's reporting of financial information. The Finance Commission found that a lack of consistency in the reporting formats used to report actual results, mid-year updates, and five-year forecasts makes it very difficult for the Town Council and members of the public to understand the financial information presented. This prohibits the ability to compare results between reports, decreases transparency and inhibits the ability to draw reasonable conclusions. The Finance Commission's recommendation is to adopt a consistent format in reporting financial results such as the format used in the

ACFR.

Comments regarding ERAF not discussed by the Finance Commission during the February 12 meeting.

Staff has provided additional comments in their February 14 report about excess ERAF that were not provided to the Finance Commission at the February 12 meeting. For example, the comment that “there is no guarantee for funding in the future” is not based on any independent analysis or known facts. Excess ERAF has been around for decades. In a report by the Legislative Analyst’s Office dated March 20, 2020, it was reported that:

“In 2006-07 counties reported excess ERAF totaling about \$100m – equating to about 1.5% of all property tax revenue allocate from ERAF accounts statewide. Over the next decade, excess ERAF grew steadily. Within the past three years, however, growth in excess ERAF has accelerated. Preliminary reports show excess ERAF totaling \$820 million in 2018-19 equating to about 8% of all funding allocated from ERAF statewide”.

The reason excess ERAF has grown substantially over the past few years is because the acceleration in property valuations. The ERAF was created in 1992 and redirects a share of property taxes statewide from cities, counties, and special

districts to K-14 schools. ERAF offsets funding K-14 schools would otherwise receive from the State General Fund. It is very difficult to see how \$94.9m that is currently projected to be distributed in FY 24 excess ERAF to the cities in Santa Clara County would go to zero. How exactly this would happen was not explained in the Staff report.

For FY 24, Santa Clara County has already indicated the Town will receive \$2.5m in excess ERAF which is an 8.7% increase over FY 23 ERAF of \$2.3m received. Staff did not explain why it would be reasonable to assume receiving a 50% reduction in excess ERAF revenue in FY 25 of \$1.25m (option b) and holding at revenue level through FY 29.

The February 14 Staff report mentions “the Governor’s most recent budget assumes the approval of legislation allocating ERAF to charter schools, potentially reversing the recent appellate decision that charter schools do not get ERAF”. It is correct the budget proposes statutory changes that would clarify that charter schools are eligible for funding from the ERAF. Charter Schools were established the same year as ERAF, and it had never been clarified if they are eligible for this funding until the ruling **California School Boards Association vs Malia M Cohen** dated July 31, 2023, which determined that charter schools were not intended to be included in the calculation or allocation of excess ERAF. This concluded the legal challenge brought by CSBA.

-

If the Governor's proposal is adopted, it would be on a "go forward" basis and would modify the calculation of future excess ERAF so charter schools would receive an automatic allocation of property tax revenue. The Staff has reported the potential impact could be an annual reduction of approximately 8% of the excess ERAF the Town is projected to receive.

Please let me know if you have any questions. The Finance Commission takes seriously its responsibility to serve as an on-going substantive and expert advisory body to the Town Council so that the Council can make informed decisions about the Town's financial matters.

Thank you.

Phil Koen

Adopted Resolutions – Item #4

- The Finance Commission recommends the Town Council request Staff to adopt a consistent format for reporting revenues, expenditures and change in fund balance which will be used in the annual plan, the 5-year forecast and the mid-year update reports to improve visibility and comparability. All reports must be prepared in accordance with GAAP.
- The Finance Commission recommends the Town Council not accept, nor rely upon the current version of the FY 24 5-Year Plan. Given the importance of the 5-Year forecast in establishing tax policy, the Finance Commission makes a finding the draft forecast of a 2.9% CAGR in total tax revenue is too conservative compared to historic growth rates and the 4.9% CAGR in operating expenditures needs to be reduced through cost containment and productivity measures. The Finance Commission does not agree with Staff's conclusion that "the persistent presence of a deficit indicates that the Town needs to consider new revenue measures if it wants to maintain high levels of municipal services" as stated on page 1 of the Staff report.

General Fund Model - FY 22 - FY 29	FY 22	FY 23	FY 24	FY 24	FY 25	FY 26	FY 27	FY 28	FY 29	CAGR
Town's Base Case - no \$1.9 payment	Act	Act	adopted	Feb 12 Est		Feb 12	2024 5 Year Forecast			FY 23 - FY 29
Revenues										
Property Tax	21.1	22.7	22.6	23.9	23.5	24.7	25.8	27.0	28.3	3.7%
Sales Tax	8.5	8.8	9.2	8.2	8.3	8.5	8.6	8.7	8.9	0.2%
TOT Tax	1.9	2.2	2.4	2.3	2.3	2.4	2.5	2.5	2.6	2.8%
FranchiseTax	2.8	3.1	2.1	3.3	3.4	3.5	3.6	3.7	3.8	3.5%
Business License	1.5	2.4	2.4	2.4	2.5	2.6	2.7	2.7	2.8	2.6%
>Total Tax Revenue	35.8	39.2	38.7	40.1	40.0	41.7	43.2	44.6	46.4	2.9%
Use of Money	(1.4)	0.8	1.0	1.6	1.7	1.6	1.5	1.4	1.3	8.4%
Functional Revenue	12.2	10.6	8.4	10.2	8.4	8.6	8.9	9.0	9.2	-2.3%
other Sources			1.7	2.2	1.2	1.2	1.3	1.4	1.3	
Total Revenue - Agrees to ACFR	46.6	50.6	49.8	54.1	51.3	53.1	54.9	56.4	58.2	2.4%
Expenditures										
Salaries and Benefits	20.1	21.9	23.2	22.7	23.8	24.3	24.8	25.4	25.9	2.8%
4.6% Vacancy Savings			(1.7)		(1.8)	(1.8)	(1.9)	(1.9)	(2.0)	
Calpers Benefits	6.5	7.1	8.2	7.3	9.0	9.1	9.7	10.3	11.2	7.9%
ADP to Calpers			0.4	0.7	0.4	0.4	0.4	0.4	0.4	
All other benefits	5.1	5.3	6.3	5.8	7.4	7.7	8.0	8.2	8.4	8.0%
Operating Expenditures	8.2	6.9	9.6	11.7	9.4	9.5	10.0	10.2	10.5	7.2%
Fixed Assets	0.0	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Grants and Award	0.6	0.6	0.8	0.9	0.4	0.3	0.3	0.3	0.3	-10.9%
Principal	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	
Internal Service Charges	2.6	2.6	3.4	3.3	4.0	4.2	4.4	4.6	4.8	10.8%
Total Expenditures - Agrees to ACFR	43.3	44.9	50.4	52.6	52.8	53.9	55.9	57.7	59.7	4.9%
Excess (Deficit) Revenues over Expenditures	3.3	5.7	(0.6)	1.5	(1.5)	(0.8)	(1.0)	(1.3)	(1.5)	
Gain from asset sale	0.1	0.1	0.0	0.0						
Transfers - In	4.0	4.1	0.5	0.5	0.5	0.5	0.5	0.5	0.5	
Transfers - Out	4.4	7.2	1.6	1.6	1.1	1.1	1.1	1.1	1.1	
Net Changes in Fund Balance	3.0	2.7	(1.7)	0.4	(2.1)	(1.4)	(1.6)	(1.9)	(2.1)	

General Fund Model - FY 22 - FY 29	FY 22	FY 23	FY 24	FY 24	FY 25	FY 26	FY 27	FY 28	FY 29	CAGR
Adjusted Case	Act	Act	adopted	Feb 12 Est		Feb 12	2024 5 Year Forecast			FY 23 - FY 29
Revenues										
Property Tax	21.1	22.7	22.6	23.9	25.2	26.6	28.1	29.6	31.2	5.5%
Sales Tax	8.5	8.8	9.2	8.2	8.5	8.8	9.1	9.4	9.7	1.7%
TOT Tax	1.9	2.2	2.4	2.3	2.4	2.4	2.5	2.5	2.6	2.8%
FranchiseTax	2.8	3.1	2.1	3.3	3.5	3.5	3.6	3.7	3.8	3.5%
Business License	1.5	2.4	2.4	2.4	2.5	2.6	2.7	2.7	2.8	2.6%
>Total Tax Revenue	35.8	39.2	38.7	40.1	42.1	43.9	46.0	47.9	50.2	4.2%
Use of Money	(1.4)	0.8	1.0	1.6	1.7	1.6	1.5	1.4	1.3	8.4%
Functional Revenue	12.2	10.6	8.4	10.2	8.4	8.6	8.9	9.0	9.2	-2.3%
other Sources			1.7	2.2	1.2	1.2	1.3	1.4	1.3	
Total Revenue - Agrees to ACFR	46.6	50.6	49.8	54.1	53.4	55.3	57.7	59.7	62.0	3.4%
Expenditures										
Salaries and Benefits	20.1	21.9	23.2	22.7	23.8	24.3	24.8	25.4	25.9	2.8%
4.6% Vacancy Savings			(1.7)		(1.8)	(1.8)	(1.9)	(1.9)	(2.0)	
Calpers Benefits	6.5	7.1	8.2	7.3	9.0	9.1	9.7	10.3	11.2	7.9%
ADP to Calpers			0.4	0.7	0.4	0.4	0.4	0.4	0.4	
All other benefits	5.1	5.3	6.3	5.8	7.4	7.7	8.0	8.2	8.4	8.0%
Operating Expenditures	8.2	6.9	9.6	11.7	9.4	9.5	10.0	10.2	10.5	7.2%
Fixed Assets	0.0	0.3	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Grants and Award	0.6	0.6	0.8	0.9	0.4	0.3	0.3	0.3	0.3	-10.9%
Principal	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	
Internal Service Charges	2.6	2.6	3.4	3.3	3.4	3.5	3.7	3.8	3.9	7.1%
Total Expenditures - Agrees to ACFR	43.3	44.9	50.4	52.6	52.2	53.2	55.2	56.9	58.8	4.6%
Excess (Deficit) Revenues over Expenditures	3.3	5.7	(0.6)	1.5	1.2	2.1	2.5	2.8	3.2	
Gain from asset sale	0.1	0.1	0.0	0.0						
Transfers - In	4.0	4.1	0.5	0.5	0.5	0.5	0.5	0.5	0.5	
Transfers - Out	4.4	7.2	1.6	1.6	1.1	1.1	1.1	1.1	1.1	
Net Changes in Fund Balance	3.0	2.7	(1.7)	0.4	0.6	1.5	1.9	2.2	2.6	

From: [REDACTED]
To: [Wendy Wood](#); [Town Manager](#); [Gitta Ungvari](#)
Subject: Please include the attached for tonight's Council meeting - Item 14
Date: Tuesday, February 20, 2024 10:45:49 AM
Attachments: [letter for 2-20-24 meeting.pdf](#)

[EXTERNAL SENDER]

Thanks Wendy!

For Town Council Meeting 2-20-24

Item 14

Dear Councilmembers,

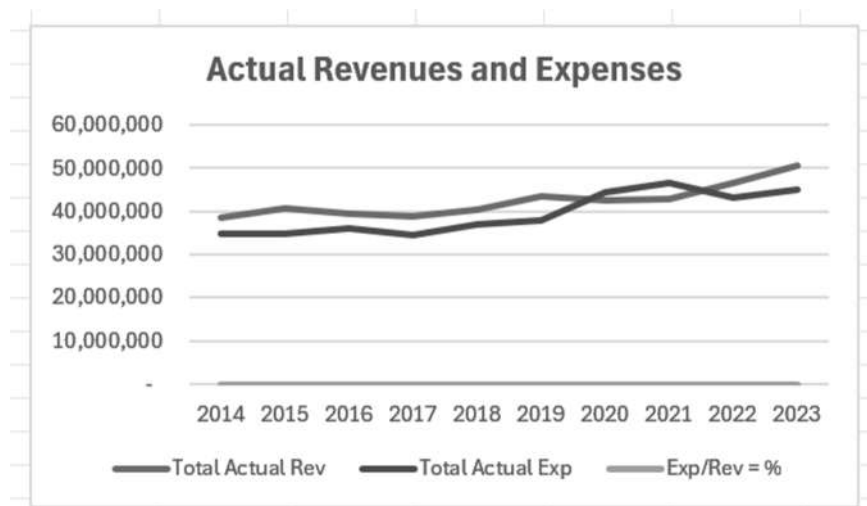
As you know, the Finance Commission unanimously voted that the Five-Year Forecast is wrong. It is wrong because the Town knew, and still used, old, outdated numbers. You should ask yourself why they did that. The incorrect Five-Year Forecast has been issued to you with misinformation. How are you to make an intelligent decisions for this town of 33,000 when you are fed bad information? Mr. Koen gave you a lot of data and below are a couple more observations I have made.

One additional item that Ms Prevetti stated that the town has incurred, and implies will continue to incur, will be **"unfunded state mandates"**. If that is true, one could reasonably expect that expenditures could exceed revenues over time. In the 10 year analysis, that hasn't happened. If it hasn't happened in 10 years, what is going to happen in the future that will increase deficits and where is Ms Prevetti's justification for this statement?

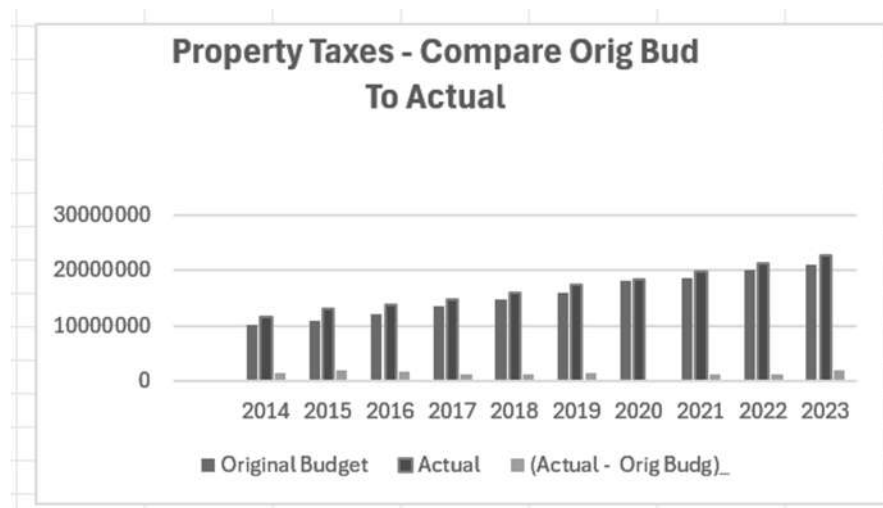
Here are two "views" of the Town's financial condition using data from the audited Annual Comprehensive Financial Report (ACFR). One example is in numbers from the ACFR showing that expenses as a percent of revenue **actually decreased** in 2023:

Fiscal Year	Total Actual Rev	Total Actual Exp	Surplus (Deficit)	Exp/Rev = %	
2014	38,468,192	34,902,195	\$ 3,565,997	91%	
2015	40,710,141	34,861,895	\$ 5,848,246	86%	
2016	39,516,979	36,165,995	\$ 3,350,984	92%	
2017	38,746,123	34,542,602	\$ 4,203,521	89%	
2018	40,529,416	37,014,345	\$ 3,515,071	91%	
2019	43,622,934	37,993,949	\$ 5,628,985	87%	
2020	42,715,907	44,270,043	\$ (1,554,136)	104%	Payments made to CalPers
2021	42,739,761	46,612,586	\$ (3,872,825)	109%	Payments made to CalPers
2022	46,623,452	43,332,557	\$ 3,290,895	93%	
2023	50,609,731	44,890,847	\$ 5,718,884	89%	
Expense as a percent of revenue over a 10 year average				93%	
Average Surplus over 10 years			\$2,969,562		
Note that 20/21 were covid years and we made a total of a \$10.4M payment to reduce unfunded liabilities					

Below is a visual graphic perspective that shows how expenses track to revenues for 10 years. The one increase of expenses over revenues was incurred by the large \$10.4M ADP to CalPers that eventually will save the town over \$12M:



Lastly, below is a graph of the property taxes for the past 10 years and ask yourself why the Town's reduction from an annual Compounded Annual Growth Rate of 7.7% to 3.7% is a reasonable reduction given the 10 year CAGR?



*Jak Van Nada -
Los Gatos Community Alliance
Facts Matter; Transparency Matters; Honesty Matters*



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 15

DATE: February 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Provide Direction on Any Ballot Measures to Consider for Polling

RECOMMENDATION:

Provide direction on any ballot measures to consider for polling.

BACKGROUND:

While costs of providing services and programs for residents have significantly increased over the years, Town revenues have not kept pace. Los Gatos is facing the same economic pressures as many other cities and businesses, including inflation and the uneven recovery from the pandemic. In addition, unfunded mandates by the State have also reduced the Town's available funds.

The Town maintains a relatively stable and low staffing level. Even so, costs per employee continue to escalate as evidenced by pension benefit costs having increased 35% in the last five years. The Town Council has taken several proactive steps to reduce the Town's pension liability, including Additional Discretionary Payments for the Pension Plans and curbing cost escalation in Other Post-Employment Benefits (OPEB).

Other cost drivers, such as medical benefits, have been fluctuating and increasing in recent years by as much as 11% in a single year. Unfortunately, revenues are not increasing by double digits.

PREPARED BY: Katy Nomura
Assistant Town Manager

Reviewed by: Town Manager, Town Attorney, and Finance Director

BACKGROUND (continued):

Los Gatos has taken the following proactive cost-cutting measures during major economic downturns to reduce budget expenditures and control costs while maintaining high service levels:

- Staffing levels significantly reduced from 2001 – 2005 and have not returned to those levels, despite an increase in population since then, unfunded mandates, and service demands,
- Imposed wage freezes and unpaid furloughs, and
- Reduced employee benefit costs.

Town budgets are reviewed annually by an independent auditor. Los Gatos has earned recognition for its fiscal responsibility with the highest credit rating (AAA bond rating by Moody's) and annual awards by the Government Finance Officers Association for its high quality and transparent budgeting practices.

On November 17, 2022, the Finance Commission reviewed several cost reduction measures and recommended that the Town further work toward operational efficiencies and researching additional revenue options.

On January 24, 2023, the Town Council determined its Strategic Priorities for 2023-2025, which included exploring new revenue opportunities.

On June 20, 2023, the Town Council authorized the Town Manager to issue a Request for Qualifications (RFQ) for revenue ballot measure consulting services. After conducting the RFQ process, the Town selected NBS.

On October 17, 2023, Town Council authorized the Town Manager to enter into an agreement for the initial phase of the work for an amount not to exceed \$44,600, with direction to return to Council with revenue modeling prior to beginning any polling.

On December 19, 2023, Town Council reviewed the Revenue Modeling Report prepared by NBS (Attachment 1) and continued the item to February 20, 2024 to consider it at the same time as the five-year forecast.

On February 12, 2024, the Finance Commission discussed the NBS report and made the following recommendation to Council: The Finance Commission unanimously passed a motion recommending that the Town Council not rely upon the NBS Report's conclusions regarding deficit reductions because the financial analysis was based on an outdated 5-Year Forecast which did not include actual results for Fiscal Year 2022/23. The Finance Commission did find that the incremental revenue contribution for the revenue options analyzed are credible and can be used for modeling purposes.

BACKGROUND (continued):

While the Commission did not make a motion regarding any potential ballot measure, individual Commissioners questioned the need for it at this time. One Commissioner expressed that there may or may not be merit to the 1/8th cent tax measure and indicated this was the reason they declined to opine.

On February 13, 2024, the Council updated its Strategic Priorities and removed the detailed bullets under “Develop a Five-Year Structurally Balanced and Sustainable Operating Forecast,” including reference to new revenue opportunities.

DISCUSSION:

NBS conducted a comprehensive evaluation of options to increase revenue for the Town and associated revenue modeling. This included an evaluation of a property transfer tax increase, utility user tax (UUT), special assessment districts, transient occupancy tax (TOT), business license tax, sales tax, and parcel tax scenarios. Franchise fees were discussed as part of the UUT analysis. Each of these options is outlined in NBS’ revenue modeling report (Attachment 1). Of the options, NBS recommended either a sales tax or a parcel tax.

Sales Tax

As mentioned in the NBS report, “the current sales tax rate in the Town is 9.25%, of which the Town’s share is 1% (not including the Measure G sales tax rate of 0.125%). The Town has the capacity to raise its sales tax rate by an additional 0.125%...If structured as a general sales tax, the Town would only need to secure approval from a majority of the registered voters within the Town to increase the sales tax rate. NBS recommends that the Town move quickly on this option, if desired, as the Town’s remaining capacity for a sales tax increase could be utilized by another government agency within the County during the next election cycle.”

The following table shows NBS’ revenue modeling for FY 2025/26 through FY 2028/29:

Potential Sales Tax Increase	Potential New Total Sales Tax %	Additional Revenue 2025/26 Projected	Additional Revenue 2026/27 Projected	Additional Revenue 2027/28 Projected	Additional Revenue 2028/29 Projected
0.125%	9.375%	\$ 1,062,500	\$ 1,087,500	\$ 1,125,000	\$ 1,162,500

Parcel Tax

Among other scenarios, NBS explored revenue modeling for a parcel tax with senior/low-income exemptions and a parcel tax on commercial buildings over 25,000 square feet. Any parcel tax would require a two-thirds approval from voters to pass.

In order for a parcel tax with senior/low-income exemptions to generate an estimated \$1M annually, it would need to be roughly \$97.70 per parcel, \$0.0055 per lot square foot, or \$0.04 per building square foot.

DISCUSSION (continued):

In order for a parcel tax on commercial buildings over 25,000 square feet to generate an estimated \$1M annually, it would need to be roughly \$0.83 per building square foot. Only 35 parcels in the Town have commercial buildings over 25,000 square feet that would be subject to such a parcel tax.

Polling Next Steps

Regarding a revenue measure for the 2024 ballot, the Town is not in a position to determine whether a measure should be placed on the ballot or not as polling has not been conducted. Polling is a targeted effort to survey a statistically representative sample of likely voters to test potential ballot measures, ballot language, and potential services to fund (see Attachment 2). In other smaller cities, samples sizes as low as 90 likely voters have yielded reliable and ultimately successful results. The results of any polling should give proper guidance for specific recommendations and for the Council to make its decision. Polling will also inform public messaging around any potential revenue ballot measure. Draft messaging is included in Attachment 3 and updated messaging would return to Council with the polling results, should polling occur.

If polling is conducted, a summary of the results would be brought to the Finance Commission for a recommendation to the Council as to whether or not to pursue placing a measure on the 2024 ballot. The results and the Finance Commission's recommendation would then be brought to the Council for consideration.

CONCLUSION:

Staff looks forward to Council's discussion and direction on which potential revenue measures to consider for polling, if any. NBS recommends that no more than two options should be polled.

COORDINATION:

The preparation of this report was coordinated with the Town Manager, Town Attorney, and Director of Finance.

FISCAL IMPACT:

On October 17, 2023, Council authorized the Town Manager to enter into an agreement for the initial phase of the work for amount not to exceed \$44,600. The cost for polling for potential revenue ballot measures was already included in this amount. After polling is complete, Council will have the option to decide whether to allocate additional funding to pursue placing a measure on the 2024 ballot.

PAGE 5 OF 5

SUBJECT: Potential Revenue Ballot Measure Options

DATE: February 15, 2024

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. NBS Revenue Modeling Report
2. Polling Overview
3. Draft Messaging

TOWN OF LOS GATOS MEMORANDUM

TO: Laurel Prevetti, Town Manager, Town of Los Gatos

FROM: Nick Dayhoff, Senior Consultant

DATE: December 14, 2023

SUBJECT: Revenue Modeling Scenarios

Purpose

The Town of Los Gatos (the “Town”) has requested a comprehensive evaluation of options to increase revenue to address the Town’s forecasted budget deficits in the near term. This evaluation includes modeling for increases to sales tax and transient occupancy tax (“TOT”) rates, and a limited model for a new utility user tax (“UUT”) and a new parcel tax. This Memorandum summarizes additional revenues that could be generated via a new parcel tax based on various revenue targets, the estimated revenue generated by potential increases to the Town’s sales tax and TOT rates, and the estimated revenue generated by the implementation of a UUT.

Projected Budget Deficits

According to the Town’s Operating and Capital Summary Budget for Fiscal Year 2023/24, the following table shows the forecasted budget deficits for Fiscal Years 2025/26 through 2028/29:

Item	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29
Forecasted Surplus/(Deficit), in Millions	(\$2.8)	(\$3.1)	(\$3.3)	(\$3.8)

Non-Viable and Not-Recommended Revenue Options

Property Transfer Tax Increase

Only Charter cities can increase the property transfer tax rate above the general law maximum of \$0.55 per \$1,000 of value (city rate). The Town is not a Charter city.

Limited UUT for Cable, Gas, and Electric Utilities

A UUT may be imposed by the Town on the consumption of utility services, including (but not limited to) electricity, gas, water, sewer, telephone (including cell phone and long distance), sanitation and cable television.

The Town does not currently levy UUTs, so modeling what the potential revenues might be from a new UUT relies on the limited amount of information received from the Town, including historical franchise fee collections from its cable, electric, and gas franchises. Since any UUT would be based upon the gross receipts of each utility, NBS has had to estimate the gross receipts of the gas, electric, and cable utilities based on forecasted franchise fee collections and franchise fee rates for the Town's cable, electric, and gas franchises.

The Town does not collect franchise fees for the water, sewer, or telephone utilities, so we cannot estimate what the gross receipts of those utilities might be. As such, we have not included these utilities in our estimate of potential UUT revenue. In addition, NBS is not including a UUT on the Town's garbage utility as part of this analysis, as the contract between the hauler and the Town is currently being negotiated and the service may no longer be categorized as a "Franchise" moving forward.

According to the Town, the following table shows the forecasted cable, electric, and gas franchise fee collections for Fiscal Years 2025/26 through 2028/29:

Title	2025/26	2026/27	2027/28	2028/29
CABLE FRANCHISE FEE	\$ 530,450	\$ 546,360	\$ 562,750	\$ 579,630
PG&E FRANCHISE FEE	441,830	455,080	468,730	482,790
TOTAL	\$ 972,280	\$ 1,001,440	\$ 1,031,480	\$ 1,062,420

From here, we can estimate what the gross receipts of the cable and gas/electric utility are, as the cable franchise fee is 5.00% of gross revenues, and the gas/electric franchise fee is 2.00% of gross revenues.

Title	2025/26	2026/27	2027/28	2028/29
CABLE @ 5% FF	\$ 10,609,000	\$ 10,927,200	\$ 11,255,000	\$ 11,592,600
PG&E @ 2% FF	22,091,500	22,754,000	23,436,500	24,139,500
TOTAL	\$ 32,700,500	\$ 33,681,200	\$ 34,691,500	\$ 35,732,100

The following table shows the potential revenue generated via various UUT rates for the cable, gas, and electric utilities for Fiscal Years 2025/26 through 2028/29:

Potential UUT	Potential New Total UUT %	Additional Revenue 2025/26 Projected	Additional Revenue 2026/27 Projected	Additional Revenue 2027/28 Projected	Additional Revenue 2028/29 Projected
1.00%	1.00%	\$ 327,005	\$ 336,812	\$ 346,915	\$ 357,321
2.00%	2.00%	654,010	673,624	693,830	714,642
3.00%	3.00%	981,015	1,010,436	1,040,745	1,071,963
4.00%	4.00%	1,308,020	1,347,248	1,387,660	1,429,284
5.00%	5.00%	1,635,025	1,684,060	1,734,575	1,786,605

The following table shows how the maximum estimated UUT revenue (5.00%) in the table above would affect the Town’s forecasted deficits:

Item	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29
Forecasted Surplus/(Deficit), in Millions	(\$2.8)	(\$3.1)	(\$3.3)	(\$3.8)
UUT Revenue @ 5.00%, in Millions	1.6	1.7	1.7	1.8
Forecasted Surplus/(Deficit), in Millions	(\$1.2)	(\$1.4)	(\$1.6)	(\$2.0)

Based on these revenue estimates, the Town would still be in deficit in the near term; however, if combined with the following other recommended revenue options, the Town could potentially close its deficit. The approval of a majority of registered voters within the Town is needed to implement a UUT. In general, obtaining voter approval for a new UUT where none existed is difficult to achieve. In addition, when Town voters were asked about a new UUT in a 2016 poll, opposition was twice that of support, with 62% opposed and 31% in favor. We see no reason why this sentiment should have changed enough since then to make a new UUT a viable option for the Town. In addition, from 2002 through 2020, 85 cities asked for voter approval of a new UUT, and just 28 (33%) were successful, even though approval required only a majority vote.

UUT for Streaming Video Services

In 2021, a judge in Los Angeles ruled that local utility laws don’t cover streaming services, so imposing a UUT on streaming services may not be a viable option. NBS recommends that the Town obtain a legal opinion on this matter.

Special Assessment Districts

Several statutes authorize cities to levy assessment for specific services and facilities. General law cities considering assessments are limited to the services and facilities types listed in each statute and must comply with the substantive and procedural requirements in Article XIII D of the California Constitution, added by Proposition 218, and the Proposition 218 Omnibus Implementation Act.

The following are some of the most used authorizing statutes for assessments and the kinds of services and facilities for which they can be used:

Landscaping and Lighting Act of 1972: Authorizes assessments for such things as the installation, construction, and maintenance of landscaping; ornamentation; street lighting, including traffic signals; curbs, gutters, sidewalks, and drainage; parks and recreational facilities; community centers, auditoriums, and public performance space.

Benefit Assessment Act of 1982: Authorizes assessments for the maintenance of drainage; flood control; street lighting; and streets, roads, or highways.

Improvement Act of 1911 (“1911 Act”): Authorizes assessments for a variety of public improvements, such as streets and sidewalks, including decorative features; sewers; storm drains; lighting; pipes and hydrants for fire protection; levees and walls for the protection of streets and to prevent beach erosion or promote accretion to beaches; water supply; gas supply; bomb shelters; trees and landscaping; mooring; land

stabilization improvements. It also allows assessment revenue to be used for limited acquisition of land related to the authorized improvements.

Municipal Improvement Act of 1913 ("1913 Act"): Generally authorizes assessments for the acquisition of land and construction of a wide array of public works and improvements, including but not limited to utilities. It also allows for the financing of some improvements to private property, such as seismic strengthening and fire safety.

In calculating an assessment, a city must first determine the entire cost of the facility or service to be funded. It must then separate the benefits of the service or facility to the general public from the benefits to property owners who will be subject to the assessment. That means, in part, determining the proportionate special benefit that each parcel subject to the assessment derives from the service or facility. Finally, the assessment imposed on each parcel cannot exceed the cost of the special benefit conferred on the parcel.

An option to fund general city services via special assessment does not exist in California. In addition, assessment districts may not fund general public-safety services, as those services have been deemed to provide general benefits to entire communities, and not special benefits to certain properties.

Transient Occupancy Tax

The Town currently levies a TOT in the amount of 12% of the rent charged by the operator for the privilege of occupancy in any hotel. It's worth noting here that Palo Alto has a 15.50% TOT rate, Los Altos and Milpitas have a 14.00% TOT rate, Santa Clara, Sunnyvale, and the unincorporated areas of Santa Clara County have a 12.50% TOT rate, Campbell and Cupertino have a 12.00% TOT rate, Morgan Hill, Mountain View, San Jose and Saratoga have a 10.00% TOT rate, and Gilroy has a 9.00% TOT. Los Altos Hills and Monte Serreno do not currently have a TOT.

According to the Town's Operating and Capital Summary Budget for Fiscal Year 2023/24, the following table shows the forecasted TOT collections for Fiscal Years 2025/26 through 2028/29, including what each 1% yields:

FY	Forecasted TOT Collections	Each 1% Yields ¹
2025/26	\$ 2,600,000	\$ 216,667
2026/27	2,600,000	216,667
2027/28	2,600,000	216,667
2028/29	2,700,000	225,000

1 - Current TOT rate is 12%

The following table shows the potential revenue generated via various increases in the Town's TOT rate for Fiscal Years 2025/26 through 2028/29:

Potential TOT Increase	Potential New Total TOT %	Additional Revenue 2025/26 Projected	Additional Revenue 2026/27 Projected	Additional Revenue 2027/28 Projected	Additional Revenue 2028/29 Projected
0.25%	12.25%	\$ 54,167	\$ 54,167	\$ 54,167	\$ 56,250
0.50%	12.50%	108,333	108,333	108,333	112,500
0.75%	12.75%	162,500	162,500	162,500	168,750
1.00%	13.00%	216,667	216,667	216,667	225,000
1.25%	13.25%	270,833	270,833	270,833	281,250
1.50%	13.50%	325,000	325,000	325,000	337,500
1.75%	13.75%	379,167	379,167	379,167	393,750
2.00%	14.00%	433,333	433,333	433,333	450,000
2.25%	14.25%	487,500	487,500	487,500	506,250
2.50%	14.50%	541,667	541,667	541,667	562,500
2.75%	14.75%	595,833	595,833	595,833	618,750
3.00%	15.00%	650,000	650,000	650,000	675,000
3.25%	15.25%	704,167	704,167	704,167	731,250
3.50%	15.50%	758,333	758,333	758,333	787,500

The following table shows how the maximum estimated additional TOT revenue (3.50% increase) in the table above would affect the Town's forecasted deficits:

Item	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29
Forecasted Surplus/(Deficit), in Millions	(\$2.8)	(\$3.1)	(\$3.3)	(\$3.8)
TOT Revenue @ 15.50%, in Millions	0.8	0.8	0.8	0.8
Forecasted Surplus/(Deficit), in Millions	(\$2.0)	(\$2.3)	(\$2.5)	(\$3.0)

NBS does not recommend increasing the TOT rate, as any potential increase doesn't raise that much additional revenue to support the Town's budget deficit.

Business License Tax Modification

The Town may also have an interest in exploring a modification to its Business License Tax to add a charge per employee. NBS is not modeling what the rate per employee would be as the Town does not yet know the number of employees that would be subject to the tax. It's also worth noting here that voters in the Town approved an increase to the Business License Tax in November 2022 (Measure J), so perhaps it's too soon to ask the voters for another modification.

Recommended Revenue Options

Sales Tax Rate Modeling

The current sales tax rate in the Town is 9.25%, of which the Town's share is 1% (not including the Measure G sales tax rate of 0.125%). The Town has the capacity to raise its sales tax rate by an additional 0.125%.

According to the Town's Operating and Capital Summary Budget for Fiscal Year 2023/24, the following table shows the forecasted sales tax collections for Fiscal Years 2025/26 through 2028/29, including what each 1% yields:

FY	Forecasted Sales Tax Collections	Each 1% Yields ¹
2025/26	\$ 8,500,000	\$ 8,500,000
2026/27	8,700,000	8,700,000
2027/28	9,000,000	9,000,000
2028/29	9,300,000	9,300,000

1 - Current sales tax rate is 9.25%, of which the City receives 1% (does not include Measure G sales tax rate of 0.125%)

The following table shows the potential revenue generated via a 0.125% increase in the Town's sales tax rate for Fiscal Years 2025/26 through 2028/29:

Potential Sales Tax Increase	Potential New Total Sales Tax %	Additional Revenue 2025/26 Projected	Additional Revenue 2026/27 Projected	Additional Revenue 2027/28 Projected	Additional Revenue 2028/29 Projected
0.125%	9.375%	\$ 1,062,500	\$ 1,087,500	\$ 1,125,000	\$ 1,162,500

The following table shows how the estimated additional sales tax revenue would affect the Town's forecasted deficits:

Item	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29
Forecasted Surplus/(Deficit), in Millions	(\$2.8)	(\$3.1)	(\$3.3)	(\$3.8)
Sales Tax Revenue, in Millions	1.1	1.1	1.1	1.2
Forecasted Surplus/(Deficit), in Millions	(\$1.7)	(\$2.0)	(\$2.2)	(\$2.6)

It's worth noting here that Campbell, Milpitas, and San Jose already have a 9.375% sales tax rate, while all other cities (excluding the Town) in Santa Clara County and the unincorporated areas of Santa Clara County are currently subject to a sales tax rate of 9.125%.

The amount of revenue generated by a potential sales tax increase does not completely fill the Town's budget deficit, but it is higher than the potential revenue generated by an increase in the Town's TOT rate and could potentially serve as a "first step" for the Town to raise additional revenue. If structured as a general sales tax, the Town would only need to secure approval from a majority of the registered voters within the Town to increase the sales tax rate. NBS recommends that the Town move quickly on this option, if desired, as the Town's remaining capacity for a sales tax increase could be utilized by another government agency within the County during the next election cycle.

Parcel Tax Scenarios

For purposes of modeling a new parcel tax, the Town has provided four revenue target scenarios to fill its projected operating deficits: a consensus target of \$3.5MM, a high target of \$4MM, a middle target of \$2MM, and a low target of \$1MM, as shown below:

Revenue Target	Amount
High	\$ 4,000,000
Consensus	\$ 3,500,000
Middle	\$ 2,000,000
Low	\$ 1,000,000

Our analysis assumes that the parcel tax, if approved in November 2024, would be collected beginning in Fiscal Year 2025/26, and rates would increase by 3% per year. The following table shows how each of the four revenue target scenarios for a potential parcel tax would affect the Town's forecasted deficits:

Item	FY 2025/26	FY 2026/27	FY 2027/28	FY 2028/29
Forecasted Surplus/(Deficit), in Millions	(\$2.8)	(\$3.1)	(\$3.3)	(\$3.8)
Parcel Tax Revenue, in Millions (High)	4.0	4.1	4.2	4.4
Forecasted Surplus/(Deficit), in Millions (High)	\$1.2	\$1.0	\$0.9	\$0.6
Parcel Tax Revenue, in Millions (Consensus)	3.5	3.6	3.7	3.8
Forecasted Surplus/(Deficit), in Millions (Consensus)	\$0.7	\$0.5	\$0.4	\$0.0
Parcel Tax Revenue, in Millions (Middle)	2.0	2.1	2.1	2.2
Forecasted Surplus/(Deficit), in Millions (Middle)	(\$0.8)	(\$1.0)	(\$1.2)	(\$1.6)
Parcel Tax Revenue, in Millions (Low)	1.0	1.0	1.1	1.1
Forecasted Surplus/(Deficit), in Millions (Low)	(\$1.8)	(\$2.1)	(\$2.2)	(\$2.7)

Based on the latest Santa Clara County Assessor's data from July 2023, there are a total of 11,230 parcels within the Town that would be Taxable, and an additional 365 parcels that would be Non-Taxable (generally publicly owned parcels, utilities, common areas, mobile homes, or other parcels with no assessed value). We provide below three parcel tax scenarios for each of the four revenue targets scenarios: (1) a uniform rate per parcel, (2) a uniform rate per lot square foot, (3) a uniform rate per building square foot, (4) a uniform rate per parcel with senior/low-income exemptions, (5) a uniform rate per lot square foot with senior/low-income exemptions, and (6) a uniform rate per building square foot with senior/low-income exemptions.

Without Senior/Low-Income Exemptions

Description	Rate - High	Rate - Consensus	Rate - Mid	Rate - Low
Taxable Parcels - per Parcel	\$ 356.19	\$ 311.67	\$ 178.09	\$ 89.05
Taxable Parcels - per Lot Square Foot	\$ 0.0203	\$ 0.0178	\$ 0.0102	\$ 0.0051
Taxable Parcels - per Building Square Foot	\$ 0.14	\$ 0.12	\$ 0.07	\$ 0.03

The average taxes on SFR and Condo parcels under the consensus revenue target for the three different apportionment methods are shown below:

Average of Parcel Tax - By Parcel	Average of Parcel Tax - By LotSqFt	Average of Parcel Tax - By BldgSqFt
\$ 311.67	\$ 254.10	\$ 262.08

With Senior/Low-Income Exemptions

For the purposes of this analysis, we have assumed that 10% of Taxable single-family residential parcels, 10% of Taxable single-family residential lot area, or 10% of Taxable single-family residential building area could qualify for a senior/low-income exemption, if offered.

Description	Rate - High	Rate - Consensus	Rate - Mid	Rate - Low
Taxable Parcels - per Parcel	\$ 390.82	\$ 341.96	\$ 195.41	\$ 97.70
Taxable Parcels - per Lot Square Foot	\$ 0.0219	\$ 0.0192	\$ 0.0110	\$ 0.0055
Taxable Parcels - per Building Square Foot	\$ 0.15	\$ 0.13	\$ 0.07	\$ 0.04

The average taxes on SFR and Condo parcels under the consensus revenue target for the three different apportionment methods are shown below:

Average of Parcel Tax - By Parcel (SLI)	Average of Parcel Tax - By LotSqFt (SLI)	Average of Parcel Tax - By BldgSqFt (SLI)
\$ 341.96	\$ 273.89	\$ 283.18

Commercial/Office/Industrial Parcels Only

The Town has also requested a scenario for a parcel tax that would only apply to Taxable Commercial/Office/Industrial Properties at a rate per building square foot over 25k building square feet. The rates per building square foot over 25k building square feet for each of the revenue targets are shown below:

Description	Rate - High	Rate - Consensus	Rate - Mid	Rate - Low
Taxable Commercial/Office/Industrial Parcels - per Building Square Foot > 25K	\$ 3.31	\$ 2.90	\$ 1.66	\$ 0.83

There are 35 Commercial/Office/Industrial parcels with buildings of 25,000 square feet or more and the resulting annual tax per owner would range from approximately \$4,600 to \$612,000.

The parcel tax option is the only reliable way to correct the Town's projected deficits with one funding mechanism, however attaining two-thirds approval from voters at the rates that meet that objective may be difficult. I look forward to our upcoming meeting to discuss these revenue scenarios and the resulting model results. Please contact me with any questions or comments; I can be reached at 800. 676.7516 or via email at ndayhoff@nbsgov.com.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Nick Dayhoff', with a long horizontal flourish extending to the right.

Nick Dayhoff
Senior Consultant

Polling Objectives and Methodology
By NBS and Gene Bregman and Associates

Voter poll will achieve the following objectives:

- Explore the current image of the Town of Los Gatos, voters' attitudes towards the Town, and their assessments of the strengths and weaknesses of local government
- Determine voter perceptions of the needs of the Town and the priorities that voters set for those needs
- Determine voter attitudes towards revenue measures for the Town, and the optimum amount to place before the voters
- Evaluate voters' top priorities for money raised in order to design a measure that best addresses the desires of the community
- Determine the most effective and important reasons for your voters to support a ballot measure

Polling Methodology:

Telephone interviews are conducted by a regularly employed staff of full-time professional interviewers who specialize in conducting interviews for public opinion surveys. Gene Bregman and Associates (GBA) supervises the interviewing process and verifies that interviews are conducted according to specifications. Supervisory procedures include continuous on-site and telephone monitoring of interviews. GBA follows established industry standards for call backs of busy or "not-at-home" numbers designed specifically to maintain the randomness of interviewee selection and the validity of the survey. A regularly employed staff of full-time professional interviewers conducts interviews. Nowadays, it is also important to contact voters via text or email so they can complete the interview on-line.

Voters will be asked if they would vote for a proposed funding measure early in the survey, without providing background information, mirroring some voters' experience when voting. Then respondents will be provided with a series of statements that provide additional information about the Town's revenue needs and asked a second time, knowing more, how they would vote on a proposed measure. Respondents will also be asked about a series of Town programs and services to understand their priorities for how funds are spent.

The survey will use up-to-date voter registration files to survey a representative sample of likely voters based upon voter history. This will provide statistically reliable data to understand the community's priorities and level of support for a local funding measure.

Maintaining Quality of Life in the Town of Los Gatos

Known for its family-oriented environment and commitment to safety, Los Gatos is more than just a town; it's a vibrant, sustainable community that takes pride in its unique qualities: historic neighborhoods and lively, accessible downtown, local culture and arts scene, excellent schools, and healthy local economy.

Additional Funding Would Help Address Community Needs

Additional reliable, ongoing funding would allow the Town to maintain and improve public safety and meet other community priorities.

The Town is exploring options to increase revenues to maintain the high level of municipal services Los Gatos residents have come to expect, emphasizing community character, good governance, fiscal stability, quality public infrastructure, civic enrichment, and public safety.

Additional revenues would be used to fund essential services and community-desired programs, such as:

- Provide high quality public safety and law enforcement services by adding additional officers
- Reduce the risk of wildfire and prepare for potential emergencies with more resources for these ongoing efforts
- Maintain rapid 911 response
- Keep parks and public areas safe and clean
- Support services for seniors to thrive
- Provide free, vibrant Library services and programs for all ages
- Support unhoused residents
- Pave streets, remove potholes, and improve traffic safety

Challenges Facing Los Gatos

While costs of providing services and programs for residents have significantly increased over the years, Town revenues have not kept pace. Los Gatos is facing the same economic pressures of many other cities and businesses, including inflation and the uneven recovery from the pandemic. In addition, unfunded mandates by the State have also reduced the Town's available funds.

Fiscally Responsible Budget Measures Enacted

Los Gatos has taken the following proactive cost-cutting measures during major downturns to reduce budget expenditures and control costs while maintaining high service levels:

- Staffing levels significantly reduced from 2001 – 2005 and have not returned to those levels, despite an increase in population since then, unfunded mandates, and service demands
- Imposed wage freezes and unpaid furloughs
- Reduced employee benefit costs

Town budgets are reviewed annually by an independent auditor. Los Gatos has earned recognition for its fiscal responsibility with the highest credit rating (AAA bond rating by Moody's) and annual awards by the Government Finance Officers Association for its high quality and transparent budgeting practices.

We welcome your feedback and questions as the Town explores funding strategies and revenue enhancements so Los Gatos can address these needs and thrive in the years ahead.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 15

DESK ITEM

DATE: February 20, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Provide Direction on Any Ballot Measures to Consider for Polling

REMARKS:

Attachment 4 contains public comment received between 11:01 a.m. Friday, February 16, 2024, and 11:00 a.m. Tuesday, February 20, 2024.

Attachments received with the Staff Report:

1. NBS Revenue Modeling Report
2. Polling Overview
3. Draft Messaging

Attachment received with this Desk Item:

4. Public comment received between 11:01 a.m. Friday, February 16, 2024, and 11:00 a.m. Tuesday, February 20, 2024

PREPARED BY: Katy Nomura
Assistant Town Manager

Reviewed by: Town Manager, Town Attorney, and Finance Director

From: [Phil Koen](#)
To: [Mary Badame](#); [Matthew Hudes](#); [Rob Rennie](#); [Rob Moore](#); [Maria Ristow](#)
Cc: [Linda Reiners](#); [Laurel Prevetti](#); [Gabrielle Whelan](#); [Wendy Wood](#)
Subject: Agenda Item 15 - Ballot Measure Polling
Date: Monday, February 19, 2024 9:22:54 AM
Attachments: [Pages from MEET-Packet-f8e64916cd514d08a245697ea657aaa0\(1\).pdf](#)
[Pages from Fin Com Feb 12 - initial posting \(5\).pdf](#)
[Pages from Fin Com Feb 12 - initial posting \(5\).pdf](#)

[EXTERNAL SENDER]

Dear Honorable Mayor and Council Members,

There is no need to waste \$30,000 of resident's money (which has not been spent) on polling for a potential ballot measure. The Staff report has it backwards when it states: "the Town is not in a position to determine a measure should be placed on the ballot or not as polling has not been conducted".

A ballot measure to raise taxes **should only** be put forth when a clearly **demonstrated need exists** and there are **specific and committed uses** for the tax revenues. The determination to place a ballot measure increasing the resident's taxes should never be based on an opinion poll.

In 2018, the Town listed in the ballot measure a few critical uses for a proposed sales tax increase, including enhancing neighborhood police patrol and local crime prevention programs, to give the appearance the sales tax proceeds would be committed to these programs. Unfortunately, the fine print of the ballot measure swept away all the "promises" and did not commit to any particular action and imposed no restrictions on the use of the sales tax. The ballot measure

passed, but unfortunately the underlying concerns of adequate policing and crime prevention still exist. This “bait and switch” should never happen again.

The Finance Commission unanimously voted last week to not recommend the Staff’s 5 Year forecast finding that it was overly conservative and furthermore the Commission did not agree with the Staff’s conclusion “of persistent future deficits and the need to consider new revenue measures”. An alternative forecast reviewed by the Finance Commission which adjusted for historical property tax growth rates and more reasonable sales tax growth among other adjustments determined the Town would have persistent future surpluses not deficits.

Additionally, in FY 22 the Town experienced a surplus of General Fund revenues over expenditures of \$4.4m and in FY 23 the Town experienced a surplus of \$5.7m. The Town’s most recent Mid-Year Forecast for FY 24 is projecting a \$1.7m surplus and makes budget adjustments increasing General Fund FY 24 revenues by \$2.2m. Based on all the financial information available, the Finance Commission expressed that, at this time, there doesn't appear to be the need for a ballot measure to increase taxes.

Lastly, I wish to address the accuracy of draft messaging regarding “fiscally responsible budget measures enacted “ in

attachment 3 which is attached to this email. Let me address each of the “claims”:

- While it is true budgeted staffing levels from 2001-2005 were higher than FY 24 budgeted levels, actual staffing levels have never been historically reported. The Town has been unable to produce actual historical headcount, so it is impossible to know the historical trend in actual headcount.
- Staff does not explain why selecting a period that is over 20 years ago and pre-dates even the introduction of Apple’s i-Phone is a relevant comparison to today’s budgeted headcount. The Staff fails to disclose that since FY 2013 budgeted headcount has increased approximately 13% while the Town population has increased approximately 9%.
- While the Town imposed wage freezes and unpaid furloughs in 2008 - 2009, these actions were taken during the great recession. More recently since FY 2018, the Town’s total salary expense has grown at an annual compounded growth rate of 5%.
- While it is true the Town adopted the PEPRA Safety Plan for new hires, the Town has not reduced any employee pension benefits for those employees in the Miscellaneous and Safety Pension Plans. The total pension contribution for these two plans has increased from \$4.6M in FY 2018 to \$7.1m in F& 2023, which is an annual compounded

increase of 9%.

- Town budgets are not “reviewed” annually by an independent auditor.

Taken collectively, the statements in the section are misleading and create a false message in an apparent attempt to garner support for a ballot measure. I hope the Town Council values the special relationship you have with the people of the Town and will promise to always engage in forthright and complete disclosures, so residents are adequately informed of the facts rather than communication which puts a “thumb on the scale” to influence public opinion.

Lastly, it might be useful for the Town Council to review the results of the last poll the Town took regarding community priorities. I have attached the results and doubt they have changed. Given all of this, why is it worth spending \$30,000 to confirm what each of you already know?

Thank you,

Phil Koen

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Maintaining Quality of Life in the Town of Los Gatos

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Additional revenues would be used to fund essential services and community-desired programs, such as:

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Fiscally Responsible Budget Measures Enacted

Los Gatos has taken the following proactive cost-cutting measures during major downturns to reduce budget expenditures and control costs while maintaining high service levels:

- Staffing levels significantly reduced from 2001 – 2005 and have not returned to those levels, despite an increase in population since then, unfunded mandates, and service demands
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Town budgets are reviewed annually by an independent auditor. Los Gatos has earned recognition for its fiscal responsibility with the highest credit rating (AAA bond rating by Moody's) and annual awards by the Government Finance Officers Association for its high quality and transparent budgeting practices.

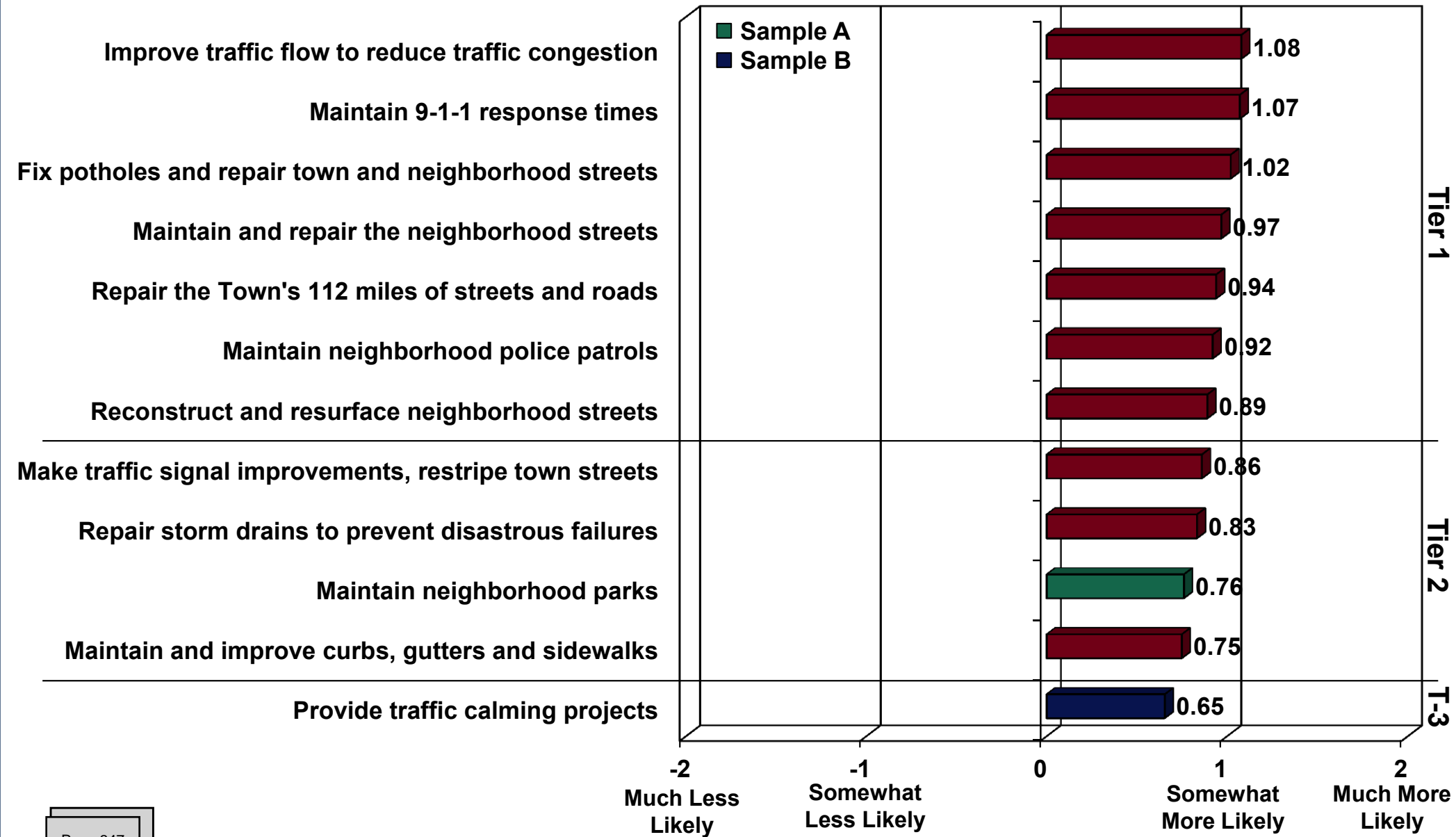
We welcome your feedback and questions as the Town explores funding strategies and revenue enhancements so Los Gatos can address these needs and thrive in the years ahead.

Community Priorities (n=471)



GODBE RESEARCH
Gain Insight

Item 5.

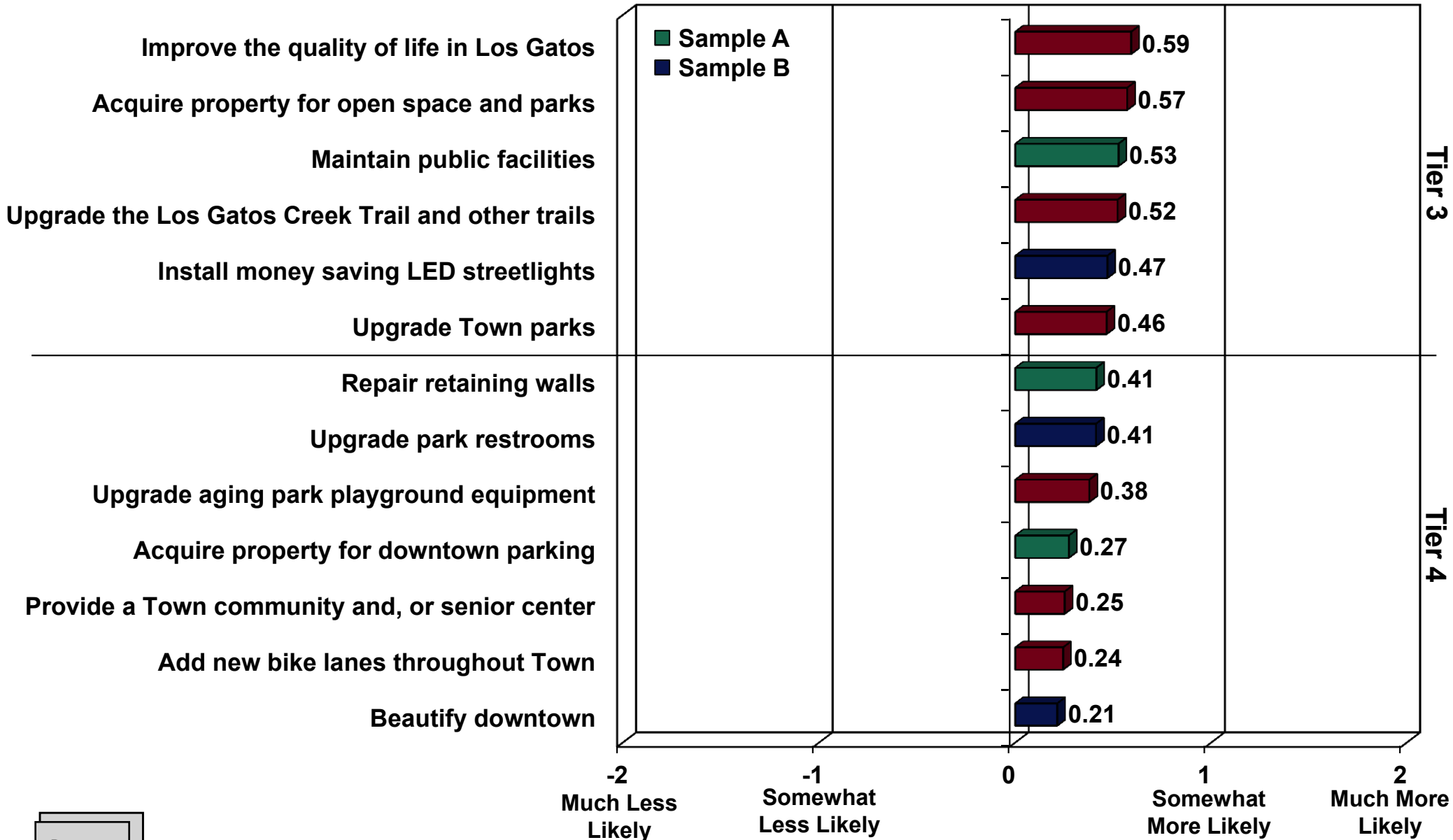


Community Priorities (Cont.) (n=471)



GODBE RESEARCH
Gain Insight

Item 5.





**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/20/2024

ITEM NO: 16

DATE: February 15, 2024
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Hear Protests and Adopt a Resolution Making Determinations and Approving the Reorganization of an Uninhabited Area Designated as Blackberry Hill Road No. 06, Approximately 2.1 Acres on Property Pre-Zoned HR-2½. APN 532-25-011. Annexation Application AN23-001. Project Location: 15405 Blackberry Hill Road. Property Owner/Applicant: Maurice Brewster.

RECOMMENDATION:

Open public hearing to hear any protests and adopt a resolution (Attachment 1) making determinations and approving the reorganization of an uninhabited area designated as Blackberry Hill Road No. 06, approximately 2.1 acres, located at 15405 Blackberry Hill Road (APN 532-25-011).

BACKGROUND:

The Town has an agreement with Santa Clara County that requires annexation of any property located within the Town's Urban Service Area boundary that is either contiguous to a Town boundary or within 300 feet of a Town maintained roadway if a use is proposed to intensify. The subject property is contiguous to a Town boundary. Section 56757 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 gives cities in Santa Clara County the authority to annex territory without application to and hearing by the Santa Clara County Local Agency Formation Commission (LAFCO).

Annexation has been requested by the property owner of 15405 Blackberry Hill Road in anticipation of a future application for a new single-family residence. The total annexation area (approximately 2.1 acres) includes no County street right-of-way.

PREPARED BY: Jocelyn Shoopman
Associate Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Community Development Department Director, and Finance Director

BACKGROUND (continued):

The Town is required to hold a protest proceeding even if the area proposed for annexation is uninhabited (less than twelve registered voters) and all property owners have consented to the annexation. This annexation was introduced at the February 6, 2024, Town Council meeting and the protest proceedings are set for February 20, 2024.

DISCUSSION:

The Town has received a petition requesting annexation to the Town of Los Gatos from Maurice Brewster, owner of the property at 15405 Blackberry Hill Road. The property is located on the southern side of Blackberry Hill Road in an unincorporated County pocket.

The property is in the Town's Urban Service Area, is contiguous to a Town boundary, and is pre-zoned HR-2½ (Hillside Residential, 2½ to 10 acres for each dwelling unit). Annexation would allow Town services to be extended to the property and reduce an existing County pocket.

The Santa Clara County Planning Division was notified in writing of the annexation request.

COORDINATION:

The preparation of this report was coordinated with the County of Santa Clara Infrastructure Development Division, LAFCO, County of Santa Clara Assessor, County of Santa Clara Surveyor, and the County of Santa Clara Planning Division.

FISCAL IMPACT:

Once the annexation is certified by the State Board of Equalization, the Town will receive approximately 9.3 percent of the property taxes.

ENVIRONMENTAL ASSESSMENT:

The project is exempt pursuant to the California Environmental Quality Act Guidelines under Section 15061(b)(3): Review for Exemption, in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. A Notice of Exemption will not be filed.

Attachments:

1. Resolution, with Exhibits A and B
2. Location Map

DRAFT RESOLUTION 2024-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
MAKING DETERMINATIONS AND APPROVING THE REORGANIZATION
OF AN UNINHABITED TERRITORY DESIGNATED AS
BLACKBERRY HILL ROAD NO. 06**

**APN: 532-25-011
APPROXIMATELY 2.1 ACRES
ANNEXATION APPLICATION: AN23-001
PROPERTY LOCATION: 15405 BLACKBERRY HILL ROAD
PROPERTY OWNER/APPLICANT: MAURICE BREWSTER**

WHEREAS, the Town Council of the Town of Los Gatos has received a request for annexation of territory designated as Blackberry Hill Road No. 06 from Maurice Brewster; and

WHEREAS, the property, is approximately 2.1 acres, located at 15405 Blackberry Hill Road, APN: 532-25-011, is contiguous to a Town boundary, and within the Town's Urban Service Area; and

WHEREAS, no special districts would be affected by the proposal; and

WHEREAS, the annexation would provide for use of Town services; and

WHEREAS, the Town Council enacted Ordinance 1453 in 1980 pre-zoning the subject territory with an HR-2½ (Hillside Residential, 2½ to 10 acres for each dwelling unit) zoning designation; and

WHEREAS, the Town of Los Gatos, as Lead Agency for environmental review for the reorganization, has determined annexation of the subject property is exempt from the California Environmental Quality Act guidelines, pursuant to Section 15061(b)(3); and

WHEREAS, the County Surveyor of Santa Clara County has found the description and map (Exhibits A and B) to be in accordance with Government Code Section 56757, the boundaries to be definite and certain, and the proposal to be in compliance with LAFCO's road

annexation policies; and

WHEREAS, as provided in Government Code Section 56757, the Town Council of the Town of Los Gatos shall be the conducting authority for a reorganization including an annexation to the Town; and

WHEREAS, the territory is uninhabited and all owners of land included in the proposal have consented to this annexation; and

WHEREAS, the Town Council held a public hearing to hear any protests on February 20, 2024.

NOW, THEREFORE, BE IT RESOLVED, that the that the Town Council of the Town of Los Gatos does as follows:

1. That it is the conducting authority pursuant to Section 56757 of the Government Code for the annexation of property designated as Blackberry Hill Road No. 06, more particularly described in Exhibits A and B;
2. That the following findings are made by the Town Council of the Town of Los Gatos:
 - a. Said territory is uninhabited and comprises approximately 2.1 acres;
 - b. The annexation is consistent with the orderly annexation of territory within the Town's Urban Service Area and is consistent with the Town policy of annexing when required by the Town's agreement with the County of Santa Clara;
 - c. The project is exempt from the California Environmental Quality Act (CEQA) under Title 14 Code of Regulations, Chapter 3: Guidelines for the Implementation of CEQA Section 15061(b)(3): Review for Exemption;
 - d. The Town Council enacted Ordinance 1453 in 1980 pre-zoning the subject territory with an HR-2½ (Hillside Residential, 2½ to 10 acres for each dwelling unit) zoning designation;
 - e. The territory is within the Town's Urban Service Area as adopted by the Local Agency Formation Commission of Santa Clara County;

- f. The County Surveyor has determined the boundaries of the proposed annexation to be definite and certain, and in compliance with the Commission's road annexation policies. The County Surveyor has been reimbursed for the actual cost incurred by the County Surveyor in making this determination;
 - g. The proposed annexation will not create an area in which it would be difficult to provide municipal services;
 - h. The proposed annexation does not split lines of assessment or ownership;
 - i. The proposed annexation is consistent with the Town's General Plan;
 - j. The territory to be annexed is located within 300 feet of a Town boundary; and
 - k. The Town has complied with all conditions imposed by the Commission for inclusion of the territory in the Town's Urban Service Area.
- 3. That all owners of land within the affected territory have provided written consent to the reorganization and no protests have been received;
 - 4. That upon completion of these reorganization proceedings the territory described in Exhibit A will be annexed to the Town of Los Gatos; and
 - 5. That upon completion of these reorganization proceedings the territory reorganized will be taxed on the regular County assessment roll, including taxes for existing bonded indebtedness.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los

Gatos, California, held on the 20th day of February 2024, by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____



EXHIBIT "A"

BLACKBERRY HILL ROAD NO. 6
ANNEXATION TO THE CITY OF LOS GATOS

GEOGRAPHIC DESCRIPTION

SITUATE the County of Santa Clara, State of California, within Township 8, South Range 1 West, Mount Diablo Base and Meridian, and being the lands described in the Trust Transfer Grant Deed to *Maurice Brewster and Rhonda Brewster, Trustees of the Brewster Family Revocable Trust, dated December 6, 2021*, recorded on June 6, 2022, as Document Number 25314481, Official Records of Santa Clara County.

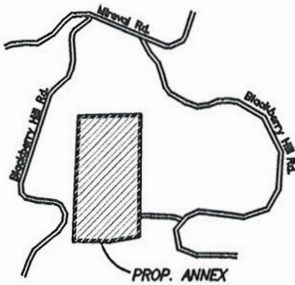
BEGINNING on the Southerly line of the *MIREVAL ROAD ANNEXATION NO. 2* at the Northwesternly corner of *BLACKBERRY HILL ANNEXATION NO. 5* being the lands described in the Grant Deed from Ruth C.M. Young to John William Panighetti, recorded February 21, 1951, in book 2156 of Official Records, page 325, Santa Clara County records;

Thence from said POINT OF BEGINNING, the following courses:

- 1) Along the Westerly line of said *BLACKBERRY HILL ANNEXATION NO. 5*; SOUTH 02°00'00" WEST, 390.68 feet to a point;
- 2) Continuing along said Westerly line, SOUTH 02°00'00" WEST, 38.32 feet to an angle therein;
- 3) Leaving said Blackberry Hill Annexation line, SOUTH 80°13'00" WEST, 88.28 feet;
- 4) NORTH 89°37'00" WEST, 41.28 feet;
- 5) NORTH 89°37'00" WEST, 84.76 feet to a point on the Easterly line of *EUGENIA WAY ANNEXATION NO. 2*;
- 6) Along said Easterly line, NORTH 02°00'00" EAST, 53.91 feet;
- 7) Continuing along said Easterly line, NORTH 02°00'00" EAST, 390.68 feet to the Southwesterly corner of *MIREVAL ROAD ANNEXATION NO. 2*
- 8) Along the said Southerly line of Mireval Road Annexation No.2, SOUTH 89°37'00" EAST, 212.50 feet to the POINT OF BEGINNING.

DISCLAIMER: FOR ASSESSMENT PURPOSES ONLY. THIS DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED FOR TRANSFER, CONVEYANCE, SALE, OR ANY OTHER PURPOSES OTHER THAN THOSE RELATED TO THE ANNEXATION.

Vicinity Map
(not to scale)



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APN
532-25-055

MIREVAL RD. ANNEXATION NO. 2

APN 532-25-054

(S89°37'00"E)
(212.50')

⑧

Point of Beginning

APN
532-25-085

EUGENIA WY. ANNEXATION NO. 2

(N2°00'00"E) (390.68')

⑦

APN 532-25-011

Brewster
Doc. No. 25314481

2.1 Acres.

Courses:

1. S2°00'00"W, 390.68'
2. S2°00'00"W, 38.32'
3. S80°13'00"W, 88.28'
4. N89°37'00"W, 41.28'
5. N89°37'00"W, 84.76'
6. N2°00'00"E, 53.91'
7. N2°00'00"E, 390.68'
8. S89°37'00"E, 212.50'

⑥

(53.91')
(N2°00'00"E)

⑤ (N89°37'00"W) (84.76') ④ (41.28')

③ (S80°13'00"W) (88.28')

①

(.89.066)
(.89.066)

BLACKBERRY HILL ANNEXATION NO. 5

Scale 1" = 60'

APN 532-25-010

APN 532-25-009

20' Right of Way

②

(38.32')
(S2°00'00"W)



01-551-6

APN 532-25-013

APN 532-25-012

LEGEND

- Boundary of prop. annex
- Existing town limits
- Other property line
- Right of way line
- Abandoned parcel line

0 60 120

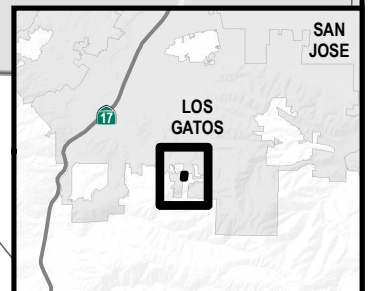
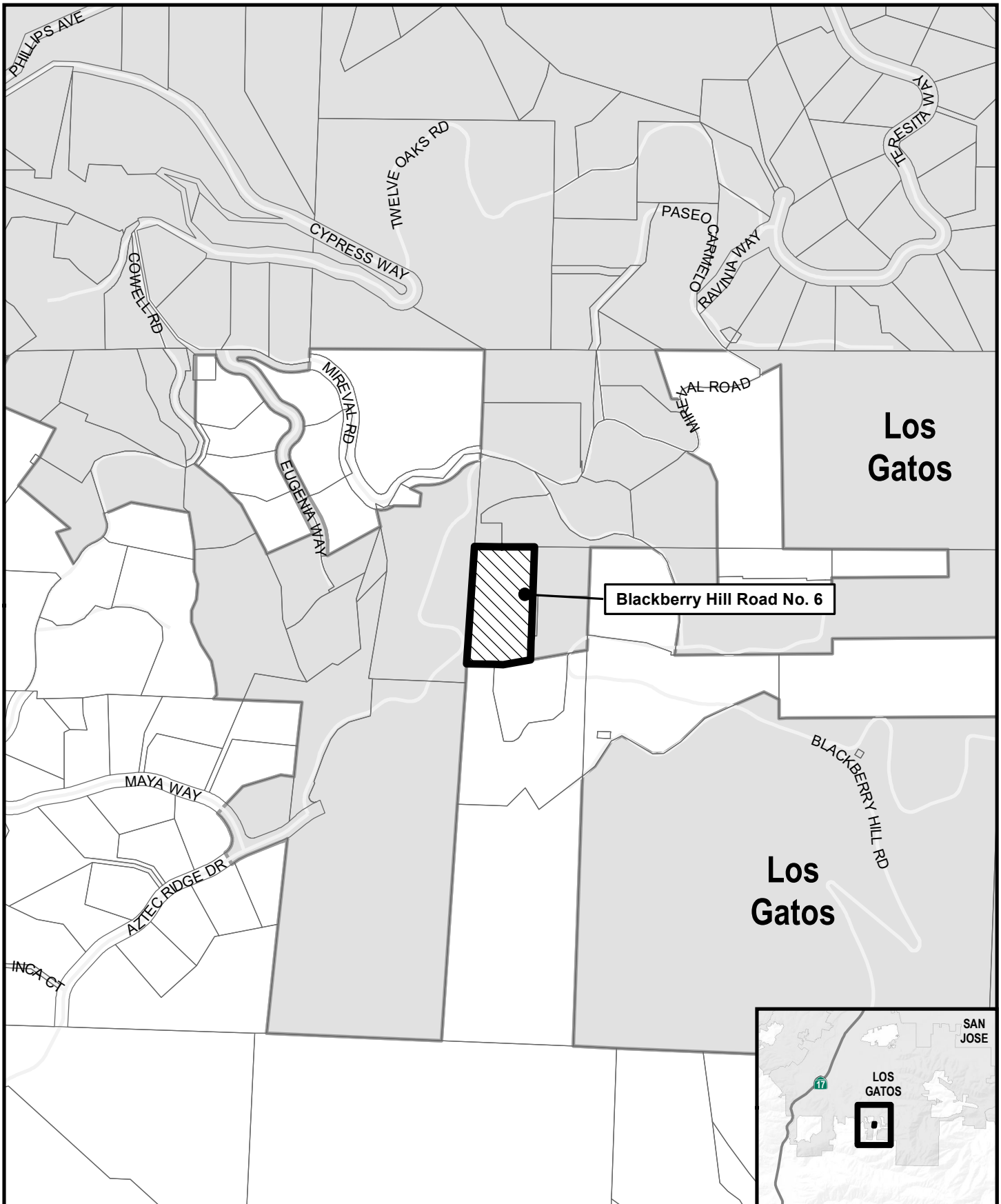


11/8/23 EXHIBIT "B"

BLACKBERRY HILL ROAD NO. 6
PROPOSED ANNEXATION TO THE TOWN OF LOS GATOS
OF ASSESSOR'S PARCEL NUMBER
532-25-011

Scale 1" = 60'

11/8/2023



County of Santa Clara
 Department of Planning and Development
 County Government Center, East Wing
 70 West Hedding St., 7th Floor
 San Jose, California 95110

EXHIBIT A
Blackberry Hill Road No. 6
2.1 acres +/-

Prepared for the Office of the County Surveyor
 November 8, 2023
 August Hanks, County Surveyor



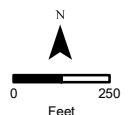
Area of Annexation



Incorporated Lands



Unincorporated Lands



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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/20/2024

ITEM NO: 17

DATE: February 12, 2024
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Adopt Resolution Repealing the Building Board of Appeals (BBA) Enabling Resolutions and Introduce "An Ordinance of the Town Council of the Town of Los Gatos Designating the Town Council to Hear Appeals from Decisions of the Building Official."

RECOMMENDATION:

Adopt resolution repealing the Building Board of Appeals (BBA) enabling resolutions (Attachment 1) and introduce "An Ordinance of the Town Council of the Town of Los Gatos Designating the Town Council to Hear Appeals from Decisions of the Building Official" (Attachment 3).

BACKGROUND:

The Town currently has Building Board of Appeals. As authorized by Section 1.8.8 of the California Building Code, the Town's Building Board of Appeals was established in 1991 to hear appeals from decisions of the Town's Building Official. Examples of appealable decisions are: the application or interpretation of specific California Building Code provisions, such as those related to occupancy load, exiting, or accessibility; or the rejection of requests to use alternative materials or methods not explicitly authorized by the California Building Code. The Building Board of Appeals does not have the ability to waive California Building Code requirements altogether. Since the Building Board of Appeals was established, no appeals have been submitted or heard.

Section 1.8.8 of the California Building Code does provide that a Town Council can assume the duties of hearing appeals from decisions of the Building Official instead of having a separate Building Board of Appeals.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

DISCUSSION:

This topic was scheduled for a discussion at the January 16, 2024 Town Council to determine whether:

- 1) A separate Building Board of Appeals should be retained; or
- 2) The existing Building Board of Appeals should be disbanded and provide that the Town Council will assume the duties of the Building Board of Appeals and hear appeals from decisions of the Building Official.

The Town Council voted to disband the existing Building Board of Appeals and assume the duties of the Building Board of Appeals. A resolution rescinding the enabling resolutions (Attachment 1) and an amendment to the ordinance (Attachments 2 and 3) are attached for the Town Council's consideration.

COORDINATION:

This report was coordinated with the Town Attorney's Office, Community Development Department, and Building Official.

FISCAL IMPACT:

The discussion and possible action will not affect the Town's Budget.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachments:

1. Building Board of Appeals Resolution
2. Ordinance Redline
3. Proposed Ordinance

RESOLUTION NO. 2024 - xx

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
RESCINDING RESOLUTIONS 1991-279, 1995-44, AND 1996-31,
ENABLING A BUILDING BOARD OF APPEALS**

WHEREAS, the Town Council, in adopting Resolution 1991-279, which was later amended by Resolutions 1995-44, 1996-31, and 2021-040;

WHEREAS, the Building Board of Appeals has not heard any appeals since its inception;

WHEREAS, California Building Code Section 1.8.8 authorizes the Town Council to serve as a Building Board of Appeals; and

WHEREAS, the Town Council now desires to rescind the enabling resolution to disband the Building Board of Appeals and assume its duties.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES HEREBY

RESOLVE THAT:

- 1) Resolutions 1991-279, 1995-44, 1996-31, and 2021-040 are rescinded.
- 2) The Building Board of Appeals is disbanded and in accordance with the California Building Code Section 1.8.8, the Town Council will hear appeals from decisions of the Building Official.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos, California, held on the 20th day of February, 2024 by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

Sec. 29.20.755. Town Council.

The Town Council:

- (1) May initiate and refer general plan amendments and specific plans or amendments to the Planning Commission for recommendation.
- (2) Hears and determines Planning Commission recommendations for the adoption or amendment of the general plan or any specific plans and conditional use permits for establishments selling alcoholic beverages for on premises consumption (excluding restaurants) and for retail sales of firearms, ammunition and/or destructive devices.
- (3) Adopts ordinances.
- (4) May initiate and refer zone changes and amendments to this chapter to the Planning Commission for recommendation. Nonsubstantive ordinance amendments may, but need not be, referred to the Planning Commission.
- (5) Hears appeals from decisions of the ~~Planning Commission~~ Building Official.

~~(6)~~ (6) Hears appeals from decisions of the Planning Commission.

~~(6)(7)~~ Determines whether to extend suspension under section 29.80.285.

~~(7)(8)~~ Determines applications for permits for signs on public property, including but not limited to community-oriented bulletin boards and kiosks.

~~(8)(9)~~ Determines mobile home park conversion permit applications.

~~(9)(10)~~ Appoints Historic Preservation Committee members.

~~(10)(11)~~ Determines requests for reasonable accommodation when action is not required of the Planning Commission, Development Review Committee, or the Planning Director.

(Ord. No. 1316, § 5.60.300, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1375, 11-21-77; Ord. No. 1758, § VIII, 8-1-88; Ord. No. 1762, § II, 9-19-88; Ord. No. 2220, § I(Exh. A), 10-7-13; Ord. No. 2222, § II(Exh. A), 10-21-13; Ord. No. 2304, § II, 2-18-20)

DRAFT ORDINANCE

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DESIGNATING THE TOWN COUNCIL TO HEAR APPEALS FROM DECISIONS OF THE BUILDING OFFICIAL

WHEREAS, the Town is required to designate an appeal body to hear appeals from decisions of the Building Official;

WHEREAS, in 1991, the Town established a Building Board of Appeals;

WHEREAS, due to a lack of appeals since the Building Board of Appeals was established, the Town Council has rescinded the enabling resolutions establishing a Building Board of Appeals;

WHEREAS, California Building Code Section 1.8.8 authorizes city councils to assume the duties of a Building Board of Appeals;

WHEREAS, the Town Council has opted to assume the duties of a Building Board of Appeals; and

WHEREAS, Town Code Section 29.50.755 lists the Town Council duties;

WHEREAS, the proposed ordinance will revised the listed duties of the Town Council to add hearing appeals from decisions of the Building Official;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Los Gatos as follows:

SECTION I. Section 29.20.755, "Town Council," of the Town Code is hereby amended to read as follows:

Sec. 29.20.755. Town Council.

The Town Council:

- (1) May initiate and refer general plan amendments and specific plans or amendments to the Planning Commission for recommendation.
- (2) Hears and determines Planning Commission recommendations for the adoption or amendment of the general plan or any specific plans and conditional use permits for establishments selling alcoholic beverages for on premises consumption (excluding restaurants) and for retail sales of firearms, ammunition and/or destructive devices.
- (3) Adopts ordinances.

- (4) May initiate and refer zone changes and amendments to this chapter to the Planning Commission for recommendation. Nonsubstantive ordinance amendments may, but need not be, referred to the Planning Commission.
- (5) Hears appeals from decisions of the Building Official.
- (6) Hears appeals from decisions of the Planning Commission.
- (7) Determines whether to extend suspension under section 29.80.285.
- (8) Determines applications for permits for signs on public property, including but not limited to community-oriented bulletin boards and kiosks.
- (9) Determines mobile home park conversion permit applications.
- (10) Appoints Historic Preservation Committee members.
- (11) Determines requests for reasonable accommodation when action is not required of the Planning Commission, Development Review Committee, or the Planning Director.

(Ord. No. 1316, § 5.60.300, 6-7-76; Ord. No. 1328, 8-2-76; Ord. No. 1375, 11-21-77; Ord. No. 1758, § VIII, 8-1-88; Ord. No. 1762, § II, 9-19-88; Ord. No. 2220, § I(Exh. A), 10-7-13; Ord. No. 2222, § II(Exh. A), 10-21-13; Ord. No. 2304, § II, 2-18-20)

SECTION II. Severability.

In the event that a court of competent jurisdiction holds any Section, subsection, paragraph, sentence, clause, or phrase in this Ordinance unconstitutional, preempted, or otherwise invalid, the invalid portion shall be severed from this Section and shall not affect the validity of the remaining portions of this Section. The Town hereby declares that it would have adopted each Section, subsection, paragraph, sentence, clause, or phrase in this Section irrespective of the fact that any one or more Sections, subsections, paragraphs, sentences, clauses or phrases in this Section might be declared unconstitutional, preempted, or otherwise invalid.

SECTION III. CEQA.

Adopting this Ordinance is not a project subject to CEQA because it can be seen with certainty that it will not impact the environment (CEQA Guidelines Section 15378).

SECTION IV. Publication.

In accordance with Section 63937 of the Government Code of the State of California, this Ordinance takes effect 30 days from the date of its passage. The Town Council hereby directs the City Clerk to cause this Ordinance or a summary thereof to be published or posted in accordance with Section 36933 pf the Government Code of the State of California.

SECTION V. Effective Date.

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the ____ day of _____ 20 , and adopted by the Town Council of the Town of Los Gatos at its regular meeting on the ____ day of _____ 20 , by the following vote:

COUNCIL MEMBERS:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____

ATTEST:

TOWN CLERK OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

DATE: _____