



**TOWN OF LOS GATOS
COUNCIL MEETING AGENDA
FEBRUARY 18, 2020
110 EAST MAIN STREET
LOS GATOS, CA**

*Marcia Jensen, Mayor
Barbara Spector, Vice Mayor
Rob Rennie, Council Member
Marico Sayoc, Council Member
Vacant, Council Member*

PARTICIPATION IN THE PUBLIC PROCESS

How to participate: The Town of Los Gatos strongly encourages your active participation in the public process, which is the cornerstone of democracy. If you wish to speak to an item on the agenda, please complete a “speaker’s card” located on the back of the chamber benches and return it to the Town Council. If you wish to speak to an item NOT on the agenda, you may do so during the “Verbal Communications” period. The time allocated to speakers may change to better facilitate the Town Council meeting.

Effective Proceedings: The purpose of the Town Council meeting is to conduct the business of the community in an effective and efficient manner. For the benefit of the community, the Town of Los Gatos asks that you follow the Town’s meeting guidelines while attending Town Council meetings and treat everyone with respect and dignity. This is done by following meeting guidelines set forth in State law and in the Town Code. Disruptive conduct is not tolerated, including but not limited to: addressing the Town Council without first being recognized; interrupting speakers, Town Council or Town staff; continuing to speak after the allotted time has expired; failing to relinquish the podium when directed to do so; and repetitiously addressing the same subject.

Deadlines for Public Comment and Presentations are as follows:

- Persons wishing to make an audio/visual presentation on any agenda item must submit the presentation electronically, either in person or via email, to the Clerk’s Office no later than 3:00 p.m. on the day of the Council meeting.
- Persons wishing to submit written comments to be included in the materials provided to Town Council must provide the comments as follows:
 - For inclusion in the regular packet: by 11:00 a.m. the Thursday before the Council meeting
 - For inclusion in any Addendum: by 11:00 a.m. the Monday before the Council meeting
 - For inclusion in any Desk Item: by 11:00 a.m. on the day of the Council Meeting

***Town Council Meetings Broadcast Live on KCAT, Channel 15 (on Comcast) on the 1st and 3rd Tuesdays at 7:00 p.m.
Rebroadcast of Town Council Meetings on the 2nd and 4th Mondays at 7:00 p.m.
Live & Archived Council Meetings can be viewed by going to:
www.losgatosca.gov/Councilvideos***

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN THIS MEETING, PLEASE CONTACT THE CLERK DEPARTMENT AT (408) 354-6834. NOTIFICATION 48 HOURS BEFORE THE MEETING 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 MEETING AGENDA
FEBRUARY 18, 2020
7:00 PM**

MEETING CALLED TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

- i. Community Pledge Leader - Jordan Okonkwo

CLOSED SESSION REPORT

COUNCIL / MANAGER MATTERS

CONSENT ITEMS *(Items appearing on the Consent Items are considered routine and may be approved by one motion. Any member of the Council or public may request to have an item removed from the Consent Items for comment and action. If an item is pulled, the Mayor has the sole discretion to determine when the item will be heard. Unless there are separate discussions and/or actions requested by Council, staff, or a member of the public, it is requested that items under the Consent Items be acted on simultaneously.)*

1. Approve Closed Session Meeting Minutes of February 4, 2020.
2. Approve Council Meeting Minutes of February 4, 2020.
3. Adopt amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding land use and economic vitality streamlining related to formula retail businesses in the downtown C-2 zone, restaurants, minor exterior modifications to commercial buildings, and group classes.
Town Code Amendment Application A-19-010. Project Location: **Town Wide**. Applicant: Town of Los Gatos.
4. Adopt a resolution to set a date for consideration of the reorganization of an uninhabited area designated as El Gato Lane No. 4, approximately 0.49 acres on property pre-zoned R-1:8. APN 523-27-040.
Annexation Application AN19-004. Project Location: **15765 El Gato Lane**. Property Owner/Applicant: Ed Pearson.
5. Authorize actions for the purchase and maintenance of body-worn cameras and conducted energy weapons (Tasers):
Authorize the Town Manager to execute a five-year agreement with Axon Enterprises Inc. for the purchase and maintenance of conducted body-worn cameras and energy weapons in an Amount Not to Exceed \$377,130.
Authorize an Expenditure Budget Transfer of \$54,797 from the Equipment Replacement Fund to the Police Department Operating budget.
6. Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with Elevator Service Company of Central California, Inc. to Provide Additional Compensation for Unanticipated Repairs and Services in an Amount of \$14,380, for a Total Agreement Amount Not to Exceed \$59,080.

7. Receive the Second Quarter Investment Report (October through December 2019) for Fiscal Year 2019/20.

VERBAL COMMUNICATIONS (*Members of the public are welcome to address the Town Council on any matter that is not listed on the agenda. To ensure all agenda items are heard and unless additional time is authorized by the Mayor, this portion of the agenda is limited to 30 minutes and no more than three (3) minutes per speaker. 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.*)

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

8. Staff recommends that the Town Council:
 - a. Receive the Fiscal Year (FY) 2019/20 Mid-Year Budget Performance Report - July 1, 2019 Through December 31, 2019; and
 - b. Authorize Budget Adjustments as Recommended in the Attached Budget Performance Report.
9. Vehicle Miles Traveled Transition in California Environmental Quality Act (CEQA) Analysis
 - a. Approve Option 2 to Set Thresholds Consistent with the General Plan Future Year Vehicle Miles Traveled (VMT) Projections.

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

Writings related to an item on the Town Council meeting agenda distributed to members of the Council within 72 hours of the meeting are available for public inspection at the front desk of the Los Gatos Town Library, located at 100 Villa Avenue, and are also available for review on the official Town of Los Gatos website. Copies of desk items distributed to members of the Council at the meeting are available for review in the Town Council Chambers.

Note: The Town of Los Gatos has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a decision of the Town Council must be brought within 90 days after the decision is announced unless a shorter time is required by State or Federal law.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/18/2020

ITEM NO: 1

**DRAFT
Minutes of the Town Council Special Meeting - Closed Session
February 4, 2020**

The Town Council of the Town of Los Gatos conducted a Special Meeting on Tuesday, February 4, 2020, to hold a Closed Session at 6:00 p.m.

MEETING CALLED TO ORDER AT 6:00 P.M.

ROLL CALL

Present: Mayor Marcia Jensen, Vice Mayor Barbara Spector, Council Member Rob Rennie, Council Member Marico Sayoc.

Absent: None

VERBAL COMMUNICATIONS

No one spoke.

THE TOWN WILL MOVE TO CLOSED SESSION ON THE FOLLOWING ITEM:

1. CONFERENCE WITH LABOR NEGOTIATOR (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:

Donna Williams, Liebert Cassidy Whitmore
Arn Andrews, Assistant Town Manager
Lisa Velasco, Human Resources Director

Employee Organizations:

American Federation of State, County and Municipal Employees (AFSCME)
Town Employees Association (TEA)
Police Officers' Association (POA)

ADJOURNMENT

Closed Session adjourned at 6:18 p.m.

Attest:

Submitted by:

Shelley Neis, Town Clerk

Laurel Prevetti, Town Manager



**DRAFT
Minutes of the Town Council Meeting
February 4, 2020**

The Town Council of the Town of Los Gatos conducted a Regular Meeting on Tuesday, February 4, 2020, at 7:00 p.m.

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

ROLL CALL

Present: Mayor Marcia Jensen, Vice Mayor Barbara Spector, Council Member Rob Rennie, Council Member Marico Sayoc.

Absent: None

PLEDGE OF ALLEGIANCE

Arshia Mathur led the Pledge of Allegiance. The audience was invited to participate.

PRESENTATIONS

Tom Picraux presented the League of Women Voters Local Election Finance Study report.

CLOSED SESSION REPORT

Robert Schultz, Town Attorney, stated Council met in Closed Session as duly noted on the agenda and there is no report.

COUNCIL/TOWN MANAGER REPORTS

Council Matters

- Council Member Sayoc provided an update from the League of California Cities housing forum.
- Mayor Jensen commented on the anticipated significant increase in the Town's next Regional Housing Needs Allocation (RHNA).
- Council Member Rennie stated he attended the Valley Transportation Authority (VTA) Congestion Management Standing Committee, VTA Board Workshop, and the Council Finance Committee meeting with Council Member Sayoc.
- Vice Mayor Spector stated she attended the Santa Clara Valley Water District Commission (SCVWDC) meeting, Council Policy Committee meeting with Mayor Jensen, and the General Plan Advisory Committee (GPAC) meeting.

Manager Matters

- Announced the Library is hosting author Julian Guthrie, who will talk about her book *Alpha Girls* on Saturday, February 8 at 2 p.m.
- Announced Spring into Green is Sunday, April 19 at Town Plaza Park from 10 a.m. to 1 p.m. and the 50th anniversary of Earth Day will be celebrated.

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

1. Approve Council Special Meeting Minutes of January 14, 2020.
2. Approve Closed Session Meeting Minutes of January 21, 2020.
3. Approve Council Meeting Minutes of January 21, 2020.
4. Adopt Ordinances Amending Chapters 9 (Fire Prevention and Protection), 11 (Garbage, Refuse and Weeds), 29 (Tree Protection) of the Town Code. **ORDINANCES 2301, 2302, 2303**
5. Authorize Revenue and Expenditure Budget Adjustments in the Amount of \$19,219 to Recognize Receipt and Expenditure of Pacific Library Partnership Grant Funds.
6. Authorize the Town Manager to Execute a Certificate of Acceptance and Notice of Completion for the Work of Guerra Construction Group and Authorize Recording by the Town Clerk for PPW Job No. 17-813-0231 Bicycle and Pedestrian Improvements (Blossom Hill Road) Project. **RECORDING 20.004**
7. Adopt a Resolution Calling for a Special Municipal Election on November 3, 2020 for the Election of an Unexpired Term of One Council Seat through December 2022. **RESOLUTION 2020-001**

Item #4 was pulled by a member of the public.

MOTION: Motion by Council Member Sayoc to approve the Consent Items 1 through 7, exclusive of Item 4. **Seconded** by Council Member Rennie.

VOTE: Motion passed unanimously.

VERBAL COMMUNICATIONS

Eleanor Yick, League of Women Voters

- Outlined the voting changes in Santa Clara County that begin with the March 3, 2020 primary election, the upcoming Census 2020, and encouraged all residents to participate in both.

Catherine Somers, Los Gatos Chamber of Commerce Executive Director

- Announced the Hometown Heroes who will be honored at the banquet on February 6, 2020 at La Rinconada Country Club.

Pulled Consent Item #4

4. Adopt Ordinances Amending Chapters 9 (Fire Prevention and Protection), 11 (Garbage, Refuse and Weeds), 29 (Tree Protection) of the Town Code. **ORDINANCES 2301, 2302, 2303**

Arn Andrews, Assistant Town Manager, presented the staff report.

Opened Public Comment.

Brian Malone, Midpeninsula Open Space District Assistant General Manager

- Commented on the potential financial impact to the District, requested a revision to Section 4907.3, and provided two options.

Rob Stump

- Commented in opposition to the requested revision by Midpeninsula.

Closed public comment.

Council discussed the matter.

MOTION: Motion by Vice Mayor Spector to adopt ordinances amending Chapters 9 (Fire Prevention and Protection), 11 (Garbage, Refuse and Weeds), 29 (Tree Protection) of the Town Code. **Seconded by Mayor Jensen.**

VOTE: Motion passed unanimously.

OTHER BUSINESS

8. Approve a Proposed Update of the Town's Community Grant Program.

Council Member Sayoc recused herself as she is employed by one of the grant recipients and left the Chambers.

Ryan Baker, Library Director, presented the staff report.

Opened Public Comment.

No one spoke.

Closed Public Comment.

Council discussed the matter.

Other Business Item #8 – continued

MOTION: Motion by **Mayor Jensen** to approve the recommended changes outlined in the staff report and that staff provide the proposed rubric scoring system and application to Town Council prior to implementation. **Seconded** by **Council Member Rennie**.

VOTE: Motion passed 3/1. Council Member Sayoc recused.

PUBLIC HEARINGS

9. Town Code Amendment Application A-19-010. Project Location: Town Wide. Applicant: Town of Los Gatos.

Consider amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding land use and economic vitality streamlining related to formula retail businesses in the downtown C-2 zone, restaurants, minor exterior modifications to commercial buildings, and group classes. **RESOLUTION 2020-002**

Sean Mullin, Associate Planner, presented the staff report.

Opened Public Comment.

Kristie Maupin, Loma Brewing

- Commented in support of the amendments.

Sue Farwell

- Commented in support of the amendments.

Randi Chen, Los Gatos Chamber of Commerce

- Commented in support of the amendments.

Bob Caya, McCarthy Ranch

- Commented in support of the amendments.

Jim Foley

- Commented in support of the amendments.

Catherine Somers, Los Gatos Chamber of Commerce Executive Director

- Commented in support of the amendments.

Closed Public Comment.

Council discussed the matter.

PAGE 5 OF 5

SUBJECT: Draft Minutes of the Town Council Meeting of February 4, 2020

DATE: February 5, 2020

Public Hearing Item #9 – continued

MOTION: Motion by Council Member Rennie to introduce the draft Ordinance by title only to amend Chapter 29 (Zoning Regulations) of the Town Code regarding land use and economic vitality streamlining related to formula retail businesses in the downtown C-2 zone, restaurants, minor exterior modifications to commercial buildings, and group classes (Attachment 3). **AMENDMENT:** that staff provide a status report to Council in one year and continue to communicate with the business community. **Seconded by Council Member Sayoc.**

VOTE: Motion passed 3/1. Vice Mayor Spector voting no.

The Town Clerk read the title of the ordinance.

ADJOURNMENT

The meeting adjourned at 8:57 p.m.

Attest:

Shelley Neis, Town Clerk



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/18/2020

ITEM NO: 3

DATE: February 10, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding land use and economic vitality streamlining related to formula retail businesses in the downtown C-2 zone, restaurants, minor exterior modifications to commercial buildings, and group classes.
Town Code Amendment Application A-19-010. Project Location: **Town Wide**.
Applicant: Town of Los Gatos.

RECOMMENDATION:

Adopt amendments to Chapter 29 (Zoning Regulations) of the Town Code regarding land use and economic vitality streamlining related to formula retail businesses in the downtown C-2 zone, restaurants, minor exterior modifications to commercial buildings, and group classes. (Attachment 1).

DISCUSSION:

On February 4, 2020, the Town Council considered and voted to introduce an Ordinance amending Chapter 29 of the Town Code regarding land use and economic vitality streamlining related to formula retail businesses in the downtown C-2 zone, restaurants, minor exterior modifications to commercial buildings, and group classes. Adoption of the attached Ordinance (Attachments 1) would finalize that decision.

Attachment:

1. Draft Ordinance

PREPARED BY: Sean Mullin, AICP
Associate Planner

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

ORDINANCE

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
AMENDING CHAPTER 29 (ZONING REGULATIONS) OF THE TOWN CODE
REGARDING LAND USE AND ECONOMIC VITALITY STREAMLINING
RELATED TO FORMULA RETAIL BUSINESSES IN THE DOWNTOWN C-2 ZONE,
RESTAURANTS, MINOR EXTERIOR MODIFICATIONS TO COMMERCIAL BUILDINGS,
AND GROUP CLASSES.**

WHEREAS, the Town of Los Gatos Town Council has an adopted strategic priority to streamline Land Use and Economic Vitality policies; and

WHEREAS, the Town has recently experienced a high turnover in commercial spaces, particularly in Downtown and additional commercial spaces are being added to the inventory through new developments in Los Gatos creating more opportunity for retail locations; and

WHEREAS, on June 5, 2018, the Town Council adopted Resolution 2018-032 approving a temporary 18-month suspension of Town Code Section 29.20.185 during which formula retail business less than 6,000 square feet could gain approval in the C-2 zone with a reduced process timeline and cost to allow an opportunity for the Town Council to gauge potential changes to the retail mix in downtown; and

WHEREAS, on June 19, 2018, the Town Council adopted Resolution 2018-039 approving a temporary 18-month suspension of Town Code Section 29.20.745 and portions of Town Code Section 29.20.755(2) regarding the assignment of duties to allow the Development Review Committee to approve certain modifications to existing Conditional Use Permits for restaurants to provide the ability to revise obsolete language, innovate existing businesses, and/or make other adjustments within the existing business location and square footage; and

WHEREAS, on March 5, 2019, the Town Council adopted Resolution 2019-008 approving a temporary 9-month suspension of Town Code Section 29.20.745 and portions of Town Code Section 29.20.755(2) regarding the assignment of duties to allow the Development Review Committee to approve new Conditional Use Permits for restaurants to create more opportunities to attract businesses to Los Gatos; and

ATTACHMENT 1

WHEREAS, on March 5, 2019, the Town Council adopted Resolution 2019-009 approving a temporary nine-month suspension of Town Code Section 29.20.745 providing businesses and commercial property owners an opportunity to make minor exterior modifications to their store fronts and buildings at the building permit level to create more opportunities to attract and retain businesses in Los Gatos; and

WHEREAS, on March 5, 2019, the Town Council adopted Resolution 2019-012 approving a temporary nine-month suspension of Town Code Section 29.20.750 (8), during which group classes could gain approval with a reduced process timeline and cost to create more opportunities to attract and retain businesses in Los Gatos; and

WHEREAS, by reassigning the duties, the impact of cost and process time on existing and prospective businesses is decreased and more closely aligned with neighboring jurisdictions which provides an incentive for businesses to consider locating in Los Gatos; and

WHEREAS, on October 1, 2019, the Town Council reviewed the result of the temporary suspension of Town Code Sections and voted to memorialize the streamlining effort through modification of the Town Code; and

WHEREAS, on November 5, 2019, the Town Council adopted Resolution 2019-051 extending the temporary streamlining efforts until such time that the Town Code amendments may be adopted; and

WHEREAS, on January 8, 2020, the Planning Commission reviewed and commented on the proposed amendments regarding land use and economic vitality streamlining and forwarded a recommendation to the Town Council for Approval of the proposed amendments with modifications; and

WHEREAS, this matter was regularly noticed in conformance with State and Town law and came before the Town Council for public hearing on February 4, 2020; and

WHEREAS, on February 4, 2020, the Town Council reviewed and commented on the proposed amendments regarding land use and economic vitality streamlining and the Town Council voted to introduce the Ordinance.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES ORDAIN
AS FOLLOWS:

SECTION I

Ordinance 2021 is hereby rescinded.

SECTION II

Chapter 29 of the Town Code is hereby amended as follows:

ARTICLE I. DIVISION 1. MISCELLANEOUS

Sec. 29.10.020. – Definitions.

.....

Group classes means instruction provided at a rate greater than one (1) student per one (1) instructor and does not include schools as defined in this section.

Minor exterior alterations to commercial buildings means exterior alterations, including:

- (1) Replacing or changing out windows
- (2) Replacing or adding awnings
- (3) Changes to or addition of arcades
- (4) Replacement of or changes to exterior materials
- (5) Small scale additions where the project is in full compliance with the Town's Commercial Design Guidelines and Town Code and does not result in an intensification of use as described in Section 29.20.145 (4).

.....

~~Restaurant~~ means a retail food service establishment in which food ~~or~~ and beverage is prepared, served, and sold to customers for on-site or take-out consumption.

~~Restaurant, fast food means a restaurant with a large carry-out clientele, long hours of service, some open for breakfast but all open for lunch and dinner, and high turnover rates for eat-in customers.~~

~~Restaurant, high turnover (sit-down) means a restaurant with turnover rates generally of less than one (1) hour, is usually moderately priced and frequently belong to a restaurant chain, generally service breakfast, lunch and dinner, and are sometimes open twenty-four (24) hours a day.~~

~~Restaurant (minor) means any restaurant that satisfies the following criteria:~~

- ~~(1) Provides less than 25 seats;~~
- ~~(2) Serves no alcoholic beverages;~~

~~(3) Proposes no significant exterior changes that would alter the architectural character of the building; and~~

~~(4) Provides a net increase of less than five peak hour traffic trips.~~

~~Restaurant, quality means a restaurant of high quality and with turnover rates usually of at least one (1) hour or longer, generally do not serve breakfast, may not serve lunch, but always serve dinner.~~

.....

ARTICLE I. DIVISION 4. PARKING

Sec. 29.10.150 (c). Number of off-street spaces required.

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~~(29) Group classes. One (1) parking space for each employee and one (1) parking space per three (3) students.~~

.....

ARTICLE I. DIVISION 5. NONCONFORMING BUILDINGS, LOTS, AND USES

Sec. 29.10.225. Grounds for determining that a nonconforming use is no longer lawful.

.....

~~(2) That the nonconforming use is so exercised as to be detrimental to the public health or safety, or to be a nuisance; In determining whether a nonconforming restaurant or bar violates this subsection, the deciding body shall also apply the enforcement analysis contained in the Alcoholic Beverage Policy;~~

.....

ARTICLE II. DIVISION 3. APPROVALS

Sec. 29.20.185. Table of Conditional Uses.

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TABLE OF CONDITIONAL USES	RC	HR	R1	RD	R-M	RMH	R-1D	O	C-1	C-2	CH	LM	CM
(1) Commercial													
n. Formula retail business										*			
o. Formula retail business greater than 6,000 s.f.									X	<u>X</u>	X	X	
(4) Schools													
h. Art, craft, music, dancing school, <u>group classes</u>								X	X	X	X	X	

.....

Sec. 29.20.190. Findings and decision.

.....

- (b) The deciding body, on the basis of the evidence submitted at the hearing, may deny a conditional use permit for a formula retail business greater than 6,000 square feet or a personal service business if any of the following findings are made:

.....

ARTICLE II. DIVISION 5. ADMINISTRATION AND ENFORCEMENT

Sec. 29.20.318. Modification of operating hours of establishments serving alcoholic beverages.

.....

- (a) Notwithstanding section 29.20.310, if the Town Manager determines that there is cause to believe that any establishment serving alcoholic beverages may be in violation of the ~~Alcoholic Beverage Policy adopted by the Council~~ approved Conditional Use Permit for the establishment, the Town Manager will cause a notice of violation to be mailed to the current owners of the property and establishment as disclosed in the most recent County assessor's roll and the Town business license files. This notice will describe the alleged violations.;

.....

- (c) If after the hearing, the Manager or the Manager's designee determines that the establishment is in violation of the ~~Town's Alcoholic Beverage Policy~~ approved Conditional Use Permit for the establishment, the Manager or the Manager's designee may limit the hours of operation of the establishment, up to and including closure no later than 10:00 p.m. until the Manager or the Manager's designee determines that the violations have been abated. Upon determination that the violations have been abated, the Manager will notify the owners of the property and the establishment that the establishment is in compliance and will increase the operating time limits as the Manager or designee determines is appropriate in light of the violations that occurred and the abatement steps taken. The decision of the manager shall be effective immediately and the establishment shall immediately conform its hours of operation to the Manager's order.

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ARTICLE II. DIVISION 7. ASSIGNMENT OF DUTIES

Sec. 29.20.700. Planning Director.

.....

- (34) Determines applications for minor exterior alterations to commercial buildings.

.....

Sec. 29.20.745. Development Review Committee.

.....

- (8) ~~Determine and issue zoning approval for minor exterior alterations to commercial buildings.~~ Reserved.

.....

- (16) Determine and issue zoning approval for ~~minor~~ restaurants ~~that are located outside Downtown (the C-2 zone).~~

.....

- (21) Determine and issue zoning approval for group classes in the C-2 zone.

.....

Sec. 29.20.755. Town Council.

.....

- (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.

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ARTICLE VI. DIVISION 2. O OR OFFICE ZONE

Sec. 29.60.085. Permitted uses.

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(3) Group classes

.....

ARTICLE VI. DIVISION 3. C-1 OR NEIGHBORHOOD COMMERCIAL ZONE

Sec. 29.60.210 (a). Permitted uses.

.....

(1) Retailing, including formula retail up to 6,000 square feet.

.....

(6) Group classes.

.....

ARTICLE VI. DIVISION 4. C-2 OR CENTRAL BUSINESS DISTRICT COMMERCIAL ZONE

Sec. 29.60.320 (a). Permitted uses.

.....

(1) Retailing, including formula retail up to 6,000 square feet.

.....

ARTICLE VI. DIVISION 5. CH OR RESTRICTED HIGHWAY COMMERCIAL ZONE

Sec. 29.60.420 (a). Permitted uses.

.....

(1) Retailing, including formula retail up to 6,000 square feet.

.....

(5) Group classes.

.....

ARTICLE VII. DIVISION 2. LM OR COMMERCIAL-INDUSTRIAL ZONE

Sec. 29.70.100 (a). Permitted uses.

.....

(1) Retailing, including formula retail up to 6,000 square feet.

.....

(7) Group classes.

.....

SECTION III

With respect to compliance with the California Environmental Quality Act (CEQA), the Town Council finds as follows:

A. These Town Code amendments are not subject to review under CEQA pursuant to sections and 15061(b)(3), in that it can be seen with certainty that there is no possibility that the proposed amendment to the Town Code would have significant impact on the environment; and

B. The proposed Town Code amendments are consistent with the General Plan and its Elements.

SECTION IV

If any provision of this Ordinance or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable. The Town Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

SECTION V

Except as expressly modified in this Ordinance, all other sections set forth in the Los Gatos Town Code shall remain unchanged and shall be in full force and effect.

SECTION VI

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the Town Council and a certified copy shall be posted in the office of the Town Clerk, pursuant to GC 36933(c),(1).

SECTION VII

This Ordinance was introduced at a regular meeting of the Town Council of the Town of Los Gatos on the 4th day of February 2020, 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 18th day of February 2020.

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: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/18/2020

ITEM NO: 4

DATE: February 10, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Adopt a resolution to set a date for consideration of the reorganization of an uninhabited area designated as El Gato Lane No. 4, approximately 0.49 acres on property pre-zoned R-1:8. APN 523-27-040.
Annexation Application AN19-004. Project Location: **15765 El Gato Lane.**
Property Owner/Applicant: Ed Pearson.

RECOMMENDATION:

Adopt a resolution (Attachment 1) to set a date for consideration of the reorganization of an uninhabited area designated as El Gato Lane No. 4, approximately 0.49 acres, located at 15765 El Gato Lane (APN 523-27-040).

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 within 300 feet of a Town maintained roadway. Annexation has been requested in conjunction with a proposal to demolish an existing single-family residence and construct a new single-family residence on the property. The total annexation area (0.49 acres) includes 0.194 acres of County street right-of-way.

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).

PREPARED BY: Diego Mora
Assistant Planner

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Community Development Department 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 first meeting and resolution sets the date for the consideration of the annexation and the protest proceeding.

DISCUSSION:

The Town has received a petition requesting annexation to the Town of Los Gatos from Ed Pearson, owner of the property at 15765 El Gato Lane. The property is located on the west side of El Gato Lane in an unincorporated County pocket.

The property is in the Town's Urban Service Area, is within 300 feet of a Town maintained roadway, and is pre-zoned R-1:8 (Single-Family Residential, 8,000 square foot minimum lot size). Annexation would allow Town services to be extended to the property and reduce an existing County pocket. Santa Clara County Planning, County Lighting Service Area, and the County Library Service Area have been notified in writing of the annexation request. This agenda item, if approved, would set the date for consideration of the annexation application for March 3, 2020.

COORDINATION:

The preparation of this report was coordinated with the Santa Clara County Library District, 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

PAGE 3 OF 3

SUBJECT: El Gato Lane No. 4/AN19-004

DATE: February 10, 2020

Distribution:

Ed Pearson, 239 Thurston Street, Los Gatos CA, 95030

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RESOLUTION 2020-

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF LOS GATOS
TO SET A DATE FOR CONSIDERATION OF A REORGANIZATION
OF AN UNINHABITED TERRITORY DESIGNATED
EL GATO LANE NO. 4**

**APN: 523-27-040
APPROXIMATELY 0.49 ACRES
ANNEXATION APPLICATION: AN19-004
PROPERTY LOCATION: 15765 EL GATO LANE
PROPERTY OWNER/APPLICANT: ED PEARSON**

WHEREAS, the Town Council of the Town of Los Gatos has received a request for annexation of territory designated El Gato Lane No. 4 from Ed Pearson; and

WHEREAS, the property, approximately 0.49 acres and includes 0.194 acres of County street right-of-way located at 15765 El Gato Lane, APN: 523-27-040, is within 300 feet of a Town maintained roadway and within the Town's Urban Service Area; and

WHEREAS, the following special district would be affected by the proposal: Santa Clara County Lighting Service Area, Santa Clara County Library Service Area; and

WHEREAS, the annexation would provide for use of Town services; and

WHEREAS, the Town Council enacted Ordinance 1268 in 1975 pre-zoning the subject territory with an R-1:8 (single-family residential, 8,000 square foot minimum lot size) 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

ATTACHMENT 1

WHEREAS, the County Surveyor of Santa Clara County has found the description and map (Exhibit 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, Government Code Section 56663(a) provides that if a petition for annexation is signed by all owners of land within the affected territory the Town Council may approve or disapprove the annexation without a public hearing.

NOW, THEREFORE, BE IT RESOLVED, that the Town Council of the Town of Los Gatos hereby initiates annexation proceedings and will consider annexation of the territory designated as El Gato Lane No. 4 at its regular meeting on March 3, 2020.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los

Gatos, California, held on the 18th day of February 2020, 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: _____

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EXHIBIT "A"

EL GATO LANE NO. 4

ANNEXATION TO THE TOWN OF LOS GATOS, CALIFORNIA

GEOGRAPHIC DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY, SITUATED IN A PORTION OF RANCHO RINCONADA DE LOS GATOS, COUNTY OF SANTA CLARA, STATE OF CALIFORNIA, BEING LOT 33, ALSO BEING EL GATO LANE (50 FEET WIDE) LYING SOUTHERLY OF THE SOUTHERLY RIGHT OF WAY OF ESCOBAR AVENUE (60 FEET WIDE) AS SHOWN ON THAT MAP ENTITLED "TRACT NO 1168, EL GATO TERRACE", FILED MARCH 2, 1954 IN BOOK 48 OF MAPS AT PAGE 13, DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE EASTERLY LINE OF EL GATO LANE AT THE SOUTHWEST CORNER OF LOT 25 OF SAID MAP, ALSO BEING ON THE EXISTING TOWN OF LOS GATOS LIMIT ESTABLISHED BY EL GATO LANE NO. 3 ANNEXATION;

- (1) THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE SOUTH $12^{\circ}26'15''$ EAST 44.15 FEET TO A TANGENT CURVE CONCAVE NORTHEASTERLY;
- (2) THENCE ALONG SAID CURVE AND BEING THE RIGHT OF WAY OF EL GATO LANE AS SHOWN ON SAID MAP FROM WHICH A RADIAL LINE BEARS NORTH $77^{\circ}33'45''$ EAST, HAVING A RADIUS OF 40.00 FEET, THROUGH A CENTRAL ANGLE OF $35^{\circ}39'08''$, AN ARC LENGTH OF 24.89 FEET TO A POINT OF REVERSE CURVATURE CONCAVE SOUTHWESTERLY;
- (3) THENCE ALONG SAID CURVE AND BEING THE RIGHT OF WAY OF EL GATO LANE AS SHOWN ON SAID MAP FROM WHICH A RADIAL LINE BEARS SOUTH $41^{\circ}54'37''$ WEST, HAVING A RADIUS OF 40.00 FEET, THROUGH A CENTRAL ANGLE OF $251^{\circ}16'07''$, AN ARC LENGTH OF 175.42 FEET TO A POINT OF REVERSE CURVATURE CONCAVE NORTHWESTERLY;
- (4) THENCE ALONG SAID CURVE FROM WHICH A RADIAL LINE BEARS NOTH $66^{\circ}49'17''$ WEST, HAVING A RADIUS OF 40.00 FEET, THROUGH A CENTRAL ANGLE OF $35^{\circ}39'08''$, AN ARC LENGTH OF 24.89 FEET;
- (5) THENCE ALONG THE WESTERLY RIGHT OF WAY OF SAID EL GATO LANE (50 FEET WIDE) NORTH $12^{\circ}26'15''$ WEST 28.61 FEET TO THE SOUTHEASTERLY CORNER OF LOT 33 AS SHOWN ON SAID TRACT NO. 1168;
- (6) THENCE ALONG THE SOUTHERLY LINE OF LOT 33 SOUTH $77^{\circ}33'45''$ WEST 153.97 FEET TO THE SOUTHWESTERLY CORNER OF SAID LOT 33;
- (7) THENCE ALONG THE WESTERLY LINE OF SAID LOT 33 NORTH $12^{\circ}26'15''$ WEST 55.00 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 33;

- (8) THENCE ALONG THE NORTHERLY LINE OF SAID LOT 33 SOUTH 77°33'45" EAST 153.97 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 33, SAID POINT BEING ON THE WESTERLY RIGHT OF WAY OF EL GATO LANE;
- (9) THENCE ALONG SAID WESTERLY RIGHT OF WAY NORTH 12°26'15" WEST 40.00 FEET TO A TANGENT CURVE CONCAVE SOUTHWESTERLY;
- (10) THENCE ALONG SAID CURVE FROM WHICH A RADIAL LINE BEARS SOUTH 77°33'45" WEST, HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 90°00'00", AN ARC LENGTH OF 31.42 FEET TO THE SOUTHERLY RIGHT OF WAY OF ESCOBAR AVENUE (60 FEET WIDE);
- (11) THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE NORTH 77°33'45" EAST 47.91 FEET;
- (12) THENCE NORTH 66°33'45" EAST 39.04 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY;
- (13) THENCE ALONG SAID CURVE FROM WHICH A RADIAL LINE BEARS SOUTH 23°26'15" EAST, HAVING A RADIUS OF 20.00 FEET, THROUGH A CENTRAL ANGLE OF 79°00'40", AN ARC LENGTH OF 27.58 FEET TO SAID EASTERLY RIGHT OF WAY OF EL GATO LANE;
- (14) THENCE ALONG SAID EASTERLY RIGHT OF WAY SOUTH 12°26'15" EAST 87.26 FEET TO THE **POINT OF BEGINNING** OF THIS DESCRIPTION

CONTAINING 21,386 SQUARE FEET OF LAND, MORE OR LESS

EXHIBIT B IS ATTACHED HERETO AND MADE A PART HEREOF

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 AS THE BASIS FOR AN OFFER FOR SALE OF THE LAND DESCRIBED.

SURVEYOR'S CERTIFICATE

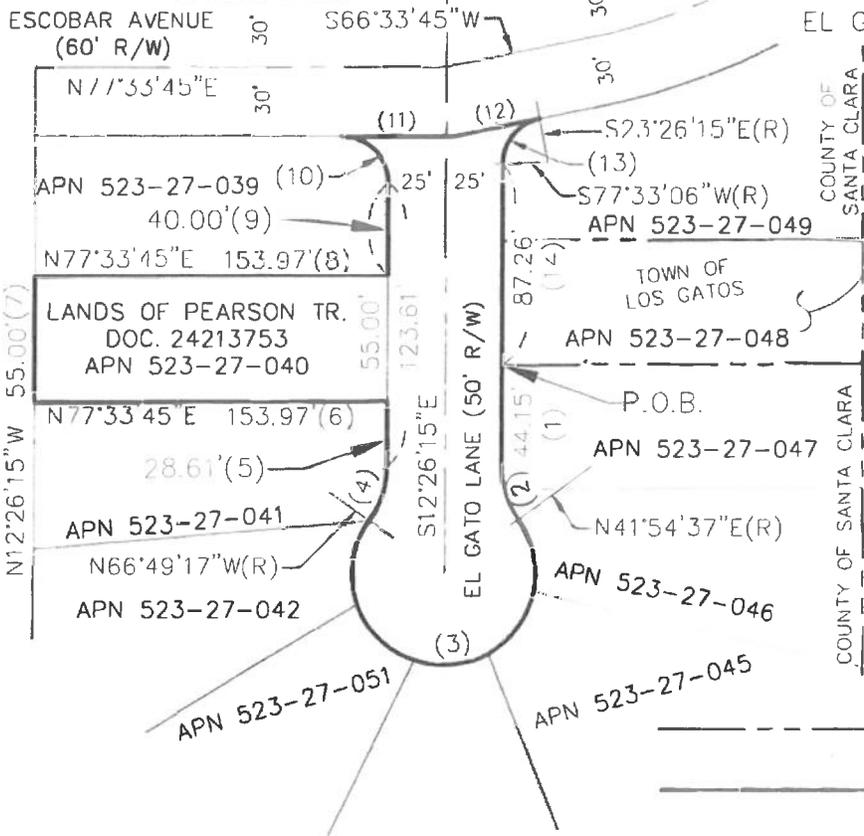
I HEREBY CERTIFY THAT THIS DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Ryan A. Mix 1-7-20
 RYAN A. MIX, P.L.S. 8743

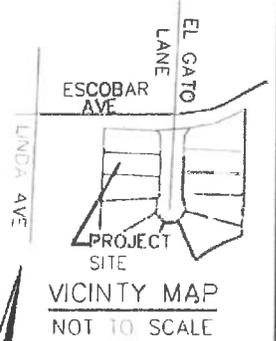


AREA CALCULATIONS

LOT 33 = 8,468 SQ. FT. +/-
 EL GATO LANE = 12,918 SQ. FT. +/-



COUNTY OF SANTA CLARA
 TOWN OF LOS GATOS
 (EXISTING TOWN LIMIT ESTABLISHED BY EL GATO LANE NO. 3 ANNEXAT N DOC. 24156501)



LEGEND

- EXISTING TOWN OF LOS GATOS BOUNDARY LINE
- ANNEXED BOUNDARY LINE PER THIS DOCUMENT
- (R) RADIAL
- [] AREA TO BE ANNEXED PER THIS DOCUMENT TO THE TOWN OF LOS GATOS
- P.O.B. POINT OF BEGINNING
- (#) ANNEXATION COURSE PER LEGAL DESCRIPTION
- (R1) TRACT NO 1168 (48-M-13)

DISCLAIMER:
 THIS ANNEXATION PLAT IS FOR TAX ASSESSMENT PURPOSES ONLY. THE DESCRIPTION OF LAND IS NOT A LEGAL PROPERTY DESCRIPTION AS DEFINED IN THE SUBDIVISION MAP ACT AND MAY NOT BE USED AS THE BASIS OF LAND CONVEYANCE.

ANNEXATION COURSES PER LEGAL DESCRIPTION

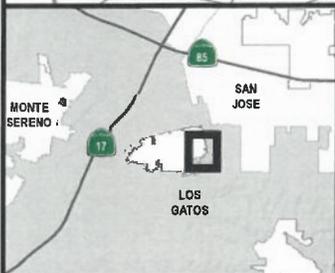
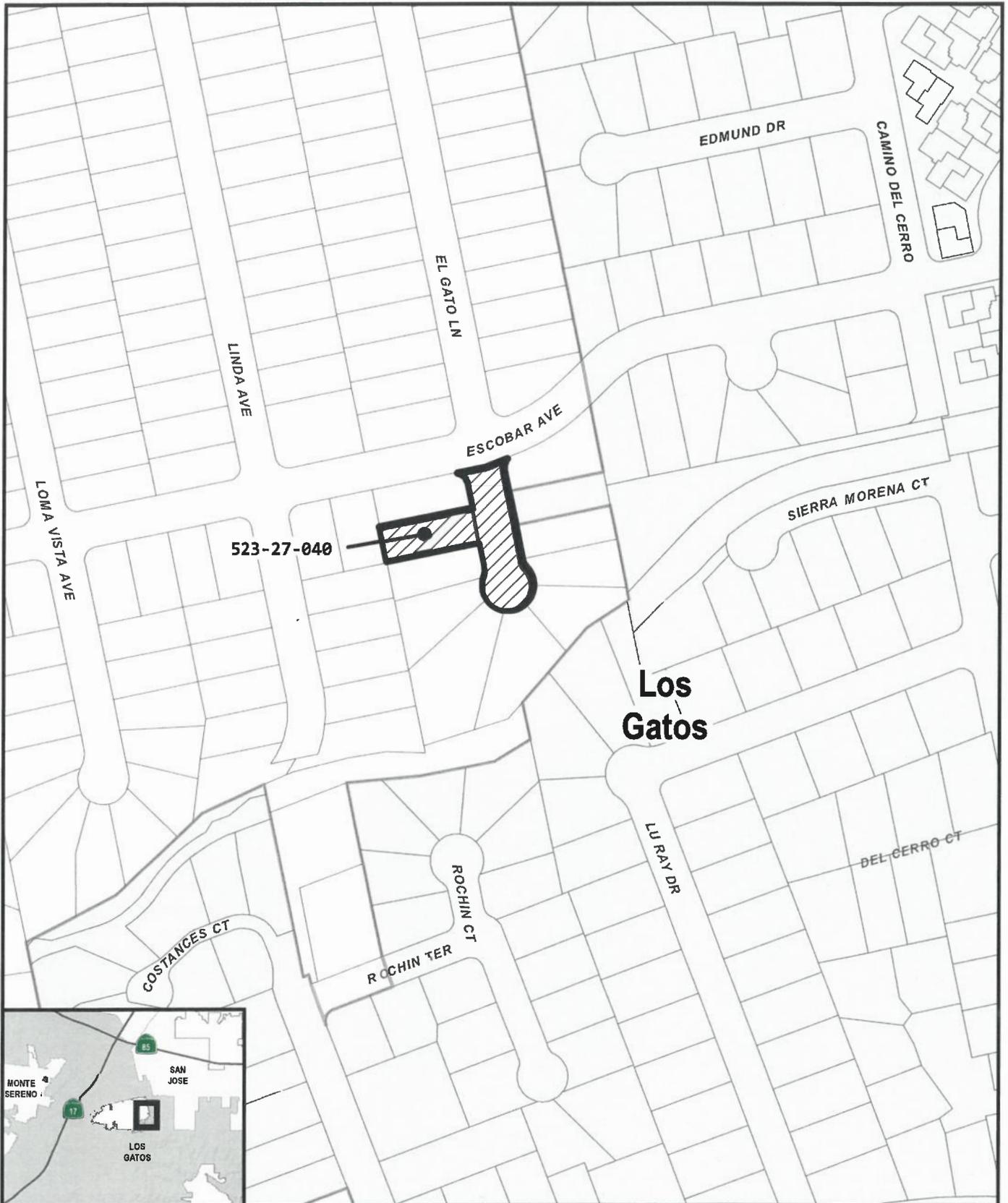
COURSE NUMBER	LENGTH	RECORD LENGTH	RADIUS	RECORD RADIUS	DELTA	RECORD DELTA	DISTANCE	BEARING
(2)	24.89'	24.89'(R1)	40.00'	40.00'(R1)	35°39'08"	35°39'08"(R1)		
(3)	175.42'	175.45'(R1)	40.00'	40.00'(R1)	251°16'07"	251°19'06"(R1)		
(4)	24.89'	24.89'(R1)	40.00'	40.00'(R1)	35°39'08"	35°39'33"(R1)		
(10)	31.42'	31.42'(R1)	20.00'	20.00'(R1)	90°00'00"	90°00'00"(R1)		
(11)							47.91'	N77°33'45"E
(12)							39.04'	N66°33'45"E
(13)	27.58'	27.58'(R1)	20.00'	20.00'(R1)	79°00'40"	79°00'40"(R1)		

SHEET 3 OF 3
 DRAWN BY: RAM
 DATE: 12-30-2019
 : RAM
 GATO #4

EXHIBIT B - EL GATO LANE NO. 4
PLAT FOR ANNEXATION PURPOSES
 15765 EL GATO LANE, LOS GATOS
 SANTA CLARA COUNTY, CALIFORNIA



SMP ENGINEERS
 CIVIL ENGINEERS - LAND SURVEYORS
 1534 Corob Lane Los Altos, CA 94024
 Tel (650) 941-8055 Fax (650) 941-8755




County of Santa Clara
 Department of Planning and Development
 County Government Center, East Wing
 70 West Hedding St., 7th Floor
 San Jose, California 95110

LOCATION MAP
El Gato Lane No. 4
21,386 sq ft +/-
 Prepared for the Office of the County Surveyor
 January 13, 2020
 August Hanks, County Surveyor

 Area of Annexation
 Incorporated Los Gatos
 Unincorporated Lands


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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/18/2020

ITEM NO: 5

DATE: February 18, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize actions for the purchase and maintenance of body-worn cameras and conducted energy weapons (Tasers):

- a. Authorize the Town Manager to execute a five-year agreement with Axon Enterprises Inc. for the purchase and maintenance of conducted body-worn cameras and energy weapons in an Amount Not to Exceed \$377,130.
- b. Authorize an Expenditure Budget Transfer of \$54,797 from the Equipment Replacement Fund to the Police Department Operating budget.

RECOMMENDATION:

Authorize actions for the purchase and maintenance of body-worn cameras and conducted energy weapons (Tasers):

- a. Authorize the Town Manager to execute a five-year agreement with Axon Enterprises Inc. for the purchase and maintenance of conducted body-worn cameras and energy weapons in an amount not to exceed \$377,130.
- b. Authorize an Expenditure Budget Transfer of \$54,797 from the Equipment Replacement Fund to the Police Department Operating budget.

BACKGROUND:

The Los Gatos-Monte Sereno Police Department was a pioneer in Santa Clara County in deploying Officers with body-worn cameras (BWC) in 2008. The vendor selected at the time was VieVu which only offered on-site storage of video data. The Town's Information Technology Department, therefore, purchased an additional server to accommodate the massive increase in required data storage for a successful BWC program and in compliance with best practices for retention periods. The technology benefits the Town, Police Department, and the public through enhanced evidence collection, retention, increased Officer safety,

PREPARED BY: Greg Borrromeo
Traffic Sergeant

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

BACKGROUND (continued):

accountability, and transparency. The program is also crucial in limiting potential liability exposure to the Town. The BWCs in use today are no longer supported by the manufacturer in either warranty or service and are at the end of their useful life cycle.

The current law enforcement practice is to collect and retain digital evidence on a single operating platform. This allows for seamlessly collecting BWC audio and video which includes patrol vehicle in-car camera audio and video as well as computer-automated dispatch information. VieVu videos are currently downloaded onto desktop computers which require a specific cable to make the data transfer. The IT Department has spent countless hours replacing or troubleshooting difficulties with the cables to ensure that the captured videos are available for investigative purposes. As of 2018, there was a nationwide shortage of VieVu cameras and the estimated time for repair was nearly three months. The Police Department currently has only seven VieVus in surplus to replace any that require repair or are no longer functioning.

Effective January 1, 2018, California law requires law enforcement agencies to release BWC video footage to victims of domestic violence and sexual assault. Effective July 1, 2019, California law also requires law enforcement records, including audio and video, related to specified incidents, complaints, and investigations involving peace officers to be made available for public inspection pursuant to the California Public Records Act. The BWC footage that is captured by the Police Department contains sensitive information, such as graphic footage, videos of children, and/or videos of uninvolved subjects that is not subject to dissemination. The Police Department does not currently have the ability to redact the footage without having to pay for additional software, or contracting with an outside company to redact information, thus losing the security aspect and chain of custody of the videos.

In addition to BWCs, the Police Department purchased and implemented conducted electrical weapons (CEWs), commonly referred to as "Tasers," into patrol use in November 2005 as a sole source purchase from Taser International. The use of CEWs has reduced the need for deadly force on violent or physically resisting suspects and has decreased the chances of the public, Officers, or suspects being injured in the field. They differ from traditional stun weapons in two significant ways. First, they are "projectile" stun weapons and allow the weapon to be deployed at a distance instead of by direct contact. Secondly, the Taser effectiveness is not dependent on pain but operates from neuro-muscular incapacitation. The Police Department currently has an agreement with Axon Enterprises Inc. for CEWs which is due to end in 2020. The Police Department does not currently have backup CEWs to replace inoperable units.

DISCUSSION:

Since initially contracting with VieVu in 2008, Axon Enterprise Inc. has invested substantially into its research and development teams to create BWC hardware and software that resolve real-world problems faced by law enforcement agencies. Some of the important features to note include:

- A Department of Justice compliant cloud-based storage system that will eliminate the need for on-site servers.
- Records Management System and Computer Aided Dispatch (RMS/CAD) integration allows for videos/pictures to be automatically assigned to RIMS case numbers. Officers will no longer be required to manually enter metadata, allowing staff to use their time on other essential duties.
- Videos captured in the Evidence.com platform can be redacted and prepared for dissemination.
- Videos will no longer need to be burned onto DVD discs. Instead, the video files are prepared and sent via an e-mail link to a specified Axon user. The Santa Clara County District Attorney's Office is already using the Evidence.com platform and will have access to prepared video files.

The Police Department has utilized Taser devices since 2005 through a sole source purchase agreement with Taser International. Taser devices manufactured by Axon Enterprises Inc, is currently the preferred manufacturer for less lethal CEWs among law enforcement agencies. Since the initial purchase in 2005, Taser devices have undergone dramatic technological advances, like other electronic devices that now make them smarter and safer to deploy. Taser devices now have the capability to measure the resistance of clothing worn by an individual and control the amount of initial electrical energy delivered to overcome clothing barriers. Taser batteries are now capable of being recharged which would limit the requirement for replacement prior to the end of the life of the Taser. As a part of the agreement, the Police Department would receive new Tasers or receive a credit to upgrade to the most current Axon CEW, the Taser 7, which would be compatible and integrate with the most current Axon BWC.

In accordance with the Town's Purchasing Policy, Section 7c (Cooperative Purchasing), these purchases are based on a formal bid process completed by the State of California Department of General Services, which allows for other municipalities to purchase equipment using their formal bid proposal documents.

PAGE 4 OF 4

SUBJECT: Authorize Actions for the Purchase and Maintenance of Body-Worn Cameras and Conducted Energy Weapons (Tasers)

DATE: February 18, 2020

CONCLUSION:

Authorize the Town Manager to execute a five-year agreement with Axon Enterprises Inc. for the purchase and maintenance of body-worn cameras and conducted energy weapons and approve necessary budget adjustments.

ALTERNATIVES:

Alternatively, the Town Council could direct staff to delay the replacement of the equipment. Staff does not recommend this alternative as the current BWC system and Tasers have reached their useful life. A lack of replacement will impact daily operations and has the potential to increase liability in the Police Department.

FISCAL IMPACT:

There are sufficient funds available in the Equipment Replacement Fund for the first-year payment of Tasers and BWC for a combined total of \$54,797. A \$54,797 revenue and expenditure budget adjustment, including a transfer of funds from the Equipment Replacement Fund to the general fund, is required. Ongoing annual payments, estimated to be \$82,000, will be requested through the annual budget process. The 5-year contract also includes full warranty on all cameras and docks.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Agreement for Body-Worn Cameras
2. Agreement for Conducted Energy Weapons

This Master Services and Purchasing Agreement ("**Agreement**") is between Axon Enterprise, Inc., a Delaware corporation ("**Axon**"), and the agency on the Quote ("**Agency**"). This Agreement is effective as of the later of the (a) last signature date on this Agreement or (b) signature date on the quote ("**Effective Date**"). Axon and Agency are each a "**Party**" and collectively "**Parties**". This Agreement governs Agency's purchase and use of the Axon Devices and Services detailed in the Quote Appendix ("**Quote**"). The Parties therefore agree as follows:

- 1 **Term.** This Agreement begins on the Effective Date and continues until terminated pursuant to this Agreement ("**Term**"). Agency may renew this Agreement for an additional 5 years upon execution of a new quote. New devices and services may require additional terms. Axon will not authorize services until Axon receives a signed Quote or accepts a purchase order, whichever is first.
- 2 **Definitions.**

"**Axon Cloud Services**" means Axon's web services for Axon Evidence, Axon Records, Axon Dispatch, and interactions between Evidence.com and Axon Devices or Axon client software. Axon Cloud Service excludes third-party applications, hardware warranties, and my.evidence.com.

"**Axon Devices**" means all hardware provided by Axon under this Agreement.

"**Quote**" means an offer to sell and is only valid for devices and services on the quote at the specified prices. Any terms within Agency's purchase order in response to a Quote will be void. Orders are subject to prior credit approval. Changes in the deployment estimated ship date may change charges in the Quote. Shipping dates are estimates only. Axon is not responsible for typographical errors in any offer by Axon, and Axon reserves the right to cancel any orders resulting from such errors.

"**Services**" means all services provided by Axon under this Agreement, including software, Axon Cloud Services, and professional services.
- 3 **Payment.** Axon invoices upon shipment. Payment is due net 30 days from the invoice date. Payment obligations are non-cancelable. Agency will pay invoices without setoff, deduction, or withholding. If Axon sends a past due account to collections, Agency is responsible for collection and attorneys' fees.
- 4 **Taxes.** Agency is responsible for sales and other taxes associated with the order unless Agency provides Axon a valid tax exemption certificate.
- 5 **Shipping.** Axon may make partial shipments and ship Devices from multiple locations. All shipments are FOB shipping point via common carrier. Title and risk of loss pass to Agency upon Axon's delivery to the common carrier. Agency is responsible for any shipping charges in the Quote.
- 6 **Returns.** All sales are final. Axon does not allow refunds or exchanges, except warranty returns or as provided by state or federal law.
- 7 **Warranty.**
 - 7.1 **Hardware Limited Warranty.** Axon warrants that Axon-manufactured Devices are free from defects in workmanship and materials for 1 year from the date of Agency's receipt, except Signal Sidearm, which Axon warrants for 30 months from the date of Agency's receipt. Axon warrants its Axon-manufactured accessories for 90-days from the date of Agency's receipt. Used conducted energy weapon ("**CEW**") cartridges are deemed to have operated properly. Extended warranties run

from the expiration of the 1-year hardware warranty through the extended warranty term. Non-Axon manufactured Devices are not covered by Axon's warranty. Agency should contact the manufacturer for support of non-Axon manufactured Devices.

- 7.2 Claims.** If Axon receives a valid warranty claim for an Axon manufactured Device during the warranty term, Axon's sole responsibility is to repair or replace the Device with the same or like Device, at Axon's option. A replacement Device will be new or like new. Axon will warrant the replacement Device for the longer of (a) the remaining warranty of the original Device or (b) 90-days from the date of repair or replacement.

If Agency exchanges a device or part, the replacement item becomes Agency's property, and the replaced item becomes Axon's property. Before delivering a Device for service, Agency must upload Device data to Axon Evidence or download it and retain a copy. Axon is not responsible for any loss of software, data, or other information contained in storage media or any part of the Device sent to Axon for service.

- 7.3 Spare Devices.** Axon may provide Agency a predetermined number of spare Devices as detailed in the Quote ("**Spare Devices**"). Spare Devices will replace broken or non-functioning units. If Agency utilizes a Spare Device, Agency must return to Axon, through Axon's warranty return process, any broken or non-functioning units. Axon will repair or replace the unit with a replacement Device. Upon termination, Axon will invoice Agency the MSRP then in effect for all Spare Devices provided. If Agency returns the Spare Devices to Axon within 30 days of the invoice date, Axon will issue a credit and apply it against the invoice.

- 7.4 Limitations.** Axon's warranty excludes damage related to: (a) failure to follow Device use instructions; (b) Devices used with equipment not manufactured or recommended by Axon; (c) abuse, misuse, or intentional damage to Device; (d) force majeure; (e) Devices repaired or modified by persons other than Axon without Axon's written permission; or (f) Devices with a defaced or removed serial number.

7.4.1 To the extent permitted by law, the above warranties and remedies are exclusive. Axon disclaims all other warranties, remedies, and conditions, whether oral, written, statutory, or implied. If statutory or implied warranties cannot be lawfully disclaimed, then such warranties are limited to the duration of the warranty described above and by the provisions in this Agreement.

7.4.2 Axon's cumulative liability to any Party for any loss or damage resulting from any claim, demand, or action arising out of or relating to any Axon Device or Service will not exceed the purchase price paid to Axon for the Device, or if for Services, the amount paid for such Services over the 12 months preceding the claim. Neither Party will be liable for direct, special, indirect, incidental, punitive or consequential damages, however caused, whether for breach of warranty or contract, negligence, strict liability, tort or any other legal theory.

- 8 Statement of Work.** Certain Axon Devices and Services, including Axon Interview Room, and Axon Fleet, may require a Statement of Work that details Axon's Service deliverables ("**SOW**"). In the event Axon provides an SOW to Agency, Axon is only responsible to perform Services described in the SOW. Additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule. The SOW is incorporated into this

Agreement by reference.

- 9 **Device Warnings.** See www.axon.com/legal for the most current Axon device warnings.
- 10 **Design Changes.** Axon may make design changes to any Axon Device or Service without notifying Agency or making the same change to Devices and Services previously purchased by Agency.
- 11 **Insurance.** Axon will maintain General Liability, Workers' Compensation, and Automobile Liability insurance. Upon request, Axon will supply certificates of insurance.
- 12 **Indemnification.** Axon will indemnify Agency's officers, directors, and employees ("**Agency Indemnitees**") against all claims, demands, losses, and reasonable expenses arising out of a third-party claim against an Agency Indemnitee resulting from any negligent act, error or omission, or willful misconduct by Axon under this Agreement, except to the extent of Agency's negligence or willful misconduct, or claims under workers compensation.
- 13 **IP Rights.** Axon owns and reserves all right, title, and interest in Axon devices and services and suggestions to Axon, including all related intellectual property rights. Agency will not cause any Axon proprietary rights to be violated.
- 14 **IP Indemnification.** Axon will indemnify Agency Indemnitees against all claims, losses, and reasonable expenses from any third-party claim alleging that the use of Axon Devices or Services infringes or misappropriates the third-party's intellectual property rights. Agency must promptly provide Axon with written notice of such claim, tender to Axon the defense or settlement of such claim at Axon's expense and cooperate fully with Axon in the defense or settlement of such claim. Axon's IP indemnification obligations do not apply to claims based on (a) modification of Axon Devices or Services by Agency or a third-party not approved by Axon; (b) use of Axon Devices and Services in combination with hardware or services not approved by Axon; (c) use of Axon Devices and Services other than as permitted in this Agreement; or (d) use of Axon software that is not the most current release provided by Axon.
- 15 **Agency Responsibilities.** Agency is responsible for (a) Agency's use of Axon Devices; (b) breach of this Agreement or violation of applicable law by Agency or an Agency end user; and (c) a dispute between Agency and a third-party over Agency's use of Axon Devices.
- 16 **Termination.**
- 16.1 **For Breach.** A Party may terminate this Agreement for cause if it provides 30 days written notice of the breach to the other Party, and the breach remains uncured at the end of 30 days. If Agency terminates this Agreement due to Axon's uncured breach, Axon will refund prepaid amounts on a prorated basis based on the effective date of termination.
- 16.2 **By Agency.** If sufficient funds are not appropriated or otherwise legally available to pay the fees, Agency may terminate this Agreement. Agency will deliver notice of termination under this section as soon as reasonably practicable.
- 16.3 **Effect of Termination.** Upon termination of this Agreement, Agency rights immediately terminate. Agency remains responsible for all fees incurred before the effective date of termination. If Agency purchases Devices for less than the manufacturer's suggested retail price ("**MSRP**") and this Agreement terminates before the end of the Term, Axon will invoice Agency the difference between

the MSRP for Devices received and amounts paid towards those Devices. If terminating for non-appropriation, Agency may return Devices to Axon within 30 days of termination. MSRP is the standalone price of the individual Device at the time of sale. For bundled Devices, MSRP is the standalone price of all individual components.

- 17 Confidentiality. "Confidential Information"** means nonpublic information designated as confidential or, given the nature of the information or circumstances surrounding disclosure, should reasonably be understood to be confidential. Each Party will take reasonable measures to avoid disclosure, dissemination, or unauthorized use of the other Party's Confidential Information. Unless required by law, neither Party will disclose the other Party's Confidential Information during the Term and for 5-years thereafter. Axon pricing is Confidential Information and competition sensitive. If Agency is required by law to disclose Axon pricing, to the extent allowed by law, Agency will provide notice to Axon before disclosure. Axon may publicly announce information related to this Agreement.
- 18 General.**
- 18.1 Force Majeure.** Neither Party will be liable for any delay or failure to perform due to a cause beyond a Party's reasonable control.
- 18.2 Independent Contractors.** The Parties are independent contractors. Neither Party has the authority to bind the other. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.
- 18.3 Third-Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.
- 18.4 Non-Discrimination.** Neither Party nor its employees will discriminate against any person based on: race; religion; creed; color; sex; gender identity and expression; pregnancy; childbirth; breastfeeding; medical conditions related to pregnancy, childbirth, or breastfeeding; sexual orientation; marital status; age; national origin; ancestry; genetic information; disability; veteran status; or any class protected by local, state, or federal law.
- 18.5 Export Compliance.** Each Party will comply with all import and export control laws and regulations.
- 18.6 Assignment.** Neither Party may assign this Agreement without the other Party's prior written consent. Axon may assign this Agreement, its rights, or obligations without consent: (a) to an affiliate or subsidiary; or (b) for purposes of financing, merger, acquisition, corporate reorganization, or sale of all or substantially all its assets. This Agreement is binding upon the Parties respective successors and assigns.
- 18.7 Waiver.** No waiver or delay by either Party in exercising any right under this Agreement constitutes a waiver of that right.
- 18.8 Severability.** If a court of competent jurisdiction holds any portion of this Agreement invalid or unenforceable, the remaining portions of this Agreement will remain in effect.
- 18.9 Survival.** The following sections will survive termination: Payment, Warranty, Device Warnings, Indemnification, IP Rights, and Agency Responsibilities.

18.10 Governing Law. The laws of the state where Agency is physically located, without reference to conflict of law rules, govern this Agreement and any dispute arising from it. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

18.11 Notices. All notices must be in English. Notices posted on Agency’s Axon Evidence site are effective upon posting. Notices by email are effective on the sent date of the email. Notices by personal delivery are effective immediately. Contact information for notices:

Axon: Axon Enterprise, Inc.	Agency:
Attn: Legal	Attn:
17800 N. 85th Street	Street Address
Scottsdale, Arizona 85255	City, State, Zip
legal@axon.com	Email

18.12 Entire Agreement. This Agreement, including the Appendices and any SOW(s), represents the entire agreement between the Parties. This Agreement supersedes all prior agreements or understandings, whether written or verbal, regarding the subject matter of this Agreement. This Agreement may only be modified or amended in a writing signed by the Parties.

Each representative identified below declares that the representative is authorized to execute this Agreement as of the date of signature.

Axon Enterprise, Inc.

Agency

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Axon Cloud Services Terms of Use Appendix

1 Definitions.

"Agency Content" is data uploaded into, ingested by, or created in Axon Cloud Services within Agency's tenant, including media or multimedia uploaded into Axon Cloud Services by Agency. Agency Content includes Evidence but excludes Non-Content Data.

"Evidence" is media or multimedia uploaded into Axon Evidence as 'evidence' by an Agency. Evidence is a subset of Agency Content.

"Non-Content Data" is data, configuration, and usage information about Agency's Axon Cloud Services tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Agency Content.

2 Subscription Term. For Axon Evidence subscriptions, including Fleet 2 Unlimited, the subscription begins after shipment of the applicable Axon Device. If Axon ships the Device in the first half of the month, the start date is the 1st of the following month. If Axon ships the Device in the second half of the month, the start date is the 15th of the following month. For phased deployments, the start date begins on shipment of phase one. For purchases solely of Axon Evidence subscriptions, the start date is the Effective Date. The Axon Evidence subscription term ends upon completion of the Axon Evidence subscription stated in the Quote ("**Axon Evidence Subscription Term**").

3 Access. Upon Axon granting Agency a subscription to Axon Cloud Services, Agency may access and use Axon Cloud Services to store and manage Agency Content. Agency may not exceed more end users than the Quote specifies. Axon Air requires an Axon Evidence subscription for each drone operator. For Axon Evidence Lite, Agency may access and use Axon Evidence only to store and manage TASER CEW and TASER CAM data ("**TASER Data**"). Agency may not upload non-TASER Data to Axon Evidence Lite.

4 Agency Owns Agency Content. Agency controls and owns all right, title, and interest in Agency Content. Except as outlined herein, Axon obtains no interest in Agency Content, and Agency Content are not business records of Axon. Agency is solely responsible for uploading, sharing, managing, and deleting Agency Content. Axon will have limited access to Agency Content solely for providing and supporting Axon Cloud Services to Agency and Agency end users.

5 Security. Axon will implement commercially reasonable and appropriate measures to secure Agency Content against accidental or unlawful loss, access or disclosure. Axon will maintain a comprehensive information security program to protect Axon Cloud Services and Agency Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum.

6 Agency Responsibilities. Agency is responsible for (a) ensuring Agency owns Agency Content; (b) ensuring no Agency Content or Agency end user's use of Agency Content or Axon Cloud Services violates this Agreement or applicable laws; and (c) maintaining necessary computer equipment and

Internet connections for use of Axon Cloud Services. If Agency becomes aware of any violation of this Agreement by an end user, Agency will immediately terminate that end user's access to Axon Cloud Services.

Agency will also maintain the security of end user names and passwords and security and access by end users to Agency Content. Agency is responsible for ensuring the configuration and utilization of Axon Cloud Services meet applicable Agency regulation and standards. Agency may not sell, transfer, or sublicense access to any other entity or person. Agency shall contact Axon immediately if an unauthorized party may be using Agency's account or Agency Content, or if account information is lost or stolen.

7 **Privacy.** Axon will not disclose Agency Content or information about Agency except as compelled by a court or administrative body or required by law or regulation. If Axon receives a disclosure request for Agency Content, Axon will give Agency notice, unless legally prohibited from doing so, to allow Agency to file an objection with the court or administrative body. Agency agrees to allow Axon access to certain information from Agency to (a) perform troubleshooting services upon request or as part of regular diagnostic screening; (b) enforce this Agreement or policies governing the use of Axon Evidence; or (c) perform analytic and diagnostic evaluations of the systems.

8 **Storage.** For Axon Evidence Unlimited, Agency may store unlimited data in Agency's Axon Evidence account only if data originates from Axon Capture or an Axon body-worn camera. For Axon Air Evidence subscriptions, Agency may store unlimited data in Agency's Axon Evidence account only if data originates from an Axon Air device. For Axon Interview Room Unlimited, Agency may store unlimited data in Agency's Axon Evidence account only if data originates from Axon Interview Room hardware. For Axon Fleet Unlimited, Agency may store unlimited data in Agency's Axon Evidence account only if data originates from Axon Fleet hardware.

Axon may charge Agency additional fees for exceeding purchased storage amounts. Axon may place Agency Content that Agency has not viewed or accessed for 6 months into archival storage. Agency Content in archival storage will not have immediate availability and may take up to 24 hours to access.

9 **Location of Storage.** Axon may transfer Agency Content to third-party subcontractors for storage. Axon will determine the locations of data centers for storage of Agency Content. For United States agencies, Axon will ensure all Agency Content stored in Axon Cloud Services remains within the United States. Ownership of Agency Content remains with Agency.

10 **Suspension.** Axon may temporarily suspend Agency's or any end user's right to access or use any portion or all of Axon Cloud Services immediately upon notice, if Agency or end user's use of or registration for Axon Cloud Services may (a) pose a security risk to Axon Cloud Services or any third-party; (b) adversely impact Axon Cloud Services, the systems, or content of any other customer; (c) subject Axon, Axon's affiliates, or any third-party to liability; or (d) be fraudulent.

Agency remains responsible for all fees incurred through suspension. Axon will not delete Agency Content because of suspension, except as specified in this Agreement.

11 **Axon Cloud Services Warranty.** Axon disclaims any warranties or responsibility for data corruption

or errors before Agency uploads data to Axon Cloud Services.

- 12** **Axon Cloud Services Restrictions.** Agency and Agency end users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:
- 12.1.** copy, modify, tamper with, repair, or create derivative works of any part of Axon Cloud Services;
 - 12.2.** reverse engineer, disassemble, or decompile Axon Cloud Services or apply any process to derive any source code included in Axon Cloud Services, or allow others to do the same;
 - 12.3.** access or use Axon Cloud Services with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;
 - 12.4.** use trade secret information contained in Axon Cloud Services, except as expressly permitted in this Agreement;
 - 12.5.** access Axon Cloud Services to build a competitive device or service or copy any features, functions, or graphics of Axon Cloud Services;
 - 12.6.** remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within Axon Cloud Services; or
 - 12.7.** use Axon Cloud Services to store or transmit infringing, libelous, or other unlawful or tortious material; to store or transmit material in violation of third-party privacy rights; or to store or transmit malicious code.
- 13** **After Termination.** Axon will not delete Agency Content for 90-days following termination. There will be no functionality of Axon Cloud Services during these 90-days other than the ability to retrieve Agency Content. Agency will not incur additional fees if Agency downloads Agency Content from Axon Cloud Services during this time. Axon has no obligation to maintain or provide Agency Content after these 90-days and will thereafter, unless legally prohibited, delete all Agency Content. Upon request, Axon will provide written proof that Axon successfully deleted and fully removed all Agency Content from Axon Cloud Services.
- 14** **Post-Termination Assistance.** Axon will provide Agency with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Agency Content, including requests for Axon's data egress service, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.
- 15** **U.S. Government Rights.** If Agency is a U.S. Federal department or using Axon Cloud Services on behalf of a U.S. Federal department, Axon Cloud Services is provided as a "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data", as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. If Agency is using Axon Cloud Services on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, Agency will immediately discontinue use of Axon Cloud Services.
- 16** **Survival.** Upon any termination of this Agreement, the following sections in this Appendix will survive: Agency Owns Agency Content, Storage, Axon Cloud Services Warranty, and Axon Cloud Services Restrictions.

Professional Services Appendix

- 1 Utilization of Services.** Agency must use pre-paid professional services as outlined in the Quote and this Appendix within 6 months of the Effective Date.
- 2 Body-Worn Camera Full Service (BWC Full Service).** BWC Full Service includes 4 consecutive days of on-site service and a professional services manager to work with Agency to assess Agency’s deployment and determine which on-site services are appropriate. If Agency requires more than 4 consecutive on-site days, additional days are \$2,500 per day. BWC Full Service options include:

<p>System set up and configuration</p> <ul style="list-style-type: none"> • Setup Axon View on smartphones (if applicable) • Configure categories and custom roles based on Agency need • Register cameras to Agency domain • Troubleshoot IT issues with Axon Evidence and Axon Dock (“Dock”) access • One on-site session included
<p>Dock configuration</p> <ul style="list-style-type: none"> • Work with Agency to decide the ideal location of Docks and set configurations on Dock • Authenticate Dock with Axon Evidence using admin credentials from Agency • On-site assistance, not to include physical mounting of docks
<p>Best practice implementation planning session</p> <ul style="list-style-type: none"> • Provide considerations for the establishment of video policy and system operations best practices based on Axon’s observations with other agencies • Discuss the importance of entering metadata in the field for organization purposes and other best practice for digital data management • Provide referrals of other agencies using the Axon camera devices and Axon Evidence • Recommend rollout plan based on review of shift schedules
<p>System Admin and troubleshooting training sessions</p> <p>Step-by-step explanation and assistance for Agency’s configuration of security, roles & permissions, categories & retention, and other specific settings for Axon Evidence</p>
<p>Axon instructor training (Train the Trainer)</p> <p>Training for Agency’s in-house instructors who can support Agency’s Axon camera and Axon Evidence training needs after Axon has fulfilled its contractual on-site obligations</p>
<p>Evidence sharing training</p> <p>Tailored workflow instruction for Investigative Units on sharing Cases and Evidence with local prosecuting agencies</p>
<p>End user go-live training and support sessions</p> <ul style="list-style-type: none"> • Assistance with device set up and configuration • Training on device use, Axon Evidence, and Evidence Sync
<p>Implementation document packet</p> <p>Axon Evidence administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide</p>
<p>Post go-live review</p>

- 3 Body-Worn Camera 1-Day Service (BWC 1-Day).** BWC 1-Day includes one day of on-site Services and a professional services manager to work closely with Agency to assess Agency’s deployment and determine which Services are appropriate. If Agency requires more than 1 day of on-site Services, additional on-site assistance is \$2,500 per day. The BWC 1-Day options include:

<p>System set up and configuration (Remote Support)</p> <ul style="list-style-type: none"> • Setup Axon Mobile on smartphones (if applicable) • Configure categories & custom roles based on Agency need • Troubleshoot IT issues with Axon Evidence and Axon Dock (“Dock”) access
<p>Dock configuration</p> <ul style="list-style-type: none"> • Work with Agency to decide the ideal location of Dock setup and set configurations on Dock • Authenticate Dock with Axon Evidence using “Administrator” credentials from Agency • Does not include physical mounting of docks
<p>Axon instructor training (Train the Trainer)</p> <p>Training for Agency’s in-house instructors who can support Agency’s Axon camera and Axon Evidence training needs after Axon’s has fulfilled its contracted on-site obligations</p>
<p>End user go-live training and support sessions</p> <ul style="list-style-type: none"> • Assistance with device set up and configuration • Training on device use, Axon Evidence, and Evidence Sync
<p>Implementation document packet</p> <p>Axon Evidence administrator guides, camera implementation guides, network setup guide, sample policies, and categories & roles guide</p>

4 Body-Worn Camera Virtual 1-Day Service (BWC Virtual). BWC Virtual includes all items in the BWC 1-Day Service Package, except one day of on-site services.

5 CEW Services Packages. CEW Services Packages are detailed below:

<p>System set up and configuration</p> <ul style="list-style-type: none"> • Configure Axon Evidence categories & custom roles based on Agency need. • Troubleshoot IT issues with Axon Evidence. • Register users and assign roles in Axon Evidence. • For the CEW Full Service Package: On-site assistance included • For the CEW Starter Package: Virtual assistance included
<p>Dedicated Project Manager</p> <p>Assignment of specific Axon representative for all aspects of planning the rollout (Project Manager). Ideally, Project Manager will be assigned to Agency 4–6 weeks before rollout</p>
<p>Best practice implementation planning session to:</p> <ul style="list-style-type: none"> • Provide considerations for the establishment of CEW policy and system operations best practices based on Axon’s observations with other agencies • Discuss the importance of entering metadata and best practices for digital data management • Provide referrals to other agencies using TASER CEWs and Axon Evidence • For the CEW Full Service Package: On-site assistance included • For the CEW Starter Package: Virtual assistance included
<p>System Admin and troubleshooting training sessions</p> <p>On-site sessions providing a step-by-step explanation and assistance for Agency’s configuration of security, roles & permissions, categories & retention, and other specific settings for Axon Evidence</p>
<p>Axon Evidence Instructor training</p> <ul style="list-style-type: none"> • Provide training on the Axon Evidence to educate instructors who can support Agency’s subsequent Axon Evidence training needs.



Master Services and Purchasing Agreement

<ul style="list-style-type: none"> • For the CEW Full Service Package: Training for up to 3 individuals at Agency • For the CEW Starter Package: Training for up to 1 individual at Agency
<p>TASER CEW inspection and device assignment Axon's on-site professional services team will perform functions check on all new TASER CEW Smart weapons and assign them to a user on Axon Evidence.</p>
<p>Post go-live review For the CEW Full Service Package: On-site assistance included. For the CEW Starter Package: Virtual assistance included.</p>

6 **Smart Weapon Transition Service.** The Smart Weapon Transition Service includes:

<p>Archival of CEW Firing Logs Axon's on-site professional services team will upload CEW firing logs to Axon Evidence from all TASER CEW Smart Weapons that Agency is replacing with newer Smart Weapon models.</p>
<p>Return of Old Weapons Axon's on-site professional service team will ship all old weapons back to Axon's headquarters. Axon will provide Agency with a Certificate of Destruction</p>

*Note: CEW Full Service packages for TASER 7 include Smart Weapon Transition Service instead of 1-Day Device Specific Instructor Course.

7 **Signal Sidearm Installation Service.** If Agency purchases Signal Sidearm Installation Service, Axon will provide one day of on-site Services and one professional services manager and will cover the installation of up to 100 Signal Sidearm devices per package purchased. Agency is responsible for providing an appropriate work area and ensuring all holsters that will have Signal Sidearm installed onto them are available on the agreed-upon installation date(s). Installation includes:

Removal of existing connection screws that affix a holster to a holster mount
Proper placement of the Signal Sidearm Mounting Plate between the holster and the mount
Reattachment of the holster to the mount using appropriate screws
Functional testing of Signal Sidearm device

8 **Out of Scope Services.** Axon is only responsible to perform the professional services described in the Quote and this Appendix. Any additional professional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in the charges or schedule.

9 **Delivery of Services.** Axon personnel will work Monday through Friday, 8:30 a.m. to 5:30 p.m., except holidays. Axon will perform all on-site tasks over a consecutive timeframe. Axon will not charge Agency travel time by Axon personnel to Agency premises as work hours.

10 **Access Computer Systems to Perform Services.** Agency authorizes Axon to access relevant Agency computers and networks, solely for performing the Services. Axon will work to identify as soon as reasonably practicable resources and information Axon expects to use and will provide an initial itemized list to Agency. Agency is responsible for and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by Agency.

- 11** **Site Preparation.** Axon will provide a hardcopy or digital copy of current user documentation for the Devices ("**User Documentation**"). User Documentation will include all required environmental specifications for the professional Services and Devices to operate per the Device User Documentation. Before installation of Devices (whether performed by Agency or Axon), Agency must prepare the location(s) where Devices are to be installed ("**Installation Site**") per the environmental specifications in the Device User Documentation. Following installation, Agency must maintain the Installation Site per the environmental specifications. If Axon modifies Device User Documentation for any Devices under this Agreement, Axon will provide the update to Agency when Axon generally releases it.
- 12** **Acceptance.** When Axon completes professional Services, Axon will present an acceptance form ("**Acceptance Form**") to Agency. Agency will sign the Acceptance Form acknowledging completion. If Agency reasonably believes Axon did not complete the professional Services in substantial conformance with this Agreement, Agency must notify Axon in writing of the specific reasons for rejection within 7 calendar days from delivery of the Acceptance Form. Axon will address the issues and re-present the Acceptance Form for signature. If Axon does not receive the signed Acceptance Form or written notification of reasons for rejection within 7 calendar days of delivery of the Acceptance Form, Axon will deem Agency to have accepted the professional Services.
- 13** **Agency Network.** For work performed by Axon transiting or making use of Agency's network, Agency is solely responsible for maintenance and functionality of the network. In no event will Axon be liable for loss, damage, or corruption of Agency's network from any cause.

Technology Assurance Plan Appendix

If Technology Assurance Plan (“**TAP**”) or a bundle including TAP is on the Quote, this appendix applies.

- 1 **Term.** TAP begins after shipment of Devices covered under TAP. If Axon ships Devices in the first half of the month, TAP starts the 1st of the following month. If Axon ships Devices in the second half of the month, TAP starts the 15th of the following month. (“**TAP Term**”).
- 2 **TAP Warranty.** The TAP warranty is an extended warranty that starts at the end of the 1-year Hardware Limited Warranty.
- 3 **Officer Safety Plan Standard.** The Officer Safety Plan Standard (“**OSP Standard**”) includes Axon Evidence Unlimited, TAP for Axon body-worn camera (“**BWC**”) and Axon Dock, one TASER X2 or X26P CEW with a 4-year extended warranty, one CEW battery, and one CEW holster. Agency must purchase OSP for 5 years (“**OSP Term**”). At any time during the OSP Term, Agency may choose to receive the X2 or X26P CEW, battery and holster by providing a \$0 purchase order.
- 4 **Officer Safety Plan 7.** Both the Officer Safety Plan 7 (“**OSP 7**”) and Officer Safety Plan 7 Plus (“**OSP 7 Plus**”) include Axon Evidence Unlimited, TAP for Axon BWC and Axon Dock, TASER 7 Certification Plan, Axon Records, and Axon Aware. OSP 7 Plus also includes Axon Aware Plus, Signal Sidearm, Auto-Tagging, Axon Performance, Axon Redaction Assistant, and Axon Citizen for Communities. Both bundles are subject to additional terms for services in their bundle. Agency must purchase an OSP 7 subscription for every TASER 7 CEW user. Agency must accept delivery of the TASER 7 CEW and accessories as soon as available from Axon. Some offerings in the OSP 7 bundles may not be generally available at the time of Agency’s OSP 7 purchase. Axon will not provide a refund, credit, or additional discount beyond what is in the Quote due to a delay of availability or Agency’s election not to utilize any portion of an OSP 7 bundle.

Axon Records is the software-as-a-service product that is generally available at the time Agency purchases an OSP 7 bundle. During the Term, you will be entitled to receive Axon’s Update and Upgrade releases on an if-and-when available basis.

An “Update” is a generally available release of Axon Records that Axon makes available from time to time. An Upgrade includes (i) new versions of Axon Records that enhance features and functionality, as solely determined by Axon; and/or (ii) new versions of Axon Records that provide additional features or perform additional functions. Upgrades exclude new products that Axon introduces and markets as distinct products or applications.

New or additional Axon products and applications, as well as any Axon professional services needed to configure Axon Records, are not included in the OSP 7 bundle. The Axon Records subscription will begin upon the start of the OSP 7 Term and end at the end of the OSP 7 Term, as defined below.

- 5 **OSP 7 Term.** OSP 7 begins after Axon ships the Axon Body 3 or TASER 7 hardware to Agency. If Axon ships in the first half of the month, OSP 7 starts the 1st of the following month. If Axon ships in the second half of the month, OSP 7 starts the 15th of the following month. For phased deployments, each phase has its own start and end date based on the phase’s first shipment per the above. OSP 7 runs for 5 years from the OSP 7 start date (“**OSP 7 Term**”).

Title: Master Services and Purchasing Agreement between Axon and Agency

Department: Legal
Version: 8.0
Base Date: 11/8/2019

- 6** **TAP BWC Upgrade.** If Agency purchased 3 years of Axon Evidence Unlimited or TAP as a standalone and makes all payments, Axon will provide Agency a new Axon BWC 3 years after TAP starts ("**BWC Upgrade**"). If Agency purchases 5 years of Axon Evidence Unlimited, an OSP, or TAP as a standalone and makes all payments, Axon will provide Agency a BWC Upgrade 2.5 and 5 years after TAP starts. If Agency purchased TAP as a standalone, Axon will provide a BWC Upgrade that is the same or like Device, at Axon's option. Axon makes no guarantee the BWC Upgrade will utilize the same accessories or Axon Dock. If Agency purchased Axon Evidence Unlimited or an OSP, Agency may choose a new BWC of Agency's choice.
- 7** **TAP Dock Upgrade.** If Agency purchased 3 years of Dock TAP and makes all payments, Axon will provide Agency a new Axon Dock 3 years after TAP starts ("**Dock Upgrade**"). If Agency purchases 5 years of Axon Evidence Unlimited, an OSP, or Dock TAP and makes all payments, Axon will provide Agency a Dock Upgrade 2.5 and 5 years after TAP starts. The Dock Upgrade at year 2.5 will only include a new Axon Dock bay configuration unless a new Axon Dock core is required for BWC compatibility. If Agency originally purchased a single-bay Axon Dock, the Dock Upgrade will be a single-bay Axon Dock model that is the same or like Device, at Axon's option. If Agency originally purchased a multi-bay Axon Dock, the Dock Upgrade will be a multi-bay Axon Dock that is the same or like Device, at Axon's option.
- 8** **Upgrade Delay.** Axon may ship the BWC and Dock Upgrades at year 2.5 without prior confirmation from Agency unless the Parties agree in writing otherwise at least 90 days in advance. Axon may ship the second BWC and Dock Upgrade 60 days before the end of the Term without prior confirmation from Agency.
- 9** **Upgrade Change.** If Agency wants to change Device models for the offered BWC or Dock Upgrade, Agency must pay the price difference between the MSRP for the offered BWC or Dock Upgrade and the MSRP for the model desired. If the model Agency desires has an MSRP less than the MSRP of the offered BWC Upgrade or Dock Upgrade, Axon will not provide a refund. The MSRP is the MSRP in effect at the time of the upgrade.
- 10** **Return of Original Device.** If Axon provides a warranty replacement 6 months before the date of a BWC Upgrade or Dock Upgrade, the replacement is the upgrade. Within 30 days of receiving a BWC or Dock Upgrade, Agency must return the original Devices to Axon or destroy the Devices and provide a certificate of destruction to Axon including serial numbers for the destroyed Devices. If Agency does not return or destroy the Devices, Axon will deactivate the serial numbers for the Devices received by Agency.
- 11** **Termination.** If Agency's payment for TAP, OSP, or Axon Evidence is more than 30 days past due, Axon may terminate TAP or OSP. Once TAP or OSP terminates for any reason:
- 11.1.** TAP and OSP coverage terminates as of the date of termination and no refunds will be given.
 - 11.2.** Axon will not and has no obligation to provide the Upgrade Models.
 - 11.3.** Agency must make any missed payments due to the termination before Agency may purchase any future TAP or OSP.

TASER 7 Appendix

This TASER 7 Appendix applies to Agency’s TASER 7, OSP 7, or OSP 7 Plus purchase from Axon.

- 1 **Term.** If Agency purchases TASER 7 as part of OSP 7 or 7 Plus, TASER 7 starts on the OSP 7 start date. Otherwise, the start date is based on shipment of TASER 7 hardware. If Axon ships TASER 7 hardware in the first half of the month, TASER 7 starts the 1st of the following month. If Axon ships TASER 7 hardware in the second half of the month, TASER 7 starts the 15th of the following month (“**TASER 7 Start Date**”). TASER 7 will end upon completion of the associated TASER 7 subscription in the Quote (“**TASER 7 Term**”). For phased deployments, each phase will have its own 60-month term, with start dates as described above.

- 2 **Unlimited Duty Cartridge Plan.** If the Quote includes “**Unlimited Duty Cartridge Plan**”, Agency must purchase the plan for each CEW user. A CEW user includes officers that use a CEW in the line of duty and those that only use a CEW for training. Agency may not resell cartridges received. Axon will only replace cartridges used in the line of duty.

- 3 **Training.** If the Quote includes a training voucher, Agency must use the voucher within 1 year of issuance, or the voucher will be void. Axon will issue Agency a voucher annually beginning on the TASER 7 Start Date. The voucher has no cash value. Agency cannot exchange it for another device or service. Unless stated in the Quote, the voucher does not include travel expenses and will be Agency’s responsibility. If the Quote includes Axon Online Training or Virtual Reality Content (collectively, “**Training Content**”), Agency may access Training Content. Axon will deliver all Training Content electronically.

- 4 **Extended Warranty.** If the Quote includes a TASER 7 plan (TASER 7 Basic - Upfront Plus Subscription, TASER 7 Basic - Subscription, or TASER 7 Certification), extended warranty coverage is included for the TASER CEW, dock and core, and rechargeable battery as described in the Hardware Limited Warranty. The extended warranty coverage begins on the TASER 7 Start Date and continues for the TASER 7 Term.

- 5 **Trade-in.** If a trade-in discount is on the Quote, Agency must return used hardware and accessories associated with the discount (“**Trade-In Units**”) to Axon. Agency must ship batteries via ground shipping. Axon will pay shipping costs of the return. If Axon does not receive Trade-In Units within the timeframe below, Axon will invoice Agency the value of the trade-in discount. Agency may not destroy Trade-In Units and receive a trade-in discount.

Agency Size	Days to Return from TASER 7 Start Date
Less than 100 officers	30 days
100 to 499 officers	90 days
500+ officers	180 days

- 6 **Subscription Term.** The TASER 7 Axon Evidence Subscription Term begins on the TASER 7 or OSP 7 Start Date.

- 7 **Access Rights.** Upon Axon granting Agency a TASER 7 Axon Evidence subscription, Agency may access and use Axon Evidence for the storage and management of data from TASER 7 CEW devices

Title: Master Services and Purchasing Agreement between Axon and Agency

Department: Legal
 Version: 8.0
 Issue Date: 11/8/2019

during the TASER 7 Axon Evidence Subscription Term. Agency may not upload any non-TASER 7 data or any other files to Axon Evidence. Agency may not exceed the number of end users than the Quote specifies.

- 8** **Privacy.** Axon will not disclose Agency Content or any information about Agency except as compelled by a court or administrative body or required by any law or regulation. Axon will give notice if any disclosure request is received for Agency Content, so Agency may file an objection with the court or administrative body. Agency acknowledges and agrees that Axon may access Agency Content to: (a) perform troubleshooting services upon request or as part of Axon's maintenance or diagnostic screenings; (b) enforce this Agreement or policies governing use of Axon Evidence; (c) generate aggregated data, excluding information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual (collectively, "**PII**"), to improve, analyze, support, and operate Axon's current and future devices and services.
- 9** **Termination.** If payment for TASER 7 is more than 30 days past due, Axon may terminate Agency's TASER 7 plan by notifying Agency. Upon termination for any reason, then as of the date of termination:
- 9.1.** TASER 7 extended warranties and access to Training Content will terminate. No refunds will be given.
 - 9.2.** Axon will invoice Agency the remaining MSRP for TASER 7 products received before termination. If terminating for non-appropriations, Axon will not invoice Agency if Agency returns the CEW, rechargeable battery, holster, dock, core, training suits, and unused cartridges to Axon within 30 days of the date of termination.
 - 9.3.** Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TASER 7 plan.

Axon Auto-Tagging Appendix

- 1 **Scope.** Axon Auto-Tagging consists of the development of a module to allow Axon Evidence to interact with Agency’s Computer-Aided Dispatch (“**CAD**”) or Records Management Systems (“**RMS**”). This allows end users to auto-populate Axon video meta-data with a case ID, category, and location-based on data maintained in Agency’s CAD or RMS. Agency must purchase Axon Auto-Tagging for every Axon Evidence user in Agency, even if the user does not have an Axon body camera.

- 2 **Support.** For thirty days after completing Auto-Tagging Services, Axon will provide up to 5 hours of remote support at no additional charge. Axon will provide free support due to a change in Axon Evidence, so long as long as Agency maintains an Axon Evidence and Auto-Tagging subscription. Axon will not provide support if a change is required because Agency changes its CAD or RMS.

- 3 **Changes.** Axon is only responsible to perform the Services in this Appendix. Any additional Services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule.

- 4 **Agency Responsibilities.** Axon’s performance of Auto-Tagging Services requires Agency to:
 - 4.1. Make available relevant systems, including Agency’s current CAD or RMS, for assessment by Axon (including remote access if possible);
 - 4.2. Make required modifications, upgrades or alterations to Agency’s hardware, facilities, systems and networks related to Axon’s performance of Auto-Tagging Services;
 - 4.3. Provide access to the premises where Axon is performing Auto-Tagging Services, subject to Agency safety and security restrictions, and allow Axon to enter and exit the premises with laptops and materials needed to perform Auto-Tagging Services;
 - 4.4. Provide all infrastructure and software information (TCP/IP addresses, node names, network configuration) necessary for Axon to provide Auto-Tagging Services;
 - 4.5. Promptly install and implement any software updates provided by Axon;
 - 4.6. Ensure that all appropriate data backups are performed;
 - 4.7. Provide assistance, participation, and approvals in testing Auto-Tagging Services;
 - 4.8. Provide Axon with remote access to Agency’s Axon Evidence account when required;
 - 4.9. Notify Axon of any network or machine maintenance that may impact the performance of the module at Agency; and
 - 4.10. Ensure reasonable availability of knowledgeable staff and personnel to provide timely, accurate, complete, and up-to-date documentation and information to Axon.

- 5 **Access to Systems.** Agency authorizes Axon to access Agency’s relevant computers, network systems, and CAD or RMS solely for performing Auto-Tagging Services. Axon will work diligently to identify as soon as reasonably practicable resources and information Axon expects to use and will provide an initial list to Agency. Agency is responsible for and assumes the risk of any problems, delays, losses, claims, or expenses resulting from the content, accuracy, completeness, and consistency of all data, materials, and information supplied by Agency.

Axon Fleet Appendix

- 1 **Agency Responsibilities.** Agency must ensure its infrastructure and vehicles adhere to the minimum requirements to operate Axon Fleet as established by Axon during the on-site assessment at Agency and in any technical qualifying questions. If Agency's representations are inaccurate, the Quote is subject to change.
- 2 **CradlePoint.** If Agency purchases CradlePoint Enterprise Cloud Manager, Agency will comply with CradlePoint's end user license agreement. The term of the CradlePoint license may differ from the Axon Evidence Subscription. CradlePoint installation is outside the scope of this Agreement. If Agency requires CradlePoint support, Agency will contact CradlePoint directly.
- 3 **Third-party Installer.** If Agency (a) installs Axon Fleet and related hardware without "train the trainer" Services from Axon; (b) does not follow instructions provided by Axon during train the trainer; or (c) uses a third-party to install the hardware (collectively, "**Third-party Installer**"), Axon will not be responsible for Third-party Installer's failure to follow instructions relating to installation and use of Axon Fleet. Axon will not be liable for the failure of Axon Fleet hardware to operate per Axon's specifications or damage to Axon Fleet hardware due to a Third-party Installer. Axon may charge Agency if Axon is required to (a) replace hardware damaged by Third-party Installer; (b) provide extensive remote support; or (c) send Axon personnel to Agency to replace hardware damaged by Third-party Installer.
- 4 **Wireless Offload Software.**
 - 4.1. **License Grant.** Axon grants Agency a non-exclusive, royalty-free, worldwide, perpetual license to use Wireless Offload Software ("**WOS**"). "Use" means storing, loading, installing, or executing WOS solely for data communication with Axon Devices for the number of licenses purchased. The WOS term begins upon the start of the Axon Evidence Subscription.
 - 4.2. **Restrictions.** Agency may not: (a) modify, alter, tamper with, repair, or create derivative works of WOS; (b) reverse engineer, disassemble, or decompile WOS, apply any process to derive the source code of WOS, or allow others to do so; (c) access or use WOS to avoid incurring fees or exceeding usage limits; (d) copy WOS in whole or part; (e) use trade secret information contained in WOS; (f) resell, rent, loan or sublicense WOS; (g) access WOS to build a competitive device or service or copy any features, functions or graphics of WOS; or (h) remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within WOS.
 - 4.3. **Updates.** If Agency purchases WOS maintenance, Axon will make updates and error corrections to WOS ("**WOS Updates**") available electronically via the Internet or media as determined by Axon. Agency is responsible for establishing and maintaining adequate Internet access to receive WOS Updates and maintaining computer equipment necessary for use of WOS. The Quote will detail the maintenance term.
 - 4.4. **WOS Support.** Upon request by Axon, Agency will provide Axon with access to Agency's store and forward servers solely for troubleshooting and maintenance.
- 5 **Wireless Microphone.** The Axon Fleet Wireless Microphone subscription is a 5-year term. If this Agreement terminates for any reason before the end of the 5 years, Agency must pay the remaining MSRP for the Wireless Microphone, or if terminating for non-appropriations, return the Wireless

Microphone to Axon.

- 6** **Fleet 2 Unlimited.** Both Fleet 2 Unlimited and Fleet 2 Unlimited 60 require a 5-year term. Both offerings provide a 4-year extended warranty on Axon Fleet camera hardware.
- 7** **Fleet 2 Unlimited Upgrade.** For Axon Fleet 2 Unlimited, 5-years after the start of the Axon Evidence Subscription associated with Agency's Axon Fleet Purchase, Axon will provide Agency a new front and new rear Axon Fleet camera that is the same or like Device, at Axon's sole option ("**Axon Fleet Upgrade**"). Axon Fleet 2 Unlimited 60 is not eligible to receive an Axon Fleet Upgrade.

After Agency makes the fifth Axon Fleet Unlimited payment, Agency may elect to receive the Axon Fleet Upgrade anytime in the fifth year of the Axon Evidence Subscription associated with Agency's Axon Fleet Purchase. If Agency would like to change models for the Axon Fleet Upgrade, Agency must pay the difference between the MSRP for the offered Axon Fleet Upgrade and the MSRP for the model desired. The MSRP is the MSRP in effect at the time of the upgrade. Agency is responsible for the removal of previously installed hardware and installation of the Axon Fleet Upgrade.

Within 30 days of receiving the Axon Fleet Upgrade, Agency must return the original Devices to Axon or destroy the Devices and provide a certificate of destruction to Axon, including serial numbers of the destroyed Devices. If Agency does not destroy or return the Devices to Axon, Axon will deactivate the serial numbers for the Devices received by Agency.

- 8** **Fleet Unlimited Termination.** If Agency's payment for any Axon Fleet Unlimited program or Axon Evidence is more than 30 days past due, Axon may terminate Axon Fleet Unlimited. Once Axon Fleet Unlimited terminates for any reason, then:
- 8.1.** Axon Fleet Unlimited coverage terminates, and no refunds will be given.
 - 8.2.** Axon will not and has no obligation to provide the Axon Fleet Upgrade Models.
 - 8.3.** Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future Axon Fleet Unlimited.

Axon Aware Appendix

This Axon Aware Appendix applies to both Axon Aware and Axon Aware Plus. Axon Aware Plus includes Axon Aware.

- 1 Axon Aware Subscription Term.** If Agency purchases Axon Aware as part of a bundled offering, the Axon Aware subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Aware to Agency.

If Agency purchases Axon Aware as a standalone, the Axon Aware subscription begins the later of the (1) date Axon provisions Axon Aware to Agency, or (2) first day of the month following the Effective Date.

The Axon Aware subscription term will end upon the completion of the Axon Evidence Subscription associated with Axon Aware.

- 2 Scope of Axon Aware.** The scope of Axon Aware is to assist Agency with real-time situational awareness during critical incidents to improve officer safety, effectiveness, and awareness. In the event Agency uses Axon Aware outside this scope, Axon may initiate good-faith discussions with Agency on upgrading Agency's Axon Aware to better meet Agency's needs.

- 3 LTE Requirements.** Axon Aware is only available and usable with an LTE enabled body-worn camera. Axon is not liable if Agency utilizes the LTE device outside of the coverage area or if the LTE carrier is unavailable. LTE coverage is only available in the United States, including any U.S. territories. Axon may utilize a carrier of Axon's choice to provide LTE service. Axon may change LTE carriers during the Term without Agency's consent.

- 4 Axon Aware Service Limitations.** Agency acknowledges that LTE service is made available only within the operating range of the networks. Service may be temporarily refused, interrupted, or limited because of: (a) facilities limitations; (b) transmission limitations caused by atmospheric, terrain, other natural or artificial conditions adversely affecting transmission, weak batteries, system overcapacity, movement outside a service area or gaps in coverage in a service area and other causes reasonably outside of the carrier's control such as intentional or negligent acts of third parties that damage or impair the network or disrupt service; or (c) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of service.

Partner networks are made available as-is and the carrier makes no warranties or representations as to the availability or quality of roaming service provided by carrier partners, and the carrier will not be liable in any capacity for any errors, outages, or failures of carrier partner networks. Agency expressly understands and agrees that it has no contractual relationship whatsoever with the underlying wireless service provider or its affiliates or contractors and Agency is not a third-party beneficiary of any agreement between Axon and the underlying carrier.

- 5 Termination.** Upon termination of this Agreement, or if Agency stops paying for Axon Aware or bundles that include Axon Aware, Axon will end LTE service.

Add-on Services Appendix

This Appendix applies to Axon Citizen for Communities, Axon Redaction Studio, and Axon Performance.

- 1** **Subscription Term.** If Agency purchases Axon Citizen for Communities, Axon Redaction Studio, or Axon Performance as part of a bundled offering, the subscription begins on the later of the (1) start date of that bundled offering, or (2) date Axon provisions Axon Citizen for Communities, Axon Redaction Studio, or Axon Performance to Agency.

If Agency purchases Axon Citizen for Communities, Axon Redaction Studio, or Axon Performance as a standalone, the subscription begins the later of the (1) date Axon provisions Axon Citizen for Communities, Axon Redaction Studio, or Axon Performance to Agency, or (2) first day of the month following the Effective Date.

The subscription term will end upon the completion of the Axon Evidence Subscription associated with the add-on.

- 2** **Axon Citizen Storage.** For Axon Citizen, Agency may store an unlimited amount of data submitted through the public portal ("**Portal Content**"), within Agency's Axon Evidence instance. The post-termination provisions outlined in the Axon Evidence Terms of Use Appendix also apply to Portal Content.
- 3** **Performance Auto-Tagging Data.** In order to provide Axon Performance to Agency, Axon will need to store call for service data from Agency's CAD or RMS.

Axon Commander™ Software Appendix

1. **License.** Axon owns all executable instructions, images, icons, sound, and text in Commander. All rights are reserved to Axon. Axon grants a non-exclusive, royalty-free, worldwide right and license to use Commander. "Use" means storing, loading, installing, or executing Commander exclusively for data communication with an Axon Device. Agency may use Commander in a networked environment on computers other than the computer it installs Commander on, so long as each execution of Commander is for data communication with an Axon Device. Agency may make copies of Commander for archival purposes only. Agency shall retain all copyright, trademark, and proprietary notices in Commander on all copies or adaptations.
2. **Term.** The Quote will detail the duration of the Commander license, as well as any maintenance. The term will begin upon installation of Commander by Axon.
3. **License Restrictions.** All licenses will immediately terminate if Agency does not comply with any term of this Agreement. Agency may not use Commander for any purpose other than as expressly permitted by this Agreement. Agency may not:
 - 3.1 modify, tamper with, repair, or otherwise create derivative works of Commander;
 - 3.2 reverse engineer, disassemble, or decompile Commander or apply any process to derive the source code of Commander, or allow others to do the same;
 - 3.3 access or use Commander to avoid incurring fees or exceeding usage limits or quotas;
 - 3.4 copy Commander in whole or part, except as expressly permitted in this Agreement;
 - 3.5 use trade secret information contained in Commander;
 - 3.6 resell, rent, loan or sublicense Commander;
 - 3.7 access Commander to build a competitive device or service or copy any features, functions or graphics of Commander; or
 - 3.8 remove, alter or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon or Axon's licensors on or within Commander or any copies of Commander.
4. **Support.** Axon may make available updates and error corrections ("**Updates**") to Commander. Axon will provide Updates electronically via the Internet or media as determined by Axon. Agency is responsible for establishing and maintaining adequate access to the Internet to receive Updates. Agency is responsible for maintaining the computer equipment necessary to use Commander. Axon may provide technical support of a prior release/version of Commander for 6 months from when Axon made the subsequent release/version available.
5. **Termination.** Axon may terminate Agency's license immediately for Agency's failure to comply with any of the terms in this Agreement. Upon termination, Agency must immediately destroy Commander, including all copies, adaptations and merged portions in any form.

Axon Application Programming Interface Appendix

1 Definitions.

"API Client" means the software that acts as the interface between Agency's computer and the server, which is already developed or to be developed by Agency.

"API Interface" means software implemented by Agency to configure Agency's independent API Client Software to operate in conjunction with the API Service for Agency's authorized Use.

"Axon Evidence Partner API, API or AXON API" (collectively **"API Service"**) means Axon's API which provides a programmatic means to access data in Agency's Axon Evidence account or integrate Agency's Axon Evidence account with other systems.

"Use" means any operation on Agency's data enabled by the supported API functionality.

2 Purpose and License.

2.1. Agency may use API Service and data made available through API Service, in connection with an API Client developed by Agency. Axon may monitor Agency's use of API Service to ensure quality, improve Axon devices and services, and verify compliance with this Agreement. Agency agrees to not interfere with such monitoring or obscure from Axon Agency's use of API Service. Agency will not use API Service for commercial use.

2.2. Axon grants Agency a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable right and license during the Term to use API Service, solely for Agency's Use in connection with Agency's API Client.

2.3. Axon reserves the right to set limitations on Agency's use of the API Service, such as a quota on operations, to ensure stability and availability of Axon's API. Axon will use reasonable efforts to accommodate use beyond the designated limits.

3 Configuration. Agency will work independently to configure Agency's API Client with API Service for Agency's applicable Use. Agency will be required to provide certain information (such as identification or contact details) as part of the registration. Registration information provided to Axon must be accurate. Agency will inform Axon promptly of any updates. Upon Agency's registration, Axon will provide documentation outlining API Service information.

4 Agency Responsibilities. When using API Service, Agency and its end users may not:

4.1. use API Service in any way other than as expressly permitted under this Agreement;

4.2. use in any way that results in, or could result in, any security breach to Axon;

4.3. perform an action with the intent of introducing any viruses, worms, defect, Trojan horses, malware, or any items of a destructive nature to Axon Devices and Services;

4.4. interfere with, modify, disrupt or disable features or functionality of API Service or the servers or networks providing API Service;

4.5. reverse engineer, decompile, disassemble, or translate or attempt to extract the source code from API Service or any related software;

4.6. create an API Interface that functions substantially the same as API Service and offer it for use by third parties;

4.7. provide use of API Service on a service bureau, rental or managed services basis or permit other individuals or entities to create links to API Service;

- 4.8. frame or mirror API Service on any other server, or wireless or Internet-based device;
 - 4.9. make available to a third-party, any token, key, password or other login credentials to API Service;
 - 4.10. take any action or inaction resulting in illegal, unauthorized or improper purposes; or disclose Axon's API manual.
- 5 **API Content.** All content related to API Service, other than Agency Content or Agency's API Client content, is considered Axon's API Content, including:
- 5.1. the design, structure and naming of API Service fields in all responses and requests;
 - 5.2. the resources available within API Service for which Agency takes actions on, such as evidence, cases, users, or reports; and
 - 5.3. the structure of and relationship of API Service resources; and
 - 5.4. the design of API Service, in any part or as a whole.
- 6 **Prohibitions on API Content.** Neither Agency nor its end users will use API content returned from the API Interface to:
- 6.1. scrape, build databases, or otherwise create permanent copies of such content, or keep cached copies longer than permitted by the cache header;
 - 6.2. copy, translate, modify, create a derivative work of, sell, lease, lend, convey, distribute, publicly display, or sublicense to any third-party;
 - 6.3. misrepresent the source or ownership; or
 - 6.4. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices).
- 7 **API Updates.** Axon may update or modify the API Service from time to time ("**API Update**"). Agency is required to implement and use the most current version of API Service and to make any applicable changes to Agency's API Client required as a result of such API Update. API Updates may adversely affect how Agency's API Client access or communicate with API Service or the API Interface. Each API Client must contain means for Agency to update API Client to the most current version of API Service. Axon will provide support for 1 year following the release of an API Update for all depreciated API Service versions.

Advanced User Management Appendix

- 1 **Scope.** Advanced User Management allows Agency to (a) utilize bulk user creation and management, (b) automate user creation and management through System for Cross-domain Identity Management ("**SCIM**"), and (c) automate group creation and management through SCIM.
- 2 **Pricing.** Agency must purchase Advanced User Management for every Axon Evidence user in Agency, even if the user does not have an Axon body camera.
- 3 **Advanced User Management Configuration.** Agency will work independently to configure Agency's Advanced User Management for Agency's applicable Use. Upon request, Axon will provide general guidance to Agency, including documentation that details the setup and configuration process.

Axon Channel Services Appendix

1 **Definitions.**

"Axon Digital Evidence Management System" means Axon Evidence or Axon Commander, as specified in the attached Channel Services Statement of Work.

"Active Channel" means a third-party system that is continuously communicating with an Axon Digital Evidence Management System.

"Inactive Channel" means a third-party system that will have a one-time communication to an Axon Digital Evidence Management System.

2 **Scope.** Agency currently has a third-party system or data repository from which Agency desires to share data with Axon Digital Evidence Management. Axon will facilitate the transfer of Agency's third-party data into an Axon Digital Evidence Management System or the transfer of Agency data out of an Axon Digital Evidence Management System as defined in the Channel Services Statement of Work ("**Channel Services SOW**"). Channel Services will not delete any Agency Content. Agency is responsible for verifying all necessary data is migrated correctly and retained per Agency policy.

3 **Changes.** Axon is only responsible to perform the Services described in this Appendix and Channel Services SOW. Any additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in the charges or schedule

4 **Purpose and Use.** Agency is responsible for verifying Agency has the right to share data from and provide access to third-party system as it relates to the Services described in this Appendix and the Channel Services SOW. For Active Channels, Agency is responsible for any changes to a third-party system that may affect the functionality of the channel service. Any additional work required for the continuation of the Service may require additional fees. An Axon Field Engineer may require access to Agency's network and systems to perform the Services described in the Channel Services SOW. Agency is responsible for facilitating this access per all laws and policies applicable to Agency.

5 **Project Management.** Axon will assign a Project Manager to work closely with Agency's project manager and project team members and will be responsible for completing the tasks required to meet all contract deliverables on time and budget.

6 **Warranty.** Axon warrants that it will perform the Channel Services in a good and workmanlike manner.

7 **Monitoring.** Axon may monitor Agency's use of Channel Services to ensure quality, improve Axon devices and services, prepare invoices based on the total amount of data migrated, and verify compliance with this Agreement. Agency agrees not to interfere with such monitoring or obscure from Axon Agency's use of channel services.

8 **Agency's Responsibilities.** Axon's successful performance of the Channel Services requires Agency:

8.1. Make available its relevant systems for assessment by Axon (including making these

- systems available to Axon via remote access);
- 8.2.** Provide access to the building facilities and where Axon is to perform the Channel Services, subject to safety and security restrictions imposed by the Agency (including providing security passes or other necessary documentation to Axon representatives performing the Channel Services permitting them to enter and exit Agency premises with laptop personal computers and any other materials needed to perform the Channel Services);
 - 8.3.** Provide all necessary infrastructure and software information (TCP/IP addresses, node names, and network configuration) for Axon to provide the Channel Services;
 - 8.4.** Ensure all appropriate data backups are performed;
 - 8.5.** Provide Axon with remote access to the Agency's network and third-party systems when required for Axon to perform the Channel Services;
 - 8.6.** Notify Axon of any network or machine maintenance that may impact the performance of the Channel Services; and
 - 8.7.** Ensure the reasonable availability by phone or email of knowledgeable staff, personnel, system administrators, and operators to provide timely, accurate, complete, and up-to-date documentation and information to Axon (these contacts are to provide background information and clarification of information required to perform the Channel Services).

VIEVU Data Migration Appendix

1 **Scope.** Agency currently has legacy data in the VIEVU Solution from which Agency desires to move to Axon Evidence. Axon will work with Agency to copy legacy data from the VIEVU solution into Axon Evidence (“**Migration**”). Before Migration, Agency and Axon will work together to develop a Statement of Work (“**Migration SOW**”) to detail all deliverables and responsibilities. The Migration will require the availability of Agency resources. Such resources will be identified in the SOW. On-site support during Migration is not required. Upon Agency’s request, Axon will provide on-site support for an additional fee. Any request for on-site support will need to be pre-scheduled and is subject to Axon’s resource availability.

A small amount of unexposed data related to system information will not be migrated from the VIEVU solution to Axon Evidence. Upon request, some of this data can be manually exported before Migration and provided to Agency. The Migration SOW will provide further detail.

2 **Changes.** Axon is only responsible to perform the Services described in this Appendix and Migration SOW. Any additional services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in the charges or schedule.

3 **Project Management.** Axon will assign a Project Manager to work closely with Agency’s project manager and project team members and will be responsible for completing the tasks required to meet all contract deliverables on time and budget.

4 **Downtime.** There may be downtime during the Migration. The duration of the downtime will depend on the amount of data that Agency is migrating. Axon will work with Agency to minimize any downtime. Any VIEVU mobile application will need to be disabled upon Migration.

5 **Functionality Changes.** Due to device differences between the VIEVU solution and the Axon’s Axon Evidence solution, there may be functionality gaps that will not allow for all migrated data to be displayed the same way in the user interface after Migration

6 **Acceptance.** Once the Migration is complete, Axon will notify Agency and an acceptance form. Agency is responsible for verifying that the scope of the project has been completed and all necessary data is migrated correctly and retained per Agency policy. Agency will have 90 days to provide Axon acceptance that the Migration was successful, or Axon will deem the Migration accepted.

- 6.1.** In the event Agency does not accept the Migration, Agency agrees to notify the Axon within a reasonable time. Agency also agrees to allow Axon a reasonable time to resolve any issue.
- 6.2.** In the event Agency does not provide the Axon written rejection of the Migration during these 90 days, Agency may be charged for additional monthly storage costs.
- 6.3.** After Agency provides acceptance of the Migration, the Axon will delete all data from the VIEVU solution 90 days after the Migration.

7 **Post-Migration.** After Migration, the VIEVU solution may not be supported and updates may not be provided. Axon may end of life the VIEVU solution in the future. If Agency elects to maintain data

within the VIEVU solution, Axon will provide Agency 90 days' notice before ending support for the VIEVU solution.

- 8 **Warranty.** Axon warrants that it will perform the Migration in a good and workmanlike manner.
- 9 **Monitoring.** Axon may monitor Agency's use of Migration to ensure quality, improve Axon devices and services, prepare invoices based on the total amount of data migrated, and verify compliance with this Agreement. Agency agrees not to interfere with such monitoring or obscure from Axon Agency's use of Migration.

Axon Support Engineer Appendix

1 Axon Support Engineer Payment. Axon will invoice for Axon Support Engineer (“ASE”) services, as outlined in the Quote, when the Axon Support Engineer commences work on-site at Agency.

2 Full-Time ASE Scope of Services.

- 2.1.** A Full-Time ASE will work on-site four (4) days per week.
- 2.2.** Agency’s Axon sales representative and Axon’s Agency Success team will work with Agency to define its support needs and ensure the Full-Time ASE has skills to align with those needs. There may be up to a 6-month waiting period before the Full-Time ASE can work on-site, depending upon Agency’s needs and availability of a Full-Time ASE.
- 2.3.** The purchase of Full-Time ASE Services includes 2 complimentary Axon Accelerate tickets per year of the Agreement, so long as the ASE has started work at Agency, and Agency is current on all payments for the Full-Time ASE Service.

The Full-Time ASE Service options are listed below:

<p>Ongoing System Set-up and Configuration</p> <ul style="list-style-type: none"> • Assisting with assigning cameras and registering docks • Maintaining Agency’s Axon Evidence account • Connecting Agency to “Early Access” programs for new devices
<p>Account Maintenance</p> <ul style="list-style-type: none"> • Conducting on-site training on new features and devices for Agency leadership team(s) • Thoroughly documenting issues and workflows and suggesting new workflows to improve the effectiveness of the Axon program • Conducting weekly meetings to cover current issues and program status
<p>Data Analysis</p> <ul style="list-style-type: none"> • Providing on-demand Axon usage data to identify trends and insights for improving daily workflows • Comparing Agency’s Axon usage and trends to peers to establish best practices • Proactively monitoring the health of Axon equipment and coordinating returns when needed
<p>Direct Support</p> <ul style="list-style-type: none"> • Providing on-site, tier 1 and tier 2 technical support for Axon devices • Proactively monitoring the health of Axon equipment • Creating and monitoring RMAs on-site • Providing Axon app support • Monitoring and testing new firmware and workflows before they are released to Agency’s production environment
<p>Agency Advocacy</p> <ul style="list-style-type: none"> • Coordinating bi-annual voice of customer meetings with Axon’s Device Management team • Recording and tracking Agency feature requests and major bugs

3 Regional ASE Scope of Services

- 3.1.** A Regional ASE will work on-site for 3 consecutive days per quarter. Agency must schedule the on-site days at least 2 weeks in advance. The Regional ASE will also be available by phone and email during regular business hours up to 8 hours per week.
- 3.2.** There may be up to a 6-month waiting period before Axon assigns a Regional ASE to Agency, depending upon the availability of a Regional ASE.

- 3.3.** The purchase of Regional ASE Services includes 2 complimentary Axon Accelerate tickets per year of the Agreement, so long as the ASE has started work at Agency and Agency is current on all payments for the Regional ASE Service.

The Regional ASE service options are listed below:

<p>Account Maintenance</p> <ul style="list-style-type: none">• Conducting remote training on new features and devices for Agency's leadership• Thoroughly documenting issues and workflows and suggesting new workflows to improve the effectiveness of the Axon program• Conducting weekly conference calls to cover current issues and program status• Visiting Agency quarterly (up to 3 consecutive days) to perform a quarterly business review, discuss Agency's goals for your Axon program, and continue to ensure a successful deployment of Axon devices
<p>Direct Support</p> <ul style="list-style-type: none">• Providing remote, tier 1 and tier 2 technical support for Axon devices• Creating and monitoring RMAs remotely
<p>Data Analysis</p> <ul style="list-style-type: none">• Providing quarterly Axon usage data to identify trends and program efficiency opportunities• Comparing an Agency's Axon usage and trends to peers to establish best practices• Proactively monitoring the health of Axon equipment and coordinating returns when needed
<p>Agency Advocacy</p> <ul style="list-style-type: none">• Coordinating bi-yearly Voice of Agency meetings with Device Management team• Recording and tracking Agency feature requests and major bugs

- 4 Out of Scope Services.** The ASE is responsible to perform only the Services described in this Appendix. Any additional Services discussed or implied that are not defined explicitly in this Appendix will be considered out of the scope.
- 5 ASE Leave Time.** The ASE will be allowed up 7 days of sick leave and up to 15 days of vacation time per each calendar year. The ASE will work with Agency to coordinate any time off and will provide Agency with at least 2 weeks' notice before utilizing any vacation days.

Redaction Services Appendix

- 1 **Scope.** Each month of Axon Redaction Service, Agency may utilize up to the number of redacted videos included on the Quote, or the maximum number of hours, whichever comes first. In order to be considered one video, a video an Agency submits to Axon for redaction must be less than 1 hour. If a video is longer than 1 hour, it will be rounded up to the next hour. For example, if Agency submits a video for redaction and that video is 150 minutes, the video will be considered 3 hours. Agency may not rollover unused redactions and hours from one month to the next.

- 2 **Agency Responsibilities.**
 - 2.1. **Access.** Agency will create an account for Axon within Agency's Axon Evidence tenant. Agency must provision Axon to have only permission to view and redact videos identified for redaction. Upon completion of work or on a periodic basis in alignment with Agency's policy, Agency must manage or disable Axon's access within Agency's Axon Evidence tenant.
 - 2.2. **Policy.** Agency is responsible for providing Axon Agency's standard policy regarding redaction ("**Redaction Policy**"). The Redaction Policy should identify typical objects and audio that need to be redacted from video. Axon will redact videos per the Redaction Policy unless otherwise instructed in writing.

- 3 **Submission.** Agency will identify video for redaction and will submit requests to redactionservices@axon.com. Axon will redact the video according to the Redaction Policy within 72 hours. The redaction will be performed using Axon Evidence's Redaction Studio.

- 4 **Security.** Axon will use CJIS certified employees to perform all redaction services. Axon employees will perform all redactions in a CJIS compliant room.

- 5 **Acceptance of Redacted Video.** Upon completing the redaction, Axon will assign the redacted video to Agency. Agency will review the video within 5 business days of receipt and notify Axon of any required changes. If changes are necessary, Axon will perform such changes within 48 hours of notification. In the event Agency does not notify Axon of any requested changes within 5 business days of receipt of the redacted video, Axon will deem the redacted video accepted by Agency.

- 6 **Changes.** Axon is only responsible to perform the Services in this Appendix. Any additional Services are out of scope. The Parties must document scope changes in a written and signed change order. Changes may require an equitable adjustment in fees or schedule.



Axon Enterprise, Inc.'s TASER 7 Agreement

This TASER 7 Agreement ("**Agreement**") applies to Agency's TASER 7 purchase from Axon Enterprise, Inc. ("**Axon**"). Agency will receive TASER 7 Conducted Energy Weapon ("**CEW**") hardware, accessories, warranty, and services documented in the attached Quote Appendix ("**Quote**").

- 1** **Term.** The start date is based on the initial shipment of TASER 7 hardware ("**Start Date**"). If shipped in the first half of the month, the Start Date is the 1st of the following month. If shipped in the last half of the month, the Start Date is the 15th of the following month. The TASER 7 term will end upon completion of the associated TASER 7 subscription in the Quote ("**Term**"). If the Quote has multiple TASER 7 ship dates, each shipment will have a 60-month term, starting on the shipment of TASER 7 as described above.
- 2** **Unlimited Duty Cartridge Plan.** If the Quote includes "**Unlimited Duty Cartridge Plan**", this section applies. Agency must purchase an Unlimited Duty Cartridge Plan for each CEW user. A CEW user includes officers that use a CEW in the line of duty and ones that only use a CEW for training. Agency may not resell cartridges received under any TASER 7 plan. Axon will only replace cartridges used in the line of duty.
- 3** **Training.** If the Quote includes a training voucher, Agency must use the voucher within 1 year of issuance, or the voucher will be void. During the Term, Axon will issue Agency a voucher annually beginning on the Start Date. The voucher has no cash value. Agency cannot exchange it for another product or service. If the Quote includes Axon Online Training or Virtual Reality Content (collectively, "**Training Content**"), Agency may access Training Content during the Term. Axon will deliver all Training Content electronically. Unless stated in the Quote, the voucher does not include travel expenses and will be Agency's responsibility.
- 4** **Payment.** Unless specified in the Quote, Axon will invoice Agency on the Start Date and then on the Start Date anniversary during the Term, if annual payments are elected. Payment is due net 30 days from the invoice. Payment obligations are non-cancelable. Agency will pay invoices without setoff, deduction, or withholding. Unless Agency provides Axon a valid and correct tax exemption certificate applicable to the purchase and ship-to location, Agency is responsible for all taxes associated with the order.
- 5** **Shipping.** Axon may make partial shipments and ship from multiple locations. All shipments are FOB shipping point via common carrier. Title and risk of loss pass to Agency upon delivery to common carrier by Axon. Agency is responsible for any shipping charges in the Quote. Shipping dates are estimates only. If the Quote includes future deliveries of hardware, Axon will ship hardware to Agency's address on the Quote.
- 6** **Returns.** All sales are final and no refunds or exchanges are allowed, except for warranty returns or as provided by state or federal law.
- 7** **Hardware Limited Warranty.** Axon warrants that Axon-manufactured hardware is free from defects in workmanship and materials for 1 year from the date of Agency's receipt. Axon warrants its Axon-manufactured accessories for 90-days from the date of Agency's



Axon Enterprise, Inc.'s TASER 7 Agreement

receipt. Used CEW cartridges are deemed to have operated properly. Non-Axon manufactured Devices are not covered by Axon's warranty. Agency should contact the manufacturer for support of non-Axon manufactured Devices.

If Axon receives a valid warranty claim for Axon manufactured hardware during the warranty term, Axon's sole responsibility is to repair or replace the hardware with the same or like hardware, at Axon's option. Replacement hardware will be new or like new. Axon will warrant the replacement hardware for the longer of (a) the remaining warranty of the original hardware or (b) 90-days from the date of repair or replacement.

If the Quote includes an extended warranty, the extended warranty coverage begins on the Start Date and continues for the Term for the hardware covered by the extended warranty on the Quote.

If Agency exchanges hardware or a part, the replacement item becomes Agency's property, and the replaced item becomes Axon's property. Before delivering hardware for service, Agency must upload hardware data to Axon Evidence or download it and retain a copy. Axon is not responsible for any loss of software, data, or other information contained in storage media or any part of the hardware sent to Axon for service.

- 8** **Warranty Limitations.** Axon's warranty obligations exclude damage related to (a) failure to follow instructions on product's use; (b) products used with products not manufactured or recommended by Axon; (c) abuse, misuse, intentional, or deliberate damage to the product; (d) force majeure; (e) products repaired or modified by persons other than Axon without the written permission of Axon; or (f) products with a defaced or removed serial number.

To the extent permitted by law, the warranties and remedies set forth above are exclusive and Axon disclaims all other warranties, remedies, and conditions, whether oral or written, statutory, or implied, as permitted by applicable law. If statutory or implied warranties cannot be lawfully disclaimed, then all such warranties are limited to the duration of the express warranty described above and limited by the other provisions contained in this Agreement. Axon's cumulative liability to any party for any loss or damage resulting from any claims, demands, or actions arising out of or relating to any Axon product will not exceed the purchase price paid to Axon for the product or if for services, the amount paid for such services over the prior 12 months preceding the claim. In no event will either party be liable for any direct, special, indirect, incidental, exemplary, punitive or consequential damages, however caused, whether for breach of warranty, breach of contract, negligence, strict liability, tort or under any other legal theory.

- 9** **Spare Products.** Axon may provide Agency a fixed number of spares for TASER 7 hardware in the Quote ("**Spare Products**"). Spare Products will replace non-functioning units. If Agency uses a Spare Product, Agency must return non-functioning units to Axon, and Axon will repair or replace the non-functioning unit. If Agency does not return Spare Products to Axon within 30 days of termination of this Agreement, Axon will invoice Agency the MSRP then in effect for all unreturned Spare Products.



Axon Enterprise, Inc.'s TASER 7 Agreement

10 Trade-In. If a trade-in discount is on the Quote, Agency must return used hardware and accessories associated with the discount ("**Trade-In Units**") to Axon. Agency must ship batteries via ground shipping. Axon will pay the shipping costs of the return. If Axon does not receive Trade-In Units within the timeframe below, Axon will invoice Agency the value of the trade-in discount. Agency may not destroy Trade-In Units and receive a trade-in discount.

Agency Size	Days to Return from Start Date
Less than 100 officers	30 days
100 to 499 officers	90 days
500+ officers	180 days

11 Product Warnings. See www.axon.com/legal for the most current Axon product warnings.

12 Design Changes. Axon may make changes in the design of any of Axon's products and services without notifying Agency or making the same change to products and services previously purchased. Axon may replace end of life products with the next generation of that product without notifying Agency.

13 Termination. If payment for TASER 7 is more than 30 days past due, Axon may terminate Agency's TASER 7 plan by notifying Agency. Upon termination for any reason, then as of the date of termination:

13.1. TASER 7 extended warranties and access to Training Content will terminate. No refunds will be given.

13.2. Axon will invoice Agency the remaining MSRP for TASER 7 products received before termination. If terminating for non-appropriations, Axon will not invoice Agency if Agency returns the CEW, battery, holster, dock, core, training suits, and unused cartridges to Axon within 30 days of the date of termination.

13.3. Agency will be responsible for payment of any missed payments due to the termination before being allowed to purchase any future TASER 7 plan.

14 Delays. Axon will use reasonable efforts to deliver products and services as soon as practicable. If delivery is interrupted due to causes beyond Axon's control, Axon may delay or terminate delivery with notice.

15 Proprietary Information. Agency agrees Axon has and claims various proprietary rights in the hardware, firmware, software, and the integration of ancillary materials, knowledge, and designs that constitute Axon products and services. Agency will not directly or indirectly cause any proprietary rights to be violated.

16 Export Compliance. Each party will comply with all import and export control laws and regulations.

17 Assignment. Agency may not assign or transfer this Agreement without Axon's prior written approval.



Axon Enterprise, Inc.'s TASER 7 Agreement

- 18 **Governing Law; Venue.** The laws of the state where Agency is physically located, without reference to conflict of law rules, govern this Agreement and any dispute that might arise between the parties. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

- 19 **Entire Agreement.** This Agreement, including the appendices, represents the entire agreement between the Parties. This Agreement supersedes all prior agreements or understandings, whether written or verbal, regarding the subject matter of this Agreement. This Agreement may only be modified or amended in a writing signed by the Parties. If a court of competent jurisdiction holds any portion of this Agreement invalid or unenforceable, the remaining portions of this Agreement will remain in effect.

Each representative identified below declares they have been expressly authorized to execute this Agreement as of the date of signature.

Axon Enterprise, Inc.**Agency**

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



Axon Enterprise, Inc.'s TASER 7 Agreement

TASER 7 Evidence.com Terms of Use Appendix

1 **Definitions.**

"Agency Content" is data uploaded into, ingested by, or created in Axon Evidence within Agency's tenant, including media or multimedia uploaded into Axon Evidence by Agency. Agency Content includes Evidence but excludes Non-Content Data.

"Evidence" is media or multimedia uploaded into Axon Evidence as 'evidence' by an Agency. Evidence is a subset of Agency Content.

"Non-Content Data" is data, configuration, and usage information about Agency's Axon Evidence tenant, Axon Devices and client software, and users that is transmitted or generated when using Axon Devices. Non-Content Data includes data about users captured during account management and customer support activities. Non-Content Data does not include Agency Content.

2 **Subscription Term.** The TASER 7 Axon Evidence Subscription Term begins on the Start Date.

3 **Access Rights.** Upon Axon granting Agency a TASER 7 Axon Evidence subscription, Agency may access and use Axon Evidence for the storage and management of data from TASER 7 CEW devices during the TASER 7 Axon Evidence Subscription Term. Agency may not upload any non-TASER 7 data or any other files to Axon Evidence. Agency may not exceed the number of end-users than the Quote specifies.

4 **Agency Owns Agency Content.** Agency controls and owns all right, title, and interest in Agency Content. Except as outlined herein, Axon obtains no interest in Agency Content, and Agency Content are not business records of Axon. Agency is solely responsible for uploading, sharing, managing, and deleting Agency Content. Axon will have limited access to Agency Content solely for providing and supporting Axon Evidence to Agency and Agency end-users.

5 **Security.** Axon will implement commercially reasonable and appropriate measures to secure Agency Content against accidental or unlawful loss, access, or disclosure. Axon will maintain a comprehensive information security program to protect Axon Evidence and Agency Content including logical, physical access, vulnerability, risk, and configuration management; incident monitoring and response; encryption of uploaded digital evidence; security education; and data protection. Axon agrees to the Federal Bureau of Investigation Criminal Justice Information Services Security Addendum.

6 **Agency Responsibilities.** Agency is responsible for (a) ensuring Agency users comply with this Agreement; (b) ensuring Agency owns Agency Content and no Agency Content or Agency end user's use of Agency Content or Axon Evidence violates this Agreement or applicable laws; and (c) maintaining necessary computer equipment and Internet connections for use of Axon Evidence. If Agency becomes aware of any violation of this Agreement by an end-user, Agency will immediately terminate that end user's access to Axon Evidence.



Axon Enterprise, Inc.'s TASER 7 Agreement

Agency is also responsible for maintaining the security of end-user names and passwords and taking steps to maintain appropriate security and access by end-users to Agency Content. Login credentials are for Agency internal use only and Agency may not sell, transfer, or sublicense them to any other entity or person. Agency may download the audit log at any time. Agency shall contact Axon immediately if an unauthorized third party may be using Agency's account or Agency Content or if account information is lost or stolen.

- 7 **Privacy.** Axon will not disclose Agency Content or any information about Agency except as compelled by a court or administrative body or required by any law or regulation. Axon will give notice if any disclosure request is received for Agency Content so Agency may file an objection with the court or administrative body. Agency acknowledges and agrees that Axon may access Agency Content in order to: (a) perform troubleshooting services upon request or as part of Axon's maintenance or diagnostic screenings; (b) enforce this Agreement or policies governing use of Axon Evidence Services; (c) generate aggregated data, excluding information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual (collectively, "PII"), to improve, analyze, support, and operate Axon's current and future products and services.
- 8 **Storage.** Axon may place Agency Content that Agency has not viewed or accessed for 6 months into archival storage. Agency Content in archival storage will not have immediate availability and may take up to 24 hours to access.
- 9 **Location of Data Storage.** Axon may transfer Agency Content to third party subcontractors for storage. Axon will determine the locations of data centers where Agency Content will be stored. For United States agencies, Axon will ensure all Agency Content stored in Axon Evidence remains within the United States. Ownership of Agency Content remains with Agency.
- 10 **Suspension.** Axon may suspend Agency access or any end-user's right to access or use any portion or of Axon Evidence immediately upon notice, if:
- 10.1. The Termination provisions of the TASER 7 Terms and Conditions apply;
 - 10.2. Agency or an end-user's use of or registration for Axon Evidence (i) poses a security risk to Axon Evidence or any third party, (ii) may adversely impact Axon Evidence or the systems or content of any other customer, (iii) may subject Axon, Axon's affiliates, or any third party to liability, or (iv) may be fraudulent;

Agency remains responsible for all fees incurred through the date of suspension without any credits for any period of suspension. Axon will not delete any of Agency Content on Axon Evidence due to suspension, except as specified elsewhere in this Agreement.

- 11 **Axon Evidence Warranty.** Axon warrants that Axon Evidence will not infringe or misappropriate any patent, copyright, trademark, or trade secret rights of any third party. Axon disclaims any warranties or responsibility for data corruption or errors before the data is uploaded to Axon Evidence.



Axon Enterprise, Inc.'s TASER 7 Agreement

- 12 **Axon Evidence Restrictions.** All Axon Evidence subscriptions will immediately terminate if Agency does not comply with any term of this Agreement. Agency and Agency end-users (including employees, contractors, agents, officers, volunteers, and directors), may not, or may not attempt to:
- 12.1. copy, modify, tamper with, repair, or create derivative works of any part of Axon Evidence;
 - 12.2. reverse engineer, disassemble, or decompile Axon Evidence or apply any other process to derive any source code included in Axon Evidence, or allow any others to do the same;
 - 12.3. access or use Axon Evidence with the intent to gain unauthorized access, avoid incurring fees or exceeding usage limits or quotas;
 - 12.4. use trade secret information contained in Axon Evidence, except as expressly permitted in this Agreement;
 - 12.5. access Axon Evidence to build a competitive product or service or copy any features, functions, or graphics of Axon Evidence;
 - 12.6. remove, alter, or obscure any confidentiality or proprietary rights notices (including copyright and trademark notices) of Axon's or Axon's licensors on or within Axon Evidence; or
 - 12.7. use Axon Evidence to store or transmit infringing, libelous, or otherwise unlawful or tortious material, to store or transmit material in violation of third-party privacy rights, or to store or transmit malicious code.
- 13 **After Termination.** Axon will not delete Agency Content for 90 days following termination. During these 90 days, Agency may retrieve Agency Content only if all amounts due have been paid. There will be no application functionality of Axon Evidence during these 90 days other than the ability to retrieve Agency Content. Agency will not incur any additional fees if Agency Content is downloaded from Axon Evidence during these 90 days. Axon has no obligation to maintain or provide any Agency Content after these 90 days and will thereafter, unless legally prohibited delete all of Agency Content stored in Axon Evidence. Upon request, Axon will provide written proof that all Agency Content has been successfully deleted and fully removed from Axon Evidence.
- 14 **Post-Termination Assistance.** Axon will provide Agency with the same post-termination data retrieval assistance that Axon generally makes available to all customers. Requests for Axon to provide additional assistance in downloading or transferring Agency Content, including requests for Axon's Data Egress Services, will result in additional fees and Axon will not warrant or guarantee data integrity or readability in the external system.
- 15 **U.S. Government Rights.** If Agency is a U.S. Federal department or using Axon Evidence on behalf of U.S. Federal department, Axon Evidence is provided as a "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data," as defined in the Federal Acquisition Regulation and Defense Federal Acquisition Regulation Supplement. If Agency is using Axon Evidence on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, Agency will immediately discontinue the use of Axon Evidence.



Axon Enterprise, Inc.'s TASER 7 Agreement

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- 16 **Survival.** Upon any termination of this Agreement, the following sections will survive: Agency Owns Agency Content, Storage, Axon Evidence Warranty, and Axon Evidence Restrictions.



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/18/2020

ITEM NO: 6

DATE: February 4, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with Elevator Service Company of Central California, Inc. to Provide Additional Compensation for Unanticipated Repairs and Services in an Amount of \$14,380, for a Total Agreement Amount Not to Exceed \$59,080.

RECOMMENDATION:

Authorize the Town Manager to execute a first amendment to the Agreement for Services (Attachment 1) with Elevator Service Company of Central California, Inc. to provide additional compensation for unanticipated repairs, services, and testing in an amount of \$14,380, for a total agreement amount not to exceed \$59,080.

BACKGROUND:

The Town of Los Gatos utilizes contractual elevator maintenance services for Town-owned facilities. Staff reviews these maintenance contracts regularly to ensure that the services provided are being performed satisfactorily, are competitively priced, and meet the Town's expectations and contract terms. Staff has determined that contractual elevator services are the most effective service delivery method for this component of building maintenance due to the high level of responsiveness required and the specialized expertise needed.

In June of 2018, staff solicited quotes for contract elevator services at three main municipal facilities, including emergency and after-hours response and repair. Firms were asked to provide routine preventive maintenance of the five elevators in Town facilities, and to provide unforeseen repairs and services.

PREPARED BY: Jim Harbin
Superintendent

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

PAGE 2 OF 3

SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with Elevator Service Company of Central California, Inc. to Provide Additional Compensation for Unanticipated Repairs and Services in an Amount of \$14,380, for a Total Agreement Amount Not to Exceed \$59,080

DATE: February 4, 2020

BACKGROUND (continued):

Three local vendors were solicited for competitive quotes. ThyssenKrupp and Transbay declined to submit quotes due to the two traction elevators in the Library which are California State exempted systems without machine rooms. Elevator Service Company of Central California submitted a fair proposal and is the Town's current vendor.

The approved budget for Fiscal Year 2019/20 includes funding for elevator services at the Civic Center, Library, and the Adult Recreation Center.

DISCUSSION:

The State of California requires annual testing for load and relief of elevator hydraulic systems but has historically performed these tests once every two years due to a lack of staffing to complete the process each year. The State has recently increased the number of inspectors now performing these tests and annual testing of all elevators is expected to resume this year. These rigorous tests tend to magnify potential hydraulic failures in the system. With the increase in testing costs and the increased potential for additional repairs, the previous contingency for unanticipated repairs and services will not be sufficient.

CONCLUSION:

Authorize the Town Manager to execute a first amendment to the Agreement for Services with Elevator Service Company of Central California, Inc. to provide additional compensation for unanticipated repairs, services, and testing in an amount of \$14,380, for a total agreement amount not to exceed \$59,080.

FISCAL IMPACT:

Funding for the first year of the agreement is included in the Adopted FY 2019/20 Parks and Public Works Facilities Maintenance Budget. Execution of any options to continue the service in subsequent years will be contingent upon staff evaluation of the quality of the services provided, as well as the Town Council's appropriation of funding through the budget process in subsequent fiscal years.

ENVIRONMENTAL ASSESSMENT:

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

PAGE 3 OF 3

SUBJECT: Authorize the Town Manager to Execute a First Amendment to the Agreement for Services with Elevator Service Company of Central California, Inc. to Provide Additional Compensation for Unanticipated Repairs and Services in an Amount of \$14,380, for a Total Agreement Amount Not to Exceed \$59,080

DATE: February 4, 2020

Attachment:

1. Draft First Amendment to Agreement for Services

FIRST AMENDMENT TO AGREEMENT FOR SERVICES

This FIRST AMENDMENT TO AGREEMENT is dated for identification this 18th day of February 2020 and amends that certain agreement for Agreement for Services dated July 1, 2018, made by and between the Town of Los Gatos, ("Town,") and Elevator Service Company of Central CA, Inc. ("Service Provider").

RECITALS

- A. Town and Service Provider entered into an Agreement for Services on July 1, 2018, ("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 for Services to increase compensation for the Scope of Services.

AMENDMENT

1. 2.6 Compensation is amended as described below:

Original Agreement

	Preventative	Unforeseen
FY2018/19:	\$825 x 12 months (\$9,900) +	\$5,000 annually = \$14,900
FY2019/20:	\$825 x 12 months (\$9,900) +	\$5,000 annually = \$14,900
FY2020/21:	\$825 x 12 months (\$9,900) +	\$5,000 annually = \$14,900

Total agreement not to exceed \$44,700

Effective March 1, 2020:

First Amendment to Agreement

	Preventative	Unforeseen
FY2018/19:	\$825 x 12 months (\$9,900) +	\$5,000 annually = \$14,900
FY2019/20:	\$825 x 12 months (\$9,900) +	\$12,190 annually = \$22,090
FY2020/21:	\$825 x 12 months (\$9,900) +	\$12, 190 annually = \$22,090

Total agreement not to exceed \$59,080

Compensation for year two shall not exceed \$22,090. Compensation for future years will be the base cost of \$22,090 and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year. If the CPI indicates a downward adjustment, compensation would remain at the base amount. Payment shall be based upon Town approval of each task.

2. All other terms and conditions of the Agreement remain in full force and effect.

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

Town of Los Gatos

Service Provider by:

By: _____
Laurel Prevetti, Town Manager

Department Approval:

Name/Title

Matt Morley
Director of Parks and Public Works

Approved as to Form:

Attest:

Robert Schultz, Town Attorney

Shelley Neis, MMC, Town Clerk

AGREEMENT FOR SERVICES

THIS AGREEMENT is dated for identification this 1st of July 2018, and is made by and between TOWN OF LOS GATOS, a California municipal corporation, ("Town") and Elevator Service Company of Central California, Inc. ("Service Provider"), whose address is 2636 S. Rodeo Gulch Road B, Soquel, CA 95073. This Agreement is made with reference to the following facts.

I. RECITALS

- 1.1 Town sought quotations for the services described in this Agreement, and Service Provider was found to be the lowest responsible supplier for this purchase.
- 1.2 Service Provider represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- 1.3 Town desires to engage Service Provider to provide Traction and Hydraulic Elevator Lubrication and Inspection services.
- 1.4 Service Provider warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Service Provider acknowledges Town has relied upon these warranties to retain Service Provider.

II. AGREEMENT

- 2.1 Scope of Services. Service Provider shall provide services as described in that certain Proposal sent to the Town on June 28, 2018, which is hereby incorporated by reference and attached as Exhibit A.
- 2.2 Term and Time of Performance. The effective date of this Agreement shall begin on July 1, 2018 and will continue through June 30, 2021, subject to appropriation of funds, notwithstanding any other provision in this agreement.
- 2.3 Compliance with Laws. The Service Provider shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Service Provider represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Service Provider to practice its profession. Service Provider shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 2.4 Sole Responsibility. Service Provider shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- 2.5 Information/Report Handling. All documents furnished to Service Provider by the Town and all reports and supportive data prepared by the Service Provider under this Agreement are the Town's property and shall be delivered to the Town upon the completion of services or at the

Town's written request. All reports, information, data, and exhibits prepared or assembled by Service Provider in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Service Provider shall not make any of these documents or information available to any individual or organization not employed by the Service Provider or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Service Provider pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Service Provider in connection with other projects shall be solely at Town's risk, unless Service Provider expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Service Provider which is and has been confirmed in writing by Service Provider to be a trade secret of Service Provider.

2.6 Compensation:

Preventative maintenance – shall not exceed \$9,900 annually (\$825/month). ✓

Unanticipated maintenance – shall not exceed \$5,000 annually. ✓

Compensation for year one shall not exceed \$14,900. ✓ Compensation for future years will be the base cost of \$14,900 and shall be adjusted upward annually for the remaining term of this agreement by the change, if any, in the San Francisco-Oakland-San Jose Metropolitan Area Consumer Price Index for All Urban Consumers, all items (CPI). The adjustment shall be based upon the CPI published on December 31 of the preceding year. If the CPI indicates a downward adjustment, compensation would remain at the base amount. Payment shall be based upon Town approval of each task.

2.7 Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days. All invoices and statements to the Town shall be addressed as follows:

Invoices:
Town of Los Gatos
Attn: Accounts Payable
P.O. Box 655
Los Gatos, CA 95031-0655

2.8 Availability of Records. Service Provider shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Service Provider shall make these records available to authorized personnel of the Town at the Service Provider offices during business hours upon written request of the Town.

- 2.9 Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Service Provider. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- 2.10 Independent Contractor. It is understood that the Service Provider, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Service Provider 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. Service Provider agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Service Provider 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 Service Provider or is based on allegations of Service Provider's negligent performance or wrongdoing.
- 2.11 Conflict of Interest. Service Provider understands that its professional responsibilities are solely to the Town. The Service Provider has and shall not obtain any holding or interest within the Town of Los Gatos. Service Provider has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Service Provider warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Service Provider shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement. If after employment of a person Service Provider discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement Service Provider shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.
- 2.12 Equal Employment Opportunity. Service Provider warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Service Provider nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

III. INSURANCE AND INDEMNIFICATION

3.1 Minimum Scope of Insurance:

- i. Service Provider agrees to have and maintain, for the duration of the contract, General 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. Service Provider 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.
- iii. Service Provider shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Service Provider agrees that all certificates and endorsements are to be received and approved by the Town before work commences.

General Liability:

- i. The Town, 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 Service Provider; products and completed operations of Service Provider, premises owned or used by the Service Provider.
- ii. The Service Provider's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Service Provider'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 Town, its officers, officials, employees or volunteers.
- iv. The Service Provider'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.

3.2 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 Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.

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

- 3.4 Indemnification. The Service Provider shall save, keep, hold harmless and indemnify and defend the Town its officers, agent, employees and volunteers from all damages, 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 or omissions of the Service Provider, or any of the Service Provider's officers, employees, or agents or any subcontractor.

IV. GENERAL TERMS

- 4.1 Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- 4.2 Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- 4.3 Termination of Agreement. The Town and the Service Provider shall have the right to terminate this agreement with or without cause by giving not less than fifteen days (15) written notice of termination. In the event of termination, the Service Provider shall deliver to the Town all plans, files, documents, reports, performed to date by the Service Provider. In the event of such termination, Town shall pay Service Provider an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.
- 4.4 Prevailing Wages. In accordance with the provisions of Sections 1770 et seq., of the Labor Code, the Director of the Industrial Relations of the State of California has determined the general prevailing rate of wages applicable to the work to be done. Service Provider will be required to pay to all persons employed on the project by the Service Provider sums not less than the sums set forth in the documents entitled "General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code, part 7, Chapter 1, Article 2, Sections 1770, 1773, 1773.1." These documents may be obtained from the State of California.

Pursuant to Labor Code section 1725.5, no contractor or subcontractor may be awarded a contract for public works on a public works project unless registered with the Department of Industrial Relations.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations and/or the Town of Los Gatos.

The Contractor is required to post notices on Public Works requirements.

- 4.5 Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Service Provider.
- 4.6 Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
- 4.7 Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos
Attn: Town Clerk
110 E. Main Street
Los Gatos, CA 95030

Elevator Service Co. of Central CA, Inc.
2636 S. Rodeo Gulch Road B
Soquel, CA 95073

or personally delivered to Service Provider to such address or such other address as Service Provider designates in writing to Town.

- 4.8 Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.
- 4.9 Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Service Provider. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

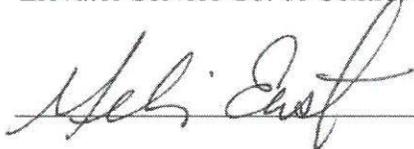
IN WITNESS WHEREOF, the Town and Service Provider have executed this Agreement.

Town of Los Gatos by:

Elevator Service Co. of Central CA, Inc., by:



Laurel Prevetti, Town Manager

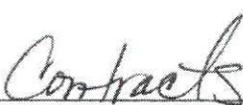


Mel East

Recommended by:



Matt Morley, Director of Parks and Public Works



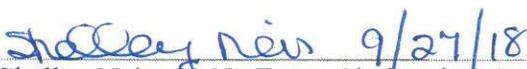
Title

Approved as to Form:



Robert Schultz, Town Attorney

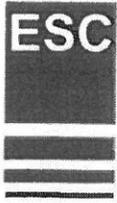
Attest:



Shelley Neis, CMC, Town Clerk Administrator

ELEVATOR SERVICE CO. OF CENTRAL CALIFORNIA, INC.

2636 S. RODEO GULCH RD. SOQUEL CA 95131 LIC 390181



TRACTION AND HYDRAULIC ELEVATOR LUBRICATION & INSPECTION AGREEMENT

DATED: June 28, 2018

TO: Town of Los Gatos
Parks and Public Works Department
41 Miles Avenue
Los Gatos, CA 95030

Attn: Jim Harbin

WE PROPOSE to Lubricate and Inspect on the following described equipment:

Two (3) Oil Hydraulic Passenger Elevators, One (1) Dumbwaiter and Two (2) Traction Passenger Elevators

AT: (2) Tractions	(2) Hydraulic Elevator, (1) Dumbwaiter	(1) Hydraulic Elevator
100 Villa Ave.	110 E. Main St.	208 Main St.
Los Gatos, CA	Los Gatos, CA	Los Gatos, CA

ESCCC and Purchaser, in consideration of the terms set forth herein, agree as follows:

CONTRACT PRICE:

Eight Hundred Twenty-Five Dollars and 00/100 cents (\$825.00) per month

UNDER THIS AGREEMENT

We will maintain the equipment herein described on the following terms and conditions:

WE WILL USE:

Trained personnel directly employed and supervised by us.

WE WILL:

Regularly examine and lubricate as requires; bearing; hydraulic and traction machines, selectors, governors, tension frame sheaves, signal devices, interlocks and controller. We will also examine and lubricate as required car and counterweight guide rails and make necessary minor adjustments, not requiring disassembly of the unit, at the time of our regular examination. We will furnish the necessary oils and greases, with the exception of hydraulic transmission fluid. Perform monthly fire recall test and logs.

NO WORK:

Parts or supplies, except those specified herein, will be furnished under this agreement. All work is to be performed during regular working hours of regular working days of the elevator trade. In the event that call back service, parts replacement or repairs should be required, you will be billed for labor and material at our regular billing rate.

IT IS AGREED:

In consideration of our performance of the service enumerated herein at the price stated, that nothing shall be construed to mean that we assume any liability on account of accidents or injury to persons or property, except those directly due to our negligent acts or omissions or those of our employees; and that

ELEVATOR SERVICE CO. OF CENTRAL CALIFORNIA, INC.

2636 S. RODEO GULCH RD. SOQUEL CA 831-475-9181 LIC 390181

your own responsibility for accidents or injuries to persons or property related to the subject equipment is in no way affected by this agreement.

We shall not be liable for any loss, damage or delay due to any cause beyond our reasonable control including, but not limited to acts of government, strikes, lockouts, fire, explosion, theft, floods, earthquake, riot, civil commotion, war, malicious mischief, misuse, or acts of nature.

YOU AGREE:

To give us written notice within twenty-four hours of any accident, alteration or change affecting the equipment and of any change of ownership;

To immediately discontinue the equipment from service when the equipment becomes unsafe or operates in a manner which might cause injury to a user;

To maintain surveillance of the equipment for such purpose.

HOURS OF SERVICE:

All work covered under this Agreement is to be performed during the regular working hours of regular working days of the elevator trade, unless otherwise indicated herein.

TERM:

The service specified will be furnished from the effective date stated herein, and shall continue for an initial, non-cancelable term of ONE (1) year thereafter. Either party may terminate this Agreement either at the end of the initial ONE (1) year term or at the end of any subsequent ONE (1) year term by giving the other party ninety (90) days written notice, via certified mail, prior to the expiration date of the Agreement, the expiration date being ONE (1) year from the effective date of this Agreement or ONE (1) year from the effective date of any subsequent renewal term.

RWS
~~Premature cancellation of this Agreement or delayed notice of termination shall constitute a material breach of contract and the entire remaining amount of the contract will accelerate and become due to ESCCC as liquidated damages. In the event of the sale, lease or other transfer of the ownership of the equipment described herein, or the premises in which it is located, Purchaser will provide ESCCC with thirty (30) days written notice of this transaction and Purchaser will notify the new Purchaser of the existence of this Agreement and provide ESCCC with the new Purchaser's complete contract information.~~

ESCCC may, at its sole discretion, temporarily suspend upon written notice or terminate entirely upon thirty (30) days written notice this Agreement at any time due to the Purchaser's breach of contract. In the event of circumstances presenting a safety hazard to the riding public or ESCCC's technicians (including, but not limited to, Purchaser's act of creating or allowing unsafe practices or conditions or Purchaser's failure to authorize necessary repairs or upgrades), ESCCC may immediately terminate this Agreement in its entirety upon written notice.

PRICE ADJUSTMENTS:

The price will be adjusted annually on January 1 of each year of the Agreement. The payment adjustment will reflect the increase or decrease in labor costs.

Current Hourly Rate: \$325.00 As of January 2018

LABOR:

100% of the current price will be increased or decreased by the percent increase or decrease in the straight time hourly labor cost. The straight time labor cost is the sum of the straight time hourly rate plus the cost of fringe benefits (including but not limited to welfare, pension, vacations, paid holidays, insurance, and other union contributions) paid to elevator examiners in the locality the equipment is maintained.

ESCCC:

Reserves the right to additionally adjust the contract price under extraordinary circumstances if the cost of fuel (based on the Producer Price Index of Commodities for Gasoline), insurance or other administrative expenses increase.

ELEVATOR SERVICE CO. OF CENTRAL CALIFORNIA, INC.

2636 S. RODEO GULCH RD. SOQUEL CA 95076 831-475-9181 LIC 390181

PAYMENT TERMS:

Russ

Payments are due within ten (10) days of date of invoice. A delinquent payment charge of 1½ % per month, or if such rate is usurious then at the maximum rate under applicable law, shall be applied to delinquent payments. In the event of default of the payment terms, Purchaser agrees to pay the defaulted amount, all attorney fees, collection, and court costs. Failure to pay any sum due by Purchaser within sixty (60) days will be a material breach. ESCCC may declare all sums due or to become due for the unexpired term immediately due and payable as liquidated damages, and until the same are paid, ESCCC may suspend service, and be discharged from further obligations under the contract. If ESCCC exercises its right to suspend service, ESCCC shall not be responsible for injury or damage resulting from the lack of service. When service is resumed, Purchaser will be responsible for any costs ESCCC incurs as a result of the lapse in service, including inspection and repairs.

These payment terms shall also be applicable to any charges for work outside the scope of this Agreement.

THIS SERVICE SHALL COMMENCE on the _____ day of _____ 2018.

PURCHASER:

Elevator Service Co. of Central California, Inc.:

Accepted in Duplicate:

By: _____ 20_____

By:

Melissa Eastman

Melissa Eastman / Contract Specialist

Title

Approved:

By: _____



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 2/18/2020

ITEM NO: 7

DATE: February 13, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive the Second Quarter Investment Report (October through December 2019) for Fiscal Year 2019/20.

RECOMMENDATION:

Receive the Second Quarter Investment Report (October through December 2019) for Fiscal Year 2019/20.

DISCUSSION:

As of December 31, 2019, the Town's weighted portfolio yield was 1.93% which trended below the Local Agency Investment Fund (LAIF) yield of 2.04%. This small yield differential was primarily due to the LAIF portfolio's weighted average maturity (WAM) of 173 days and the Town's WAM of 641 days. In recent months, staff in consultation with the Town's investment advisor have been extending maturities to capture higher yields currently associated with longer dated securities. Staff continues to replace matured or called investments with similar investments with respect to maturity and credit quality. For the second quarter, the Town's weighted average rate of return decreased by 9 basis points (0.09%) from 2.02% to 1.93%.

During the quarter ending December 31, 2019, the Federal Reserve Open Market Committee (FOMC) lowered interest rates 25 basis points, targeting a federal funds rate of 1.5% to 1.75%. For the calendar year, the FOMC lowered rates 25 basis points three consecutive times. At the conclusion of the final FOMC meeting for 2019, Federal Reserve Chairman Powell stated, "Our economic outlook remains a favorable one despite global developments and ongoing risks." In addition, Chairman Powell stated, "As long as incoming information about the economy remains broadly consistent with this outlook, the current stance of monetary policy likely will remain appropriate." Therefore, indicating that no further rate reductions would be necessary for the foreseeable future. This recent Federal action is consistent with staff's strategy to extend maturity lengths on new purchases of securities to take advantage of higher yielding securities in the 2 to 3-year maturity range.

PREPARED BY: Stephen Conway
Finance Director

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

PAGE 2 OF 2

SUBJECT: Receive the First Quarter Investment Report (October through December 2019)
for Fiscal Year 2019/20

DATE: February 18, 2020

CONCLUSION:

Staff recommends that the Town Council receive the Second Quarter Investment Report (October through December 2019) for Fiscal Year 2019/20.

Attachment:

1. Second Quarter Investment Report for FY 2019/20 (October through December 2019)

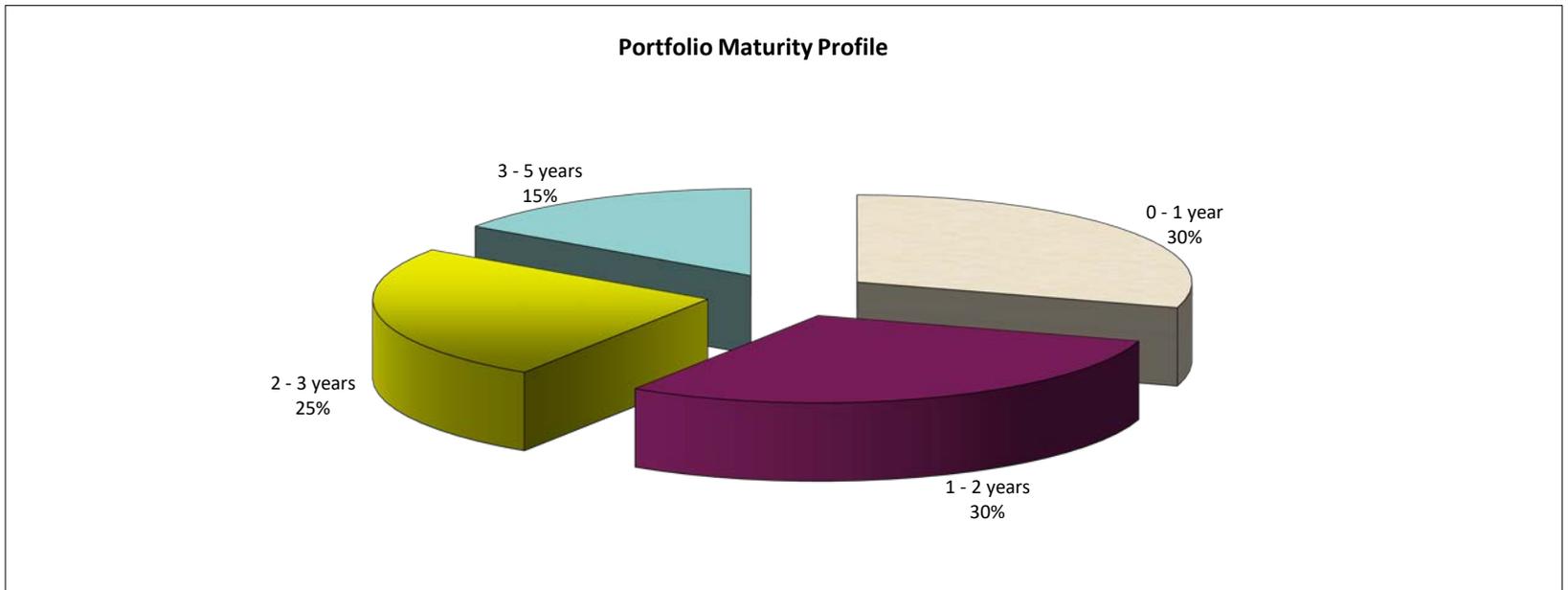
**Town of Los Gatos
Summary Investment Information
October 31, 2019**

Weighted Average YTM Portfolio Yield: 1.96% **Weighted Average Maturity (days) 565**

	<u>This Month</u>	<u>Last Month</u>	<u>One year ago</u>
Portfolio Balance	\$61,880,644	\$61,720,311	\$63,177,701

Benchmarks/ References:

Town's Average Yield	1.96%	2.02%	1.91%
LAIF Yield for month	2.19%	2.28%	2.14%
3 mo. Treasury	1.55%	1.82%	2.33%
6 mo. Treasury	1.56%	1.82%	2.49%
2 yr. Treasury	1.53%	1.62%	2.87%
5 yr. Treasury (most recent)	1.55%	1.55%	2.98%
10 Yr. Treasury	1.52%	1.67%	3.14%

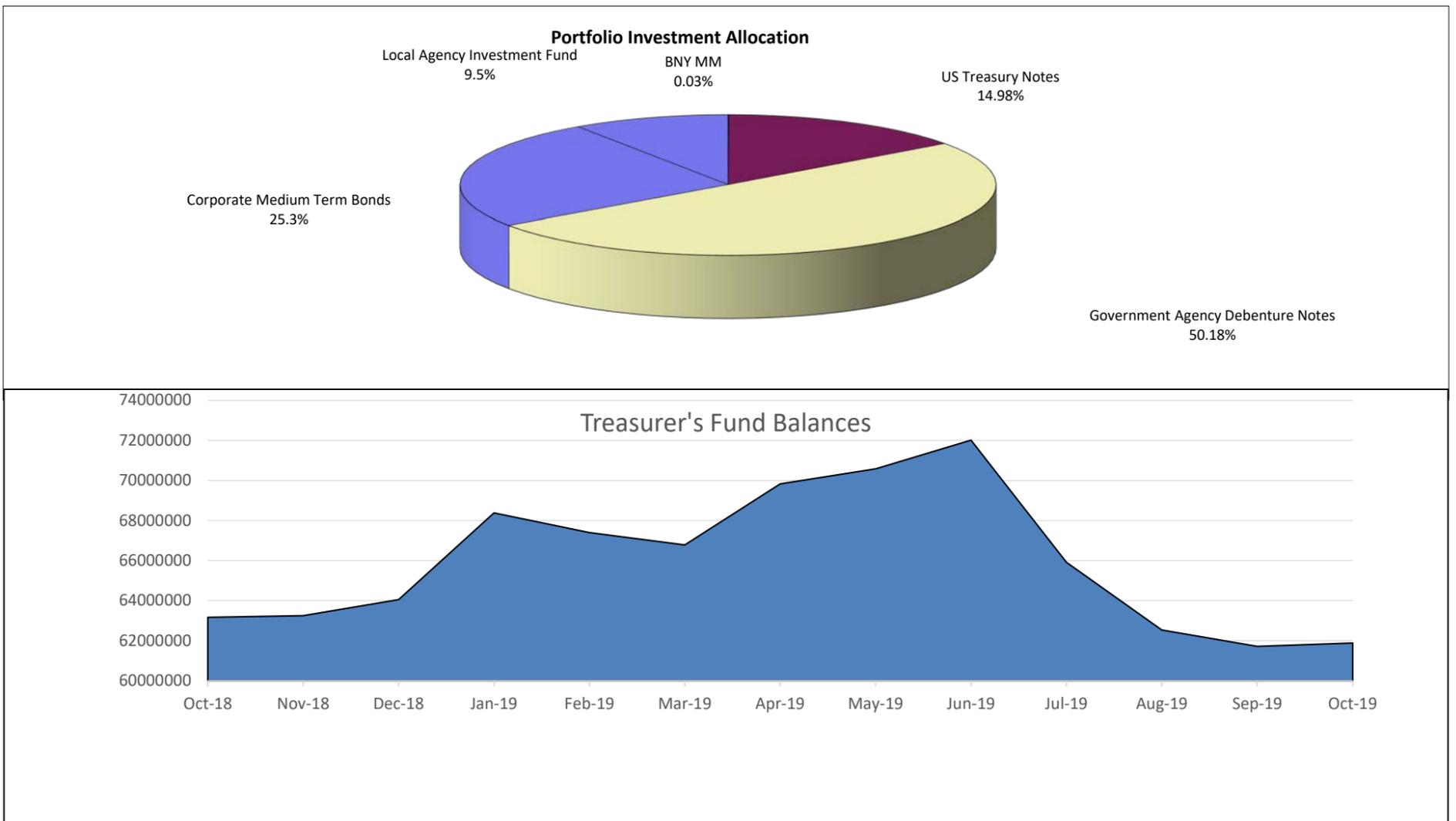


Compliance: The Town's investments are in compliance with the Town's investment policy dated September 3, 2019 and also in compliance with the requirements of Section 53601 of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
October 31, 2019

	<u>Month</u>	<u>YTD</u>
Fund Balances - Beginning of Month/Period	\$61,720,310.78	\$72,013,633.77
Receipts	3,396,915.31	10,729,899.58
Disbursements	<u>(3,236,582.17)</u>	<u>(20,862,889.43)</u>
Fund Balances - End of Month/Period	<u>\$61,880,643.92</u>	<u>\$61,880,643.92</u>

<u>Portfolio Allocation:</u>	<u>% of Portfolio</u>	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$18,747.70	0.03%
US Treasury Notes	\$8,704,663.07	14.98%
Government Agency Debenture Notes	\$29,167,086.42	50.18%
Corporate Medium Term Bonds	\$14,723,289.50	25.33%
Local Agency Investment Fund	<u>5,506,169.91</u>	9.47%
Subtotal - Investments	58,119,956.60	100.00%
Reconciled Demand Deposit Balances	<u>3,760,687.32</u>	
 Total Treasurer's Fund	 <u>\$61,880,643.92</u>	



Town of Los Gatos
Non-Treasury Restricted Fund Balances
October 31, 2019

	Beginning Balance	OCT 19 Deposits Realized Gain/Adj.	OCT 19 Interest/ Earnings	OCT 19 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	\$ 691,403.19		\$ 886.55	\$ -	\$ 692,289.74	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	591.13		0.90		592.03	Note 1
Cert. of Participation 2002 Lease Payment Fund	243.08		0.31		243.39	Note 1
Cert. of Participation 2010 Series Reserve Fund	1,286,340.75		1,979.25	0.00	1,288,320.00	Note 2
Total Restricted Funds:	<u>\$ 1,978,578.15</u>	<u>\$0.00</u>	<u>\$2,867.01</u>	<u>\$0.00</u>	<u>\$1,981,445.16</u>	
PARS IRS Section 115 Trust	<u>\$ 5,057,150.96</u>	<u>\$ -</u>	<u>\$ (7,367.76)</u>	<u>\$ 4,755,018.57</u>	<u>\$ 294,764.63</u>	Note 3
Grand Total COP's and PARS Trust	<u>\$ 7,035,729.11</u>	<u>\$ -</u>	<u>\$ (4,500.75)</u>	<u>\$ 4,755,018.57</u>	<u>\$ 2,276,209.79</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 PARS 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 p

**Town of Los Gatos
Statement of Interest Earned
October 31, 2019**

Interest by Month

July 2019	\$103,310.93
August 2019	101,993.86
September 2019	99,668.91
October 2019	100,474.14
November 2019	
December 2019	
January 2020	
February 2020	
March 2020	
April 2020	
May 2020	
June 2020	
	<hr/>
	<u>\$405,447.84</u>

Town of Los Gatos Investment Schedule October 2019

<u>Institution</u>	<u>CUSIP #</u>	<u>Security</u>	<u>Deposit Date</u>	<u>Par Value</u>	<u>Original Cost</u>	<u>Market Value</u>	<u>Purchased Interest</u>	<u>Maturity Date or Call Date</u>	<u>Yield to Maturity or Call</u>	<u>Interest Received to Date</u>	<u>Interest Earned Prior Yrs.</u>	<u>Interest Earned Current FY</u>	<u>Days to Maturity</u>
Treasury	912828WR7	US Treasury Note	4/2/2019	1,000,000.00	995,625.00	1,008,945.31		6/30/2021	2.33%	\$ 5,224.45	\$ 5,656.35	\$ 7,817.21	608
Toyota Motor Credit	89236TDP7	Corporate Bond	05/20/19	1,100,000.00	1,102,596.00	1,118,854.73		1/11/2022	2.50%	\$ 4,051.67	\$ 3,102.53	\$ 9,307.60	803
FHLB	3133834H1	Gov. Agency Debenture	9/20/2017	1,785,000.00	1,776,432.00	1,782,430.42		6/12/2020	1.56%	\$ 42,406.15	\$ 49,147.92	\$ 9,329.00	225
FFCB	3133EJB81	Gov. Agency Debenture	10/9/2018	1,700,000.00	1,697,331.00	1,708,191.77		3/25/2020	2.84%	\$ 44,605.17	\$ 34,889.76	\$ 16,255.46	146
FFCB	3133EKMx1	Gov. Agency Debenture	8/2/2019	1,000,000.00	1,014,400.00	1,028,519.83		2/23/2024	1.90%	\$ 6,875.83	\$ -	\$ 4,720.72	1576
FFCB	3133EHEZ2	Gov. Agency Debenture	9/20/2017	1,600,000.00	1,602,304.00	1,599,771.66		4/6/2020	1.54%	\$ 52,337.78	\$ 43,841.67	\$ 8,321.80	158
FNMA	3133EHYm9	Gov. Agency Debenture	9/21/2017	1,300,000.00	1,295,866.00	1,299,028.39		9/14/2020	1.61%	\$ 38,620.83	\$ 37,021.86	\$ 7,038.16	319
US Treasury	912828VF4	US Treasury Note	9/21/2017	1,000,000.00	997,109.38	998,554.69		5/31/2020	1.48%	\$ 23,254.78	\$ 26,275.86	\$ 4,995.26	213
FNMA	3136G0AW1	Gov. Agency Debenture	12/13/2017	2,000,000.00	2,017,900.00	2,013,736.44		10/16/2020	2.02%	\$ 86,558.33	\$ 62,898.65	\$ 13,717.26	351
IBM	459200HG9	Corporate Bond	8/8/2019	1,000,000.00	995,010.00	998,842.62	364.58	8/1/2022	2.05%	\$ (364.58)	\$ -	\$ 4,699.97	1005
Oracle	68389XBL8	Corporate Bond	7/8/2019	1,000,000.00	1,008,880.00	1,013,712.15		7/15/2023	2.18%	\$ 4,466.67	\$ -	\$ 6,866.00	1353
US Treasury	912828R28	US Treasury Note	7/2/2019	500,000.00	497,246.09	501,718.75		4/30/2023	1.77%	\$ 2,671.54	\$ -	\$ 2,931.85	1277
American Express	0258M0EE5	Corporate Bond	9/15/2017	1,000,000.00	1,007,980.00	1,000,553.57		1/2/2020	1.87%	\$ 43,266.67	\$ 33,148.01	\$ 6,243.81	63
Freddie Mac	3137EAEN5	Gov. Agency Debenture	7/19/2019	2,000,000.00	2,072,358.00	2,084,356.40	4,583.33	6/19/2023	1.79%	\$ (4,583.33)	\$ -	\$ 10,412.51	1327
FFCB	3133EKVF0	Gov. Agency Debenture	7/22/2019	1,000,000.00	999,630.00	1,012,042.46	260.42	1/17/2023	1.89%	\$ (260.42)	\$ -	\$ 5,217.67	1174
Treasury	912828L57	US Treasury Note	7/22/2019	1,200,000.00	1,197,988.40	1,208,015.63		9/30/2022	2.09%	\$ 4,016.39	\$ -	\$ 5,985.21	1065
FreddieMac	3137EAEE5	Gov. Agency Debenture	12/20/2017	1,000,000.00	991,200.00	999,682.46		1/17/2020	1.93%	\$ 23,625.00	\$ 29,356.90	\$ 6,482.76	78
FreddieMac	3137EAEE5(A)	Gov. Agency Debenture	12/18/2018	1,000,000.00	997,160.00	999,682.46		1/17/2020	2.71%	\$ 8,708.33	\$ 14,278.83	\$ 9,053.07	78
FNMA	3136G3TW5	Gov. Agency Debenture	7/25/2018	1,000,000.00	980,540.00	999,288.40		12/30/2019	2.54%	\$ 10,701.39	\$ 23,363.19	\$ 8,451.98	60
FHLB	3130ACRP1	Gov. Agency Debenture	7/25/2018	1,500,000.00	1,479,404.42	1,499,814.02		2/7/2020	2.59%	\$ 26,040.00	\$ 35,933.93	\$ 12,999.63	99
American Honda	02665WBZ3	Corporate Bond	4/11/2018	1,000,000.00	990,620.00	999,995.83		11/13/2019	2.61%	\$ 21,944.44	\$ 31,567.90	\$ 8,725.51	13
Disney	25468PDP8	Corporate Bond	12/1/2017	1,000,000.00	998,190.00	1,000,247.99		3/4/2020	2.03%	\$ 34,284.50	\$ 32,037.85	\$ 6,841.41	125
FNMA	3135G0V75	Gov. Agency Debenture	10/17/2019	1,100,000.00	1,105,833.30	1,108,361.11	5,293.75	7/2/2024	1.63%	\$ (5,293.75)	\$ -	\$ 690.88	1706
FHLB	3130AECJ7	Gov. Agency Debenture	9/14/2018	1,000,000.00	998,101.00	1,005,718.35		5/28/2020	2.46%	\$ 18,010.42	\$ 21,666.58	\$ 9,221.42	210
US Bamcorp	90331HNB5	Corporate Bond	10/19/2018	1,000,000.00	986,540.00	1,000,170.00		12/24/2019	3.09%	\$ 15,277.78	\$ 21,850.15	\$ 10,580.98	54
Chevron	166764AG5	Corporate Bond	11/9/2017	1,350,000.00	1,366,834.50	1,354,227.74		5/24/2020	1.94%	\$ 53,242.31	\$ 42,820.12	\$ 8,807.48	206
FFCB	3133EKCS3	Gov. Agency Debenture	3/21/2019	1,400,000.00	1,403,262.00	1,416,674.62		3/11/2021	2.43%	\$ 16,858.33	\$ 9,421.68	\$ 11,473.93	497
FFCB	3133EKQA7	Gov. Agency Debenture	10/21/2019	1,000,000.00	1,019,780.00	1,023,687.89	2,368.89	9/10/2024	1.66%	\$ (2,368.89)	\$ -	\$ 459.11	1776
PNC Financial	693476BN2	Corporate Bond	8/15/2019	1,000,000.00	1,029,280.00	1,030,086.14		2/6/2022	2.12%	\$ 2,108.33	\$ -	\$ 4,473.17	829
FHLB	313379Q69	Gov. Agency Debenture	7/22/2019	1,000,000.00	1,006,960.00	1,013,830.18	2,479.17	6/10/2022	1.87%	\$ (2,479.17)	\$ -	\$ 5,213.19	953
FNMA	3135G0ZY2	Gov. Agency Debenture	12/20/2017	1,550,000.00	1,545,642.95	1,550,143.36		11/26/2019	1.90%	\$ 38,879.17	\$ 44,831.00	\$ 9,899.84	26
Freddie Mac	3134GBN40	Gov. Agency Debenture	9/29/2017	1,000,000.00	998,900.00	1,000,231.36		6/29/2020	1.67%	\$ 28,437.50	\$ 29,148.73	\$ 5,610.79	242
JP Morgan Chase	46625HJT8	Corporate Bond	9/23/2019	1,400,000.00	1,485,414.00	1,494,833.37	7,836.11	2/1/2024	2.39%	\$ (7,836.11)	\$ -	\$ 3,609.17	1554
FHLB	3130AABG2	US Treasury Note	4/15/2019	1,000,000.00	988,250.00	1,006,683.80		11/29/2021	2.34%	\$ 2,291.67	\$ 4,835.29	\$ 7,825.53	760
FNMA	3136FTB73	Gov. Agency Debenture	4/25/2017	1,000,000.00	1,013,390.00	1,000,868.65		2/7/2020	1.50%	\$ 45,666.67	\$ 33,146.46	\$ 5,121.88	99
JP Morgan Chase	48125LRK0	Corporate Bond	3/4/2019	1,000,000.00	996,520.00	1,001,343.84		2/1/2020	2.71%	\$ 10,633.00	\$ 9,647.87	\$ 10,056.68	93
Treasury	912828M80	US Treasury Note	7/22/2019	1,000,000.00	1,006,175.23	1,014,179.69	2,841.53	11/30/2022	1.81%	\$ (2,841.53)	\$ -	\$ 5,025.94	1126
Treasury	912828U57	US Treasury Note	7/31/2019	1,000,000.00	1,011,875.00	1,023,437.50	3,541.67	11/30/2023	1.84%	\$ (3,541.67)	\$ -	\$ 4,666.02	1491
Pepsico	713448CS5	Corporate Bond	5/15/2017	1,250,000.00	1,249,600.00	1,250,358.31		3/30/2020	1.31%	\$ 56,848.96	\$ 49,460.00	\$ 7,839.67	151
Pfizer	717081EB5	Corporate Bond	6/30/2017	1,000,000.00	1,002,280.00	999,932.72		12/15/2019	1.60%	\$ 33,291.67	\$ 32,146.55	\$ 5,416.47	45
Treasury	912828XT2	US Treasury Note	10/31/2019	1,000,000.00	1,015,667.41	1,021,250.00	8,360.66	5/31/2024	1.64%	\$ (8,360.66)	\$ -	\$ -	1674
Treasury	912828H52	US Treasury Note	6/30/2017	1,000,000.00	994,726.56	999,140.62		1/31/2020	1.46%	\$ 26,070.44	\$ 29,073.66	\$ 4,898.71	92
Toyota Motor Credit	89236TCF0	Corporate Bond	10/6/2017	500,000.00	503,545.00	500,496.68		3/12/2020	1.85%	\$ 20,783.33	\$ 16,090.68	\$ 3,131.57	133
FFCB	3133EJ3Q0	Gov. Agency Debenture	8/28/2019	1,500,000.00	1,587,503.75	1,580,324.66	8,026.04	12/21/2023	2.12%	\$ (8,026.04)	\$ -	\$ 4,008.19	1512
Freddie Mac	3133EKKT2	Gov. Agency Debenture	6/24/2019	1,550,000.00	1,573,188.00	1,587,365.17		2/8/2023	1.82%	\$ 12,981.25	\$ 468.29	\$ 9,599.85	1196
Subtotal				\$ 52,285,000.00	\$ 52,595,038.99	\$ 52,859,331.74	\$ 45,956.15			\$ 819,084.60	\$ 807,128.28	\$ 314,044.31	
BNY MM					18,747.70	18,747.70			0.00%				1
LAIF		N/A			5,506,169.91	5,506,169.91			2.19%			50,393.59	1
					\$58,119,956.60	\$58,384,249.35				\$ 819,084.60	\$ 807,128.28	\$ 364,437.90	

<u>Matured Assets</u>													
Treasury	912828WS5	US Treasury Note	5/2/2017	500,000.00	503,339.84			7/1/2019	1.31%	\$ 17,574.24	\$ 14,227.74	\$ 18.03	
Oracle	68389XAG0	Corporate Bond	5/3/2018	1,000,000.00	1,028,370.00			7/8/2019	2.54%	\$ 59,027.78	\$ 30,101.79	\$ 569.30	
FHLB	3130AEU73	Gov. Agency Debenture	8/27/2018	1,000,000.00	999,180.00			7/22/2019	2.46%	\$ 23,750.00	\$ 20,741.19	\$ 1,486.34	
Treasury	912828F39	US Treasury Note	4/17/2018	1,200,000.00	1,190,343.75			7/22/2019	2.32%	\$ 30,524.59	\$ 34,452.97	\$ 1,726.57	
FHLB	313383VN8	Gov. Agency Debenture	5/25/2018	2,000,000.00	1,989,800.00			7/22/2019	2.40%	\$ 52,000.00	\$ 53,614.71	\$ 2,941.46	
FHLMC	3137EAEB1	Gov. Agency Debenture	3/14/2017	2,000,000.00	1,970,180.00			7/19/2019	1.52%	\$ 41,076.39	\$ 69,336.96	\$ 1,572.08	
Treasury	912828K5	US Treasury Note	7/2/2018	1,000,000.00	989,218.75			7/31/2019	2.39%	\$ 14,851.52	\$ 23,607.64	\$ 2,016.08	
FNMA	3135G0N33	Gov. Agency Debenture	04/17/13	1,000,000.00	981,984.01			8/2/2019	2.17%	\$ 12,322.92	\$ 28,416.36	\$ 1,945.52	
Microsoft	594918BN3	Corporate Bond	8/8/2016	1,000,000.00	999,470.00			8/8/2019	1.12%	\$ 33,000.00	\$ 32,335.78	\$ 1,194.22	
Berkshire Hathaway	084664CK5	Corporate Bond	1/22/2018	1,100,000.00	1,086,305.00			8/15/2019	2.11%	\$ 22,363.61	\$ 33,119.10	\$ 2,907.40	
FNMA	3135G0P49	Gov. Agency Debenture	11/15/2016	1,500,000.00	1,487,505.00			8/28/2019	1.31%	\$ 41,791.66	\$ 51,098.17	\$ 3,150.25	
JP Morgan Chase	48125LRG9	Corporate Bond	3/28/2017	1,400,000.00	1,393,196.00			9/23/2019	1.86%	\$ 57,429.17	\$ 58,316.80	\$ 6,015.69	
FFCB	3133EGYP4	Gov. Agency Debenture	10/28/2016	1,000,000.00	997,507.00			10/17/2019	1.14%	\$ 31,179.17	\$ 30,290.27	\$ 3,386.30	
FFCB	3133EJPU7	Gov. Agency Debenture	6/1/2018	1,000,000.00	1,001,454.00			10/21/2019	2.38%	\$ 36,511.11	\$ 25,640.48	\$ 7,353.74	
Treasury	912828F62	US Treasury Note	6/30/2017	1,000,000.00	1,002,148.44			10/31/2019	1.41%	\$ 35,013.59	\$ 28,161.36	\$ 4,745.00	
Total Investments "Matured"					<u>17,620,001.79</u>					\$ 1,327,500.35	\$ 1,340,589.61	\$ 405,465.87	

<u>Maturity Profile</u>		<u>Amount</u>
0-1 year		\$34,003,034.42
1-2 years		\$2,398,887.00
2-3 years		\$6,320,084.40
3-5 years		\$ 15,397,950.78
		<u>\$58,119,956.60</u>

Town of Los Gatos Investment Schedule October 2019

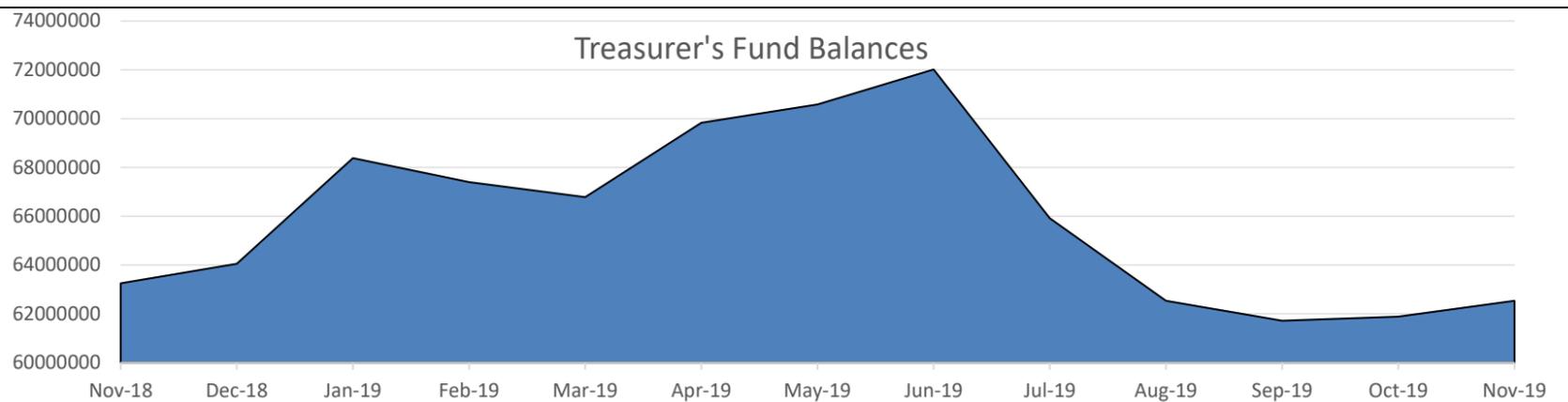
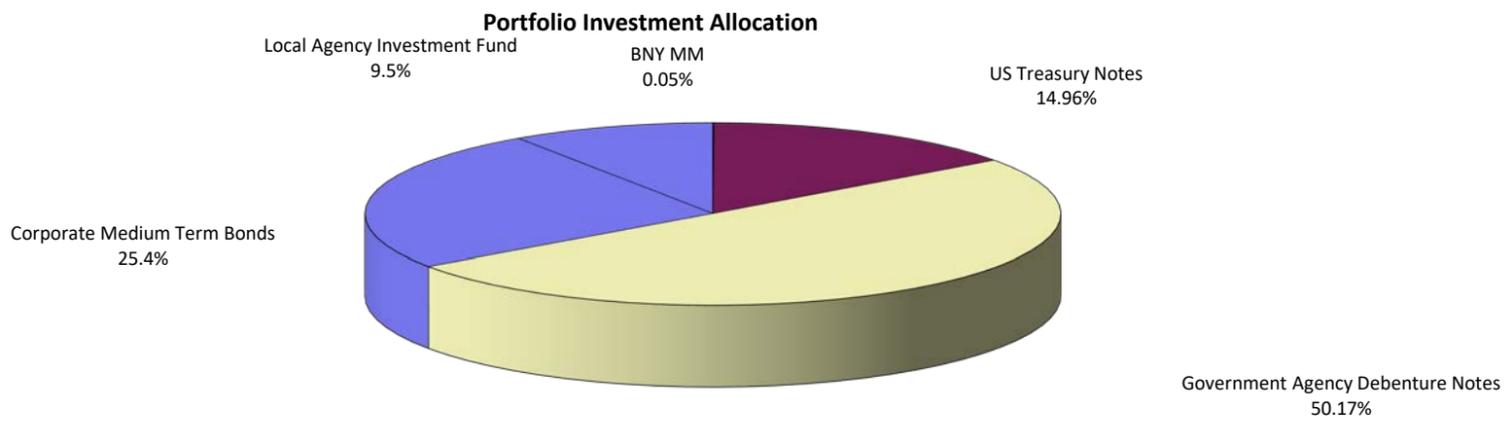
Market to Cost Position Report

<u>Institution</u>	<u>Amortized Cost</u>
BNY Assets	\$52,595,038.99
BNY MM	18,747.70
LAIF	5,506,169.91
Totals:	\$58,119,956.60

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
November 30, 2019

	Month	YTD
Fund Balances - Beginning of Month/Period	\$61,880,643.92	\$72,013,633.77
Receipts	4,393,800.44	15,123,700.02
Disbursements	(3,735,554.58)	(24,598,444.01)
Fund Balances - End of Month/Period	<u>\$62,538,889.78</u>	<u>\$62,538,889.78</u>

<u>Portfolio Allocation:</u>	% of Portfolio	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$26,475.07	0.05%
US Treasury Notes	\$8,704,663.07	14.96%
Government Agency Debenture Notes	\$29,184,367.91	50.17%
Corporate Medium Term Bonds	\$14,747,329.50	25.35%
Local Agency Investment Fund	<u>5,506,169.91</u>	9.47%
Subtotal - Investments	58,169,005.46	100.00%
Reconciled Demand Deposit Balances	<u>4,369,884.32</u>	
 Total Treasurer's Fund	 <u>\$62,538,889.78</u>	



Town of Los Gatos
Non-Treasury Restricted Fund Balances
November 30, 2019

	Beginning Balance	NOV 19 Deposits Realized Gain/Adj.	NOV 19 Interest/ Earnings	NOV 19 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	\$ 692,289.74		\$ 757.57	\$ -	\$ 693,047.31	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	592.03		0.90		592.93	Note 1
Cert. of Participation 2002 Lease Payment Fund	243.39		0.30		243.69	Note 1
Cert. of Participation 2010 Series Reserve Fund	1,288,320.00		1,859.61	0.00	1,290,179.61	Note 2
Total Restricted Funds:	<u>\$ 1,981,445.16</u>	<u>\$0.00</u>	<u>\$2,618.38</u>	<u>\$0.00</u>	<u>\$1,984,063.54</u>	
PARS IRS Section 115 Trust	<u>\$ 294,764.63</u>	<u>\$ -</u>	<u>\$ 6,236.06</u>	<u>\$ 1,471.84</u>	<u>\$ 299,528.85</u>	Note 3
Grand Total COP's and PARS Trust	<u>\$ 2,276,209.79</u>	<u>\$ -</u>	<u>\$ 8,854.44</u>	<u>\$ 1,471.84</u>	<u>\$ 2,283,592.39</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 PARS 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 p

**Town of Los Gatos
Statement of Interest Earned
November 30, 2019**

Interest by Month

July 2019	\$103,310.93
August 2019	101,993.86
September 2019	99,668.91
October 2019	100,474.14
November 2019	96,912.19
December 2019	
January 2020	
February 2020	
March 2020	
April 2020	
May 2020	
June 2020	
	<hr/>
	<u>\$502,360.03</u>

Town of Los Gatos Investment Schedule November 2019

Institution	CUSIP #	Security	Deposit Date	Par Value	Original Cost	Market Value	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
Treasury	912828WR7	US Treasury Note	4/2/2019	1,000,000.00	995,625.00	1,007,109.38		6/30/2021	2.33%	\$ 5,224.45	\$ 5,656.35	\$ 9,723.85	578
Toyota Motor Credit	89236TDP7	Corporate Bond	05/20/19	1,100,000.00	1,102,596.00	1,115,810.19		1/11/2022	2.50%	\$ 4,051.67	\$ 3,102.53	\$ 11,577.75	773
FHLB	3133834H1	Gov. Agency Debenture	9/20/2017	1,785,000.00	1,776,432.00	1,782,260.83		6/12/2020	1.56%	\$ 42,406.15	\$ 49,147.92	\$ 11,604.37	195
FFCB	3133EJB81	Gov. Agency Debenture	10/9/2018	1,700,000.00	1,697,331.00	1,706,116.82		3/25/2020	2.84%	\$ 44,605.17	\$ 34,889.76	\$ 20,220.20	116
FFCB	3133EKMx1	Gov. Agency Debenture	8/2/2019	1,000,000.00	1,014,400.00	1,024,530.98		2/23/2024	1.90%	\$ 6,875.83	\$ -	\$ 6,294.29	1546
FFCB	3133EHEZ2	Gov. Agency Debenture	9/20/2017	1,600,000.00	1,602,304.00	1,599,679.14		4/6/2020	1.54%	\$ 52,337.78	\$ 43,841.67	\$ 10,351.51	128
FNMA	3133EHYm9	Gov. Agency Debenture	9/21/2017	1,300,000.00	1,295,866.00	1,298,534.87		9/14/2020	1.61%	\$ 38,620.83	\$ 37,021.86	\$ 8,754.78	289
US Treasury	912828VF4	US Treasury Note	9/21/2017	1,000,000.00	997,109.38	998,515.62		5/31/2020	1.48%	\$ 30,129.78	\$ 26,275.86	\$ 6,213.61	183
FNMA	3136G0AW1	Gov. Agency Debenture	12/13/2017	2,000,000.00	2,017,900.00	2,012,123.42		10/16/2020	2.02%	\$ 86,558.33	\$ 62,898.65	\$ 17,062.93	321
IBM	459200HG9	Corporate Bond	8/8/2019	1,000,000.00	995,010.00	997,777.93	364.58	8/1/2022	2.05%	\$ (364.58)	\$ -	\$ 6,378.53	975
Oracle	68389XBL8	Corporate Bond	7/8/2019	1,000,000.00	1,008,880.00	1,012,858.69		7/15/2023	2.18%	\$ 4,466.67	\$ -	\$ 8,657.13	1323
US Treasury	912828R28	US Treasury Note	7/2/2019	500,000.00	497,246.09	500,214.85		4/30/2023	1.77%	\$ 2,671.54	\$ -	\$ 3,658.76	1247
American Express	0258M0EE5	Corporate Bond	9/15/2017	1,000,000.00	1,007,980.00	1,000,351.28		1/2/2020	1.87%	\$ 43,266.67	\$ 33,148.01	\$ 7,766.69	33
Freddie Mac	3137EAEN5	Gov. Agency Debenture	7/19/2019	2,000,000.00	2,072,358.00	2,076,754.76	4,583.33	6/19/2023	1.79%	\$ (4,583.33)	\$ -	\$ 13,416.12	1297
FFCB	3133EKVF0	Gov. Agency Debenture	7/22/2019	1,000,000.00	999,630.00	1,005,968.55	260.42	1/17/2023	1.89%	\$ (260.42)	\$ -	\$ 6,767.47	1144
Treasury	912828L57	US Treasury Note	7/22/2019	1,200,000.00	1,197,988.40	1,204,828.13		9/30/2022	2.09%	\$ 4,016.39	\$ -	\$ 7,762.99	1035
FreddieMac	3137EAEE5	Gov. Agency Debenture	12/20/2017	1,000,000.00	991,200.00	999,802.92		1/17/2020	1.93%	\$ 23,625.00	\$ 29,356.90	\$ 8,063.92	48
FreddieMac	3137EAEE5(A)	Gov. Agency Debenture	12/18/2018	1,000,000.00	987,160.00	999,802.92		1/17/2020	2.71%	\$ 8,708.33	\$ 14,278.83	\$ 11,261.14	48
FNMA	3136G3TW5	Gov. Agency Debenture	7/25/2018	1,000,000.00	980,540.00	999,644.36		12/30/2019	2.54%	\$ 10,701.39	\$ 23,363.19	\$ 10,513.44	30
FHLB	3130ACRP1	Gov. Agency Debenture	7/25/2018	1,500,000.00	1,479,404.42	1,499,709.77		2/7/2020	2.59%	\$ 26,040.00	\$ 35,933.93	\$ 16,170.27	69
Honeywell Int'l.	438516BW5	Corporate Bond	11/20/2019	1,000,000.00	1,014,660.00	1,012,036.37	6,516.67	7/15/2024	1.64%	\$ (6,516.67)	\$ -	\$ 543.85	1689
Disney	25468PDP8	Corporate Bond	12/1/2017	1,000,000.00	998,190.00	1,000,020.94		3/4/2020	2.03%	\$ 34,284.50	\$ 32,037.85	\$ 8,510.05	95
FNMA	3135G0V75	Gov. Agency Debenture	10/17/2019	1,100,000.00	1,105,833.30	1,103,389.28	5,293.75	7/2/2024	1.63%	\$ (5,293.75)	\$ -	\$ 2,171.32	1676
FHLB	3130AECJ7	Gov. Agency Debenture	9/14/2018	1,000,000.00	998,101.00	1,004,635.58		5/28/2020	2.46%	\$ 31,135.42	\$ 21,666.58	\$ 11,470.54	180
US Bamcorp	90331HNB5	Corporate Bond	10/19/2018	1,000,000.00	986,540.00	1,000,104.82		12/24/2019	3.09%	\$ 15,277.78	\$ 21,850.15	\$ 13,161.71	24
Chevron	166764AG5	Corporate Bond	11/9/2017	1,350,000.00	1,366,834.50	1,353,759.52		5/24/2020	1.94%	\$ 53,242.31	\$ 42,820.12	\$ 10,955.65	176
FFCB	3133EKCS3	Gov. Agency Debenture	3/21/2019	1,400,000.00	1,403,262.00	1,416,529.23		3/11/2021	2.43%	\$ 16,858.33	\$ 9,421.68	\$ 14,272.44	467
FFCB	3133EKQA7	Gov. Agency Debenture	10/21/2019	1,000,000.00	1,019,780.00	1,020,288.46	2,368.89	9/10/2024	1.66%	\$ (2,368.89)	\$ -	\$ 1,836.45	1746
PNC Financial	693476BN2	Corporate Bond	8/15/2019	1,000,000.00	1,029,280.00	1,027,058.87		2/6/2022	2.12%	\$ 2,108.33	\$ -	\$ 6,215.96	799
FHLB	313379Q69	Gov. Agency Debenture	7/22/2019	1,000,000.00	1,006,960.00	1,011,265.35	2,479.17	6/10/2022	1.87%	\$ (2,479.17)	\$ -	\$ 6,761.66	923
FNMA	3135G0V59	Gov. Agency Debenture	11/27/2019	1,540,000.00	1,562,924.44	1,561,254.74	4,331.25	4/12/2022	1.61%	\$ (4,331.25)	\$ -	\$ 205.47	864
Freddie Mac	3134GBN40	Gov. Agency Debenture	9/29/2017	1,000,000.00	998,900.00	1,000,263.19		6/29/2020	1.67%	\$ 28,437.50	\$ 29,148.73	\$ 6,979.27	212
JP Morgan Chase	46625HJT8	Corporate Bond	9/23/2019	1,400,000.00	1,485,414.00	1,490,468.53	7,836.11	2/1/2024	2.39%	\$ (7,836.11)	\$ -	\$ 6,458.51	1524
FHLB	3130AABG2	US Treasury Note	4/15/2019	1,000,000.00	988,250.00	1,004,997.16		11/29/2021	2.34%	\$ 11,666.67	\$ 4,835.29	\$ 9,734.20	730
FNMA	3136FTB73	Gov. Agency Debenture	4/25/2017	1,000,000.00	1,013,390.00	1,000,616.87		2/7/2020	1.50%	\$ 45,666.67	\$ 33,146.46	\$ 6,371.12	69
JP Morgan Chase	48125LRK0	Corporate Bond	3/4/2019	1,000,000.00	996,520.00	1,000,840.60		2/1/2020	2.71%	\$ 10,633.00	\$ 9,647.87	\$ 12,509.53	63
Treasury	912828M80	US Treasury Note	7/22/2019	1,000,000.00	1,006,175.23	1,011,406.25		11/30/2022	1.81%	\$ 7,158.47	\$ -	\$ 6,518.79	1096
Treasury	912828U57	US Treasury Note	7/31/2019	1,000,000.00	1,011,875.00	1,019,453.12		11/30/2023	1.84%	\$ 7,083.33	\$ -	\$ 6,187.55	1461
Pepsico	713448CS5	Corporate Bond	5/15/2017	1,250,000.00	1,249,600.00	1,250,174.09		3/30/2020	1.31%	\$ 56,848.96	\$ 49,460.00	\$ 9,751.78	121
Pfizer	717081EB5	Corporate Bond	6/30/2017	1,000,000.00	1,002,280.00	999,949.40		12/15/2019	1.60%	\$ 33,291.67	\$ 32,146.55	\$ 6,737.56	15
Treasury	912828XT2	US Treasury Note	10/31/2019	1,000,000.00	1,015,667.41	1,016,250.00		5/31/2024	1.64%	\$ 1,639.34	\$ -	\$ 1,363.06	1644
Treasury	912828H52	US Treasury Note	6/30/2017	1,000,000.00	994,726.56	999,305.64		1/31/2020	1.46%	\$ 26,070.44	\$ 29,073.66	\$ 6,093.52	62
Toyota Motor Credit	89236TCF0	Corporate Bond	10/6/2017	500,000.00	503,545.00	500,364.19		3/12/2020	1.85%	\$ 20,783.33	\$ 16,090.68	\$ 3,895.37	103
FFCB	3133EJ3Q0	Gov. Agency Debenture	8/28/2019	1,500,000.00	1,587,503.75	1,573,334.15	8,026.04	12/21/2023	2.12%	\$ (8,026.04)	\$ -	\$ 5,887.03	1482
Freddie Mac	3133EKKT2	Gov. Agency Debenture	6/24/2019	1,550,000.00	1,573,188.00	1,579,130.27		2/8/2023	1.82%	\$ 12,981.25	\$ 468.29	\$ 11,941.28	1166
Subtotal				\$ 52,275,000.00	\$ 52,636,360.48	\$ 52,799,292.03	\$ 42,060.21			\$ 807,413.07	\$ 730,729.38	\$ 378,753.43	
BNY MM					26,475.07	26,475.07			0.00%				1
LAIF		N/A			5,506,169.91	5,506,169.91			2.19%			60,956.45	1
					\$58,169,005.46	\$58,331,937.01				\$ 807,413.07	\$ 730,729.38	\$ 439,709.87	

Matured Assets													
Treasury	912828WS5	US Treasury Note	5/2/2017	500,000.00	503,339.84			7/1/2019	1.31%	\$ 17,574.24	\$ 14,227.74	\$ 18.03	
Oracle	68389XAG0	Corporate Bond	5/3/2018	1,000,000.00	1,028,370.00			7/8/2019	2.54%	\$ 59,027.78	\$ 30,101.79	\$ 569.30	
FHLB	3130AEU73	Gov. Agency Debenture	8/27/2018	1,000,000.00	999,180.00			7/22/2019	2.46%	\$ 23,750.00	\$ 20,741.19	\$ 1,486.34	
Treasury	912828F39	US Treasury Note	4/17/2018	1,200,000.00	1,190,343.75			7/22/2019	2.32%	\$ 30,524.59	\$ 34,452.97	\$ 1,726.57	
FHLB	313383VN8	Gov. Agency Debenture	5/25/2018	2,000,000.00	1,989,800.00			7/22/2019	2.40%	\$ 52,000.00	\$ 53,614.71	\$ 2,941.46	
FHLMC	3137EAEB1	Gov. Agency Debenture	3/14/2017	2,000,000.00	1,970,180.00			7/19/2019	1.52%	\$ 41,076.39	\$ 69,336.96	\$ 1,572.08	
Treasury	912828K5	US Treasury Note	7/2/2018	1,000,000.00	989,218.75			7/31/2019	2.39%	\$ 14,851.52	\$ 23,607.64	\$ 2,016.08	
FNMA	3135G0N33	Gov. Agency Debenture	04/17/13	1,000,000.00	981,984.01			8/2/2019	2.17%	\$ 12,322.92	\$ 28,416.36	\$ 1,945.52	
Microsoft	594918BN3	Corporate Bond	8/8/2016	1,000,000.00	999,470.00			8/8/2019	1.12%	\$ 33,000.00	\$ 32,335.78	\$ 1,194.22	
Berkshire Hathaway	084664CK5	Corporate Bond	1/22/2018	1,100,000.00	1,086,305.00			8/15/2019	2.11%	\$ 22,363.61	\$ 33,119.10	\$ 2,907.40	
FNMA	3135G0P49	Gov. Agency Debenture	11/15/2016	1,500,000.00	1,487,505.00			8/28/2019	1.31%	\$ 41,791.66	\$ 51,098.17	\$ 3,150.25	
JP Morgan Chase	48125LRG9	Corporate Bond	3/28/2017	1,400,000.00	1,393,196.00			9/23/2019	1.86%	\$ 57,429.17	\$ 58,316.80	\$ 6,015.69	
FFCB	3133EGYP4	Gov. Agency Debenture	10/28/2016	1,000,000.00	997,507.00			10/17/2019	1.14%	\$ 31,179.17	\$ 30,290.27	\$ 3,386.30	
FFCB	3133EJPU7	Gov. Agency Debenture	6/1/2018	1,000,000.00	1,001,454.00			10/21/2019	2.38%	\$ 36,511.11	\$ 25,640.48	\$ 7,353.74	
Treasury	912828F62	US Treasury Note	6/30/2017	1,000,000.00	1,002,148.44			10/31/2019	1.41%	\$ 35,013.59	\$ 28,161.36	\$ 4,745.00	
American Honda	02665WBZ3	Corporate Bond	4/11/2018	1,000,000.00	990,620.00			11/13/2019	2.61%	\$ 31,944.44	\$ 31,567.90	\$ 9,647.72	
FNMA	3135G0ZY2	Gov. Agency Debenture	12/20/2017	1,550,000.00	1,545,642.95	#N/A		11/26/2019	1.90%	\$ 52,441.67	\$ 44,831.00	\$ 11,992.49	0
Total Investments "Matured"					20,156,264.74					592,801.86	609,860.23	502,378.06	

Maturity Profile	Amount
0-1 year	\$31,474,498.84
1-2 years	\$2,398,887.00
2-3 years	\$7,883,008.84
3-5 years	\$ 16,412,610.78

Town of Los Gatos Investment Schedule November 2019

\$58,169,005.46

Market to Cost Position Report

<u>Institution</u>	<u>Amortized Cost</u>
BNY Assets	\$52,636,360.48
BNY MM	26,475.07
LAIF	<u>5,506,169.91</u>
Totals:	<u>\$58,169,005.46</u>

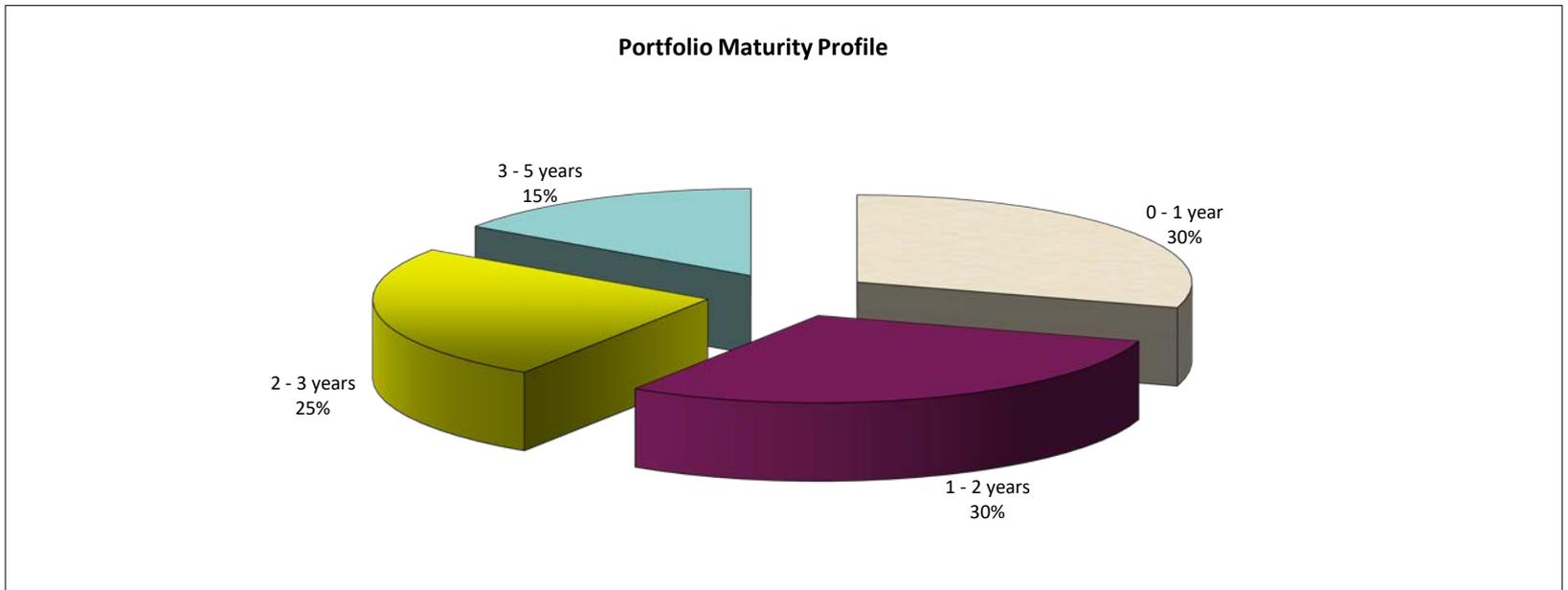
**Town of Los Gatos
Summary Investment Information
December 31, 2019**

Weighted Average YTM Portfolio Yield: 1.93% **Weighted Average Maturity (days) 641**

	<u>This Month</u>	<u>Last Month</u>	<u>One year ago</u>
Portfolio Balance	\$63,890,429	\$62,538,890	\$64,048,106

Benchmarks/ References:

Town's Average Yield	1.93%	1.93%	1.94%
LAIF Yield for month	2.04%	2.10%	2.06%
3 mo. Treasury	1.55%	1.58%	2.36%
6 mo. Treasury	1.59%	1.61%	2.48%
2 yr. Treasury	1.57%	1.63%	2.49%
5 yr. Treasury (most recent)	1.69%	1.61%	2.51%
10 Yr. Treasury	1.69%	1.78%	2.69%

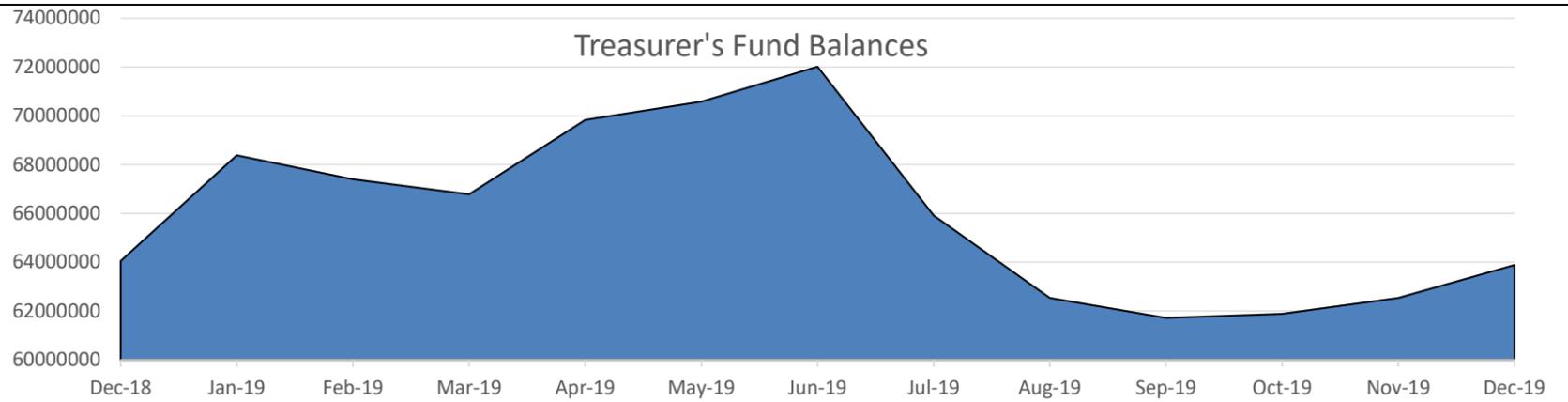
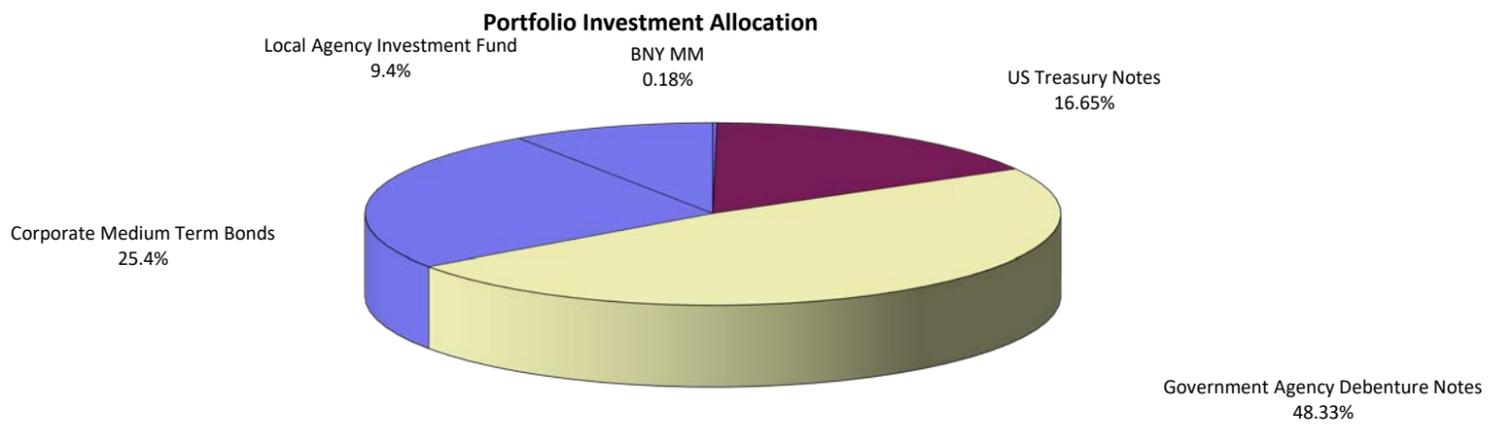


Compliance: The Town's investments are in compliance with the Town's investment policy dated September 3, 2019 and also in compliance with the requirements of Section 53601 of the California State Code. Based on the information available, the Town has sufficient funds to meet the cash demands for the next six months.

Town of Los Gatos
Portfolio Allocation & Treasurer's Fund Balances
December 31, 2019

	<u>Month</u>	<u>YTD</u>
Fund Balances - Beginning of Month/Period	\$62,538,889.78	\$72,013,633.77
Receipts	4,544,740.57	19,668,440.59
Disbursements	<u>(3,193,200.93)</u>	<u>(27,791,644.94)</u>
Fund Balances - End of Month/Period	<u>\$63,890,429.42</u>	<u>\$63,890,429.42</u>

<u>Portfolio Allocation:</u>	<u>% of Portfolio</u>	<u>Max. % Or \$ Allowed Per State Law or Policy</u>
BNY MM	\$106,351.46 0.18%	20% of Town Portfolio
US Treasury Notes	\$9,715,252.36 16.65%	No Max. on US Treasuries
Government Agency Debenture Notes	\$28,203,827.91 48.33%	No Max. on Non-Mortgage Backed
Corporate Medium Term Bonds	\$14,819,959.51 25.40%	30% of Town Portfolio
Local Agency Investment Fund	<u>5,506,169.91</u> 9.44%	<u>\$65M per State Law</u>
Subtotal - Investments	58,351,561.15 100.00%	
Reconciled Demand Deposit Balances	<u>5,538,868.27</u>	
 Total Treasurer's Fund	 <u>\$63,890,429.42</u>	



Town of Los Gatos
Non-Treasury Restricted Fund Balances
December 31, 2019

	Beginning Balance	DEC 19 Deposits Realized Gain/Adj.	DEC 19 Interest/ Earnings	DEC 19 Withdrawals	Ending Balance	
Non-Treasury Funds:						
Cert. of Participation 2002 Series A Reserve Fund	\$ 693,047.31		\$ 620.12	\$ 6,796.31	\$ 686,871.12	Note 1
Cert. Of Participation 2010 Ser A Lease Pymt Fund	592.93		0.80		593.73	Note 1
Cert. of Participation 2002 Lease Payment Fund	243.69	6,796.31	0.24		7,040.24	Note 1
Cert. of Participation 2010 Series Reserve Fund	1,290,179.61		1,658.06	0.00	1,291,837.67	Note 2
Total Restricted Funds:	<u>\$ 1,984,063.54</u>	<u>\$6,796.31</u>	<u>\$2,279.22</u>	<u>\$6,796.31</u>	<u>\$1,986,342.76</u>	
PARS IRS Section 115 Trust	<u>\$ 299,528.85</u>	<u>\$ -</u>	<u>\$ 6,768.92</u>	<u>\$ 2,895.51</u>	<u>\$ 303,402.26</u>	Note 3
Grand Total COP's and PARS Trust	<u>\$ 2,283,592.39</u>	<u>\$ 6,796.31</u>	<u>\$ 9,048.14</u>	<u>\$ 9,691.82</u>	<u>\$ 2,289,745.02</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 PARS 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 p

**Town of Los Gatos
Statement of Interest Earned
December 31, 2019**

Interest by Month

July 2019	\$103,310.93
August 2019	101,993.86
September 2019	99,668.91
October 2019	100,474.14
November 2019	96,912.19
December 2019	100,785.87
January 2020	
February 2020	
March 2020	
April 2020	
May 2020	
June 2020	
	<hr/>
	<u>\$603,145.90</u>

Town of Los Gatos Investment Schedule December 2019

<u>Institution</u>	<u>CUSIP #</u>	<u>Security</u>	<u>Deposit Date</u>	<u>Par Value</u>	<u>Original Cost</u>	<u>Market Value</u>	<u>Purchased Interest</u>	<u>Maturity Date or Call Date</u>	<u>Yield to Maturity or Call</u>	<u>Interest Received to Date</u>	<u>Interest Earned Prior Yrs.</u>	<u>Interest Earned Current FY</u>	<u>Days to Maturity</u>
Treasury	912828WR7	US Treasury Note	4/2/2019	1,000,000.00	995,625.00	1,007,890.62		6/30/2021	2.33%	\$ 15,849.45	\$ 5,656.35	\$ 11,694.04	547
Toyota Motor Credit	89236TDP7	Corporate Bond	05/20/19	1,100,000.00	1,102,596.00	1,116,637.21		1/11/2022	2.50%	\$ 4,051.67	\$ 3,102.53	\$ 13,923.57	742
FHLB	3133834H1	Gov. Agency Debenture	9/20/2017	1,785,000.00	1,776,432.00	1,782,734.05		6/12/2020	1.56%	\$ 54,678.03	\$ 49,147.92	\$ 13,955.58	164
FFCB	3133EJB81	Gov. Agency Debenture	10/9/2018	1,700,000.00	1,697,331.00	1,705,236.77		3/25/2020	2.84%	\$ 44,605.17	\$ 34,889.76	\$ 24,317.11	85
FFCB	3133EKMx1	Gov. Agency Debenture	8/2/2019	1,000,000.00	1,014,400.00	1,020,131.67		2/23/2024	1.90%	\$ 6,875.83	\$ -	\$ 7,920.32	1515
FFCB	3133EHEZ2	Gov. Agency Debenture	9/20/2017	1,600,000.00	1,602,304.00	1,599,891.98		4/6/2020	1.54%	\$ 52,337.78	\$ 43,841.67	\$ 12,448.87	97
FNMA	3133EHYm9	Gov. Agency Debenture	9/21/2017	1,300,000.00	1,295,866.00	1,299,657.62		9/14/2020	1.61%	\$ 38,620.83	\$ 37,021.86	\$ 10,528.63	258
US Treasury	912828VF4	US Treasury Note	9/21/2017	1,000,000.00	997,109.38	998,828.12		5/31/2020	1.48%	\$ 30,129.78	\$ 26,275.86	\$ 7,472.58	152
FNMA	3136G0AW1	Gov. Agency Debenture	12/13/2017	2,000,000.00	2,017,900.00	2,011,225.50		10/16/2020	2.02%	\$ 86,558.33	\$ 62,898.65	\$ 20,520.13	290
IBM	459200HG9	Corporate Bond	8/8/2019	1,000,000.00	995,010.00	999,900.93	364.58	8/1/2022	2.05%	\$ (364.58)	\$ -	\$ 8,113.05	944
Oracle	68389XBL8	Corporate Bond	7/8/2019	1,000,000.00	1,008,880.00	1,016,699.90		7/15/2023	2.18%	\$ 4,466.67	\$ -	\$ 10,507.97	1292
US Treasury	912828R28	US Treasury Note	7/2/2019	500,000.00	497,246.09	499,960.94		4/30/2023	1.77%	\$ 2,671.54	\$ -	\$ 4,409.89	1216
American Express	0258M0EE5	Corporate Bond	9/15/2017	1,000,000.00	1,007,980.00	999,987.20		1/2/2020	1.87%	\$ 43,266.67	\$ 33,148.01	\$ 9,340.33	2
Freddie Mac	3137EAEN5	Gov. Agency Debenture	7/19/2019	2,000,000.00	2,072,358.00	2,077,196.80		6/19/2023	1.79%	\$ 22,916.67	\$ -	\$ 16,519.85	1266
FFCB	3133EKVF0	Gov. Agency Debenture	7/22/2019	1,000,000.00	999,630.00	1,007,295.66	260.42	1/17/2023	1.89%	\$ (260.42)	\$ -	\$ 8,368.93	1113
Treasury	912828L57	US Treasury Note	7/22/2019	1,200,000.00	1,197,988.40	1,204,828.13		9/30/2022	2.09%	\$ 4,016.39	\$ -	\$ 9,600.03	1004
FreddieMac	3137EAEE5	Gov. Agency Debenture	12/20/2017	1,000,000.00	991,200.00	999,901.62		1/17/2020	1.93%	\$ 23,625.00	\$ 29,356.90	\$ 9,697.79	17
FreddieMac	3137EAEE5(A)	Gov. Agency Debenture	12/18/2018	1,000,000.00	987,160.00	999,901.62		1/17/2020	2.71%	\$ 8,708.33	\$ 14,278.83	\$ 13,542.81	17
American Honda	02665WCZ2	Corporate Bond	11/27/2019	1,000,000.00	1,012,410.01	1,011,191.70		6/27/2024	2.12%	\$ 5,608.34	\$ -	\$ 1,983.56	1640
FHLB	3130ACRP1	Gov. Agency Debenture	7/25/2018	1,500,000.00	1,479,404.42	1,500,042.21		2/7/2020	2.59%	\$ 26,040.00	\$ 35,933.93	\$ 19,446.60	38
Honeywell Int'l.	438516BW5	Corporate Bond	11/20/2019	1,000,000.00	1,014,660.00	1,012,290.84	6,516.67	7/15/2024	1.64%	\$ (6,516.67)	\$ -	\$ 2,229.79	1658
Disney	25468PDP8	Corporate Bond	12/1/2017	1,000,000.00	998,190.00	999,968.71		3/4/2020	2.03%	\$ 34,284.50	\$ 32,037.85	\$ 10,234.31	64
FNMA	3135G0V75	Gov. Agency Debenture	10/17/2019	1,100,000.00	1,105,833.30	1,101,254.06	5,293.75	7/2/2024	1.63%	\$ (5,293.75)	\$ -	\$ 3,701.12	1645
FHLB	3130AECJ7	Gov. Agency Debenture	9/14/2018	1,000,000.00	998,101.00	1,003,908.44		5/28/2020	2.46%	\$ 31,135.42	\$ 21,666.58	\$ 13,794.64	149
US Bancorp	91159HHV5	Corporate Bond	12/24/2019	1,000,000.00	1,049,040.00	1,050,123.14	13,031.25	1/5/2024	2.12%	\$ (13,031.25)	\$ -	\$ 414.21	1466
Chevron	166764AG5	Corporate Bond	11/9/2017	1,350,000.00	1,366,834.50	1,352,915.47		5/24/2020	1.94%	\$ 69,624.56	\$ 42,820.12	\$ 13,175.42	145
FFCB	3133EKCS3	Gov. Agency Debenture	3/21/2019	1,400,000.00	1,403,262.00	1,416,248.86		3/11/2021	2.43%	\$ 16,858.33	\$ 9,421.68	\$ 17,164.25	436
FFCB	3133EKQA7	Gov. Agency Debenture	10/21/2019	1,000,000.00	1,019,780.00	1,015,744.43	2,368.89	9/10/2024	1.66%	\$ (2,368.89)	\$ -	\$ 3,259.70	1715
PNC Financial	693476BN2	Corporate Bond	8/15/2019	1,000,000.00	1,029,280.00	1,027,414.42		2/6/2022	2.12%	\$ 2,108.33	\$ -	\$ 8,016.84	768
FHLB	313379Q69	Gov. Agency Debenture	7/22/2019	1,000,000.00	1,006,960.00	1,011,519.00		6/10/2022	1.87%	\$ 8,145.83	\$ -	\$ 8,361.75	892
FNMA	3135G0V59	Gov. Agency Debenture	11/27/2019	1,540,000.00	1,562,924.44	1,563,036.78	4,331.25	4/12/2022	1.61%	\$ (4,331.25)	\$ -	\$ 2,328.67	833
Freddie Mac	3134GBN40	Gov. Agency Debenture	9/29/2017	1,000,000.00	998,900.00	999,984.55		6/29/2020	1.67%	\$ 36,562.50	\$ 29,148.73	\$ 8,393.37	181
JP Morgan Chase	46625HJT8	Corporate Bond	9/23/2019	1,400,000.00	1,485,414.00	1,494,337.07	7,836.11	2/1/2024	2.39%	\$ (7,836.11)	\$ -	\$ 9,402.83	1493
FHLB	3130AABG2	US Treasury Note	4/15/2019	1,000,000.00	988,250.00	1,005,364.95		11/29/2021	2.34%	\$ 11,666.67	\$ 4,835.29	\$ 11,706.49	699
FNMA	3136FTB73	Gov. Agency Debenture	4/25/2017	1,000,000.00	1,013,390.00	1,000,371.60		2/7/2020	1.50%	\$ 45,666.67	\$ 33,146.46	\$ 7,662.00	38
JP Morgan Chase	48125LRK0	Corporate Bond	3/4/2019	1,000,000.00	996,520.00	1,000,528.06		2/1/2020	2.71%	\$ 10,633.00	\$ 9,647.87	\$ 15,044.14	32
Treasury	912828M80	US Treasury Note	7/22/2019	1,000,000.00	1,006,175.23	1,011,289.06		11/30/2022	1.81%	\$ 7,158.47	\$ -	\$ 8,061.40	1065
Treasury	912828U57	US Treasury Note	7/31/2019	1,000,000.00	1,011,875.00	1,017,812.50		11/30/2023	1.84%	\$ 7,083.33	\$ -	\$ 7,759.79	1430
Pepsico	713448CS5	Corporate Bond	5/15/2017	1,250,000.00	1,249,600.00	1,249,867.10		3/30/2020	1.31%	\$ 56,848.96	\$ 49,460.00	\$ 11,727.63	90
Treasury	912828X70	US Treasury Note	12/30/2019	1,000,000.00	1,010,589.29	1,013,710.94	3,296.70	4/30/2024	1.75%	\$ (3,296.70)	\$ -	\$ 53.58	1582
Treasury	912828XT2	US Treasury Note	10/31/2019	1,000,000.00	1,015,667.41	1,013,867.19		5/31/2024	1.64%	\$ 1,639.34	\$ -	\$ 2,771.55	1613
Treasury	912828H52	US Treasury Note	6/30/2017	1,000,000.00	994,726.56	999,678.35		1/31/2020	1.46%	\$ 26,070.44	\$ 29,073.66	\$ 7,328.16	31
Toyota Motor Credit	89236TCF0	Corporate Bond	10/6/2017	500,000.00	503,545.00	500,130.55		3/12/2020	1.85%	\$ 20,783.33	\$ 16,090.68	\$ 4,684.63	72
FFCB	3133EJ3Q0	Gov. Agency Debenture	8/28/2019	1,500,000.00	1,587,503.75	1,570,897.68		12/21/2023	2.12%	\$ 13,536.46	\$ -	\$ 7,828.50	1451
Freddie Mac	3133EKKT2	Gov. Agency Debenture	6/24/2019	1,550,000.00	1,573,188.00	1,578,978.23		2/8/2023	1.82%	\$ 12,981.25	\$ 468.29	\$ 14,360.75	1135
Subtotal				\$ 52,275,000.00	\$ 52,739,039.78	\$ 52,870,382.23	\$ 43,299.62			\$ 844,514.25	\$ 653,369.49	\$ 433,777.16	
BNY MM					106,351.46	106,351.46			0.00%				1
LAIF		N/A			5,506,169.91	5,506,169.91			2.19%			71,519.30	1
					\$58,351,561.15	\$58,482,903.60				\$ 844,514.25	\$ 653,369.49	\$ 505,296.46	

Matured Assets

Treasury	912828WS5	US Treasury Note	5/2/2017	500,000.00	503,339.84			7/1/2019	1.31%	\$ 17,574.24	\$ 14,227.74	\$ 18.03	
Oracle	68389XAG0	Corporate Bond	5/3/2018	1,000,000.00	1,028,370.00			7/8/2019	2.54%	\$ 59,027.78	\$ 30,101.79	\$ 569.30	
FHLB	3130AEU73	Gov. Agency Debenture	8/27/2018	1,000,000.00	999,180.00			7/22/2019	2.46%	\$ 23,750.00	\$ 20,741.19	\$ 1,486.34	
Treasury	912828F39	US Treasury Note	4/17/2018	1,200,000.00	1,190,343.75			7/22/2019	2.32%	\$ 30,524.59	\$ 34,452.97	\$ 1,726.57	
FHLB	313383VN8	Gov. Agency Debenture	5/25/2018	2,000,000.00	1,989,800.00			7/22/2019	2.40%	\$ 52,000.00	\$ 53,614.71	\$ 2,941.46	
FHLMC	3137EAEB1	Gov. Agency Debenture	3/14/2017	2,000,000.00	1,970,180.00			7/19/2019	1.52%	\$ 41,076.39	\$ 69,336.96	\$ 1,572.08	
Treasury	912828K5	US Treasury Note	7/2/2018	1,000,000.00	989,218.75			7/31/2019	2.39%	\$ 14,851.52	\$ 23,607.64	\$ 2,016.08	
FNMA	3135G0N33	Gov. Agency Debenture	04/17/13	1,000,000.00	981,984.01			8/2/2019	2.17%	\$ 12,322.92	\$ 28,416.36	\$ 1,945.52	
Microsoft	594918BN3	Corporate Bond	8/8/2016	1,000,000.00	999,470.00			8/8/2019	1.12%	\$ 33,000.00	\$ 32,335.78	\$ 1,194.22	
Berkshire Hathaway	084664CK5	Corporate Bond	1/22/2018	1,100,000.00	1,086,305.00			8/15/2019	2.11%	\$ 22,363.61	\$ 33,119.10	\$ 2,907.40	
FNMA	3135G0P49	Gov. Agency Debenture	11/15/2016	1,500,000.00	1,487,505.00			8/28/2019	1.31%	\$ 41,791.66	\$ 51,098.17	\$ 3,150.25	
JP Morgan Chase	48125LRG9	Corporate Bond	3/28/2017	1,400,000.00	1,393,196.00			9/23/2019	1.86%	\$ 57,429.17	\$ 58,316.80	\$ 6,015.69	
FFCB	3133EGYP4	Gov. Agency Debenture	10/28/2016	1,000,000.00	997,507.00			10/17/2019	1.14%	\$ 31,179.17	\$ 30,290.27	\$ 3,386.30	
FFCB	3133EJPU7	Gov. Agency Debenture	6/1/2018	1,000,000.00	1,001,454.00			10/21/2019	2.38%	\$ 36,511.11	\$ 25,640.48	\$ 7,353.74	
Treasury	912828F62	US Treasury Note	6/30/2017	1,000,000.00	1,002,148.44			10/31/2019	1.41%	\$ 35,013.59	\$ 28,161.36	\$ 4,745.00	
American Honda	02665WBZ3	Corporate Bond	4/11/2018	1,000,000.00	990,620.00			11/13/2019	2.61%	\$ 31,944.44	\$ 31,567.90	\$ 9,647.72	
FNMA	3135G0ZY2	Gov. Agency Debenture	12/20/2017	1,550,000.00	1,545,642.95			11/26/2019	1.90%	\$ 52,441.67	\$ 44,831.00	\$ 11,992.49	
Pfizer	717081EB5	Corporate Bond	6/30/2017	1,000,000.00	1,002,280.00			12/15/2019	1.60%	\$ 41,791.67	\$ 32,146.55	\$ 7,398.11	
US Bancorp	90331HNB5	Corporate Bond	10/19/2018	1,000,000.00	986,540.00			12/24/2019	3.09%	\$ 15,277.78	\$ 21,850.15	\$ 15,226.29	
FNMA	3136G3TW5	Gov. Agency Debenture	7/25/2018	1,000,000.00	980,540.00			12/30/2019	2.54%	\$ 16,451.39	\$ 23,363.19	\$ 12,574.89	

Total Investments "Matured"

23,125,624.74

666,322.70

687,220.11

603,163.93

Maturity Profile

0-1 year

Amount
\$28,585,015.23

Town of Los Gatos Investment Schedule December 2019

1-2 years	\$3,387,137.00
2-3 years	\$7,900,934.07
3-5 years	<u>\$ 18,478,474.85</u>
	<u>\$58,351,561.15</u>

Market to Cost Position Report

<u>Institution</u>	<u>Amortized Cost</u>
BNY Assets	\$52,739,039.78
BNY MM	106,351.46
LAIF	5,506,169.91
Totals:	<u>\$58,351,561.15</u>



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/18/2020

ITEM NO: 8

DATE: February 12, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Staff recommends that the Town Council:
a. Receive the Fiscal Year (FY) 2019/20 Mid-Year Budget Performance Report - July 1, 2019 Through December 31, 2019; and
b. Authorize Budget Adjustments as Recommended in the Attached Budget Performance Report.

RECOMMENDATION:

Staff recommends that the Town Council:

- a. Receive the Fiscal Year (FY) 2019/20 Mid-Year Budget Performance Report – July 1, 2019 through December 31, 2019; and
- b. Authorize budget adjustments as recommended in the attached Budget Performance Report.

BACKGROUND:

The purposes of the Mid-Year Report (Attachment 1) are to provide the Town Council with a status of the adopted FY 2019/20 Operating Budget after the first six months and to describe the Town's proposed mid-year adjustments. 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.

DISCUSSION:

The attached FY 2019/20 Mid-Year Budget Report Performance Report (Attachment 1) covers the first six months of the fiscal year beginning July 1, 2019 and ending December 31, 2019.

PREPARED BY: Stephen Conway
Finance Director

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

DISCUSSION (continued):

Operating Revenue Trends and Proposed Mid-Year Adjustments

The current forecast expects increases in sales tax, property tax, and motor vehicle in lieu fees due to the continued strength of the local economy. The combined recommended mid-year revenue adjustments total a net increase of \$1.1 million. Specific revenue adjustments are shown beginning on page 13 of Attachment 1.

Operating Expenditure Trends and Proposed Mid-Year Adjustments

General Fund expenditure totals are trending in accordance with the Adopted Budget, with total operational expenditures at the end of the second quarter at or about 46% of the Adopted Budget. With six months of data now available, staff expects that the next six months of expenditures will be within the Adopted Budget, although unexpected costs can still occur. Should any budget adjustments be necessary to balance operating revenue and expenditures, staff will advise the Council accordingly. Recommended expenditure additions total \$0.1 million and include water utility costs, tree lighting services, and traffic signal updates (see Attachment 1).

General Fund Projected Year-End Excess of Revenues Over Expenditures as of June 30, 2020

Current fiscal year-end projections for FY 2019/20 reflect an anticipated \$1.1 million surplus of operating revenues over expenditures.

FY 2020/21 Budget Development Process

On January 14, 2019, the Town Council confirmed its ongoing priorities and expressed a desire to continue emphasizing the following if budgetarily feasible:

- Additional Discretionary Payments (ADPs) toward pension obligations
- Wildfire mitigation measures
- Implementation of the parking study
- Renewed sustainability efforts

As mentioned in that report, staff expects next year's budget to remain "status quo" with the continuation of the Town's current service levels in all Departments.

Based on the Town Council's identified Strategic Priorities and Council budget direction, staff has started budget development work, including an update of the Five-Year Financial Forecast, identification of critical Town needs, contractual obligations, unfunded mandates, potential adjustments to the User Fee Schedule, and other analyses. Staff is actively engaged in the

PAGE 3 OF 3

SUBJECT: FY 2019/20 Mid-Year Budget Performance Report

DATE: February 12, 2020

DISCUSSION (continued):

2020/21 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 Proposed FY 2020/21 budget will be presented to Council on May 19, 2020.

CONCLUSION:

The financial results from the prior fiscal year, coupled with the FY 2019/20 first and second quarter data, confirm that the mid-year financial results are stable. Staff recommends that the Town Council approve the proposed revenue and expenditure budget adjustments as described in Attachment 1.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Budget Performance Report for the Six Months Ending December 31, 2019
2. Public Comments Received before Publishing the Staff Report



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

INTRODUCTION

Purpose

This Mid-Year Report covers the first and second quarters for Fiscal Year (FY) 2019/20, reflecting the six-month period ending December 31, 2019. The purposes of this public reporting are twofold. First, the report enables the Town to monitor its revenues and expenditures consistently so that it can proactively respond to unanticipated changes or emerging trends. Second, and equally important, the report increases the transparency of the Town’s finances. The Town is ultimately accountable to its residents to use the revenue it brings in efficiently and effectively to provide the highest quality services, and public reporting provides taxpayers with information that demonstrates the Town is committed to this goal.

Overview

This Mid-Year Report presents an overview of the Town’s operating revenues and expenditures for the period ending December 31, 2019 as compared to previous years and explains any notable changes or trends in these numbers. The report also provides information on recommended budget adjustments for the current fiscal year.

Timeframe and Limitations

The information in this report is the most accurate and up-to-date information available at the time of publication. However, this report is not an audited financial statement and the numbers provided herein are preliminary and subject to change as the year progresses. No data on revenues and expenditures are final until the Town has completed its annual comprehensive audit and finalized its Comprehensive Annual Financial Report (CAFR), which is released annually in early December for the prior fiscal year.

With respect to revenues: To develop a more accurate picture of the Town’s anticipated year-end

financial position, the Town regularly monitors and adjusts its year-end revenue projections based on revenue performance and other developments that may affect Town revenues. This report adjusts property and sales tax revenue projections and the revenues listed in on page 12.

With respect to expenditures: The expenditure information in this report is extracted directly from the Town’s financial management system, and adjustments are made to account for certain known payments, reimbursements, or transfers between Town Departments and funds that have not yet been processed in the system at the time of publication. A more detailed analysis of anticipated year-end estimates is part of the Proposed FY 2020/21 Operating Budget. This represents a snapshot of Town expenditures at a certain point in time and does not reflect final adjustments completed for the Town’s CAFR.

Table of Contents

Introduction.....	1
Budget Context.....	2
Status of FY 2019/20 Adopted Budget	2
Federal Economic Outlook	2
State Budget Update	2
General Fund – Key Revenue Analysis.....	3
General Fund – Salaries and Benefits Analysis	12
FY 2019/20 Recommended Budget Adjustments...	13
Summary of Key Recommended Adjustments	14
Financial Summaries and Estimates	17
General Fund	18
Special Revenue Funds.....	19
Capital projects Funds	20
Internal Service Funds	21
Trust and Agency Funds	22
Conclusion	22

ATTACHMENT 1



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

BUDGET CONTEXT

Status of FY 2019/20 Adopted Budget

Overall, second quarter FY 2019/20 General Fund revenues are trending slightly higher than the second quarter of Fiscal Year 2018/19. Due to some projected revenue increases, staff is recommending a net General Fund revenue increase of \$1.1 million from the adopted budgeted estimates, offset by \$0.1 million in expenditure increases. This adjustment does not include the \$4.2 million transfer from the Pension/OPEB Reserve to CalPERS which is described in greater detail on page 12. The current estimates show an increase in economically sensitive revenues such as property tax, motor vehicle in lieu fee, and sales tax. Revenues such as licenses and permits, and fees for services are all trending favorably, another indication of the strength in the economy (see summary detail on page 17).

General Fund expenditure totals for the second quarter are trending in accordance with forecasts, with total operational expenditures at the end of the second quarter at about 46% of the Adopted Budget. With six months of data now available, it is expected that the next six months of expenditure trends will be within budget, although unexpected costs can still occur. Should any further budget adjustments be necessary to balance operating revenue and expenditures, staff will advise the Council accordingly.

Expenditure additions at this time include water utility costs, tree lighting services, and traffic signal updates (see page 12 for details).

The continued provision of existing service levels in this and future fiscal years will require economically sensitive revenues (Property, Sales, Transient Occupancy Tax (TOT)) to keep pace with anticipated increases in salaries and benefits and other expenditure increases. The FY 2019/20 Adopted Budget is the sixth budget in five years that did not require any service reductions to balance the budget. The FY 2020/21 budget is also expected to be “status quo,” and maintain the Town’s high service levels while recognizing the Town’s contractual obligations and unfunded mandates.

Federal Economic Outlook

The Federal Reserve Bank of San Francisco (FRBSF) in a January 13, 2020 publication indicated that it expects 2019 to conclude with a real Gross Domestic Product (GDP) growth rate of 2.3%. The report noted that 2.3% is somewhat above its estimate of the economy’s long-run sustainable growth rate of slightly below 2%. Given the waning effects of federal fiscal policy, the report projects that GDP growth will slow towards trend (2%) by 2022. In addition, the report noted that following the conclusion of its December 11, 2019 meeting, the Federal Open Market Committee announced its decision to maintain the target range for the federal funds rate at 1½ to 1¾%. The Committee noted that while labor market conditions and household spending remained strong, business fixed investment and exports were weak.

State Budget Update

The 2020-21 Governor’s Budget proposes spending of \$222.2 billion in total state funds, consisting of approximately \$153 billion from the General Fund, \$63.8 billion from special funds, and \$5.4 billion from bond funds. The Budget continues to build reserves and make strategic investments that promote opportunity, address affordability, and strengthen the State’s readiness and emergency capabilities.

The State Budget promotes enhancing California’s ability to prevent and respond to emergencies, and continues critical work to bring government services into the digital age, including enhancing California’s ability to prevent and respond to cyber threats.

After decades of underproduction, Californians continue to face a staggering housing crisis. The Budget includes \$1.75 billion to increase housing supply, including funding to local governments for planning and infrastructure, an investment in the state’s housing loan program, and an expansion of state housing tax credits. The Administration also launched an effort to reuse excess State properties for innovative housing projects and worked to leverage additional capital from the private sector to build more housing.



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

GENERAL FUND – KEY REVENUE ANALYSIS

The following discussion provides a status of significant General Fund revenue sources as of the second quarter, ending December 31, 2019.

All revenue sources are closely monitored and staff may recommend certain revenue adjustments based on revenue actuals or State budget action(s).



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

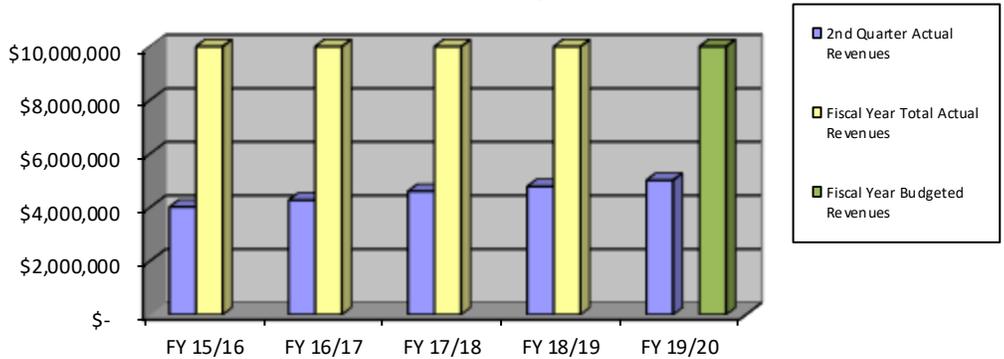
Property Tax

Property tax is the largest revenue source for the Town’s General Fund, accounting for 31.3% of budgeted General Fund revenues in FY 2019/20. 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 thereafter. However, when property changes hands or new construction occurs, property is then reassessed at its current market value. Real property values critically impact property tax revenues received by the Town. With the passage of Proposition 13, voters limited the tax rate that can be imposed on property. With the limitation on rates, higher property tax revenues are primarily generated by a higher aggregate property value.

Analysis – Property tax distributions are largely received in the third and fourth quarters. Property tax budget projections are based on valuations projected by the Santa Clara County Assessor’s Office, given the value and quantity of home sales. Second quarter receipts are trending similar than those received during the second quarter of the previous fiscal year and are at 35% of budgeted totals. Based on current County projections, staff recommends a \$302,266 increase in General Property Tax.

PROPERTY TAX

**Quarterly and Annual Revenues
5-Year History**



	<u>FY 15/16</u>	<u>FY 16/17</u>	<u>FY 17/18</u>	<u>FY 18/19</u>	<u>FY 19/20</u>
2nd Quarter Actual Revenues	\$ 4,017,963	\$ 4,274,774	\$ 4,604,788	\$ 4,785,479	\$ 5,017,946
Fiscal Year Total Actual Revenues	\$ 10,779,448	\$ 11,518,257	\$ 12,510,822	\$ 13,636,099	
Fiscal Year Budgeted Revenues					\$ 14,174,700
2nd Quarter Percent of Total	37%	37%	37%	35%	35%
Recommended Budget Revision					\$ 302,266



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

Sales Tax

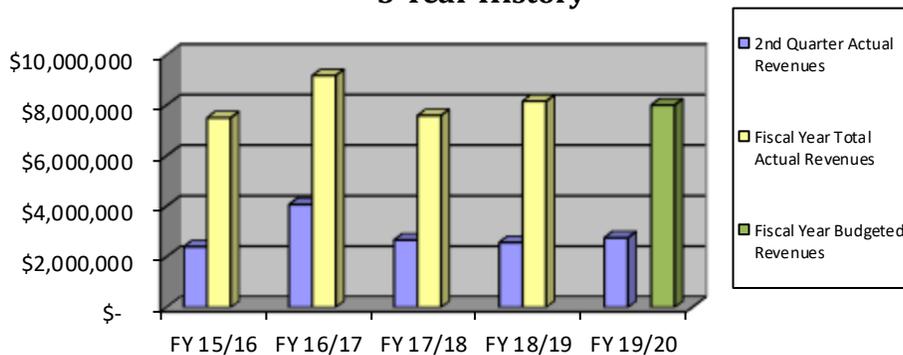
Sales tax is the second largest revenue source for the Town’s General Fund, accounting for 17.7% of budgeted General Fund revenues for FY 2019/20. The Town currently receives 1.125 cent for every 9.125 cents of sales tax paid per dollar on retail sales and taxable services transacted within Los Gatos including the Town of Los Gatos residents approved ballot Measure G enacting a one-eighth cent (0.125%) sales tax for 20 years.

Analysis – FY 2016/17 marked the end of the State sales tax distributing mechanism commonly known as the “triple-flip” and included a \$900,000 final triple-flip true-up payment from previous fiscal years as illustrated in the table below. 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 including the additional district tax. In addition, the MuniServices estimates include additional proceeds from internet sales due to the 2018 Wayfair Court decision.

For FY 2019/20 second quarter receipts are trending higher than in the same period last fiscal year. Staff recommends a \$721,083 budget increase to reflect the MuniServices current estimates.

SALES TAX

**Quarterly and Annual Revenues
5-Year History**



	<u>FY 15/16</u>	<u>FY 16/17</u>	<u>FY 17/18</u>	<u>FY 18/19</u>	<u>FY 19/20</u>
2nd Quarter Actual Revenues	\$ 2,397,533	\$ 4,069,524	\$ 2,662,601	\$ 2,568,415	\$ 2,755,208
Fiscal Year Total Actual Revenue	\$ 7,501,175	\$ 9,171,373	\$ 7,592,206	\$ 8,158,152	
Fiscal Year Budgeted Revenues					\$ 8,001,917
2nd Quarter Percent of Total	32%	44%	35%	31%	34%
Recommended Budget Revision					\$ 721,083



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

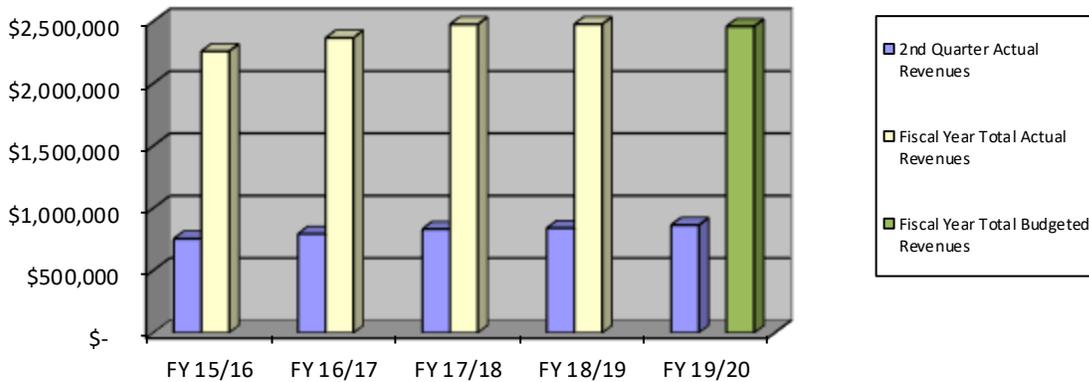
Franchise Fees

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 5.4% of budgeted General Fund revenues in FY 2019/20.

Analysis – 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 slightly higher than those of the second quarter in FY 2018/19. Staff recommends no budget adjustment to this revenue source.

Franchise Fees

**Quarterly and Annual Revenues
5-Year History**



	<u>FY 15/16</u>	<u>FY 16/17</u>	<u>FY 17/18</u>	<u>FY 18/19</u>	<u>FY 19/20</u>
2nd Quarter Actual Revenues	\$ 755,451	\$ 794,077	\$ 832,583	\$ 840,555	\$ 864,849
Fiscal Year Total Actual Revenues	\$ 2,258,892	\$ 2,366,908	\$ 2,474,814	\$ 2,475,916	
Fiscal Year Total Budgeted Revenues					\$ 2,458,520
2nd Quarter Revenue Percent of Total	33%	34%	34%	34%	35%

Recommended Budget Revision



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

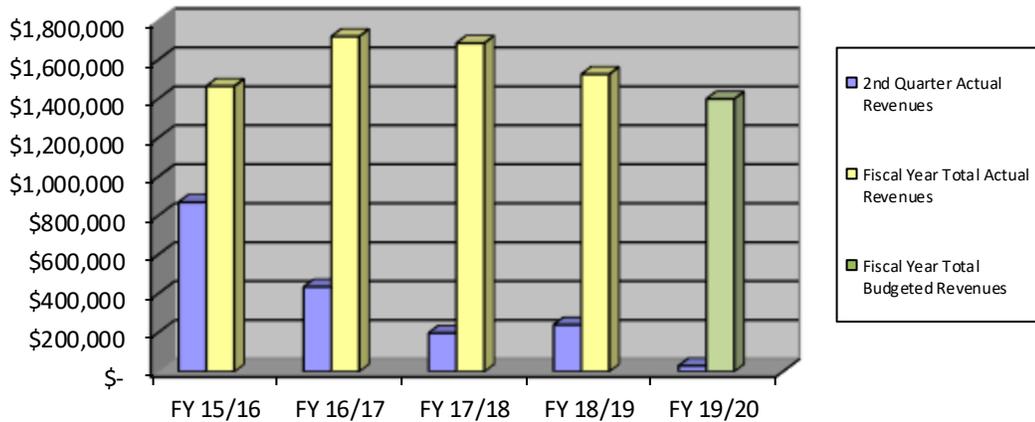
Business License Tax

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. 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 \$975. 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 pro-rated by quarter.

Analysis – Business license tax revenue for the current fiscal year was budgeted in line with prior years based on staff analysis. Second quarter revenues are trending lower compared to prior year second quarter revenue, due to a Finance staff vacancy which delayed the business license renewal process. Staff anticipates collecting the majority of the business license revenue during the third quarter. Staff recommends no budget adjustment to this revenue source.

Business License Tax

Quarterly and Annual Revenues 5-Year History



	<u>FY 15/16</u>	<u>FY 16/17</u>	<u>FY 17/18</u>	<u>FY 18/19</u>	<u>FY 19/20</u>
2nd Quarter Actual Revenues	\$ 870,249*	\$ 435,696	\$ 199,045	\$ 240,293	\$ 30,600
Fiscal Year Total Actual Revenues	\$ 1,465,547	\$ 1,720,980	\$ 1,686,251	\$ 1,526,894	
Fiscal Year Total Budgeted Revenues					\$ 1,400,000
2nd Quarter Revenue Percent of Total	53%	53%	59%	16%	2%

Recommended Budget Revision

* Includes 2014 actual gross receipt adjustment for Netflix at the first time



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

Transient Occupancy Tax

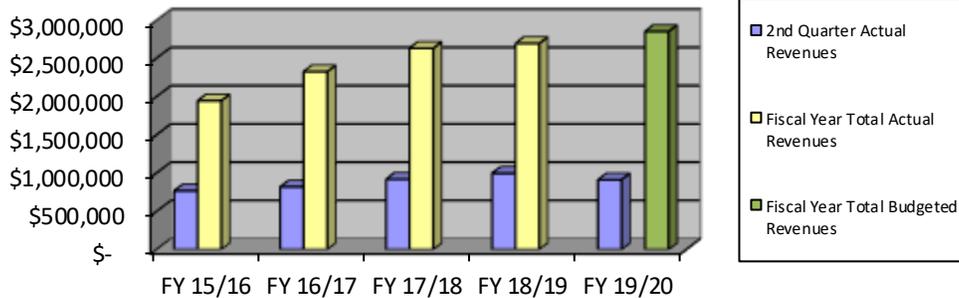
The Town levies a 12% transient occupancy tax (TOT) on all hotel and motel rooms within the municipal limits of Los Gatos. This tax helps to fund Town services provided to visitors to Los Gatos. At the November 8, 2016 election, the Town of Los Gatos residents approved a ballot measure increase in the TOT from 10% to 12%. The 12% rate has been in effect since January 1, 2017.

Analysis – CBRE Hotels Americas Research in its December 2019 Hotel Horizon report anticipates a continued industry slowdown through 2021. According to the research, year-over-year demand is expected to decelerate, and for occupancy levels to decrease in 2020 and 2021. For 2020, CBRE is forecasting an overall 0.7 percent decrease in occupancy for the nation’s 60 major markets. The San Jose-Santa Cruz, market is forecast to lead the nation in supply growth with an increase of 9.2 percent. The average number of rooms per project in the development pipeline in San Jose-Santa Cruz is 122 rooms.

Based on the current trend staff is not recommending any change in the current fiscal year.

Transient Occupancy Tax

**Quarterly and Annual Revenues
5-Year History**



	<u>FY 15/16</u>	<u>FY 16/17</u>	<u>FY 17/18</u>	<u>FY 18/19</u>	<u>FY 19/20</u>
2nd Quarter Actual Revenues	\$ 766,651	\$ 817,061	\$ 917,019	\$ 994,581	\$ 910,806
Fiscal Year Total Actual Revenues	\$ 1,943,166	\$ 2,322,910	\$ 2,628,927	\$ 2,692,043	
Fiscal Year Total Budgeted Revenues					\$ 2,848,730
2nd Quarter Revenue Percent of Total	39%	35%	35%	37%	32%
Recommended Budget Revision					\$ -



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

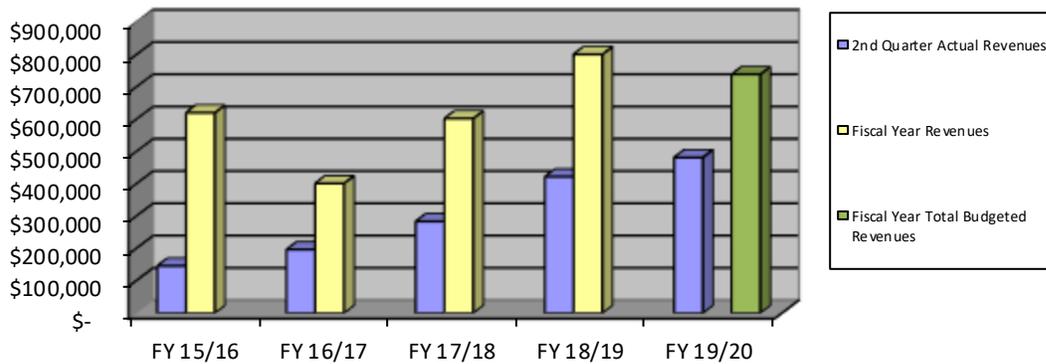
Interest Income

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. The Town’s investment goal is to achieve a competitive rate of return while 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.

Analysis – Second quarter receipts are trending above those in the same period in the prior fiscal year. During the quarter ending December 31, 2019, the Federal Reserve Open Market Committee (FOMC) lowered interest rates 25 basis points, targeting a federal funds rate of 1.5% to 1.75%. For the calendar year, the FOMC lowered rates 25 basis points three consecutive times. At the conclusion of the final FOMC meeting for 2019, Federal Reserve Chairman Powell stated, “Our economic outlook remains a favorable one despite global developments and ongoing risks.” In addition Chairman Powell stated, “As long as incoming information about the economy remains broadly consistent with this outlook, the current stance of monetary policy likely will remain appropriate.” Therefore, indicating that no further rate reductions would be necessary for the foreseeable future. This recent Federal action is consistent with staff’s strategy to extend maturity lengths on new purchases of securities to take advantage of higher yielding securities in the 2 to 3-year maturity range. Staff recommends no change to this revenue source at this time.

Interest Income

**Quarterly and Annual Revenues
5-Year History**



	<u>FY 15/16</u>	<u>FY 16/17</u>	<u>FY 17/18</u>	<u>FY 18/19</u>	<u>FY 19/20</u>
2nd Quarter Actual Revenues	\$ 146,500	\$ 197,065	\$ 284,009	\$ 422,729	\$ 482,400
Fiscal Year Revenues	\$ 620,895	\$ 401,961	\$ 603,017	\$ 801,729	
Fiscal Year Total Budgeted Revenues					\$ 739,774
2nd Quarter Revenue Percent of Total	24%	49%	47%	53%	65%

Recommended Budget Revision



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

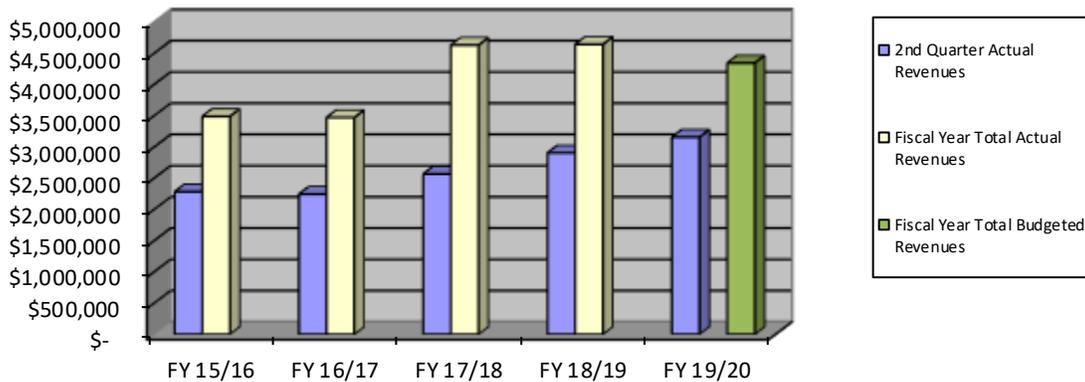
Charges for Services

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.

Analysis – Second quarter Town Service revenues, specifically Charges for Services, are trending higher than in the second quarter compared to the previous fiscal year, with 73% of budgeted revenues already received. Typically, development fees are collected in advance for projects and recognized as revenue in the fiscal year the work is performed. Staff anticipates that the increased use of building and engineering inspection contract services during North 40 building activity will offset the increase in charges for services. Staff recommends no budget adjustment to this revenue source.

Charges for Services

**Quarterly and Annual Revenues
5-Year History**



	<u>FY 15/16</u>	<u>FY 16/17</u>	<u>FY 17/18</u>	<u>FY 18/19</u>	<u>FY 19/20</u>
2nd Quarter Actual Revenues	\$ 2,284,873	\$ 2,244,464	\$ 2,567,814	\$ 2,905,238	\$ 3,158,722
Fiscal Year Total Actual Revenues	\$ 3,489,253	\$ 3,471,553	\$ 4,630,893	\$ 4,643,715	
Fiscal Year Total Budgeted Revenues					\$ 4,344,336
2nd Quarter Revenue Percent of Total	65%	65%	55%	63%	73%

Recommended Budget Revision



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

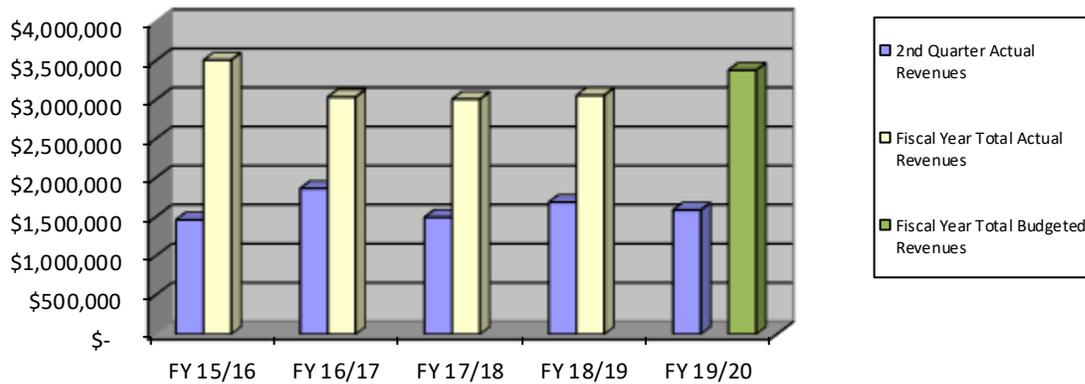
Licenses and Permits

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 higher than FY 2018/19 in anticipation of additional North 40 permitting process development activity.

Analysis – Second quarter License and Permit revenue is trending 47% of budgeted revenue slightly lower than second quarter results from the previous fiscal year. Staff recommends no budget adjustment to this revenue source.

Licenses & Permits

**Quarterly and Annual Revenues
5-Year History**



	<u>FY 15/16</u>	<u>FY 16/17</u>	<u>FY 17/18</u>	<u>FY 18/19</u>	<u>FY 19/20</u>
2nd Quarter Actual Revenues	\$ 1,465,547	\$ 1,867,300	\$ 1,498,864	\$ 1,692,252	\$ 1,592,059
Fiscal Year Total Actual Revenues	\$ 3,512,019	\$ 3,038,511	\$ 3,011,309	\$ 3,059,894	
Fiscal Year Total Budgeted Revenues					\$ 3,825,534
2nd Quarter Revenue Percent of Total	42%	61%	50%	55%	47%

Recommended Budget Revision



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

GENERAL FUND – SALARIES AND BENEFITS ANALYSIS

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. At mid-year, actual salaries are trending at 45% of budgeted salaries, while benefits are trending at 60% of the Adopted Budget. Benefits are trending higher than 50% because the Town submits its entire annual normal pension payment upfront in July 2019 as a cost savings measure. While actual vacancies vary during the course of the fiscal year, there were 12 vacant positions as of 12/31/2019.

General Fund Salaries & Benefits							FY 2019/20
	FY 2018/19	FY 2018/19	Q2% of	Q2% of	FY 2019/20	FY 2019/20	Adjusted
	Actuals	2Q	FY 2018/19	FY 2019/20	2Q	Adopted	through
			Actuals	Adopted			12/31/2019
Salaries	\$ 17,942,181	\$ 8,366,169	47%	45%	\$ 8,955,010	\$ 19,990,048	\$ 20,012,717
Benefits	\$ 8,861,043	\$ 5,920,037	67%	60%	\$ 6,601,154	\$ 10,920,311	\$ 10,920,311
Total Salary & Benefit	\$ 26,803,224	\$ 14,286,206	53%	50%	\$ 15,556,164	\$ 30,910,359	\$ 30,933,028
<i>FY 2018/19 Upfront Annual Payment to CalPERS in July 2018 \$3,088,308</i> <i>FY 2019/20 Upfront Annual Payment to CalPERS in July 2019 \$3,689,063</i>							



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

FY 2019/20 Recommended Mid-Year Budget Adjustments

Budget adjustments are recommended for the following revenues and expenditures at the second quarter:

FY2019/20 MID-YEAR BUDGET ADJUSTMENT REQUESTS - GENERAL FUND

Fund	Program	Account	General Fund Revenues	
111	1201	411XX	Property Tax	\$ 302,266
111	1201	41141	Motor Vehicle In Lieu Fee	80,114
111	1201	41211	Sales & Use Tax	721,083
111	1201	41311	Miscellaneous Revenue	1,555
111	4303	43338	REACT Task Force Reimbursement	40,000
111		36222	Use of Pension/OPEB Reserve	4,232,500
TOTAL GENERAL FUND REVENUES				\$ 5,377,518

Fund	Program	Account	General Fund Expenditures	
111	1201	62119	Payment to CalPERS	\$ 4,232,500
111	5301	62613	Increased Water Utility Cost for Parks	50,000
111	5401	63364	Outdated Traffic Signal Replacement	16,156
111	5401	63364	Additional Ornamental and Bridge Lighting Services	6,521
111	5407	5111X	Temporary FTE Hours from Facility Maintenance Fund	16,165
111	7101	62317	Office Equipment	1,555
TOTAL GENERAL FUND EXPENDITURES				\$ 4,322,897



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

FY 2019/20 MID-YEAR BUDGET ADJUSTMENT REQUESTS - OTHER FUNDS

Fund	Program	Account	<i>Other Fund Revenues</i>	-
481			<i>Gas Tax</i>	
481	481-811-9901	82405	Increased Gas Tax Projections for Street Repair	48,894
				\$ 48,894
711			<i>Library Trust</i>	
711	7301	45452	Anticipated Donation Not Received	(5,000)
				\$ (5,000)
731			<i>PARS 115 Trust</i>	
		36222	Use of PARS 115 Trust Balance	5,057,367
				\$ 5,057,367
<u>TOTAL OTHER FUNDS REVENUES</u>				\$ 5,101,261

Fund	Program	Account	<i>Other Fund Expenditures</i>	
232			<i>Kennedy Meadows LLD</i>	
232	5502	63363	Additional Tree Services	7,092
				\$ 7,092
235			<i>Vasona Heights LLD</i>	
235	5505	63363	Additional Tree Services	4,148
				\$ 4,148
481			<i>Gas Tax</i>	
481	481-811-9901	82405	Increased Gas Tax Projections for Street Repair	48,894
				\$ 48,894
612			<i>Workers Compensation</i>	
	2202	63323	Lock Out Tag Out Procedures Development	59,750
	2202	65521	Inceased Third Party Administration Fee	40,100
				\$ 99,850
633			<i>Facilities Maintenance</i>	
633	5404	63218	Temporary Hours to Facilities Maintenance staffing	(16,165)
	5404	82025	Civic Center Emergency Boiler Replacement	27,056
	5404	82025	Adult Recreation Center Water Heater Replacement	27,000
				\$ 37,891
711			<i>Library Trust Fund</i>	
711	7301	62424	Anticipated Donation Not Received	(5,000)
				\$ (5,000)
731	1231	62119	<i>Pension Trust Fund</i>	
			Payment to CalPERS from the PARS Trust	5,057,367
				\$ 5,360,769
<u>TOTAL OTHER FUNDS EXPENDITURES</u>				\$ 5,553,644

BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

SUMMARY OF KEY RECOMMENDED BUDGET ADJUSTMENTS

General Fund Revenues and Expenditures

- Use of Pension/OPEB Reserve: Staff recommends use of the available Pension /OPEB Reserve in the amount of \$4,232,500 be transferred to the CalPERS California Employees' Pension Prefunding Trust (CEPPT) to make additional discretionary payments (ADPs) per direction from the Town Pension/OPEB Oversight Committee.
- Sales and Use Tax: Staff recommends a \$721,083 budget increase to reflect the combined effect current trends and the one-eight cent sales tax based on MuniServices projections.
- General Property Tax and Motor Vehicle in Lieu Fee: Staff recommends an increase in projected revenues of approximately \$251,552 in General Property Tax and \$80,114 Motor Vehicle in Lieu fee which are in line with the estimates and forecasts provided to the Town from Santa Clara County.
- Regional Enforcement Allied Computer Team (REACT): Staff recommends a \$40,000 revenue adjustment to recognize the potential REACT grant proceeds. Regional Enforcement Allied Computer Team (REACT) is a high technology/cybercrime and identity theft task force. Quarterly reimbursement is directly related to the Los Gatos-Monte Sereno Detective assigned to the Task Force. This revenue can fluctuate depending on the Detective's assigned hours.
- Water Utility: Staff recommends a \$50,000 expenditure budget increase due to increased water utility costs for Town Parks.
- Temporary Facilities FTE Hours: Staff recommends \$16,165 expenditure budget increase to move temporary FTE hours inadvertently budgeted in the Facilities Maintenance Internal Service Fund.
- Traffic Signal: Staff recommends \$16,156 expenditure budget adjustment for actual costs for replacing outdated traffic signal controllers and a portion of the maintenance for Caltrans-owned traffic signals. Lastly, this covers an unbudgeted solar radar purchase to replace the sign at the Pollard and Wedgewood Road intersection.
- Tree Lighting Maintenance Services: Staff recommends a \$6,521 budget increase due to increased cost for ornamental tree and bridge lighting services.
- Emergency Stair Evacuation Chair: Staff recommends a \$1,555 expenditure and revenue budget adjustment to reflect the reimbursement revenue from the Town's excess Workers' Compensation Provider for emergency stair evacuation chair purchased by the Library Department.



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

Other Fund Revenues and Expenditures

- Additional Tree Maintenance Services in Light and Landscaping Districts (LLDs): Staff recommends a \$7,092 increase for tree services needed in the Kennedy Meadows LLD and \$4,148 increase for tree services needed in the Vasona Heights LLD. There are sufficient fund available to cover the additional services.
- Gas Tax: Staff recommends a \$48,894 revenue and expenditure budget increase due to an updated gas tax revenue forecast from the State of California.
- Lock Out Tag Out Procedure Development: Staff recommends a \$59,750 expenditure budget increase from available Workers Compensation Fund balance. Staff will work with safety vendor to develop Lock Out Tag Out procedures for equipment and machinery in all Town facilities to be compliant with Cal/OSHA regulations.
- Workers' Compensation Third Party Administration Fees: Staff recommends a \$40,100 expenditure budget increase from available Workers' Compensation Fund balance. Increase in Department of Industrial Relations assessment based on increased claims exposure in FY 18/19.
- Civic Center Emergency Boiler Repairs: Staff recommends a \$27,056 expenditure budget increase from available Facilities Maintenance Fund balance. The boiler was replaced at the Civic Center when the boiler structure failed and was unrepairable. The new boiler is now in place and operational.
- Adult Recreation Center Commercial Water Heater Replacement: Staff recommends \$27,000 expenditure budget adjustment for replacing the failed commercial water heater at the Adult Recreation Center and hot water piping asbestos abatement at the Civic Center. There are sufficient funds available in the Facilities Maintenance Fund to cover the additional expenditures.
- Library Donation: Staff recommends a \$5,000 revenue and expenditure budget decrease since an anticipated donation was never received.
- Restricted Pension Trust Fund: Staff recommends a \$5,057,367 expenditure budget increase to transfer the IRS 115 PARS Trust balance to CalPERS California Employees' Pension Payment Trust (CEPPT) per direction of the Town Pension/OPEB Oversight Committee. The first additional discretionary payment (ADP) of \$4,753,965 for payment of the 2016 gain/loss amortization base was transferred to CalPERS from PARS on October 11, 2019. As of December 31, 2019, the PARS account has a residual balance of \$303,402. The balance will be transferred to CalPERS during the current Fiscal Year.



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

FINANCIAL SUMMARIES, ESTIMATES, AND RECOMMENDATIONS

General Fund

The following table is the *Schedule of General Fund Operating Revenues Versus Operating Expenditures* for the second quarter of FY 2019/20 which includes comparison information from the prior year. The FY 2019/20 Adopted column represents the General Fund Adopted Budget. The FY 2019/20 Adjusted column includes items that Council approved during the course of the first two quarters of fiscal year, such as additional funding for vegetation management grant match requirements from the available Capital/Special Project Reserve, additional funding for Traffic Engineering Services from the available General Plan Update Deposit account, and salary adjustments for Council appointed employees. The FY 2019/20 Estimated column contains projections of final balances for the current fiscal year based upon the aforementioned Council actions during the current fiscal year, 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 2019/20 Estimated figures do not include analysis on potential salary and other expenditure savings. More detailed analysis for the FY 2019/20 year-end estimated revenue and expenditure numbers will be provided with the presentation of the proposed Fiscal Year 2020/21 budget.

BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

General Fund

Fund 111

SUMMARY OF REVENUES AND EXPENDITURES

	FY 2018/19 Actuals	FY 2018/19 Q2	Q2% of FY 2018/19 Actuals	Q2% of FY 2019/20 Adopted	FY 2019/20 Q2	FY 2019/20 Adopted	FY 2019/20 Adjusted Council Action through 12/31/2019	FY 2019/20 Estimated Including Mid-Year Proposed
Revenues								
Property Tax	\$ 13,636,099	\$ 4,785,479	35.1%	35.4%	\$ 5,017,946	\$14,174,700	\$14,174,700	\$14,476,966
Sales & Use Tax	8,158,152	2,568,415	31.5%	34.4%	2,755,208	8,001,917	8,001,917	8,723,000
VLF Backfill Property Tax	3,685,247	-	0.0%	0.0%	-	3,795,800	3,795,800	3,875,914
Franchise Fees	2,475,916	840,555	33.9%	35.2%	864,849	2,458,520	2,458,520	2,458,520
Transient Occupancy Tax	2,692,043	994,581	36.9%	32.0%	910,806	2,848,730	2,848,730	2,848,730
Business License Tax	1,526,894	240,293	15.7%	4.3%	60,500	1,400,000	1,400,000	1,400,000
Licenses & Permits	3,059,894	1,692,252	55.3%	47.1%	1,592,059	3,382,534	3,382,534	3,382,534
Intergovernmental	950,380	310,803	32.7%	41.6%	410,882	988,441	988,441	1,028,441
Town Services	4,643,715	2,905,238	62.6%	72.7%	3,158,772	4,344,336	4,467,156	4,467,156
Fines & Forfeitures	510,266	207,631	40.7%	27.8%	134,707	483,950	483,950	483,950
Interest	801,729	212,238	26.5%	56.4%	417,197	739,774	739,774	739,774
GASB 31 to Market	643,911	517,744	80.4%	114.7%	(126,168)	(110,000)	(110,000)	(110,000)
Use of Property	32,960	-	0.0%	-	-	-	-	-
Miscellaneous Other	562,712	223,684	39.8%	41.6%	134,336	322,870	322,870	324,425
Park Construction Tax	6,309	-	-	-	-	7,000	7,000	7,000
Debt Service - Entry Eliminated for CAFR	1,909,073	-	0.0%	0.0%	-	1,905,024	1,905,024	1,905,024
Closing Fund 961 to 111 - Entry Eliminated for CAFR	1,928,865	-	-	-	-	-	-	-
Proceeds for Sales of Assets	1,912,316	-	0.0%	-	-	-	-	-
Fund Transfer In	1,578,911	102,000	6.5%	18.9%	102,000	538,536	538,536	538,536
Total Revenues & Transfers In	\$ 50,715,392	\$15,600,913	31%	34%	\$15,433,094	\$45,282,132	\$45,404,952	\$46,549,970
Use of Other Funding Sources:								
Use of Reserves - Capital/Special Projects	\$ 2,785,220	\$ -	0.0%	0.0%	\$ -	\$ 6,691,884	\$ 6,982,591	\$ 6,982,591
Use of Reserve - Pension/OPEB	3,181,758	1,800,000	-	-	-	-	-	4,232,500
Use of Compensated Absences	-	-	-	-	-	1,061,256	1,061,256	1,061,256
Total Other Funding Sources	\$ 5,966,978	\$ 1,800,000	30%	0%	\$ -	\$ 7,753,140	\$ 8,043,847	\$12,276,347
Total Revenues and Use of Reserves	\$ 56,682,370	\$17,400,913	31%	29%	\$15,433,094	\$53,035,272	\$53,448,799	\$58,826,317
Expenditures								
Mayor and Council	\$ 205,903	\$ 100,209	48.7%	45.3%	\$ 109,011	\$ 240,605	\$ 240,605	\$ 240,605
Attorney	562,542	310,219	55.1%	47.7%	296,424	621,391	628,793	628,793
Administrative Services	3,931,807	2,069,839	52.6%	45.8%	2,204,552	4,815,138	4,830,405	4,830,405
Non- Departmental	3,304,002	827,150	25.0%	30.2%	1,169,739	3,873,255	3,898,255	3,898,255
Community Development	4,577,495	2,104,258	46.0%	39.0%	2,245,767	5,760,099	5,760,099	5,760,099
Police	14,945,407	7,832,251	52.4%	50.2%	8,501,570	16,940,786	16,940,786	16,940,786
Parks & Public Works	7,934,869	3,717,900	46.9%	48.3%	3,893,808	8,070,068	8,192,888	8,281,730
Library	2,493,617	1,280,179	51.3%	51.0%	1,497,419	2,935,010	2,935,010	2,936,565
Capital Outlay	38,307	-	-	-	-	-	-	-
Total Department Expenditures	\$ 37,993,949	\$18,242,005	48%	46%	\$19,918,290	\$43,256,352	\$43,426,841	\$43,517,238
Debt Service - Entry Eliminated for CAFR	\$ 1,909,073	\$ -	0.0%	0.0%	\$ -	\$ 1,905,024	\$ 1,905,024	\$ 1,905,024
Transfers Out	2,785,220	-	0.0%	0.0%	-	7,753,140	8,043,847	8,043,847
Transfer to Pension Trust Fund - Entry Eliminated for CAFR	3,571,758	1,800,000	-	-	-	-	-	4,232,500
Total Non-Departmental Expenditures	\$ 8,266,051	\$ 1,800,000	22%	0%	\$ -	\$ 9,658,164	\$ 9,948,871	\$14,181,371
Total Operating Expenditures	\$ 46,260,000	\$20,042,005	43%	38%	\$19,918,290	\$52,914,516	\$53,375,712	\$57,698,609
Excess (Deficiency) of Revenues Over Expenditures	\$ 4,455,392 **	\$ (4,441,092) *			\$ (4,485,196) *	\$ 120,756	\$ 73,087	\$ 1,127,708

**FY 2018/19 and FY 2019/20 Q2 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.

** FY 2018/19 and FY 2019/20 Q2 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. See reconciliation below.

GENERAL FUND REVENUES ABOVE EXPENDITURES FUND 111 ONLY ** **\$ 4,455,391.95**

ADD

Remove GF contributions to PARS Trust treated as expenditures \$ 3,578,913.00
Investment Earnings on PARS not included in GF Revenues Above \$ 236,706.94
Transfers-out not included above but in other sources in CAFR \$ 2,785,220.00

LESS

Proceeds from Sales of Assets included above but in other sources in CAFR \$ (1,912,316.00)
PARS Trust fees (Fund 731) not included in GF \$ (7,155.09)
Transfers-In not included above but in other sources CAFR \$ (1,578,911.07)
Elimination of Fund 961 FB as a negative to CAFR Revenues \$ (1,928,864.00)

EXCESS OF REVENUE OVER EXPENDITURES PER CAFR **\$ 5,628,985.73**



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

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), and several Landscaping and Lighting District (LLD) Funds. The revenue from the Non-Point Source Program fund continues to lag expenses. This largely results from increased requirements associated with the Town’s storm water permit, including increased inspections and monitoring, trash reduction requirements, and administrative costs. Staff has developed a plan to move the program toward a sustainable cost recovery model as part of the FY 2017/18 budget process. Staff will continue to monitor these revenue funds to ensure payments are received. Staff recommends \$11,240 expenditure budget adjustments to provide additional tree maintenance services for the Kennedy meadows and Vasona Height L&L Districts.

Special Revenue Funds Budget to Actuals Comparisons

	CDBG Grants	Non-Point Source	LLD's
Beginning Fund Balance	\$ 166,653	\$ 159,451	\$ 208,137
Budgeted Revenues	-	594,394	39,680
Total Actual Revenues - 2nd Qtr	\$ -	\$ 96,385	\$ -
Budgeted Expenditures	-	579,173	101,513
Total Actual Expenditures - 2nd Qtr	-	79,197	11,610
2nd Quarter Ending Fund Balance	\$ 166,653	\$ 176,639	\$ 196,527



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

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 increasing both gas tax revenue and expenditure by \$48,984 to match current Gas Tax estimates. Staff will continue to monitor these revenues and expenditures throughout the remainder of the year. 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	\$ 8,518,983	\$ 2,551,088	\$ (255,636)	\$ 2,628,557	\$ 3,079,685	\$ 853,820
Budgeted Revenues	13,177,383	2,218,282	3,211,080	104,540	52,490	1,375,804
Total Actual Revenues - 2nd Qtr	983,474	-	74,006	80,583	9,521	582,528
Budgeted Expenditures	20,162,008	2,238,282	3,472,206	321,058	2,449,201	1,907,282
Total Actual Expenditures - 2nd Qtr	1,195,026	25,998	168,900	7,175	-	688,096
2nd Quarter Ending Fund Balance	\$ 8,307,431	\$ 2,525,090	\$ (350,530)	\$ 2,701,965	\$ 3,089,206	\$ 748,252

* GFAR, Traffic Mitigation, and Grant Funds balances are combined in the CAFR. The combined balance of \$10,814,435 is presented as an Appropriated Reserve. The Traffic Mitigation Fund balance includes \$2,246,441 deferred revenue.



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

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 \$37,891 expenditure budget adjustment to cover the Civic Center Emergency Boiler Replacement, the Adult Recreation Center Water Heater replacement, and to remove temporary FTE hours inadvertently budgeted in the Facilities Maintenance Fund. In addition, staff recommends expenditure adjustments in amount of \$99,850 from the available Workers' Compensation Fund to develop a Lock Out Tag Out Safety Procedure and increased Workers' Compensation Administration expenditures based on increased claims exposure in FY 2018/19. Staff will continue to monitor expenditures and propose a revised cost allocation if needed during the FY 2020/21 budget preparation.

Internal Service Funds Budget to Actuals Comparisons

	Equipment Replacem	Workers Compensation	Self Insurance	Information Technology	Facility Maint.
Beginning Fund Balance	\$ 2,808,804	\$ 843,080	\$ 1,313,304	\$ 2,518,467	\$ 970,786
Budgeted Revenues	229,093	2,087,485	443,727	859,223	1,173,757
Total Actual Revenues - 2nd Qtr	136,535	478,543	192,559	533,260	571,110
Budgeted Expenditures	2,186,240	1,657,210	680,137	955,575	1,961,752
Total Actual Expenditures - 2nd Qtr	70,654	758,429	407,246	315,031	470,924
2nd Quarter Ending Fund Balance	\$ 2,874,685	\$ 563,194	\$ 1,098,617	\$ 2,736,696	\$ 1,070,972
	3%	46%	60%	33%	24%



BUDGET PERFORMANCE REPORT – MID-YEAR FY 2019/20

Trust and Agency Funds (Fiduciary Fund Type)

Town Trust and Agency Funds have estimated fund balances as of December 31, 2019 of \$582,230 for the Library Trust Funds and \$2,807,395 for the Successor Agency (SA) Trust Fund. Staff recommends a \$5,000 revenue and expenditure budget decrease in the Library Trust since an expected donation was never received.

Trust & Agency Funds Budget to Actuals Comparisons

	Library Trust	SA Trust
Beginning Fund Balance	\$ 538,015	\$ 2,807,505
Budgeted Revenues	74,150	3,823,202
Total Actual Revenues - 2nd Qtr	61,784	-
Budgeted Expenditures	128,255	3,823,202
Total Actual Expenditures - 2nd Qtr	17,569	110
2nd Quarter Ending Fund Balance	\$ 582,230	\$ 2,807,395
	14%	0%

Successor Agency to the Redevelopment Agency

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.

CONCLUSION

The financial results from the prior fiscal year, coupled with the FY 2019/20 first and second quarter data, confirm that the mid-year financial results are stable and improving. Staff is actively engaged in the 2020/21 budget process with the primary focus of ensuring that the available Town resources are allocated to meet the priority service needs of the community.

Subject: Where does the \$4m of excess funds in the Capital Project Reserve come from ?
Attachments: 2019 GF Reserve resolution (002).pdf; Transmittal Letter - GF Balance.pdf; FY 2019 GF Budget vs Actual results - 2019 CAFR.pdf

From: Phil Koen <pkoen@monteropartners.com>
Sent: Sunday, January 26, 2020 8:16 PM
To: Marcia Jensen <MJensen@losgatosca.gov>; BSpector <BSpector@losgatosca.gov>; Marico Sayoc <MSayoc@losgatosca.gov>; Rob Rennie <RRennie@losgatosca.gov>
Cc: Jak Vannada <jvannada@gmail.com>; Laurel Prevetti <LPrevetti@losgatosca.gov>; Lee Fagot <leefagot@gmail.com>
Subject: Where does the \$4m of excess funds in the Capital Project Reserve come from ?

Dear Honorable Mayor and Council Members,

At this past Tuesday's Council meeting there was considerable discussion regarding the Town's Capital Project Reserve balance. The Staff in their memo to Council rightfully pointed out to Council that there was approximately \$4m in that reserve that had never been programmed and therefore was freely available to be reallocated to other needs. Mr. Rennie asked a very important question namely "where did the excess \$4m come from", Watching the discussion it struck me that Mr. Rennie's question had not been fully answered. Therefore I have taken the time to explain this in more detail. I believe my analysis is correct based on the facts as I know them.

To answer the question, you first need some background information. I have attached an email that was sent to the Council on December 15 which partially addresses Mr. Rennie's question. If you have a chance, you may wish to revisit that email. Now for the background information.

1. The FY 2019 budget originally forecasted the General Fund Balance as of June 30, 2019 to be \$20,873,994 (transmittal letter page A-9 and schedule C-6). Instead, the actual balance was \$37,970,527. **This was \$17,096,533 more than the original adopted budget. This material variance needs to be fully understood in order to answer Mr. Rennie's question.**

So the first question is, what created this \$17,096,533 positive variance in the General Fund Balance?

2. There were a number of items that occurred which **were not** included in the original adopted budget. They were a) reclassifying \$5,015,316 from the 115 Trust to the General Fund, which is now shown in the General Fund Reserve as a restricted reserve for pensions; b) the sale of the excess property totaling \$1,912,316 which flowed through the income statement; and c) the transfer of \$1,040,375 from the Vehicle Maintenance Internal Services Fund which is shown as an assigned reserve in the General Fund. All of these combined to increase the General Fund Balance by \$7,968,007.

3. In addition, there was an unplanned excess of revenues over expenditure of \$8,541,715 (attached is the adopted budget vs. actual schedule from the 2019 CAFR). The amount is computed by subtracting from the actual \$5,628,985 excess the adopted budget deficit of (\$2,912,730). The following items drove this variance a) \$3,490,000 had been planned to be expensed for the PARS contribution, but was not expensed; b) revenue exceeded the adopted budget by \$3,707,887 - the majority of which is interest; and c) total operating expenses (excluding the PARS contribution mentioned above) were less than the adopted budget by \$1,343,828. These items combined to create the favorable variance of \$8,541,715.

4. Lastly there were transfers into the General Fund totaling \$586,811 from other funds that had not been planned in the adopted budget. These transfers also increased the General Fund Balance.

All of the above (a) \$7,968,007; (b) \$8,541,715; (c) \$586,811 combined to create a variance of \$17,096,533 in the General Fund Balance vs. the original adopted balance of \$20,873,994.

Now for the next question. How did the Capital Project Reserve get to \$13,262,303 vs. the adopted budget balance of \$5,096,518?

Per the general fund reserve policy each year the actual budget surplus gets distributed to various assigned reserves. The Capital Project Reserve receives all remaining funds after all other assigned reserves have been addressed per the policy. The Staff memo to the Council for last Tuesday's meeting shows a Surplus Flow of Funds diagram which does an excellent job of explaining this "waterfall" process.

In 2019, the unplanned excess of revenues over expenditures of \$8,541,715 plus the \$1,912,316 proceeds from the sale of the property (totaling \$10,454,031 available for allocation) was distributed to the various assigned reserves per the Town's policy. This resulted in \$8,165,785 being allocated to the Capital Project Reserve which increased the balance to \$13,262,303 from the adopted budget balance of \$5,096,518. The remaining \$2,288,246 (\$10,454,031 - \$8,165,785) was allocated to other general fund assigned reserves such as the budget stabilization reserve, catastrophic reserve and pension/OPEB reserve.

Now for the last question - where does the \$4m come from?

The a Staff analyzed the capital project needs for the next 5 years and determined that only \$9,252,118 of the \$13,262,303 was required (see page 231 of the Council meeting deck). This means that \$4,010,185 was not needed. Interesting to note that the 2019 adopted budget projected a Capital Project Reserve requirement of \$5,096,518. This begs the question as to why more money (i.e. \$9,252,118) is now needed when \$5,096,518 had been the planned balance. This might be a worthwhile discussion for the Council to have with Staff.

I trust this is helpful and answers the question regarding the source of the \$4m. I want to add my endorsement of the Staff's conclusion that \$4m is freely available with the caveat that I believe there is actually more funds available for reallocation. The reason for this is that the Staff did not include (they have a reason for this) in their 5 year forecast of the Capital Project Reserve any funds from the General Fund Surplus that would be allocated to the Capital Project Reserve arising from projected surpluses over the 5 year period. This amount could be material.

Phil Koen

From: Phil Koen

Sent: Sunday, December 15, 2019 10:09 AM

To: 'Marcia Jensen' <MJensen@losgatosca.gov>; BSpector <BSpector@losgatosca.gov>; 'msayoc@losgatosca.gov' <msayoc@losgatosca.gov>; 'Rob Rennie' <RRennie@losgatosca.gov>; Steven Leonardis <SLeonardis@losgatosca.gov>

Cc: 'Laurel Prevetti' <LPrevetti@losgatosca.gov>; 'jvannada@gmail.com' <jvannada@gmail.com>; 'Terry Duryea' <tduryea@aol.com>; Ron Dickel <rondickel@gmail.com>; Rick Tinsley <rnt97@yahoo.com>

Subject: 2019 General Fund Reserves

Dear Honorable Mayor and Council Members,

Before you vote on the proposed resolution which assigns the General Fund Balance as of June 30, 2019 to restricted, committed or assigned reserves, the Council should discuss why the Staff has not recommended any fund balance to be set aside as "unassigned". Under the resolution being considered, all of the General Fund balance will be formally committed. The General Fund Balance can be legally assigned by this Council based on your judgment of the current needs of the Town. The Council is not legally required to follow Town policy in this process.

Secondly, the Council should request the Staff to explain why the actual General Fund Balance as of June 30, 2019 is \$17.1m or 82% greater than what was forecasted at the time the 2019 budget was adopted. I have attached the analysis from the Staff's 2019 Budget transmittal letter which details the forecasted balance as of June 30, 2019. The difference is material and the Council should understand why this has occurred.

Additionally, why wouldn't some of this windfall increase be set aside as "unassigned" thus giving the Council more future flexibility? The proposed fund balance assignment will have \$13.3m allocated to a reserve for Capital Projects. Does this make sense given that the 2019 plan forecasted a balance of \$5.1m which was approved by this Council? Why increase this by \$8.2m if there isn't a specific project need identified? By designating as "unassigned" some amount of fund balance, the Council retains total flexibility to assign these funds in the future as the need arises. The resident members of the Finance Committee raised this issue during the most recent Finance Committee with regard to the assignment of the "closed" Internal Services Funds as "assigned reserves" as opposed to "unassigned".

It should also be pointed out that according to the proposed resolution the Town has a total of \$9.2m (\$5.0m and \$4.2m) available to make an additional discretionary payment to CALPERS to reduce what Moody's has called an "inflated pension liability" which is "unfavorably well above the US median". Given the high level of pension debt and the interest charged by CALPERS on this debt, it is only prudent to reduce this liability as quickly as possible by paying these funds into the CALPERS pension plans.

Thank you.

Phil Koen

WHEREAS, there exists an assigned Capital/Special Project Reserve in the amount of \$13,262,303;
and

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LOS GATOS DOES
HEREBY RESOLVE that the following fund balances as of June 30, 2019 as restricted, assigned, or
formally committed as follows:

	General Fund	Appropriated Reserves	Other Nonmajor Governmental Funds	Total Governmental Funds
Fund Balance				
Restricted for:				
Capital Outlay	\$ -	\$ 133,169	\$ 6,562,064	\$ 6,695,233
Pension	5,015,316	-	-	5,015,316
Repairs and Maintenance			208,139	208,139
Committed to:				
Budget Stabilization	5,419,222	-	-	5,419,222
Catastrophic	5,419,222	-	-	5,419,222
CalPERS/OPEB	4,232,500	-	-	4,232,500
Almond Grove Street Project		2,579,997		2,579,997
Assigned to:				
Open Space	562,000	-	-	562,000
Parking	-	1,460,210	-	1,460,210
Sustainability	140,553	-	-	140,553
Capital/Special Projects	13,262,303	4,344,618	-	17,606,921
Carryover Encumbrances	413,729	-	-	413,729
Comcast PEG	-	50,000	-	50,000
Vehicle Maintenance & Stores	1,040,375	-	-	1,040,375
Compensated Absences	1,232,654	-	-	1,232,654
To Workers' Comp	1,232,653	-	-	1,232,653
Special Revenue Funds	-		326,102	326,102
Total Fund Balances	\$ 37,970,527	\$ 8,567,994	\$ 7,096,305	\$ 53,634,826

PASSED AND ADOPTED at a regular meeting of the Town Council held on the 17th day
of December 2019 by the following vote:

COUNCIL MEMBERS:

AYES:

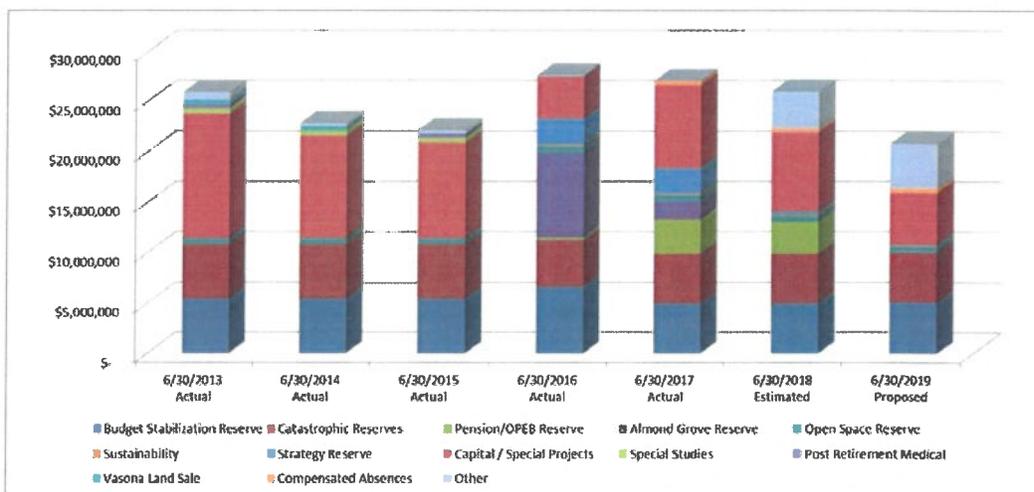
NAYS:

ABSENT:

the Town's RDA. These funds include Certificates of Participation issued to finance several capital improvement projects throughout the Town and repayment of obligations incurred by the Town's RDA prior to its dissolution. The FY 2018/19 budgeted expenditures in this trust fund total \$3.8 million.

GENERAL FUND RESERVES

The total General Fund Reserves are forecasted at a balance of approximately \$20.8 million as of June 30, 2019. As indicated in the next chart, the General Fund reserves are decreasing due to programmed payments to the Town's California Public Employees Retirement System (CalPERS) side-fund payoff in June 2014 of \$4.5 million dollars, transfers to the CIP program in FY 2016/17 (\$7.0 million), FY 2017/18 (\$2.4 million), and FY 2018/19 (\$2.4 million), and the \$4.3 million scheduled payment to the IRS 115 Pension Trust Fund.



General Fund Reserve	6/30/2013 Actual	6/30/2014 Actual	6/30/2015 Actual	6/30/2016 Actual	6/30/2017 Actual	6/30/2018 Estimated	6/30/2019 Proposed
Committed to:							
Budget Stabilization Reserve	\$ 5,450,000	\$ 5,450,000	\$ 5,450,000	\$ 6,621,808	\$ 4,969,847	\$ 4,969,847	\$ 5,037,243
Catastrophic Reserves	5,450,000	5,450,000	5,450,000	4,637,406	4,969,847	4,969,847	5,037,243
Pension/OPEB Reserve	-	-	-	300,000	3,388,913	3,188,913	-
Almond Grove Reserve	-	-	-	8,459,973	1,801,318	-	-
Assigned to:							
Open Space Reserve	562,000	562,000	562,000	562,000	562,000	562,000	562,000
Sustainability				140,553	140,553	140,553	140,553
Strategy Reserve				2,600,000	2,600,000	263,882	129,090
Capital / Special Projects	12,427,161	10,218,579	9,511,527	4,222,405	8,273,124	7,881,738	5,096,515
Special Studies	490,000	490,000	490,000	-	34,852	34,852	34,852
Post Retirement Medical	400,000	-	400,000	-	-	-	-
Vasona Land Sale	410,599	411,245	-	-	-	-	-
Compensated Absences					350,329	350,329	350,329
Other	787,294	297,294	339,837	99,284		3,670,447	4,486,166
Total General Fund Reserve	\$ 25,977,054	\$ 22,879,118	\$ 22,203,364	\$ 27,643,429	\$ 27,090,783	\$ 26,032,408	\$ 20,873,994

Catastrophic and Budget Stabilization Reserves

As per the Town's Reserve Policy, the Catastrophic and Budget Stabilization Reserves are to be maintained at combined minimum funding level of 25% of General Fund ongoing operating

**TOWN OF LOS GATOS
GENERAL FUND
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL (GAAP)
FOR THE FISCAL YEAR ENDED JUNE 30, 2019**

	Original Budget	Final Budget	Actual	Variance With Final Budget Positive (Negative)
REVENUES				
Property Taxes	\$ 15,989,131	\$ 16,718,348	\$ 17,321,344	\$ 602,996
Sales Taxes	7,744,208	7,629,879	8,158,152	528,273
Other Taxes	2,279,500	2,629,500	2,698,352	68,852
Franchise Fees	2,386,910	2,386,910	2,475,916	89,006
Licenses & Permits	4,961,199	4,961,199	4,586,788	(374,411)
Intergovernmental	685,759	845,718	950,380	104,662
Charges for Services	4,491,868	4,596,416	4,643,715	47,299
Fines and Forfeitures	631,400	631,400	510,266	(121,134)
Interest	267,806	267,806	1,682,347	1,414,541
Use of Property	31,959	31,959	32,960	1,001
Other	445,308	466,308	562,714	96,406
Total Revenues	39,915,048	41,165,443	43,622,934	2,457,491
EXPENDITURES				
Current:				
General Government:				
Town Council	223,036	230,280	205,903	24,377
Town Attorney	556,183	597,768	562,542	35,226
Administrative Services	4,290,959	4,641,901	3,931,807	710,094
Non-Departmental	7,015,300	7,043,251	3,304,002	3,739,249
Total General Government	12,085,478	12,513,200	8,004,254	4,508,946
Public Safety	14,976,514	15,713,469	14,945,407	768,062
Community Development	5,583,158	5,786,501	4,577,495	1,209,006
Parks & Public Works	7,626,361	8,619,883	7,934,869	685,014
Library Services	2,556,267	2,684,979	2,493,617	191,362
Capital Outlay	-	-	38,307	(38,307)
Total Expenditures	42,827,778	45,318,032	37,993,949	7,324,083
EXCESS (DEFICIT) OF REVENUES OVER EXPENDITURES	(2,912,730)	(4,152,589)	5,628,985	9,781,574
OTHER FINANCING SOURCES (USES)				
Proceeds from sale of assets	1,000	1,906,000	1,912,316	6,316
Transfers In	538,536	538,536	1,578,911	1,040,375
Transfers Out	(2,785,220)	(2,785,220)	(2,785,220)	-
Total Other Financing Sources (Uses)	(2,246,684)	(2,246,684)	706,007	1,046,691
NET CHANGES IN FUND BALANCES	\$ (5,159,414)	\$ (6,399,273)	6,334,992	\$ 10,828,265
BEGINNING FUND BALANCE			31,635,535	
ENDING FUND BALANCE			\$ 37,970,527	

Subject: An Open Letter to the Town Council from the Los Gatos Community Alliance
Attachments: An Open Letter to the Town Council.pdf

From: jvannada@gmail.com <jvannada@gmail.com>
Sent: Tuesday, February 11, 2020 5:53 AM
To: Laurel Prevetti <LPrevetti@losgatosca.gov>; Stephen Conway <sconway@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>
Subject: Re: An Open Letter to the Town Council from the Los Gatos Community Alliance

There were three attachments that were not attached to the original post. Herewith you will find the letter and the attachments in one pdf file.

On Mon, Feb 10, 2020 at 9:10 PM <jvannada@gmail.com> wrote:

With the mid-year report just around the corner, we thought it would be worthwhile to review last years report beforehand to better understand what may be forthcoming in the 2020 mid-year report. Please read the attached

--
Jak VanNada - Phil Koen
Los Gatos Community Alliance
Facts Matter; Transparency Matters; Honesty Matters
www.lgca.town

February 10, 2020

An Open Letter to the Town Council from the Los Gatos Community Alliance

Dear Honorable Mayor and Council Members:

Executive Summary

- FY 2019 budget analysis did not enable the Town Council to discuss the opportunity to reallocate a surplus of general fund net operating revenues.
- The midyear budget analysis projected \$429,594 of “net operating revenues” for FY 2019. The actual excess of revenues over expenditures was \$5.6m.
- Nearly \$3m of the \$5.6m surplus was due to staffing vacancies that were or should have been known at the time of the midyear budget review, just 4 months away from the end of FY 2019.
- By not being aware the Council was unable to shift this surplus to other pressing service needs.
- Applying the proper definition of “operating revenues” the **final budget** called for a \$4,152,589 **deficit** (i.e. operating expenditures **exceeded** operating revenues). This tells a very different story than the mid-year budget update which showed a \$429,594 **surplus**. The midyear budget review inappropriately included fund transfers as “operating revenue”.

Detail Comments:

Within the next few weeks Staff will be forwarding a mid-year budget performance report for FY 2020 for your review and consideration.

From the Town Manager’s FY 2019 report:

“The purposes of this public reporting are twofold. First the report enables the Town to monitor its revenues and expenditures consistently so that it can proactively respond to unanticipated changes or emerging trends. Second, and equally important, the report increases the transparency of the Town’s finances.”

“The Town is ultimately accountable to its residents to use the revenue it brings in efficiently and effectively to provide the highest quality services.....”

Let’s take a quick look at last year’s report to fully understand what was presented to you.

We have attached the General Fund Summary schedule which was prepared by Staff and the Budget vs Actual schedule that is published in the FY 2019 CAFR. There are 2 items that we want to draw to your attention on the mid-year budget schedule.

1. Item #1 – Net Operating Revenues

- a. Under the FY 2019 Estimate column the Staff forecasted that “net operating revenues” would be a **positive \$429,594**. The Staff concludes that the “financial results are stable and improving”. The problem with this is how the Staff is defining “net operating revenues”. This number includes other funding sources, such as fund transfers, as “revenue”. Transferring money from one fund to another fund is not operating revenue. There is simply no disagreement on this point at all. By doing this, a false picture is presented to residents and the Council as to whether the Town’s operating revenues (i.e. taxes, fees and grants) are sufficient to pay for the Town’s operating expenditures (i.e. salary, benefits, operating expenses). The mid-year budget report claims that there is a surplus of “net operating revenues”.
- b. Now compare the mid-year budget summary report to the budget vs. actual report in the FY 2019 CAFR, which are final audited numbers. Under the “final budget” column from the CAFR you can see that in actuality, when applying the proper definition of “net operating revenues”, **the final budget called for a \$4,152,589 deficit of revenues over expenditures**. This tells us that Town’s general fund’s current year budget for revenue sources of taxes, fees, fines, grants and interest were insufficient to pay for the Town’s general fund current year budget for operating expenditures. This tells a very different story than the midyear budget update.
- c. Given how the Staff has chosen to define “net operating revenues”, the “surplus” number can be manipulated to whatever the Staff wants by simply increasing the amount of funds transferred into the General Fund. The \$429,594 reported is misleading and not transparent. The mid-year budget report should adopt the same format that is used in the CAFR by segregating “operating revenues” from “other financing sources (uses)”. This would guarantee the “consistency” between the mid-year report and the CAFR that is supposedly a goal, as well as providing true transparency as to whether the Town has sufficient operating revenue to pay for operating expenses.

2. Item #2 – Total Expenditures

- a. Again referring to the mid-year budget update, the Staff is projecting in the last column total operating expenditures to be \$44,368,185 (i.e. \$37,324,934 plus \$7,043,251). The Staff states that these projections were based on “trends observed through the second quarter and the proposed mid-year adjustments”. They are intended to provide the Council with the Staff’s “best estimate” so the Council will be able to “proactively respond to unanticipated changes or emerging trends”. Let’s compare the mid-year budget forecast to the FY 2019 budget vs. actual schedule in the CAFR. What we learn is total actual operating expenses were \$37,993,949. **This is \$6,374,236 less than the Staff projection which was prepared in February, 2019 with only 4 months left in the FY.**
- b. There are explanations provided on page 11 (which we have attached) of the CAFR which identify \$3,563,538 of departmental “savings”. These “significant factors” are all attributable to events that the Staff was, or should have been, aware of at the time the mid-year budget report was prepared. The “significant factors” were 1) \$2.7m in staff

vacancies and 2) an error in budgeting \$883,000 in consultant fees associated with the General Plan Update.

Why should the Council be concerned about this large discrepancy between what they were told in February 2019 and actually happened?

By not understanding that there was a substantial surplus, the Council was unable to shift this surplus to other pressing service needs. If this Council had known, perhaps you would have proactively shifted funds to a) pay for police overtime to conduct traffic calming measures to reduce cut-through traffic; or b) allocated additional funds to Music in the Park to create a “destination” event for the Town; or c) allocated “emergency one time funds” for brush removal before the fire season; or d) increase the investment in road repair. Unfortunately we will never know because the Council was not properly informed that there was a \$5,628,985 surplus of revenues over expenditures.

Our hope is that now that you are fully informed as to what happened last year, this Council will learn from this and actively engage with the Staff in a robust and full throated discussion of the mid-year budget update. Even better, we would strongly recommend that you ask the Finance Committee to review the report and give an independent assessment of its completeness.

After reading our comments and reviewing the Town Manager’s statement above, are you confident that the midyear budget review:

1. “enables the Town to monitor its revenues and expenditures consistently so that it can proactively respond to unanticipated changes or emerging trends”
2. “and equally important, the report increases the transparency of the Town’s finances”

Sincerely,

Jak VanNada and Phil Koen

Los Gatos Community Alliance



BUDGET PERFORMANCE REPORT - MID-YEAR FY 2018/19

FINANCIAL SUMMARIES, ESTIMATES, AND RECOMMENDATIONS

General Fund

The following table is the *Schedule of General Fund Operating Revenues Versus. Operating Expenditures* for the second quarter of FY 2018/19 which includes comparison information from the prior year. The last column contains projections of final balances for the current fiscal year based upon the early trends observed through the second quarter and the proposed mid-year adjustments.

General Fund Fund 111 SUMMARY OF REVENUES AND EXPENDITURES							
	FY 2017/18 Actuals	FY 2017/18 Q2	Q2 % of FY 2017/18 Actuals	Q2 % of FY 2018/19 Adopted	FY 2018/19 Q2	FY 2018/19 Adopted	FY 2018/19 Estimates
Revenues							
Property Tax	\$ 12,510,822	\$ 4,604,788	36.8%	38.3%	\$ 4,785,479	\$ 12,507,071	\$ 13,033,101
Sales & Use Tax	7,592,206	2,662,601	35.1%	33.2%	2,568,415	7,744,208	7,629,879
VLF Backfill Property Tax	3,447,584	-	0.0%	0.0%	-	3,482,060	3,685,247
Franchise Fees	2,474,814	832,583	33.6%	35.2%	840,555	2,386,910	2,386,910
Transient Occupancy Tax	2,628,927	917,019	34.9%	43.8%	994,581	2,272,500	2,622,500
Business License Tax	1,686,251	199,045	11.8%	14.6%	240,293	1,650,000	1,650,000
Licenses & Permits	3,011,309	1,498,964	49.8%	51.3%	1,700,352	3,311,429	3,311,429
Intergovernmental	1,010,166	367,503	36.4%	45.3%	310,803	685,759	691,700
Town Services	4,625,136	2,063,371	44.6%	51.7%	2,304,693	4,461,638	4,461,638
Fines & Forfeitures	676,212	273,170	40.4%	32.9%	207,631	631,400	638,948
Interest	603,016	284,009	47.1%	111.6%	422,729	378,724	378,724
GASB 31 to Market	(358,254)	(267,176)	74.6%	-466.8%	517,744	(110,918)	(110,918)
Use of Property	32,206	-	0.0%	-	-	-	-
Miscellaneous Other	589,021	751,652	127.6%	184.4%	950,152	515,267	536,267
Debt Service - Entry Eliminated for CAFR	1,914,739	-	0.0%	0.0%	-	1,909,073	1,909,073
Proceeds for Sales of Assets	378,219	-	0.0%	-	-	-	-
Fund Transfer In	538,536	102,000	18.9%	18.9%	102,000	538,536	538,536
Total Revenues & Transfers In	\$ 43,360,910	\$ 14,289,529	33%	38%	\$ 15,945,427	\$ 42,363,657	\$ 43,363,034
Use of Other Funding Sources:							
Use of Reserves - Capital/Special Projects	\$ 3,243,595	\$ -	0.0%	0.0%	\$ -	\$ 2,785,220	\$ 2,998,931
Use of Reserve - Pension/OPEB	-	-	-	-	1,800,000	3,188,913	3,188,913
Total Other Funding Sources	\$ 3,243,595	\$ -	0%	30%	\$ 1,800,000	\$ 5,974,133	\$ 6,187,844
Total Revenues and Use of Reserves	\$ 46,604,505	\$ 14,289,529	31%	37%	\$ 17,745,427	\$ 48,337,790	\$ 49,550,878
Expenditures							
Mayor and Council	\$ 192,183	\$ 94,520	49.2%	44.6%	\$ 99,480	\$ 223,036	\$ 231,198
Attorney	354,205	158,095	44.6%	55.1%	310,194	562,723	584,490
Administrative Services	3,193,995	1,567,002	49.1%	48.3%	2,071,887	4,290,959	4,470,209
Community Development	4,192,165	2,012,335	48.0%	37.7%	2,106,707	5,590,899	5,819,124
Police	14,423,554	7,197,220	49.9%	52.3%	7,833,043	14,976,514	15,575,573
Parks & Public Works	7,099,527	3,422,553	48.2%	50.2%	3,859,545	7,684,056	7,991,484
Library	2,529,017	1,289,625	51.0%	50.1%	1,280,304	2,556,267	\$ 2,652,856
Total Department Expenditures	\$ 31,984,646	\$ 15,741,350	49%	49%	\$ 17,561,160	\$ 35,884,454	\$ 37,324,934
General Government	\$ 5,029,699	\$ 805,624	16.0%	37.2%	\$ 2,622,053	\$ 7,043,251	\$ 7,043,251
Debt Service - Entry Eliminated for CAFR	1,914,739	-	0.0%	0.0%	-	1,909,073	1,909,073
Transfers Out	3,243,595	-	0.0%	0.0%	-	2,785,220	2,844,024
Total Non-Departmental Expenditures	\$ 10,188,033	\$ 805,624	8%	22%	\$ 2,622,053	\$ 11,737,544	\$ 11,796,348
Total Operating Expenditures	\$ 42,172,679	\$ 16,546,974	39%	42%	\$ 20,183,213	\$ 47,621,998	\$ 49,121,282
Net Operating Revenues	\$ 4,431,826	\$ (2,257,445)			\$ (2,437,786)	* \$ 715,790	\$ 429,594

* FY 2018/19 Q2 Net Operating Revenues are negative because some revenues budgeted for the entire fiscal year are received in the third or fourth quarters.

② 44,368,185

**TOWN OF LOS GATOS
GENERAL FUND
STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE
BUDGET AND ACTUAL (GAAP)
FOR THE FISCAL YEAR ENDED JUNE 30, 2019**

	Original Budget	Final Budget	Actual	Variance With Final Budget Positive (Negative)
REVENUES				
Property Taxes	\$ 15,989,131	\$ 16,718,348	\$ 17,321,344	\$ 602,996
Sales Taxes	7,744,208	7,629,879	8,158,152	528,273
Other Taxes	2,279,500	2,629,500	2,698,352	68,852
Franchise Fees	2,386,910	2,386,910	2,475,916	89,006
Licenses & Permits	4,961,199	4,961,199	4,586,788	(374,411)
Intergovernmental	685,759	845,718	950,380	104,662
Charges for Services	4,491,868	4,596,416	4,643,715	47,299
Fines and Forfeitures	631,400	631,400	510,266	(121,134)
Interest	267,806	267,806	1,682,347	1,414,541
Use of Property	31,959	31,959	32,960	1,001
Other	445,308	466,308	562,714	96,406
Total Revenues	39,915,048	41,165,443	43,622,934	2,457,491
EXPENDITURES				
Current:				
General Government:				
Town Council	223,036	230,280	205,903	24,377
Town Attorney	556,183	597,768	562,542	35,226
Administrative Services	4,290,959	4,641,901	3,931,807	710,094
Non-Departmental	7,015,300	7,043,251	3,304,002	3,739,249
Total General Government	12,085,478	12,513,200	8,004,254	4,508,946
Public Safety	14,976,514	15,713,469	14,945,407	768,062
Community Development	5,583,158	5,786,501	4,577,495	1,209,006
Parks & Public Works	7,626,361	8,619,883	7,934,869	685,014
Library Services	2,556,267	2,684,979	2,493,617	191,362
Capital Outlay	-	-	38,307	(38,307)
Total Expenditures	42,827,778	45,318,032	37,993,949	7,324,083
EXCESS (DEFICIT) OF REVENUES OVER EXPENDITURES	(2,912,730)	(4,152,589)	5,628,985	9,781,574
OTHER FINANCING SOURCES (USES)				
Proceeds from sale of assets	1,000	1,906,000	1,912,316	6,316
Transfers In	538,536	538,536	1,578,911	1,040,375
Transfers Out	(2,785,220)	(2,785,220)	(2,785,220)	-
Total Other Financing Sources (Uses)	(2,246,684)	(2,246,684)	706,007	1,046,691
NET CHANGES IN FUND BALANCES	\$ (5,159,414)	\$ (6,399,273)	6,334,992	\$ 10,828,265
BEGINNING FUND BALANCE			31,635,535	
ENDING FUND BALANCE			\$ 37,970,527	

Significant factors affecting actual expenditures include:

- Non-departmental expenditures reflect a \$3.7 million favorable variance due to the early implementation of GASB 84 wherein budgeted transfers out expenditures to the pension trust were eliminated from year end actual expense as the trust is now accounted for as a restricted asset in the General Fund. Actual transfers of \$3,578,913 were made to the Town's IRS Section 115 trust during the fiscal year and this trust has been merged into the General Fund for reporting purposes hence fund transfer expenditure actuals report \$3.5 million less than actual transfer expenditures.
- Community Development expenditures reflected a \$1.2 million favorable variance explained largely by staff vacancies with salary and benefit savings of approximately \$347K, and the General Plan Update expenditures being approximately \$883K lower than budgeted because the budget reflected the entire contract amount which has not been fully executed through the end of the fiscal year.
- Public safety expenditures had a favorable variance of approximately \$768K reflecting limited term vacancies in Police Officer, Executive Assistant, Dispatcher, and Parking Control Officer positions.
- Administrative Services reflected a favorable balance of approximately \$710K in large measure due to savings in salary and benefits due to vacancies in Information Technology and Town Manager's Office positions.
- Parks and Public Works reflects a favorable variance of approximately \$685K reflecting the underfilling of three positions and three Parks and Maintenance Worker position vacancies.
- Library services reflected a favorable variance of \$191K due mainly to salary and benefit savings from staff vacancies in the Librarian position and other temporary vacancies.

CAPITAL ASSETS

As of June 30, 2019, the Town's investment in capital assets for its governmental activity is recorded at \$107,542,588 (net of accumulated depreciation). The investment in capital assets includes land, buildings and improvements, infrastructure, construction in progress, and machinery and equipment. During FY 2018/19, the Town's approximate \$8 million investment in capital assets for the current year represented approximately 4.3% of total assets for governmental activities. Major capital asset events during the current fiscal year include the following:

- \$5.0 million net increase to Construction in Progress, the majority of that amount (\$3.0 million) expended on the Almond Grove Street Rehabilitation Project.

$\Sigma = 3,563$



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/18/2020

ITEM NO: 8

DESK ITEM

DATE: February 12, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Staff recommends that the Town Council:
a. Receive the Fiscal Year (FY) 2019/20 Mid-Year Budget Performance Report - July 1, 2019 Through December 31, 2019; and
b. Authorize Budget Adjustments as Recommended in the Attached Budget Performance Report.

REMARKS:

Attachment 3 contains public comments received after 11:01 a.m. February 14, 2020 and before 11:00 a.m. February 18, 2020.

Below are staff responses to the public comments as requested by a Council Member.

Please advise as to how the differing methodologies of calculation impact "Surplus funds."

The public comment dated February 16, 2020 (item #1) appears to argue that the mid-year budget presentation should not include the approximate \$538K in budgeted operating transfers as they are an "other financing source" in the Comprehensive Annual Financial Report (CAFR). The amount of estimated surplus for budget purposes for the current fiscal year is approximately \$1.1 million as stated in the FY 19/20 Mid-Year Budget Report. As mentioned in the public comment, the Town's CAFR reports General Fund operating transfers classified as "Other Financing Sources" as prescribed by governmental accounting standards. The CAFR presents financial actuals against approved budget appropriations.

Municipal finance practice differentiates between a budget and a CAFR. For General Fund budget purposes, staff analyzes the source of any operating transfer amount and carefully examines whether it can be considered an ongoing source of revenue to include as part

PREPARED BY: Stephen Conway
Finance Director

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

REMARKS (continued):

of the budgeted General Fund revenues. The FY 19/20 Mid-Year Report, consistent with the Adopted Budget, includes approximately \$538,000 in operating transfers-in. These budgeted transfers are derived from sources that are reasonably expected to provide annual funding on an ongoing basis. For instance, the Town's General Fund receives approximately \$106,000 each year from the Gas Tax funds for ongoing engineering support of the Town's street infrastructure. It also receives annual support from the Lighting and Landscape Districts. The Town also receives operating transfers for engineering support for certain GFAR funded projects over an expected multi-year time frame. If monies received are from one-time sources, for budgeting and forecasting purposes, the Town would not consider them as viable ongoing operating revenues suitable to project as available to fund future General Fund operations.

Public Comment Dated February 16, 2020, Item #2

The public comment indicates potential savings of \$2.0 million from step savings and vacancies. The Mid-Year Budget Report provides some quantitative data on current year vacant positions but is not intended to provide an estimate of expected savings. Staff projects year-end expenditures in the Mid-Year Budget Report to ensure alignment with the Adopted Budget and identify any potential concerning patterns. As part of the development of the FY 20/21 Proposed Budget, Finance staff meets with each Department in the March/April timeframe to consider line Department staffing and to update estimated expenditures through June 30, 2020. This detailed process provides more accurate forecasts of potential year-end savings that will be reported to Town Council as part of the FY 2020/21 Proposed Budget.

The Town will likely experience some amount of vacancy savings for the current budget year and the actual amount is not determined until the year-end audit is completed.

Public Comment Dated February 16, 2020, Item #3

Staff projects year-end expenditures in the Mid-Year Budget Report to ensure alignment with the Adopted Budget and identify any potential concerning patterns. As part of the development of the FY 20/21 Proposed Budget, Finance staff meets with each Department in the March/April timeframe to consider line Department staffing and to update estimated expenditures through June 30, 2020. This detailed process provides a more accurate forecasts of potential year-end savings that will be reported to Town Council as part of the FY 2020/21 Proposed Budget.

Public Comment Dated February 17, 2020

- 1. Operating revenues (as defined by the CAFR) increasing 1.6% over prior year actuals***
- 2. Salary and Benefit expenditures increasing 15.4% over prior year actuals***
- 3. All other operating expenses increasing 13% over prior year actuals.***

REMARKS (continued):

The key issue is the problem of comparing prior year actual expenditures to current fiscal year budgeted amounts. Regarding the mathematical calculations presented in the public comments, staff has only minor rounding differences noted. However, the methodology used for comparisons has inherent problems as noted in prior discussions. Comparing budget to budget is a standard municipal finance practice when explaining changes to budgeted line items that change between fiscal years.

Budget comparison information is usually more relevant. For instance, in comparing adopted budgets, it is important to see the changes scheduled for salaries and benefits. For example purposes, let us say a city has an adopted FY 2019/20 budget of \$10,000,000 for salaries and benefits in its current year. For the following fiscal year, the Council has approved an increase of 2% for FY 2020/21 for a total of \$10,200,000. This example indicates a 2% salary and benefit increase for the next fiscal year as Council has approved.

If the Town were to compare actuals to actuals, then for the above example let us assume there were unanticipated vacancies leading salary and benefit actuals for the year to finalize at \$9,700,000. Let us further assume that in the following FY 2020/21 only \$100,000 of unanticipated vacancies occur. Using the suggested approach above, the real raises would be distorted. Comparing actuals to actuals would lead to following result:

- FY 19/20 Actuals: \$9,700,0000 (\$10M salary less vacancy savings)
- FY 20/21 Actuals: \$10,100,000 (\$10.2 M budgeted salary and benefits less \$100K vacancy savings)

As the above example illustrates, a \$400,000 increase between fiscal years would result if expressed as a percentage (4% increase from the prior year-double the actual increase). This example also demonstrates using actuals indicates a 4% increase due to the vacancy savings incurred each fiscal year when in fact the actual raises for FY 20/21 approved by the Council amounted to a 2% increase from the prior year’s budgeted amount. This is confirmed by comparing budgeted salaries and benefits for each fiscal year.

In comparing General Fund budgeted salaries and benefits for FY 2018/19 to FY 19/20 the increase is more appropriately calculated as follows:

Town of Los Gatos General Fund	FY 2018/19	FY 2019/20	
	Final Approved	Adjusted	
	Budget	Budget	% Change
Salaries and Benefits	\$ 28,765,614.00	\$ 30,933,028.00	7.53%

PAGE 4 OF 4

SUBJECT: FY 2019/20 Mid-Year Budget Performance Report

DATE: February 18, 2020

REMARKS (continued):

Presenting budget to budget comparisons indicates a true growth of approximately 7.5% as shown in the table above, as compared to the 15.4% increase as stated in the public comment. This increase accurately reflects the approximate 3.0% cost of living salary increase approved by Town Council in the FY 19/20 budget year, augmentations to staffing, an approximate 13% increase in required safety pension contributions, and 8% increase in miscellaneous classification pension contribution costs.

Attachments previously distributed with the Staff Report:

1. Budget Performance Report for the Six Months Ending December 31, 2019
2. Public Comments Received before Publishing the Staff Report

Attachment distributed with this Desk Item:

3. Public Comments Received between 11:01 a.m. February 14, 2020 and before 11:00 a.m. February 18, 2020

Subject: Please Include these public comments for 2-18-20 Council Meeting, Item 8
Attachments: Comments on the mid-year report.pdf

From: jvannada@gmail.com <jvannada@gmail.com>

Sent: Sunday, February 16, 2020 9:44 AM

To: Laurel Prevetti <LPrevetti@losgatosca.gov>; Stephen Conway <sconway@losgatosca.gov>; Arn Andrews <aandrews@losgatosca.gov>

Subject: Please Include these public comments for 2-18-20 Council Meeting, Item 8

Thank you,

--

Jak VanNada -

Los Gatos Community Alliance

Facts Matter; Transparency Matters; Honesty Matters

www.lgca.town

February 16, 2020

Dear Honorable Mayor and Council Members,

We have reviewed the midyear budget performance report and would like to offer our comments for your consideration:

1. The current fiscal year projection for FY 2020 reflects a surplus of operating revenues of \$589,172, not \$1,127,708 as reported. The Town's operating surplus is determined by subtracting from the Town's operating revenues (taxes, grants, fees, fines and interest) the Town's operating expenses (departmental and non-departmental expenses). All fund transfers and the use of general fund reserve balances are not included in this calculation, which is consistent with the CAFR reporting. The Staff has included \$538,536 of other "non-revenue" sources (funds transfers and use of general fund reserves) in computing the \$1,127,708. By including fund transfers or the use of general fund reserves in "revenues", the "excess of revenues" as defined by the Staff is overstated and will not reflect the true underlying operating performance of the Town. Using the CAFR approach, the FY 2020 adopted budget had a deficit of \$417,000. The midyear budget improvement is due to the midyear net revenue adjustments totaling \$1.1m which are attributable to higher property tax and sales tax collections.

2. The report states that "estimated figures do not include analysis on potential salary and other expenditure savings (page 131)". The purpose of this report is to project the best estimate of full year results and increase transparency of the Town's finances. By not factoring in potential salary and other expenditure savings, the estimates are of limited value. We have attempted to determine the magnitude of these additional savings. Our analysis suggests there is potentially an additional \$2.0m of savings which has not been included in these projections. This is substantially due to salary and benefit savings arising from staff vacancies and budgeting salaries at the top step. The budget report states that at the mid-year point, salary expense is running at 45% of the adopted budget (see page 126). If that trend holds, the annual expense would be 90% of the adopted budget. This would result in a \$2m salary "savings", not including any additional benefit or operating savings that might also be realized.

3. We can further test this "\$2.0m additional savings" by comparing the actual first half of the FY 2020 operating expenditures to the second half projection. As shown on the General Fund Summary schedule (page 132) the first half total operating expenses were \$19.9m. The estimate for the total fiscal year is \$43.5m. This implies that the second half operating expenditures would be \$23.6m, which is a 19% increase over the first half. This magnitude of increase has never been seen in the recent years and suggests that the projected second half expenditures are too high by approximately \$1.7m to \$2.0m. A more reasonable full year operating expenditure estimate would be approximately \$41.5m.

Conclusion

The Town Council has expressed a desire to continue to emphasize the following areas “if budgetarily feasible”.

1. ADP’s toward pension obligations
2. Wildfire mitigation
3. Implementation of the parking study
4. Renewed sustainability efforts

Based on our analysis, there is approximately \$2.5m (\$.5m currently projected plus the \$2m of unreported potential savings) of additional funds available this year for the Council to spend toward these critical priorities. This budget could, and should, be more forthright as well as transparent to the citizens of Los Gatos.

We would recommend that the Council engage in a full and complete discussion with the Staff to ensure that the Council and residents have a realistic and transparent view to the financial standing of the Town. We would also recommend that going forward, the midyear budget performance report be reviewed in advance by the Finance Committee so resident experts would be able to provide the Council with their independent view point. Such input we believe would greatly assist the Council in their decision making.

Thank you,

Los Gatos Community Alliance

Subject: Should the Council decide to approve the revenue and expenditure budget adjustments.

From: "jvannada@gmail.com" <jvannada@gmail.com>

Date: February 17, 2020 at 8:13:23 PM PST

To: Laurel Prevetti <LPrevetti@losgatosca.gov>

Cc: Stephen Conway <sconway@losgatosca.gov>, Arn Andrews <aandrews@losgatosca.gov>

Subject: Should the Council decide to approve the revenue and expenditure budget adjustments.

The Staff memo for the midyear budget review requests the Council to “approve the revenue and expenditure budget adjustments”.

If the Council does this, they would be approving an adjusted revenue and expenditure budget which has:

1. Operating revenues (as defined by the CAFR) increasing 1.6% over prior year actuals
2. Salary and Benefit expenditures increasing 15.4% over prior year actuals
3. All other operating expenses increasing 13% over prior year actuals.

--

Jak VanNada -

Los Gatos Community Alliance

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**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 02/18/2020

ITEM NO: 9

DATE: February 10, 2020
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Vehicle Miles Traveled Transition in California Environmental Quality Act (CEQA) Analysis
a. Approve Option 2 to Set Thresholds Consistent with the General Plan Future Year Vehicle Miles Traveled (VMT) Projections.

RECOMMENDATION:

Vehicle Miles Traveled Transition in CEQA Analysis

- a. Approve Option 2 to set thresholds consistent with the General Plan future year Vehicle Miles Traveled (VMT) projections

BACKGROUND:

On September 27, 2013, Governor Jerry Brown signed Senate Bill 743 into law and started a process to change transportation impact analysis for purposes of CEQA compliance. The new law directed the Governor's Office of Planning and Research (OPR) to update the *CEQA Guidelines* to include new criteria and metrics for determining the significance of transportation impacts. OPR selected vehicle miles traveled (VMT) as the new transportation impact metric, recommended its application Statewide, and submitted updates to the *CEQA Guidelines* that were certified by the Natural Resources Agency in December 2018.

The Town of Los Gatos is the lead agency for environmental clearance under CEQA for projects within the Town's jurisdiction. As such, the Town is required to implement the new *CEQA Guidelines* immediately, but no later than July 1, 2020. Fehr & Peers has been hired to assist the Town in preparing its *Transportation Analysis Policy and Guidelines* using VMT and any other updates to the Town's local transportation policies, as the Council deems appropriate.

PREPARED BY: Ying Smith
Transportation and Mobility Manager

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

BACKGROUND (continued):

The Town Council and Planning Commission held a joint Study Session on October 8, 2019 on the topic as an introduction to the new requirements, concepts, and other provisions. At its January 21, 2020 meeting, the Town Council discussed how vehicle miles travelled (VMT) and level of service analysis (LOS) would work together in evaluating future development projects.

DISCUSSION:

The Town is working towards the adoption of its *Transportation Analysis Policy and Guidelines* in compliance with the CEQA Guidelines, which would include: (1) a VMT analysis method, (2) impact thresholds that are supported by quantitative evidence, (3) determination of whether VMT impact screening is allowed, and (4) mitigation measures with associated VMT reduction impacts. Attachment 1 contains *Senate Bill 743 Implementation White Paper Summary for Town of Los Gatos*, which summarizes these four topic areas and options for the Town's consideration. In addition to the analysis method for land use projects, the Town's *Transportation Analysis Policy and Guidelines* would also address analysis for transportation projects, Specific Plans, and General Plans. It would also include an assessment of how the Town's General Plan would influence future transportation analysis.

Since these four topic areas are inter-related, staff has conducted preliminary analysis on all four questions and will present recommendations on each topic area to the Council over the next month or two. The Town Council will have the option of revisiting prior decision points with the final adoption of the new *Policy and Guidelines*. Among the four topics identified above, an initial decision on the threshold question will inform the other three decisions and is the subject of this report.

OPR Recommendation on the Threshold

Since SB 743 introduces a new mandatory VMT metric for use in CEQA analysis, lead agencies need to determine what constitutes acceptable and unacceptable levels of VMT. To help aid lead agencies with SB 743 implementation, OPR produced the *Technical Advisory on Evaluating Transportation Impacts in CEQA*. OPR recommends "that a per capita or per employee VMT that is fifteen percent below that of existing development may be a reasonable threshold."

The legislative intent is to reduce the VMT in new developments, which would lead to a reduction in Greenhouse Gases (GHG) and achieve the State's climate goals. OPR concluded that achieving 15 percent lower per capita VMT than existing developments "is both generally achievable and is supported by evidence that connects this level of reduction to the State's emissions goals." In practice, some jurisdictions can achieve this level of reduction or more among new developments, while some jurisdictions may not. This level of reduction requires

DISCUSSION (continued):

significant travel pattern shifts in the future, either resulting from new land uses, or from both existing and new uses. In practice, residents and workers in these new developments would be driving much less and finding other ways to get around, such as biking, walking, and utilizing mass transit options.

VMT Mitigation Actions

By measuring VMT, setting a baseline, and setting targets in relation to that baseline, jurisdictions can affect the transportation impact future development projects might have on the environment. This allows for the jurisdiction to adopt strategies to achieve those targets. An important consideration is the effectiveness of the VMT mitigation actions. Based on research conducted in suburban settings, an overall maximum reduction in VMT of 15% may be achieved. There is a diminishing return when combining VMT mitigation actions. The most common mitigation actions can be grouped into three categories based on their VMT reduction effectiveness.

Actions having the most effect on VMT (and resultant emissions) derive from regional policies related to land use location efficiency (for example providing housing near jobs) and regional infrastructure investments that support transit, walking, and bicycling. Examples of these actions include:

- Built environment and land use characteristics;
- Development of high density and mixed use;
- Locating land uses in close proximity to high quality transit services that connect desirable locations with that high-quality transit, like rail and frequent bus lines; and
- Changes to relative travel costs among different modes, typically measured in time and out-of-pocket expenses.

The second category of actions are related to site design and include such opportunities as bicycle and pedestrian network improvements, traffic calming, local transit access improvements, etc.

The third category of actions includes typical Transportation Demand Management (TDM) strategies like transit fare subsidies or employer-sponsored vanpools or shuttles. While many of these can influence VMT and emissions, they have smaller effects that are often dependent on final building tenants and generally only apply at places of employment.

DISCUSSION (continued):

Los Gatos Context

Los Gatos is a suburban community on the edge of an urban region. The 2015 Baseline VMT values (Attachment 2) show that Los Gatos is not a low VMT generator. The current VMT values result from the Town's geographic location, regional land use density and patterns, transportation infrastructure, and the travel behaviors as influenced by transportation costs. The Town currently does not have a Transit Priority Area or high-quality transit corridors. The most common transit service is a local bus. Because of this, the most effective VMT mitigation actions are not available in Los Gatos.

Intuitively, this makes sense as Los Gatos residents commute to work, travel to larger shopping locations, and rely on the automobile as the primary means of mobility.

As such, achieving a 15 percent reduction is extremely ambitious and unlikely for the Town, because the most effective VMT reduction actions are not feasible given the local setting. There is no funded major transit investment within or near Los Gatos, and no large developments that support a jobs to housing relationship. The local context is a key consideration in choosing the most appropriate threshold setting option.

Threshold Setting Options

Lead agencies generally have at least four options for setting VMT thresholds:

- Rely on the OPR *Technical Advisory* thresholds;
- Set thresholds consistent with lead agency air quality, GHG reduction, and energy conservation goals;
- Set thresholds consistent with the General Plan future year VMT projections by jurisdiction or region; or
- Set thresholds based on baseline VMT performance by jurisdiction.

Lead agencies may opt for a locally applicable threshold at a lower level than the OPR level, as long as it is backed by substantial evidence, and corresponding analysis of VMT effects is adequate and complete. The Town may consider setting its VMT thresholds consistent with its General Plan or with Statewide goals for air quality, GHG reduction, and energy conservation.

Staff believes the following two options are most appropriate for further consideration.

- Option 1: Rely on the OPR *Technical Advisory* thresholds
- Option 2: Set thresholds consistent with the General Plan future year VMT projections

Table 1 provides a comparison of these two options based on various factors.

DISCUSSION (continued):

Table 1 - Comparison of Two Options for SB 743 Implementation

Subject	Option 1: Rely on the OPR Technical Advisory thresholds	Option 2: Set thresholds consistent with the General Plan future year VMT projections
Thresholds	Residential: 15% reduction from Town baseline Employment: 15% reduction from County or regional baseline Other land use types: TBD	Set baseline and cumulative VMT thresholds based on long-term General Plan expectations for air quality and GHG emissions. The analysis to determine these thresholds would be completed if the Town Council selects this option.
Metrics	Partial Project generated VMT for most projects. May need Total VMT and/or boundary VMT for projects that don't screen out or for unique land uses.	To be determined (TBD) based on above analysis.
Method	Most likely the VTA Travel Forecasting Model	TBD based on above mentioned analysis. Method would be aligned with Metrics decision(s).
Mitigation Actions	Options: Project-by-project mitigation measures or a Town-wide VMT reduction program (e.g., VMT fee, VMT Bank or VMT Exchange)	Most likely a Town-wide VMT reduction program (e.g., VMT fee, VMT Bank, or VMT Exchange).
Relationship to General Plan Update (GPU)	If the VMT reduction in the General Plan update (GPU) preferred land use alternative is higher than the OPR thresholds, significant transportation impacts will result. The Town will need to adopt overriding considerations.	The GPU CEQA analysis is consistent with the VMT significance thresholds. No overriding consideration needed.
Evaluation of Development Projects	Project-by-project VMT analysis with VMT screening. Most projects will likely have significant transportation impacts.	CEQA streamlining provision: All projects consistent with the General Plan will be considered to have less than significant impacts.
Examples	San Jose, San Francisco, Oakland, and a few others	Pasadena, Woodland

DISCUSSION (continued):

In addition to the discussion on the thresholds, the VMT metrics and methodology are important technical considerations in providing substantial evidence. VMT forecasts are generated using various models that range from sketch models and spreadsheet tools to complex computer models that account for numerous factors that influence travel demand. In addition to several sketch models and tools, two established travel forecasting models are available for the Town's consideration, the Metropolitan Transportation Commission (MTC) and the Santa Clara County Valley Transportation Authority (VTA) travel forecasting models. The decisions on the metrics and the method must align with each other.

The Town will need to determine if projects will be able to mitigate significant VMT impacts, and whether those measures can reduce the severity of a potential VMT impact. In the next steps, staff will evaluate new research related to the effectiveness of the VMT mitigation actions, review other jurisdictions' practice(s), and compare a program-based VMT mitigation approach with a project-by-project mitigation approach.

The Town's General Plan update is also very relevant to the VMT transition discussion. This is a great opportunity to consider concurrently the CEQA transportation analysis policy for individual future developments, the General Plan future year VMT projections, and the relationship with air quality, GHG reduction, and energy conservation goals.

CONCLUSION AND NEXT STEPS:

Based on review of CEQA transportation policies adopted by other jurisdictions, analysis of the Town's baseline VMT values, consideration for the relationship with the General Plan update, and upon consultation with Fehr & Peers, staff is recommending proceeding with Option 2: Set thresholds consistent with the General Plan future year VMT projections.

This option is expected to provide a threshold that is more realistic for the local context of Los Gatos and allows the Town to take advantage of the CEQA streamlining provision. The challenge with choosing this option is providing substantial evidence if the resulting threshold is lower than the 15-percent reduction recommended by OPR in the *Technical Advisory*.

If the Town Council chooses this option, staff and Fehr & Peers will prepare the required analyses and return with the results. The Council would then be able to consider the thresholds, metrics, and method(s) along with applicable mitigation actions. Once the Council decides on these factors, staff and consultants will prepare a draft *Transportation Analysis*

PAGE 7 OF 7

SUBJECT: Vehicle Miles Traveled Transition in California Environmental Quality Act
(CEQA) Analysis

DATE: February 10, 2020

CONCLUSION AND NEXT STEPS (continued):

Policy and Guidelines. Staff will conduct outreach to the general public and to the development community on the Draft before bringing it for Council consideration. After the adoption of the *Transportation Analysis Policy and Guidelines*, the staff and consultants will ensure alignment with the General Plan update and bring forward potential modifications to other Town transportation policies.

COORDINATION:

This report was coordinated with the Community Development Department.

FISCAL IMPACT:

There is no fiscal impact as a result of this report.

ENVIRONMENTAL ASSESSMENT:

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

Attachments:

1. Senate Bill 743 Implementation White Paper Summary for the Town of Los Gatos
2. 2015 Baseline VMT values

Senate Bill 743 Implementation White Paper Summary for the Town of Los Gatos

Executive Summary

This executive summary is intended to provide a brief introduction of the forthcoming *Senate Bill 743 (SB 743) Implementation Document Package* that will outline and discuss the decisions that the Town of Los Gatos will need to make regarding SB 743 implementation. The forthcoming document package will begin with a background discussion about SB 743 and then transition to focus on four topic areas: Metrics, Calculation Methods, Significance Thresholds, and Mitigation Actions. When complete, the Town of Los Gatos SB 743 implementation document package will include:

- Executive Summary
- Documents by Topic Areas (to be provided later)
 - Metrics
 - Calculation Methods
 - Significance Thresholds
 - Mitigation Actions
- Appendices:
 - Appendix A: Summary of Legal Framework of SB 743 and Technical Background Information
 - Appendix B: Outreach and Education Materials

Background

The Town of Los Gatos has begun the process of implementing the requirements of SB 743. The new law directed the Governor’s Office of Planning and Research (OPR) to update the *California Environmental Quality Act (CEQA) Guidelines* to include new criteria and metrics for determining the significance of transportation impacts. SB 743 removes the use of automobile delay or traffic congestion for determining transportation impacts in environmental review. Instead, the latest *CEQA Guidelines* now specify that Vehicle Miles Traveled, or VMT¹, is the appropriate metric to evaluate transportation impacts. To comply with these new rules, the Town will need to define policies and practices regarding the evaluation of transportation impacts under CEQA, including guidance on how VMT should be calculated and presented in

¹ VMT refers to “Vehicle Miles Traveled,” a metric that accounts for the number of vehicle trips generated plus the length or distance of those trips. VMT is an accessibility performance metric that evaluates the changes in land use patterns, regional transportation systems, and other built environment characteristics, which is different from what the mobility performance metric vehicle level of service measures – vehicle mobility. The white paper will use the terms Project generated VMT and Project’s effect on VMT using boundary VMT metrics for specific geographic areas. Project generated VMT is the sum of the “VMT from” and “VMT to” and within a project site. Project’s effect on VMT uses geographic boundary VMT to evaluate the change in VMT on all roadways without and with the project within a specific geographic area.

environmental documents. In short, SB 743 changes the focus of transportation impact analysis in CEQA from measuring impacts to drivers, to measuring the impact of driving.

Additional background information on SB 743 and the *CEQA Guidelines* is included in the Summary of Legal Framework of SB743 and Technical Background Information (Appendix A).

Approach

Under CEQA, agencies must decide what constitutes a significant environmental impact. The *CEQA Guidelines* encourage the use of thresholds of significance; they can be quantitative or qualitative performance standards by which the agency can measure the amount of impact the project causes and thereby determine if the project's impacts are significant. In fact, the new *CEQA Guidelines* Section 15064.3(b)(4) (cited below) establishes that the lead agency has discretion to choose the most appropriate VMT methods for transportation impact analysis.

Methodology. A lead agency has discretion to choose the most appropriate methodology to evaluate a project's vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household or in any other measure. A lead agency may use models to estimate a project's vehicle miles traveled and may revise those estimates to reflect professional judgment based on substantial evidence. Any assumptions used to estimate vehicle miles traveled and any revisions to model outputs should be documented and explained in the environmental document prepared for the project. The standard of adequacy in Section 15151 shall apply to the analysis described in this section.

The expectations for environmental impact analysis highlighted within the *CEQA Guidelines* are listed below.

- § 15003 (f) = fullest possible protection of the environment...
- § 15003 (i) = adequacy, completeness, and good-faith effort at full disclosure...
- § 15125 (c) = EIR must demonstrate that the significant environmental impacts of the proposed project were adequately investigated...
- § 15144 = an agency must use its best efforts to find out and disclose...
- § 15151 = sufficient analysis to allow a decision which intelligently takes account of environmental consequences...

With the *CEQA Guidelines* expectations for an environmental impact analysis in mind, the document package will discuss questions (included by topic area below) grouped by the specific decisions that the Town of Los Gatos will need to make regarding Metrics, Calculation Methods, Significance Thresholds, and Mitigation Actions.² Options and considerations for each question will be highlighted from a technical transportation planning and engineering perspective with a

² Typical CEQA practice focuses on environmental effects that occur on a typical weekday, so all references to VMT in this memorandum are intended to mean VMT that occurs on a typical weekday.

particular emphasis on addressing the *CEQA Guidelines* expectations for an environmental impact analysis.

For simplicity, a matrix will accompany the document package and include a summary of the decisions, options, and considerations for each question. The document package and other supporting materials will be used by the Town Council to make a decision in setting VMT significance thresholds for the Town of Los Gatos.

Because VMT is also used as an input for air quality, greenhouse gases, and energy consumption impact analyses in CEQA, the document package will also discuss how VMT significance thresholds affect other aspects of the CEQA process.

For each of the questions discussed below, there are two separate categories of projects that are subject to CEQA review and for which VMT evaluation will be needed. The Town will need to address how each of these project categories will be evaluated:

- **Land Use Projects:** Typically development projects on a single parcel or multiple adjacent parcels; and
- **Land Use Plans:** Such as the current General Plan update and future Specific Plans;

For transportation projects, lead agencies have the discretion to select their own metrics and thresholds and no change to current practice is required. Therefore, the remainder of this executive summary will focus on thresholds for land use projects and plans.

The implementation of SB 743 is just beginning for many lead agencies. Current CEQA practices have developed over several decades, incorporating a large body of case law and periodic updates to the *CEQA Guidelines*. Because SB 743 implementation is brand new, there is not yet any case law to guide our understanding or interpretation. The document package will represent our current understanding of the options, limitations, and considerations, informed by our research into SB 743 and knowledge of past CEQA practice; this understanding will evolve over time as more agencies apply SB 743 concepts to their own CEQA procedures.

Metrics

The Town has the discretion to choose the most appropriate methods to evaluate a project's VMT, including how the results of that method are expressed. Generally, VMT is expressed in several ways: total project generated VMT, project generated rates [Total project generated VMT per service population or partial project generated VMT per resident (or per employee)], in total (all VMT associated with a project or plan), or as the net "effect" a project will have on VMT (listed as Project's effect on VMT). This section will describe the benefits and shortcomings of each metric.

CEQA impact analysis should strive to provide a complete picture of the VMT effects on the environment. Both 'project generated VMT' and the 'project's effect on VMT' should be considered to fully account for VMT effects that may include changes to VMT generation from

neighboring land uses. Total VMT includes all vehicle trips, vehicle types, project land uses, and trip purposes.

OPR Technical Advisory Recommendations

- Residential Land Use: Home-based (light-duty vehicle) VMT per capita or household generated VMT per capita.
- Office Land Use: Home-based work (light-duty vehicle) VMT per employee, total employee VMT per employee, or work tour VMT per employee.
- Retail Land Use: Total VMT per service population.

Question: What form of the VMT metrics could be used?³

Calculation Methods

VMT forecasts are generated using various models that range from simple spreadsheets (off-model) based on historic traffic growth trends, to complex computer models that account for numerous factors that influence travel demand. In some cases, VMT can be estimated using sketch models or spreadsheet tools. VMT can also be estimated directly by multiplying the number of trips by an average trip length. Given the availability of two travel forecasting modes, the document package will provide the Town with a review of Metropolitan Transportation Commission (MTC) and the Santa Clara County Valley Transportation Authority (VTA) travel forecasting models for VMT calculations in the Town of Los Gatos, including analytical strengths and weaknesses of each option.

Question: What methods are available to use in estimating and forecasting VMT?

Impact Significance Thresholds

The Town has discretion to choose its threshold of significance for identifying a VMT impact. The intent of a VMT threshold is to identify whether a project has substantial environmental impacts due to traffic, and whether a project balances the needs of congestion management with statewide goals such as the promotion of infill development.

Lead agencies generally have at least four options for setting VMT thresholds:

- Rely on the OPR *Technical Advisory* thresholds;
- Set thresholds consistent with Lead Agency air quality, GHG reduction, and energy conservation goals;
- Set thresholds consistent with the General Plan future year VMT projections by jurisdiction or region; or
- Set thresholds based on baseline VMT performance by jurisdiction.

³ Each VMT metric will be defined in the document package.

The document package will describe possible thresholds and summarize the supporting evidence for each, as well as a qualitative discussion of which case study projects would be likely to fall above or below each threshold.

Depending on which option a lead agency chooses in setting thresholds, one may consider the opportunity for “screening” projects that meet certain criteria, including projects located in low-VMT generating areas, local-serving retail projects, or small projects. This section includes a discussion of the OPR guidance and the considerations in the use of VMT impact screening.

Question: What is the VMT impact significance threshold for land use projects under baseline conditions?

Question: What is the VMT impact significance threshold for land use projects under cumulative conditions?

Question: Is the use of VMT impact screening desired?

Mitigation Actions

The Town will also need to determine if projects will be able to mitigate significant VMT impacts, and whether those measures can reduce the severity of a potential VMT impact. The California Air Pollution Control Officers Association’s *Quantifying Greenhouse Gas Mitigation Measures* (August 2010) is the most comprehensive report on the research on the quantification of project-level mitigation of greenhouse gas emissions associated with land use, transportation, energy use, and other related project areas. The forthcoming document package will include an assessment of new research related to transportation demand management (TDM) effectiveness for reducing VMT, focusing on new TDM information that has been published in research papers since release of the *Quantifying Greenhouse Gas Mitigation Measures*. The purpose of reviewing the *Quantifying Greenhouse Gas Mitigation Measures* and the new research is to identify those strategies suited to the Town of Los Gatos given the suburban land use context.

The document package will also include a review of how other jurisdictions have incorporated TDM into their VMT mitigation measures for VMT impacts, and a discussion of the potential risks and uncertainties related to VMT mitigation measures. For some jurisdictions, program-based VMT mitigation approaches may be more effective than project-site only strategies. In response to the limitations of focusing exclusively on project site TDM strategies, new mitigation concepts are emerging that cover larger areas and rely on region- or town-scale programs to achieve VMT reductions. These program-based concepts are outlined below.

- **VMT Impact Fee Program:** This concept resembles a traditional impact fee program in compliance with the mitigation fee act and uses VMT as a metric. The main difference from a fee program based on a metric such as vehicle LOS is that the VMT reduction nexus results in a capital improvement program (CIP) consisting largely of transit, bicycle, and pedestrian projects

- **VMT Exchanges:** This concept relies on a developer agreeing to implement a predetermined VMT reducing project or proposing a new one in exchange for the ability to develop a VMT-generating project. The mitigation projects may or may not be located near the developer's project site.
- **VMT Banks:** This concept attempts to create a monetary value for VMT reduction (e.g., credits) such that a developer could purchase VMT reduction credits. The money exchanged for credits could be applied to local, regional, or state level VMT reduction projects or actions.

Question: What VMT reduction mitigation strategies are feasible?

Appendix A: Summary of Legal Framework of SB743 and Technical Background Information

Summary of Legal Framework of SB 743 and Technical Background Information

Legal Framework of SB 743

On September 27, 2013, Governor Brown signed Senate Bill 743 (Steinberg, 2013). Among other things, SB 743 creates a process to change analysis of transportation impacts under the California Environmental Quality Act (Public Resources Code section 21000 and following).

To help aid lead agencies with SB 743 implementation, Governor's Office of Planning and Research (OPR) produced the *Technical Advisory on Evaluating Transportation Impacts in CEQA* (December 2018). The *Technical Advisory* helps lead agencies think about the variety of implementation questions they face with respect to shifting to a Vehicle Miles Traveled (VMT) metric.

The purpose of the *Technical Advisory* is to provide advice and recommendations, which agencies and other entities may use at their discretion. The guidance is not a recipe for SB 743 implementation since lead agencies must still make their own specific decisions about methodology, thresholds, and mitigation (i.e., each lead agency will bake a different looking and tasting SB 743 cake). Further, the document was intended to include guidance that would further statewide goals tied largely to greenhouse (GHG) reduction and does not attempt to balance or resolve potential conflicts between state goals with lead agency goals such as those expressed in local agency general plans.

Lead agencies will benefit from reflecting on the two legislative intent statements contained in the SB 743 statute.

1. More appropriately balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions.
2. Ensure that the environmental impacts of traffic, such as noise, air pollution, and safety concerns, continue to be properly addressed and mitigated through the California Environmental Quality Act.

These statements are important because they provide direction to OPR and to lead agencies. For OPR, the direction is largely about what new metrics should achieve. For lead agencies, the direction is about expected changes in transportation analysis (and related technical areas) plus what factors to consider for significance thresholds.

To implement this intent, SB 743 contains amendments to current congestion management law that allows cities and counties to effectively opt-out of the LOS standards that would otherwise apply. However, SB 743 does not prevent a city or county from continuing to analyze delay or LOS as part of other plans (i.e. the general plan), fee programs, or on-going network monitoring, but these metrics will no longer constitute the sole basis for CEQA impacts. Cities or counties can still use vehicle LOS outside of the CEQA process if they determine it is an important part of their transportation analysis process. The most common applications will likely occur for jurisdictions wanting to use vehicle LOS to size roadways in their general plan or determine nexus relationships for their impact fee programs. Jurisdictions can also continue to condition projects to build transportation improvements through the entitlement process in a variety of ways, such as using general plan consistency findings.

The *CEQA Guidelines* and the associated *Technical Advisory* are largely consistent with the legislative direction noted above such that impacts to transportation has shifted from a focus on changes to the driving experience to changes associated with driving. This new view presents an impact filter intended to promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses. VMT can help identify how projects (land development and infrastructure) influence accessibility (i.e., access to places and people) and emissions so its selection is aligned with the objectives of SB 743. Accessibility is an important planning objective in many communities but so is travel time or delay experienced by users.

Background on the California Environmental Quality Act

The California Environmental Quality Act (CEQA) was enacted in 1970. This statute requires identification of any significant environmental impacts of state or local action including approval of new development or infrastructure projects. The process of identifying these impacts is typically referred to as the environmental review process. A fundamental component of CEQA analysis is the determination of whether a project has the potential to significantly affect the physical environment. This determination requires careful judgment on the part of the lead agency and is based on scientific and factual data to the extent possible.

Level of Service and Vehicle Miles Traveled

LOS refers to "Level of Service," a metric that assigns a letter grade to network performance. The typical application in cities is to measure the average amount of delay experienced by vehicle drivers at an intersection during the most congested time of day and assign a report card range from LOS A (fewer than 10 seconds of delay) to LOS F (more than 80 seconds of delay). The amount of delay is calculated relative to the amount of time to traverse the intersection if a vehicle is the sole vehicle on the road, and it arrives at a green light.

Traffic has long been a consideration in CEQA. In 1990, the Legislature linked implementation of congestion management plans, including LOS requirements, with CEQA. LOS has been an explicit part of CEQA analysis since at least the late 1990's, when the sample environmental checklist in the *CEQA Guidelines* asked whether a project would exceed LOS standards. (See former *CEQA Guidelines*, App. G. § XV, Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways). Because of the linkage of the CEQA environmental checklist and LOS, historically, the Town and other jurisdictions have used Level of Service (LOS) as the significant impact threshold for transportation analysis under CEQA.

VMT refers to "Vehicle Miles Traveled," a metric that accounts for the number of vehicle trips generated plus the length or distance of those trips. For transportation impact analysis, VMT is generally expressed as VMT per capita for a typical weekday. For instance, the 2012 average daily VMT per capita for the nine county Bay Area region was 15.3 miles per person per day.

Town of Los Gatos' Current Policies and Requirements for Transportation Impact Analysis

The *Los Gatos 2020 General Plan* includes the following transportation policies:

Policy TRA-3.4 which states "New projects shall not cause the level of service for intersections to drop more than one level if it is at Level A, B, or C and not drop at all if it is at D or below."

Policy TRA-3.5 which states "If project traffic will cause any intersection to drop more than one level if the intersection is at LOS A, B, or C, or to drop at all if the intersection is at LOS D or below, the project shall mitigate the traffic so that the level of service will remain at an acceptable level."

Policy TRA-3.6 which states "Pedestrian and bicycle safety shall not be compromised to improve or maintain the level of service of an intersection."

The Town's *Traffic Impact Policy* (#1-05, March 2017) provides guidance in implementing the provisions of the Town Municipal Code, Chapter 15, Article VII, Traffic Impact Mitigation Fee. The Policy also defines the traffic impact analysis procedure, including the requirement of traffic impact analysis reports be consistent with the Transportation Impact Analysis Guidelines adopted by the Santa Clara Valley Transportation Authority.

The Town adopted a *Complete Streets Policy* in February 2019 (#3-01).

Additional Information

Governor's Office of Planning and Research Transportation Impacts (SB 743) website:
<http://opr.ca.gov/ceqa/updates/sb-743/>

Technical Advisory on Evaluating Transportation Impacts in CEQA, December 2018
http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf

Town of Los Gatos Traffic Impact Policy
<https://www.losgatosca.gov/DocumentCenter/View/18175/1-05-Traffic-Impact-Policy?bidId=>

Town of Los Gatos Complete Streets Policy
<https://www.losgatosca.gov/DocumentCenter/View/22433/3-01-Complete-Streets-Policy>

Appendix B: Outreach and Education Materials

Memorandum

Date: February 11, 2020
To: Ying Smith, Town of Los Gatos
From: Charlie Coles, Daniel Rubins, and Matt Haynes
Subject: **Senate Bill 743 Implementation Outreach and Education Materials**

SJ19-1954

The Town of Los Gatos has begun the process of updating its General Plan and implementing Senate Bill (SB) 743. The Town General Plan and SB 743 implementation will provide guidance on and set policies regarding the evaluation of transportation impacts under the California Environmental Quality Act (CEQA). A major change in CEQA practice is being triggered by the implementation of SB 743. SB 743 removes the use of automobile delay or traffic congestion for determining transportation impacts in environmental review. Instead, the *CEQA Guidelines* (December 2018) now specify that Vehicle Miles Traveled, or VMT, is the appropriate metric to evaluate transportation impacts. To comply with these new rules, the Town of Los Gatos will need to define policies and practices for conducting VMT analysis in areas under the Town's jurisdiction.

Purpose

This memorandum presents outreach and education materials on SB 743 to be used by the Town of Los Gatos throughout their SB 743 implementation process. Materials will be used for various purposes including the Town's website, social media, and printed materials.



Outreach and Education Materials

The outreach and education materials presented in this memorandum (see **Attachments**) include:

- Attachment A: List of frequently asked questions (FAQs) and answers;
- Attachment B: Summary sheet on SB 743 and the transition from LOS to VMT; and
- Attachment C: YouTube link to Fehr & Peers' "What is VMT?" video.

Additional SB 743 Websites

For those wanting more information, included below are website links to several documents including the latest *CEQA Guidelines* (December 2018), Fehr & Peers SB 743 website, and the TRB Environmental Analysis in Transportation Committee newsletter article on the basics of SB 743. These materials can be incorporated into the Town's website and other SB 743 materials.

<http://resources.ca.gov/ceqa/>

<https://dot.ca.gov/programs/transportation-planning/office-of-smart-mobility-climate-change/sb-743>

<https://www.fehrandpeers.com/sb743/>

https://www.fehrandpeers.com/wp-content/uploads/2019/09/ADC10_Summer_2018_20180910.pdf

Attachment A: List of Frequently Asked Questions (FAQs) and Answers

FAQ | Evaluating Transportation Impacts in CEQA

Based on New Guidelines as Directed by SB 743

The Town of Los Gatos has begun the process of implementing the requirements of Senate Bill (SB) 743. SB 743 implementation will provide guidance on and set policies regarding the evaluation of transportation impacts under the California Environmental Quality Act (CEQA). SB 743 removes the use of automobile delay or traffic congestion for determining transportation impacts in environmental review. Instead, the *latest CEQA Guidelines* now specify that Vehicle Miles Traveled, or VMT¹, is the appropriate metric to evaluate transportation impacts. To comply with these new rules, the Town will need to define policies and practices regarding the evaluation of transportation impacts under CEQA, including guidance on how VMT should be calculated and presented in environmental documents. In short, SB 743 changes the focus of transportation impact analysis in CEQA from measuring impacts to drivers, to measuring the impact of driving.

As stated in section 15064.7(b) of the *CEQA Guidelines*, *[e]ach public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects*. The concept of significance (and the terms that describe it) are used in an environmental document to describe the potential environmental impact under the *CEQA Guidelines*. These FAQs use several terms to refer to this concept including significant environmental impact, significant VMT impact, significance threshold, and less-than-significant impact. Another concept used in the response to these FAQs is the term “substantial evidence” to refer to the options and information considered by the Town Council to establish its VMT threshold.

Below is a list of commonly asked questions that SB 743 brings to light. These FAQs are a good way to get oriented to the key questions that the Town of Los Gatos is considering for its implementation. A forthcoming white paper will go into greater detail about the options and evidence that the Town of Los Gatos considered when developing its VMT thresholds.

What was the legislative intent of SB 743 (2013)?

1. Balance the needs of congestion management with the following statewide goals

¹ VMT refers to “Vehicle Miles Traveled,” a metric that accounts for the number of vehicle trips generated plus the length or distance of those trips. VMT is an accessibility performance metric that evaluates the changes in land use patterns, regional transportation systems, and other built environment characteristics, which is different from what the mobility performance metric vehicle level of service measures – vehicle mobility. The white paper will use the terms Project generated VMT and Project’s effect on VMT using boundary VMT metrics for specific geographic areas. Project generated VMT is the sum of the “VMT from” and “VMT to” and within a project site. Project’s effect on VMT uses geographic boundary VMT to evaluate the change in VMT on all roadways without and with the project within a specific geographic area.

FAQ | Evaluating Transportation Impacts in CEQA

Based on New Guidelines as Directed by SB 743

- a. Reduction of greenhouse gas emissions
- b. Infill development
- c. Public health through active transportation
2. Ensure that the environmental impacts of traffic such as noise, air pollution, and safety concerns continue to be addressed and mitigated through CEQA

What does the new CEQA Section 15064.3 adopted by the state in December 2018 require?

1. A project's effect on automobile delay (i.e., Level of Service) shall not constitute a significant environmental impact under CEQA.
2. A lead agency may adopt these provisions immediately, but no later than July 1, 2020.
3. VMT is the "most appropriate" measure of transportation impacts.
4. Other relevant considerations may include effects on transit and non-motorized travel.
5. VMT exceeding an applicable threshold may indicate a significant impact.
6. Projects may be presumed to have a less-than-significant VMT impact if they are located in a transit priority area (TPA) or would reduce VMT.
7. A lead agency has discretion to choose the most appropriate methodology to evaluate a project's VMT.
8. A lead agency may use models to estimate a project's VMT and may revise those VMT estimates based on substantial evidence.
9. Any assumptions used to estimate VMT must be documented and explained.

What decisions do a local agency need to make to implement these new guidelines?

1. VMT Metric?
 - a. VMT in absolute terms; or
 - b. VMT per capita, VMT per employee, or VMT per service population.
2. VMT Calculation Methods?
 - a. How to calculate VMT – Travel model, spreadsheet tool, or other methods;
 - b. Total VMT or partial VMT associated with select vehicle types, land uses, and/or trip purposes/tours; or
 - c. Project generated VMT versus project effect on VMT.
3. VMT Impact Significance Thresholds?
 - a. Threshold: Level of reduction in VMT below existing conditions;
 - b. Thresholds: (1) Project VMT and (2) Cumulative Impacts (project's effect on VMT);
 - c. Thresholds: (1) Land Use Projects, (2) Land Use Plans, (3) Transportation Projects;
 - d. Is the level of VMT reduction compared to regional VMT, townwide VMT, or other baseline; and
 - e. For towns, cities, and counties, are VMT impacts best addressed at the general plan level given that all land use decisions only influence land use supply and CEQA Section 15183

FAQ | Evaluating Transportation Impacts in CEQA

Based on New Guidelines as Directed by SB 743

provides streamlining for subsequent projects?

4. VMT Mitigation Options?
 - a. VMT mitigation options for land use projects involve either changing the physical design of the project (i.e., its density, mix of use, street design, etc.) or requiring trip reduction strategies as part of a transportation demand management (TDM) program.
 - i. Are towns, cities, and counties willing to require stringent TDM programs with annual monitoring and adjustments if projects do not accomplish required VMT reductions?
 - ii. Should towns, cities, and counties instead rely on mitigation programs such as impact fee programs that are based on a VMT-reduction nexus?

How does the OPR Technical Advisory recommend implementing CEQA Section 15064.3?

1. If the Town of Los Gatos (a lead agency in CEQA terms) uses a travel model as the basis for establishing thresholds, that same model must be used for subsequent project level VMT analyses.
2. For land use projects and plans, the *Technical Advisory* states, “OPR recommends that a per capita or per employee VMT that is fifteen percent below that of existing development may be a reasonable threshold” based on substantial evidence related to the state’s GHG reduction goals.
 - a. Residential Project Threshold: A proposed project exceeding a level of 15 percent below existing VMT per capita may indicate a significant transportation impact. Existing VMT per capita may be measured as regional VMT per capita or Town VMT per capita.
 - b. Office Project Threshold: A proposed project exceeding a level of 15 percent below existing regional VMT per employee may indicate a significant transportation impact.
 - c. Retail Project Threshold: A net increase in total VMT may indicate a significant transportation impact.
 - d. Mixed-Use Projects: Lead agencies can evaluate each component of a mixed-use project independently and apply the significance threshold for each project type included. Alternatively, a lead agency may consider only the project’s dominant use. In the analysis of each use, a project should take credit for internal capture.
3. For transportation projects, the *Technical Advisory* states:
 - a. Because a roadway expansion project can induce substantial VMT, incorporating quantitative estimates of induced VMT is critical to calculating both transportation and other impacts of the projects; and
 - b. Transit and active transportation projects generally reduce VMT and therefore are presumed to cause a less-than-significant impact on transportation.

FAQ | Evaluating Transportation Impacts in CEQA

Based on New Guidelines as Directed by SB 743

4. The *Technical Advisory* expands Section 15064.3 options for VMT impact screening using the presumption that certain projects will have less than significant VMT impacts based on location within a low VMT generating area or by being a locally serving retail project.
5. Impacts to Transit: *lead agencies should consider impacts to transit systems and bicycle and pedestrian networks. ...a project that blocks access to a transit stop or blocks a transit route itself may interfere with transit functions.*

Is a lead agency required to follow recommendations in the *Technical Advisory*?

1. The *Technical Advisory* helps lead agencies think about the variety of implementation questions they face with respect to shifting to a new VMT metric.
2. The guidance is not a recipe for SB 743 implementation since lead agencies must still make their own specific decisions about methodology, thresholds, and mitigation. For towns, cities, and counties, these decisions must be consistent with their general plan, which may not be aligned with state GHG reduction goals upon which the *Technical Advisory* is based.
3. A lead agency has the discretion to choose the most appropriate methodology and thresholds to evaluate a project's VMT. A lead agency may take into account both its own policy goals and context in developing a VMT methodology and thresholds.

What are the pros and cons of following the *Technical Advisory* guidance with respect to CEQA defensibility?

PROS

1. Aligns with state goals for GHG reduction, infill development, transit, active transportation, and public health.
2. Requires limited effort to implement.
3. Creates VMT impact screening opportunities for housing, employment, transit, bicycle, pedestrian, and minor roadway projects.
4. Includes specific thresholds.

CONS

1. Recommends only reporting partial VMT for individual land uses, trip purposes/tours, and vehicle types. For air quality, GHG, and energy impact analysis sections of an environmental document, total VMT is used.
2. Includes evidence that a 15 percent reduction from baseline may not be sufficient to achieve statewide goals for GHG reduction.
3. Does not consider local general plan role in setting threshold expectations.
4. Includes inconsistent threshold expectations based on the same land use and transportation context.

FAQ | Evaluating Transportation Impacts in CEQA

Based on New Guidelines as Directed by SB 743

What other challenges should a lead agency consider?

1. Direct application of the *Technical Advisory* results in significant and unavoidable VMT impacts for projects in jurisdictions with limited transit service and low land use densities even when those projects are consistent with the local general plan.
2. Lead agencies have often used transportation demand management (TDM) strategies as mitigation to reduce VMT. Most TDM strategies are project site and building tenant dependent. Since this information is typically unknown during the project entitlement and environmental review process, a lead agency must think about whether it can guarantee TDM mitigation outcomes. This implies that ongoing monitoring and adjustment of the TDM strategies may be required and that impacts are likely to remain significant even with mitigation due to the uncertainty associated with building tenant performance over time.
3. Caltrans has published [Local Development – Intergovernmental Review Program Interim Guidance](#) (September 2016) that recommends the use of VMT impact analysis now and that intergovernmental reviews include comments about VMT methodology and thresholds if not consistent with the *Technical Advisory* (Page 6).

Attachment B: Summary Sheet on SB 743 and the Transition from LOS to VMT

SB743 | Senate Bill (SB) 743 and the Transition from LOS to VMT

Background

On September 27, 2013, Governor Jerry Brown signed SB 743 into law and started a process intended to fundamentally change transportation impact analysis as part of CEQA compliance. These changes include elimination of auto delay, level of service (LOS), and other similar measures of vehicular capacity or traffic congestion as a basis for determining significant impacts. Further, parking impacts will not be considered significant impacts on the environment for select development projects within infill areas served by frequent transit service. According to the legislative intent contained in SB 743, these changes to current practice were necessary to *"[m]ore appropriately balance the needs of congestion management with statewide goals related to infill development, promotion of public health through active transportation, and reduction of greenhouse gas emissions."*

Implementation

To implement this intent, SB 743 required the Governor's Office of Planning and Research (OPR) to update the *CEQA Guidelines* and establish, *"... criteria for determining the significance of transportation impacts of projects within transit priority areas."* The new criteria, *"... shall promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses."* Once the Secretary of the Natural Resources Agency certified the new guidelines, then *"...automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment..., except in locations specifically identified in the guidelines, if any."*

OPR and the Natural Resources Agency completed their responsibilities under SB 743 as of December 2018. They recommended vehicle miles of travel (VMT) as a replacement to vehicle LOS and are applying this replacement statewide effective July 1, 2020. Lead agencies can opt-in sooner at their own discretion. The specific *CEQA Guidelines* changes can be found at <http://resources.ca.gov/ceqa/> and additional technical guidance is available from OPR at http://opr.ca.gov/docs/20190122-743_Technical_Advisory.pdf.

The OPR Technical Advisory includes specifications for VMT methodology and recommendations for significance thresholds and mitigation measures. As noted above, SB 743 requires impacts to transportation network performance to be viewed through a filter that promotes *the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land*

SB743 | Senate Bill (SB) 743 and the Transition from LOS to VMT

uses. VMT can help identify how projects (land development and infrastructure) influence accessibility (i.e., access to places and people) and emissions so its selection is aligned with the objectives of SB 743. Accessibility is an important planning objective in many communities but so is travel time or delay experienced by users. SB 743 does not prevent lead agencies from continuing to analyze delay or LOS as part of other plans (i.e. the general plan), fee programs, or on-going network monitoring, but these metrics will no longer constitute the sole basis for CEQA impacts.

Lead Agency Decisions

To implement SB 743, lead agencies will need to answer key implementation questions, including the following:

1. What form of VMT metrics could be used?
2. What methods are available to use in estimating and forecasting VMT?
3. Is the use of VMT impact screening desired?¹
4. What is the VMT impact significance threshold for land use projects under baseline conditions?
5. What is the VMT impact significance threshold for land use projects under cumulative conditions?
6. What is the VMT impact significance threshold for transportation projects under baseline conditions?
7. What VMT reduction mitigation strategies are feasible?

In addition, there are three separate types of projects that are subject to CEQA review and for which VMT evaluation will be needed, so lead agencies will need to address how each of these three types will be evaluated:

- Land Use Projects: Typically development projects on a single parcel or multiple adjacent parcels;
- Land Use Plans: Such as the current General Plan update and future Specific Plans;
- Transportation Projects: Infrastructure changes such as building or removing roads, bicycle facilities, and transit facilities.

More information about SB 743 implementation can be found at <http://www.fehrandpeers.com/sb743/>.

¹ CEQA Guidelines Section 15064.3 states that projects that would reduce VMT or are located in a Transit Priority Area (TPA) should be presumed to have a less-than-significant impact on VMT. The OPR Technical Advisory contains other potential screening options.

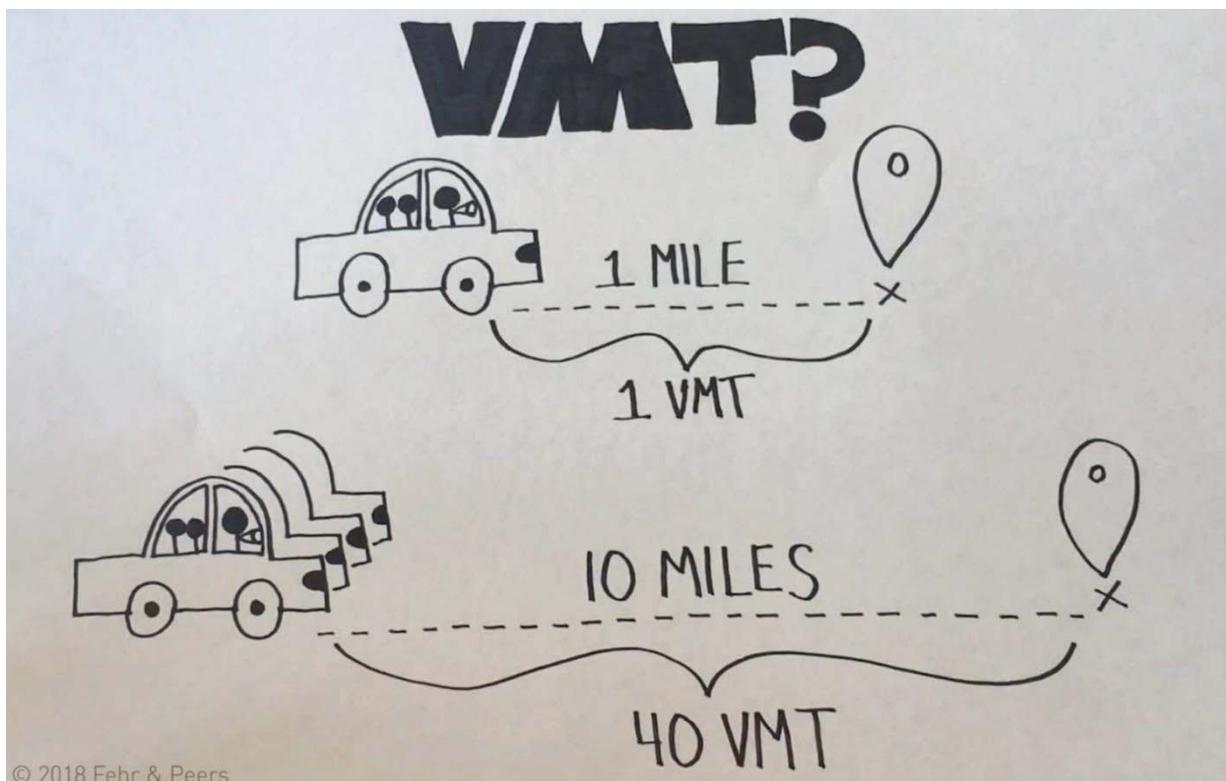
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Key Terms

Vehicle Miles Traveled (VMT)

VMT refers to “Vehicle Miles Traveled,” a metric that accounts for the number of vehicle trips generated plus the length or distance of those trips. VMT is an accessibility performance metric that evaluates the changes in land use patterns, regional transportation systems, and other built environment characteristics. For transportation impact analysis, VMT is generally expressed as VMT per capita for a typical weekday. For instance, the 2012 average daily VMT per capita for the nine county Bay Area region was 15.3 miles per person per day.

For those new to VMT analysis, [this short video](#) explains VMT. We routinely analyze VMT for air quality and greenhouse gas impact analysis. SB 743 adds VMT to the transportation impact analysis of CEQA documents.



Source: <https://youtu.be/UE4TJItVdJ8>

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Level of Service (LOS)

LOS refers to “Level of Service,” a metric that assigns a letter grade to network performance. The typical application in towns and cities is to measure the average amount of delay experienced by vehicle drivers at an intersection during the most congested time of day and assign a report card range from LOS A (fewer than 10 seconds of delay) to LOS F (more than 80 seconds of delay). Vehicle level of service is used to measure vehicle mobility.

California Environmental Quality Act (CEQA)

CEQA refers to the “California Environmental Quality Act.” This statute requires identification of any significant environmental impacts of state or local action including approval of new development or infrastructure projects. The process of identifying these impacts is typically referred to as the environmental review process.

Significance

As stated in section 15064.7(b) of the *CEQA Guidelines*, *[e]ach public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects.* The concept of significance (and the terms that describe it) are used in an environmental document to describe the potential environmental impact under the *CEQA Guidelines*. Common terms used to refer to this concept of significance include significant environmental impact, significant VMT impact, significance threshold, and less-than-significant impact.

Substantial Evidence

Another concept used in the *CEQA Guidelines* is the term “substantial evidence” to refer to the options and information considered by the Town Council to establish its VMT threshold. Specifically, section 15384 defines “substantial evidence” as:

- (a) *“Substantial evidence” as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic*

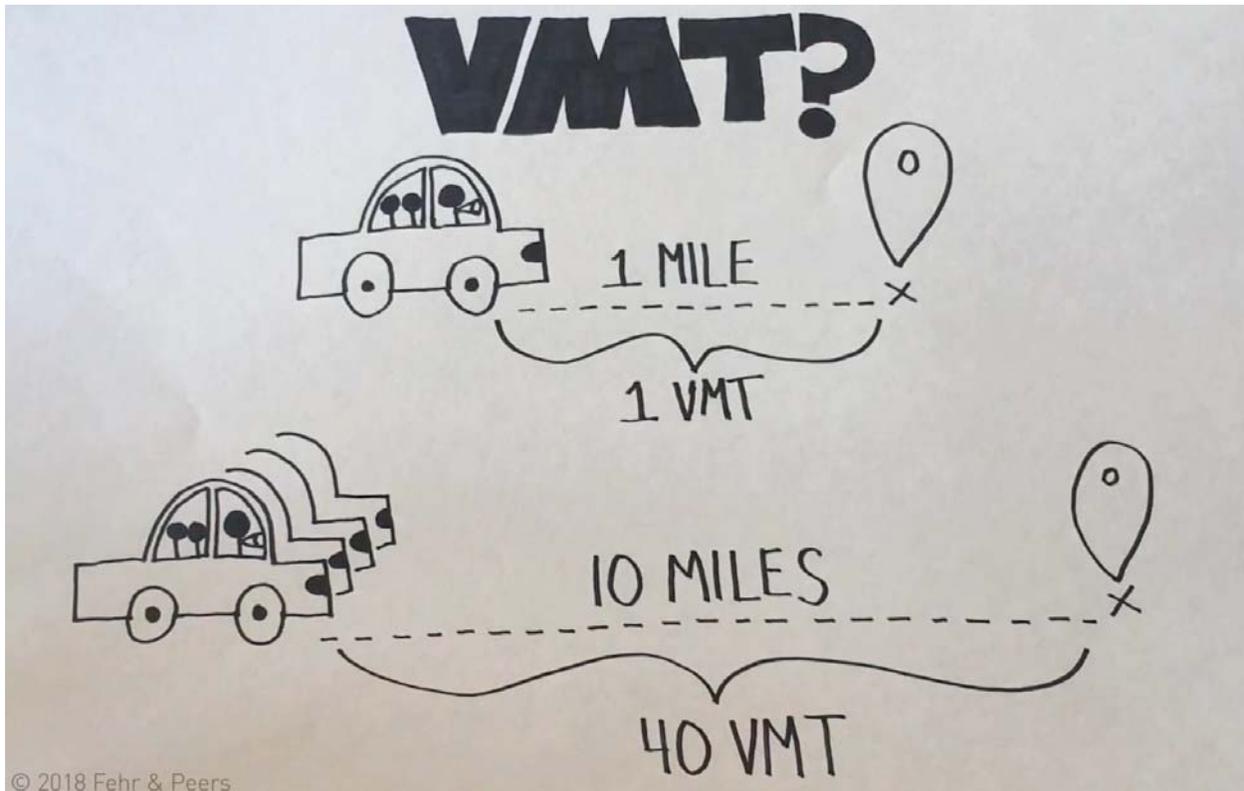
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impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.

- (b) *Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.*

Attachment C: YouTube Link to Fehr & Peers' "What is VMT?" Video

SB743 | YouTube Link to Fehr & Peers' "What is VMT?" Video



Link to "What is VMT?" YouTube Video: <https://youtu.be/UE4TJtVdJ8>

Attachment 2 - 2015 Baseline Vehicle Miles Traveled (VMT) Values

JURISDICTION	Residential	Employment
Campbell	13.74	14.63
Cupertino	13.42	17.01
Gilroy	18.92	18.79
Los Altos	12.22	19.07
Los Altos Hills	20.53	26.59
Los Gatos	17.31	17.38
Milpitas	12.12	17.54
Monte Sereno	17.50	21.18
Morgan Hill	24.64	21.42
Mountain View	10.32	18.54
Palo Alto	9.48	16.71
San Jose	13.36	15.11
Santa Clara	9.39	16.34
Saratoga	17.97	24.29
Sunnyvale	10.34	17.85
Unincorporated SCC	22.80	21.33
Federal Land	13.60	33.07
Santa Clara County Total	13.33	16.64
9-county Region	13.07	16.54

Notes:

- Residential: Home-based all VMT per capita
Employment: Home-based work VMT per Job
- Prepared by the Santa Clara Valley Transportation Authority (VTA), January 2020.
- Final results using the recently recalibrated VTA Travel Demand Model (covers 9-County Bay Area plus Monterey, Santa Cruz, San Benito and San Joaquin Counties, but with greater detail in Santa Clara and San Mateo Counties).
- Land use inputs based on ABAG Projections 2017 series for Year 2015
- Household and jobs allocation reviewed by jurisdictions (Fall 2018 to Spring 2019)
- Transportation network coding and utilized most recent travel data for model calibration and validation reviewed by VTA staff

ATTACHMENT 2